

I Municipal Conference on Policies for Immigrants

We are all Migrants

November 29th to December 2013

Base Text

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Introduction

The **I Municipal Conference on Policies for Immigrants (CoMPImig)** – *We are all Migrants*, which shall take place in November 2013 in the city of São Paulo, is a milestone for the movement of immigrants from all over Brazil. As for its consultative character, it aims at contributing to the debate and developing proposals and guidelines that will support public policies for the immigrant population and their families.

The Conference was convened by Decree No. 54,476, of October 17, 2013. The Municipal Organizing Committee (COM), composed by municipal government and civil society organizations' representatives, is entitled of its execution. The COM is chaired by Migrants Coordination Policies at the Human Rights and Citizenship Municipal Secretariat in Sao Paulo, created by the Municipal Decree No. 53,685 on January 2nd, 2013 and ruled by the Municipal Law No. 15,764 of 27/05/2013.

This document should provide subsidies for discussions during the mobilizing steps of the Municipal Conference. This materials results from a joint effort between the IRI-USP (International Relations Institute at University of São Paulo) Extension Program called "Educating for the World," and the members of the Municipal Organizing Committee.

The current document contains: a preamble to the governing principles the CoMPImig, based upon a human rights perspective and an immigration policies approach focus on citizenship and the relationship between government and immigrants, plus a presentation of the issues and debates contained in the four axes upon which the Municipal Conference is structured:

- I – Promotion and assurance of access to social rights and public services;
- II – Promotion of decent work;
- III – Social inclusion and cultural recognition;

IV – Federal legislation and national policy for migration.

In addition, Social and Political Participation is a transverse axis for all these discussions, because only decisive instances participating in public policy are able to ensure the actual meeting of demands brought by the immigrant population. This participation is not limited to the right to vote, but it also includes other actions, for example, participation in deliberative councils.

Conference Methodology

Participation in the Municipal Conference will be wide open and anticipated by preparatory stages organized by COM and/or civil society groups. Proposals emanating from the so called Preparatory Steps will be collected and systematized in order to be discussed and approved by CoMPImig. Both the proposals and the principles adopted at the Municipal stage will be consolidated into a final document and forwarded to the National Conference on Migration and Refuge, which the Ministry of Justice shall organize within next year (2014).

PREAMBLE

1. The **I Municipal Conference on Policies for Immigrants** will approach the issues of migration and public policies for all immigrants, regardless of their origin, ethnicity, gender, race, religion, employment or migratory status in Brazil, from the perspective of human rights.

2. The Conference seeks to establish a horizontal dialogue between civil society and government, for drawing attention to priorities, principles and guidelines that shall inform public policies for immigrants, and thus promoting the democratization at all – municipal, state and federal – government levels.

3. The recognition of migration autonomy and the ineffectiveness and violations caused by restrictive migration policies show the need of drawing a new paradigm to such policies. Following the principles of the South American Conference on Migration, the government should recognize that "a migrant person is a person of rights, the main protagonist of immigration policies resulting in a social and a political actor with changing capability and responsibilities to the whole migration space in which one is developed".

4. The paradigm of security-immigration policies, which sees immigration as a threat to national security, whether through a false association of foreign organized crime and terrorism, whether through defending a supposedly homogeneous national identity in society is a source for xenophobic speeches and attitudes that should therefore be rejected.

5. São Paulo city was and remains built by migrants from diverse backgrounds. Such cosmopolitanism in its history must be translated into effective public policies that recognize all its inhabitants as citizens and active citizens.

6. The concept of indivisibility on human rights requires that the civil, economic, social, cultural and political rights be defended together. In other words, when we think of more concrete policies for the immigrant population, we cannot think of social and cultural inclusion without also reflecting upon access to social, labor and political rights. Equally, we must recognize the limits of these policies within the municipality, questioning also the national legislation. The axes of this Conference are to be understood, as much as complementary as indivisible ones.

AXIS 1: PROMOTION AND ASSURANCE OF ACCESS TO SOCIAL RIGHTS AND PUBLIC SERVICES

Citizenship is a central concept for an immigration overview centered on human rights, for it is the one that defines who has which rights within each country. In Brazil, both Latin and African immigrants' citizenship and social rights deserve some special attention. The first ones, due to the fact that Brazil has made efforts towards further regional integration along with its neighbors, especially through MERCOSUL and UNASUL. As to the latter, for its historical debt with the African continent on the country historical shaping process as well as its ancestral ties with it that ought to be recognized and reinforced similarly to what has been done to Japanese and European ones.

An instrument that goes along with fundamental rights, Law n. 12,288/10 has established a Racial Equality Statute nationwide defining racial discrimination as "every distinction, exclusion, restriction or preference based on race, color, ethnic ascendance or national origin that aims at nullifying or restricting recognition, fruition or practice, under the same conditions, human rights and fundamental freedoms" (art. 1st, § 1st). This Law also defines racial inequalities as "unjustified situations of differentiation access and fruition of de bens, services and opportunities, at public and levels". Such law deals as well with protection dos fundamental rights, giving State a specific co-missive duty to protect collective and diffuse rights.

