

Human Rights and Migration

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Abstract

The purpose of this work is to show the relationship that exists between human rights and migration, so that, for the migration process of any person, in the country where he/she is, human rights are respected and guaranteed. It also aims to illustrate the future of migration in the Mexican State when it complies with its human rights obligations.

Keywords: Human rights, migration, universality.

Introduction

Migration is an activity inherent to human beings, when for some reason they decide to leave their place of origin or the place where they are temporarily or permanently, which, in accordance with the legal instruments of the country or entity to which they migrate, must be regulated, and that is when respect for and guarantee of human rights come into play, which will define whether the migrant retains his or her dignity intact.

The above, in order to lay the foundations for the future that is expected for the migrant community, with human rights as the central axis of their transit.

Materials and methods

The present work was obtained thanks to a mixed research methodology by executing an exhaustive search for information related to the study.

The research was based on a qualitative approach based on books, scientific articles and concepts extracted from relevant web pages.

Likewise, this work had a quantitative approach by showing and relating data illustrated by means of graphs made from multiple surveys focused mainly on demographics and migration in the country.

The concept of human rights has been changed and restructured according to the needs and reality of the population in turn, the Parliamentary Union and the United Nations (2016) define them as follows:

Human rights are rights inherent to all people. They define the relationships between individuals and power structures, especially the state. They delimit the power of the State and, at the same time, require the State to take positive measures to ensure conditions in which all people can enjoy their human rights. (p. 19)

It follows that human rights are strictly part of human beings, and it will be these who define the relationship between the governed and the ruler, taking as a starting point that they are guaranteed to all people without exception.

It follows that, although human rights should not exclude any person, it is true that according to the legislation of each country or region or the international treaties that are signed, human rights are subject to specific restrictions to ensure the stability and development of the inhabitants and those who govern the receiving region of migration in question. As indicated as follows:

...most human rights are not absolute and are therefore subject to certain restrictions, such as reservations, derogations and limitations. Moreover, the principle of progressive realization of rights means that the particular circumstances and capacity of each State must be taken into account when assessing whether a State has failed to comply with its human rights obligations (Inter-Parliamentary Union and the United Nations, 2016, p. 51)

This results in the incomprehension of various people and communities who feel these restrictions as an exclusion due to the situation in which they find themselves, which ends up becoming a myriad of disagreements and claims by the sector of the population that feels this way, which brings with it a constant struggle by the State to satisfy and meet the needs expressed by the person or community that is "excluded" from their human rights.

María Guzmán (2017) mentions that "Addressing the issue of human rights necessarily leads us to speak of dignity" (p. 26) as an indispensable requirement that cannot be discarded when speaking of human rights, since this and in her own words "is linked to the reasoning that we human beings possess, unlike other living beings; as well as to the freedom of the people themselves" (p. 27), which means that dignity, like human rights, is exclusively and uniquely endowed to human beings, as they are the only beings with the necessary and adequate intelligence

to demand the minimum requirements of life. 27), which means that dignity, like human rights, is only and exclusively endowed to human beings, since they are the only beings with the necessary and adequate intelligence to demand minimum requirements of life. This is because the concept of human rights:

...depends to a great extent on the orientation assumed or the ideas or tendencies professed. For this reason, various definitions with different nuances and sometimes even conflicting ones are usually used against each other, due to the difficulty of the relativity of their contents.(Guzmán, M., 2017, p. 28).

Human rights "are usually linked to several characteristics, the main and most discussed is undoubtedly universality" (Serrano, S. and Vázquez, D., 2010, p. 6), universality in human rights is understood as a starting point to be considered in the application of human rights, in the understanding that these must be guaranteed to all people, as the situation arises for the execution of these rights.

The universality of human rights can be thought of as a characteristic and as a principle that shapes the criteria of rights in action. As a characteristic - which was its initial utility - it refers us to the differentiation and conformation of the subject into a citizen, a prior step to identify fundamental subjective rights with respect to those that are not. As a principle, universality serves as a criterion for the interpretation of rights as a whole, in specific cases or situations (Serrano, S. and Vázquez, D., 2010, p. 6).

Thus, human rights should not be restricted to any person, but should be applied in accordance with the specific situation that the person presents.

Migration, as previously mentioned, is inherent to human beings, as they are nomadic, so much so that without migration, humanity as we know it today would not exist.

Migration as a demographic process can be understood as the social phenomenon that alters the structure, growth and distribution of the population of a country; due to the fact that a number of people cross a limit or administrative border in search of settling in new lands to improve their living and working conditions, among other aspects (Gutiérrez, J. et al, 2020, p. 301).

On some occasions, the concept of migration is often confused with that of immigration and emigration, due to the similarity between them, for better clarity the following table created by historian Ever Arrieta (n.d.) is illustrated:

Table 1. Differences between migration, immigration and emigration with information from Differentiator.

