

## Regions, Migration, Social Policy: What are and what could be the linkages?<sup>1</sup>

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A Keynote lecture can either be the definitive exposition of the author's expertise on the subject he has been working on for decade...the last word on the topic in other words, or it can be a framing exercise which attempts to set out some of the considerations that the subsequent conference sessions might address. This lecture is certainly of this second kind. This is partly because I think that better serves the interests of the conference. It is mainly because although I have held a chair in International Social Policy for decades my Chair in Regional Integration and Migration is a very new one and within the short period of time I have held that UNESCO-UNUCRIS chair I too have been struggling to make sense of the linkages between social policy (about which I know a lot), regions (about which I know quite a bit) and migration (about which I am on a steep learning curve).

- A theme of this lecture will therefore be why *are* regions important within the international governance of migration.
- A related theme will be how *could* regions be more important in the delivery of social policy?
- And finally and most tentatively how *might* regions better manage the migration/social policy/social rights nexus?
- Within that last theme I will also explore a little the concept of free movement (as distinct from migration) within a region and what that might imply for regional social policy.

A couple more prefatory remarks are necessary.

By regions we are clearly talking here mainly about regional associations of governments such as the EU, ASEAN, AU, SADC, MERCOSUR etc. Within that context I think China is a region and issues of internal migration and the social policy responses to address them (e.g. two tier benefit regimes for residents and migrants) within China share some of the same characteristics as between country migration in other regions. (The same point might apply to the Russian federation)

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When we talk of migration clearly we need to be aware that the discussion can range across the whole range of types of migration including low-skilled labour migration, high skilled labour migration, irregular migration, environmentally induced migration, human trafficking, asylum seeking and refugees. While we do need to be aware of the nuances and different policy responses which might be associated with each type of people movement I still think we won't go far wrong if we recognize that the common thread in all forms of migration is that of the movement of poor people from poor countries to seek improvement in their income or standard of living. This is nowhere better expressed than in Branko Milanovic's (2011) excellent World Bank working paper on *Global Inequality: From Class to Location, from Proletarians to Migrants*. He argues that the 19<sup>th</sup> Century Class struggle between labour and capital is now replaced by the 21<sup>st</sup> Century struggle between the global poor and the global well off.

The new problem which is likely to dominate the present century is different: it is the problem of uneven development between the countries and, associated with it, the pressure of migration emanating from poor countries. It is no less complicated problem than the earlier one, and involves similar fears of loss of power and income among those who are richer. It is a problem born out of importance of location for one's lifetime earnings no less than the earlier fear of Communist revolution was born out of income differences between the social classes within the same societies. (Milanovic 2011:17)

In broad policy terms he suggests (ibid:18) that:

This implies that the best solution to the problem of massive, economically-motivated migration lies in the accelerated development of the poorest countries of the world and that it is also in the well-understood (self-enlightened) interest of rich nations to help this process by increased aid and economic benefits given to the poor countries. The self-enlightened interest should be particularly obvious in the case of countries that have problems managing large migration flows whether because of economic reasons (possible downward pressure on wages) or social reasons (difficulty of accepting a different style of life or a different system of values brought in by the migrants).

But how does this get us back to the role of region? Sharing some of Milanovic's thinking back in the period 1995 to 2005 many policy analysts including my own work on global social policy argued against the form of neo-liberal globalization in favour of a social reformist globalization which, if implemented, would address these global inequities with a global social policy response of global redistribution (more aid and global taxes for global public goods), global regulation (common labour standards internationally) and global social rights with a strengthened capacity of the UN Human Rights agencies to monitor their implementation. This ideal policy foundered in the context of a North-South impasse within which many in the Global South rejected the concept of a global social reformist project because North-South aid would be conditional, Northern Labour standards were protectionist impositions and rights were regionally diverse. At this point I made the case for retreating from this global social project to a regional social policy project in the following terms (Deacon 2007: 352-353)

It is arguable that because of the continued opposition by the world superpower to any kind of strengthening of the UN system and any talk of global taxation and redistribution, an alternative route to a more systematic global governance might need to be looked for in the concept of a strengthened regionalism with a social dimension.....regional social policies could then be devised that gave due recognition to diverse social and labour standards and reflected different cultural and religious approaches to social rights. Such a regional approach to a global social policy might...chime with the sentiments of many Southern voices that react against a Northern-driven global social democracy as strongly as they react against a Northern-driven global neo-liberalism

With colleagues at UNUCRIS we went on to formulate (Deacon et al 2010) a regional social policy project which entailed cross border regional redistribution, regulation and rights together with cross border cooperation in specific social policy fields such as mutual recognition of qualifications, reciprocal agreements on portability of earned social security rights, sharing of expensive health care resources, educational mobility, regional food banks etc.

