Causes and consequences of international migration: sociological evidence for the right to mobility

tanya golash-boza, University of Kansas Main Campus
cecilia menjivar, Arizona State University

Available at: https://works.bepress.com/tanyagolashboza/4/
Causes and consequences of international migration: sociological evidence for the right to mobility

Tanya Golash-Boza and Cecilia Menjivar

School of Social Sciences, Humanities and Arts, University of California, Merced, 5200 N. Lake Road, Merced, CA 95348, USA; School of Social and Family Dynamics, Arizona State University, Tempe AZ, 85287-3701, USA

Human rights declarations provide the right for any person to leave their country, yet do not provide the right to enter another country, stopping halfway in asserting a right to mobility. In this article we provide evidence that 1) state policies and actions create migration flows; 2) migrants often travel to fulfil their human rights; and 3) current restrictions on immigration curtail migrants’ human rights. We argue, based on sociological evidence, that the right to mobility is a fundamental human right, and deserves a place in human rights doctrine.

Keywords: family separation; globalisation; human rights; interdependence of human rights; international migration; right to mobility

Juanita is a Peruvian woman in her sixties who has dreamed of moving abroad since she finished secretarial school over three decades ago and found herself unable to earn enough money to move out of her parents’ house. Her dream was realised when she migrated to Venezuela in the 1980s, but was cut short by the economic crisis there and she found herself back in Peru. She intended only to stay long enough to get back on her feet. Juanita watched three of her brothers and three of her sisters manoeuvre ways to travel to the USA, France and Spain. Her own attempts to improve her situation through emigration have failed continuously. Juanita has been unable to find work, and her husband pieces together a living as an itinerant labourer. They depend on remittances from Juanita’s siblings for anything in life beyond daily sustenance. Although Juanita recognises that she is now too old to travel abroad and work, she hopes her teenaged children will be able to leave. For Juanita, a poor woman in a developing country, emigration to a developed country seems to be the only way to attain financial stability.

Melissa is a US citizen who fell in love with and married a Brazilian, Sergio. After they met, Sergio returned to Brazil for a vacation. When he returned to the USA, he married Melissa and applied for legal permanent residence. His application was denied and he was ordered to be deported: unbeknown to him, Sergio had violated the terms of his temporary visa in the USA by leaving the country after over-staying his visa and then re-entering without staying outside the country for the requisite time. Sergio’s deportation order forced Melissa to choose between abandoning her right to remain in her country of
birth and her right to be with her husband, as Sergio will never be able to live legally in the USA.

Juanita’s and Melissa’s stories revolve around the tension between the right to mobility and the right to have other human rights realised. For Juanita the right to a decent standard of living has been impinged upon because of her inability to emigrate to a wealthier country. She has the right to leave Peru, but has not been able to gain permission to enter the countries where her siblings live: the USA, Spain and France. Juanita desires more than the right to emigrate from Peru; she would like the right to immigrate to a country where she has familial ties and the possibility of economic betterment. Melissa has the right to leave the USA, but her husband’s lack of the right to remain in the USA means that she was forced to choose between her right to territorial belonging in her country of birth and her right to form a family. Melissa opted to annul her marriage.

In this article we explore the tension between the right to mobility and other human rights and argue for a sociological perspective on the right to mobility. We first establish that international human rights doctrines do not offer the right to mobility, insofar as they provide only for the right to leave one’s country, and not to enter any other. We then demonstrate how sociological research on international migration can provide a critical contribution to the debate over a right to mobility through the provision of sociological evidence of the interdependence between the right to mobility and other human rights, as well as states’ responsibilities for the human rights violations provoked by restrictive immigration policies. As Ruhs has recently pointed out, in so far as migrant rights are in practice closely tied to the rights of other groups in the receiving societies (e.g. workers’ rights), migrant rights need to be examined in relation to admission policies. Thus, the interrelationship between migrant rights, the right to mobility and national policies of admission must be examined in conjunction.

