Boston College School of Theology and Ministry

BORDER, EXCLUSION, AND EMBRACE: TOWARD A NON-EXCLUSIONARY CONCEPTION OF THE BORDER

STL THESIS

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Introduction

Migration is one of the most salient characteristics of our time. It does not constitute a new phenomenon. Mobility is a fundamental dimension of human activity. People have always migrated all over the world. But today, more people are migrating due to the global interconnectedness of the world. Although people leave their homes for multiple reasons, there is agreement on the fact that the search for a better life is the primary cause. Migration is a complex phenomenon that affects not only people who move but also receiving communities. This complexity is translated into the never-ending debates over human rights, national security, and sovereignty. These ongoing discussions prove how border and migration are intertwined. Today it becomes impossible to address the question of migration without considering the relevance of international borders. In a time characterized by numerous flows of people, borders can be perceived differently. While the receiving countries see them as "institutions" for controlling the profile of entrants into their territories, migrants consider them as barriers preventing them from reaching a better quality of life, which is intrinsically tied to human dignity and rights. This shows that borders can have harmful impacts on people's lives. Hence, the question: What is the moral relevance of a border? Should the border be closed when dire situations threaten people's lives?

This thesis attempts to address these questions. Its primary purpose is to propose a non-exclusionary understanding of the border that takes human dignity and rights into account. Its claim is that, from an ethical perspective, the border must not be seen as a marker of separation purely and simply but also as a place that connects people. The thesis is organized into three chapters. The first chapter tries to present different perspectives on the border. It highlights the

border's moral relevance in terms of nation-states' sovereignty. It also stresses the inhuman consequences of the border in our epoch, marked by globalization and migration.

The second chapter brings to the fore some ethical categories, such as the principle of humanity, *imago Dei*, compassion, solidarity, and hospitality, for addressing the issue of migration. It will present these categories as the criteria for a non-exclusionary definition of the border. It considers the relationship between Christian cosmopolitanism and national boundaries. Calling on Miroslav Volf's distinction between exclusion and embrace, it will propose a non-exclusionary understanding of the border and make a plea for more porous borders that give the possibility for people to embrace others. The last chapter of the paper will argue that this non-exclusionary conception of the border must influence the American immigration policy toward Haitian migrants. Exploring TPS and Title 42, it will highlight the double (positive and negative) impact of US immigration policy on Haitian migrants. This chapter will argue that the United States has a moral responsibility toward Haitian migrants.

Part I: Border in perspective

The border is at the heart of debates on migration issues. It is also an ambiguous concept that can be approached from multiple perspectives. The first chapter tries to highlight different aspects that a border can embody.

Border as a marker of separation

One of the most salient characteristics of our world is its compartmentalized dimension: one world, different territories, entities, or nation-states. The fact that borders constitute what underpins that compartmentalization explains their ubiquity in political, social, and cultural life. In most people's imagination, borders evoke the idea of separation, delimitation, and demarcation. Just like a pair of scissors makes a cut that divides a piece of paper, or just like a white picket fence firmly delimits one person's property from that of her neighbors, borders "separates collectives; they divide people or identity groups by marking the limits of group property."[1] Hence, in their most basic sense, borders are markers of separation.

In international relations, borders set limits among territories; they are lines that establish the scope of the territory of countries. A simple look at a map shows these different lines or borders visually. The line extending from the Pacific Ocean in the west to the Gulf of Mexico in the east is the border separating Mexico and the United States. The one that goes from the Caribbean Sea in the South to the Atlantic Ocean in the North represents the border between Haiti and the Dominican Republic on the island of Hispaniola. In that sense, borders define countries: since countries are always territorialized (there is no country without territory!), borders become a constitutive

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[1] Paulina Ochoa Espejo, *On borders. Territories, legitimacy, and the rights of place* (New York: Oxford University Press, 2020), 59.

element of the identity of the country they bound. The United States exit nowhere else than within the territory defined by its borders. This statement is true for all the countries in the world. Hence borders are landmarks that provide a sense of location: by "crossing lines," people know whether they are "in" or "out."

Borders that separate countries can embody various features. Traditional studies of boundaries make the distinction between "natural" and "artificial" boundaries.[2] Natural boundaries refer to "lines which are marked by nature"[3] -such as seas, rivers, forests, mountain ridges, valleys, or lakes- that have served as markers of separation between territories. The Rio Grande, which separates the United States from Mexico, is an example of a natural border. The other category of boundaries, that is, "artificial" boundaries, are those "which are not marked by nature and which must therefore be marked on the ground by means of stones or monuments placed by man."[4]

Regarding the first category of boundaries, it is important to note that the adjective "natural" does not necessarily imply that the geographical entity can be a line of demarcation by itself. Many boundary studies have moved away from this form of environmental determinism and considered all boundaries as "artificial"[5] in that "their demarcation is determined by people -politicians, planners, and decision-makers."[6] In that sense, Boggs S. Whittemore notes that a "natural boundary" becomes simply "that natural feature somewhere beyond a state's present political boundary to which its leaders would like to expand."[7] He adds that "boundaries have no

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[2] David Newman, "Boundaries," in *A companion to political geography*, ed. John Agnew, Katharyne Mitchell and Gerard Toal (Oxford: Blackwell Publishing, 2003), 126.
[3] S. Whittemore Boggs, *International Boundaries: A study of boundary functions and problems* (New York: Columbia University Press, 1940), 23.
[4] Boggs, *International Boundaries*, 23.
[5] Boggs, *International Boundaries*, 25.
[6] Newman, "Boundaries," 126.
[7] Boggs, *International Boundaries*, 23.

significance except in relation to human beings."[8] In the same vein, David Newman writes, "the fact that natural features of the landscape may be used as a convenient means of demarcation is appropriate for as long as this is convenient for both sides and does not raise any problems in terms of the distribution of ethnic groups, control of physical resources, and other political objectives."[9]

Furthermore, borders are not always visible marks on the ground. People do not always know when they "cross the line." Most of the time, the physical border does not fully separate spaces. Most borders have continuous landscapes, leaving an open expanse of vegetation and wildlife. One example of that is the United States' northern border with Canada. In the wake of the attacks of September 11, 2001, the US government decided to intensify surveillance at that border. However, a problem emerged: "border officials were unable to locate the border because it was overgrown by forest. The line was no longer visible."[10] This explains why border control is not always an easy task. These open regions often serve as routes for migrants. Furthermore, this earthly visibility does not guarantee security control since migrants also travel by airplanes. That is why some scholars observe that "borders are no longer at the border."[11] Hence, as Harald Bauder puts it, "a simple line on a map represents only a narrow and partial view that does not capture migrants' entire experience of the border."[12]

Colonialism and contentious borders

The fact that borders are always tied to human decisions does not necessarily mean that people who live within a specific bounded territory are those who negotiate the scope of their land. This

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[8] Boggs, *International Boundaries*, 28.
[9] Newman, "Boundaries," 126.
[10] Harald Bauder, *Migration, Borders, Freedom* (New York: Routledge, 2017), 22.
[11] Bauder, *Migration, Borders, Freedom*, 23.
[12] Bauder, *Migration, Borders, Freedom*, 23.

is particularly the case for most formerly colonized countries, whose borders were drawn in accordance with the interests of the colonial powers in Europe. These borders are often classified as "superimposed boundaries."[13] For instance, the border that separates Haiti and the Dominican Republic was introduced in 1697 under the Treaty of Ryswick. Until that treaty, the whole island was colonized by Spain since Christopher Columbus' arrival to the New World in 1492. After the decimation of its indigenous populations, "African slaves were brought to both sides of the island as early as the first part of the sixteenth century to supply the needed labor force for sugar plantations."[14] By the second part of the sixteenth century, French pirates began establishing themselves in the Island's western part. In the 1660s, they founded Port-de-Paix. The French presence in the Island resulted in a series of battles with the Spanish settlers for its ownership. Finally, under the Treaty of Ryswick, Spain agreed to cede the western part of the Island to France. This shows how the fate of what would become Haiti and the Dominican Republic was decided far from the island they share: in a city located in the western Netherlands.[15]

This was also the pattern in the late nineteenth and early twentieth centuries when the colonial powers in Europe drew up the lines between their colonies in Asia and Africa. These lines were drawn according to the commercial and geostrategic interests of the European colonizers. As many authors remark, this explains why, for example, in the case of Africa, the system state of the continent does not reflect its different features.[16] The political African map demonstrates the story of the struggles among colonial powers to extend their control over the continent. The shape of the

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[13] Newman, "Boundaries," 125.

[14] Helen Chapin Metz, ed. *Dominican Republic and Haiti. Country studies*, (Federal Research, Division Library Congress, Area handbook series, 2001), XIX.

[15] Metz, *Dominican Republic and Haiti. Country studies*, XIX.

[16] Bauder, *Migration, Borders, Freedom*, 23.

territories bespeaks these struggles. Bauder tells the story of the north-eastern corner of Namibia's

territory that reaches into Botswana and Zambia as follows:

> This feature of Namibia's border line is another example of colonial border drawings. The German colonizers wanted access to the Zambezi river and therefore acquired this region in 1890 from Britain with the Heligoland-Zanzibar Treaty. They named the region the *Caprivizipfel* (Caprivi Strip), after Leo von Caprivi, who served as German Chancellor from 1890 to 1894. Only in 2013, was the former colonizer's name dropped and this region henceforth called the "Zambezi Region."[17]

Newman notes that these lines were superimposed upon these areas "as part of the process which

brought European notions of fixed territories to regions whose populations were tribal and semi-

nomadic, and whose seasonal patterns of movement were at odds with political notions of

fixations."[18] Similarly, Bauder points out that the borders drawn by the colonizers disregarded the

people who lived on the land and did not consider how the land was used by its residents.[19] For

example, "the Kunene river that separates Angola and Namibia was a location for communication

rather than a barrier."[20] Nana K. Poku, Neil Renwick, and John Glenn express the same idea. They

argue that the African boundaries were drawn generally

> with startling lack of concern for the people whom they casually allocated to one territory to another. Every boundary cuts through at least one cultural area; the Nigeria-Cameroun boundary divides fourteen, while the boundaries of Burkina Faso cross twenty-on cultural areas. At the micro level such boundaries sometimes divided town from hinterland, village from traditional fields and even families from their communities. This artificiality has made it particularly difficult to generate a moral basis for government, which in turn has endowed rulers with legitimacy or authority, rather than with the mere control of the state machinery.[21]

These borders have been sources of brutal conflict among African countries. Maano Ramutsindela

notes that "more than half the states on the continent have been involved in border disputes since

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[17] Bauder, *Migration, Borders, Freedom*, 23.
[18] Newman, "Boundaries," 125.
[19] Bauder, *Migration, Borders, Freedom*, 22.
[20] Bauder, *Migration, Borders, Freedom*, 23.
[21] Nana K. Poku, Neil Renwick and John Glenn, "Human security in a globalized world," in *Migration, Globalization and Human security*, ed. David T. Graham and Nana K. Poku (New York: Routledge, 2000), 15.

independence."[22] The war between Ethiopia and Eritrea, which took place from May 1998 to June 2000, is one example among others in the Horn of Africa. J. McKinley described this war as follows: "Ethiopia asserts that it has jurisdiction over a number of areas that used to be part of the Ethiopian administrative provinces of Tigray, but Eritrea claims those regions are within its territory and has cited turn-of-the-century treaties between the Italian colonizers and Ethiopian emperor as proof."[23] During this war, which resulted in minor border changes, both countries -two of the world's poorest countries- spent hundreds of millions of dollars and suffered the loss of tens of thousands of their citizens killed or wounded.[24]

The Eritrean-Ethiopian war is an indication of the effects of colonial boundaries.[25] This explains why, as Ramutsindela notes, "one of the most sustained criticisms of the political map of Africa has been on African boundaries."[26] Since the independence, there has been a continuing debate on what should happen to these boundaries.[27] In the view of many African scholars, since these boundaries were imposed and are sources of conflicts, they must be removed. These scholars argue that "social, political and economic problems of the continent are partly ascribed to the continuing existence of colonial boundaries."[28] One of the most notorious proponents of the change of colonial boundaries since the heyday of the decolonization process was the former president of Ghana, Kwame Nkrumah. In the preface of his book, *I speak of freedom*, he wrote:

> The political situation in Africa today is heartening and at the same time disturbing. It is heartening to see so many new flags hoisted in place of the old; it is disturbing to see so many countries of

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[22] Maano Ramustsindela, "African boundaries and their interpreters," *Geopolitics* 4, no. 2, (1999), 184, https://www.tandfonline.com/doi/abs/10.1080/14650049908407646
[23] Quoted in Ramustsindela, "African boundaries and their interpreters," 184.
[24] "Eritrean-Ethiopian war," New World Encyclopedia, accessed March 19, 2023, https://www.newworldencyclopedia.org/entry/Eritrean-Ethiopian_War
[25] Ramustsindela, "African boundaries and their interpreters," 183.
[26] Ramustsindela, "African boundaries and their interpreters," 181.
[27] Ramustsindela, "African boundaries and their interpreters," 181.
[28] Ramustsindela, "African boundaries and their interpreters," 183.

varying sizes and at different levels of development, weak and, in some cases, almost helpless. If this terrible state of fragmentation is allowed to continue it may well be disastrous for us all.[29]

However, while these scholars advocated for the dislocation of the colonial borders in Africa, there was no agreement among them on how this dislocation process should be done. For instance, for some authors -like Shatto Arthur Gakwandi- the existing border tensions among states could be solved by creating bigger states and regrouping the disputant states in one country.[30] In contrast, other authors -such as Harm J. de Blij and Adebayo Bello- have proposed the idea of changing the colonial boundaries in order to create smaller states that would represent each ethnic group.[31]

Contrary to the proponents of the change of colonial boundaries, another group of scholars saw these inherited boundaries as the only way to maintain stability and peace on the continent.[32] They argued that redrawing boundaries either to create bigger or smaller states would be a recipe for chaos and unimaginable blood-letting.[33] The former president of Mali, Modibo Keita, was one of the representatives of that conservative approach. In his statement at the first summit of the Organization of African Unity (OAU) in 1963, he stated: "We must take Africa as it is, and we must renounce any territory claims…African unity demands of each of us complete respect of the legacy we have received from the colonial system, that is to say: maintenance of the present frontiers of our respective states."[34] That was the position adopted by the OAU. In its second

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[29] Kwame Nkrumah, *I speak of freedom. A statement of African ideology* (New York: Frederick A. Preager, Publisher, 1961), xi.
[30] See Ramustsindela, "African boundaries and their interpreters," 184-187.
[31] See Ramustsindela, "African boundaries and their interpreters," 187-189.
[32] See Ramustsindela, "African boundaries and their interpreters," 189.
[33] See Ramustsindela, "African boundaries and their interpreters," 189.
[34] Quoted by Andrew F. Bughardt, "The bases of territorial claims," *Geographical Review* 63, no. 2 (1973): 227, JSTOR.

summit in Cairo in 1964, the OAU opted for the respect of the borders on the achievement of independence.[35]

Our intention in bringing the colonial boundaries up has not been to explore that legacy lengthily but to show that the fact that a border is always tied with human decisions proves how contentious and controversial its location can be.[36] Border disputes have always been a feature of the world. Conflicts between India and China, Israel and Palestine, Iraq and Syria, and Venezuela and Colombia are some of the most contentious border disputes around the world. In her research on territorial conflict, Barbara F. Walter points out that "the most intractable civil wars in the last half of the twentieth century were not ethnic civil wars or ideological civil wars. The most intractable conflicts were those fought over territory."[37] One of the most salient features of border disputes has been the unwillingness that governments have shown to negotiate over land in other to avoid or end otherwise costly conflicts.[38] One reason for that is that governments "have felt that increases in land area enhance the power of the state and prove the possession of power by the state."[39] The annexation of Crimea in 2014 and Donetsk, Luhansk, Kherson, and Zaporizhia in 2022 by Russia showed the perspicacity of Nicolas Machiavel's insight: "The desire to conquer more territory really is a very natural, ordinary thing."[40]

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[35] See Ramustsindela, "African boundaries and their interpreters," 189.
[36] John Williams, *The ethic of territorial borders. Drawing lines in shifting sand* (New York: Palgrave Mcmillan, 2006), 20.
[37] Barbara F. Walter, "Explaining the intractability of territorial conflict," *International Studies Review* 5, no 4 (2003): 137.
[38] Barbara, "Explaining the intractability of territorial conflict," 137.
[39] Bughardt, "The bases of territorial claims," 225.
[40] Niccolò Machiavelli, *The prince*, trans. Tim Parks (London: Penguin Classics, 2014), 13.

Border and sovereignty

Another aspect that describes the border concerns its traditional understanding as a political tool.[41] This aspect illustrates how a border is not just a physical line or a fence, but also an instrument of the state for its exercise of sovereignty.[42] This notion of sovereignty is fundamental in conventional political discourse[43] where sovereignty is seen "as state-based and territorial."[44] According to John Agnew, from this traditional perspective, sovereignty is "the extension and institutionalization of control and authority within a spatial field."[45] It refers to the relationship in which "an agent of a state can make commands that are voluntarily complied with by those over whom the state claims authority."[46]

By delineating a territory, the border acquires a political meaning. It separates groups and distinguishes between one political community and another. It ensures "the right of national or cultural groups to self-determination."[47] In that lies the most significant aspect of the border: it provides social communities the right to govern themselves and to be different and sovereign. This shows how territory and politics are intimately linked in our modern world. In Peter Marden's words,

> What is not political when it comes to territoriality? Clearly in the modern era the idea of territory and political power are contiguous, which further renders any notion of politics without its

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[41] Manlio Graziano, *What is a border?*, trans. Marina Korobko (Stanford: Stanford University Press, 2018), 1.