This conclusion that regions might be the locus of much intergovernmental cooperation in social policy is echoed by Alexander Bett's (2011) conclusion in his *Global Migration Governance* that regions, or clubs of governments as he calls them are an important focus of much intergovernmental cooperation in migration management. He too found an obstacle to improved *global* migration governance in North-South opposition but in this case opposition by the Global North to the demands of many in the Global South (ibid 322).

There has been great reluctance among mainly Northern states...to countenance binding, UN-based governance framework in relation to the area of labour migration. The prospects for a coherent, UN-based governance framework...therefore appears remote, primarily because of North-South polarization. Voting at the UN on the GFMD, ratifications of the UN Convention on the Rights of All Migrant Workers and Their Families, and the polarized discussions at the first High-Level Dialogue on Migration and Development (HLDMD), all exemplify the extent to which North-South polarization is inhibiting the emergence of UN-based governance structure...

His argument in favour of regions is not only pragmatic but also based on the argument that whereas for refugees seeking asylum there might be a case for their rights and needs being met by a global regime because the meeting of their needs is a global public good (non excludable, non rival) from which all states benefit, this is not the case for "irregular and low skilled labour migration" where he argues "the benefits are largely geographically confined" (ibid: 312). Perhaps this is a discussion point for this conference. He goes on to argue that in the case of high skilled labour migration there is direct competition between receiving countries to benefit from this and so its governance could not possibly be considered either a global or a regional public good. It should be managed bilaterally. This too can be debated. Certainly the EU plays a role in coordinating social security portability within Europe and specifies a set of EU citizenship rights including access to education and health care for cross border movers within the region and for third country nationals from outside the region after 5 years.

O.K. So we have established the case that regions do and should play a part in the governance of some forms of migration and social policy.

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The next step is to examine the relationship between migration (whether irregular, low skilled labour, skilled labour migration, mixed migration -within which seeking asylum is often a cover for economic betterment migration), the social rights and entitlement of migrants and the 'level' of governance responsible for migrants' social rights. Why should regions play a part in the provision of the social rights of migrants moving within a region? Should this not be left to the members states of a region who are receiving the immigrants?

To begin to answer this question we need to focus on what drives the social policy of countries and how these drivers might impact on this question. We need to remind ourselves that social policy can and has been studied from a number of different perspectives. It can, in the Fabian tradition examine the extent to which existing measures adequately meet the needs of intended recipients and judge them morally according to some humanitarian conception. Here the denial of adequate or equitable social provision to migrants or asylum seekers within a country or region would be argued against. Thus Bolderson, writing about the lower level of welfare provision made for some migrants within the UK, for example (2011, p. 231) asserts:

The suggestion is made that all migrants should be entitled to welfare support that is at least equal to that available to nationals. It is prompted by the inadequacies and inequalities in the present arrangements detailed in the paper: the allocation of welfare by immigration status; the incompleteness of universal human rights in this area; the stratified welfare rights written into the Refugee Convention;...Its justification, however, is on ethical grounds.

It can be studied from the discursive or social constructivist perspective whereby the social policy of a country is not only, as John Clarke (2004) has argued complex, contested and contradictory but also "constitutive". It declares and shapes what is desirable social practice. "Welfare states seek to produce a nation – a People. They attempt to reinforce or enforce certain 'ways of life'; they regulate forms of being and behavior; they classify and categorize the population (and deal differently with its segments) (Clarke 2005, p. 412). Or as Williams (1989) asserted social policy reflects and embodies discourses of work (who gets it), family (how it should be lived) and nation (to whom we are obligated). Nowhere is this clearer than in the field of social provision for migrants. "Migrants' access to formal systems of social protection is, therefore, dependent on political decisions about the social rights of non-citizens, and on how welfare is used as a means of controlling migration" (Sabates-Wheeler and Feldman, 2011). The discriminatory treatment of migrants is part of a narrative that declares who are to be regarded as fully members of a society towards whom others have obligations. Thus Papadopolous (2012, p. 37) explains:

Through...institutional regulations different discursive constructions of the 'integrated migrant' are actualized: some migrants are institutionally 'recognized' as members of society in the country of destination, who can be 'different but equal' (multiculturalism) or 'similar and equal to us' (assimilation). Some are granted partial institutional 'recognition',

others temporary institutional ‘recognition’ and still others excluded entirely.

