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**“Shifting in” migration control
Universalism and immigration in Costa Rica**

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Abstract

When the *Caja Costarricense de Seguro Social* (CCSS), the flagship institution of Costa Rica's 'exceptional' -solidary and universal- social policy regime, entered in financial crisis in 2011, the already difficult social integration of Nicaraguan immigrants in Costa Rica became even more critical. Faced with a general deterioration of social services, a perception that immigrants are threatening the availability of jobs and social services for the national population, and voices that advocate the creation of limits to social rights and access to social benefits, this essay analyzes the political reaction of the State, specifically whether it chooses to limit immigrants' access to healthcare. In a discussion on state sovereignty, universalism and social rights, this article argues that immigration control responsibilities are transferred to social policy institutions, "shifting in" migration control and that the principle of universalism of Costa Rica's social policy regime does not necessarily apply to parts of the immigrant population, both irregular and regular.

Keywords

Migration, social policy, migration control, universalismo, citizenship.

“Shifting in” migration control¹

Universalism and immigration in Costa Rica

1 Introduction

The fundamental principles of universalism and solidarity that underlie Costa Rica’s ‘exceptional’ social policy regime are under pressure. In 2011, its flagship institution, the *Caja Costarricense de Seguro Social* (CCSS) entered into a financial crisis (Carrillo et al., 2011), and with its financial sustainability at risk, voices of ‘welfare chauvinism’ (Banting, 2000; Faist, 1994), understood as the “fear among groups in the native population [...] that certain new immigrant groups take away jobs, housing and social services” (Faist, 1994: 440) and the rejection of open immigration policies and easy access to social benefits by foreigners (Andersen and Bjørklund, 1990; Andersen, 1992; Kitschelt, 1995), seem to echo louder than ever before. In this context, the already controversial social integration of Nicaraguan immigrants in Costa Rica (Bonilla-Carrión, 2008; Dobles et al., 2013; Sandoval, in press), has become even more critical.

Costa Rica is, in relative terms, the largest recipient of migrants in Latin America (UN, 2009), with a migrant ‘stock’ of about 9 percent of the total population in 2011 (INEC, 2011). And although immigration growth has slowed down from 7.5% in the 1984-2000 period to 2.4% between 2000-2011 (INEC, 2011), Costa Rica’s immigrant population keeps growing. Of particular importance is Nicaraguan immigration (Sandoval, 2008, Morales and Castro, 2006), four out of every five immigrants being Nicaraguan. These migrants go from the second poorest country in the Western Hemisphere (Martínez and Voorend, 2011), with exceptionally low GDP per capita (U.S. \$ 956 in 2010) (ECLAC, 2011), and a virtually absent state in terms of social protection (Martínez and Voorend, 2011), to the richest country in Central America with relatively high per capita GDP (U.S. \$ 5,340) and a strong state-led social protection system (Martínez Franzoni, 2008).

This protection system, however, is under unprecedented strain (Martínez Franzoni and Sánchez Ancochea, 2013), and many blame Nicaraguan immigrants for the difficulties it faces. Fuelled by negative media coverage (Sandoval, 2008, Gonzalez and Horbaty, 2005), in the social imaginary of at least three quarters of the Costa Rican population there is a persistent belief that they form a risk to the country’s social security (Gonzalez and Varela, in Bonilla-Carrion, 2008). Similarly, Nicaraguan immigrants are believed more likely to make use of public social services, because of their “lower social levels and their ‘irregularity’” (Bonilla-Carrion, 2008: 146. Own translation), and assumed to be overrepresented as users of social services, especially healthcare.

¹ A previous, different version of this paper in Spanish was accepted for publication by CLACSO. I am grateful for comments from Eduardo Domenech, María Mercedes Eguiguren, Francisco Robles Rivera and the participants of CLACSO’s *Primera Escuela Internacional de Posgrado Red de Posgrado y Núcleos de Estudio en Migraciones*. I am particularly indebted to Karla Venegas, who provided assistance in the interviews. Errors are, of course, my responsibility.

Faced with economic and social security crises, a common public policy reaction is to construct and mobilize “boundaries around issues of distribution of welfare state resources” (Faist, 1994: 440). Indeed, creating access to or exclusion from certain welfare benefits can become powerful tools to encourage certain types of migration and discourage others (Geddes, 2003; Morrissens, 2008). Especially where border control capacity is limited, internal migration control methods are put in place (Hollifield, 2000), thereby shifting responsibilities to other organisms (Guiraudon and Lahav, 2000; Morris, 2002), mainly through the social protection regime and social rights (Geddes, 2003).

With voices of welfare chauvinism fuelling a harsh debate on access to welfare benefits of Nicaraguan immigrants, at a time Costa Rica’s universal welfare state is under unprecedented pressure, does the country turn to limit newcomers’ access to welfare state resources? This article aims to answer this question, focusing specifically on immigrants’ access to Costa Rica’s universal healthcare system. In particular, it analyses a recent reform to migration legislature in 2009, and several more recent internal communications of the CCSS, complemented with semi-structured interviews with CCSS and migration officials.²

In doing so, I hope to contribute to two important debates on the crossroads of the migration-social policy nexus. The first is the discussion on universalism and migrants’ access to healthcare services. In particular, I question the universalism Costa Rica’s social policy is famed for, as it does not apply to parts of the immigrant population, irrespective of their migratory status. The second is the state sovereignty debate, and the way migration is seen as a case of nation-states losing control (Sassen, 1996). Specifically, I question globalist perspectives that attribute the demise of national sovereignty to the emergence of international human rights regimes and that claim national citizenship has lost its central importance in the extension of social rights (Soysal, 1994; Jacobson, 1996; Sassen, 1996; Sharma, 2006; Robinson, 2009). In contrast, in line with authors such as Joppke (1999; 2007; 2010), Guiraudon and Lahav (2000) and López (2012), based on the Costa Rican case, I show State policy to be a critical factor in immigrants’ social integration, as the State “shifts in” migration control through its social policy regime.

In the section that follows, I briefly discuss the two mentioned debates on migration in relation to state-sovereignty and universalism. Next, section three introduces Costa Rica as ‘exceptional’ in the Central American region with regards to both social policy and migration patterns. Section four then presents the analysis of Costa Rica’s migration policy, focusing on measures of internal

² At the moment of writing, I am conducting a series of interviews with CCSS, DGME, Ministry of Education and Health officials both of high ranks and counter clerks, as well as academics and representatives of civil society. The information of this round of interviews, which has not yet finished, is still being processed. Therefore, this document is not enriched by the perceptions of the interviewees in the extent I would like it to be. I hope to correct this flaw in the near future, as well as write an article specifically on the social construction of the immigrant as a threat to social security in Costa Rica.

migration control through the CCSS, and immigrants' access to healthcare. The last section offers some final reflections.