[42] Bauder, *Migration, Borders, Freedom*, 23.

[43] John Agnew, "Sovereign regimes: Territoriality and state authority in contemporary world politics," *Annals of the Association of American geographers* 95, no. 2 (2005), 439, https://www.tandfonline.com/doi/abs/10.1111/j.1467-8306.2005.00468.x

[44] Agnew, "Sovereign regimes: Territoriality and state authority in contemporary world politics," 439.

[45] John Agnew, *Globalization and sovereignty. Beyond the territorial trap*, (New York: Rowman and Littlefield, 2018), 3.

[46] Agnew, "Sovereign regimes: Territoriality and state authority in contemporary world politics," 439.

[47] David Hollenbach, "Migration as a Challenge for theological ethics," *Political Theology* 12, no. 6 (2011): 809, https://www.tandfonline.com/doi/abs/10.1558/poth.v12i6.807

accompanying spatial referent redundant. Thus, the very idea of sovereignty and territoriality residing within clearly defined borders, as with the nation-state, remains an enduring image.[48]

As physical boundaries, they define the scope of exercise of the sovereign authority of the state. As David Hollenbach notes, "they prevent interventions that turn one nation into the colony of another."[49] Hence, borders play an essential role in the international order: "good fences make good neighbors." In that sense, *mutual exclusiveness* (or independence) constitutes an essential dimension of the nation-state system. By establishing boundaries between sovereign territories, they ensure the integrity of the state.[50] Alexander C. Diener and Joshua Hagen formulate that same idea in their article "Theorizing Borders in a 'borderless world': Globalization, territory and identity." They argue that "following the division of the entire world's land area into sovereign states, any territorial gain by one state logically means a territorial loss for some other state. Since this would almost invariably lead to conflict, international law strongly favors the *status quo* regarding international borders."[51] *Mutual recognition*, therefore, is another essential characteristic of the nation-states system. In Jo-Anne Pemberton's words, "a sovereign state system would only become a reality when states become willing to apply the principle of sovereignty to other states and not only within their own domains."[52] In the same vein, Paul Hirst writes, "states acquire powers over their societies to a substantial degree because they recognize each other as exclusive rulers of a definite territory. A central aspect of such recognition is non-interference, which states refraining from acting directly within the territory of another state."[53]

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[48] Peter Marden, "The geopolitics of sovereignty, governance and the citizen," in *Migration, Globalization and Human security*, ed. David T. Graham and Nana K. Poku (New York: Routledge, 2000), 53.

[49] Hollenbach, "Migration as a Challenge," 809.

[50] Hollenbach, "Migration as a Challenge," 809.

[51] Alexander C. Diener and Joshua Hagen, "Theorizing borders in a 'borderless world': Globalization, territory and identity," *Geography Compass* 3, no. 3 (2009): 1201, https://compass-onlinelibrary-wiley-com.proxy.bc.edu/doi/pdfdirect/10.1111/j.1749-8198.2009.00230.x

[52] Jo-Anne Pemberton, *Sovereignty interpretations* (London: Palgrave Macmillan, 2009), 54.

[53] Paul Hirst, *Space and power. Politics, war and architecture*, (Cambridge: Polity Press, 2005), 34.

This principle of non-interference is explicitly codified by most international organizations. For instance, the United Nations Charter (Article 2, Paragraph 4) held that its members "shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."[54] The Arab League (Article 8) stated that "every member state of the League shall respect the form of government obtaining in other states of the League, and shall recognize the form of government obtaining as one of the rights of those states, and shall pledge itself not to take any action tending to change that form."[55]

The states that signed the Charter of the Organization of African Unity (Article III. 1, 2, 3) on 25 May 1963 affirmed and declared their adherence to the following principles, among others: the sovereign equality of all member states; non-interference in the internal affairs of states; and respect for the sovereignly and territorial integrity of each state and for its inalienable right to independent existence.[56] The African Union (2000) stated that the objectives of the Union shall be (Article III. b) to "defend the sovereignty, territorial integrity and independence of its members states."[57] In the Helsinki Final Act (1975), we read:

> Article I: The participating States will respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its sovereignty, including in particular the right of every State to juridical equality, to territorial integrity and to freedom and political

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[54] United Nations Charter Article 2, Paragraph 4 Accessed March 22, 2023 https://www.un.org/en/about-us/un-charter/chapter-1
[55] "Pact of the League of Arab States, March 22, 1945," Yale Law School, Lillian Goldman Law Library, Accessed March 22, 2023 https://avalon.law.yale.edu/20th_century/arableag.asp
[56] "Charter of the Organization of African Unity. Done at Addis Ababa, on 25 May 1963," United Nations-Treaty series, 1963, no. 6947. Accessed March 22, 2023 https://treaties.un.org/doc/Publication/UNTS/Volume%20479/volume-479-I-6947-English.pdf
[57] "Constitutive Act of the African Union, adopted in Lomé, Togo on 11 July 2000 and entered into force on 26 May 2001," Accessed March 22, 2023 https://www.pulp.up.ac.za/images/pulp/books/legal_compilations/compendium/Constitutive%20Act%20of%20the%20African%20Union%202000_2001.pdf

independence. They will also respect each other's right freely to choose and develop its political, social, economic and cultural system as well as its right to determine its laws and regulations.

Article III: The participating States regard as inviolable all one another's frontiers as well as the frontiers of all States in Europe and therefore they will refrain now and in the future from assaulting these frontiers. Accordingly, they will also refrain from any demand for, or act of, seizure and usurpation of part or all of the territory of any participating State.[58]

The efforts of these organizations to enforce respect for the integrity of the national land show how intimately border and sovereignty are tied together. This model of politics or territorial sovereignty, which is the basis for the modern conception of the nation-state, is the product of the Westphalian revolution (1648), characterized by the transition from the feudal arrangement of medieval Europe to the modern nation-state system and the expansion of that system to the entire globe, in the wake of the Second War and process of decolonization.[59] In his book *Space and power, politics war and architecture*, Paul Hirst points out that the notion of bounded territory is what differentiates the modern conception of sovereignty from the pre-modern ones, which were non-territorial in their conception of the basic form of authority.[60] For instance, the Roman Empire was conceived as universal.[61] It was without "fixed boundaries and saw itself as potentially capable of expanding to include all the known world, as the surrounding kingdoms and tribes were conquered and civilized."[62] Hirst writes that the Roman Empire

Was quite unlike the modern state, which as a condition of its own existence recognizes other states as part of a common states system governed by certain rules of interaction between sovereign powers. Rome's only partner in the ancient world was Persia. But Rome's relations with the Parthian and Sassanian Empires were complex and *de facto*. Persia was never accepted as a legitimate partner in a stable international system.[63]

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[58] "Conference on security and co-operation in Europe final act," Helsinki 1975 Accessed March 22, 2023
https://www.osce.org/files/f/documents/5/c/39501.pdf
[59] David Hollenbach, *Humanity in crisis: Ethical and religious response to refugees* (Georgetown University Presss, 2020), 66.
[60] Hirst, *Space and power. Politics, war and architecture*, 26-38.
[61] Hirst, *Space and power. Politics, war and architecture*, 29.
[62] Hirst, *Space and power. Politics, war and architecture*, 29.
[63] Hirst, *Space and power. Politics, war and architecture*, 29.

The decline of the Roman Empire resulted in the development of feudal forms of government in the West, which were also non-territorial.[64] Feudalism was based on personal ties between lords and vassals.[65] Rights did not derive from individuals belonging to a specific territory but from the service they could offer the lords. Feudalism was also a nonmonopolistic environment[66] where "different agencies governed different domains of life across the same territory."[67] For instance, the Pope's and emperor's authority over territories were often ill-defined. Moreover, "rulers and ruled were often ethnically, culturally and linguistically different."[68] Shifting frontiers was always a possibility due to conquests and settlements.

Since that modern arrangement, borders have become crucial for determining the territorial identity of the state. They serve as a marker of distinction in the sense that they distinguish those who belong to the country from those who do not. In this way, the border is a relevant concept in discussions on citizenship since it permits control of membership in national communities. Marden highlights two dimensions of citizenship: first, it is one of the few official identities that a state can endow on its residents; and second, it carries with it a privilege of specific economic and political rights that are denied 'non-citizens.'[69]

As markers of distinction, borders play an essential role in differentiating national identities. As Bauder puts it, "national identities and distinct cultural practices emerge after borders have been established."[70] A specific bounded place is a condition *sine qua non* for the emergence of political

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[64] Hirst, *Space and power. Politics, war and architecture*, 31.
[65] Hirst, *Space and power. Politics, war and architecture*, 31.
[66] Olivier Volckart, "No utopia: government without territorial monopoly in medieval central Europe," *Journal of Institutional and Theoretical Economics* 158, no. 2 (2002): 326, JSTOR.
[67] Hirst, *Space and power. Politics, war and architecture*, 28.
[68] Hirst, *Space and power. Politics, war and architecture*, 28.
[69] Marden, "The geopolitics of sovereignty, governance and the citizen," 57.
[70] Bauder, *Migration, Borders, Freedom*, 28-29.

nationalism or even democracy.[71] In Hirst's words, "nationalism typically claims not just an ethnos/national group, but also a territory that this group should inhabit as its homeland as of right. Without the prior existence of the sovereign state claiming a definite territory, it is difficult to see how nationalism might arise."[72] Borders, therefore, have the capacity to "actualize" and "institutionalize" national identities.[73] That is why John Williams, drawing on Hannah Arendt, suggests that borders are "constitutive of a toleration of difference and diversity in human societies."[74]

Borders in motion

This notion of borders as fixed lines between sovereign countries is not the whole picture. Many authors have highlighted the unstable (or unfixed) dimension of borders. Natural borders, such as rivers, can change their course; artificial borders, such as walls, can be removed due to territorial conflicts. Hence, borders are in motion. Noel Parker and Nick Vaughan-Williams use the metaphor "lines in the sand" to express the idea that borders can go beyond the limits of territory or traditional ports of entry. For them, borders are not static lines but "lines in a shifting medium."[75] From that perspective, border is not *only* at "the border." Rather it becomes a "series of *practices*" (*bordering practices*) called "the dynamism of borders."[76] In that sense, borders appear as ubiquitous instruments of control. Parker and Vaughan-Williams write,

> Borders are not only found at territorial identifiable sites such as parts, airports, and other traditional 'border crossings.' Instead, they are increasingly ephemeral and/or impalpable: electronic, non-visible, and located in zones that defy a straightforwardly territorial logic. Examples include biometric identification to control movement and other technologies to track mobility such as social

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[71] Hirst, *Space and power. Politics, war and architecture*, 35.
[72] Hirst, *Space and power. Politics, war and architecture*, 35.
[73] Bauder, *Migration, Borders, Freedom*, 29.
[74] Bauder, *Migration, Borders, Freedom*, 28.
[75] Noel Parker and Nick Vaughan-Williams, "Lines in the sand? Toward an agenda for critical border studies," *Geopolitics* 14, no. 3 (2009): 582, https://www.tandfonline.com/doi/abs/10.1080/14650040903081297
[76] Parker and Vaughan-Williams, "Lines in the sand? Toward an agenda for critical border studies," 586.

security data, records of financial transactions, spyware placing individuals in distinct groups of consumers, and the many other systems of surveillance.[77]

Moreover, the geopolitical reality of the world shows that the conception of territorial borders as the containers of sovereignty is simplistic. In fact, states exert their power beyond the limits of their territory. Agnew notes that "*effective* sovereignty is not necessarily so neatly territorialized."[78] Drawing on Alec Murphy's work, he makes a distinction between de jure (legal) and de facto sovereignty. He argues that "de facto sovereignty is all there is when power is seen as circulating and available rather than locked into a single centralized site such as 'the state.'"[79] For instance, it is not an easy task to determine the scope of the sovereignty of a country like the United States. After the 9/11 terrorist attacks, President George W. Bush gave himself the right to detain any non-US citizen anywhere in the world for as long as he chose if where was suspicion of involvement in anti-US "terrorist activity."[80] The truth is: in international relations, borders do not limit power but the other way around.

So far, we have focused exclusively on the material (physical, or natural) dimension of borders. We have described them in their relationship with the state; in other words, we have presented them as physical lines that divide political entities. This approach has been, in fact, the pattern of the majority of boundaries studies have embodied in traditional geopolitical analyses.[81] However, recently, as David Newman notes, "the focus has begun to shift to the notion of 'boundary' as a line that separates, encloses, and excludes, at a number of special and social scales, thus moving

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[77] Parker and Vaughan-Williams, "Lines in the sand? Toward an agenda for critical border studies," 583.
[78] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 9.
[79] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 9.
[80] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 10.
[81] Anssi Paasi, "Boundaries as social processes: Territoriality in the world of flows," *Geopolitics* 3, no. 1 (1998): 69, https://www.tandfonline.com/doi/abs/10.1080/14650049808407608

away from the exclusive focus on hard international borders."[82] According to David Newman, "lines are drawn not only around the sovereign territories of states and municipal jurisdiction areas, but also around nations, groups, religions, and individuals, creating a series of bounded compartments within which most of us are contained and from which few of us are able to cross to neighboring compartments with ease."[83] Anssi Paasi presents boundaries "as processes that exist in social-cultural action and discourses."[84] He points out that boundaries are not merely lines on the ground but, above all, "manifestations of social practice and discourse."[85]

Hence, many international relations theorists and geopoliticians have tried to move away from what John Agnew called the "territorial trap" -that is, the exclusive understanding of borders as fixed lines between states- in other to highlight the cultural and social meanings of boundaries.[86] In that sense, boundaries can be understood as various socio-cultural practices -or codes- that indicate who or what is allowed in different spheres of society, such as religion, language, school, ethnic groups, status, etc. For instance, each religion has a set of precepts that establish a clear distinction between those who are "in" from those who are "out." Ethnic groups differ from others not only in terms of their geographical location but also in their cultural practice -linguistic, norms, worldview, behavior, etc.- that can make those who do not belong to the group feel that they have crossed a line.

For an undocumented migrant who has entered the country, the border is no longer the line he/she had crossed, but the multiple prohibitions associated with his undocumented status, reminding

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[82] Newman, "Boundaries," 124.
[83] Newman, "Boundaries," 124.
[84] Paasi, "Boundaries as social processes," 72.
[85] Paasi, "Boundaries as social processes," 75.
[86] Newman and Paasi, "Fences and neighbours in the postmodern world," 188.

him/her constantly that he/she is not from "here." For them, the border becomes "a presence." In his article "Undocumented: On being Latino here and Hispanic there," the undocumented student, Armando Guerrero Estrada, explains that he, sometimes sitting in classes, wondered if his life was really that much better here in the United States when he realized that, as an undocumented student, he could not apply for federal financial aid or student loans.[87] Boundaries can also be economic in the sense that they clearly demarcate privileged people from unprivileged ones. Privileges are (invisible) markers that show kids who are from ghetto places, schools, jobs, and hospitals that are not for them; or, from the white supremacy discourse, privileges remind black people that they are living in a world of unbalanced opportunities.

These are some of the multiple experiences that show that borders are not only (fixed) geographical lines dividing states but also socio-cultural practices. In his book *Theory of the Border*, Thomas Nail conceives the border as "a social process" that introduces "a division or bifurcation of some sort into the world."[88]

Many authors have also underscored the contextual dimension of borders. They have argued that borders can be approached from different angles; that is, there is no universal perspective on borders, which can acquire "different meanings depending on the vantage point one assumes."[89] Hence, borders do not have the same meaning for everyone.[90] Anssi Paasi writes, "the construction of the meanings of communities and their boundaries occurs through narratives: 'stories' that provide people with common experiences, history and memories, and thereby bind these people

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[87] Guerrero Estrada Armando, "Undocumented: On being Latino here and Hispanic there," *Afro-Hispanic Review* 38, no. 2 (2019): 85.
[88] Thomas Nail, *Theory of the Border* (New York: Oxford Press University, 2016), 2.
[89] Bauder, *Migration, Borders, Freedom*, 19.
[90] Bauder, *Migration, Borders, Freedom*, 19.

together."[91] In the same vein, Newman points out that it is at the level of "narrative, anecdote and communication that borders come to life."[92] He adds that "through narrative, we perceive the borders which surround us, which we have to cross on a daily basis and/or are prevented from crossing because we do not 'belong' on the other side."[93]

It is, therefore, something of an over-simplification to conceive boundaries only as merely lines. Boundaries cannot be dissociated from different practices and discourses that accompany their existence. Newman and Paasi note, "all boundaries are socially constructed."[94] People come to understand what the border is through their multiple interactions with the border, that is, the various ways in which their lives are affected by different border practices and discourses. Bauder notes that "the various meanings of the border that people form in their minds relate to the worldly ways in which they use and experience borders. For the Syrian family fleeing war, the border signifies a gateway to safety and a better life; for the lawmaker with the mandate to protect the nation, it is a place where threats to national security appear."[95] Paulina Ochoa Espejo also highlights the contextual significance of borders. She notes that "depending on their context, people interpret borders differently. For example, trade negotiators obsess over facilitation and openness, while those in the hinterland often fear migrants, and those in the border regions may be concerned with how countries share water."[96]

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[91] Paasi, "Boundaries as social processes," 75.