We are cognisant that the link between human rights and mobility has tended to fall within the purview of scholarship on refugees, forced migration and human trafficking. However, as Castles and Loughna have argued, the distinction between economic and forced migration is largely bureaucratic. Many migrants are forced to migrate to escape dire economic situations caused by political decisions, while many refugees are also fleeing economic deprivation, and individuals often bring up economic reasons for migrating, even from politically conflictive regions. Therefore, we find it useful to project a human rights perspective onto forced as well as voluntary migration to more generally link the human rights discourse and a right to mobility. The sociology of immigration, and in particular the scholarship on transnational flows, provides a solid backdrop to make the necessary conceptual links between countries of origin and destination. Paralleling Sen’s conceptualisation of a right to development, a right to mobility gives priority to the freedom to move and the right to do so to realise a fundamental aspect of individuals’ well-being.

The human rights tradition and the right to mobility

Human rights doctrine includes a broad range of rights relevant to migrants. Article 13 of the Universal Declaration on Human Rights (UDHR) states: ‘Every person has the right to leave any country, including his own, and to return to his country’. Several family and community rights pertinent to migrants are enshrined in the UDHR. Article 16 posits that the family is ‘the natural and fundamental group unit of society’. The right to family unity—in whatever form or expression of the family—is crucial for migrants, as family reunification and separation are both characteristics of international migration. Article 17 puts forth
the notion that everyone has the right to ‘participate in the cultural life of the community’. The UDHR also sets out social and economic rights that pertain to international migrants. Article 23 reads, ‘Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment’. And Article 25 states ‘Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services’. The rights to employment and to an adequate standard of living are both often the basis for emigration, in addition to being rights migrants struggle to attain in the host country. The civil and political rights set out in the UDHR also apply to migrants, including the right to seek asylum (Article 14), the right to due process of law (Article 10), and the right to freedom from arbitrary detention (Article 9). Although international migrants are often unable to engage in formal political participation, the human rights tradition provides civil and political protections for them, no matter their citizenship status.

In addition to the UDHR and other declarations which contain provisions relevant to migrants, the United Nations has put forth a convention specific to migrants, called the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMW). This Convention was adopted on 18 December 1990 and entered into force on 1 July 2003, after a threshold of 20 ratifying states was reached; it currently has 57 signatories – none of which is among the wealthy receiving countries of international migrants. This Convention goes farther than previous UN conventions in terms of the rights and protections of migrant workers. For example, Article 44 stipulates: ‘States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers’. The Convention further stipulates that migrants and their children should have access to social services, housing, health care, and to protection from exploitation. In addition, the Convention sets forth that migrants shall enjoy equality of treatment as nationals of the state, access to education and vocational treatment, health and human services, and housing, and should have the right to transfer their earnings and savings, particularly funds to support the migrants’ families. Finally, it specifies that states should pursue policies to facilitate the integration of children of migrant workers into the local school system.

Thus, the human rights tradition provides for the right to emigrate, and specifies protections for those who are able to do so. The right to enter another country, however, does not form part of existing human rights conventions and treaties. In the prevailing human rights tradition, the ‘freedom to leave is a more fundamental right than the freedom to enter’. Bauböck argues that the prohibition from exiting a country is a clear denial of the freedom of movement, whereas the denial of entry ‘does not curtail freedom in the same way as long as there remain alternative destinations that are not closed’. But, for other thinkers, the right to emigrate is effectively useless if there is no country to which one can migrate. Pécoud and Guchteneire, for example, contend that ‘emigration and immigration inextricably complement each other and the Universal Declaration of Human Rights has somehow stopped halfway in its recognition of a right to move’.

In the face of extreme global inequality, these restrictions on mobility protect the birthright privileges of those born into wealthier countries, while trapping people born into poor families in poor countries in a life of deprivation. Citizens of developed countries and highly skilled professionals often have the option of emigrating if they so choose. This is not the case, however, for the vast majority of people in the world, due to visa restrictions, which provide citizens of wealthier and more democratic countries
with more freedom of movement across international borders. For example, citizens of Belgium, Germany, Sweden and the USA enjoy the right to travel to 155 countries without a visa; Sudanese, in contrast, can only enter 26 countries without a visa, Pakistanis, 25, and Afghans, 22. The freedom of movement is therefore stratified at various levels so that countries as well as individuals are positioned differentially with regard to mobility.

A consideration of the ethical bases of these restrictions must take into account two key areas of sociological evidence: 1) receiving countries have often created the conditions that induce emigration from migrant-sending countries; and 2) restrictive immigration policies frequently have ‘unintended consequences’ in human rights violations. Because of receiving countries’ role in creating migration flows in the first place and the human rights consequences of immigration policies to restrict such flows, we argue that the right to mobility must entail both the right to leave and the right to enter. We provide sociological evidence in support of our contentions. Other scholars have argued for the right to mobility. Our analyses differ insofar as we show how sociological evidence can be deployed effectively to make these claims.