2 Migration, state sovereignty and universalism

2.1 Migration and citizenship

By definition, the modern state forms part of the creation of international migration (Joppke, 1999). That is, if there were no States, there would be no such a thing as international migration. States shape migration in different ways, given that international migration “is enabled by and feeds upon the communicative, expansive grid of the modern state system” (Joppke, 1999: 1). Simultaneously, throughout history, governments have had an active role in the creation of transborder movements, for example through the expulsion of religious, ethnic or political populations, as colonial influences or as States recruiting labor abroad for domestic economies (Joppke, 1999; Bommers and Geddes, 2000, Castles and Miller, 2009).

At the same time, migration challenges the very notion of the State (Faist, 1994, 1995, Sassen, 1996, 1998; Bommers and Geddes, 2000, Guiraudon and Lahav, 2000; Sharma, 2006). If the State is understood as a series of rights and obligations granted equally to all members of the community, but at the same time as mechanisms of closure, separating members from non-members (Brubaker, 1992), migration defies these mechanisms because of its transnational nature (Sharma, 2006; Bommers and Geddes, 2000) and destabilizes the order of the nation-state (Sandoval, 2008).

Authors such as Sassen (1996) and Favell (2006), in their analysis of post-national arguments, argue that economic globalization leads to increased capital, financial and labour mobility, and thereby decreases the power and importance of the nation state. This results in an inherent tension between the nation-state, a national concept by definition, and the “denationalizing” logic of globalization (Sassen, 1996). Immigration is a crucial factor in this tension Sassen (1998).

In this context, the discussion on citizenship and social rights becomes central. Citizenship, understood as individual rights, participation and membership in different institutional spaces (Bauböck, 2007; López, 2012), is key to understanding the dynamics of inclusion and exclusion in welfare states. Citizenship lies at the basis of “the boundaries of inclusion and exclusion, which define both those who are full members of existing networks of reciprocity and deserve support, and those who are ‘strangers’ or ‘others’ to whom little is owed” (Banting, 2000: 13). Of important note is that these boundaries, and thereby membership, are not written in stone, but are “socially constructed with respect to different groups of people and in different institutional contexts” (López, 2012: 6).

Through citizenship, national protection systems become political filters that intervene in immigrants' efforts to realize their potential for social participation (Bommers and Geddes, 2000). Once immigrants arrive in a new

country, will they be included in national welfare arrangements, or, in other words, will they have access to social, economic, civil and political rights?

Marshall's (1950) famous work on social citizenship, as well as subsequent critics and elaborations, tried to answer this question. Marshall explored how social citizenship through the functioning of social welfare institutions, progressively extended to various social groups (López, 2012). The famous 'Marshallian triptych' is an evolutionary account of social citizenship, where people are granted first civil rights (e.g. protection from discrimination, freedom of thought, expression and religion), then political rights (e.g. the right to vote), and finally social rights (e.g. eligibility for universal healthcare and education).

There is, however, debate as to how accurate Marshall's model is to explain the extension of rights to immigrant groups (Bauböck, 1995, Joppke 1999; Guiraudon, 2000, Bosniak 2000; Kivisto and Faist, 2007; Lopez 2012). The social groups Marshall analyzed were all nationals, but the process of social inclusion is not as automatic for immigrants. Bauböck (1995) and Guiraudon (2000), for example, argue that the extension of civil, political and social rights to newcomers took place in an order that revokes Marshall's: social benefits were secured very early on while political rights are still contested. In contrast, Schierup et al. (2006: 63) reason that at the supranational level Marshall's triptych is put "back on its feet" through "a marketbound civic citizenship" (see also Ryner, 2000), but without this necessarily guaranteeing the evolutionary follow-up of social citizenship.

In any case, it is clear that migration transforms the traditional notion of citizenship (Bauböck, 2007), and has diversified categories of membership in societies, "defying the citizen–alien dualism of either full or no membership at all" (Joppke, 1999: 6). For example, immigrants with regular migratory status, but who do not enjoy full social rights and only limited access to social policy, have been called 'denizens' (Hammar, 1990), a sort of incomplete citizenship that evidences processes of civil stratification (Morris, 2002).

At the bottom of this stratification are so-called 'aliens', people who live and work in the country often without official documentation, and do not enjoy the basic rights associated with citizenship (Bosniak, 2000). Since many of these people enter the country without official permission, their presence in the host societies usually generates stern political controversy (Lopez, 2012). Thereby, citizenship not only serves as an imposition of national borders, but also as a "as a legal divide inside the political community, separating full members from those people who are located within the national territory but who are not formally recognized as full members" (Bosniak, 2000: 963).

2.2 On state sovereignty: inclusion and exclusion

Whether welfare states will grant migrant populations social rights or not, the literature seems to be divided and authors reach one of two opposing conclusions (Baldwin-Edwards, 2002). To a large extent, these conclusions are founded in another on-going debate, on the extent to which "developments subsumed under the term "globalization" have eroded national sovereignty

[...] and international norms have constrained national policy making” (Guiraudon and Lahav, 2000: 163). On the one extreme, there are authors like Freeman (1986) who argue that (welfare) states are inevitably exclusive to secure and defend the social, political and economic rights of the privileged citizen, as well as access to (welfare) benefits. Implicit in this view is that States have the power and capacity to control unwanted migration as well as to set and apply the rules of membership to the national polity.

The other extreme is represented by globalist authors (Soysal, 1994; Jacobsen, 1996, Sassen, 1996, 1998; Sharma, 2006), who see migration as a “case of nation-states losing control” (Guiraudon and Lahav, 2000). Sharma (2006), using an anthropological lens, argues that we are living in a world where citizenship is exercised and administered transnationally. On a similar note, Soysal (1994) and Jacobson (1996) contribute this evolution to “the emergence of an international human rights regime that prevents nation-states from deciding who can enter and leave their territory” (Guiraudon and Lahav, 2000: 164). States are thus required to grant broad social rights to immigrants living in the country, and these rights are synonymous with citizenship (Baldwin-Edwards, 2002). Human rights are inalienable natural and legal rights, independent of nationality, in contrast to the national political, social and civil rights that are based on the distinction between domestic and foreign (Sassen 1996, 1998). Globalist perspectives then argue that human rights and immigration challenge state sovereignty, thereby inducing a devaluation of the importance of citizenship (Sassen, 1996: 95). Human rights agendas would then prevail over national attempts of exclusion, and eventually involve the granting of social rights to immigrants, simply because States cannot afford not to.

Finally, there are authors that take a middle position between “nation-state defenders and nation-state bashers” (Joppke, 1999: 4). Without denying the importance of transnational forces and economic globalization on public policymaking, and despite the prominence of transnational modes of citizenship in the literature, these authors question the inevitable loss of state sovereignty versus transnational law (Faist, 1994; Joppke, 1999; Guiraudon and Lahav, 2000; Bommers and Geddes, 2000; Banting, 2000; Hollifield, 2000; Sainsbury, 2006). In contrast, they argue, neither the State nor national citizenship have lost the centrality they had regarding the extension of rights (Joppke, 1999; 2007; 2010; Lopez, 2012). The actual level of immigrants’ social inclusion then depends greatly on the country specific context, and to be more precise, on the combination of national immigration and social policies.