[92] David Newman, "The lines that continue to separate us: borders in our 'borderless' world," *The progress in human geography* 30, no. 2 (April 2006): 152, ProQuest.

[93] Newman, "The lines that continue to separate us: borders in our 'borderless' world," 152.

[94] David Newman and Anssi Paasi, "Fences and neighbours in the postmodern world: boundary narratives in political geography," *Progress in Human Geography* 22, no. 2 (Jun 1998): 188, ProQuest.

[95] Bauder, *Migration, Borders, Freedom*, 19.

[96] Espejo, *On borders*, 58.

Border, national security, globalization, migration

The growing debate on national security and migration around the world has shown the power of borders as international demarcation. According to Alexander C. Diener and Joshua Hagen, the terrorist attacks of September 11, 2001 "seemed to initiate a period of renewed determination by many states around the world and their citizens to assert greater control over their external borders."[97] Since then, bordering territories has become one of the main preoccupations of governments. It requires intensive document examinations and an energetic deployment of economic and military resources.[98] For instance, the United States' southern border is one of the most militarized borders in the world. In the wake of the attacks of September 11, 2001, "the United States' northern border to Canada was also subjected to greater scrutiny of who crosses it."[99]

The same desire to control cross-border flows of people can be seen all over the world. Diener and Hagen highlight that "even the European Union, often cited as a harbinger of a borderless world, has made a concerted effort to strengthen its borders with Russia, Belarus, and Ukraine, as well as along the Mediterranean and Atlantic."[100] India has amplified its borders with Bangladesh, Myanmar, and Pakistan. In the Middle East, Israel has built a new 700-kilometer (430-mile) security barrier around many Palestinian areas in the West Bank.[101] Countries such as "Botswana,

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[97] C. Diener and Hagen, "Theorizing borders," 1197.
[98] C. Diener and Hagen, "Theorizing borders," 1197.
[99] Bauder, *Migration, Borders, Freedom*, 23.
[100] C. Diener and Hagen, "Theorizing borders," 1197.
[101] C. Diener and Hagen, "Theorizing borders," 1197.

Brazil, China, and the United Arab Emirates have all launched new fence construction projects, while dozens of other countries have bolstered their existing border barriers."[102]

This compulsion to control and secure territory seems to go against the growing phenomenon of globalization. Interdependence among countries and movements of people constitute undeniable dimensions of our global world. According to many authors, globalization has provoked the decline of sovereignty and led to a 'borderless world.' They conceive it as a trans-territorial force that acts across frontiers and undermines "the presumed political monopoly exercised by states over their territories."[103] Threatened by the power of globalization, politics has become "redefined by as a cosmopolitan planetary system based on supra-national entities like UN, and orchestrated by new global political forces such NGOs."[104] At the economic level, many authors such as Kenichi Ohmae, Manuel Castells, and Saskia Sassen, among others, have argued that the global market has attained a point where national economies and economic governance by nation-states are no longer relevant.[105] Some words on Sassen's account are worth to be mentioned.

In her book *Losing Control? Sovereignty in an Age of Globalization,* Sassen argues that the formation of a new economic system centered on cross-border flows and global telecommunications has affected two distinctive features of the modern state: sovereignty and exclusive territoriality.[106] In her view, transformations introduced by globalization into the modern

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[102] C. Diener and Hagen, "Theorizing borders," 1198.
[103] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 2.
[104] Hirst, *Space and power. Politics, war and architecture*, 27.
[105] Hirst makes an insightful presentation of Kenichi Ohmae and Manuel Castells. See Hirst, *Space and power. Politics, war and architecture*, 21-24
[106] Saskia Sassen, *Losing Control? Sovereignty in an age of globalization* (New York: Columbia University Press, 1996), xii.

state and the modern state system contribute to the formation of "a new geography of power."[107] She highlights three components of this new geography order.

The first component concerns the question of territory in the global economy. In fact, practices and institutions such as markets, finances, firms' factories, and service outlets have created "a space that goes beyond the regulatory umbrella of the state."[108] Some of the multiple examples of these can be observed in how firms create plants in various countries or in how the manufacturing of one product (like a cellphone or a car) requires an assembly process of parts from different places.[109] In the face of these cross-border networks, the significance of the state is in decline.[110] The creation of free trade zones in many developing countries is another manifestation of the erosion of the sovereignty of the state since they are not "subject to local taxes and various other regulations."[111] These offshoring processes herald an unbounded world.

The second component has to do with the ascendance of a new legal regime for governing cross-border economic transactions.[112] Transnational operations among global companies have rendered the traditional regulatory functions of the state inefficacy. Global disputes now require "global governance on a global scale."[113] This explains the institutionalization of international commercial arbitration. Today, arbitration centers can be found all over the world. They are basically private justice institutions that have emerged as "important governance mechanisms whose authority is not centered in the state."[114] They are proof that the global market has provoked the

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[107] Sassen, *Losing Control?* 5.
[108] Sassen, *Losing Control?* 8.
[109] Sassen, *Losing Control?* 7.
[110] Sassen, *Losing Control?* 8.
[111] Sassen, *Losing Control?* 9.
[112] Sassen, *Losing Control?* 5.
[113] Hirst, *Space and Power. Politics, War and Architecture*, 7.
[114] Sassen, *Losing Control?* 16.

deterritorialization or delocalization of the traditional regulatory competence of the state.[115] The third component refers to the virtualization of a growing number of economic activities. Nowadays, the border of the state (or the control power of the state) becomes invisible under the influence of digitalization, that is, the electronic market. New technologies (or the internet) make possible a series of complex and speedy transactions which permit people, companies, firms, and banks to escape from the power control of the state. Facebook, TikTok, and YouTube can be a source of income for people from all over the world.

However, the idea that globalization has produced a world in which international borders are meaningless must be downplayed. The fact that the world has become more interconnected does not mean that borders are being removed. Countries continue to have fixed borders and exert their sovereignty over their territory. Even for Sassen, the new geography power does not entail a "complete" disappearance of the state's authority. On the contrary, she cautiously writes, "globalization under these conditions has entailed a partial denationalization of national territory and a partial shift of some components of state national sovereignty to other institutions, from supranational entities to the global capital market."[116] The truth is that national states are still influential in our globalized world.

For instance, the European Union does not mean "fusion of countries." France is still France with its clearly defined borders; German borders have remained practically the same. The British decision to exit from the European Union in the Brexit referendum of 2016 shows states' will to maintain their sovereignty. For Donald Trump, who was elected president of the United States on the ideas of "Putting America First" and "Make America Great Again," it was clear that "the latter

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[115] Sassen, *Losing Control?* 15.
[116] Sassen, *Losing Control?* xii.

would necessarily result from the former."[117] The 15% taxes applied to about $112 billion of Chinese imports by the Trump administration on March 22, 2018, proves that the idea of a borderless world must not be exaggerated and that states will maintain their position in our global environment.

Furthermore, international laws, agreements, and conventions always require states' concrete involvement for their implementation. Individual states can always choose which international convention or law to bind themselves with. For instance, the Trump administration rolled back more than 100 environmental rules.[118] Moreover, as Marden notes, "international law has clearly been developed faster than individual nation-states can fulfill their regulatory responsibilities, or develop an institutional capacity to deal with the complexities involved."[119] This explains the existence of many cases of violations of human rights in many countries around the world. In that sense, Agnew draws attention to the fact that globalization has not initiated a new phenomenon, for states have never succeeded in entirely exercising control over every domain of their territory. Globalization has "merely further complicated an already complex relationship between sovereignty and territory."[120]

Hence, in our modern and globalized world, rule still flows from the sovereignty of the state over its national territory. Instead of proclaiming the complete disappearance of national sovereignty and borders, it would be more insightful to observe how national and international orders are still

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[117] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 3.
[118] Nadja Popovich, Livia Albeck-Ripka and Kendra Pierre-Louis, "The Trump administration rolled back more than 100 environmental rules. Here's the full list," *The New York Times*, Updated January 20, 2021, Accessed March 25, 2023.
https://www.nytimes.com/interactive/2020/climate/trump-environment-rollbacks-list.html
[119] Marden, "The geopolitics of sovereignty, governance and the citizen," 49.
[120] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 2.

competing in our world. Covid-19 offers an excellent example of that competition. While the virus was everywhere and demanded global decisions (in fact, many decisions were made globally), many responses were local or national: the closure of the national borders. Agnew and Newman rightly describe this reality. Agnew writes, "rather than the 'victory' of Adam Smith's vision of an open world over Thomas Hobbes's conception of Leviathan (the state) and a patchwork of sovereign spaces, these prophets are still competing for whose trumpet will sound the final note in the struggle between each worldview and its associated modus operandi."[121] Similarly, Newman notes,

> If there is anything that belies notions of a deterritorialized and borderless world more, it is the fact that boundaries, in a variety of formats and intensities, continue to demarcate the territories within which we are compartmentalized, determine with whom we interact and affiliate, and the extent to which we are free to move from one space to another. Some boundaries may be disappearing, or at the very least are becoming more permeable and easy to traverse, but at the same time many new boundaries -ranging from the state and territorial to the social and virtual- are being established at one and the same time.[122]

Since the world has become increasingly interconnected, cross-border activities have proven to be easier than before. As Harald puts it, human beings have migrated since time immemorial. Today, however, "advancements in transportation have made travel faster and cheaper, and communication technologies have made it possible to connect with family and friends independent of physical distance. As a result, the mobility of global population has increased in volume, and migration flows have diversified."[123] Moreover, humanitarian crises worldwide have provoked massive displacements of people. Hollenbach, in his book *Humanity in crisis*, describes the dire situation of our time in these words:

> Today, millions of men, women, and children live amid severe humanitarian crises. Dire social, political, and environmental conditions menace their well-being, their lives, and their very humanity. Many people face these dangers because of the violence of war and civil conflict. Brutal

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[121] Agnew, *Globalization and sovereignty. Beyond the territorial trap*, 2.
[122] Newman, "Boundaries," 123.
[123] Bauder, *Migration, Borders, Freedom*, 4.

strife puts large numbers of people in grave danger, undermining the stability of whole countries and regions and putting future generations at risk.[124]

After mentioning some regions where conflicts have occurred, he adds that "these conflicts are displacing millions more people from their homes. Fragile states are unable or unwilling to protect their citizens from the perils that force them to migrate in pursuit of safety and survival."[125]

These humanitarian crises have obvious implications for international borders. Migration flows have exerted more and more pressure on borders. As Hollenbach rightly puts it, "the movement of massive numbers of people across national borders is one of the defining characteristics of the world today."[126] Migration has also disclosed the catastrophic consequences that borders can have on human lives. Hagen Kopp establishes a strong connection between the UE political border and the deaths of migrants. He argues, "Hundreds of deaths resulted in this region in 2006, and the deaths of boat people seem to be an integral element of the UE deterrence policy [to 2015]. There have been about 16 000 victims of the UE border regime since 1993. More than 1500 boat people dropped between Sicily, Libya, and Tunisia in 2011 alone."[127] Between 2014 and 2018, about 12 thousand people who drowned in the Mediterranean Sea were never found.[128] In 2022, it was estimated that 2,062 migrants died while crossings the Mediterranean Sea.[129]

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[124] Hollenbach, *Humanity in crisis*, 1.

[125] Hollenbach, *Humanity in crisis*, 1.

[126] Hollenbach, "Migration as a Challenge," 807.

[127] Hagen Kopp, "Report from the border," in *Migration as a sign of the times*, ed. Judith Gruber and Sigrid Rettenbacher (Boston: Leiden Brill Rodopi, 2015), 8.

[128] "Number of recorded deaths of migrants in the Mediterranean Sea from 2014 to 2022," Statista, Google, accessed April 11, 2023, https://www.statista.com/statistics/1082077/deaths-of-migrants-in-the-mediterranean-sea/#:~:text=Deaths%20of%20migrants%20in%20the%20Mediterranean%20Sea%202014%2D2022&text=In%202022%2C%20it%20was%20estimated,the%20Mediterranean%20Sea%20cannot%20ascertained.

[129] Statista, "Number of recorded deaths of migrants in the Mediterranean Sea from 2014 to 2022,"

In the same vein, Harald argues that "the tragic deaths of thousands of migrants illustrate the catastrophic human consequences of the border regimes that inhibit people from freely crossing international borders."[130] He continues:

> International borders have become deadly barriers that epidemics and natural disasters in the number of fatalities they produce. Although border deaths are not a recent phenomenon, the horrific death counts of migrations in the Mediterranean Sea, in the waters between South East Asia and Australia, along the US-Mexico border, and in the waters of Southeast Asia illustrate the catastrophic dimensions this phenomenon has now assumed.[131]

Furthermore, it is important to mention that border restrictions have significantly reinforced economic inequalities. Kopp argues that migration casts light on global inequalities because it allows us to see "the hierarchies in income and wealth between the Global South and the Global North."[132] Comparing migration issues with Apartheid South Africa, he posits that a system of global apartheid is taking place on a global scale nowadays.[133] He thinks that "every migration is a justified movement, an appropriation of rights that we clearly have to support while at the same time fighting for just development and global justice."[134] In a similar way, Harald affirms that "today's borders maintain many of the political relations reminiscent of the world's colonial and imperial past. They disproportionately constrain the mobility of citizens of formerly colonized countries in the Global South. In fact, some commentators suggest that current borders practices reinforce a system of global apartheid."[135]

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[130] Bauder, *Migration, Borders, Freedom*, 36.
[131] Bauder, *Migration, Borders, Freedom*, 4.
[132] Hagen Kopp, "Report from the border," 6.
[133] Hagen Kopp, "Report from the border," 6.
[134] Hagen Kopp, "Report from the border," 6.
[135] Bauder, *Migration, Borders, Freedom*, 36.

Concluding remarks:

Borders are complex and ambiguous realities that can embody various aspects. They are everywhere and can be classified as natural, artificial, visible, invisible, political, social, and cultural. Despite the undeniable effect of globalization in reducing the power of borders (or states' sovereignty), the compartmentalization of the world is still an undiscussable fact. Bordering practices can be observed in all aspects of our life.

Borders are ambivalent in that they can play both positive and negative roles. On the one hand, as markers of separation, they constitute an essential aspect of the sovereignty and self-determination of the state. In international relations, they ensure a country's political integrity by establishing each territory's scope of authority. Most international organizations insist on mutual respect for borders among nations. On the other hand, as we have seen, the fact that borders are always tied with political decisions (or human decisions) explains the contentious aspect of their location; they are sources of conflict. Nowadays, many borders are still disputed around the world. These conflicts show that borders are still relevant for countries.

Moreover, borders can have inhuman consequences and hinder human safety. When people are trying to escape disasters that threaten their lives, the relevance of international borders becomes problematic because they constitute a hindrance to the safety and well-being of many persons in grave danger. In fact, humanitarian crises can inflict massive harm on those they affect. They frequently violate human rights and damage human dignity. They undermine the justice of the social institutions that support people's life together.

In the face of this ambivalent dimension of the border, one question remains: what should happen to international borders? This question is central in the "open border" debate. While some authors think borders are relevant, others promote a borderless world. The next chapter of the thesis paper will address that question and advocate for a conception of the border that takes human dignity into account.

Chapter 2: Toward a non-exclusionary understanding of the border

Humanity in crisis

We have seen how ambivalent the function of borders can be. While they are constitutive of states' self-determination, in the context of international migration, they also present some ethical problems. As we have noted, migration is an undeniable characteristic of our world. Millions of people leave their home countries every year.[136] Although the drivers of migration can be different, it is undeniable that the search for a safe haven constitutes the primary cause. When their home is not home anymore, people have no other choice than emigrate.

Many factors, such as violence, war, conflicts, natural disasters, and lack of economic opportunities, are the most notorious *push drivers* of migration. According to the UN Refugee Agency, due to continuing crisis in Syria, 15.3 million people are in need of humanitarian and protection assistance in the country, 6.8 million are internally displaced, and 5.5 million are refugees living in neighboring countries like Turkey, Lebanon, Jordan, Iraq, and Egypt.[137] The war in Ukraine has already left an estimated 17.6 million people in need of humanitarian assistance, and forced 5.9 million people to be internally displaced, and 8 million others to emigrate in neighboring countries and across Europe.[138] Over 16% of the current global refugee population is Ukrainian.[139]

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[136] Gillian Brock, *Migration and Political Theory* (Cambridge: Polity Press, 2021), 20.

[137] "Syria Emergency," United Nations High Commissioner for Refugees (UNHCR), Google, last modified March 2023, https://www.unhcr.org/syria-emergency.html

[138] "Ukraine Emergency," United Nations High Commissioner for Refugees (UNHCR), Google, accessed April 8, 2023, https://www.unrefugees.org/emergencies/ukraine/

[139] "The 10 Largest Refugee Crises to know in 2023," Concern Worldwide US, accessed April 8, 2023, https://www.concernusa.org/story/largest-refugee-crises/#:~:text=In%20the%20past%20decade%2C%20the,are%20over%2032.5%20million%20refugees.

