

ABSTRACT

The migratory phenomena have always been part of the history of mankind. It would be hard to state that migrations have not been vital for the economic, social and technological growth and development of migrants' countries of origin, transit and destination. With the advent of globalization and of democratization processes, immigration acquired an even more central and decisive role. Political ideas, economic interests, ethical principles and philosophical theories orbit around the issue and make the debate on it and its resolution more complicated.

The ongoing globalization can be considered at the same time the cause and the effect of the growing interconnection among people who are at present living in an era where national borders appear more and more passable and surmountable. In order to understand the magnitude of the migratory phenomenon, we should be aware of the fact that today 'no one could state that he never had a direct experience with this phenomenon or at least, with its effects'.¹

With all these considerations in mind, it would be more appropriate to analyze the topic following a philosophical approach, with the aim to define a conduct as close as possible to the idea of justice.

Which is the best perspective from where to analyze immigration? Should migrants be considered legitimate citizens or rather invaders and predators?

Starting from the assumption that no man is able to choose in advance its social, family and economic conditions, this essay analyzes the lawfulness of emigration as an act meant to search for a better context within which everyone could develop his own life path, thus bypassing the chance and the fate.

Furthermore, this essay evaluates the possibility to consider the legitimate defense of national borders against external invasions. Every state has its own borders, and defends itself according to the principle of sovereignty and self-determination. According to J. Carens: 'Borders have guards and guards are armed'². But even if borders have guards, and these guards are armed, what could justify the use of force

¹ Miller, Mark J., *The Age of Migration*, (New York: Guilford Press, 2003), p. 5.

² Carens, Joseph H. , "Aliens and Citizens, the Case for Open Borders", in *The Review of Politics*, Vol. 49, N. 2, 1987, pp. 251-273.

against those who want to cross national borders?

One justification could be the will or the necessity to impede all sorts of invaders from entering another state.

Nevertheless, very often immigrants are neither criminals nor terrorists. They are just unlucky men from the lottery, workers ready to sacrifice, individuals who gave up everything in order to ensure a safe future for themselves and their families.³ But, as everyone knows, natural resources available on Earth are limited. Hence, a question arises: according to which criterion of justice should natural resources of another's territory be divided with people who are not part of that land?

Immigration should be interpreted according to the theory of collective wellbeing or the theory of individual wellbeing?

This essay was born from these questions of ethical and philosophical nature, and it is divided into three chapters, each one integrated by a referential case-study.

Namely, the first chapter deals with the implications concerning equity and social justice deriving from the opening and closing of borders, focusing on inclusion policies and border-opening policies. Starting from the equalitarian analysis by J. Rawls, it is clear that differences between rich people and poor people in the world are due to the random nature of a chance lottery. For this reason, to leave the original country and migrate to a more attractive nation might seem one of the few solutions to equalize such differences. To corroborate this point of view, it could prove useful the stratagem provided by Rawls: the "veil of ignorance", namely that original and hypothetical position in which the American scholar places individuals.

Special mention deserves another enthusiastic supporter of the opening of borders, professor J. Carens; in his opinion the closure of borders would be an unjust act since it would even strengthen the already existing inequalities in the world.⁴

Then, the opposite view will be shown, and namely the one which considers the closing of borders as a tool to respond to issues concerning equity and social justice.

In order to support this point of view, some emphasis should be placed on M. Walzer's thought. The key concept of his treatise is the concept of belonging. Indeed, it is only through this concept that it is possible to define rights and which are the

³ Carens, Joseph H., *The Ethics of Immigration*, (New York: Oxford University Press, 2013), p. 225.

⁴ Ibidem, pp. 225-226.

duties deriving from these rights. According to this philosopher, rights and duties befit exclusively to members of the community and that's why immigrants do not have the right to make any claim or demand.⁵

Finally, a particular case study is presented: the existing differences between the citizens of first and second class, with the substantial difference being closely linked to representativeness. In fact, if the first-class citizens have the right to choose their own political class, as being part of that given state, the second-class citizens (a category into which we can insert immigrants) do not have the right to vote for the political class, then their voice is not heard.