UNASUL's constitutive treaty, signed in 2008 and promulgated by Decree 7,667/12, in its 3rd article, contemplates the migrant cause, defining, among other Union objectives: "cooperation regarding migration, with integral focus based on a non-restrict respect to human and labor rights to migratory regularization and policies harmonization", besides "building a solid South American identity through progressive recognition of rights to nationals from a Member State living in any other Member State, so much so to achieve a South American citizenship".

Nonetheless, the reality of a South American citizenship is hard to build. Although this as many other agreements internationally signed assure immigrants equality of terms with nationals, difficulties remain in their daily lives, even to access the simplest services, turning these forecasts mere empty words.

Such daily difficulties are mostly caused and articulated by *infra* constitutional law

which is prior to the current Constitution itself. Thus the Foreigner Statute's 4th article (law 6,815/1980) should theoretically assure immigrants the same rights as Brazilians'. But following articles on the same Statute reduce those same rights and virtually forbid immigrants to practice their citizenship.

Segregating these legal and *infra* legal provisions from the practices raised by international conventions ratified by Brazil and its own 1988's Federal Constitution causes a significant part of immigrants' troubles. Conflicting with Constitution itself, international treaties and even public organs resolutions upon migratory policy, the Foreigner Statute is questioned over which should be the right procedure regarding immigrants, thus delaying national policy decision on the subject.

Although Foreigner Statute is still on the run, some of its articles – which in fact quit access by immigrants to social rights – have been legally questioned and even invalidated in Court. Right to education and its assurance to every immigrant children regardless the migratory status has been stated in both São Paulo City and State through resolutions, norms and legal opinions which come from the Federal Constitution understanding. The debate on its reform is ongoing with law projects being submitted to Congress – though this has advanced in a very slowly path insofar.

To sum up the main law ruling immigrants' lives in the country is the cause to most of their difficulties, so much so that a solution is urgently needed. Approving a new Law over Migrations in Brazil, based upon human rights, deserves uniting all social movements in action to fight for it and its potential of representing a paradigm change that will impact immediately on the lives of every immigrant. Any legal barrier shall be reviewed so that public power efforts may focus on building public policies which lead to equal treatment right for all, considering specificities of each group.

Moreover, immigrants – especially those under irregular migratory situation– often suffer from all discrimination and lack of information by public power agents, who diminish their fruition of the very citizenship right. Those are also spaces for the Municipal Public Power to act along with all the debate over the federal law reform about the issue. A paradigm change must so be guided to a public power action in accord with the human rights playing as a central axis to its activities.

Eventually, even if immigrants have their economic, social and cultural rights assured, only the access to political rights will actually turn them into real citizens and assure them the right to elect, being elected and fighting for their own demands within political institutions.

Migrants Policy in São Paulo City

Several deficiencies at public services attendance to immigrants reflect the normative emptiness regarding public administration acts over the last decades. Its frontlines lack the due preparation in order to take proper care of immigrants' specificities concerning culture, social status, stability regularization and others. Furthermore, the lack of articulation among state organs turns it much harder to spread the word among the organs to which immigrants usually head to. At last, there's no specialized attendance or single policy to guide how to diagnose and solve immigrants troubles. That happens not only to data circulation among municipal, state and federal spheres. It occurs as well within each sphere, i.e., inner organs at the City Hall, State and Union Governments.

Not being constantly educating servers creates, on its turn, along with language barrier, a favorable environment to wrong information giving and disrespect to these persons' rights. Such a situation keeps migrants from seeking access to public power organs, due to their disbelief – and even fear – of doing so. In this context, immigrants' marginalization in the city tends to rise, for they become an easier target to many of their fundamental rights violations.

Due to insufficient public attention to immigrants in the City, there are several assistance associations that help sort out their difficulties. Historically, many religious and laic organizations have dealt with the subject. Nowadays, new groups and self-organized movements have emerged as main actors on immigrants' rights defense cause. These associations have also played a major political role on conquests made so far. The very recognition of the issue by municipal government results from this massive joint effort.

In 2013, São Paulo City Hall government, in an attempt to fulfill this historical gap in public power action on the matter has created the Coordination for Migrants Policies (CPMig) within the Human Rights and Citizenship Municipal Secretariat (SMDHC). Its first challenge, though, is to draw with trustworthy data the reality about the immigrants situation in the city, i.e., mapping the exact quantitative info by nationality; neighborhoods where they live; life and working conditions; and familiar reunion. This diagnosis must consider variables such as gender, race and generation at public policies building. The lack of such information makes it difficult to plan and execute public policies, in ways that this matter urgently calls for a solution whilst the efforts towards attending historical demands which have never been dealt with before are getting started.