Within this line of argument, and especially significant for the argument I would like to make, Guiraudon and Lahav (2000) convincingly demonstrate that the importance of international normative constraints on migration control should not be overestimated. They argue that globalist perspectives overlook inventive state responses, thereby circumventing international constraints. States have adapted at least in three ways, shifting the level at which policy is elaborated and implemented “up, down, and out” (177). Thereby, it ensures its sovereignty in the field of migration control, and thus in granting rights related to citizenship. Specifically, they evidence trends towards

more coordinated migration control at the international level to counter transnational law (*shifting up*), trends of decentralizing immigration policy to local levels, which more easily escape transnational law (*shifting down*) and trends towards a sort of outsourcing of migration control functions to the private sector, by fining behavior that is not in accordance with immigration policy (*shifting out*) (Guiraudon and Lahav, 2000).

This shifting behavior also happens when the State applies internal migration control measures, which transfer “responsibility to agencies [...] whose primary concern is not immigration enforcement, for example, hospitals” (Morris, 2002: 23). When national welfare arrangements are employed to alter migration flows, I argue that the State is shifting in migration control. Following Guiraudon and Lahav (2000: 164) this “multifaceted devolution of migration policy [...] shows the adaptiveness of agencies within the central state apparatus in charge of migration control”.

As I will argue below, the Costa Rican case is good example of this ‘shifting in’ behavior, where maybe in discourse human rights are adhered to but in practice the State finds internal ways to limit newcomers’ social rights and access to social policy as part of restrictive immigration policy measures.

2.3 Universalism

Social policy, understood as public interventions that have the objective to prevent people suffering income and life opportunities losses, while actively promoting decent living and work conditions for all, play a central role in the economic and social incorporation of immigrants. Social policies are fundamentally political exercises that define the institutional base of citizenship rights, and articulate the principle mechanisms of integration and segregation within societies (Fischer, 2009; Mkandawire, 2005).

These mechanisms depend to a large extent on the dominant paradigms behind and choice of social policy provisioning. While it is a highly contested issue (Fischer, 2009; Danson et al., 2012), several authors demonstrate the advantages of universalism on other social policy approaches, such as (means-tested) targeting. Fischer (2009: 6) argues that the latter “usually entrenches segmentation in provisioning systems, which in turn reinforces social and economic stratification by removing middle classes and their political voice from the services that are supplied to and accessed by the poor”.

The advantage of universal social policies, understood as those that reach the entire population with similar generous transfers and services of quality (Martínez Franzoni and Ancochea Sánchez, 2013), is that the middle class would be more willing to support social programs and its funding, regardless of whether they are designed for specific groups or to the general population. In addition, this alliance between classes, not only favors coverage but also the quality of the services provided. Thus, universal social policies have more impact on poverty, vulnerability and inequality (Fischer, 2009; Mkandawire, 2005). Finally, people with very different income levels and personal characteristics end up sharing a similar treatment based on their status as citizens, which forms the source of eligibility.

However, universal social policy is not a sufficient condition to ensure immigrants' access to such policies. If the right to access social policy is very narrowly defined as the right of citizenship (Lister, 1990), this would include citizens only and exclude immigrant minorities, even if these have their residence documentation in order.

In what follows, I briefly discuss the formation of Costa Rica's social policy regime, and how immigration has come to be perceived as a threat to the sustainability of this regime, causing political reactions that do not favor the social incorporation of the immigrant population. Then I aim to show the limits of Costa Rica's universalism, and how social policy becomes central in the country's immigration control.

3 From crisis to crisis: migration and social policy in Costa Rica

3.1 Costa Rica: from exceptional to uncertain

In the South, Costa Rica is often characterized as 'exceptional', given its unique historical path, and its ability to create a strong social policy regime, understood as policies and programs that impact social welfare, social institutions and social relations, including education, health, housing, transfers and pensions. This regime is based on universalism and solidarity, and in combination with a relatively strong formal labor market that provides jobs with decent pay (Haggard and Kaufman, 2008; Martínez Franzoni and Sánchez-Ancochea, 2013), the country has been able to secure formal employment and social protection for a good part of its citizens. In other words, where very few countries in the developing world in general, and in Latin America in particular achieved it, the country was able to ensure the "elusive double incorporation" (Martínez Franzoni and Ancochea Sánchez, 2013), that is, simultaneous economic and social incorporation.

Costa Rica established very early on universal free primary education, high rates of social security coverage, including vulnerable and non-contributory groups (Filgueira, 1998, 2004, Mesa-Lago, 1994), and is considered a health "success story" (Noy, 2012). This becomes evident in some key indicators such as the low infant mortality rate of 8.8 per 1000 births in 2009 (Saenz et al. 2011: S158), and life expectancy at birth, which in 2010 reached 79.4 years, the highest of all the Americas (ECLAC, 2011), and very similar to Northern European countries like Norway (81.1 years), Netherlands (80.7 years) and Germany (80.4 years) (HDR 2011).

These positive results are the outcome of a very particular historical development (Martínez Franzoni and Sanchez-Ancochea, 2012b). There is debate about the factors that explain the formation of the social protection architecture, with the creation of the CCSS in 1941, and periods of increases in social investment in the 40s, 50s and 70s, and how Costa Rica was able to create universalism in its social policy. However, an in-depth discussion of this debate is beyond the scope of this article (for a discussion, see Sandbrook et al., 2007; Filgueira, 2007, Huber and Stephens 2012 or Martínez Franzoni and

Sanchez-Ancochea, 2013). Briefly, Martínez Franzoni and Sanchez-Ancochea Franzoni (2013), questioning common explanations that emphasize the centrality of leftist parties in a stable democracy, or causal relationships between the abolition of the army in 1948 and the creation of social protection architecture in the 40s, show that a crucial fact was that social insurance was built ‘from below’, actually at first excluding the middle class. This prevented the latter from grabbing welfare benefits, and allowed for the creation of a unified system that ensures healthcare benefits for all.

While social investment kept growing steadily, especially the 1970s saw a considerable expansion in the country’s social welfare arrangements, including non-contributory benefits very different from other countries in Latin America. The state not only played a central role as a provider of welfare, but also as an employer (Vega, 2000). At the peak of state influence in the late 1970s, one in every five Costa Ricans was employed in the public sector (Vega, 2000), domestic state firms and bureaucracy.