	Migration	Immigration	Emigration
Definition	Movement that a person, group or animal makes from one place to another.	Entry of a person into a foreign country, to establish new residence. The individual who immigrates is called an immigrant.	Departure of a person from his or her country of origin to live in another country. The individual who emigrates is called an emigrant.
Scope	Country or region.	Country.	Country
Application	It can be applied to people or animals.	People.	Persons
Weather	Permanent or temporary.	Permanent.	Permanent.
Origin	From the Latin <i>migrare</i> , meaning "to change residence, to move".	From the Latin <i>immigrare</i> , meaning "to come from one place to settle in another".	From the Latin <i>emigrare</i> , meaning "to move from one place to another."

As a migrant community moves from one region or country to another, both its demographic situation and the needs of the society being governed change, it is necessary to create legislative frameworks that provide for such changes, such as the Migration Law in Mexico.

The Migration Law was published on May 25, 2011 in the Official Gazette of the Federation. It is aimed at regulating the entry and exit of foreign and Mexican persons, as well as the transit and stay of foreign persons in the territory of the United Mexican States.(Castilla, K., 2014, p. 155-156).

Legislation which, taking as a reference the constitutional reform that was being formed, sought to regulate the migration process of people in the Mexican State, but having human rights as a transversal axis.

Results

Every person has the right to enter the Republic, to leave it, to travel through its territory and to change residence, without the need for a letter of security, passport, safe conduct or other similar requirements. The exercise of this right shall be subject to the powers of the judicial

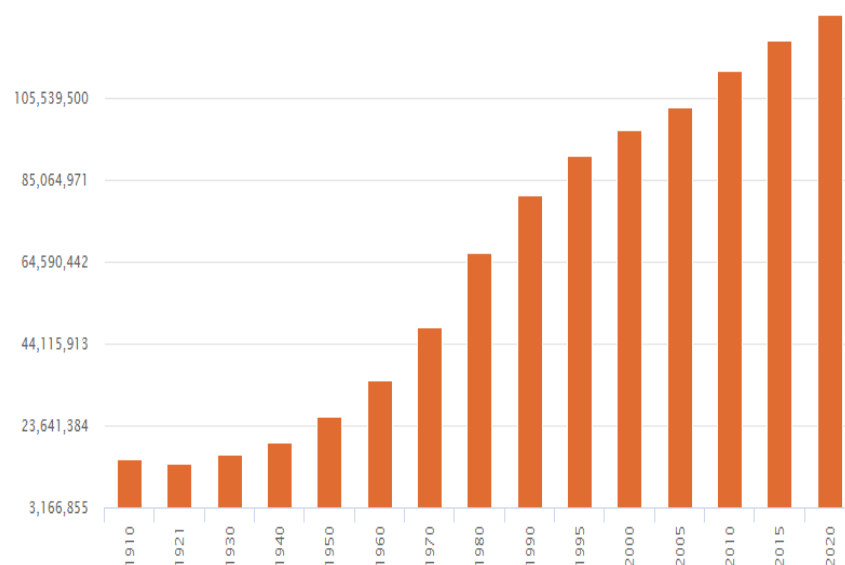
authority, in cases of criminal or civil liability, and to those of the administrative authority, with respect to the limitations imposed by the laws on emigration, immigration and general health of the Republic, or on harmful foreigners residing in the country.

Everyone has the right to seek and receive asylum. The recognition of refugee status and the granting of political asylum shall be carried out in accordance with international treaties. The law will regulate its procedures and exceptions (Constituent Congress, 1917).

The Mexican Constitution is very clear in guaranteeing the right of transit to all persons whose final destination may or may not be Mexico, but it is also clear in establishing that the exercise of such right is subject to the corresponding legislation created for such purposes.

The relationship between human rights and migration

Illustration 1. Total population in Mexico with information from INEGI to the year 2020.



In Mexico, by the year two thousand and twenty there were more than one hundred and five million people, marking a clear demographic difference with those existing thirty years earlier, so that the living conditions when a demographic event of such magnitude occurs are clearly different from those exercised previously, which as can be seen is a main reason for migration.

Illustration 2. Causes of migration in Mexico with information from INEGI to the year 2020.

