

Reception of migrants and refugees and regulation of migration flows

International law recognizes the right of everyone to leave any country, including his or her own, and to return to his or her country of origin. The Universal Declaration of Human Rights (1948) expressly recognizes the universal application of these rights (art. 13), as does the International Covenant on Civil and Political Rights (1966) which states (art. 12): 1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence. 2. Everyone shall be free to leave any country, including his own. 3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant. 4. No one shall be arbitrarily deprived of the right to enter his own country. International law does not, however, grant a right of entry into another country.

An estimated 281 million people, or about 3.6 percent of the world's population, currently live outside their country of origin, many of them migrating under varying degrees of duress. Although many migrants choose to leave their home countries each year, a growing number are forced to do so for a complex set of reasons, including poverty, lack of access to health care, education, water, food, and shelter, the consequences of environmental degradation and climate change, and the more "traditional" factors of forced displacement, such as persecution and conflict.

Human rights violations against migrants can take many forms, including deprivation of civil and political rights such as arbitrary detention, torture or lack of due process, as well as economic, social and cultural rights such as the right to health, housing or education.

The International Convention on the Protection of the Rights of All Migrant Workers (1990) unambiguously gives states the right to control their borders, including setting criteria for the admission of migrant workers and members of their families. Moreover, states are not legally obliged to regularize irregular migrant workers (arts. 35, 69). The Convention requires all States parties, including States of origin, to cooperate in promoting sound, equitable, humane and lawful conditions in connection with international migration (Art. 64, -ß 1). States of origin are also obliged to prevent irregular migration of their nationals, including through multilateral and bilateral agreements, policies and programs to improve formal migration channels, and measures to address the root causes of irregular migration, including violence, insecurity and poverty.

The principles of national sovereignty recognize the right of states to regulate immigration, that is, to determine who (other than their nationals) is allowed to enter or visit, reside or work in their territory. Two sovereign prerogatives are at stake: 1) the refusal to allow access to a state's territory or restrictions on such access, and 2) the expulsion of non-nationals who are not allowed to enter or stay in the territory in question. However, like other areas of law and state action, the regulation of migration is subject to the principles and provisions of international law, in particular human rights obligations.

These obligations include respect for the principle of non-refoulement and the obligation of states to open their territory to persons at risk of torture or other serious human rights violations, as well as to persons claiming the protection of international refugee status. States also have other important obligations to ensure the right to liberty and security of the person, which is violated by administrative detention measures sometimes imposed on migrants, including irregular migrants; to refrain from arbitrary expulsion; and to respect other human rights, including the right to family life and privacy.

1. Given that international law puts the sovereignty of States and their own interests first, how can we effectively promote the reception of migrants ? Can we encourage generosity without any binding provisions ?
2. How can we ensure that the short-term reception of migrants does not encourage excessive migratory flows in the medium and long term?
3. If migration policy belongs to the States, how can we regulate migratory flows, which are by nature inter-State ? How can we avoid the situation where States feel that they are not concerned by the rights of migrants outside their borders?
4. How can religions value the reception of migrants without the risk of taking political sides?
5. Can the Dominican Order do more than defend the rights of individual migrants ?

References :

<https://www.ohchr.org/FR/Issues/Migration/Pages/about-migration-and-human-rights.aspx>

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