

The Relation between the Civil Society and the Governments in the Migratory Processes in South America

Mario Santillo
CEMLA

Introduction

Civil society organizations working for migration issues in Latin America have been organizing several outstanding activities in different fields of the migratory phenomenon since several years ago, many of them in isolated ways. Nowadays, it is possible to say that their understanding of the convenience of joining forces to obtain better results, which even provides them with a stronger negotiation position when dealing with governments, is an important progress. They have created national boards, regional forums and a continental network.

This paper aims to point out the proposals presented to the governments, launched by the organizations working with migratory issues and human rights, whenever a meeting related to these issues has taken place in South America. In addition, this paper will also present the most relevant conclusions reached by South American governments in several annual conferences on migration issues.

The most important topics are: human rights, the regularization of regional illegal migrant's migratory situation, the ratification of the "Convention of Workers and Families", national migratory policies, follow-ups on the migrants inside and outside the region, remittances, work and professional reinsertion of former migrants, brain drain, among others.

Lastly, it will discuss the progress in migratory policy and practice within Mercosur and its partner countries (Peru, Bolivia, Chile) in order to improve migration flows and the irregular or illegal status of many migrants.

Civil society organizations of migrants in the South American process

Civil society organizations working on migration issues in Latin America have an important role in the execution and follow-up of government decisions in the region. Likewise, governments are more conscious of their opinions and their presence during their discussions.

Civil society organizations are the ones dealing, on a daily basis, with most immigrant's problems: human rights violations, abuses, human trafficking, absence of legal and humanitarian assistance, work problems, border conflicts, deportations, etc.

In 1996, the first Regional Migration Conference (later known as the Puebla Group) was held in México. The objectives of this conference were to enhance the cooperation among the countries of the region without damaging bilateral cooperation programs and to promote the right of each country to guard its frontiers and to apply its own migratory rules. Within the action plan, international cooperation was promoted in order to solve common-border conflicts, to combat human trafficking and to protect the illegal migrant's human rights.

Another important forum was the International Migration Symposium of America organized by the population division (CELADE) of the UN Economic Commission for Latin America and the Caribbean (ECLAC) and the International Organization for Migration (IOM), under the title “The Civil Society: In search of New Forms of Hemispheric Cooperation on Migratory Issues”. For the first time, civil society representatives from all over America participated in an event on this topic.

Migratory processes in South America have changed features during the last decades. Venezuela and Argentina are still the most attractive destination-countries for many migrants in the region, although due to the harsh economic crisis that the country is currently undergoing, many Argentineans have also migrated. Meanwhile, Peru and recently Ecuador have shown a trend towards an increase in the number of people leaving the country. South American countries needed an opportunity for reflection and a set of common policies in migratory issues, such as the Puebla Group. Within this context, on July 13th - 14th, 1999, the first “South American Migration, Integration and Development Meeting” took place in Lima, Peru.

The countries that participated in the meeting were: Argentina, Bolivia, Brazil, Colombia, Chile, Ecuador, Paraguay, Peru, Uruguay and Venezuela. In their final statement, they expressed the need to work together to address migratory issues in order to promote a sub-regional integration process, such as the Mercosur and the Andean Community. The respect for migrants’ human rights is a basic concern for the countries of the region. Also of special concern is the fact that migratory movements cause significant changes, such as fostering of intercultural relationships. At this conference, no civil society representative was invited.

The following year, on May 18th and 19th, 2000, the first South American Conferences of Migrations was held in Buenos Aires. At this time, organizations such as the CEMLA (Latin American Migratory Studies Center), the FCCAM (Catholic Argentinean Migration Commission Foundation), the INCAMI (Catholic Chilean Institute of Migrations) and the Migrations Board from the CTA were present. Observers from Canada and the U.S., as well as representatives from international organizations such as UNHCR, CELADE, ECLAC, OAS and ILO, participated in this conference. As in the Lima Conference, the main issues addressed were protection of the human rights (the civil society was acknowledged as an active promoter of joint programs for the protection of the migrant’s human rights), the updating and institutional strengthening of the national bodies that usually deals with these issues, regional technical cooperation, etc. The most immediate outcome was the creation of a coordinating and consultative forum on migratory issues for South American countries.

The second conference was held on April 2nd and 3rd, 2001 in Santiago, Chile, aiming to advance the creation and the updating of migratory policies of participating countries, to enhance the regional process of integration promoting the simplification process to allow people’s mobility, to create a consensus regarding the approach for South American people living overseas, and to generate a working space for the defense of the migrant’s human rights among the social organizations and the civil society.

Although the agenda presented these issues, the proposal to allow free circulation of people, launched by the IOM, was rejected by some countries who feared border chaos.

Hence, the final statement only included a comparative study of the migratory administration and a visa regulation (paragraph 5d, in the final document), the defense of human rights, the condemnation of illegal trafficking of migrants, and the improvement of consular services for South Americans living overseas.

Only few representatives from the civil society were invited to the conference in Chile: the INCAMI, Catholic Institute of Migration from Chile and the CEMLA, Center for Latin American Migration Studies from Argentina, which presented at the conference a report on the state of the civil society in South America regarding to migrants, paper requested by the IOM.