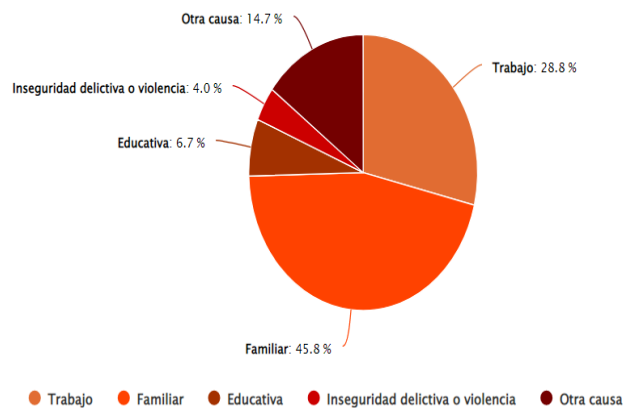
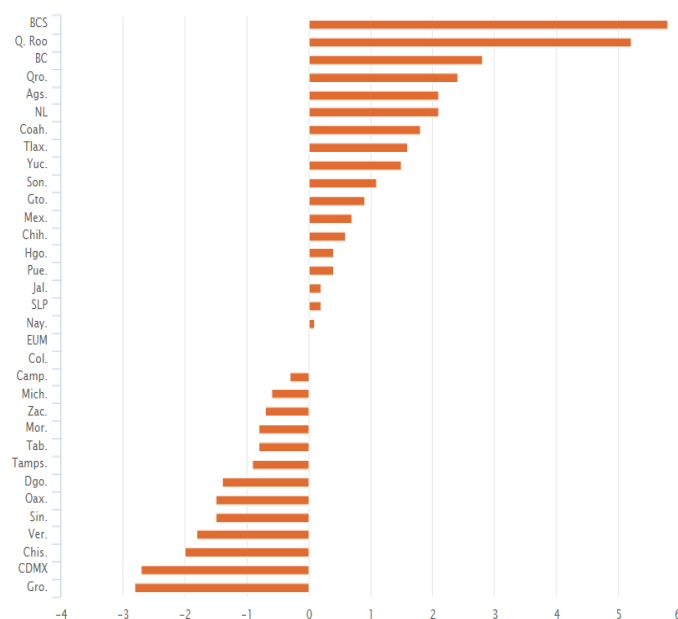


Illustration 3. Net migration balance of the population aged 5 and over by federal entity as of 2018.



As can be seen in the previous graphs, there is a large sector of the population in our country that is in a migratory situation for various reasons, the main one being family, Therefore, it is important for the Mexican State to guarantee the human rights of migrants who have already found themselves in a situation of vulnerability that forced them to migrate, and in another, having become migrants, being in a different place, with a different culture and legislation, and in the worst case, with nothing in their pockets to cope with the new life in which they find themselves.

The Parliamentary Union and the United Nations (2016) mention the following:

Although there is no general right of aliens to enter and reside in a country, arbitrary and discriminatory immigration policies violate the right to family protection and reunification. The longer an alien has lived in a country, especially if he or she has founded a family there, the stronger the government's arguments should be to justify his or her removal and deportation. (p. 165)

In view of the above, it is understood that there is a problem with the failure of nations to establish an effective regulation on human rights and migration, which leads to violations of the human rights of people who decide to move to another region as migrants, and as a result, they do not live a dignified life and are also conditioned to discriminatory restrictions, in most of the receiving countries, because they put the reasons that brought them to that country before them and the true meaning of an honorable life.

The National Human Rights Commission (CNDH), an organization representing the defense of human rights, mentions the following:

Migrants in transit through Mexico represent a population in constant mobility, with many needs, but also with rights, with dignity that must be respected, regardless of their legal status in the country. They are people who for various reasons decide to leave their country, and face dangers and long journeys, they are diverse in search of new life opportunities (p. 21).

Based on the aforementioned, it is known that the States know and are aware of the needs that persist in their migrant population, but as it is obvious, they do not attend them as it should be done, that is why in our country, being a sector of constant migrant population both issuing and receiving, must act in favor of their rights in an objective and clear manner, and not acting in all cases as migratory movements occur, but foreseeing them having as a reference the globalized world in which we live and the future that is increasingly closer.

The future, in most cases, is not something that cannot be foreseen, especially taking into account the migration issue that has existed since the beginning of time, long before there were countries with formal laws and restrictions. Based on this, and being aware of the little or no intention that exists on the part of countries to direct their migration policies in favor of human rights, it is that what can be foreseen is the following.

Conclusions

Migration and its relationship with human rights is a topic that should not be taken for granted or taken for granted that it is fulfilled to the

letter, but it is a subject of study which should be analyzed progressively and adapted to the current context that is lived in the world, Otherwise, a large sector of the population would be forgotten, which is the migrant population, which due to the nature in which it finds itself, becomes a vulnerable group, which must and has the obligation to monitor compliance with their human rights with greater attention and willingness on the part of the State.

The future of migration depends irremediably on the respect that exists for the human rights of all persons, which is why it is necessary for States to ensure that this is the case and, if not, to take immediate action to prevent serious violations of the human rights of migrants.

Thus, more than an obligation on the part of the countries, there must be a real commitment on their part in terms of human rights, there must be a real sense of trust and security on the part of the migrant population towards the countries or regions to which they migrate, without perceiving the limitations and restrictions imposed as real violations of their human rights.

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