By 1970, Costa Rica boasted a practically universal primary education system, and when the decade came to a close, a “virtually universal health insurance and medical services available to all, either through contributory or non-contributory means” (Martínez Franzoni and Ancochea, 2012a: 90). However, the 80s marked a period of momentous transformation, following the debt crisis early in the decade and subsequent structural reforms promoted by the Washington Consensus. These reforms translated into trade liberalization, financial deregulation and a reduced State presence during the 80s and 90s (Robinson, 2003), and marked the transition to a new economic model with a more diversified (Segovia, 2004), but also more unevenly distributed economic structure, and unequal levels of access to stable and well-paid jobs (Martínez Franzoni and Sanchez-Ancochea, 2013).

While it is noteworthy that the architecture of the social policy regime has been remarkably resilient to changes in the three decades after the debt crisis, it is also true that there are “growing tensions due to the need to do more with less per capita resources” (Martínez Franzoni and Sanchez-Ancochea, 2012a: 90). Although most social programs and institutions still exist, this has meant a loss of quality in social services such as health care and education, and an increase in the supply of private services. In all, the State has been left in a weaker position to provide social protection (Martínez Franzoni, 2008).

A case in point is the health sector. Neoliberal reforms have translated into cuts in basic supplies, increases in delivery time, longer waiting lists and dissatisfaction on the part of the national population (Miranda, 1994, in Martínez Franzoni and Sanchez-Ancochea, 2012). Indicative of these changes has been the dramatic increase in the private provision of health services. Between 1993 and 1998, own pocket health spending rose five times (Smith and Davis, 2001) and between 2000 and 2009, the share of private health expenditure increased from 23% to 33% (Martínez Franzoni and Sanchez-Ancochea, 2013) driven mainly middle and upper middle income groups.

3.2 Migration and the CCSS crisis

The eighties also marked structural change in migration flows. One of the salient features of the structural reforms and social transformations Central America underwent as of the 80s, was the increase in international labour migration (Voorend and Robles, 2011; Sandoval, 2007; Segovia, 2004, Robinson, 2003, Rose, 2008). As with social policy, Costa Rica marks a trend contrary to the rest of the region. Where all the other Central American countries have high net emigration rates, Costa Rica has been for several decades a net receiver of immigrants, without this meaning that Costa Ricans do not emigrate (Caamaño, 2008).

Especially as of the 90s, the country received an important number of Nicaraguan labour immigrants, and in the early 2000s, Costa Rica was the most important destination country for Nicaraguan migrants, followed by the U.S. (Baumeister, Fernández y Acuña, 2008; Acuña et al., 2013). Between 1984 and 2000, the Nicaraguan population in Costa Rica increased from 45,918 to 226,374, which represents an increase from 1.9 to 5.9 percent of the total population (Castro, 2008). In 2011, the total immigrant population represented 9% of the total population, of which 80% came from Nicaragua (INEC, 2011). These data, however, do not include the unknown number of irregular and temporary immigrants, of which a large share finds work in the informal labour market (Voorend y Robles Rivera, 2011). These mainly low-skilled Nicaraguan immigrants find jobs in agriculture (men and women), construction (men) and domestic service (women) (Morales and Castro, 2006; Sandoval, 2008). In fact, Nicaraguan immigration has become a cornerstone for the functioning of these economic sectors (Voorend and Robles, 2011).

Nicaraguan immigrant population growth in Costa Rica, combined with increasing financial difficulties of the social policy regime has led to a situation of tension between the two. Partly as a result of the international financial crisis of 2008, which resulted in a slowdown of the Costa Rican economy and increases in unemployment rates, in 2011 the flagship institution of health and social security, the *Caja Costarricense de Seguro Social* (CCSS), entered into a financial crisis that has put into question the institution's sustainability (Carrillo et al., 2011). The CCSS was established in 1941 as a social security agency and the main provider of health services in Costa Rica. Originally it provided health services to formal workers only, but soon after expanded to include their families in 1961. Since then it has extended to cover the entire population, including non-contributive groups, and currently effectively covers over 85% of Costa Ricans (Noy, 2012; Martinez, 2008).

In 2009, the first signs of financial problems within the CCSS showed, induced by the international financial crisis. In real terms, Costa Rica's GDP fell by 1.3%, representing a fiscal deficit of -4% and -5% in 2009 and 2010, respectively (PAHO, 2011). The CCSS is allocated 11% of the GDP (7% for healthcare and 4% for pensions), so the financial crisis directly impacted the CCSS's income. That said, the PAHO report (2011) on the causes of the crisis, emphasized very important other factors: huge cost and salary increases, and mismanagement. Combined with declining revenues and record growth of

wage employment as well as a wage increase, the CCSS's financial situation deteriorated rapidly between 2009 and 2011, when the problem came to light. PAHO (2011) projects that without counter measures the financial deficit could exceed U.S. \$ 600 million in 2015, about 11% of total planned expenditure.

3.3 Welfare magnet in the south: the perceived threat of immigration

These factors have contributed to a general perception under the Costa Rican population that Nicaraguan immigrants form a threat to the availability of jobs (Voorend and Robles Rivera, 2011), to security (Sandoval, 2008; Dobles et al, 2013) and to the social policy regime (Bonilla-Carrión, 2008). With less availability of jobs, especially in rural areas, lower real wages (Segovia, 2004) and less state intervention, the social and economic integration of low-skilled Nicaraguans becomes ever more contentious and difficult.

A general practitioner from the CCSS voices this general concern: "Unfortunately, I mean, I feel that a large part of the problem of the crisis of the CCSS comes from the disorder in the way services have been provided to immigrants because with this idea that we can't tell them 'no' in certain situations, for many people, as the saying goes, we give them a finger and they take the whole hand" (Interview. Marta Jara, General practitioner, CCSS).

For Feldman-Bianco et al. (2011), the social construction of the immigrant subject as a threat is key to understanding social processes and public policies. They claim (2011:17. Own translation) that it is necessary "to recognize that migrants are social actors operating in specific historical circumstances and situations". Rooted in the structural changes of the 80s and 90s, and in an unfavorable economic context, the immigrant is perceived as a threat and immigration in general, but especially from Nicaragua, as a "necessary evil" (Dobles et al., 2013).

Although Nicaraguan immigrant labour is indispensable for productive and reproductive activities in key sectors of the Costa Rican economy, there is a perception that most immigrants enter the country in irregular conditions (Sandoval, 2008), and therefore lacking of social rights. Following Domenech (2011:33), who argues that immigration "is constructed as a problem primarily from the illegality that it is ascribed, it is this illegality that structures the *vision of the State*" (2011:33. Italics in the original), it should not come as a surprise that this perception exists within the CCSS. Even when immigrants have a regular migratory status, it does not mean this will translate into access to social rights, because many public employees consider almost all Nicaraguan immigrants as 'illegal' and therefore undeserving (López, 2012).

Indeed, López (2012: 188) shows that even with a 'legal' migratory status and right to services, "policy makers and service providers tend to ignore the differences between these migrant workers and others migratory groups without such rights, such as 'illegal migrants'. And thus, without a clear understanding of the entitlements that correspond to the status of a legal temporary migrant, policy makers tend to deny them certain benefits". CCSS

employees have been known to deny immigrants access on the basis of the 'illegality' parameter, even when these immigrants are national residents or were formally recruited through bilateral agreements.