Access to education

In Brazil, education is a right to every person, as guaranteed by the Federal Constitution's article n. 205. Although national legislation assures this right, cases in which lack of info, discrimination and institutional racism blockade or make it harder for immigrant population to access education are awfully common. It's often required from the immigrant to present a Foreigner National Register (RNE), Registration from Individual Number (CPF), residence proof and other documents that are the same as requiring from him or her a regular situation, blocking their access to the most basic social rights constitutionally guaranteed. Regarding graduation and PHD studies, the rules at times are real barriers to fundamental rights such as public education access. One must yet emphasize that in its Federal Constitution (4th art.), Brazilian international relations are guided, among other, by the principle of cooperation among the peoples to the progress of humanity.

To the extent that due to several reports of immigrants school appliances being denied on State Public Schools, it was published the Resolution number 10, on February 2nd 1995 by State Secretariat for Education (Resolution SE nº 10/95), saying: "in agreement with the fundamental rights assured by the Federal Constitution, it's assured immigrants' access to basic and average school levels in public schools, regardless their nationality or documentation".

On July 8th 2009, a note by Coordination of Studies and Pedagogic Norms along with the Education Coordinators within Great São Paulo Metropolitan Area and Countryside was published on the Official State Journal in order to reinforce what says Resolution SE nº 10/95 and thus avoid misunderstandings. On a municipal level, the Municipal Council for Education nº 17/ 2004 assures not only immigrant children's application without Brazilian documents but also forbids sending the concluding names out to the Federal Police. It must be clear that effectuating such right requires as much info and knowledge actions for public agents as empowering immigrants on their rights.

Beyond fundamental education, one must also debate immigrant children's access to the municipal kindergartens, a matter of major relevance to immigrant women upon who traditionally befalls the due to take care of the youngest ones. The lack of vacancies often keeps the mothers away from the job market or forces them to keep children in tailoring offices and other inadequate workplaces, causing several risks at their physical integrity, besides fostering children labor cases.

The access to public university is also a priority. In addition to general difficulties related to restrict offer, immigrants may yet face difficulties regarding scholar historic recognition, migratory documentation and way too great sanctions for losing a visa deadline, what at times costs them the entire academic path, the spent time and invested resources due to a formal error which could be much more easily solved.

Access to Health

Alike the right to education, right to health access is assured to everyone upon the 196th article of Brazilian Constitution and the 2nd article at the Health System Organic Law (law 8,080/90). This article gives State the duty to create policies that assure universal and equal access to Health.

In spite of an important progress on accessing primary attention health services, such as Health Basic Unities/Family Health and also on aggregating Community Health Agents from other nationalities (Bolivian and Congolese ones, for instance), situations remain where public health services demand Brazilian documents from immigrants, especially for medical appointments and specialized exams whose main logics is yet the most profitable one.

The language issue is another complication on the effective public service use, for it affects the communication and good understanding on immigrant-professional-service relation. Also, the medical professional formation doesn't embody issues on the migration and health relationship. The biomedical model doesn't recognize immigrants' cultural practices and traditional wisdoms on health (in particular, the indigenous peoples'), also a frequent demand from the movement.

Fighting the violence against the immigrant women

Immigrant women in general suffer from several kinds of discrimination, for in addition to gender inequalities they also face ethnic prejudice and racist/xenophobic mindsets. This reflects upon the way how they're (not) inserted into the host country society, remaining excluded and marginalized – especially at the job market, in which female immigrants are restricted to undervalued and poor jobs, mainly within informal economy or even in slavery-like situations.

Immigration deepens violence against women effects since economic conditions and social isolation, in adding up to the largest family absence, increases the dependence over the

partner sensation, leaving female immigrants more fragile in face of aggression. Furthermore, the fact that a significant part of these women work and live at the same place, such as many tailoring offices, amplifies their exposition à violence, for domestic violence is then confused with violence at work, what increases their vulnerability on situations such as sexual harassment.

On this context, fear is an important factor when it comes to why immigrant women don't look for proper support. Fear not only from the aggressor, but especially from Justice and Police services, due to their irregular migratory status in the country: fear of being arrested / repatriated; fear of losing their children and/or losing them to the male aggressors. It's worthy to notice that one way aggressors and enticers stop these women from accessing social equipments and public is retaining their documents, what complicates their search for other jobs e houses.

As a consequence, structural social violence based on the way immigration issues are seen is reinforced on immigrant women's case, or at least it also stops them from defending themselves against the individual violence which occurs at home and/or at the workplace.

Summing it up, it's fundamental to assure the female immigrants' access to public services and to municipal equipments, especially those aimed at attending and hosting women undergoing violence situations.