Finally social policy can be studied from the standpoint of a critical realist theoretical framework which understands social policy as an outcome of a democratic class struggle (Korpi, 1983) whereby working people and their allies have over time wrested some measure of social control over the capitalist system in their interests and embed it in a set of socially regulatory institutions. Consequently, as Sabates-Wheeler and Feldman (2011) argue; “Rules that determine who gets what are often underpinned by shared histories of collective struggle .....defining eligible groups.....and concomitantly exclusion”. In this context and within this framework migrants however may be seen as:

“the light infantry of global capitalism. Unattached to local customs of solidarity and class identity, they weaken the effect of protective regulations and the bargaining power of local groups, particularly when the migrant is temporary or illegal. (Standing 2009, pp. 68-69, quoted in Carmel *et. al.* 2011, p. 36)

So how do we both adopt the normative concerns of Bolderson (that all migrants be treated equally), accepts Clarke’s analysis that social policy is as much about defining nationhood as it is about meeting universal social needs and also acknowledges that social policy is broadly speaking a result of the playing out of contending interests of class, gender and ethnicity which are reflected in mobilizations and clashes around work, family and nation? In other words because social policy can be approached from a normative perspective within which a moral case can be made to meet the needs of all regardless of status, from a discursive perspective that sees it precisely as defining who is in and who is out of the social contract which opens up the possibility of a challenge to the prevailing nationalist discourse, and from a materialist perspective seeing it as the outcome of contests of material interests, in this case between citizen and migrant how do we square the circle?

These considerations lead, I suggest, to the realization that the goal of reforming social policy to facilitate the free movement of people across borders within a region would depend not only on moral exhortation but on also shifting discourses about *belonging* within regional and national institutions such that policy change might emerge that ensured migrants of all kinds were seen to belong *both* within countries and the region and therefore had their social needs met. *But given the material clash of interests at stake migrant needs would need to be met preferably not at the expense of national or regional citizens.*

Alexander Betts again, (2010, p. 12) addressing the issue of the future of the governance of international migration argued:

“At the moment, social contracts remain State-centric and ill-adapted to a transnational world. Education, health care, pensions and taxation systems remain rigidly fixed to particular States and territories. Over time, there will be a need to conceive of ways in which the provision of social services – such as those relating to taxation, government expenditure, pensions and qualifications – can be adapted to be mobile across international borders in a transnational world”

The way to square the circle or as Bolderson puts it “bringing together rights for outsiders that arise from claims on the grounds of common humanity, and are therefore in principle non-negotiable, with insiders’ rights that are transactional and negotiable with the polity” (Ibid. p. 232) is we suggest supranational taxation of banking or business or land permitting funding at regional level to provide funds for the meeting of such subsistence needs. Such an approach

- avoids or lessens the material clash of interests between insiders and outsiders,
- permits aspects of the ‘limited obligation of states to meet the needs of outsiders’ discourse to continue but
- enables the humanitarian objective to be met.

Sounding radical this policy idea is of course already practiced but in partial and inadequate ways at a global level in the case of refugees where Betts conceded there was a case for a global public good to be provided. The UNHCR uses international funds (and charitable giving) to operate refugee camps. At a regional level the EU has a Refugee Fund which exists “to support and encourage the efforts made by the Member States in receiving, and in bearing the consequences of receiving, refugees and displaced persons”.<sup>i</sup> Of most interest in our context is a proposal that was discussed by the South Africa Studies in Poverty and Inequality Institute with SADC Parliamentarians<sup>ii</sup> that there should be an extractive industry tax to fund a basic income grant in all of SADC except South Africa which might on the one hand slow migration flows but on the other hand help meet the social assistance needs of non-nationals but not at the expense of nationals.<sup>iii</sup>

The case for *regional funding* to support a *regional social policy* that meets the social needs of cross border movers within a region is strengthened not only by the conceptual argument just mounted but also by the reality that in practice the issue of the social protection of many cross border movers are ignored or fudged in existing international policy. Let me illustrate this with reference to the new ILO Recommendation on the Social Protection Floor.