Despite the fact that the services the CCSS should be provided to anybody with regular migratory status, to CCSS employees the perception of immigrant 'illegality', regardless of their possession of legal documentation or not, in some cases forms the basis for high levels of distrust, and a perception of illegitimate demand for the services the institution provides (López, 2012). Indeed, as argued by Dobles et al. (2013), the public service attention immigrants receive depends much on "who is sitting at the counter".

However, in interviews with CCSS and Migration - *Dirección General de Migración y Extranjería* (DGME) - officials, it became clear that they too perceived Costa Rica's social policy regime in general, and the services of the CCSS in particular, to be a welfare magnet for Nicaraguan immigrants. The main factors that make Costa Rica's welfare arrangements attractive, according to interviewees, are the fact that high quality health services are delivered free of charge and the possibility of acquiring the Costa Rican nationality when having a child in Costa Rican territory, through the *ius soli* principle.

Concerning the first, among the general practitioners and nurses interviewed, it is "obvious for them, having to pay part of the medical consult, and having to pay for medicines, coming here where practically everything is for free, well, that is a super powerful magnet, right?" (Interview. Marta Jara, CCSS). Indeed, "they consider that healthcare is better here, which is a huge benefit for them, and, well, they don't have to pay, well, they might pay an insurance, or a small fee, but they don't pay for the injection, they don't pay for the syringe, they don't pay...right, a private service" (Interview. Giselle Román, Nurse, CCSS).

This perception persists even among high ranking CCSS officials. The Director of Inspection, for example, voiced concern over people "coming to a country but not having the conscience that they come and have to contribute and comply with the laws of the country, so that is where it gets complicated, they don't see it as something positive - 'I have to contribute, they make me but I don't want' - because they don't have a broad perception of what a social security system is. But they fully understand that it is beneficial and they come to the country for that, for healthcare many of them" (Interview. Director of Inspection, CCSS).

With regard to the second, almost all interviewees mentioned anecdotal evidence of Nicaraguan women crossing the border pregnant, or becoming pregnant in Costa Rica, to not only access medical services offered by the CCSS, but also Costa Rican nationality through their Costa Rican born child. "They do not tell us this, but with so much repetition one concludes that among other benefits they acquire residence by the child born right here. Then, if my son is Tico, I have rights, that is, I am not the direct beneficiary but my son being a Costa Rican, I get many benefits, and they cannot tell me 'you leave and leave the child here, because we would be violating the rights of child'" (Interview. Giselle Román, CCSS).

Not only is this seen as welfare strategy of pregnant women crossing the border where thanks to the child “I get the residence permit, they educate me and more [...] and I stay in Costa Rica for a better future, a better life style that unfortunately I will never have in Nicaragua” (Interview. Adrián Jiménez, Planning Direction Deputy, DGME), but there are “even many Nicaraguans that get Costa Rican women pregnant to have a child and by family tie, they stay here. Come on, let’s not be naïve, let’s not be so innocent to say that migration is pure [...] There is also an economic reason, or social, or even family decisions to do these kind of things. If you tell me, show me the study, no, I don’t need studies, I see it, that simple, I see it just by working in Migration, I see it in my neighborhood, in firms, in the local supermarket, you see it when you go to the stadium, you see it everywhere. Well, it’s true!” (Interview. Adrián Jiménez, DGME).

This ‘demonization’ of the immigrant subject is much enforced by national media (Sandoval, 2008, Dobles et al., 2013), and takes place despite more objective analyses. For example, in 2003, Castillo (2003) - of the Economic Department of the CCSS- provided a very simple incidence analysis. In 2002, the immigrant population accounted for between 4% and 6.3% of total CCSS services, less than proportional to the total foreign population registered in Household Surveys of 2002 (6.91%). As beneficiaries covered by the State, which means that beneficiaries without insurance have no sufficient income to pay the hospital bills, immigrants are, not surprisingly, overrepresented. Based on data from the CCSS, they represent slightly under 20% of the total number of beneficiaries covered by the State.

In 2009, a CCSS study showed that the Nicaraguan population contributed more to social security than it used in social services (Bravo, 2009), a fact confirmed in several studies of the Directorate General of Immigration (DGME, 2011 and 2012). Bonilla-Carrion (2008) shows that Nicaraguans in Costa Rica homes do make greater use of social services, but also invest more in services that Costa Rican households.

However, the same CCSS provides confuse data. In 2011, Castillo based on the 2003 study, but with renewed data, shows how between 1997 and 2011 the average cost of medical consultations and hospitalization of the foreign population increased by 473% and 1,052%, respectively. However, there are two shortcomings of this analysis making interpretation extremely problematic. First, the data are not corrected for inflation, which would imply a much smaller increase of 50% and 200%, respectively. Second, it does not compare cost increases of foreign born population with those of the national population, and therefore the data do not provide any useful information on the immigrant population specifically.

Despite these shortcomings, this type of analysis and the alarming data presented is noteworthy, and may help explain misconceptions on the role of service provision to immigrants as a causal factor of the current financial crisis of the CCSS. These misconceptions fuel perceptions of illegitimacy and may hinder immigrants’ access to healthcare.

4 “Shifting in” migration control: reform and law enforcement

4.1 Migration Law Reform

In July 2009, the *Ley General de Migración y Extranjería* (N° 8764) was approved by the Legislative Assembly and entered into force in March 2010. This Law introduces a number of changes compared to the previous one of 2005 (Kron, 2011; Lopez, 2012; Sandoval, in press). On a positive note, the ‘security’ vocabulary is replaced by ‘human rights’ vocabulary, with many references to the international conventions signed by Costa Rica, in majority normative frameworks on the welfare of international immigrants promoted by agencies of the United Nations and other institutions such as the Organization of American States (OAS).³

Where the previous laws were characterized by their emphasis on public safety issues, the 2009 Law incorporates for the first time the concept of integration, and the inclusion of human rights and social development topics (López, 2012). Kron (2011) argues that, in this sense, it presents a completely new and refreshing legal and institutional structure, inscribed in a regional paradigm of migration control dominated by the nexus between migration and security. Indeed, DGME officials comment with a certain pride that, where most migration laws focus on migration control, “understood as migration control in its maximum expression of police repression at different levels. [...] This law, besides immigration control justified by national security, by order, stability, [...] also proposes that the country's institutions must worry about how foreigners live and how they are integrated, inserted into the social dynamics” (Interview Julio Aragón, Head of the Integration Direction, DGME).

However, the Law deserves a more critical assessment, as it establishes a series of requisites for different migratory statuses, before the DGME, the institution that authorizes, rejects and oversees legal entry, stay and departure of foreigners. Of special interest for this article is the interaction of migration policy with the CCSS the Law establishes.