A sociological take on the right to mobility

Sociology, particularly in the USA, has tended to shy away from human rights discourses, in large part because of the normative slant of the tradition. However, US scholars such as Judith Blau have insisted that a human rights framework can push sociologists to use their empirical skills to do more than simply describe global inequalities: we can use human rights doctrine as a moral compass to evaluate social processes and conditions. Other US-based scholars who have linked central tenets of sociology with a human rights framework include Saskia Sassen and Bryan Turner, with Gideon Sjoberg developing a nuanced and multifaceted approach to the study of human rights that merges key concepts on bureaucracy and inequality with the agency–social structure relationship. In the UK several scholars have highlighted the utility of sociological tools to explore and assess the legal and moral frameworks of human rights as well as their implementation. We draw from both these traditions as we consider the extent to which international migrants are able to have their rights realised. We also engage the human rights scholarship put forth by Malcolm Waters and Anthony Woodiwiss, who urge scholars to consider the socially constructed nature of human rights by questioning why human rights doctrine allows for the right to emigrate but not to immigrate.

A few scholars have begun to develop the nascent subfield of international migration and human rights by creating new ways to navigate between the empirical pull of sociology and the normative and philosophical pull of the human rights tradition. For example, Joseph Nevins argues that, in a globalising world rampant with economic inequality, the human rights to free choice of employment and to an adequate standard of living enshrined in the UDHR are difficult to achieve without the ability to leave one’s country of origin. Reflecting on the importance of a normative discussion of ‘open borders’, Aristide Zolberg reminds us of the ethical tensions between immigration policies and the moral obligations of the global community. And Delgado Wise, Márquez Covarrubias and Puentes contend: ‘Migrants and their families are social, rights-bearing subjects and their rights must be defended in origin, transit, and destination countries. A minimum set of rights includes: right to development, free mobility, decent work, and the choice to not migrate.’

An analysis of the human rights of international migrants provides an ideal opportunity to explore some of the crucial issues posed by a human rights framework. As Anthony Woodiwiss points out, the enforceability of human rights documents poses a major
problem because, even though human rights discourse purports to transcend national borders, enforcement regimes operate nearly exclusively at the national level. International migrants, however, often have rights claims that transcend national borders, and are positioned to oblige states to engage with one another. Indeed, through the control of borders and enforcement practices, receiving states interact with immigrants and in these spaces receiving states assume special obligations to the immigrants.

In this section we suggest a variety of ways that sociologists can contribute to the debate over the right to mobility through an analysis of the role of states in creating and managing migration flows, and the human rights implications of these actions and policies. By doing so, we render it evident that the utility of discourses over the right to mobility lies in the practical implications of this right for those most affected by the existence, strength and reification of national borders.

**States’ responsibilities in creating international migration flows**

International migration is prevalent today in large part as a result of present-day and historical flows of capital, people and military influence. A discussion of the right to mobility needs to recognise a paradox in large-scale migration flows today: receiving states have played a fundamental role in creating specific population movements and at the same time have crafted responses that prevent the entry of those migrants. This tension has been amply identified empirically in sociological research. Although sending states share a responsibility in creating such movements, we turn to a discussion of the paradox created by receiving states. A focus on the receiving states brings attention to contradictions between policies that exclude and those based on moral obligations that seek to include, an issue that needs attention in order to move a discussion of a right to mobility into line with a human rights discourse.

States have played an important role in creating migration flows, and thus have a responsibility to manage these flows. States’ roles in creating migration flows can be formal and direct, such as when states grant passports to their citizens to leave, and visas to non-citizens so that they might enter. But these actions can also be indirect, but equally powerful, as when state actions sow the seeds of contemporary migration flows. For example, the largest migration flows from poorer to wealthier nations today have roots in the wealthier and more powerful states’ previous contact and interference in the migrant-sending states; these flows are therefore directed to the centres of power of their respective areas of influence.