In the Caribbean, Central, and South American countries (like Haiti, Venezuela, Ecuador, Peru, El Salvador, Guatemala, and Honduras), chronic conflicts, political instability, and violence have forced many people to flee in search of better opportunities. For instance, according to the International Monetary Fund, more than 7 million Venezuelans have fled the country since 2015.[140] The main drivers of Venezuelan emigration have been "the negative economic situation, lack of access to basic social needs such as healthcare and food, lack of money in cash, and political polarization."[141] El Salvador is one of the most affected Central American countries by violence and political instability. Since the 1930s, the country has experienced "a range of crises including ethnic cleansing, military dictatorship, and natural disasters. The civil war in the 1980s saw an estimated 75,000 people killed and over one million displaced."[142] It is estimated that between 200,000 and 300,000 Salvadorans flee their homes for safety every year.[143]

These cases (and many others) show that migration is one of the greatest challenges that our world has to face. Migration puts people in a vulnerable setting and, most of the time, exacerbates their situations. Trying to escape from the complex and dire reality of their countries, migrants find themselves outside of legal protection categories; they become stateless people and, consequently, subject to human rights violations. Even as technological advances have made travel faster and safer, the circumstances in which migrants travel put their lives and safety at extreme risk. These displacements increase the possibility for women to suffer gender-based violence and for children to be abused. Smuggled migrants are subject to abuse and exploitation. Many migrants suffocate

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[140] "Venezuela's Migrants Bring Economic Opportunity to Latin America," International Monetary Fund, Google, last modified December 7, 2022, https://www.imf.org/en/News/Articles/2022/12/06/cf-venezuelas-migrants-bring-economic-opportunity-to-latin-america

[141] "Migration Data in South America," Migration Data Portal, Google, accessed April, 9, 2023, https://www.migrationdataportal.org/regional-data-overview/migration-data-south-america

[142] "El Savaldor," International Rescue Committee, Google, accessed April 9, 2023, https://www.rescue.org/country/el-salvador

[143] International Rescue Committee, "El Savaldor,"

in containers, and others perish in deserts or drown at sea since they cannot use legal migration channels. The IOM's Missing Migrants Project records 55,174 people who died in the process of migration toward an international destination.[144]

Furthermore, humanitarian crises all over the world have increased the number of people who make their journey through these dangerous and illegal channels. For instance, the number of migrants who embarked on the dangerous Darien gap route nearly doubled in 2022.[145] According to IOM, "the number of Venezuelans following this route increased over 50 times last year, compared to 2021, reaching 150, 327. Nationals of Venezuela were followed by Ecuadorians (29,356), Haitian (22,435) and Cubans (5,961). Of the total, about 28 per cent were female and 72 per cent were male, while 16 per cent were children and adolescents."[146]

These displacements threaten the dignity of these people as human beings and exert pressure on international borders. This explains why migration has become an important issue in political debate in recent years. As we have noted, when people are trying to escape disasters that threaten their lives, the presence of international borders becomes problematic because they constitute a hindrance to the safety and well-being of many persons in grave danger. Humanitarian crises and their consequent growing number of migrants call for a conception of the border that considers human dignity and safety more adequately. This second chapter of the thesis will argue that human dignity must be the lens through which borders should be defined. It will advocate for a non-exclusionary understanding of the border.

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[144] "Missing Migrants Project," IOM, Google, accessed April 10, 2023, https://missingmigrants.iom.int/
[145] "Numbers of Migrants who Embarked on the Dangerous Darien Gap Route Nearly Doubled in 2022," IOM, Google, accessed April 10, 2023, https://www.iom.int/news/number-migrants-who-embarked-dangerous-darien-gap-route-nearly-doubled-2022
[146] IOM, "Numbers of Migrants who Embarked on the Dangerous Darien Gap Route Nearly Doubled in 2022"

This chapter is organized as follows. In the first part, it will present the "open border" debate and posit that the root of the question is anthropological; in other words, our understanding of human beings has implications for the way we conceive the border. In the second part, this chapter will some ethical categories that can help relativize the notion of the border and propose a non-exclusionary understanding of the border. Drawing on David Hollenbach's and Miroslav Volf's works, the rest of the chapter will formulate the non-exclusionary understanding of the border. At issue in this chapter is receiving countries' responsibilities toward refugees seeking safe haven.

The "open borders" debate

The ambivalent function of borders has given rise to discussions about what should happen to them. This ambivalence can be seen in the opposing responses to that question. There is no agreement among scholars on how open or closed our borders should be. Michael Walzer and Joseph Carens have been particularly important to this discussion since they set the ways in which other authors would address the issue. In his book *Spheres of Justice: A Defense of Pluralism and Equality*, Walzer argues in favor of closed borders. The starting point of his argument is the self-determination of a political community. One of the key components of that self-determination is the right of states to protect the distinctiveness of their cultures and their groups.[147] In other words, states must preserve the character of their communities. In that sense, the success of their own culture and politics constitutes an essential dimension of the legitimacy of the states.

States preserve their character by controlling their membership. According to Walzer, membership is the primary good that we distribute to one another in some human community.[148] Its importance

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[147] Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (Library of Congress Cataloging in Publication Data, 1983), 38.
[148] Walzer, *Spheres of Justice*, 31.

resides in the fact that it prevents men and women from being deracinated and stateless persons. One of the essential roles of the states (or political communities) is to worry especially about the welfare of their own members.[149] He writes,

> Men and women without membership anywhere are stateless persons. That condition doesn't preclude every sort of distributive relation: markets, for example, are commonly open to all comers. But non-members are vulnerable and unprotected in the marketplace. Although they may participate freely in the exchange of goods, they have no part in those goods that are shared. They are cut off from the communal provision of security and welfare. Even those aspects of security and welfare that are, like public health, collectively distributed are not guaranteed to non-members: for they have no guaranteed place in the collectivity and are always liable to expulsion. Statelessness is a condition of infinite danger.[150]

Membership is not fixed since humans are mobile and constantly try "to change their residence and their membership, moving from unfavored to favored environments."[151] This explains why "affluent and free countries are, like élites universities, besieged by applicants."[152] Considering the fact that human beings are highly mobile, Walzer argues that the protection of the character and membership of communities suppose the existence of borders. He states that "the distinctiveness of cultures and groups depends upon closure and, without it, cannot be conceived as a stable feature of human life."[153] An unchecked entry of strangers might affect the community's character and identity, "leading to considerable cultural change, perhaps even threatening the preservation of that community's character entirely."[154]

Hence, the control of membership is a political one, which regards states' power over their own selection processes in accordance with the kind of community the citizens want to create; with what other men and women they want to share and exchange social goods.[155] In Walzer's view,

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149 Walzer, *Spheres of Justice*, 38.
150 Walzer, *Spheres of Justice*, 31-32
151 Walzer, *Spheres of Justice*, 32.
152 Walzer, *Spheres of Justice*, 32.
153 Walzer, *Spheres of Justice*, 39.
154 Brock, *Migration and Political Theory*, 23.
155 Walzer, *Spheres of Justice*, 40.

these selection processes are internal and exclusive, in the sense that they rest upon the extent to which the members of the political community want strangers to cross their borders. Citizens have an obligation to provide assistance to strangers, provided that they can do so without excessive cost to themselves.

In his book *Immigration Justice*, Peter Higgins qualifies Walzer's account as "prescriptive nationalist." Higgins describes "prescriptive nationalism" as a position that holds that states ought to choose immigration policies in accordance with "the national interest."[156] Stephen Macedo is another author who holds a "closed borders" position based on nationalistic considerations. In his article "The Moral Dilemma of U.S Immigration Policy Revisited: Open Borders vs. Social Justice," Macedo joins Walzer and contends that states have special obligations to their own citizens. He calls for substantial limits on the admission of "relatively poorly educated and low-skilled"[157] immigrants because this can increase "competition for low-skilled jobs, lowing the wages of the poor and increasing the gap between rich and poor."[158]

Among other proponents of the "closed border" position, we can mention David Miller, Christopher Wellman, and Ryan Pevnick. Like Walzer, Miller adopts a "nationalist perspective". He is concerned with the preservation of "communities of character" (to use Walzer's preferred expression), and national identity (to use that of Miller).[159]

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[156] Peter Higgins, *Immigration Justice* (Edinburgh University Press, 2013), 22.
[157] Stephen Macedo, "The Moral Dilemma of U.S Immigration Policy Revisited: Open Borders vs, Social Justice," in *Debating Immigration,* ed. Carol M. Swain (Cambridge University Press, 2018), 286.
[158] Macedo, "The Moral Dilemma of U.S Immigration Policy Revisited: Open Borders vs, Social Justice," 286.
[159] Amy Reed-Sandoval, "The New Open Borders Debate," in *The Ethics and Politics of Immigration. Core Issues and Emerging Trends*, ed. Alex Sager (London: Rowman and Littlefield International Ltd, 2016), 17.

Wellman's arguments for "closed borders" rest upon the notion of "freedom of association," which is an essential component of the sovereignty or self-determining power of the states. Wellman proceeds through analogies by highlighting the importance of freedom of association for individuals and groups. According to Wellman, the freedom of association has two fundamental aspects: the right to accept an association and the right to reject an association. Autonomous individuals have the right to choose their friends, partners, and religious beliefs; clubs have the right to choose their members. Based on that same ground, sovereign states have the right to select their members, choose their allies, and so on. Wellman ultimately reaches the stark conclusion that "every legitimate state has "the right to close its doors to all potential immigrants, even refugees desperately seeking asylum from incompetent or corrupt political regimes that are either unable or unwilling to protect their citizens' basic moral rights."[160]

Pevnick justifies a "closed borders" position by the principle of "associative ownership." According to Pevnick, a group has the right to ownership of goods produced through the labor and contributions of its members.[161] States' institutions are the result of the associative works of the citizens. This is the intuition that underlies the associative ownership account of self-determination.[162] Citizens have ownership over the desirable goods (the institutions) that they have constructed and worked so hard to maintain. Consequently, they have the right to make future decisions about the shape and direction of such goods or institutions (in other words, their right to self-determination).[163] The principle of associative ownership also gives citizens the right to deny access to those who might want to participate in these goods. This explains the relevance of

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[160] Christopher Heath Wellman, "Immigration and Freedom of Association," *Ethics* 119, no. 1 (October 2008): 109, JSTOR.

[161] Ryan Pevnick, *Immigration and the Constraints of Justice* (New York: Cambridge University Press, 2011), 33.

[162] Pevnick, *Immigration and the Constraints of Justice*, 33.

[163] Pevnick, *Immigration and the Constraints of Justice*, 33.

territorial borders. Pevnick writes, "as long as the value of entrance to the territory hinges on the goods that, as a result of the process of social cooperation, become connected to that territory, it is a mistake to suggest that all have right to access. Instead, because those goods only exist through the coordinated efforts of the citizenry, the political community has a legitimate claim to controlling access to them."[164]

Let's turn now to the "open borders" position. Since Joseph H. Carens is its most influential proponent, he deserves special focus. In his article "Aliens and Citizens: The Case for Open Borders" (1987) and his book *The Ethics of Immigration* (2013), he challenges the idea that the power to admit or exclude aliens is inherent in sovereignty and essential for any political community (in other words, the idea that every state has the legal and moral right to exercise that power in pursuit of its own interest, even if that means denying entry to peaceful, needy foreigners).[165] Freedom of movement is a key element of Carens' argument for "open borders." He contends that "borders should generally be open and that people should normally be free to leave their country of origin and settle in another, subject only to the sorts of constraints that bind current citizens in their new country."[166]

In Carens' view, freedom is essential for a valuable life, and "the right to go where you want is an important human freedom in itself."[167] States violate (or limit) that right when they control immigration. Moreover, Carens notes that freedom of movement is also a prerequisite to many other freedoms: 1) individual autonomy (If people are to be free to live their lives as they choose,

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[164] Pevnick, *Immigration and the Constraints of Justice*, 33.
[165] Joseph H. Carens, "Aliens and Citizens: The Case for Open Borders," in *The Review of Politics* 49, no. 2 (Spring 1987): 251, JSTOR.
[166] Carens, "Aliens and Citizens: The Case for Open Borders," 251.
[167] Joseph H. Carens, *The Ethics of Immigration* (New York: Oxford University Press, 2013), 227.

so long as this does not interfere with the legitimate claims of others, they have to be free to move where they want); 2) equality of opportunity (people need to be able to move where the opportunities are in order to take advantage of them); 3) (related to the second) substantive economic, social, and political equality at the global level.[168]

Another key aspect of Carens' argument is the feudalism analogy. Carens compares citizenship in Western liberal democracies to feudal privilege. In democratic states, most people acquire their citizenship automatically at birth.[169] In Carens' view, birthright citizenship is an odd practice from a democratic perspective; it looks like feudal social order based on inherited status. In that system, being born in a poor or rich country is a question of bad or good luck. So in these ways, from a moral perspective, the country of residence is somewhat arbitrary. After all, contemporary democracies emerged historically as a challenge to social status based on inheritance.[170] Carens contends that the current restrictions on immigration in Western developed countries are not justifiable. Like feudal barriers to mobility, they protect unjust privilege.[171]

Carens also shows that three dominant philosophical theories (libertarianism, utilitarianism, and Rawls' account of justice) can justify the case of "open borders." Regarding the libertarian approach, drawing on Robert Nozick's account, Carens argues that, in the state of nature, individuals have rights, and the creation is to protect people within a given territory against violations of their rights.[172] In that sense, citizenship gives "rise to no distinctive claim."[173] This means citizens and non-citizens have the same rights. In Carens' words, "Individuals have the right

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[168] Carens, *The Ethics of Immigration*, 227-229.
[169] Carens, *The Ethics of Immigration*, 21.
[170] Carens, *The Ethics of Immigration*, 21.
[171] Carens, "Aliens and Citizens: The Case for Open Borders," 270.
[172] Carens, "Aliens and Citizens: The Case for Open Borders," 253.
[173] Carens, "Aliens and Citizens: The Case for Open Borders," 253.

to enter into voluntary exchanges with other individuals. They possess this right as individuals, not as citizens. The state may not interfere with such exchanges so long as they do not violate someone else's rights."[174] According to Carens, this has significant implications for immigration. The government would have no right to prohibit a farmer from one country from hiring a worker from another country.[175] The government would violate their rights by preventing such transactions.[176] So long as they are peaceful workers the government would have no grounds for denying them entry to the country.[177]

Carens also notes that Rawls' notion of the "veil of ignorance" can be used in favor of the case of "open borders." Carens argues that behind the "veil of ignorance" (that is, an original position where people know nothing about their own personal situations -class, race, sex, natural talents, religious beliefs, individual goals and values, and so on), people would choose a system of equal liberty (or an open border).[178] According to Carens, Rawls' insight is important because it allows thinking about questions of justice not only within a given society but also across different societies.[179]

The background conditions affect or bias our judgment about fairness. For instance, migrants will *always* be in favor of 'open borders' (since borders represent obstacles to their safety), while agents of immigration will *always* opt for 'closed borders' (since borders protect them from external threats). In an original position marked by the ignorance of these circumstances (or background conditions), both migrants and agents of immigration would choose 'open borders' (or a system

[174] Carens, "Aliens and Citizens: The Case for Open Borders," 253.
[175] Carens, "Aliens and Citizens: The Case for Open Borders," 253.
[176] Carens, "Aliens and Citizens: The Case for Open Borders," 253.
[177] Carens, "Aliens and Citizens: The Case for Open Borders," 253.
[178] Carens, "Aliens and Citizens: The Case for Open Borders," 255.
[179] Carens, "Aliens and Citizens: The Case for Open Borders," 255.

of equal liberty) since they have no knowledge about the advantages or disadvantages associated with their conditions. For a person born in the United States, the question of whether borders should be open *is* relevant since he/she has to balance the pro and cons of immigration for the country (this explains the importance of immigration, sovereignty, and national security in political debate in the US); on the contrary, for a poor born in Haiti, the question is just not relevant since the answer is clear (this explains the relative absence of immigration, sovereignty, and national security in political debate in Haitian political discussion). In Carens' view, Rawls' notion of the "veil of ignorance" allows unbiased judgments about global issues such as migration; it nullifies the effects of specific contingencies (such as place of birth) which put men at odds.[180]

According to Carens, the utilitarian approach can also justify the "open borders" position. The fundamental principle of utilitarianism aims to maximize the good consequences for all affected by a decision. This principle is rooted in "the assumption that everyone is to count for one and no one for more than one when utility is calculated."[181] If we consider the gains and losses for all affected (both citizens and aliens), the utilitarian approach would lead to a more open immigration policy. For instance, it is generally assumed that "the free mobility of capital and labor is essential to the maximization of overall economic gains."[182] Hence, from the utilitarian perspective (which looks for the best result for all), "open borders" is the best option since it guarantees free mobility of labor. Moreover, Carens writes, "Despite the fact that the economic costs to current citizens are morally relevant in the utilitarian framework, they would probably not be sufficient to justify restrictions."[183]

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[180] Carens, "Aliens and Citizens: The Case for Open Borders," 256.
[181] Carens, "Aliens and Citizens: The Case for Open Borders," 263.
[182] Carens, "Aliens and Citizens: The Case for Open Borders," 263.
[183] Carens, "Aliens and Citizens: The Case for Open Borders," 263.