Migratory Register

The first contact between immigrants and the Brazilian State, in general, happens during migratory register at the competent public organ. Their register is done by the Federal Police, not always in a satisfactory manner. Critics refer mostly to attendants' posture, generally due to poor preparation causing several processes errors, as well as to a major delay in processing requests and delivering documents, and also to the most profound one about their proper adaption to working Migrations thematic, after their lack of Human Rights formation.

Police education shapes the organ and generates tension in the territory where one fights against criminalization of the immigrant condition in irregular situation and against the migratory approach through security. The Police symbolism and repression historic in the country also inhibit and reinforce chances that immigrants remain out of social participation, multiplying violations. A first barrier that immigrants face is raised not only by their irregular situation, but also by the institutionalized power that should solve such an issue.

Foreigners coming out from penal system (egresses) are also victims of inefficiency and carelessness – beyond prejudice itself – from the public system authorities. Center of Attention to the Egress and Family (CAEF) at the Secretariat for Penitentiary Attention (SAP) in Sao Paulo State estimates that 99% of immigrant egresses come to the city after their consulates to seek further information about their situation. At seeking these organs, however, they're unable to normalize their documents due to their criminal record.

Freedom of expression and access to cultural production

Foreigner Statute along with the Federal Constitution itself both make it difficult for immigrants to play central roles on mass communication media, such as newspapers and radio or TV business. Law project No. 5,655/09 keeps those restrictions, forbidding immigrants to own communication enterprises as well as being designed as editors or directors in any communication media. These measures clearly restraint immigrants' freedom of expression right.

Besides that community radios and papers are the most accessible means when it comes to immigrants vehicle their demands and culture and also to organize their rights defense. Law No. 9,612/98 institutes Community Radio diffusion Service, though clearly forbidding immigrants to access such Service. Its 7th article states: "The only ones that are competent to explore Community Radio Diffusion Service are the non-profit community foundations and associations, once legally established and duly registered, with headquarters within the community area of the intended Service and whose directors have been either Brazilian born or naturalized for over 10 years."

Such restriction directly impacts on immigrants' daily lives, being fundamental to promote a constitutional review which then recognizes the current migratory reality, assuring this right and fostering these communities' access to communication media.

AXIS 2: PROMOTION OF DECENT LABOR

Throughout 20th century, mainly on 1980's and 90's, an increase in globalization and economic liberalization provoked changes on the dynamics of important socioeconomic flows, such as labor. As a consequence, social actors like State have noticed their participation in the

economic field being significantly reduced in favor of market forces and private businesses. Such conditions have drawn a new context in which rights and labor conditions have become unstable.

International Labor Organization (ILO), upon a rise in the volume and plurality of issues being undertaken, has chosen to unify its agendas from four essential points towards labor issue: i) obedience to international conventions and their defense of fundamental principles of labor; ii) public policies promotion for social worker protection; iii) policies promotion for job and income; iv) assurance of social dialogue among stakeholders of the labor issue: enterprises, governments and workers.

Such unification was summed up from the Decent Labor concept, used for the first time on the 87th International Labor Conference in 1999, by the former ILO director, Mr. Juan Somavia. Introduced as a policy norm based on Universal Declaration of Human Rights by United Nations Organization and the Declaration of Principles and Fundamental Rights of Labor by ILO, Decent Labor concept overall defends assuring workers their rights and minimum¹ conditions to make a living in ways that their own human dignity is respected, as much by State as by any other society member.

For allying labor to human rights, Decent Labor is defended by ILO as the best manner to obtain both social and economic development at once. It's thus high lightened when it comes to migrant workers issue the international ruling relevance through ratifying Conventions 97 and 143 by ILO on Migrant Workers. Brazil has ratified Convention 97 and, on August 2008, forwarded the Convention 143 to the National Congress appreciation.

In Brazilian case, Foreigner Statute, with all the barriers and restrictions that are imposed to immigration, limits regular immigration possibilities and raises the number of cases or situations in which persons migrate in spite of legal barriers. Their conflicts with the current law turn them into a more vulnerable and susceptible persons to working force exploitation, besides making it difficult for them to denounce such violations to Public Power. As to the ones with legal possibility to regularization, the path is also hard. Bureaucracy goes along with it at any step (documents, deadlines, authentications, legalizations, etc.) and is at times an unnecessary weight that should be reviewed.

Concerning decent labor, if we consider every undergoing initiative to its promotion,

¹ Among the so called minimum rights to have a job there are: job opportunity and freedom of choice about it; right to fair job conditions (referring as much to a safe and healthy environment as to a limited working journey with times to rest); freedom and right to workers' union; prohibition of child labor; right to social protection (fair salary, safety against social risks), equity at work, and others.

it's surprising that immigrants' labor registers (CTPS, in Brazil), for example, cannot be printed out in several public places, such as the nationals' ones. Decent labor incentives cannot have as obstacle such a formal and controlling measure as this one, delaying expedition and making it difficult to access formal labor market.