Indeed, the migration flows from the English-speaking Caribbean countries to Britain, from the Maghreb to France, from the Philippines to the USA, or from Suriname to the Netherlands are not mere coincidences. Histories of colonisation, economic, political and historical ties, and contemporary international relations and foreign policy go a long way in explaining migratory patterns around the world today. Taking the case of the US-bound migratory flows as one in a global trend, the vast majority originate in only a few countries and, contrary to what one might think, those countries that send the most migrants to the USA are not the poorest. For instance, of the more than one million immigrants who became US legal permanent residents in 2009, only 6718 of them hailed from the five poorest countries in the world. Moreover, the vast majority of migrants to the USA come from a handful of countries: those with close ties to it. In 2006, for example, 43 per cent of all legal permanent residents and 64 per cent of all undocumented migrants came from Mexico, China, India, the Philippines and Vietnam – all countries that have longstanding, close military, political and economic ties to the USA.
Direct military intervention and colonial conquest have been key factors in triggering migratory flows. For instance, Indian, Pakistani and Bangladeshi migratory flows to Britain can be explained in the context of British colonial rule in that region of the world. Vietnamese migration to the USA is another case in point: the Vietnam War (1963–75) marks the beginning of large-scale Vietnamese migration to the USA. Vietnamese refugees began to arrive in large numbers after the fall of the US-backed Saigon government in 1975, when the US government sponsored the evacuation of over 100,000 Vietnamese refugees. Had the government not intervened militarily in Vietnam in the 1970s, it is unlikely there would be over one million Vietnamese in the country today. Before this military intervention there were almost no Vietnamese in the USA; by 1980 there were a quarter of a million. With the end of the Cold War and other changes in international relations the USA has shifted its position with respect to potential Vietnamese immigrants. The presence of 160,000 undocumented such migrants in the country in 2006 exemplifies what happens when a door that was previously open is shut and a receiving country no longer provides legal options for entry.

Wealthier states can also trigger migratory flows from poorer countries through economic intervention, such as foreign investment, which creates cycles of capital and labour mobility, or through direct incentives, as in the case of Mexican labour migration to the USA over the past century or Turkish migration to Germany in the 1960s and 1970s. The case of Turkish migration is particularly instructive here. With the recovery and boom of the German economy in the 1960s there was a need for semi-skilled and unskilled labour. The then Federal Republic of Germany (FRG) signed bilateral agreements with the governments of Italy, Greece, Spain and Turkey for the importation of workers. Turkish workers were supposed only to stay for two-year periods but, with pressure from German industry, this clause was dropped and Turkish immigrants delayed their return home. Even though the FRG stopped the recruitment of workers in the mid-1970s when its ‘economic miracle’ ended, few Turks went back and there are some 2.5 million individuals of Turkish origin living in Germany today, the largest population of foreigners in the country. Although they are free to move back to Turkey, many of these individuals have now spent most of their lives in Germany, have children and families there, and would be strangers in Turkey. Although Germany’s immigration laws were revamped with a series of new laws beginning in 1993 that extend more rights to non-Germans, Turks still do not enjoy full participation in German society. Germany’s contradictory approach of tolerating dual citizenship while in practice opposing this right discourages naturalisation, a situation further complicated because this right is not extended equally across all groups.

Receiving countries’ immigration policies and human rights

A central feature of the right to mobility as a human right is that migrants’ experiences are not solely contingent on their presence in a new country, but also on how they are received in the destination country and what civil, political, cultural, social and economic rights they are granted. In this regard it is useful to focus on one aspect of this reception and its effects: how immigration policy has affected migrants’ human rights. These effects can be discerned in a wide range of contemporary trends, from sojourners becoming settlers because of restrictive immigration controls, to indefinite and lengthy family separations resulting from such policies, to the progressive abrogation of rights of immigrants that curtail their livelihoods and block access to goods and benefits. Indeed, a right to mobility does not concern only the individual; it involves families, communities and entire countries.
Thus, one must keep in mind that immigration policies enacted in wealthier and more powerful countries do not remain contained within those territorial demarcations; they also have an effect on human rights beyond their national borders. The national policies enacted to limit the number of immigrants entering a European country or the USA, for instance, have profound and far-reaching effects on sending communities. For example, border enforcement policies that make it more difficult to enter make those journeys increasingly costly, physically and financially, thus transferring the added costs and burden to the sending communities. The family members who stay behind (often non-migrant women) must deal with negotiating the debts migrants incurred in order to make the journey. Immigration policies that undermine family reunification and keep immigrants away from their families for longer and more uncertain periods of time, as in the case of the USA and various European countries, negatively affect the lives of non-migrant children. Migration-induced transformations in the sending communities often carry negative consequences for others who stay, as in the case of the wives of the Armenian men migrating to Russia and Guatemalan men migrating to the USA. In both cases there was an increased surveillance of women when their husbands were away and a move to a more strict enforcement of patriarchal norms that maintained highly unequal gender hierarchies. Immigration policies that engender spousal separation thus have important consequences for the rights of women left behind.