These opposing considerations about what should happen to borders show two things. First, neither there is agreement among scholars, nor are there totally mutually exclusive arguments. Proponents of the "closed borders" position also offer conditions under which borders can be open. For instance, Walzer argues that the admittance of strangers must be in accordance with the interests of the state. He also presents two conditions for mutual assistance: (1) it is needed or urgently needed by one of the parties; and (2) if the risks and costs of giving it are relatively low for the other party.[184] For Carens (the most influential proponent of the "open borders" position), freedom of movement can be constrained under some moral justification (which takes both citizens and strangers into account).[185] Carens does not advocate for a borderless world. He writes, "An argument for open borders also presupposes that there are borders. Having borders that are open is not the same as having no borders."[186]

Second, borders are always contingent on human will; they are what humans want them to be; they are human production. This conclusion brings the reflection back to what we have said in the first chapter: borders are always tied to human decisions. So, instead of questioning whether borders should be open or not, it would be more valuable to inquire about the nature of the makers of decisions. The "open borders" question is an anthropological one. This is what we can call an "anthropological turn" in border studies. Our understanding as human beings (our understanding of ourselves and others) determines the kind of relationship we want to maintain with them.

This anthropological consideration can be seen in Paulina Ochoa Espejo's insightful sentence: "Borders do *not* divide people."[187] Her argument is that borders are not the "cause" but the "effect"

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[184] Walzer, *Spheres of Justice*, 33.
[185] Carens, *The Ethics of Immigration*, 227.
[186] Carens, *The Ethics of Immigration*, 231.
[187] Espejo, *On borders*, 61.

of a prior split in "personal or communal identity." She uses the analogy of divorce to explain this view:

> When a couple divorces, they may physically separate and divvy up their property. But these new property lines are the result of, not cause for, the divorce. Similarly, what generates the separation in politics (particularly in cases of secession) is not the border or fence. The (alleged) reason why territorial secession occurs is a prior split in the political identity of groups. If a political group demands self-determination and a territorial separation, presumable the group's "self" existed before its demand for a new border. That is, at least in theory, a group of people must first see themselves as having a right to self-determination, after which a new border may be born.[188]

Espejo's statement shows that an understanding of human nature -that is, our understanding of ourselves and others- is consequential for the kind of relationship we want to maintain with them or the kind of borders we create. It is also consequential for our conception of the state. For example, as we have seen, self-determination (or sovereignty), which constitutes a central aspect in the "open borders" debate, is at the basis of the modern conception of the state. Drawing heavily on the classical writings of Machiavelli and Hobbes, this conception of the state is grounded in a pessimistic conception of human nature.[189] According to these authors, human beings have a problematic nature: they are undisciplined, violent, self-centered, and always moved by their own best interest. In Hobbes' words, in the state of nature, "man is wolf to man." The creation of the state is to protect the interest of self-centered human beings.

According to this view, the *Leviathan* needs to be strong enough to "survive in a hostile environment, at home and abroad. At home it confronts the irrational masses of citizens -abroad, a host of hostile powers."[190] This explains why this kind of thought is called "realism" in political theory. As we have seen, mutual exclusiveness is a fundamental aspect of international relations:

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[188] Espejo, *On borders*, 61.
[189] Poku, Renwick and Glenn, "Human security in a globalized world," 11.
[190] Poku, Renwick and Glenn, "Human security in a globalized world," 11.

each pursues its own interest. Poku, Renwick, and Glenn offer an insightful description of our international order:

> Each state has to provide for its own security. Each state is forced to arm. Economic considerations are subordinate to military considerations because, although states engage in international trade, this engagement is fragile because states worry about the relative gains accruing from international exchange, gains that directly affect their relative position of strength. In this context, cooperation is temporary because states only cooperate for purely egotistical reasons -concerned with counterbalancing a potential hegemon … This a world of no permanent friendship or enmities by of constantly changing alliances dictated by no other sentiment (such as religion, ideology, or dynastic bonds) than the "reason of the state."[191]

This shows how influential our conception of human nature can be when it comes to deciding the kind of relationship we want to establish with others. A simple look at our international order reveals that it is truly a human creation; humans created the international order in their image and likeness (to use the biblical expression). This also has tremendous implications for our immigration policy. When the other is primarily perceived as a potential threat, our borders will be closed for him. This calculus is at the center of the discussions of national security. For example, on January 17, 2017, former President Trump signed the Muslim ban. From this perspective, migration in the form of forced expulsions or refugees fleeing war is "less of a problem of morality and more a problem of realpolitik (Does this destabilize our country's political order? What do we do with these people? What does this mean for our available national economic, social and welfare resources?)."[192] In what follows, we will see how Christian ethics can help to address the question of borders.

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[191] Poku, Renwick and Glenn, "Human security in a globalized world," 11-12.
[192] Poku, Renwick and Glenn, "Human security in a globalized world," 18.

Christian ethics and borders

In her book *Kinship Across Borders: A Christian Ethic of Migration*, Kristin E. Heyer suggests Christian anthropology critiques "patterns of dehumanization vis-à-vis undocumented immigration to the United States."[193] She posits that "pervasive frameworks that reduce migrants to their economic or cast them as threats to national security and cultural cohesion it easier to lose sight of our humanity."[194] In what follows, we will put to fore some aspects of Christian ethics that put our common humanity at the center of our understanding of the border.

In Christian ethics, human beings are first and foremost conceived from their relationship with God. From the very first pages of the Bible, the fundamental truth about human beings is established: humankind is *imago Dei*. The concept of *imago Dei* offers a good basis for an inclusive understanding of human dignity. According to the International Theological Commission, the theme *imago Dei* is "the key to the biblical understanding of human nature and to all the affirmations of biblical anthropology in both the Old and New Testaments."[195] Created in the image and the likeness of God, all human beings have a dignity that has God as its foundation. The International Theological Commission posits that "the *imago Dei* constitutes almost a definition of [human]: the mystery of man cannot be grasped apart from the mystery of God."[196]

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[193] Kristin E. Heyer, *Kinship Across Borders: A Christian Ethic of Migration* (Washington: Georgetown University Press, 2012), 10.

[194] Heyer, *Kinship Across Borders*, 10.

[195] International Theological Commission, *Communion and stewardship: Human persons created in the image of God,* (Rome: 2004), 7.

[196] International Theological Commission, *Communion and stewardship,* 7.

In the same vein, Lisa Sowle Cahill affirms that "the explicitly religious and theological corollary of 'human dignity' is 'image of God,' the primary Christian category or symbol of interpretation of personal value."[197] Cahill continues,

> There are at least two major interpretations of 'image of God' as indicative of the way in which persons exist under divine claim. The first is that the 'image,' and therefore the dignity which provides the foundation of rights, are intrinsic to the person as God's creature. The second is that the 'image' and dignity are not inherent in human 'nature,' but are conferred on or attributed to the person by virtue of God's valuation.[198]

From a Christian perspective, this concept of human dignity, as conferred by God, is the theological justification of rights. According to Cahill, "such a concept attributes to the human person a value which is claimed to be either intrinsic or at least de facto universal, which is the foundation of rights, and which cannot be negated and ought never to be violated."[199]

This aspect stresses the relational dimension of the notion of *imago Dei*. Created in the image of a Trinitarian God, a relational God, man and woman are not isolated individuals but essentially relational beings.[200] The New Testament also offers significant insights to Christian ethics. The incarnation of the *Verbum Dei* restores the inclusive relationship that sin had broken among creatures. Christian ethics stresses that Jesus came into our sinful reality to show humanity how to be an adequate image of God. As the International Theological Commission puts it, understood from the perspective of the theology of the *imago Dei*, salvation "entails the restoration of the image of God by Christ who is the perfect image of the Father."[201]

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[197] Lisa Sowle Cahill, "Toward a theory of human rights," *The Journal of Religious ethics*, 8, no. 2 (Fall 1980), 279.
[198] Lisa Sowle Cahill, "Toward a theory of human rights," 279.
[199] Lisa Sowle Cahill, "Toward a theory of human rights," 279.
[200] International Theological Commission, *Communion and stewardship,* 10.
[201] International Theological Commission, *Communion and stewardship,* 47.

Jesus, through his actions and teachings, reveals "what it means to be created in *the imago Dei.*"[202] Through his works, Jesus presents a way of being human that is a critique of the self-centered person that is at the basis of our modern conception of the state and relationship with others. For Christian anthropology, the other is not primarily a threat, but a brother or sister, a friend with whom I share a common humanity. This anthropology also informs the kind of society, community, and world Christians must strive to build. In his *Letter to the Romans,* Saint Paul said: "In Christ we, though many, form one body, and each member belongs to all the others." (Rm 12, 5) From a Christian perspective, the person is not considered to be in a state of nature where his individual survivance is all that matters. Instead, the person appears to be part of a relationship based on trust. This is the fundamental insight of the creation story put at the beginning of the Bible. From Christian ethics, this story constitutes a *dangerous* category for our world order.

This is what constitutes the principle that guides Jesus' work. For Jesus, the other was not a threat but an occasion for a new encounter between God and humanity. Jesus shows God's merciful and compassionate face: he pardons the sinners, welcomes the marginalized and the poor, and heals the sick and the suffering. In the parables devoted to compassion, the core of the Christian faith is made visible "because compassion is presented as a force that overcomes everything, filling the heart with love and bringing consolation through pardon."[203] In Jesus, God's solidarity with humanity, more precisely with those who are suffering, becomes tangible. In Jesus, the Good Samaritan, God becomes the neighbor of all persons in need. By welcoming us through his Son to his divine family, God also reveals hospitality as a divine character. That is why in the Hebrew

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[202] International Theological Commission, *Communion and stewardship,* 54.

[203] Pope Francis, "*Misericordiae Vultus*", April 11, 2015 https://www.vatican.va/content/francesco/en/apost_letters/documents/papa-francesco_bolla_20150411_misericordiae-vultus.html para 9 (Accessed, November 9, 2022)

Bible, the divine injunction to show hospitality to the stranger is part of the worship: "when an alien resides with you in your land, you shall not oppress the alien. The alien who resides with you shall be to you as the citizen among you; you shall love the alien as yourself, for you were aliens in the land of Egypt: I am the Lord you God." (Lev. 19:33)

Building on this anthropology, Christians stress the principles that guide their relationship with their neighbors. These insights constitute the lens through which Christians address migration issues. The conviction that each person is created in *imago Dei* and belongs to the inclusive and universal human family sheds light on the very dignity and rights of the people who are suffering. As *imago Christi*, Christians know that they must emulate Jesus' character when addressing suffering in our world. They know that they will be judged on the criteria of compassion, solidarity, and hospitality (Mt 25: 31-46). From Christian ethics, the inclusiveness of the new life brought by Christ's mystery is at the center of humanitarian actions: "there is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ." (Gal 3:28) Hence, humanity is the same everywhere in each person, and as such, each person is a citizen of the common human community and must be at home wherever that community is located. When one speaks of the person, one refers not only to their particular individual being but also to their belonging to the universal human community.

The principle of humanity

This universalistic dimension of the person is at the center of many ethicists' works. It is worth mentioning how Hollenbach applies this dimension in his work. Hollenbach calls it the principle of humanity. According to him, humanity is the central moral standard when people's lives are being threatened. His main argument is that "since the standard of humanity should be respected

equally for all, it makes moral requirements that reach across borders."[204] Hollenbach also stresses the inclusive dimension of the principle of humanity. He posits that this principle embraces the entirety of humankind. He writes,

> To be concerned with humanity is to be concerned with all members of the human race and the conditions that all face. To act in accord with humanity, therefore, is to act with inclusive concern toward all men and women. It is to respond to all members of the human family based on their need, not because of their nationality, race, religion, class, or political opinion.[205]

In Hollenbach's view, that principle must be the fuel of humanitarian actions, which must be extended to all human beings. That principle goes beyond all religious, patriotic, and nationalistic links when people's lives are threatened. As Hollenbach puts it, "when it comes to the protection of the most basic requirements for human well-being such as life and safety, however, the demands of respect of humanity take on an inclusive quality."[206] At the core of that principle is the conviction that humanity is the same for all humans. Quoting the former Red Cross vice president Jean Pictet, Hollenbach says that "blood is the same color everywhere."[207]

Hollenbach notes that the inclusive dimension of the principle of humanity is the basis of the notion of human dignity. Every person, by being a member of the human family, possesses a dignity that should never be denied. Hollenbach highlights the familiarity of that conception of human dignity with Immanuel Kant's philosophy. He writes, "the core principle of Kant's moral philosophy is that persons must always be treated as ends in themselves and never as means. To treat a person as an end is to treat her with the respect humanity requires, not using her as simply a tool that is useful for obtaining other objectives that are more highly valued."[208]

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[204] Hollenbach, *Humanity in crisis*, 12.
[205] Hollenbach, *Humanity in crisis*, 14-15.
[206] Hollenbach, *Humanity in crisis*, 15.
[207] Hollenbach, *Humanity in crisis*, 15.
[208] Hollenbach, *Humanity in crisis*, 16.

Human dignity must be respected equally in each individual in every situation. That is why human dignity is spelled out in terms of human rights for all people on a deontological frame. The denial of that principle for one individual entails its denial for all the human family. The preamble of the United Nations' 1948 Universal Declaration of Human Rights stresses that inclusive dimension of human dignity by linking "recognition of the inherent dignity of all persons with the protection of the equal and inalienable rights of all members of the human family."[209]

Cosmopolitanism vs. local borders

This conception leads to what is called cosmopolitanism. Etymologically, cosmopolitanism derives from the ancient greek "*kosmopolites,*" formed from "*kosmos,*" which means "world", "universes," or "cosmos," and "*polites,*" which means "citizen." Taken literally, the term is defined as "citizen of the world." [210] It refers to the idea that all humans are members of a single community. From a humanistic perspective, cosmopolitanism means that the dignity of all human beings goes beyond some distinctive characteristics such as gender, religion, ethnicity, race, or nationality. Since all human beings are created in the image and likeness of God, they are brothers and sisters in a single human community, no matter their nationality or ethnicity. Their common humanity reaches across all boundaries.[211] According to this position, "national boundaries, if they exist at all, should be fully open. In the eyes of God, there is only one morally relevant community -the human race as a whole."[212] Hollenbach qualifies this position as "radical Christian cosmopolitanism."[213] This radical Christian cosmopolitanism "challenges the *moral* significance

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[209] Hollenbach, *Humanity in crisis*, 16.
[210] "Cosmopolitanism," Stanford Encyclopedia of Philosophy, last modified October 2019, https://plato.stanford.edu/entries/cosmopolitanism/
[211] Hollenbach, *Humanity in crisis*, 15.
[212] Hollenbach, "Migration as a Challenge," 808.
[213] Hollenbach, "Migration as a Challenge," 808.

of borders and seeks to reduce or perhaps eliminate their *political* significance as well."[214] In other words, this radical cosmopolitanism makes a plea for a borderless world when it comes to addressing migration issues.

Hollenbach moves away from this uncritical or radical conception of cosmopolitanism. He affirms that "radical cosmopolitanism, with its commitment to entirely open borders, is not the whole story on how Christians should look at migration."[215] Drawing on Kwame Anthony Appiah's insights, he observes that

> A cosmopolitanism that shows genuine respect for all persons requires not only recognition of the common humanity of all but also for each person's distinct and differing characteristics. Cosmopolitanism that overlooks local differences can degenerate into a form of imperial tyranny. An ethically adequate politics, therefore, should both support the common humanity of all people and recognize the ways people differ from each other. [216]

One of the most salient characteristics of the world is its division into different nations. While it is true that all persons share a common humanity, it is also true that people "differ from one another in their languages, cultural values, and religious traditions."[217] Borders protect these differences by ensuring the right of self-determination and the sovereignty of a nation. As we have seen in the first part of the paper, borders play a significant role in guaranteeing the territorial integrity of a notion. They keep the nation from being the vassal of other countries. The most basic definition of sovereignty concerns "the authority of a nation state-state to constitute itself, to repel intrusions by other states, and to govern those within its territory."[218]

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[214] Hollenbach, "Migration as a Challenge," 808.
[215] Hollenbach, "Migration as a Challenge," 809.
[216] Hollenbach, *Humanity in crisis*, 70.
[217] Hollenbach, *Humanity in crisis*, 70.
[218] Donald Kerwin, "Rights, the common good, and sovereignty in the service of human person", *And you welcomed me, Migration and Catholic Social Teaching,* ed. Donald Kerwin and Jill Marie Gerschutz (Rowman and Littlefield Publishers, 2009) 105.