The SPFs, according to the ILO Recommendation of June 2012 (ILO 2012d) should comprise at least the following basic social security guarantees in all countries:

- “(a) access to a nationally defined set of goods and services, constituting *essential health care*, including maternity care that meets the criteria of availability, accessibility, acceptability and quality;
- (b) *basic income security for children*, at least at a nationally defined minimum level, providing access to nutrition, education, care and any other necessary goods and services;
- (c) *basic income security*, at least at a nationally defined minimum level, for persons *in active age* who are unable to earn sufficient income, including in particular in cases of sickness, unemployment, maternity and disability; and
- (d) *basic income security*, at least at a nationally defined minimum level, *for older persons*”.

For its supporters the Recommendation is historic because:

- it asserts that the ILO has a role in formulating social protection policy for *residents, not just workers*

- it challenged the growth-first economists with the priority of *social protection whatever the level of the economy*
- it argues for *redistribution nationally and internationally* to fund social protection

But from our point of view the rub is in the definition of *residents*. The recommendation is couched in terms of guarantees for those *normally resident* and therefore begs the question of who is responsible for the social protection of those migrants not considered normally resident by countries. Michael Cichon, Head of Social Security at the time and key driving force behind the Recommendation, was really concerned that a protracted debate about issues of residency at the 2012 International Labour Conference would put in jeopardy the whole Recommendation<sup>2</sup>. The Social Security Department came up with the following formulation in the Draft Recommendation to be submitted to the 2012 ILC which would apply to all the guarantees (ILO 2012 c Para 6); “Subject to their existing international obligations, Members should provide the basic social security guarantees referred to in this Recommendation to at least all residents and children, as defined in national laws and regulations”. By way of explanation of this revised formulation using the term ‘existing international obligations’ the Office Commentary argued argued (ILO 2012 b: 172);

“In this context, it may be noted that the General Comment No. 19 of the (UN) Committee on Economic, Social and Cultural Rights states, regarding the right to social security, that “[a]ll persons, irrespective of their nationality, residency or immigration status, are entitled to primary and emergency medical care”<sup>3</sup> Furthermore, the CEACR, in reference to the scope of application of constitutional guarantees relating to social security, noted that, “extending the right to social security, including the right to medical care, to non-citizens is a key challenge for many societies today. With regard to the non-citizens, even where they are in an irregular status on the territory of another State, such as undocumented workers, they should have access to basic benefits and particularly to emergency medical care.”<sup>4</sup>

Whether this formulation and clarification would be enough to avoid a bruising debate in June 2102 remained then to be seen. China, for example, in response to the question about the guarantees “Refers to the need to distinguish between citizens and migrants. The clause is acceptable if the scope of the prescribed basic social security guarantee is limited to citizens” (ILO 2012 b. 33). At the conference in June there was a heated debate with the Workers spokesperson (Deacon, B 2013) arguing that the aspiration should be to eventually meet the social security rights of all residents of the planet and certainly all children now. Her resolution was lost but it later transpired that the original wording of the office document that said the floor should be available to “all residents and children, as defined in national laws and regulations” should be interpreted to read that the floor would indeed be available to all children subject only to national laws *about the age at which persons are regarded as children*. Whether this will be translated into practice in countries is another matter but certainly the heated debate with objections from countries about who they were obliged to protect reinforce my

<sup>2</sup> Interview January 2012

<sup>3</sup> UN ECOSOC, 2008: *General Comment No. 19: The right to social security E/C.12/GC/19* (Geneva, Committee on Economic, Social and Cultural Rights), available at: <http://www.unhcr.org/refworld/type,GENERAL,,,47b17b5b39c,0.html>.

<sup>4</sup> ILO, 2011: *Social security and the rule of law: General Survey concerning social security instruments in light of the Declaration on Social Justice for a Fair Globalization, 2008*, op.cit., para. 260.

point about the need for independent regional funding for intra regional cross border movers.

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I have so far argued that:

- the regional level of governance is an important element in the international governance of migration, leaving the migration of refugees and asylum seekers to be the only migration issue which might realistically be better handled at a global level. Departing from the view of Bett's I have suggested that the management of even skilled worker migration could be a regional issue and not left only to bilateral deals. Because so much migration is motivated by a mix of asylum seeking and economic betterment how exactly global agencies such as the UNHCR and regional ones collaborate in this mixed migration context is unclear.
- The regional level of governance is also an important element of the international governance of social policy. The North-South impasse on issues of redistribution, regulation and rights might be partially overcome within regions. Certainly cross border cooperation within regions in social policy makes eminent sense. However large gaps in development levels within a region might create the same tensions and obstacles between the North and the South
- The social protection and provision of the social rights of cross border movers within a region not only should be a regional responsibility but because of the fact that national social policy is so much bound up with defining who is included and who is excluded from the nation it is an *essential* element in the protection of migrant social rights.

