Markets, citizenship and rights: state regulation of labour migration in Malaysia and Spain

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PREFACE

Everyone is talking about ‘globalisation’. From different viewpoints, more or less critical stances, emphasising some aspects more than others, it would seem that we all agree that we are living in an increasingly ‘globalised’ world, which is to say a world characterised by the emergence of global dynamics and institutions and progressive de-nationalisation of what, until very recently, had been constructed as national and from the national sphere. In the economic terrain, this globalisation has been characterised by the emergence of productive and financial markets on the world scale. In politics, it points to the construction of international regimes that regulate spheres ranging from international trade and intergovernmental relations through to ‘intellectual property’ rights and human rights. In the social domain, the consolidating world-wide articulation of struggles and social conflicts is a point of reference. As for the cultural realm, warning voices identify the appearance of a uniform culture or great melting pot on the global scale. While this discussion and analysis of ‘globalisation’ is notable for its wide-ranging diversity, there seems to be a common denominator: the different points of view depart from the conviction that national confines and frontiers have undergone great change.

This certainty has marked a major part of present-day debates in the field of migration studies. First, several authors have noted that the State is ‘losing control’. Arguments citing this loss of control refer to the growing gap between immigration policy intent and immigration reality. The explanation for this has focused on the impossibility of continuing to apply the ‘old rules of the game’ and, more specifically, on the growing contradiction between (new) border-free economic spaces and (old) border control (Cornelius, Martin & Hollifield 1994, 2004; Sassen 1995). Second, other scholars have pointed to the emergence of post-national forms of citizenship. From this standpoint, the establishment of an international human rights regime after the Second World War is seen to have led to the formulation of a set of citizenship rights defined and defended beyond the confines of the nation-state (Soysal 1994; Bauböck 1994; Sassen 2002). Finally, more recent studies stress the transnational practices of the migrants themselves (Glick Schiller, Basch & Blanc 1992, 1995; Portes 1999, 2001, 2003; Faist 2000). Dubbed by Faist (2000) ‘the third generation of migration scholarship’, these studies focus on how the daily practices of migrants construct social spaces (or simultaneous multi-stranded social relations) that weave together their country of origin and their country of settlement. From this perspective, the practices of migrants (aided by new means of communication and transport) are seen as the main challenge to the confines of the national.

While these approaches have contributed significant nuances with the regard to the meaning and implications of present-day migration processes, their emphasis on the decline of the national and the rise of the post-national or transnational contrasts with the actual experience of migrants or travellers coming from the South. Contrary to what a ‘globalised’ world would seem to be suggesting, for
these migrants or travellers the border looms as an evermore ubiquitous and impassable wall. The first frontier rears up before they even depart. By means of more stringent visa requirements and extending the need for a visa to more countries, the State attempts to exert control over aspiring migrants (when they are still beyond its national borders) by checking their identity documents, economic resources, reasons for the journey and motives for leaving or staying. The second barrier appears at the point of entry. For those who come in as tourists via airports and ports, it is a question of demonstrating once again that they do not intend to stay. For people who try to cross the geographic frontier, it is a matter of surviving deserts, seas and forests that increasingly end in blockades. Finally, although this fact is frequently overlooked, the border does not disappear once the migrant has entered the country. This is where the third – less tangible but no less decisive – frontier comes into action. It is one that is constructed on the basis of excluding those who are not authorised to remain (illegal immigrants) or including, but only conditionally and partially, those who have just arrived (temporary residents).

This study arises precisely from the belief that this other face of reality should not be overlooked. At a time when immigration studies (particularly in social sciences) are highlighting the effects of globalisation on migratory processes, this research departs from the conviction that it is also necessary to describe and explain the processes of border closure. This is not a question of either/or. Neither is it a matter of determining whether the frontier will succeed in imposing itself upon post-national and transnational realities or vice-versa. They are not mutually excluding processes. The aim is more to change the focus: while a considerable part of today’s research discusses the global aspects of migratory processes, this study aims to elucidate the national or State side of these same processes. In particular, it starts with a twofold question. First, how can these frontiers be explained and what is the reason for the construction of all these walls and gates? Second, what effects do these frontiers have on migration flows? In order to answer these questions which, rather than research questions are starting-point issues, this study departs from the assumption that the factors that lead to the channelling of immigration are never monolithic or unidirectional. I will therefore pay particular attention to the dilemmas and contradictions that underlie them. Furthermore, the present research is guided by the conviction that regulation of immigration not only involves written documents and policies but also their implementation and effects. As will be shown throughout this book, only thus will it be possible to understand how the different dilemmas and contradictions are really dealt with and resolved in practice.

Besides the fact that the mechanisms of border regulation and closure defined and implemented by the nation-state must be taken into account, this study also responds to the urgent need to re-think the possibilities and limits of migration control in liberal democracies. In recent years, scholars such as Freeman (1995), Hollifield (1992, 2005), Joppke (1998a, 1998b, 1999) and Guiraudon (1998, 2000, 2002) have indicated that liberal democracies are self-constrained by rights. As pointed out by Joppke (1998b: 290), ‘accepting immigration is inherent in the
liberalness of liberal states’. From this standpoint, the gap between policy goals and policy effects would be the result not so much of the processes of globalisation as of the difficulties liberal democracies face when it comes to excluding migrants who are already inside their national territory. While these studies have offered greater understanding of the political and legal processes underlying the ‘doing’ of immigration policies, their scope is still markedly limited: their analysis of the particularities of migration control in liberal democracies is done from within, in other words, comparing liberal democracies with other liberal democracies. It is this limitation that led me to study the case of Malaysia (as an example of a non-liberal State) and thence to consider to what extent we are looking at dynamics that are fundamentally different.

Finally, having advanced the two main questions that explain the origins of this study, I shall conclude this Preface by outlining the structure of the book. Chapter 1 delimits the theoretical framework underpinning the study. This involves explaining what is understood by the terms ‘State’ and ‘immigration policy’ while also sketching the contradictions lying at the basis of State regulation of labour immigration. The chapter covers both the main assumptions from which the research departs and the most important theoretical issues to be resolved. Chapter 2 presents the research questions, the research design (including here the reasons for my choice of comparison), the methodological approach and the main challenges of fieldwork carried out in such dissimilar worlds. Chapters 3 and 4, both eminently descriptive, detail the cases of Malaysia and Spain respectively. Detailed analysis is given of the regulation of labour immigration in both countries from the 1980s through to 2007. The reason for analysing the two cases separately, despite the fact that this is a notably comparative work, is the desire not to interrupt the logic of each case and to facilitate reading for anyone who is especially interested in either of the two cases. Chapter 5 consists of a systematic comparison between State regulation of labour immigration in Malaysia and Spain. The analysis probes deepest at this point. Finally, the conclusions of the study are given in Chapter 6 and, more specifically, it is here where I respond directly to the research questions and deal with theoretical issues that from Chapter 1 had been awaiting answers.