The United States Conference of Catholic Bishops also recognizes the right and responsibility of sovereign states to control their borders.[219] The border is intrinsically linked to the notion of sovereignty and integrity of the territory. Drawing on legal scholar Catherine Dauvergne's work, Bauder calls migration controls "the last bastion of sovereignty."[220] Hollenbach mentions that the recognition of this aspect led the philosopher Martha Nussbaum to modify her previous stance on cosmopolitanism. In her first position, Nussbaum argued that "a cosmopolitan community that ties all human beings together morally has primacy over narrower communities defined in terms of nationality, ethnicity, or religion. Some years ago, Nussbaum called nationality a "morally irrelevant" characteristic of personhood, a position that amounted to an ethical call for open borders."[221] Nussbaum now "argues that the protection of human dignity requires respect for the self-determination of states."[222]

Toward a non-exclusionary conception of borders

As we can see, at issue in this paper is how to combine that cosmopolitanism with the fact that our common humanity is constructed in nation-states. In our world, the border is a given, but our shared humanity is a reality: the blood is red everywhere! Should we opt for a world without borders or one that negates our common humanity? Drawing on Hollenbach's work, I posit that while borders can play positive roles in protecting human dignity and well-being, their moral significance must consistently be downplayed in accordance with the dignity and well-being of all human beings. In other words, we need to adopt a non-exclusionary conception of borders, that is,

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[219] United States Conference of Catholic Bishops, *Strangers no Longer. Together on the Journey of Hope*, § 36 (Washington, DC and Mexico City: United States Conference of Catholic Bishop and Conferencia del Obispado Mexicano, 2003)
[220] Bauder, *Migration, Borders, Freedom*, 23.
[221] Hollenbach, *Humanity in crisis* 64.
[222] Hollenbach, *Humanity in crisis*, 70.

a conception of borders that takes the cosmopolitan values -the principle of humanity, *imago Dei*, compassion, solidarity, and hospitality- into account. Otherwise, borders can be a hindrance to the safety of people. We have mentioned the catastrophic consequences of borders on the lives of people on the move. The number of people who died intending to cross international borders shows the fatal application of an exclusionary understanding of borders. The image of thousands of Haitian migrants in September 2021 seeking refuge at the border in Texas exemplifies the threat that borders can oppose to the safety of persons in need who try to cross them.

That situation brings to the fore the need to integrate humanitarian values into our conception of borders by combining respect for differences and universalistic cosmopolitanism. Judeo-Christian traditions can be very insightful in how they incorporate those elements. These traditions recognize that God's covenant gives the Jewish people the right to be different by forging a distinctive religious and national identity. The covenant creates a particular nation. Drawing on Jonathan Sacks's felicitous phrase, Hollenbach calls that aspect the "dignity of difference."[223] Hollenbach argues that the awareness of the dignity of difference can help other traditions come to a similar recognition of the need to value their distinctness and to respect differences."[224] At the same time, as we have seen, these traditions stress our common belonging to the human family created in the image of God.

As we have seen, our world is a world in constant crisis. Dire consequences of climate change, persecution and war, political and economic instability have provoked the movement of massive numbers of people across national borders. These situations pose a threat to people's lives and well-being. When their homes become places that jeopardize their lives, people have no other

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[223] Hollenbach, *Humanity in crisis*, 71.
[224] Hollenbach, *Humanity in crisis*, 71.

option but to move. Moreover, these displacements bring great harm to people's lives. They always threaten their dignity and most basic rights -free movement, food, access to education and health care, and so on. In the face of such a situation, protection becomes "a central objective of humanitarian action."[225] Hollenbach defines "protection" in terms of rights. He argues that "a key ethical aim in the humanitarian field is to encourage people to live up to their duties to protect the rights of others."[226] The need for protection has a moral dimension that reaches across borders. In other words, when people *choose* to move because their homes are not homes anymore, the moral duty to provide them with protection relativizes the moral significance of borders.

The theological categories we have highlighted urge us to reimagine our national borders. They are *dangerous* categories in that they must guide our attitude toward migrants and impact our border policies. The notion of *imago Dei* sheds light on the very humanity of the migrants. It offers an adequate understanding of the humanity of the people on the move, which is *sine qua non* for making just policies on migration. As Daniel G. Groody puts it, "defining all human beings in terms of *imago Dei* provides a very different starting point for the discourse on migration and creates a very different trajectory for the discussion."[227] While our migration systems tend to consider the migrant principally as social and political problems or as illegal aliens, the notion of *imago Dei* stresses the core of their humanity: they are human beings created in the image of God, and, as such, they deserve respect and protection beyond all consideration of borders.

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[225] Hollenbach, *Humanity in crisis*, 81.
[226] Hollenbach, *Humanity in crisis*, 80.
[227] Daniel G. Groody, "Crossing the divide: foundations of a theology of migration and refugees" in *And you welcomed me, Migration and Catholic Social Teaching,* ed. Donald Kerwin and Jill Marie Gerschutz (Rowman and Littlefield Publishers, 2009) 4.

From a Christian perspective, it is a duty to enter into the broken situation set by migration in order to alleviate the suffering of the migrants. That is what discipleship is all about. Christians can truly be Christians when they emulate Christ's attitude toward those who suffer. *Compassion* must be at the center of their actions. As a Christian value, *compassion* sets actions across borders. The parable of the Good Samaritan stresses that *compassion* goes beyond boundaries set by religious and ethnic groups, cultural and national interests in order to show *solidarity* with those threatened by the dire reality of migration. For Christians, *solidarity* is not an abstract concept. It urges them to take action in favor of the migrants; it sets a moral obligation to offer *hospitality* to migrants: "I was a stranger and you welcomed me." (Mt 25: 43)

Exclusion and embrace

In his book *Exclusion and Embrace*, Miroslav Volf makes a distinction between differentiation and exclusion that can be helpful for a non-exclusionary definition of borders. Drawing on the insights from Cornelius Plantinga's book *Not the Way it's Supposed to Be*, Volf argues that differentiation "differs from separation pure and simple. Differentiation consists in 'separating-*and*-binding'. By itself, separation would result in self-enclosed, isolated, and self-identical beings."[228] According to Volf, the activity of differentiation, understood as 'separating-and-binding,' results in patterns of interdependence.[229] In order words, while exclusion can entail cutting the bonds that connect, the differentiation activity tries to maintain them. That activity is essential for the formation of a non-exclusionary identity. In Volf's perspective, "identity is a result of the distinction from the other *and* the internalization of the relationship to the other; it arises out

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[228] Miroslav Volf, *Exclusion and embrace, A Theological exploration of identity, otherness, and reconciliation,*" (Nashville: Abingdon Press: 2019), 59.
[229] Volf, *Exclusion and embrace,*" 59.

of the complex history of 'differentiation' in which both the self and the other take part by negotiating their identities in interaction with one another."[230] Volf argues that "the boundaries that mark our identities are both barriers and bridges."[231] Boundaries are not only markers of separation but also grounds for "embrace." Hence, Volf thinks that we must refuse to consider boundaries as exclusionary, otherwise they will represent "impenetrable barriers that prevent a creative encounter with the other."[232]

This insight sheds light on the non-exclusionary definition of borders that I have tried to develop throughout this chapter. In its most basic sense, a border is always a marker of limit and separation. Regarding sovereignty, it delimitates a nation-state's territorial scope of power. It protects a state from alien intrusions. For example, we have mentioned the consequences of President Putin's decision to invade Ukraine. This invasion has left many Ukrainians in need of humanitarian assistance. It affects their dignity as human beings and represents a violation of their rights. By invading Ukraine, we know that Russia has crossed a line that sets the limits of its actions. In that sense, borders give Russia's action a dimension that it would not have without them; borders allow us to qualify it as an invasion. Borders set limits. The disconcerting possibility of the existence of someone like Putin in our world makes borders relevant. It is a possibility that only God can rule out.

We live in a sinful world marked by war, conflict, violence, invasions, etc. As Christians, we know that this world will be fully transformed in the eschaton; we are walking toward our final *patria*, which is the fullness of the Kingdom. In that sense, we are all migrants in this world. In that

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[230] Volf, *Exclusion and embrace,"* 59.
[231] Volf, *Exclusion and embrace,"* 59.
[232] Volf, *Exclusion and embrace,"* 61.

Kingdom, there will be no identities, no nationalities, no cultural differences, and, above all, no borders; we will all be citizens of the same Kingdom. This is the hope that characterizes the Christian journey in this world. Peter C. Phan writes,

> Movement and hope are precisely the two essential elements of Christian eschatology. A movement or journey entails a goal; otherwise it is blind and directionless. For Christians, that goal is the kingdom of God, as the common destiny of all human beings and human history, and ultimately Godself. Because the kingdom of God is God's reign of universal justice, perfect peace, total reconciliation, and unbounded happiness it cannot by definition be achieved by human efforts.[233]

However, this eschatological dimension of the Christian faith stresses the need to articulate that "hope" and the historical dimension of our world. This articulation can be made through the creation of institutions that transpire justice and respect for the dignity and rights of every single human being. I posit that borders can be such institutions.

I will use two expressions from Seyla Benhabib to explain my point. In her work, Benhabib defends a cosmopolitanism "without illusions" and a cosmopolitanism "from below." First, in this thesis, I address the question of borders without illusions. That is, I take into account the transitory (or the eschatological) character of our world seriously: "We know that we are the Children of God, and that the whole world is under the control of the evil one." (1 John 5, 19) As Christians, we are called to be disciples of Christ in that world. This discipleship urges us to act in a way that protects every person from violence, conflict, and invasion. For that, we need institutions (at least, provisory because everything will be transformed entirely in the eschaton) that denounce aggressions to others. In a world where the possibility of violence and invasion cannot be ruled

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[233] Peter C. Phan, "*Deus Migrator* -God the Migrant: Migration of Theology and Theology of Migration," in *Theological Studies* 77, no. 4 (2016): 864, https://journals-sagepub-com.proxy.bc.edu/doi/10.1177/0040563916666825

out, we need institutions that set limits and reveal the unethical and amoral character of our actions. The example of Putin shows that borders can play a role in that sense (again, provisionally).

Second, the global migration crisis that constantly threatens the dignity and rights' of many people requires borders that are not obstacles to safety. Borders can be institutions that guarantee human security in the sense that they give migrants access to safety and protection. Hence, I address the question of borders "from below," that is, from what constitutes the basis of our lives in this world: security. In that sense, I advocate for more porous borders, which allow trustful contact among people and give occasions to provide assistance, safety, and security to those whose lives are threatened. Moreover, by ensuring connection among people, these porous borders will increasingly contribute to creating a borderless world (which will come to full achievement at the end of times), because borders are the product of the fear of the other, which in turn gives rise to the will to live one's life without the other.

Here I turn the attention from an exclusive notion of national security to an inclusive notion of human security: borders protect citizens and offer refuge to needy strangers. The border can never cut the individuals it encloses from being part of the universal human family. It can never prevent other persons from having the same dignity and rights as its citizens. That is what the Universal Declaration of Human Rights of 1945 stipulates. This declaration must not be a mere abstraction but a reality for all human beings. When borders negatively impact individuals' safety and well-being, as the migration phenomenon has shown, this declaration is lost in the midst of intellectual fantasy. Hence, instead of being a simple marker of separation, the border should be a marker of differentiation that "separates-and-binds" peoples. The border must be a barrier and bridge at the same time: "barrier" as a sign of the sovereignty of a state and "bridge" as an objective point for

the connection between equal bearers of dignity and rights. An exclusionary conception of the border overlooks the human bonds that connect all persons. In an epoch of mass migration, I make a plea for more porous borders that allow people to embrace others.

At the center of Christian anthropology is what Volf calls the "will to embrace," which constitutes a way of living and addressing the problems of times. From God's perspective, the will to embrace aims to make the other whole again (that is what God did for us in Christ). For Christians, the will to embrace can help us address the migration issue locally and globally. In fact, migration is a global issue that needs to be addressed globally. The problem is not only at the national borders but also in countries from which people are escaping daily. Hence, the migration issue requires a will to embrace the world, our common home. That means our plan to solve that migration problem must not be limited to our national borders, but it must go beyond them. This leads to a moral question: What impact do our foreign politics have? For countries that have a history of interventions in other countries, what impact did these inventions have on these countries? Were these interventions meant to make the world great or our own country great?

Chapter III: US immigration policies toward the Haitian migrants: A case study

This chapter will argue that the non-exclusionary conception of the border must influence the US immigration policy toward Haitian migrants. It will propose "embrace as a public virtue." The first part of this chapter will describe the situation that pushes those Haitian refugees to leave their country in search of a better future. The second part will present Temporary Protection Status (TPS) as a program that helps the United States positively address the question. It will argue that TPS is proof that embrace can be a public virtue. The last part will show the negative impact of Title 42 on Haitian migrants.

Haiti: a country in crisis

Haiti occupies the third western part of the island of Hispaniola, which it shares with the Dominican Republic. It was the wealthiest colony in the Americas. On 1 January 1804, Haiti became the world's first black nation to declare independence following the most important slave revolution recorded in history. Begun on the night of August 23, 1791, the Haitian revolution destroyed a system of oppression and became the prescription of "a slavery-free global order."[234] Compared to prior American and French revolutions, the Haitian one was more complete and more radical since it attacked a system that was located precisely at their blindspot; as a result, these revolutions did not intend to uproot the system of violence upon which they were built In that sense, it is worth mentioning Nick Nesbitt's description of these revolutions at length.

> From the very start in 1783, and even already in 1776, the institution of the rule of law, of a democratic American constitution, of a declaration of independence, of life, liberty, and the pursuit of happiness, was built on the foundation of a system of dehumanizing violence. The United States, like the post-1789 French republic, was structured around a fundamental regime of violence, a void that held together in ignominy a new nation, suturing its diverse populations and various modes of

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[234] Nick Nesbitt, "Haiti, The Monstrous Anomaly," in *The Idea of Haiti: Rethinking Crisis and Development*, ed. Millery Pyloné (Minneapolis: University of Minnesota Press, 2013), 8.

production, to enable the American republic and its pursuit of happiness. This regime of violence was, of course, plantation slavery, a system that was not defeated, but rather reinforced and radically extended by the achievement of American independence.[235]

Contrary to the American and French ones, the Haitian Revolution was the first historical event to boldly affirm the incompatibility of human rights and dignity with slavery. The right to life, liberty, and security that were at the center of the American Declaration of Independence and the French Declaration of the Rights of Men and Citizens was fully materialized only with the Haitian Declaration of Independence. The Haitian Revolution was one of the great events of the modern world because "it precociously announced the destruction of slavery in the nineteenth century."[236] Haiti is the cradle of equality and freedom.

However, the glory of Haiti seems destined to fade into the mists of time. The Haitian Revolution -the most important of the three great democratic revolutions- remains the least understood, known, and mentioned in history books. In the global imagery, Haiti, where that revolution occurred, appears as the poorest country in the Western Hemisphere. In international discussions, Haiti is mentioned as a country of interminable political crises, conflicts, violence, and natural disasters. The present torments have overshadowed the past glory. In fact, since the declaration of independence in 1804, the country has always been in constant crisis. Haitian history is thronged with coups d'états and assassinations that keep the country unstable and continue to hinder its economic and social development. One of the most notorious assassination cases was that of President Jovenel Moise in his private residence on 7 July 2021.

The assassination of the president, the man who was supposed to be the most protected person in the country, illustrates the chronic political crisis and the harrowing state of insecurity established

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[235] Nesbitt, "Haiti, The Monstrous Anomaly," 5.
[236] Nesbitt, "Haiti, The Monstrous Anomaly," 6.

in Haiti. Today, insecurity constitutes the biggest problem in the country. Violent criminal gangs are threatening the state authority, including control de facto the country. Gang violence is expanding "at an alarming rate in areas previously considered relatively safe in the capital, Port-au-Prince, and outside the city, with a shocking increase in criminality and abuses, and a police force that is unable to handle the situation."[237] According to data from the Haitian National Police and the UN mission in the country, 1,647 criminal incidents -homicide, rapes, kidnappings and lynching- were recorded during the first quarter of the year (2023).[238] The Haitian population has also continued to "suffer one of the worst human rights crises in decades, with people living in areas under gang control exposed to the highest rate of abuses."[239] The police force is ill-equipped and powerless in the face of the situation.

This dire situation continues to be a hindrance to Haiti's economic development and prevents people from investing in the country. As a result, the rate of unemployment is rising. In addition, because of the unstable and insecure state of the country, many countries advise their nationals not to visit Haiti.

Natural disasters constitute another major factor contributing to the country's dire situation. Haiti is one of the most vulnerable countries to natural disasters, including earthquakes, hurricanes, tropical storms, and droughts. In 2010, the country was struck by a catastrophic earthquake that caused well over 230 000 deaths and displaced 1.5 million people.[240] That earthquake severely damaged the country's infrastructure and worsened its already challenging humanitarian situation.

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[237] "Unprecedented Insecurity in Haiti Requires Urgent Action: New UN Envoy," United Nations, 26 April 2023, Google, accessed, May 3, 2023, https://news.un.org/en/story/2023/04/1136057

[238] United Nations, "Unprecedented Insecurity in Haiti Requires Urgent Action: New UN Envoy."

[239] United Nations, "Unprecedented Insecurity in Haiti Requires Urgent Action: New UN Envoy."

