



The International Law challenges facing the Countries Sovereignty – The case of Brazil about the Haitians immigration

**COP24 SIDE CONFERENCE ABOUT THE ENVIRONMENTAL
MIGRATION**

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- The international community didn't arrive yet to define, categorise and to give a proper protection to the climate migrants that are/will be obliged to move out from their country.
- In addition to that, we are facing a rise of the safety speech and the importance of closing the borders used by most of the countries in the world.
- The international protection set up raises important questions about the capacity of public international law to build a legal instrument which will really be able to give protection to the "environmental refugees". (Christel Cournil)
- Inclusion of the environment refugee in the Geneva Convention, Climate Change Convention or creation of a new international convention?

- Countries see the migrants reception as a heavy responsibility and mostly of this responsibility is financial.
- When a discussion about a convention is taking place the Sovereignty Principle used together with the Non-Interference Principle raise obstacles as long as we are touching a delicate subject: the territory access control.
- The territory access control (Migration Control) is the most significant symbol of the State Sovereignty
- The Brazil's position is that environmental refugees must be treated in a Humanitarian Law point of view.
- In 2010, an earthquake hit Haiti and its consequences obliged the migration towards first to North Countries and then towards South Countries.

- Because of the good relations between Brazil and Haiti and by the fact that Brazil has showed receptivity to its population the Haitians started to migrate to Brazil.
- In the beginning Brazil issued to the Haitians migrants pre-determined expiration date visas.
- But in the end of 2011 with the migration increasing the Brazilian authorities beginning to worry about the impact that the migration could cause to the Country and their residents.
- So in January 2012, instead of closing his borders to the migrants, the Brazilian government stated a annual limitation of 1200 pre-determined expiration date visas. This decision was taken based on humanitarian reasons.

- In 2013, the Brazilian Immigration National Council established the limited visas issuance to the Haitians in environmental refugees condition. The limitation of visas issuance to the Haitians came to an end.
- This decision was based in two legal principles: the non-refoulement principle and the principle of human dignity (Article 4 of the Brazilian Federal Constitution).
- But it's also possible to use the article 225 of the Brazilian Federal Constitution
- **«All persons are entitled to an ecologically balanced environment, which is an asset for the people's common use and is essential to healthy life, it being the duty of the Government and of the community to defend and preserve it for present and future generations.»**

- The use of the expression “All persons” extend the scope of the legal command without predefine who is the person entitled and without exclude no one.
- With the issuance of humanitarian visas Brazil gave to the Haitians access to the same social rights than the brazilian population has.

25

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