COMPRENDRE LA COMPLEXITÉ DE LA MIGRATION ET CHANGER NOS MENTALITÉS

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WE’RE ALL MIGRANTS

• In our DNA: humankind is a migratory animal species
• Normal response to economic, political, social and environmental challenges
• Proximity or transcontinental: we move all the time
• Migration is not an anomaly: it’s the rule, settlement is the exception
• Migration cannot be stopped:
  • Depending on geography, it can be reduced or diverted, for a time
  • Only at the cost of mass human rights violations: Berlin wall
  • Differentials in development and democracy spur migration movements: hope cannot be taken away
• Push and pull factors drive migration
• Age of increasing mobility and diversity
MIGRANTS HAVE RIGHTS

- IHRL: Two rights reserved for citizens
- All other rights are for « everyone »
- Not necessarily a right to same government services
- Right to equality: distinctions must be « justified »
- Expulsion and detention: possible within the human rights framework
- Labour standards are the same, whatever the migration status
- The migrant’s dignity is not different from ours: solutions need to be individualised

• **Focus here**: Lack of social capital
  - Precarious migration status: undocumented or temporary
  - Not expats or permanent residents
DEMOCRACIES CAN’T “REPRESENT” FOREIGNERS

- Migrants don’t vote, rarely protest publicly and complain little
- Migrants **fear** detection, detention, deportation: they have great agency, but going public is not an option
- Migrants’ main goal is to survive and send money home: their strategy is to “move on”
- **Structural limit** of electoral democracies: like the poor in the 19th C.
- Electoral systems create no incentive for protecting migrants’ rights
- Defending migrants’ rights is seen as political “suicide”
IRRESPONSIBLE POLITICAL DISCOURSES

• Absence of political responsibility for what is said about migrants (except US)
• Anti-immigration discourses have been normalised.
• Nationalist populist discourse based on constructed and uncontradicted myths, stereotypes, fantasies, threats…
• Migrants do not increase: unemployment, crime, illnesses, insecurity…
• Always portrayed as “illegal”, never as “worker” or “student” or “child”…
• “Liquid” language: flows, waves, tides, trickling, streaming, swelling, pouring, seeping, pooling, containing…
• Stereotyped as anonymous threatening mass: no individuality
• As was the case for women, indigenous peoples and LGBT+ persons, the majority needs to be educated to understand the complexity of the issues
UNDERSTANDING THE MIGRATION DYNAMICS

• Push factors:
  • People need to leave: home is worse than treatment elsewhere
  • **Survival migration**: refugees / cannot feed their family
  • “Economic migrants” is deceptive terminology
  • “They don’t need protection”: we all need HR protections.

• Pull factors:
  • **Unrecognised labour needs** at all skills levels: German foundations
  • Huge underground labour markets: agriculture, construction, hospitality, care, fisheries, extraction…
  • Important temporary migrant labour markets
  • There are jobs for migrants: migrants do not go where there are no jobs, no future for their kids
MIGRANTS’ PRECARIOUSNESS IS “CONSTRUCTED”

- Migrants come because there is a labour market (underground, temporary or regular)
- Competitiveness of several economic sectors rests on “cheap labour”: agriculture, care, construction, extraction, fisheries, hospitality … Also Gig economy
- Migration policies and labour policies combine in shaping dangerous employment relationships, based on precariousness of status and fear of return:
  - Employer can decide of migrant’s life course
  - Migrants have little options: they must accept working conditions that residents would refuse
  - Myth: “Migrants do jobs that citizens will not do”
  - Reality: “citizens will not do those jobs at the conditions that migrants have little choice but to accept.”
MIGRANTS’ PRECARIOUSNESS IS “CONSTRUCTED”

- Policies against **undocumented migration** create dangerous situations:
  - Knowingly blocking legal migration despite labour needs
  - Spurring undocumented migration is a **strategy to reduce labour costs**
  - “Illegal employers” rarely threatened
  - States co-responsible for deaths at borders (sea, deserts)
  - From “zero-tolerance” to “harm-reduction” policies: Prohibition, “war on drugs”, fight against HIV-Aids

- **Temporary migration** policies with precarious status also reduce labour costs:
  - Single-employer temporary status: Kafala, sponsorship
  - Unionisation is discouraged.
  - Standards and inspections absent: domestic workers
  - Protesting is punished: return, blacklisting
  - Exploitation? Trafficking? Slavery?
HEARING MIGRANTS’ “VOICE”

- Contemporary democracies:
  - Representation + HR + Rule of Law
- HR are best defended by rights-holders: women, indigenous peoples, LGBT, persons with disabilities...
- Basic idea: **EMPOWERMENT** of migrants
- Outside political stage, migrants’ voice must be carried by:
  - independent institutions: courts and tribunals, NHRIs,
  - civil society: NGOs, churches, unions,
  - international organisations...
  - Public services (labour inspectors, social workers, school directors, health care providers, local police...): “Firewalls”
- Hearing all voices: “All-of-Government” approach
- Cities may help: “Local citizenship”: NYC
AN EMERGING FRAMEWORK FOR GLOBAL MIGRATION GOVERNANCE