The third South American conference on migration was held on August 15th - 16th, 2002 in Quito, Ecuador. The participating governments declared once more their commitment to promote respect for migrant workers and their families according to the internal legislation and to the international instruments; to promote inter-regional cooperation with the European Union to regulate and control migratory flows; to prevent human trafficking; to promote the absolute respect for any person regardless of his/her migratory status in a foreign country, in order to prevent illegal (irregular) migrants from being treated as a criminal offender. The progress achieved at this conference refers to a bigger concern regarding the citizens overseas and the migrants' protection regardless of their migratory status. Many migrants are in an illegal situation, which place them in a vulnerable position where they become victims of multiple sorts of violations to their rights. Governments are starting to realize that their own restrictive migratory regulations create an increasing illegality and unscrupulousness on those who traffic migrants.

Civil society organizations specialized in migration and political refuge in South America worked together with the government, for the first time. A cooperation agenda was discussed among the organizations. Remarks and proposals were presented to the governments, and mechanisms to strengthen and to create a South American network were established.

A meeting among catholic organizations working in the migratory pastoral also took place in Quito. This meeting was organized by the SEPMOV, Human Mobility for the Pastoral Secretariat dependent on the CELAM, Latin American Episcopal Council. Those two meetings in Quito resulted in significant contributions to the civil society organizations and to the governments. Among those contributions, the following are worth mentioning: the acknowledgment of the lack of commitment from some States to the protection of the human rights, the arbitrary detentions, the abuses, the xenophobia, the lack of willingness to define policies to protect human rights and to guarantee the protection of those who are in an irregular situation, the refusal to accept border militarization, the creation of new spaces for the organized civil society, the importance of subscribing and ratifying the International Convention of Migratory Rights of Workers and Families, the acknowledgement of the importance of guaranteeing the intra-regional migration in South American countries that allows free transit and circulation of migrants and their families, and the creation of a permanent survey system of migratory movements.

The Quito meeting represented the beginning of a dialogue between representatives of civil society and governments. This dialogue improved after the divulgation of the final statement from the Catholic church and from the civil society during the previous Conference. The most remarkable outcome from the Conference was the declaration stating that migrants in irregular situation will not be placed at the same level as criminal offenders, as well as the recognition of the importance of the NGOs and religious institutions working in migratory processes.

The Ecuadorian national migration institution organized a meeting for civil society representatives, with the support of the South American Catholic church organizations. During the meeting, the creation of a South American Migratory Network was discussed. The participants agreed that the regional network could not be a goal by itself without strengthening before the existing networks and national boards. It was also agreed that the information exchange and cooperation among the different organizations would be conducted through the internet.

The Fourth South American Conference on Migration was held in Montevideo on November 6th - 7th, 2003. The main issues discussed at the conference were the respect for migrants human rights, reciprocal consular assistance tools, free mobility proposal between South American countries, training of public officials and civil society members and the creation of a South American Migration Forum. In this event, the participation of civil society representatives as observer was very small. Catholic church organizations from Brazil, Argentina, Chile, Paraguay, Bolivia, Peru and Uruguay presented to the participating governments a statement from the Bishops Presidency of the Episcopal Commission for the Migratory Pastoral of Mercosur and associated countries. The Catholic church expressed its support to the regional integration process. Church representatives disapproved the delay to address the human, social and cultural issues facing the economically depressed migrants. The Catholic church offered its forums around the region to disseminate and to discuss residence agreements for citizens of the Mercosur and associated countries.

Mercosur and Migration

Throughout the Mercosur and associated countries, it is possible to observe some progress. On May 10th-11th, 2004 the Second Forum on Migratory Issues for the Mercosur and associated countries took place during the Mercosur and Associated Countries Summit. During the Summit, a basic declaration regarding migratory policies in the Mercosur and associated countries was formulated, the signed agreement was revised, and a regulation project for the migration directors of Mercosur, Bolivia and Chile was also discussed. A proposal to allow the State Ministers from member countries participate in the Mercosur Council was also analyzed. This forum was created to grant the Mercosur Council a stronger presence and decision-capacity within the national President's Office in the government of each Mercosur and associated countries.

On May 17th, 2004 in Santiago, Chile, the Declaration on Migratory Principles for the Mercosur and associated countries was presented. Ministers of State from each country witnessed the event. Among those principles, it is important to note the following: the immigrant's contribution to the configuration of the States to simplify the regularization of

migratory flows in the region to guarantee an equalitarian and fair treatment to regional citizens overseas, the importance of family reunification, the combat against human trafficking and organized crime, the disapproval of massive deportations and illegal detentions, the enhancement of border control, among others.

Recently, Argentina approved a free residence agreement for Mercosur, Bolivia and Chile citizens, subscribed on December 6th, 2002. The Argentinean Congress enacted this agreement as a law (25.902) on July the 13th, 2004. In addition, the Congress enacted the Migratory Law (25.871) on December 17th, 2003. This law has preserved the spirit of the Migratory Workers and theirs Families Convention. Argentina also eliminated the legal articles that denied health care and education to illegal immigrants. Alongside, a few months ago, Peru was admitted as a Mercosur associated country. To support this decision, on September 17th, 2004, Argentina suspended the deportation process of illegal Peruvians (law 29.929/2004). On September 6th, 2004 through the decree 1169/2004, President Kirchner permitted illegal migrants regularize their situation within 180 days.

It is important to note that Argentina has been receiving migrants from Korea, China and East Europe for several years. Brazil, in turn, approved recently a free residence agreement through Mercosur.