Border enforcement and human rights

Violations of human rights in migrants’ journeys are among the most severe, visible and frequent rights violations, as large numbers of migrants are denied formal entry visas and thus must undertake trips by land or water, under increasingly more dangerous conditions. Stories of these treacherous journeys abound in media accounts today. We learn of the harrowing journeys of young Senegalese men taking rickety boats across the Gibraltar Strait to enter Europe through Spain; of Chinese migrants undertaking similar voyages to reach the USA, and of Central American women and men crossing Mexico en route to the USA on ‘The Beast’, or the ‘Train of Death’, as the cargo train on which they cling to hitch a ride is aptly named. Indeed, one of the most treacherous journeys today is that of transmigrants travelling through Mexico, where they can be tortured, violated and subject to extortion by criminal bands as well by as law enforcement agents. According to the National Human Rights Commission of Mexico, there are an average of 800 kidnappings a month of migrants in transit in the country today, and many of the 200,000 who cross Mexico annually perish during the journey. This journey is particularly dangerous for women and girls. According to Amnesty International, six out of 10 Central American women and girls are victims of sexual violence during their journey through Mexico. This journey and the human rights violations it entails are a direct consequence of restrictive migration policies in the USA and of the militarisation of its southern border, as heightened border surveillance has created conditions for more lucrative smuggling operations that increasingly resemble human trafficking rings.

What all the above cases have in common is that migrants’ journeys have increased in danger in direct relation to the stiffening of immigration policies in the countries the migrants attempt to enter, and that during these journeys migrants are exposed to severe human rights violations. During journeys over rough terrain, rivers and oceans, migrants lose limbs, suffer extortion, are unprotected, victimised, robbed, and sexually assaulted. Poorer migrants, even those who originate in middle-income nations, must often travel without an entry visa because they do not have the means to meet the requirements of a...
formal visa; these requirements are highly class-based. Thus it is the poorer migrants who are more exposed to the risks of a journey by land and the ones who undertake the most dangerous trips.\textsuperscript{46} The rights violations these migrants suffer during the journey make visible the effects on migrants when the right to enter their desired country of destination is undermined (e.g. the lack of an entry visa that would allow them to immigrate safely). Immigration policies today, then, far from upholding a right to mobility, close the few doors open to the right to immigrate. And even though human rights organisations exist to protect the migrants, in some regions more developed and active than in others, their work does not begin to address the need.

**Family reunification policies and human rights**

On the receiving end, immigration policies have profound effects on the rights of migrant workers and their families, including blocked access to social services, to housing rights, to education and health, to the right to work and earn dignified wages to meet basic needs of food and shelter, and to other benefits.\textsuperscript{47} Even though a feature of migration has long been the separation of migrants from their families during the time they work abroad, migration-related family separation today is qualitatively different and is related to curtailed rights to mobility. Today we see the separation of families in which an individual migrates alone and leaves family behind as in the past, but the indefinite and uncertain periods of separation are related to current policies that make it nearly impossible to reunite in the receiving countries.\textsuperscript{48} These policies also make it impossible for migrants to visit their families in the sending countries regularly because of the risky journeys that migration by land entails today. We see instances of this situation among Latin American-origin immigrants in the USA,\textsuperscript{49} as well as among African immigrants in Italy and Spain.\textsuperscript{50}

The separation of migrant mothers from their children brings to the fore the impediments to mobility linked to the tightening of immigration laws in receiving countries. These mothers separate from their children for lengthy periods of time because they either do not have legal documentation and have to stay put to be able to generate incomes to send remittances back home, or because family reunification laws make it practically impossible for them to bring their children to live with them in the country of destination. This situation is prevalent among Filipina domestic workers in France;\textsuperscript{51} Ecuadorian and Ukrainian migrant women in Spain;\textsuperscript{52} Nepali migrants in Japan;\textsuperscript{53} Latina migrant women in Israel;\textsuperscript{54} and Central American women in the USA.\textsuperscript{55} In effect, international migration presents a conundrum: people migrate to have their rights met, yet the immigration policies that govern their migration deny them other rights. One way this conflict of rights could be resolved would be to craft a right to mobility alongside with other rights, such as the right to family reunification and to an adequate standard of living.

