



Towards a new migrant culture in South America: Which will welcome, protect nurture and integrate the accepted migrant person as a subject bearing rights

*by Pedro Hernández**

To achieve Governance of International Migrations, access to justice for migrants is a fundamental dimension of migratory policy. This concept implies that the migrant person is accepted as a subject bearing rights. To make this vision real, we must distinguish between access to justice as a value and access to justice as a right.

The implementation of access to justice as a value involves making efforts to eradicate discrimination, xenophobia, and racism in every sphere. Access to justice as a right requires migrants to have legal guarantees for access to their rights and for the protection of these rights.

International Migration Law lays down provisions for access to justice for migrants in the Universal Declaration of Human Rights (1948), the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Ibero-American Program on Access to Justice, and the Protocols against Trafficking and Migrant Smuggling, among other international mechanisms.

Also worthy of note are the Sustainable Development Goals 2030, in which States have made a commitment to face up to the challenges associated with migration, without forgetting anyone and reaching those left furthest behind, by means of recognising the specific needs of migrants and refugees. To this end, we must facilitate orderly, safe, regular and responsible migration and mobility by applying carefully planned and well-managed migration policies.

We should also mention the Global Compact for Safe, Orderly and Regular Migration, an agreement in which the international community seeks to promote the inclusion of migrants through access to justice and by reinforcing the governance of international migration.

At regional level the South American Conference on Migration (CSM) stands out. This has continuously focussed on access to justice. Member countries of the CSM have established the bases for a New Culture of Migration, which would welcome, nurture, protect and integrate migrants, now ratified in the Lima Declaration (September 2017), proposing and driving the following initiatives:

- a) Global Protection of the Human Rights of All Migrants and Members of their Families;
- b) Social inclusion of migrants, ensuring access to health, education, work, decent housing and justice for migrants;



- c) Framework for the Assistance and Care of Migrant Women and their Family Members, particularly migrant children and adolescents;
- d) Promoting the regularization of the migration status of migrants, in accordance with National and International Migration Law;
- e) Action plan with aims and objectives against Racism, Xenophobia and Discrimination;
- f) Strengthening of Consular and Migration Cooperation;
- g) Global and Regional Platform to process data and integrated information on international migration processes;
- h) Eliminating International and National Networks of Illegal Trafficking of Migrants and People Smuggling;
- i) Furthering the debate on movements of humans caused by environmental factors, including climate change.

In accordance with what is set out above, Chile has launched a set of ideas among which we may highlight:

- a) The process of the Global Compact on Migration must be informative and educational in nature, promoting principles, commitments and understandings in the field of migration, bringing this reality to civil society and to the various actors who take part in the migration process;
- b) Strengthening International Migration Law, establishing a "Rule of Law at global level", through adhesion to and ratification of instruments and agreements concerning the human rights of migrants;
- c) Mechanisms for bi-national and regional cooperation, through Binational Agreements for Cooperation on Migration and Consular Affairs, as well as developing cross-sectoral work to tackle the challenges of the latest flows of migration;
- d) Assessing and Highlighting the Role of Local Governments in the process of integrating migrants, with the creation of Cross-Sectoral Boards of Local Governments to develop local policies and programs for the care and assistance of migrants;
- e) Policies for Creating Links with nationals abroad, to assist and care for communities living abroad, reinforce consular management and promote the exercise of the right to vote;
- f) Implementing regional and global diversity, developing a work schedule to promote themes of shared interest, for the benefit of the most vulnerable migrant groups, as in the EU-CELAC dialogue on Migration;



- g) Prevention and multi-sectoral focus to respond to situations of natural disasters, crises and emergencies, implementing Consular Programs and Networks for the Care and Assistance of Persons Displaced by Natural Disasters and Climate Change;
- h) Joint responsibility for migratory flows, strengthening the role of the Consular Network in the countries of origin, transit, destination and return, for the assistance and protection of the human rights of migrants; and
- i) Updating of Statistical and Administrative Information on Migratory Flows and Balances, to continue furthering the development of studies on migratory flows; developing indicators of a social nature through records made in devices such as population censuses.

Pope Francis wishes to dedicate the World Day of Peace 2018 to the theme of “Migrants and refugees: men and women in search of peace”. He states that leaders must know how to welcome, nurture, protect and integrate migrants, pointing out that migrants and refugees build peace and justice, as they bring with them the wealth of their courage, abilities, energies and aspirations, and of course the treasures of their own culture. This New Culture of Migration is the new road to Peace.

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