Surveillance over protection to workers legislation, especially concerning labor conditions, is in charge of the Ministry of Labor, through the Labor Fiscal Auditor. Referring to the immigrant labor exploitation, several surveillance actions in tailoring offices have been taken, often resulting in their closure, paying workers fees, as well as fining huge magazine stores networking that rent such labor, through a multilevel third part mechanism which have immigrants on the base of the production chain.

Labor surveillance plays a central role in fighting labor exploitation and violations to which a huge number of immigrants is constantly submitted. In order to change this reality, however, it's necessary to adopt public policies that reduce communities' vulnerability especially by migratory regularization; whilst expanding their labor opportunities, for instance, through formation courses.

A worsening factor to the absence of competent public institutions is that it's impossible for immigrants to participate in politics as a channel to pressure the government towards this part of society. Since a direct representation doesn't currently exist, more civil society organizations are needed to act along with immigrant communities to build diverse collective agendas in specialized forums, such as some church sectors, human rights forums, syndical centrals, political collectives, independent activists, and others.

Ministry for Labor and Employment and Brazilian ILO developed in 2008 a seminar to think through this subject, resulting in the signature of the Joint Declaration on Cooperation in Labor Migrations Areas between both entities. By this declaration, both institutions have launched basis for a shared effort towards promotion and construction of migratory policies at the stake of goals aimed at migrants workers established upon the Hemisphere Agenda for Decent Labor in Americas and the National Agenda for Decent Labor in Brazil and also within the "Multilateral Mark at ILO for Labor Migrations: principles and non-bounding guidelines to another focus on labor migrations based on their rights".

Among the proposed actions there are: promoting policies that take to its highest the migration contribution to national development with the necessary protection of migrant workers' rights; promoting decent labor policies on migrations as a development tool, in coordination with the host countries; the normative strengthening of its application, with

emphasis on multilateral instruments to the issue, such as Conventions n. 97 e 143, that are calling to cooperation among States and more measures over migratory flows with protection over migrant workers rights.

AXIS 3: SOCIAL INCLUSION AND CULTURAL RECOGNITION

The ideal of both an open society, one where each and every person can access their rights, and the intercultural dialogue, feasible by globalization and migrations, should be valued every time in contemporary life. In order to achieve an intercultural and synergetic society, every country must foster an environment of respect and inclusion to those who come from other areas. Therefore, it's not enough to guarantee economic and political rights to all immigrants. It's equally essential to assure their cultural and social recognition in the host country.

Even if Brazil is often regarded as a place that welcomes foreigners, cases of prejudice, racism e xenophobia are commonly reported against immigrants. Such situations might get worse when dealing with women and child. By recognizing immigrants, a society can no longer - socially or culturally - see them as 'aliens', 'strangers' and so forth, while it fights against xenophobic acts.

Integration and not acculturation

Imposing that others abandon their origin culture in order to practice the host country majority's one instead is a violence against those who have already experienced a major disruption when leaving their countries to seek unknown places that were also distant from relatives and beloved ones. However, in many ways, the host society believes that social inclusion means to embody the new cultural elements, habits and values. Thus this is not an inclusive process, for the immigrant either loses the self throughout it – with a major cultural loss – or falls apart in closed communities – fostering prejudice and xenophobia against themselves.

A social and cultural inclusion policy towards the migrant population must be based upon intercultural dialogue. Likewise, the immigrant culture will no longer be regarded as “strange” and it becomes a part of the host, i.e. the Brazilian, culture. Public powers acts towards immigrants' social integration shouldn't mean denial or anything else but promoting

the culture of those who have moved towards this place, meanwhile the communities are allowed to preserve and disclose their culture all over the country, adding value to it.

“Brazilian culture” as a concept itself should be understood in its extraordinary diversity instead of something lost in time or as an “essence” for it’s the result of combining (amidst conflict and contradiction) several cultures that have for centuries in time forged the country’s nationality.

Education relevance in an inclusion policy

Education is an intermediary and a facilitator for intercultural dialogue. Being one of the person’s first socialization spaces, school is one the most important tools for inserting immigrants in host society. It’s where children and the young make most of their friends for life and when teaching about respect and intercultural knowledge starts.

School subjects that address knowledge and respect towards other countries’ cultures and dealing with migration issues in a non-hostile manner also foster inclusion because they sharpen one’s curiosity about intercultural dialogue and because they permit a better comprehension of kids and youth over immigrants, which are already students in our schools. So that this dialogue may be effective, however, we must admit that cultures are neither static nor complete beings, but that they’re constantly built and rebuilt, completing one to each other.