**Deportations and human rights**

Among receiving countries’ most extreme responses to contemporary migratory flows are deportations, which can be considered an ultimate form of exclusion and as such the other side of the coin of the right to mobility. Undocumented migrants, people convicted of crimes and those denied asylum are frequently deported in Austria, France, Germany, the Netherlands and the UK.\textsuperscript{56} In the USA the elimination of many grounds for appealing against deportation orders means that it has become increasingly common to deport migrants who have spent most of their lives in the country, as well as those with US citizen relatives. These individuals are active members of their communities, working,
praying and playing alongside US citizens, and are suddenly removed from their worlds and transported to countries they barely remember. Indeed, a recent study notes that two-thirds of the undocumented immigrants in the USA today have been in the country for more than 10 years, with one third having resided in the country for 15 years or longer. A new report revealed that the USA deported 46,486 parents of US citizen children in the first six months of 2011 — meaning that some 100,000 parents of US citizens were probably deported in 2011 alone. Thus, deportations do not simply remove individuals who have purportedly broken the law by entering or remaining in the USA after their visas have expired; deportations remove active, rooted members of families and communities. Not only do the family members in the USA suffer the separations, but often relatives in the sending countries, who have been counting on the remittances they receive, are affected as well. In this way the act of removing a person from her habitual place of residence has far reaching consequences that affect individuals and communities the world over.

The USA deports, on average, over 1000 people each day. In 2011 the US Department of Homeland Security (DHS) deported a record high of 396,906 people—ten times as many as in 1991, more than during the entire decade of the 1980s, yet just short of its quota of 400,000 removals per year. Nearly all these deportees are Latin American or Caribbean nationals. One of the most pernicious examples is the deportation of long-time US residents to Haiti. On 12 January 2010 Haiti suffered a devastating earthquake. Because of the devastation, the break-down of government, and the destruction of the prison in Port au Prince where deportees were held, the USA suspended deportations to Haiti. However, just one year later, in January 2011, the government resumed deportations, and 27 men were deported to Haiti, where Haitian officials illegally detained them in cells full of faeces, vomit and blood. Wildrick Guerrier, a 34-year old deportee, died of cholera-like symptoms two weeks after arriving in Haiti. Guerrier had been a legal permanent resident of the USA for nearly 20 years, and was ordered to be deported after serving 18-months in prison for possessing a firearm. Despite the continuing cholera epidemic, the illegal detention of arriving deportees in dangerous conditions, and the lack of health care and infrastructure in Haiti, in 2011 the USA deported 250 Haitian citizens. The Inter-American Commission on Human Rights has urged the USA to resume its moratorium on such deportations because of life-threatening conditions in Haiti. The USA has ignored these pleas.

The contradictions inherent in the assumption that the freedom to leave the country of citizenship takes precedence over the freedom to enter and remain in a host country are made evident in the deportation of citizens of countries to which they have no ties: sometimes the host country is the only country a person has ever known. Natalia, for example, is a citizen of Haiti because her mother is Haitian. Natalia, however, has never set foot there. She was born in the Bahamas and moved to the USA when she was two days old. The USA became her adopted home. Yet, as a Haitian citizen, she faced deportation to Haiti after violating the terms of her visa. When Natalia was 20 years old she was caught shoplifting. Her attorney advised her to plead guilty to get a lesser sentence, and she did. However, her conviction rendered her deportable, to Haiti, even though the USA is the only country she has ever known; her mother, child and siblings live in the USA; she has no relatives in Haiti; and she does not speak Haitian Creole. Natalia’s deportation to Haiti is one of many examples of the egregious human rights violations created by US deportation policies. The implications of these human rights violations become more serious when we also take into consideration the long and ongoing history of US military and economic incursions into Haiti.
Examples of the ways in which immigration policies violate the right to form a family, to an adequate standard of living, to cultural expression, and to a host of other rights abound. These policies, which aim to restrict movement and enforce national sovereignty in an era of increased travel and trade of goods across borders, create a plethora of human rights violations. In the interest of space we limit ourselves to the examples above. In the next section, we consider how this sociological evidence on the causes and consequences of international migration can contribute to this debate by delineating the right to mobility.