This still leaves questions unanswered. How regional organizations might assume such responsibilities and obtain their own independent funds for social protection to enable them to escape national veto is unclear. Work on taxation sources, on sovereign funds from mineral wealth needs to be undertaken at a regional as well as at national level and engage regional secretariats. Where inter-regional migration fits into this is not addressed. Clearly richer regions could support weaker ones and bilateral inter-region agreements exist but are probably affected by the same North-South tensions that beggar better global governance of migration.

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I want to end with a slight diversion into the concept of free movement, as distinct from migration. I do this partly out of obligation to fulfilling expectations that UNESCO might have in my holding their chair in regional integration and the free movement of people. What do the two concepts of regional integration and free movement of people imply when put together? And how might a concern with regional social policy influence thinking on these two concepts?

The concept of complete free movement was first set out in any detail by Pecoud and De Guchteneire (2007) who were concerned to contrast the free flow of capital and trade across borders that neo-liberal globalization had facilitated with the restrictions countries and regions were allowed to maintain on the free movement of labor and people. Current work at UNUCRIS (Nita, 2012, Touzenis 2012) reviews regional free movement policies in terms of rules concerning entry requirements, residence entitlements, access to employment and mutual recognition of qualifications. It does not consider in any depth the part that social policy such as access (or not) to social



security, social assistance, health and education services might play in facilitating free movement in practice.

An argument in this paper<sup>5</sup> is that access to social provision by all cross border movers within a region is the key to a real regional social integration. Without that the right to move freely is merely formal. Following Threlfall's (2003, p. 124) definition a region would be "socially integrated if its component societies had lost the geographical and legal boundaries to their social institutions and social practices, and functioned instead as a 'single social space'". People would be able to move freely across borders and access the same social citizenship rights. The role that regional social policy might play in facilitating such a socially integrated region becomes paramount.

Sonja Nita and I tried to test this idea out with regard to the most advanced socially integrated region, the EU. The attempt to define exactly what rights to social provision different categories of cross border movers within Europe had proved extremely difficult. We wanted to show the rights to social benefits and services of cross border movers who were EU citizens, Third Country Nationals from outside the EU who had long terms residence rights (within a particular country), Recognised Refugees, those given Subsidiary Protection: An EU status less secure than a Refugee, Asylum seekers and illegal migrants. What access to social security, social assistance, education, health care and housing support did such movers have in another country? The following table summarises our findings.

(See end of text).

We concluded that the question of free movement and access to social protection of EU citizens and TCNS is a very complex matter, with regulations and directives constantly being revised. Within the EU, even EU citizens (although getting close) are still not on the same footing as nationals (they cant access social assistance in the first three months of moving) and there are problems with the portability some other benefits. Long Term Residents also face a number of restrictions, while refugees and asylum seekers have even more limited freedoms of movement and their access to social protection is often left to the discretion of the respective Member State. The EU is not yet a single social space. It would be an interesting exercise to replicate this analysis in ASEAN, MERCOSUR, NAFTA, etc.

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I hope that this has been of some value in framing some of the questions we might discuss over the next two days. Perhaps important among these are:

- a) Is the Betts's distinction between the kinds of migration that should be governed at different levels; global (refugees), regional (unskilled), bilateral (skilled) helpful. How do we deal with mixed migration in this context? Where do environmentally induced migrants fit in? Who should be responsible?
- b) How do different world regions handle the question of the entitlements of intra-regional cross border movers to social security and social protection?
- c) How might regional associations of governments be empowered to adopt a more proactive role in regional migration and social policy?

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<sup>5</sup> This section is drawn from a joint paper written by myself and Sonja Nita to be published in Regions and Cohesion in 2013.

- d) Is there a tension between furthering regional social integration for cross border movers within a region and the construction of fortresses against inter-regional cross border movers?
- e) Does any of this discussion about the role of regions really get to grips with the global class struggle reframed as a global location struggle by Branko Milanovic?

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i Retrieved from:

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ii Retrieved from: [Http://www.wahenga.net](http://www.wahenga.net)

iii Personal communication from Director of SPII: Studies in Poverty and Inequality Institute: (February 2011).