[240] Lina Sjaavik, "Climate Service to Reduce Vulnerability in Haiti," in *World Meteorological Organization* 66. No. 2 (2017), accessed May 2, https://public.wmo.int/en/resources/bulletin/climate-services-reduce-vulnerability-haiti

Eleven years after this terrible earthquake, on 14 August 2021, another devastating earthquake rocked the country, "causing hospitals, schools and homes to collapse, claiming hundreds of lives, and leaving communities in crisis."[241]

Moreover, Haiti is the most vulnerable country to climate change in Latin America and the Caribbean.[242] Its geographic location in the path of Atlantic hurricanes also makes the country particularly vulnerable to hydrometeorological disasters, especially between June and December.[243] In 2008 alone, the country was hit by four hurricanes -Ike, Fay, Hanna and Gustave- that destroyed more than 60 percent of agricultural crops and killing more than 1 000 people.[244] According to the Germanwatch Global Climate Risk Index 2014, Haiti was among the places where the most severe weather events occurred in 2012.[245] These weather events have ruined the country and set back any development efforts. Haiti has become a country that cannot meet its people's basic needs. According to World Food Programme, Haiti has one of the highest levels of food insecurity in the world: 1) 1.8 million people face emergency levels of hunger; 2) 4.9 million people are in acute hunger, almost half the population; 20,000 people face famine in urban areas where a cholera pandemic has taken hold.[246]

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[241] "Massive Earthquake Leaves Devastation in Haiti," UNICEF, Google, accessed on May 2, https://www.unicef.org/emergencies/massive-earthquake-devastation-haiti

[242] "Haiti," Climatelinks, Google, accessed May 3, 2023 https://www.climatelinks.org/countries/haiti

[243] "Haiti," Climate Change Knowledge Portal, Google, accessed May 2, 2023 https://climateknowledgeportal.worldbank.org/country/haiti/vulnerability

[244] Tracy Slagle and Madeleine Rubenstein, "Climate Change in Haiti," *Columbia Climate School*, February 1, 2012, https://news.climate.columbia.edu/2012/02/01/climate-change-in-haiti/

[245] "Haiti, Philippines and Pakistan most affected," German Climate Risk Index, Google, accessed May 3, 2023, https://www.germanwatch.org/en/suche?search_api_fulltext=haiti

[246] "Haiti," World Food Programme, Google, accessed May 3, 2023, https://www.wfp.org/countries/haiti#:~:text=The%20World%20Food%20Programme%20(WFP,community%20in%20case%20of%20emergency.

The confluence of these factors -violence, political and economic crises, and natural disasters- has transformed what was once the wealthiest colony in the Americas into a place from which the population wants to escape at all costs. The images of thousands of Haitian migrants arriving at the US-Mexico border in Texas in September 2021 showed how the situation in the country has worsened. In search of a better life, Haitian migrants have tried to reach countries such as Dominican Republic, Brazil, Chili, and the United States, among others.

The US response: Temporary Protected Status (TPS)

The chronically multidimensional crisis of Haiti and the subsequent displacements of Haitians have constantly challenged the US migration policy. The US responses to Haitian migrants have put to the fore the double standard of the US immigration policy. For instance, after the devastation caused by the 2010 earthquake, Obama Administration officials affirmed that Haiti was "a key foreign policy priority and the Administration's top priority in the Latin America and Caribbean region in terms of bilateral foreign assistance."[247] On January 15, 2010 (three days after the earthquake), the Obama DHS Secretary Janet Napolitano granted TPS for 18 months to Haitian nationals who were in the United States as of January 12, 2010.[248] Haiti is currently listed among the countries designated for TPS. On December 5, 2022, Secretary of Homeland Security

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[247] Maureen Taft-Morales, "Haiti Under President Martelly: Current Conditions and Congressional Concerns," *Congressional Research Service*, (December, 23, 2015), 24, accessed May 3, 2023, https://sgp.fas.org/crs/row/R42559.pdf

[248] Ruth Ellen Wasem and Karma Ester, "Temporary Protected Status: Current Immigration Policy and Issues," Congressional Research Service (January 14, 2014), 5, accessed May 3, 2023, https://trac.syr.edu/immigration/library/P6067.pdf

Alejandro N. Mayorkas announced the extension of Haiti for TPS for TPS for 18 months, from February 4, 2023, through August. 3, 2024.[249]

TPS was codified for the first time in the Immigration Act of 1990, signed by George H. W. Bush.[250] It is a temporary humanitarian status that is offered to foreign nationals who are in the United States that protects them against deportation and allows them to live and work in the US. TPS is granted to the citizens of a country due to the following temporary conditions in the country: 1) ongoing armed conflict (such as civil war); 2) an environmental disaster (such as earthquake or hurricane) or an epidemic; 3) other extraordinary and temporary conditions.[251] Such situations would threaten the lives of the noncitizens if they were to be deported to their home countries. Once granted TPS, "an individual also cannot be detained by DHS on the basis of his or her immigration status in the United States."[252]

TPS status is offered to all "nationals of a particular country based on the country's conditions, rather than the situation of a particular individual (as with asylum)."[253] A grant of TPS does not lead to any permanent immigration status in the United States. However, a TPS beneficiary can apply for an adjustment of status.[254] Since the ratification of the 1990 law, 28 countries have been designated for TPS, and 16 countries are currently designated.[255] According to the most recent data

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[249] "Temporary Protected Status Designated Country: Haiti," U.S. Citizenship and Immigration Services, Google, accessed May 4, 2023, https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-haiti

[250] Claire Bergeron, "Temporary Protected Status after 25 Years: Addressing the Challenge of Long-Term 'Temporary' Residents and Strengthening a Centerpiece of US Humanitarian Protection," in Journal on Migration and Human Security 26, no. 1 (2014): 25, https://journals.sagepub.com/doi/10.1177/233150241400200103

[251] "Temporary Protected Status," U.S Citizenship and Immigration Services, Google, accessed May 4, 2023, https://www.uscis.gov/humanitarian/temporary-protected-status

[252] U.S Citizenship and Immigration Services, "Temporary Protected Status."

[253] Bergeron, "Temporary Protected Status after 25 Years," 25.

[254] U.S Citizenship and Immigration Services, "Temporary Protected Status."

[255] "Temporary Protected Status," The United States Department of Justice, Google, accessed May 5, 2023, https://www.justice.gov/eoir/temporary-protected-status

compiled by Pew Research Center, an estimated 670,000 individuals are either currently registered for TPS or newly eligible for it.[256]

Research shows that TPS holders contribute enormously to the US economy. According to FWD.us, TPS-eligible individuals contribute some 22 billion dollars in wages to the U.S. economy each year and work in more than 600,000 jobs, filling important gaps in an economy plagued by persistent labor shortages.[257] The deportation of these migrants would be a significant loss for the US economy. For instance, after President Trump had signed *Executive Order 13768* on January 25 2017, which eliminated the Obama Administration's enforcement priorities and essentially made all immigrants subject to deportation, Immigrant Legal Resource Center (ILRC) estimated that the cost of deportation of Salvadoran, Honduran and Haitian TPS holders for the federal government would be 3.1 billion dollars.[258]

With the growing humanitarian crisis around the world, TPS turns out to be a relief program that continues to alleviate migrants' burdens. In the case of Haiti, deportations would put the Haitian migrants' lives in danger. As we have seen, Haiti faces extraordinary human rights challenges, gang violence, insecurity, homicides, and natural disasters. The assassination of President Jovenel Moise in 2021 is an illustration of the violence that has been established in the country. Haitian migrants experience a real fear of returning to Haiti. The fact that TPS protects these migrants from deportation offers a certain peace of mind. When you come from a country like Haiti where

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[256] Mohamad Moslimani, "How Temporary Protected Status has Expanded Under the Biden Administration," Pew Research Center, last updated April 21, 2023, https://www.pewresearch.org/short-reads/2023/04/21/biden-administration-further-expands-temporary-protected-status-to-cover-afghanistan-cameroon-ukraine/

[257] "Temporary Protected Status Protects Families while Also Boosting the U.S. Economy," FWD.us, Google, accessed May 5, 2023, https://www.fwd.us/news/temporary-protected-status-report/

[258] Amanda Baran and Jose Magana-Salgado with Tom K. Wong, "Economic Contributions by Salvadoran, Honduran, and Haitian TPS Holders," Immigrant Legal Resource Center, Google, accessed May 5, 2023, https://www.ilrc.org/sites/default/files/resources/2017-04-18_economic_contributions_by_salvadoran_honduran_and_haitian_tps_holders.pdf

prospects work are grim, being able to work here in the United States without the fear of deportation represents a significant relief as well.

Furthermore, migrants play a crucial role in the Haitian economy. They support the economy by sending money that they left behind in Haiti. It is estimated that the money that Haitians abroad have sent back to Haiti in remittances can be at least one third of the country's overall economy.[259] In 2022, Haitian remittances reached 3.1 billion dollars, and for every 10 dollars sent back to Haiti, at least 8 dollars came from the United States.[260] Removing TPS holders can hurt the already weak economy of the country.

It is worth mentioning that the TPS program has been subject to some critiques. For instance, the constant redesignation of a list of countries for TPS -which may stretch years or even decades- leads some critics to posit that the program is not temporary.[261] For instance, 24 years after the first designation of Honduras and Nicaragua, their nationals still cannot return home because of the continuous danger in these countries. In the case of Haiti, presently, there is no sign of possible change. So the question is: how long will these countries remain designated for TPS?

The Trump Administration's effort to eliminate the TPS with *Executive Order 13768* has shown that the cycle of continuous designations, re-designations, and re-extensions of TPS does not eliminate its temporary character. On May 22, 2017, in his statement announcing the end of TPS for Haitian nationals and allowing them only six months to make necessary arrangements to leave

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[259] Sam Bojarski, "Remittances in Haiti surged in 2020 as Kidnappings, Other Crises Rose," The Haitian Times, May 14, 2021, Google, accessed May 5, 2023, https://haitiantimes.com/2021/05/14/remittances-to-haiti-surged-in-2020-as-kidnappings-other-crises-rose/

[260] "Haiti's Turnaround and its Impact on Remittances," The Dialogue, Google, accessed May 5, 2023, https://www.thedialogue.org/blogs/2022/11/haitis-turnaround-and-its-impact-on-remittances/#:~:text=Haiti's%20remittance%20payment%20network%20is,out%20half%20of%20these%20payments.

[261] Bergeron, "Temporary Protected Status after 25 Years," 29.

the country, then-Secretary of Homeland Security John Kelly said that TPS "is inherently temporary in nature, and beneficiaries should plan accordingly that this status may finally end after the extension announced today."[262] Moreover, *Executive Order 13768* has also demonstrated that the fate of the TPS holders has much more to do with the political orientation of the different U.S. administrations than with the real situation of the designated.

Claire Bergeron notes that the continuous grants of TPS status lock beneficiaries into a "legal limbo."[263] In fact, TPS holders are treated as long-term residents in the United States but denied many of the legal protections that the country normally grants to such residents (they cannot apply for their family members for immigration to the United States).[264] She proposes two ways to solve this "legal limbo." First, she thinks that this problem could be solved by offering a pathway to Legal Permanent Residency through 1) a possible qualification for asylum; 2) a complementary protection (the TPS holders must demonstrate that they cannot return to their home countries due to a 'real risk of suffering of serious harm' such as death penalty or execution); 3) and a possible adjustment of status after a certain number of years as TPS holders (ten years for example).[265] Second, the United States must implement "programmatic mechanisms that assist noncitizens whose TPS status has ended in voluntarily returning to their countries."[266] These repatriations would concern "individuals who have not held TPS for ten years, but whose TPS has been ended because conditions in their country of origin have improved."[267]

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[262] "Secretary Kelly's Statement on the Limited Extension of Haiti's Designation for Temporary Protected Status," Homeland Security, Google, accessed May 5, 2023, https://www.dhs.gov/news/2017/05/22/secretary-kellys-statement-limited-extension-haitis-designation-temporary-protected

[263] Bergeron, "Temporary Protected Status after 25 Years," 30.

[264] Bergeron, "Temporary Protected Status after 25 Years," 31.

[265] Bergeron, "Temporary Protected Status after 25 Years," 32-37.

[266] Bergeron, "Temporary Protected Status after 25 Years," 38-39.

[267] Bergeron, "Temporary Protected Status after 25 Years," 39.

At this point, it is important to underscore how TPS can shed light on what we have been doing throughout this thesis. Our main objective has been to conciliate the self-determination of the state and norms of cosmopolitan justice. We have proposed a non-exclusionary definition of the border that respects the moral relevance of the borders and takes the global suffering of humanity into account. Despite its limits, TPS is a concrete example of how to make this conciliation. As we have seen, TPS is a legal regime that tends to address the growing humanitarian crisis that our world is facing. This intention is clearly expressed in the summary of all documents of the Congressional Research Service concerning TPS: "When civil unrest, violence, or natural disasters erupt in spots around the world, concerns arise over the safety of foreign nationals from these troubled places who are in the United States."[268] These documents also note that TPS is a way for the United States to align its immigration policy with international agreements: "As a signatory to the United Nations Protocol Relating to the Status of Refugees (hereinafter, U.N. Protocol), the United States agrees to the principle of nonrefoulement, which means that it will not return an alien to a country where his life or freedom would be threatened."[269] In other words, TPS illustrates how global humanitarian policy is becoming part of practice inside the United States.

TPS shows that our advocacy for an inclusive understanding of the border cannot be reduced to mere speculations; it shows that the will to embrace must be translated into concrete actions. Hence, this non-exclusionary understanding of the border must influence national immigration policies by making room for attending to the suffering of others. In the face of the dire situation that prevails in Haiti, TPS (despite its limits) is, without a doubt, a great relief for Haitian migrants.

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[268] For instance, Ruth Ellen Wasem and Karma Ester, "Temporary Protected Status: Current Immigration Policy and Status," Congressional Research Service (January 14, 2014)

[269] For instance, Ruth Ellen Wasem and Karma Ester, "Temporary Protected Status: Current Immigration Policy and Status," Congressional Research Service (January 14, 2014)

Our argument in this thesis is that the notion of human (both citizens and noncitizens) security must be taken into account when it comes to shaping national immigration policies. Hence, TPS proves that embrace can be a public virtue in the sense that it can transform our immigration policy. However, unlike TPS, other US immigration laws, such as Title 42, have had a negative impact on Haitian migrants. In what follows, we will address the question of Title 42.

The U.S response: Title 42

In September 2021, thousands of Haitian migrants arrived at the US-Mexico border trying to enter the United States. These migrants gathered into an encampment under the Del Rio international bridge after several days on the treacherous Darien route. They were pushed back by Border Patrol agents on horseback as they attempted to cross the border. The photos and videos of the Border Patrol agents on horseback chasing these Haitian migrants "evoked comparisons to slave drivers rounding up their 'property' and highlighted the dark history and legacy of slavery in the United States."[270] Many public personalities in the US, from politicians to celebrities and human rights activists, extended their sympathy and compassion to those Haitian migrants and denounced what they considered a shameful situation. For instance, the senator of New York, Chuck Schumer, said: "images of Haitian migrants being hit with whips and other forms of physical violence is completely unacceptable (…); the images turn your stomach."[271]

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[270] Elazar Kosman, "15,000 Haitian Migrants Beneath a Bridge: A Tale of Abusive Title 42 Policy Implementation," in *Georgetown Immigration Law Journal* 36, no. 491 (2021): 492, https://www.law.georgetown.edu/immigration-law-journal/in-print/volume-36-number-1-fall-2021/15000-haitian-migrants-beneath-a-bridge-a-tale-of-abusive-title-42-policy-implementation/

[271] Chuck Schumer, "Politicians react to expulsion of Haitian migrants from Texas in 180 seconds," video, 3:13, accessed May 7, 2023, https://www.youtube.com/watch?v=eEMGd3gAWSM

In the show *The Real* that she co-presents, the Haitian-American actress, Garcelle Beauvais, said: "During a mass expulsion of Haitian immigrants in del Rio Texas, border patrol agents can be seen whipping refugees as they attempt into what's supposed to be a safer country. These images are provoking outrage and some are asking, is this the United States of America that we know."[272] The civil rights activist, Rev. Al Sharpton, during his tours at the Haitian immigrant encampment in Del Rio, didn't hide his wrath by naming what he saw as a "real catastrophic and human disgrace."[273]

Despite those voices that were reclaiming the rights of asylum for those people, the asylees were placed on flights back to Haiti, without allowing their legal to plead their case for asylum. On September 24, in a press briefing at the White House, DHS Secretary Alejandro Mayorkas announced that there were no longer any migrants in the camp underneath the Del Rio International Bridge.[274] According to Mayorkas, around 2000 Haitian migrants were expelled to Haiti, an estimated 8000 migrants decided to return to Mexico, and over 5000 were being processed by DHS.[275]

Title 42 was the tool used by the Biden Administration to justify these deportations. In fact, Title 42 was public health order implemented on March 21, 2020 by the Trump administration to

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[272] Garcel Beauvais, "Haitian migrants are being forced back to their homeland despite horrific conditions," video 7:09, accessed May 7, 2023 https://www.youtube.com/watch?v=8WjJlhcNqOM&t=215s

[273] Al Sharpton, "Al Sharpton tours Haitian immigrant encampment in Del Rio," video 2:33, accessed May 7, 2023 https://www.youtube.com/watch?v=kdFHQIpdA_c

[274] "Press Briefing by Press Secretary Jen Psaki and Secretary of Homeland Security Alejandro Mayorkas, September 24, 2021," The White House, Google, accessed May 8, 2023, https://www.whitehouse.gov/briefing-room/press-briefings/2021/09/24/press-briefing-by-press-secretary-jen-psaki-and-secretary-of-homeland-security-alejandro-mayorkas-september-24-2021/

[275] The White House, "Press Briefing by Press Secretary Jen Psaki and Secretary of Homeland Security Alejandro Mayorkas, September 24, 2021,"

summarily expel border-crossing during the Covid-19 pandemic.[276] Title 42 is part of the 1944 law called the Public Health Service Act, which was signed by President Roosevelt on July 3, 1944, and (among other things) granted the federal government powers to suspension of entries and imports from designated places to prevent spread of communicable diseases.[277] In the section 265 of the law we read,

> Whenever the Surgeon General determines that by reason of the existence of any communicable disease in a foreign country there is serious danger of the introduction of such disease into the United States, and that this danger is so increased by the introduction of persons or property from such country that a suspension of the right to introduce such persons and property is required in the interest of the public health, the Surgeon General, in accordance with regulations approved by the President, shall have the power to prohibit, in whole or in part, the introduction of persons and property from such countries or places as he shall designate in order to avert such danger, and for such period of time as he may deem necessary for such purpose.[278]

The use of Title 42 violated the right of these Haitians to request asylum. Indeed, the Haitian were captured, brought directly to airports, and placed on flights back to Haiti.[279] According to Elazar Kosman, the implementation of Title 42 at the border was abusive. He critiqued the implementation on three bases. First, the fact that Trump used Title 42 before Covid-19 -and that the Biden administration continued to use it to expel the Haitian migrants- proved that the expulsion of the Haitian migrants "is racist, and rather than a solution to a health crisis, it is actually a pretext to control immigration."[280] In an open letter to President Biden, the Executive Director of Black Alliance for just immigration, Nana Gyamfi, expressed that same critique: "Regrettably, this administration continues to create and support immigration policies that disproportionately and directly harm Black migrants, our families, and communities in spite of the President's

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[276] Jack Herrera, "Why 15,000 Migrants Ended Up in One Spot on the U.S.-Mexico border," Politico (September 23, 2021), Google, accessed May 8, 2023, https://www.politico.com/news/magazine/2021/09/23/del-rio-desperation-dysfunction-immigration-513978

[277] "United States Code," Office of the Law Revision Counsel, Google, accessed May 8, 2023, https://uscode.house.gov/browse.xhtml

[278] Office of the Law Revision Counsel, "United States Code,"

[279] Herrera, "Why 15,000 Migrants Ended Up in One Spot on the U.S.-Mexico border,"

[280] Kosman, "15,000 Haitian Migrants Beneath a Bridge," 496.