What a right to mobility might look like

The sociological evidence set forth above points to the need for a right to mobility, given the current state of the globalised economy with its strong push towards integration and the flexible movement of goods and capital. As sociologists who study international migration, we can provide abundant evidence that 1) state policies and actions create migration flows; 2) migrants travel most frequently to fulfill their human rights to freedom from persecution, to an adequate standard of living, and to be with their families; and 3) current restrictions on immigration flows on the part of major immigrant receiving countries curtail migrants’ human rights. Policies in major receiving countries that prevent the majority of people from immigrating often result in rights violations. The right to mobility, then, is a fundamental human right and must be incorporated into human rights doctrine.

There will always be an interplay between the right to mobility and the right to other rights, and these human rights must be weighed accordingly. For example, the economic crisis affecting sending countries like Mexico and those in Central America, together with US border policies that have contributed to the immobility of previously circular migrants so that they stay put and do not leave the country, have given rise to migratory flows to new US destination areas, particularly to the South and the Midwest. These areas were not prepared socially, institutionally or culturally to receive this new influx, as immigrants have moved in to take jobs but they come with families and children and thus there is now increased demand for services in schools, hospitals and the like. These flows must be managed from a human rights standpoint because of the human rights concerns both of new arrivals as well as of the people in receiving communities. The sudden influx of Latino children into small towns in the South, for example, may infringe on the right to education of those already present in this town. From a human rights standpoint, however, the right to education of the residents of this town does not necessarily take precedence over the rights of arriving migrants. Both the residents and the arriving migrants have valid human rights claims which should be weighed accordingly.

The consideration of a right to mobility, then, must be thought of as one of many human rights, all of which operate in conjunction with one another. The Vienna Declaration of 1993 states: ‘All human rights are universal, indivisible and interdependent and interrelated’. The right to mobility is no different, especially insofar as it operates in functional interdependence with other rights. People require the right to mobility when they are unable to have basic rights met within their country of origin. In the current context of global capitalism, the absence of the right to enter a country for many people means the absence of the right to be with their families, to be free from persecution, and to have an adequate standard of living. Significantly, the lack of the legal right to mobility does not prevent large numbers of people from migrating. Migrating illegally, however, brings about a host of other rights violations, especially related to the right to personal security. The right to mobility – not
just to exit but also to enter – is a serious omission in human rights doctrine because its denial leads to other human rights violations.

To clarify what a right to mobility would look like, we distinguish between the absence of borders, open borders and the right to mobility – three distinct concepts. Open borders are not the same as the absence of borders. State borders function both to demarcate political jurisdiction and to control flows of goods and people; thus, one can eliminate controls over migration flows without ending centralised control over the polity. The adoption of a right to mobility, however, does not require open borders. Instead, the recognition of the human right to mobility would entail the right to exit a country and enter another one, a human right that would be balanced along with other human rights claims. In addition, the burden of proof would fall upon states to establish when and why they choose to deny people this particular right in order to ensure other rights. The right to mobility changes the grounds for debate. Instead of citing the protection of national security and private property to deny non-citizens entry, states that uphold the right to mobility would have to cite the realisation of other human rights.

Consideration of how the right to mobility might look in practice raises other questions. Does the right to mobility imply that all people deserve the economic capital requisite for international travel? Or, does it mean that the burden of proof shifts to the states? Can we imagine human rights doctrines saying: ‘States shall, except when compelling reasons of national security otherwise require, allow non-citizens to enter their territories’? The right to mobility is under-theorised and under-developed both in sociology and in human rights scholarship more generally, and we have pointed to the sociological evidence that could open the door to research that focuses on these interrelations.

Conclusion

What can sociology contribute to a discussion of the right to mobility? Two points stand out. The first is empirical groundwork that can provide the bases for ethical and moral debates about who has rights and when, who is included and how, and whose rights take priority and why. Sociology’s emphasis on keen observation, analysis, discerning of patterns of behaviour, and critical thinking makes this approach particularly suited for shedding light on issues such as human rights and particularly the right to mobility. And, second, sociologists’ skill in unveiling multiple inequalities, whether micro or macro, at the local or global scale, and in linking micro-stories to larger processes, positions them favourably to contribute an understanding of why movements across borders take place, how links across borders facilitate movements, and how profound inequalities between and within countries – at the sending and receiving ends – shape these movements and ultimately the debates about the rights of migrants (and non-migrants alike).

