



INTERNATIONAL PROTECTION OF THE RIGHTS OF MIGRANTS

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Abstract

GENERAL ARGUMENT

If the XXth century was the century of the increase in borders and states, XXIst appears clearly as that of globalization and fluidity of borders. This new situation (fluidity or erasing of borders in the context of globalization) is reflected by development of global exchanges and, quite logically, of the mobility of people at an unprecedented rate.

According to the Population Division of the United Nations Department of Economic and Social Affairs (DESA) of the United Nations, the number of migrants worldwide is estimated at more than 232 million people (against 175 million in 2000) and migration affects all continents. While the majority of those are displaced within their own countries, the number of people wishing to migrate from one country or continent to another is increasing for several reasons:

- The increase in socio-economic inequalities;
- Environmental issues, including brutal climate change and its consequences
- The demographic problems;
- Political problems, including armed conflict;
- The distribution of new labor markets;
- The personal dimension: personal quest, self-realization, service of the poor, etc.

In many cases, mobility is therefore a constraint or a survival solution:

- No income or lower purchasing power;
- Lack of employment or its precariousness;
- Difficulties of access to education and training;
- Difficulties of access to adapted health care or health system;
- Difficulties of access to rights or to claim for them

From the point of view of their impact, migration - particularly international - through the networking of people and spaces, are participating to the transformation of cultures, economic, social or political background, etc. and push individuals and societies to question their future.

It logically and inevitably raises the question of the governance of migration, particularly in terms of legal protection of migrants' rights, an issue that directly concerns us as part of that contribution.

What are the legal possibilities to ensure the international protection of migrants' rights? What is the relevance and possibly the limits of these possibilities, and / or of this protection guarantees? Are these guarantees of protection of migrants' rights, as reflected in international legal instruments and judicial practices, adequate, appropriate and effective?

The analysis of the question and answers related to the aforementioned questions can be raised at two levels:

- The traditional method of protecting migrants' rights and the guarantees relating thereto (I);
- Contemporary mechanisms and the issue of internationalization of the protection of migrants' rights (II)

OVERALL PLAN

General argument

I. THE TRADITIONAL METHOD OF PROTECTION OF MIGRANT RIGHTS

- A. The principle of territoriality
- B. Exceptions to the principle of territoriality

II. MECHANISMS AND CONTEMPORARY ISSUES OF INTERNATIONALISATION OF MIGRANTS' PROTECTION

- A. International guarantees of protection (conventional standards and peremptory norms)
- A. The control mechanisms and the question of the effectiveness of the rights guaranteed

Conclusion

PLAN D'ENSEMBLE

Argument général

I. LE PROCEDE TRADITIONNEL DE PROTECTION DES DROITS MIGRANTS

- A. Le principe de territorialité
- B. Les exceptions au principe de territorialité

II. LES MECANISMES CONTEMPORAINS ET LA PROBLEMATIQUE DE L'INTERNATIONALISATION DE LA PROTECTION DES DROITS DES MIGRANTS

- A. Les garanties internationales de protection (normes conventionnelles et normes impératives)
- A. Les mécanismes de contrôle et la question de l'effectivité des droits garantis

Conclusion