• No multilateral tradition + Toxic politics + Structural limit
• No commitment, no formal cooperation, “fora”, Schengen, IOM…
• Exception: regional economic communities freedom of movement (EU, ECOWAS…)
• 15 Regional Consultative Processes (RCPs) and 16 Interregional Fora on Migration (IRFs)
• GFMD: “Good practices and lessons learned”
  • “Government-led, informal, non-binding, voluntary process”
• Reticent (United) Nations:
  • OHCHR, UNHCR, ILO, UNICEF, UNWomen, WHO, …: no leadership until recently
  • ICRMW 90, Cairo 94, SRM mandate 99, CGG 95, ICGM 05…
  • SRSG 06, HLD 06, GFMD 07, GMG 07, HLD 2013…
• 2015: SDGs: Targets 10.7, 8.8…
• 2016: NY Declaration, announcing Global Compact on Migration
23 « Objectives for safe, orderly and regular migration »:

1. Collect and utilize **accurate and disaggregated data** as a basis for evidence-based policies

2. Minimize the **adverse drivers** and structural factors that compel people to leave their country of origin

3. Provide accurate and timely **information** at all stages of migration

4. Ensure that all migrants have proof of **legal identity** and adequate documentation

5. Enhance availability and flexibility of **pathways for regular migration**

6. Facilitate fair and **ethical recruitment** and safeguard conditions that ensure **decent work**

7. Address and reduce **vulnerabilities** in migration

8. **Save lives** and establish coordinated international efforts on missing migrants

9. Strengthen the transnational response to **smuggling** of migrants

10. Prevent, combat and eradicate **trafficking** in persons in the context of international migration

11. Manage **borders** in an integrated, secure and coordinated manner
12. Strengthen certainty and predictability in **migration procedures** for appropriate screening, assessment and referral

13. Use **migration detention** only as a measure of last resort and work towards alternatives

14. Enhance **consular protection**, assistance and cooperation throughout the migration cycle

15. Provide access to **basic services** for migrants

16. **Empower** migrants and societies to realize full **inclusion** and social cohesion

17. Eliminate all forms of **discrimination** and promote evidence-based public discourse to shape **perceptions** of migration

18. Invest in **skills** development and facilitate mutual recognition of skills, qualifications and competences

19. Create conditions for migrants and diasporas to **fully contribute** to sustainable development in all countries

20. Promote faster, safer and cheaper transfer of **remittances** and foster financial inclusion of migrants

21. Cooperate in facilitating safe and dignified **return and readmission**, as well as sustainable reintegration

22. Establish mechanisms for the **portability** of social security entitlements and earned benefits

23. Strengthen **international cooperation and global partnerships** for safe, orderly and regular migration
Pluses:
- Rights guarantees
- Crisis response
- Development and migration policies go hand in hand
- Information circulation
- Civil status distinct from migration status
- « Facilitation » of migration mentioned 62 times
- « Enhance availability and flexibility of pathways for regular migration »
- Regularisation of undocumented migrants
- Migrant children’s rights
- Right to family unity mentioned 3 times
- « Global Migration Data Portal »
- Social services without discrimination: firewalls
- Limitation of detention and « working to end the practice of child detention »
- “Faster, safer and cheaper transfer of remittances”
- Portability of social benefits
Minuses:

• «Global Migration Data Portal» mostly used by Global North countries
• **Privacy rights for migrants?**
  - Limits to the idea of reducing migration by creating job opportunities in countries of origin
• Information on «dangers» of migration has limited effect
• ILO barely mentioned
• Gender barely mentioned
• Insistence on efficiency of return mechanisms
• Biometric identifiers
• **Access to justice?**
• **No mention of reducing exploited labour markets in destination countries**
• No discussion of the mobility-development nexus
• **Role of cities barely mentioned**
• No mechanism to measure progress on protecting migrants’ rights
IMAGINING FUTURE MIGRATION POLICIES

• Progressively allowing more migrants to come look for work
  • Develop **visa facilitation and liberalisation** regimes with most countries of origin
  • Create smart visas, with incentives to respect the conditions
  • Connect the visa regime with entry/exit control and security checks
  • Aim at an open and regulated flow back and forth across borders: USA for Mexicans, UK for East Europeans

• Key condition: **reduce underground labour markets**
  • Stronger labour inspections and tougher employer sanctions
  • Sanctioning migrants only drives them deeper underground
  • Bringing migrants out of clandestinity, giving them a status, allowing them to compete on the labour market
  • Help migrants pay taxes: fighting the stereotypes
  • Applying labour law to all workers, without discrimination
  • **Not a fantasy**: this was the rule in the fifties and sixties
CONCLUSION: INITIATING CONVERSATIONS

Anti-immigration nationalist populism is rear-guard battle:
• Baby-boomers fear for their nest egg and they vote
• It will last another decade, at least

Silver linings show a generational change:
• Artists
• Business community: mushroom
• Media
• CSOs, INGOs
• Unions
• Courts, tribunals, NHRIs, ombudspersons, healthcare providers
• Technology changes
• Cities: local citizenship + Mayoral Forum on Human Mobility, Migration and Development
• Youth
• Migrants as heroes: agency, resilience, courage, imagination, grit...

The GCM is a first step, initiating multiple conversations between actors, conversations which will last a long time