A perspective that underscores inequalities and power imbalances on a global scale can help to correct perceptions of migration as benefiting only the sending countries (and the migrants themselves), perceptions which tend to hide the costs of migration to sending societies, as well as the benefits of immigration to the receiving societies, and could help to shift to an understanding that is more balanced and complex, and thus closer to what global migration relations are like. Perspectives that underscore the benefits for sending countries tilt the discussion so that receiving countries are seen as subsidising poorer ones through migration and remittances, a stance that often fuels negative public opinion in receiving countries with detrimental consequences for migrants. In addition, perspectives that treat migratory flows as independent of foreign policy actions of the receiving state in sending countries absolve these states of the responsibility toward migrants. Such
arguments veil the causes and consequences of political and economic imbalances that need to be acknowledged when delineating a right to mobility.

A sociological approach can provide the tools not only to describe trends, but also to understand them and to inform publics and human rights organisations about root causes and to explain patterns of movement to enhance our understanding of the links between rights and migratory movements. Thus, a sociologically informed perspective can contribute to reframing the discussion and the agenda by introducing evidence gathered through various methodological tools. It can be particularly beneficial in receiving countries that maintain an exclusivist and reductionist approach to migration, where migration is framed as a ‘problem’ or, more commonly these days, as a threat. A framework that identifies unequal exchanges and power imbalances at both ends allows the linking of the right to mobility (as well as the right not to move) to discussions about rights more generally.

There have been calls to bring a human rights dimension to the migration discourse, yet this cannot be a one-way project, as the need to base human rights discussions on evidence gathered from migration research seems equally urgent. In this paper we have used sociological evidence to exemplify the kind of information that can serve to inform discussions about rights and the critical role that sociological research can make to this discussion. This is a fruitful avenue of research for sociologists for the reasons we have pointed to. As alternative ways of thinking about the migration–rights nexus emerge, sociologists have a particularly useful set of analytical tools to guide the discourse.

Notes
12. Mau, ‘Mobility, Citizenship, Inequality, and the Liberal State’.


27. Hovdal-Moan, ‘Borders as Space of Interaction’.


29. Portes and J Böröcz, ‘Contemporary Immigration’.


33. Philip L. Martin, The Unfinished Story: Turkish Labor Migration to Western Europe, with Special Reference to the Federal Republic of Germany (Geneva: International Labour Office, 1991); Massey et al, Beyond Smoke and Mirrors; Sassen, The Mobility of Labor and Capital.
34. See Migration Focus, n.d., http://focus-migration.hwwi.de/Germany.1509.0.html?&L=1.
36. Massey et al, Beyond Smoke and Mirrors; Menjivar, Liminal Legality; Menjivar and Abrego, ‘Legal Violence’.
44. Menjivar and Abrego, ‘Legal Violence’.
46. Sládková, ‘Documenting the Undocumented’. The actual costs of these trips are very high, often higher than a plane ticket might be, and poorer migrants thus incur huge debts in order to make these trips.
47. Menjivar and Abrego, ‘Legal Violence’.
67. See also Zolberg, ‘Why Not the Whole World?’.
68. Massey et al, Beyond Smoke and Mirrors.
72. See also Delgado Wise et al, ‘Reframing the Debate’.

Notes on contributors

Tanya Golash-Boza is Associate Professor of Sociology the University of California, Merced. She is the author of Yo Soy Negro: Blackness in Peru (2011); Immigration Nation: Raids, Detentions and Deportations in Post-9/11 America (2012); and Due Process Denied: Detentions and Deportations in the United States (2012). Her most recent work is on the consequences of mass deportation.

Cecilia Menjivar is Cowden Distinguished Professor in the School of Social and Family Dynamics at Arizona State University. She is the author of Fragmented Ties: Salvadoran Immigrant Networks in America (2000) and Enduring Violence: Ladina Women’s Lives in Guatemala (2011), among other books, and several dozen articles. Her recent work includes the effects of migration on sending countries.