Accessing different cultural elements both eases these complementarities perception and fosters a recognition, respect and dialogue culture. In such ways, those whose culture differs from the majority’s one are then able to integrate more easily, being no longer seen as strangers and being instead recognized as equals in their own difference. Recognizing equality in difference – i.e., the concept of *equity* – is, hence, an essential aspect to promote a society where immigrants are truly welcome.

Besides that, any other action lead by prejudice must be repudiated and punished, mainly when coming from public agents. Special attention is needed when it comes to “bullying” cases in relation with national and ethnic origin. One must remember that this fight is not for immigrants only to battle, for it’s the State duty to assure equality and to deny any kind of prejudice among the members of its population.

Strengthening up the debate over migration and different cultures at school, it’s important to offer extras Portuguese classes, easing children’s adaptation to the new language

and culture. The matter of language is one of the main barriers to immigrants' integration in a society. Thus if the objective of public power is to foster a space for immigrants recognition within society, this problem must be tackled, even regarding adults.

Adult women and men are used to having major difficulties to local language learning, what causes problems not only to their contact with outsiders of the immigrant community, but even to their access to basic rights, such as health, education and safety. Alike, it's important to have the teaching of immigrants' idiom at school, increasing the possibility of mutual knowledge and interaction between the scholar community and the culture of other countries, thus avoiding a forced process of acculturation. Although Spanish language inclusion at the curricula (obligatory offer and optional application) has been achieved through federal law number 11.161/05, it lacks enough teachers to make ends meet. Nevertheless, learning a new language shall be neither the imposition to abandon the mother tongue nor to prohibit immigrant communities of speaking it.

It's thus clear that problems regarding immigrants' inclusion at school are related to issues from the public education system and shouldn't be seen apart from it – neither totally or partially.

Access to information

One of the greatest barriers to immigrants' integration is the lack of info. Divuligation of pamphlets or flyers by the public power, very often, doesn't meet its targets, once a big part of this material's published on local language only, troubling immigrants' comprehension of their rights and duties.

Same thing happens to the Foreigner Statute, which is confuse on itself, with several gaps and scattered complementary norms, with no translation to foreign languages. Thus, government measures aiming at a better data disclosure among the immigrant population, especially about their rights and duties (how to access or validate them) or even documents obtaining procedures are necessary as well as urgent.

The very existence of info centers which are able to attend the migrant population, placed in ways to ease and make their information access possible could be seen as another relevant and feasible measure when trying to solve this trouble.

AXIS 4: FEDERAL LEGISLATION AND NATIONAL POLICIES FOR MIGRATIONS

A central piece of legislation currently dealing with the migratory is the Law number 6.815, from August 19th, 1980, named the “Foreigner Statute”, sanctioned in December of the following year by the President then, Mr. Figueiredo. Having been built on military dictatorship, its whole logic is inserted within the “national security” policy. According to it, migrant is treated as a thread to the whole country, undertaking then by legal imposition more duties than rights. Besides avoiding immigrants’ intrusion into national topics, the law aimed at expelling them.

Its second article affirms: “While applying this Law, one must attend principally to national security, to institutional organization, to political, social-economic and cultural Brazilian interests, as well as national worker’s defense”. It’s inspired by it that Foreigner Statute is built by then.

Insofar, thirty two years after Law number 6,815’s implementation, much of international and national context has changed. Our Constitution, from 1988, emerged from a context of new democratization, is guided by respect to human rights – among them, the right to migration – and is bound to follow international agreements signed by the country. The current Foreigner Statute, which essentially doesn’t respect any of these principles, has not yet been reviewed, generating several conflicts and contradictions. A perpetuation of a Foreigner Statute in disagreement with both the current national and international legal order generates conflicts, violations and the most diverse misunderstandings there possibly could be.

Brazil has already ratified a major part of Human Rights Conventions promoted by UNO (United Nations Organization) and also by ASO (American States Organization dos States)². Many agreements among Mercosul countries, such as Residence Agreements from 2002 (implemented by Decree number 6,975/2009) and international conventions, such as Geneva Convention in 1951 on Refugees (implemented by law 9,474/97), which are totally present nowadays, they differ from the paradigm at the Foreigner Statute’s approach to migrations. Although these agreements have represented a major gain on a migratory policy construction based on human rights, Foreigner Statute, which still rules all specific situations, creates as a

² Possible quotes: *Agreement upon the concession of travel ticket to refugees under the Intergovernmental Refugees Committee jurisdiction*, signed in London on October 15th 1946; *Convention on prevention and repression for the crime of Genocide*; *Convention relating the Refugees State*; *International Convention on the Elimination of all Forms of Racial Discrimination*; *International Pact for Civilian and Political Rights*; *International Pact on Economic, Social and Cultural Rights*; *Protocol on the Refugees Statute*; *American Convention about Human Rights*; *Convention upon the Elimination of all Forms of Discrimination against Women*; *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatments or Penalties*; *Convention for the Children’s Rights*; *Convention for the Rights of Persons with Disability*.

matter of fact several troubles to policy building in ways that allow this social group to practice their citizenship.

