

Report to the Presidency Committee of the IAJ after my participation at a seminar in Geneva, about refugees and migrants, organized by the International Commission of Jurists - ICJ, November 2016

Dear colleagues,

first of all thanks for appointing me to represent IAJ at this seminar. The meeting was really well organized and all my expenses were covered by ICJ, with the sponsor of the Switzerland government. There were at about forty jurists at the venue: judges, lawyers, prosecutors, professors and journalists from all over the world. ICJ has its main office at Geneva and subsidiaries at Bangkok, Johannesburg, Guatemala and Brussels. ICJ works in the defense of human rights and already made seminars before about the rule of law, the role of the woman judge, access to Justice, domestic violence, etc. The conclusions, ideas, suggestions and knowledge of their conferences are available for jurists, government and civil society.

This year the meeting was focused on the role of the judge in the large movements of refugees and migrants. What can be done, contributions, difficulties, solutions, challenges in the access to Court by refugees? What can each lecturer bring from their own country that is important for the others participants?

The migrants and refugee law is few studied in most Universities around the world, although in USA and Costa Rica there are immigrants special Courts. It is a duty of each judge to exactly know the rights of the migrants.

The migration in Africa is very large inside the continent, not only towards Europe as seen on TV. The refugee problem is worldwide and very ancient, occurring also in Asia and in the Americas, with many people simply disappearing, getting missed during their travels. The action of traffic people criminal gangs makes much more worse the condition of the refugees. Usually the migrants scape from poverty, violence, war, economic crises, political instability, environmental disaster, religious and sexual discrimination, and they look for a better life for their families in a new country.

If the governments build walls, shall the judges build bridges to help the refugees?

A migrant has only his life and the judges have all the power to decide on their name, papers, work, home and family. The authorities must inform the refugees the international rights of migrants, and they shall have access to a lawyer and a interpreter. The problem is how to pay these professionals, as most of migrants are miserables, and the legal aid is sometimes not efficient, as many countries do not want the refugees. And also, how can refugees rights can be guaranteed if there are no public funds enough for all? How far the judicial power goes beyond the economic limits that the law can not control?

Greece is under pressure in Europe because is the main door of many Africans and Syrians asking for refugee in the continent. There is a risk that the friendly countries to migrants, have in the near future xenophobes politicians, elected as a reaction of their more conservative population.

It is important that requests for admission from the migrants to the new country can be submitted to judges, not only at the Police Station. Specially because policemen are very stressed in their daily fight against drug dealers and terrorists hidden among refugees. So, the difficulties for

refugee admissions must remain, as a border control against criminals? How can we require mercy for a poor refugee from a policeman used to face drug dealers and terrorists?

The refugee must work and study while wait for his official admission, and they should not be detained during the procedures of his request for asylum. The migrant is under vulnerability, without money, papers, physically tired, mentally exhausted, does not know the language of the new country, how can he manage his arguments and prove his refugee condition to ask for admission?

As a conclusion, I would say that the refugee problem is a very hard solution , and the change of experiences between judges is essential to face this international matter.

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Judge Rafael de Menezes

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