In particular, the Law determines that the affiliation to the country’s national social security system, the CCSS, is a new requisite for obtaining a regular migratory status. Indeed, to start the regularization process, an immigrant must be able to show its affiliation to the CCSS for the period he or she has been in the country. Specifically, the Law states that “all processing of migratory management must guarantee the immigrant’s social security

³ Costa Rica has ratified only one instrument, the ILO Convention 111 on the Discrimination in Respect of Employment and Occupation. The country has not signed: 1) the C97 ILO Convention concerning Migration for Employment, of 1949; 2) the C 143 ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, both of 1975; and 3) the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, of 1990 (Bolaños, 2009).

insurance. Such guarantee will ensure that each migratory procedure must contemplate, as one of the basic requirements, having one of the social insurances the *Caja Costarricense de Seguro Social* has to offer” (Law 8764, Article 7 - paragraph 7. Own translation and italics).

This requirement by itself is somewhat problematic as it puts the burden and final responsibility of insurance on the individual immigrant worker. However, given that an important share of Nicaraguan immigrants finds work in the informal sector, the criteria seems especially tough in a context where the CCSS covers only six in ten economically active persons (Sandoval, in press. Based on data from the CCSS). That is, the Law demands all immigrants to be insured where a significant proportion of the national population is not covered by a direct insurance. In fact, based on 2011 national census data, 27% of Nicaraguan immigrants captured by the census was insured directly as a salaried worker, compared to only 22.3% of the Costa Rican population, which has a much higher rate of indirect insurance (41.4% versus 22.8%), through an insured family member (INEC, 2011).

This resolution can be interpreted as an institutional-mercantile filter to diminish the unwanted (albeit necessary) irregular immigration. Without a formal employment contract, the only way of affiliation to the CCSS’s insurance, requisite for a regular migratory status, is through a voluntary payment. This payment, however, implies a cost of between US\$ 35 and 60 a month depending on the sector of employment, which represents between 9 and 15% of a person’s salary. If one compares the minimum salary of a domestic worker of US\$ 287 (IIS et al., 2012), and given the fact that many do not even earn this (Martínez, Mora y Voorend, 2009), it becomes clear that the insurance means a significant investment for low-skilled informal Nicaraguan workers.

At the same time, the Law establishes a series of payments involved with a prolonged regular stay in Costa Rica. According to a press conference organized by several civil society organizations, the costs of obtaining a residence permit would be as high as US\$ 373, and if all costs of the necessary documents and travel costs in both countries would be added, this number could climb up to US\$ 800 (IIS et al., 2012). Additionally, the Law establishes significant economic fines if the documents are not renewed in time. Again, taking into account the minimum wage, regularization becomes a very difficult task for many.

Finally, the Law also gives the Migration Police more authority and autonomy, and allows repressive measures, such as long detentions. This seems somewhat contradictory to the human rights vocabulary mentioned earlier. Recently, an appeal on the grounds of unconstitutionality was rejected by the *Sala Constitucional* (Exp: 11-011315-0007-CO, Res. No. 2012005251, 25 April 2012) the highest independent body that must ensure the constitutionality of all laws and acts, stating that preventive arrest for 24 hours is warranted to verify immigration status without a hint of offense, and this period can be extended on the condition of a justified reason controlled by other bodies.

All in all, making up a balance of the Migration Law of 2009, following Sandoval (forthcoming: 7), the new conditions do not stimulate the process of

regularization, and the Law “produces the ‘illegality’ that it itself aims to eradicate. That is, the requisites are such that they foster the absence of documentation”.

4.2 Social insurance: Catch-22

Having social insurance as a requisite for the regularization process, the Law creates an important barrier to a regular migratory status for a significant part of the Nicaraguan immigrant population. Notably, the CCSS is given a direct and explicit role in Costa Rica’s migratory policy. The situation, however, becomes more problematic for immigrants. In a series of internal communications within the CCSS – of April 10; June 21, October 19 of 2012; and February 18 of 2013 – the CCSS creates a new requirement to obtain insurance, and reinforces existing requirements to access the institution’s health services.

In the first communication, of 10 April 2012, the CCSS informs its employees about “an addition to the guidelines for securing migrants as voluntarily insured and self-employed, in accordance with the Law No. 8764, the Immigration Law” (CCSS, 2012a: 1. Own translation). When the CCSS’s direction, in an official letter that circulated the institution dated 21 February 2012, established a series of guidelines for obtaining insurance, on March 9, the DGME issued a request which made it “necessary to implement an addition to the mentioned guidelines”.

Specifically, the new requisite states that “foreigners who apply for insurance for purposes of renovating their residence permit, must present their valid residence permit”, or have to be able to show that all the paperwork for obtaining a regular migratory status are accepted and in process, in which case the CCSS can issue a temporary insurance of up to two months (CCSS, 2012a).

In the internal memo of the CCSS (2012c: 2) of 19 October 19 2012, this requirement is confirmed, establishing a transitory measure “for insuring foreigners as voluntarily insured and independent self-employed: [...] in exceptional cases, for the person with an expired residence permit, the [CCSS] will proceed with the insurance, provided that the applicant demonstrates presenting official documentation issued by the [DGME], or entities this institution authorizes, that the expired residence permit is in process of renewal”.

For this analysis, there are two important implications. The first is that the DGME transfers part of migration control responsibilities to the CCSS, which is given an explicit role in migration policy, following an official request of the DGME. In line with Guiraudon and Lahav (2000) and Morris (2002), this transfer of migration control responsibilities represents a shift of migration control, inwards to other state institutions, that allows the Costa Rican state to maintain control over its migration policy. The second is that the combination of migration and social policy creates a Catch 22 situation from which the irregular immigrant can hardly escape. The CCSS establishes a regular migratory status as a requisite for insurance, while the DGME demands insurance to obtain such a status.

In interviews, DGME officials told us that the institution created some temporary measures to help immigrants escape this Catch-22 situation, for example by granting temporary grace periods in which residence permit applications were accepted conditioned on the ensuing insurance from the CCSS, which allowed them to present to the CCSS the necessary paperwork in process (Interview. Adrián Jiménez, DGME). However, they also recognized that these measures did not cover the whole population. As Julio Aragón (Interview. DGME) put it, “of the three hundred something thousand we expected more or less, no more than eighty thousand people approached us”. For these people, despite these measures, without either insurance or a residence/working permit, it becomes extremely difficult to obtain the other, thereby hindering the regularization process and access to healthcare services.

This Catch 22 situation that results from the interaction of migration and social policy limits immigrants’ access to healthcare services and can be interpreted as an attempt to discourage irregular migration, which according to the official discourse is unwanted. A DGME official put it this way: “We have to establish limits for the type of people we want coming over because although it sounds ugly, Costa Rica cannot become an importer of poverty. We also have to get out of the economic and social problems the country faces, and we cannot import a series of exogenous factors that make this situation more critical” (Interview. Adrián Jiménez, DGME). Thus, creating limits is seen as a way to construct boundaries around scarce resources for social investment, which are to be reserved for the national Costa Rican population. This way, the State tries to minimize the demand for healthcare services, perceived as illegitimate, of the irregular immigrant population (López, 2012).