Besides that, there's an international treaty dealing specifically with migrants' rights and that has not yet come to pass in Brazil: the "United Nations Convention on protecting rights of all migrant workers and their family members", adopted by the UNO General Assembly in 1990. After twenty years, on December 16th 2010, this Convention was forwarded to the Congress in order to be approved and ratified. Ever since, there has been little progress within the Parliament. A call for a great mobilization for its ratification is open, for this Convention consolidates the paradigm for respecting rights of immigrants within the Brazilian migratory legislation.

This Convention guarantees a series of rights, including migrant workers in irregular situation, an important data that deserves being expanded. Universality, indivisibility and human rights interdependence established upon the 1993 Vienna Declaration must guide the assurance of rights to each and every immigrant person regardless their migratory situation.

Finally, executing all these norms happens through articulating several ministries, among which: the External Relations; Justice; Labor Employment and Social Security, besides the National Counsel for Immigration (CNIg, organ attached to MTE). The great number of organs implementing the law at times confuses the process, turning it an urgent call for institutional and legal reform when dealing with the migratory issue.

Proposals of substitution to the Foreigner Statute

Due to all this, there's a consensus regarding the need of approving a new Migrations law in Brazil. Several Foreigner Statute substitution proposals have been presented over the last years, as much to the Deputies Chamber as to the Federal Senate. Basic discussion base refers to the need of building not a "new Foreigner Statute", but a true "Migrations Law", i.e., not just a law to control the lives of the nationals from other countries living in Brazil, but one that defines instead how to deal with migratory movements in Brazil. It must strengthen a contemporary view of the subject, one that longer considers necessary not to protect the country from an "external thread" but to work upon its regional integration.

From that point of view, the law project number 5,655/09 which would bring upon a "new Foreigner Statute" does not proceed, for it serves as a mere update of the old Statute. Recognizing the need to present a new proposal, Ministry of Justice created this year, by Norm 2,162/2013, an Experts' Commission to write another proposal to replace PL 5,655/09 for a new

Migrations Law in Brazil. It's yet required that the new legislation construction process on the issue in the country be largely participative so that the new law responds to the current challenges on the subject, thus assuring immigrant persons rights and treating them as protagonists of their lives and stories. To such initiative from the Executive power, others come along, such as PLS 288/2013 whose author was Senator Aloysio Nunes, and which is also in parliamentary discussion.

Compliance to international commitments undertaken by the country must also be object of analysis by the new legislation. After all, an effective Human Rights protection is strengthened up by the relation between Domestic and International Law, mainly at the combat to sovereignist and nationalist speeches. Such concepts, rooted in the State political and legal ideologies amidst the context of the 1980's Foreigner Statute, have been progressively naturalized in ways to restrict the "other", reducing the immigrant person to a plain Foreigner element within the national land, instead of worrying about the rights assurance to these persons.

It's clear, then, a fundamental principle in harmony with the State of Rights that we live in: non-criminalization of migration. **Migrating is no violation; it is, on the contrary, a right.** Crossing frontiers is thus no crime, even when it occurs in an irregular manner. Therefore, when combating the traffic of persons – great transnational crime which must be dealt with in cooperation of States – should not include the criminalization over the migration itself.

Brazil has signed and promulgated by Decree nº 5,017 on March 12th, 2004, the Additional Protocol to the "United Nations Convention against Organized Transnational Crime on Prevention, Repression and Punition of the Persons Traffic, especially of Women e Children" ratified also on the same day by Decree number 5,015/2004. The country already has as well a National Policy of Combat against the Traffic of Persons³ and two Plans of Combat to the Traffic of Persons (PNETP), published in 2008 and 2013⁴. Public power actions within such sphere should comprehend this critical thinking, since blaming the immigrant for similar crimes or restricting the migratory debate focus on the crime fight is to ignore rights that are inherent to humans and thus reduce them as an excuse to avoid violations.

While not criminalizing migrants' irregularity, State must launch accessible means to their regularization. Nowadays, these are narrow ones and the country has insufficient infrastructure as well as human resources to supply the current migratory demand. Opening to

³ Decree n. 5,948, October 26th 2006.

⁴ I PNETP – Decree n. 6,347, January 8th 2008; II PNETP – Decree n. 7,901, February 4th 2013.

State migratory regularization must include victims of calamities and traffic of persons, in accordance with the principle of humanitarian hosting.

About economic, social and cultural development, Brazil needs to overcome a migration view that serves only to the “national interest”, one that has historical preference to Brazilian over immigrant workers on the labor market. Such a selective pose is excluding and does not recognize wealth and relevance of the migrations to the country formation.