Executive Order on racial equity. There is no racial equity in the racist Title 42, the mass expulsion of Haitian and other Black asylum-seekers at US southern border."[281]

Second, Kosman pointed out the discrepancy between implementation on migrants seeking asylum and the lack of the administration's use of Title 42 on migrants entering the United States through other means.[282] Lately, he argued that "using Title 42 to bar asylum seekers so as to 'protect' U.S. citizens from communicable diseases [was] unnecessary given the ability to mitigate the spread of Covid-19 by using CDC-recommended methods of processing migrants."[283]

The treatment to which Haitian migrants were subject at the U.S.-Mexico border in September 2021 highlighted the horrific dimension of the borders that we have stressed throughout this thesis. While Title 42 was implemented to protect citizens, it constituted a hindrance to the safety of noncitizens. This shows the need to adopt an inclusive understanding of the border, which considers not only the safety of citizens but also that of those whose lives are threatened. Furthermore, title 42 underscores the double standard of the U.S. Immigration policy to Haitian migrants.

The expiration of the national Covid-19 public health emergency on May 11, 2023, will eliminate the legal underpinning of Title 42 and mark its termination.[284] The level of border crossings is expected to rise when Title 42 sunsets.[285] The top official at U.S. Customs and Border Protection

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[281] Nana Gyamfi, "Until We're Free: Open Letter to President Biden," Black Alliance for Just Immigration, Google, accessed May 8, 2023, https://baji.org/our-work/statements/until-were-free-open-letter-to-president-biden/
[282] Kosman, "15,000 Haitian Migrants Beneath a Bridge," 496.
[283] Kosman, "15,000 Haitian Migrants Beneath a Bridge," 498.
[284] Camilo Montoya-Galvez, "How Title 42's Expiration Will Reshape Immigration Policy at the U.S-Mexico Border," CBS News, Google, accessed May 9, 2023, https://www.cbsnews.com/news/what-is-title-42-policy-immigration-what-happens-ending-expiration/
[285] Montoya-Galvez, "How Title 42's Expiration Will Reshape Immigration Policy at the U.S-Mexico Border."

(CBP), Troy Miller, recently told Congress that "his agency is preparing for as many as 10,000 migrants to cross the southern border each day after Title 42 ends."[286] In other to address the issue that the expiration of Title 42 will provoke at the southern U.S.-Mexico border, on January 6, 2023, the Biden administration started a sponsorship program "through which nationals of Cuba, Haiti, Nicaragua, and Venezuela, and their immediate family members, may request to come to the United States in a safe and orderly way."[287] The program aims to allow up to 30,000 migrants from these countries to fly to the U.S. per month.[288]

Haitian Migrants: A moral responsibility to the United States

I will conclude this chapter with the claim that the United States has a moral responsibility toward Haitian migrants. Throughout this thesis, we have advocated for a conception of the border that takes human security into account. We have argued that, in the face of the suffering of migrants, the moral relevance of the border must be downplayed. The principle of nonrefoulement confined in the 1951 International Refugee Convention establishes essential (or the most basic) protection duties toward persons whose lives are threatened in their home countries. As we have seen, the designation of Haiti for TPS is part of the United States' efforts to align its policy with this basic responsibility toward those whose countries are torn by situations that make them unsafe. However, this basic and universal aspect does not capture the whole responsibility that the United States has toward Haitian migrants. There is also a particular aspect of that responsibility to which we will turn in what follows.

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[286] Montoya-Galvez, "How Title 42's Expiration Will Reshape Immigration Policy at the U.S-Mexico Border."
[287] "Processes for Cubans, Haitians, Nicaraguans and Venezuelans," U.S. Citizenship and Immigration Services, Google, accessed May 9, 2023, https://www.uscis.gov/CHNV
[288] Montoya-Galvez, "How Title 42's Expiration Will Reshape Immigration Policy at the U.S-Mexico Border."

The historical tie between the United States and Haiti gives special moral weight to how the United States should address the Haitian migrants. At the beginning of that chapter, we have described the confluent factors -political crises, violence, conflict, and natural disasters- that have contributed to Haiti's poverty. These internal factors are the usual explanation given for that poverty. But another story is rarely mentioned. Haiti has a long history of foreign interference, which has also contributed to its sad situation. In May 2022, the *New York Times* published an investigation called "Haiti, 'Ransom' Project" in which it dug into the history of Haiti in order to excavate the international roots of its poverty. The investigation shows how countries like France and the United States have contributed to the impoverishment of Haiti. The investigation analyzes two major events in Haiti's history: the independence "debt" paid to France and the U.S. intervention and occupation of Haiti (1915-1934).

Two decades after the proclamation of independence, Haiti was forced to pay France a massive ransom, making Haiti "the first and only country where the descendants of enslaved people paid the families of their former masters, for generations."[289] According to the *New York Times*, since the amount was far beyond Haiti's meager means, Haiti was forced to take out "a loan from young French banks to make the payments."[290] This is what the journalists of the *New York Times* called the "double debt," a stunning load "that boosted the fledgling Parisian international banking system and helped cement Haiti's path into poverty and underdevelopment."[291] More than two

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[289] Lazaro Gamio, Canstant Méheut, Catherine Porter, Selam Gebrekidan, Allison McCann and Matt Apuzzo, "Haiti 'Ransom' Project," The New York Times, Google, accessed May 13, 2023, https://www.nytimes.com/spotlight/haiti
[290] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"
[291] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"

centuries after the payment of this ransom, "the echoes from that moment still wash across the country in its slums, bare hospitals, crumbling roads, and empty stomachs."[292]

No countries came to Haiti's defense. The world powers refused to acknowledge its independence officially. For instance, the United States did nothing to help Haiti. Its silence before the pressure that France was putting on the new nation was telling: "American lawmakers in particular did not want enslaved people in their own country to be inspired by Haiti's self-liberation and rise up."[293] So, they tried to prevent the spreading of news about Haiti by prohibiting all trade with Haiti.[294] The United States responded with "a heavy silence" to an event that would play a significant role in the dire situation that prevails in Haiti. The United States would not even recognize the independence of Haiti until well into the Civil War in 1862.[295]

On 28 July 1915, U.S. Marines landed in Haiti, beginning what would be a nineteen-year military occupation, one of the most prolonged military occupations in American history.[296] According to the *New York Times*'s investigation, the American soldiers ruled the country with brute force and continued to control it financially for another 13 years after the soldiers left in 1934. The investigation notes that "the United States dissolved Haiti's parliament at gunpoint, killed thousands of people, controlled its finances for more than 30 years, shipped a big portion of its earnings to bankers in New York and left behind a country so poor that the farmers who helped generate the profits often lived on a diet close to starvation level."[297] The investigation also

[292] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"

[293] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"

[294] Thomas Reinhardt, "200 Years of Forgetting Hushing up the Haitian Revolution," *Journal of Black Studies* 35, no. 4 (October 2003): 249, JSTOR.

[295] Reinhardt, "200 Years of Forgetting Hushing up the Haitian Revolution," 249.

[296] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"

[297] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"

documented how "eight American Marines strolled into the headquarters of Haiti's national bank and walked out with $500,000 in gold, packed in wooden boxes."[298]

The United States has had a long and troubled history with Haiti.[299] This 1915 occupation was only one of the multiple and diverse forms of U.S. interference with Haitian politics. This troubled history gives special moral weight to the Haitian migrant question in the United States. Hollenbach expresses that same idea. He argues that the history of political or military involvement of the United States in the life of another country (such as Haiti, Guatemala, etc.) makes the U.S. morally responsible for the migrants from these countries. He writes,

> A rich country that has contributed to causing the economic deprivation of a poor country has a special duty to admit economic migrants from that poor country. For example, European powers that benefited from colonizing poor regions of Africa or Asia without contributing to their development have significant duties to be open to migrants from these regions. Thus France and the UK have duties to migrants from their former colonies that they do not have to migrants in general. Economic benefit through forms of exploitation other than acknowledged colonization can create similar duties. For example, the US economic role in Central American nations like Guatemala and in Caribbean nations like Haiti creates special duties to admit migrants from those countries.[300]

Hence our plea is that the United States' duties toward Haitian migrants go beyond the basic responsibility established by the 1951 International Refugee Convention. Because of this historical link, the United States has a moral obligation to help migrants from Haiti. For example, the designation of Haiti for TPS, which is an effort for the United States to align its policy with the Refugee Convention, can also be seen as a way to address the multiple impacts of its interventions in Haitian political and economic life.

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[298] Gamio, Méheut, Porter, Gebrekidan, McCann and Apuzzo, "Haiti 'Ransom' Project,"

[299] Rocio Clara Labrador and Diana Roy, "Haiti's Troubled Path to Development," *Council on Foreign Relations*, Google, last updated September 9, 2022, 4:37 pm, https://www.cfr.org/backgrounder/haitis-troubled-path-development

[300] Hollenbach, "Migration as a Challenge," 808.

A similar claim was made for Afghan migrants. In August 2021, The United States withdrew the last of its troops from Afghanistan, putting an end to its military presence in the country. The withdrawal resulted "in the Taliban regaining control of the country and created a refugee crisis as many Afghans fled."[301] On May 20, 2021, David Helvey, the former assistant secretary of defense for Indo-Pacific security affairs, said: "We have a moral obligation to help those that have helped us over the past 20 years of our presence and work in Afghanistan."[302] On August 29, 2021, President Biden launched "Operation Allies Welcome," which constituted a federal government's effort to resettle Afghan refugees. On September 3, 2021, during a press conference to provide updates on the Operation, Homeland Security Secretary, Alejandro Mayorkas said:

> I have visited three sites that are part of Operation Allies Welcome, our unprecedented, historic effort to resettle in the United States tens of thousands of Afghan nationals, many of whom assisted the United States and many of whom are vulnerable women and girls. One of the sites I visited was the Dulles Expo Center, a large care shelter where the people and their families are checked in, offered a Covid vaccine, fed, provided medical care, counseled, and sheltered before their onward movement.[303]

What is important to note here is that Haitian migrants were being deported on the ground of Title 42 while Operation Allies Welcome was still ongoing. This shows the double standard of U.S. immigration. Because of its historical tie with Haiti, the United States has a moral responsibility

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[301] Katherine Schaeffer, "A Year Later, a Look Back at Public Opinion About the U.S. Military Exit From Afghanistan," Pew Research Center, Google, May 14, 2023, https://www.pewresearch.org/short-reads/2022/08/17/a-year-later-a-look-back-at-public-opinion-about-the-u-s-military-exit-from-afghanistan/
[302] C. Todd Lopez, "DOD Official Discusses "Moral Obligation' to Help Those in Afghanistan Who Helped U.S." U.S. Department of Defense, Google, accessed May 14, 2023, https://www.defense.gov/News/News-Stories/Article/Article/2626344/dod-official-discusses-moral-obligation-to-help-those-in-afghanistan-who-helped/
[303] "Secretary Mayorkas Delivers Remarks on Operation Allies Welcome," Homeland Security, Google, accessed May 14, 2023, https://www.dhs.gov/news/2021/09/03/secretary-mayorkas-delivers-remarks-operation-allies-welcome

to welcome Haitian who are trying to cross its borders in search of protection. The same moral obligation to help Afghan refugees must be extended to Haitian ones.

Conclusion

The border is at the center of debates on migration. Our aim in that thesis has been to present a non-exclusionary understanding of the border. Since we live in a world in crisis where people are constantly moving, the border can become a hindrance to people who are trying to escape from countries where their lives are threatened. In order to highlight this non-exclusionary understanding of the border, we have started by underscoring its ambiguous dimensions. As markers of separation, borders underpin the compartmentalization of the world. They delimit the territorial scope of countries and are a constitutive element of the identity of the countries they bound. We have also contended that borders are always linked with human decisions: a natural entity is considered an appropriate means of separation for as long as this is convenient for both parties. This has led to the conflictual dimension of borders. The wars between Ethiopia and Eritrea and Russia and Ukraine prove how violent conflicts around borders can be.

These conflicts show the importance states attribute to their borders, which they conceive as a political tool. This explains why a border is not just a physical line, but also an instrument of the state for its exercise of sovereignty. In international relations, by determining the scope of power of the states, borders set order among them and ensure their territorial integrity, which is central to the modern nation-states system. More importantly, borders prevent nations from transforming other nations into their vassals. This shows why the international order is unthinkable without respect for the boundaries of each state. This constitutes the principle of non-interference codified by most international organizations. According to that principle, each state is an independent entity

endowed with the right to define the course of its internal life. Therefore, any violation of one state's right becomes of violation of the international order.

However, these positives dimension of the border must not overshadow the suffering of the migrants. Hence, our effort in that thesis has been to combine the self-determination of the states with our duty toward suffering strangers. We have posited that the global migration crisis must relativize the moral relevance of the border. Otherwise, many people will continue to suffer the horrific consequences that closed borders can have on their lives. Since borders are always tied with human decisions, we have adopted an anthropological perspective, arguing that our conception of human beings is consequential for our understanding of the border. Drawing on insights from Christian ethics, we have presented the *principle of humanity* as the center of cosmopolitan values, which must influence our immigration policy. Therefore, we advocate for more porous borders that allow us to embrace those who are suffering. Hence, borders can be bridges that permit us to enter the chaos of others.

TPS is a concrete example of the combination of cosmopolitan values with domestic law. By translating international human rights law into the U.S. immigration policy, TPS allows the United States to give humanitarian protection to refugees from unsafe countries. The designation of Haiti – and many other countries – for TPS constitutes a great relief for Haitian refugees. However, as we have demonstrated, unlike TPS, Title 42 has had a negative impact on Haitian refugees. TPS and Title 42 put to the fore the importance of our advocacy for a non-exclusionary understanding of the border (that is, for porous borders). While TPS shows the positive impact of a non-exclusionary understanding of the border, Title 42 illustrates the horrific consequence of an exclusionary understanding of the border.

The *principle of humanity* also establishes duties across borders. Since violence, conflicts, and natural disasters occur all over the world, the question of migration needs to be addressed globally. Our commitment to helping migrants must go beyond our national borders in order to reduce – or even eliminate– the drivers of migration. For instance, TPS is a way for the United States to address the migration issue at its borders. However, a more sustainable response would involve helping countries be safe so that people do not need to leave their home countries because of threats. TPS constitutes, without any doubt, a significant relief for Haitian migrants. But if the United States really wants to respond in a durable manner to the issue of Haitian migration, it will need to support transformative projects in Haiti. Otherwise, the Temporary Protection Status (TPS) will become Permanent Protection Status (PPS).

This duty across borders will not eliminate migration. But it will change the drivers of migration. Haitians will continue to migrate to other countries but will do so with dignity. For example, many Americans live in other countries, but they do so not because of threats in the United States; they travel with dignity. Hence, in this thesis, I advocate for migration with dignity. Furthermore, as we have mentioned, because of the historical link between the United States and Haiti, this support across borders becomes a moral obligation for the former. This sheds light on the moral impact of U.S. foreign politics. U.S. foreign politics must not only aim to make the United States great again but also the whole world.

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