Once the analyses concerning equity and social justice have been concluded, the second chapter deals with the dilemmas of ethical and philosophical nature linked to immigration and referring to distributive justice.

Here, the analysis on distributive justice, that is to say the way in which resources should be allocated, is of primary importance. Problems linked to this issue are given by the fact that the distribution of goods and resources is not egalitarian at all. A non-egalitarian distribution of goods consequently leads to the presence of conflicts of interest within the society. But, the real injustice lies not so much in the fact that resources are allocated in a non-egalitarian way; rather it is inherent in the fact that international institutions are not organized in such a way as to benefit the most disadvantaged peoples.⁶ Opposed to this type of analysis, there is R. Nozick's idea concerning the relevance of differentials on goods. In fact, as Nozick writes, the possession of certain goods is fair if individuals got those certain goods in accordance with the principle of justice in transfers. From this approach, it would be unfair to grant immigrants the chance to enter, as well as the possibility to embezzle the state resources.⁷

To complete the analysis on the distribution of resources, the chapter deals with the correlation between three particular themes, namely the overcrowding within certain geographic areas, population growth, and resource scarcity; and it

5 Walzer, Michael., "Spheres of Justice: A Defense of Pluralism and Equality", (New York: Basic Book, 1983), pp.41-44.

6 Del Bò, Corrado., *Indicalità, eguaglianza e titoli Validi. Considerazioni in margine a Hans Lindahl, teoria e critica della relazione sociale*, N.2, 2008, pp. 3-5.

7 Nozick, Robert., "Anarchy, State and Utopia", (Milano: il Saggiatore, 1974), pp. 164-166.

would be appropriate to dwell on the view expressed by G. Hardin with two examples: one related to the lifeboat and the other related to the “commons”. In his opinion, the Earth overcrowding, due to the increase of births in underdeveloped or developing countries, turns out to be a source of “waste” of the resources of the planet. The solution he proposes is to arrogate only to the rich the control, as well as the management of natural resources, since he sees in the ethics of sharing one of the primary causes of the human ruin. This fear of losing all the resources raises the contrast between “us” and “them”, between those who are part of the state and those who are not, between insiders and outsiders.⁸

The second chapter ends with a case study on the differences in the distribution of resources at a global level. Differentials of resources in different parts of the world are one of the main economic causes which push individuals from the southern hemisphere of the planet to migrate. These individuals migrate towards Northern countries in order to escape a fragile economy, the scarcity of resources, and the cumbersome presence of strangers.

Finally, the last chapter deals with issues related to individual and collective wellbeing. In fact, immigrants usually estimate their level of wellbeing in the state of belonging and of the likely level of wellbeing that they could have after they left towards a more attractive country. The utilitarian approach, according to which the action to be pursued is the one that maximizes the largest profit possible, definitely comes to our aid.

The final analysis will focus on the case study of the brain drain, particularly on the phenomenon of “medical brain drain”. The starting point is the Pareto’s criterion according to which a situation A is preferred to a situation B, if in situation A at least one person is better off than in situation B, and no one is worse. Applying this criterion to the brain drain case, it would seem correct whether a young graduated from a rich country decides to migrate to improve his living conditions; the presence or absence of that young man does not improve nor worsens the condition of his society. But a different discourse should be done if the young graduated was a young doctor on the run from a poor country.

⁸ Hardin, Garrett., “Living on a lifeboat”, *BioScience*, Vol. 24(10), 2001, pp. 1-2.

In the light of what said so far, and with reference to the analysis of the various positions, it is undoubtedly clear how difficult it is to find a balanced solution with respect to the immigration drama.

The reasons of some clash against the rights of others, in a fratricidal struggle that pits man against man, at present without any viable alternative that satisfies both parties. Only by starting with a thorough and not biased study of the various problems, it will be possible to get a solution that is the best possible. The moral law, however, must not conflict with the laws of the States, and so we still need to go a long way before reaching a definitive and universally shared solution.