

Humanitarian Emergency of the Refugee Condition for Central American Immigrants in Irregular Situation

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Abstract : In México, the recognition of refugee condition is a fundamental right which, as host State, has the obligation of respect, protect, and fulfill to the foreigners - where we can find the figure of immigrants in irregular situation-, that cannot return to their country of origin for humanitarian reasons. The recognition of the refugee condition as a fundamental right in the Mexican law system proceeds under these situations: 1. The immigrant applies for the refugee condition, even without the necessary proving elements to accredit the humanitarian character of his departure from his country of origin. 2. The immigrant does not apply for the recognition of refugee because he does not know he has the right to, even if he has the profile to apply for. 3. The immigrant who applies fulfills the requirements of the administrative procedure and has access to the refugee recognition. Of the three situations above, only the last one is contemplated for the national indexes of the status refugee; and the first two prove the inefficiency of the governmental system viewed from its lack of sensibility consequence of the no education in human rights matter and which results in the legal vulnerability of the immigrants in irregular situation because they do not have access to the procuration and administration of justice. In the aim of determining the causes and consequences of the no recognition of the refugee status, this investigation was structured from a systemic analysis which objective is to show the advances in Central American humanitarian emergency investigation, the Mexican States actions to protect, respect and fulfil the fundamental right of refugee of immigrants in irregular situation and the social and legal vulnerabilities suffered by Central Americans in Mexico. Therefore, to achieve the deduction of the legal nature of the humanitarian emergency from the Human Rights as a branch of the International Public Law, a conceptual framework is structured using the inductive deductive method. The problem statement is made from a legal framework to approach a theoretical scheme under the theory of social systems, from the analysis of the lack of communication of the governmental and normative subsystems of the Mexican legal system relative to the process undertaken by the Central American immigrants to achieve the recognition of the refugee status as a human right. Accordingly, is determined that fulfilling the obligations of the State referent to grant the right of the recognition of the refugee condition, would mean a guideline for a new stage in Mexican Law, because it would enlarge the constitutional benefits to everyone whose right to the recognition of refugee has been denied an as consequence, a great advance in human rights matter would be achieved.

Keywords : central American immigrants in irregular situation, humanitarian emergency, human rights, refugee

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