4.3 Law enforcement in the CCSS

In another internal communication from the CCSS (2012b: 2), of 21 June 2012, the institution’s officials were reminded that “in case of patients attended in state of urgency or emergency, one should proceed in compliance with the established procedures and protocols. After finalizing medical attention, the Medical Records Service clerk or the emergency services receptionist, depending on the case – uncharged with the verification of the patients information and the pre-seal of the respective documentation -, will refer the patient to the Unit of Validation and Billing of Medical Services, where the corresponding bill will be prepared”.

At the same time, for “all medical care required by UNINSURED patients not classified as urgent or an emergency, the applicant must cancel the costs of the basic medical consult (in accordance with the effective tariff model), prior to the realization of the service” (CCSS, 2012b: 2. Own translation. Capitals in original). Although this policy was already in place (López, 2012; Interviews with CCSS officials), up until 2011 it was not strictly applied, largely because the CCSS’s financial situation allowed for more lenient management (Carrillo et al., 2012). Indeed, the Head of the Inspection Area of the CCSS explained that until 2011, the institution was not so concerned with this policy, but that now the CCSS has become much more careful, become more aggressive”

(Interview. Head of Inspection Area, CCSS). Where before irregularities “always happened, what happens now is that they are better controlled because of the Migration Law” (Interview. Head of Research Sub-Area, CCSS). The Director of CCSS’s Inspection, confirmed that the CCSS “has become stricter” and that “this is because of an issue of responsibility” (Interview. Director of Inspection, CCSS).

Effectively, in the context of the CCSS’s financial crisis and the Migration Law reform, this law enforcement has made it practically impossible to receive free medical attention without the CCSS insurance card as a requisite for medical care. With regard to this point, in the same internal communication, the CCSS refers to the “duty of every official at the moment of attending the serving different users of healthcare services provided by the institution, to **VERIFY** meticulously the insurance status of each and every one of them” (CCSS , 2012b: 3. Capitals bold and underline in original).

This law enforcement of existing policies within the CCSS, aims to diminish ‘illegitimate’ demand for healthcare services of irregular immigrants. Where before immigrant population with irregular migratory status was excluded from non-emergency healthcare services, legally it is impossible to deny any person emergency care, but with the enforcement of this policy, a market-based filter is put in place to limit certain minority groups’ demand for these services. At the very least, it serves as a measure to deter people from approaching health clinics, unless it is a matter of life and death, because it would translate into a significant bill, although the CCSS is still in process of defining what happens if the person cannot pay the bill (Interview. Eduardo Flores, Head of State Coverage, CCSS).

This measure not only affects irregular immigrants, but also nationals without insurance, whose long term access to medical emergency services might depend more on purchasing power, when medical attention is granted, but could imply a significant debt. With this, the principle of universalism Costa Rica’s social policy regime is famed for is under strain.

4.4 Looming limits to universalism?

However, universalism is under even more serious threat. In a directive sent out by the head of the CCSS’s State Coverage Area, Eduardo Flores Castro, on 31 October 2012, medical attention to pregnant women is being questioned. Until now, Costa Rica’s social policy regime was truly universal for some special groups “whose membership in the social security realm is not based on the affiliation with any kind of public insurance” (López, 2012: 127). The State universally recognizes their right to healthcare. These groups are children and adolescents, pregnant women, abused women, and people carrying infectious diseases. The first two groups are protected under the Costa Rican Childhood and Adolescence Code, and the Adolescent Mothers Protection Law, recognizing children’s and unborn new lives’ universal rights (López, 2012). As Eduardo Flores himself put it, “pregnant women are better protected than the Central Bank” (Interview. Eduardo Flores, CCSS).

However, in reply to a query from Ana Iris Tovar Peña, Head of the Financial Accounting Sub-Area of the CCSS, Flores explains that in conformity with the Childhood and Adolescence Code there are several categories of pregnant women with different social rights, that “seem similar at first sight, but really are different” (CCSS, 2012d: 1. Own translation). First, the communication explains that foreign pregnant women with official identification will be granted pre-natal care if she holds a temporal or residence permit emitted by the DGME. Second, if the pregnant woman has a legal migratory status, but not as resident (tourist, temporal stay, in transit), “she will not be allowed to access health services offered by the [CCSS], except in conditions of urgency or emergency”. Third, if the woman has identification and lives in the country, but with an irregular migratory status (with a valid passport but an expired tourist visa), “Law 7739 will be applied as protection to the infant granting a 000 insurance”, which is a special category that covers uninsured under certain laws or special norms, “for the period of breastfeeding”. Finally, foreign pregnant women with no or expired identification, “can only access the services offered by the CCSS in case of urgency or emergency”.

Other high ranking officials were aware of this measure, but were hesitant to speak about it, since they believed the measure was “not yet in effect until the Legal Department emits a criterion” (Ana Patricia Salas, Director of Healthcare Service Comptroller, CCSS). However, On 2 April 2013, the Area of Technical Management and Legal Assistance, of the CCSS’ Legal Department, pronounces a criteria with respect to these measures about the attention to foreign pregnant women without identification, in which it recognizes the CCSS’s autonomy to establish and adhere to the criteria that apply to both nationals as legal residents. It states that the Childhood and Adolescence Code, and the Adolescent Mothers Protection Law “apply to those who are legally in the country, with the exception of cases of urgency” (CCSS, 2013a: 6. Own translation), thereby allowing the CCSS to establish that “undocumented or illegal pregnant women can only receive services in case of urgency, as established in article 61 of the Health Insurance regulation. In all other cases, if the CCSS is in the capacity to provide the service, it will be able to do so on the condition that it charges for these services” (*idem*).

López (2012) questions Costa Rican social policy’s ‘universalism’, arguing it refers to the historical ability of the State to reach exceptionally high coverage, designed for national citizens, but not necessarily to social rights for all its legal residents. In his analysis, universalism understood as an inalienable right for all within the national territory, rather than ‘universalism’ as high coverage, only applies to the mentioned groups, specifically children and pregnant women. However, the above analysis shows that these inalienable and

undeniable rights for pregnant women, are being questioned as we speak⁴.

Thankfully, following a request from the Ombudsman to explain this intended measure and pressure from civil society, the CCSS withdrew its intentions with a communication dated 10 May 2013, in which it annulled the previous directive (CCSS, 2013b). In the communication, precisely the Childhood and Adolescence Code is forwarded to ensure “access to healthcare services to pregnant women [...], regardless of their social security or immigration status” (CCSS, 2013b: 1).