Likewise, Brazilians that emigrate to live abroad deserve more public power attention and policies to meet their needs and protect their rights, in particular, at the moment when they wish to return to their origin country. In this situation, the ones so called Brazilians returnees suffer, for instance, from obstacles to the recognition of their documentation obtained abroad, among other not less important social reinsertion difficulties.

Political participation and right to vote

One of the main demands from the migrant population is the right to political participation and to voting. These rights in Brazil are still very restricted. Though it’s clear that political participation is not reduced to the right to vote, this is a fundamental topic in effecting any other rights. Besides voting, other forms of participation by the migrant population must also be promoted at all levels of the Federation: Councils, Committees and Consults.

One constitutional change on the 14th article, §§ 2nd and 3rd on Federal Constitution/1988, in order to assure the right to voting for all immigrants is thus needed to effect a full citizenship amid this population. Recently, PEC number 119/2011 by Deputy Roberto Freire (PPS/SP), allowing their right to vote for municipal election only, and PEC number 25/2012, by Senator Aloysio Nunes (PSDB-SP) giving their right to vote and to be elected in municipal elections, have been proposed. The most recent one, PEC number 347/2013, proposed by Deputy Carlos Zarattini (PT-SP), is the only one to propose the immigrants’ right to vote and being voted at all Federation levels.

In effect, denying immigrant men and women the right to vote in Brazil amid all regional integration process is, at least, at odds with the desired equity among all of the regional nationals and others, for voting is a core mean to individual’s political voice in a democracy. Immigrant’s condition should not justify – what is worse – motivating a limitation of rights, for it’s against the equality principles as recognized by Brazilian Constitution as by the accepted international norms.

In several countries, full and universal political participation is assured to immigrants. In South America, almost all countries recognize in a state level the right to vote for this population. In Argentina, for example, political rights are recognized in the whole country to municipal level. Provinces of Córdoba and Buenos Aires have extended foreigner's right to vote to the Executive and Legislative authorities. In Chile, right to vote on municipal elections, parliamentary and presidential is established on the 14th article of the Constitution for every Foreigner regularly living in the country for over 5 years, as long as they're over 18 years old and haven't committed crimes. Uruguay, Bolivia, Peru, Paraguay, besides many European countries, such as: Denmark, Holland, Norway, Spain, as well as a few states and cities within the United States of America, guarantee as well the right to vote the immigrants under different conditions in some election level.

Nowadays, immigrants' right to vote in Brazil goes through a naturalization process, that is, through Brazilian nationality acquisition, what should be a free choice and not a requirement to social and political participation. This requirement is at odds with the international legislation about human rights and migration and must thus be rejected, fostering instead a perspective of full recognition of political rights, as an integrating dimension of the citizenship.

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The Municipal Conference is an important conquest by immigrants' social movements and its construction has involved the effort and dedication of several persons as well as of government and civil society organizations. Hopefully it will become a historical mark on the paradigm change— from national security to human rights – that has started in the São Paulo city, and it will be the starting point to effect migration as a fundamental right of every human being.

The Municipal Organizing Comisión is composed by 28 members of the Civil Society and the Municipal Government. They are listed below:

Representing the Fórum Social pelos Direitos Humanos e Integração dos Migrantes no Brasil

Asociación Japayke

Associação dos Empreendedores Bolivianos da Rua Coimbra - ASSEMPBOL

Central Única dos Trabalhadores - CUT/SP

Centro de Direitos Humanos e Cidadania do Imigrante - CDHIC

Equipe de Base Warmis-Convergência das Culturas

Instituto pela Reintegração do Refugiado - ADUS

Presença da América Latina – PAL

Representing the Rede Interinstitucional em Prol do Imigrante

Cáritas Arquidiocesana de São Paulo

Casa das Áfricas

Centro de Apoio ao Migrante - CAMI
Instituto Terra, Trabalho e Cidadania - ITTC
Missão Paz
Patronato INCA CGIL
União dos Estudantes Angolanos em São Paulo

Municipal Secretariats

Secretaria Municipal de Assistência e Desenvolvimento Social (SMADS)
Secretaria Municipal de Cultura (SMC)
Secretaria Municipal do Desenvolvimento, Trabalho e Empreendedorismo (SDTE)
Secretaria Municipal de Desenvolvimento Urbano (SMDU)
Secretaria Municipal de Direitos Humanos e Cidadania (SMDHC)
Secretaria Municipal de Educação (SME)
Secretaria Municipal de Esportes, Lazer e Recreação (SEME)
Secretaria Municipal de Governo (SGM)
Secretaria Municipal de Políticas para Mulheres (SMPM)
Secretaria Municipal de Promoção da Igualdade Racial (SMPIR)
Secretaria Municipal de Saúde (SMS)
Secretaria Municipal de Serviços (SES)
Secretaria Municipal de Relações Governamentais (SMRG)
Secretaria Municipal de Relações Internacionais e Federativas (SMRIF)