The intention and the fact that the directive had passed the CCSS’s Legal Department, however, are reason for concern and emblematic for the perceived ‘illegitimacy’ of immigrant healthcare demand which is common amongst social service providers. These form serious threats to the principle of universalism Costa Rica’s social policy regime is famed for.

5 Final reflections: internal migration control, sovereignty and social citizenship

As a response to multiple crises, but in particular of the CCSS, the emblematic institution of Costa Rica’s ‘exceptional’ solidary and universal social policy regime (Martínez Franzoni and Sanchez-Ancochea, 2013), State policy has taken measures to make more difficult immigrant’s access to health services. It has done so following voices of ‘welfare chauvinism’ based on perceptions among Costa Ricans that Nicaraguan immigration is in part to blame for the social institution’s financial difficulties, and (unfounded) arguments of Costa Rica being a welfare magnet in the region.

On the one hand, while on paper public policy focuses more explicitly on deterring irregular migration, the social construction of the immigrant subject as a threat to social security, as ‘illegal’, irrespective of that person’s migratory status, implies that healthcare demands are considered illegitimate under the national population, and even under CCSS officials, which in some cases results in unjustified denial of access to social services (López, 2012; Interviews).

On the other hand, the interplay between migration and social policy to create a Catch-22 situation in which social insurance is a requisite for regularization and vice versa, creates a serious barrier for immigrants’ access to healthcare. Where migration authorities stipulate that healthcare insurance is an

⁴ In the interview with Eduardo Flores, I was handed the internal communication mentioned in the text. After asking and getting permission to circulate the document, I sent it to Karina Fonseca, of the Servicio Jesuita para Migrantes, and Carlos Sandoval, researcher at the Institute for Social Research, who immediately asked for an appointment with the Costa Rican Ombudsperson’s Office, with whom they discussed the possibility of an appeal for infringement of fundamental rights and freedoms (Recurso de Amparo). After a request from the Ombudsman to the CCSS, the latter withdrew the directive.

indispensable requisite to start the regularization process, the CCSS demands a regular migratory status as a requisite for insurance.

The role the CCSS has been granted in the country's migration policy is remarkable. As the most important healthcare insurance and provision institution, it has explicitly been incorporated by the DGME, with the 2009 reform to the Migration Law, as one of the pillars of migration policy and a key element of internal migration control. This reflects a shift in Costa Rica's migration policy, which until 2010 was almost exclusively based on border control, (Borge, 2004; Morales, 2008; Jiménez, 2009; López, 2012), to include healthcare access as an internal control measure.

This way, the Costa Rican State has "shifted in" migration control, as the measures represent an explicit movement towards internal migration control (Morissens, 2008, Morris, 2002; Bommers and Geddes, 2000). Although the 2009 Migration Law in vocabulary adheres to human rights discourse, far from conceding state power and sovereignty as 'globalists' would have it (Soysal, 1994; Jacobsen, 1996, Sassen, 1996, 1998; Sharma, 2006), the State has indeed found ways to circumvent international normative constraints, shifting the level at which control measures are elaborated and implemented. This kind of State policy reaction "shows the adaptiveness of agencies within the central state apparatus in charge of migration control and their political allies" (Guiraudon and Lahav, 2000: 165). In sum, the State and its policies have not lost central importance in determining the requirements for access to citizenship, national welfare benefits, and thereby the conditions under which migration occurs.

In times of economic and political crises, it is a fairly common policy reaction to limit access to social welfare benefits (Morissens, 2008; Ryner, 2000; Bommers and Geddes, 2000; Hujo and Piper, 2010; Banting, 2000; Baldwin-Edwards, 2002), especially in contexts where pressures to liberalize, deregulate and diminish State presence. Ryner (2000: 52) asks whether we are witnessing the move from a Keynesian welfare state to a 'neoliberal welfare state'. In a reflection highly relevant for present-day Costa Rica, the author questions the concept of social citizenship:

The neo-liberal paradigm shift that has been evident since the early 1980s has subsequently redressed the systemic crisis of capitalism, but the consequence has been a serious attenuation of social citizenship that, within the present trajectory, may well continue. If so, then it is doubtful whether it is meaningful to talk about social citizenship at all in relation to social welfare provision. Social services and insurance that previously were delivered and managed according to the norms of universal public entitlement, are increasingly privatised and/or managed according to business criteria for those with adequate purchasing power on the market. [...] In this context a welfare state may still exist, but it is doubtful that social citizenship does.

In any case, the principle of universalism does not necessarily apply to immigrants, even if these immigrants have a regular migratory status (López, 2012). Especially worrisome is the recent initiative to deny undocumented immigrant pregnant women in Costa Rican territory access to prenatal care, as it would have come to question one of two groups, children and pregnant

women, who enjoy 'true' universalism, based on the inalienable right to such services. Indeed, welfare chauvinism seems to translate into more restrictive requirements for social policy eligibility, in attempts to prevent 'illegitimate' demands for access to social programs. Social and migration policy conspire to discourage (irregular) migration, constructing and mobilizing "boundaries around issues of distribution of welfare state resources" (Faist, 1994: 440).

With measures that do not stimulate the process of regularization (Sandoval, forthcoming) and by limiting access to social policy, Costa Rica's current migration policy seems to welcome certain groups of immigrants (highly qualified workers and pensioners from the U.S.) that bring knowledge and capital to the country, but does not welcome low-skilled workers from Nicaragua and other countries. This latter population is perceived as unwanted, because they are considered 'illegal' (even if they have their paperwork in order), and at least according to official and popular discourse, as a threat to social security and difficult to integrate (Sandoval, 2008; cf. Hujo y Piper, 2010: 9-10). However, their undeniable importance as cheap and highly exploitable labor force for key sectors of Costa Rica's economy depends exactly on their 'clandestine' state. Once again, following Banting (2000), in Costa Rica the true challenge to social inclusion also comes from majorities, no minorities.

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Interviews

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- Eduardo Flores, Head of State Coverage, CCSS. Interview 25 April 2013. Karla Venegas and Koen Voorend.
- Giselle Román. Nurse CCSS. Health Department Heredia. Interviewed April 2013. Karla Venegas.
- Head of the Inspection Department, CCSS. Interview 29 April 2013. Karla Venegas and Koen Voorend.
- Head of the Research Sub-Department, CCSS. Interview 29 April 2013. Karla Venegas and Koen Voorend.
- Interview. Adrián Jiménez, Planning Direction Deputy, DGME. Interviewed 13 April 2013. Karla Venegas and Koen Voorend.
- Julio Aragón, Head of the Integration Direction, DGME. Interviewed 13 April 2013. Karla Venegas and Koen Voorend.
- Marta Jara. General Practitioner, CCSS. Health Department Heredia. Interviewed April 2013. Karla Venegas.
- Ana Patricia Salas, Director of Healthcare Service Comptroller, CCSS. Interviewed 22 April 2013. Karla Venegas and Koen Voorend.