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THE PROTECTION DEFICIT OF MIGRANT WORKERS REGARDING THE PROTECTIVE ACTION OF NATIONAL SOCIAL SECURITY SYSTEMS

By J. Eduardo López Ahumada*

University of Alcalá (IELAT)

KEYWORDS: Migrant workers, ILO, social protection, decent work, social inclusion.

SUMMARY: This paper analyzes the social and labor inclusion problems that migrant workers have today. From the perspective of Social Security, the current problems for migratory flows in a global world are studied, highlighting the protective response of the International Labor Organization. In this sense, special attention is on the treatment of social protection of migrant workers from the perspective of human rights and the multilateral treatment of international migrations. The work analyzes the problems of access to social protection for migrant workers and the reference to the main international ILO instruments.

SUMMARY: 1. Introduction. 2. Social and labor inclusion of migrant workers in a globalized world. 3. The evolution towards protection based on human rights and multilateral treatment of international migration. 4. The problems of access to social protection by migrant workers. 5. Conclusions.

* Professor of Labor and Social Security Law at the University of Alcalá. Academic of the Royal Academy of Jurisprudence and Legislation of Spain. Principal researcher of the stable line of research in Labor Relations and Social Protection of the University Institute for Research in Latin American Studies of the University of Alcalá (IELAT).

1. INTRODUCTION

The increase in labor migration flows has been experienced due to economic globalization itself and the absence of employment possibilities in the countries of origin, which generally make migration almost the only alternative for migrants [1]. Certainly, this is a phenomenon that affects different groups, for example, seasonal or temporary workers, workers in an irregular situation, victims of trafficking and forced labor, skilled workers [2], etc. Most migrations respond to labor issues, and, in this sense, the ILO has been especially concerned with the labor perspective of migratory flows.

2. SOCIAL AND LABOR INCLUSION OF MIGRANT WORKERS IN A GLOBALIZED WORLD

The objective of protecting migrant workers is necessarily the fight for decent working conditions that are applied in models of stable labor relations that can resist changes in economic cycles. Without a doubt, this is the best way to reduce social exclusion and poverty, which generate new forms of inequality [3]. When we talk about decent work we are thinking about the development of fair working conditions linked to the dignity of the person (Hepple, 2011, pág. 27). This certainly implies the achievement of adequate remuneration, the exercise of work in conditions of freedom, the equitable application of working conditions, legal security and respect for the dignity of the worker. There is no doubt that since it is an extremely ambitious objective, it goes beyond the purely labor perspective and has an obvious social projection [4].

Connecting equality with decent work means fighting for social cohesion and combating poverty rates [5]. Poverty and social exclusion are present in the labor market and generate situations of labor discrimination and precisely the reduction of poverty has direct application mechanisms in the labor market (Organización Internacional del Trabajo, 2003, pág. 100). This objective is especially important in a globalized world like the current one, in which labor migrations have

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[1] It should be taken into account that international migrants represented three percent of the world population in 2010. The ILO estimated the presence of migrants at around two hundred and fourteen million. Certainly, migration is closely related to work and employment, this being the main reason for migration. According to ILO estimates, made in 2010, it is estimated that around the world there were around 105.4 million economically active migrants, who also mobilized their families. Within this group, fifty percent were women. Without a doubt, these are figures that should currently be updated downwards due to the effects of the economic crisis. (International Labour Organization, 2010, pág. 2).

[2] Certainly, this is not a phenomenon exclusive to low-skilled and untrained workers. Likewise, qualified work is reflected in labor migrations and it is estimated that developing countries generally lose between ten percent and thirty percent of their skilled and professional workers due to "brain drain."

[3] See United Nations Economic and Social Council (ECO SOC), July 1997. ILO: *Tool for Gender Equality,* available on the website of the ILO Office for Gender Equality.

[4] In this sense, it is necessary to emphasize that gender inequality is not limited to work and employment, but affects all aspects of social life and socioeconomic structures.(Rodríguez-Piñero Bravo-Ferrer & Rodríguez-Piñero Royo, 2004, págs. 527-528)

[5] In relation to the connection between poverty and decent work, see the following works: (Akire & María, 2010, pág. 127)and (Oficina Internacional del Trabajo, 2003, pág. 38).

intensified and societies are becoming increasingly diverse. In these contexts, the fight to defend fundamental rights at work and in society depends on guaranteeing assimilation and social inclusion.

Migrant workers are a particularly vulnerable group, a circumstance that occurs especially at the time of access to employment [6]. In this sense, migrants are forced to take on jobs that nationals avoid in less attractive economic sectors, low-skilled jobs in the service sector, domestic services, seasonal jobs, dangerous or unhealthy jobs, or even jobs in the informal economy. These situations of differential treatment are conditioned in practice by the insurmountable obstacle of the low qualifications of migrant workers, although in many circumstances these workers prove training acquired in their countries of origin, whose professional skills are not recognized in the State of reception.

The greatest vulnerability of migrant workers is seen in the development of labor relations, showing situations of unequal treatment compared to native workers, for example, in relation to contractual breaches, non-payment of salaries or unjustified dismissals. This implies the existence of labor relations with a high dose of job insecurity and less advantageous working conditions. Indeed, this vulnerability in employment places migrant workers in the face of exploitation and job insecurity, which implies situations of inequality and discrimination at work. Likewise, these migrant workers encounter practical difficulties for the effective application of the principle of equal treatment in matters of Social Security, since their generally temporary employment relationships imply de facto a low degree of social protection and in many cases short periods of employment. contributions condition social protection against professional risks or prevent the transfer of Social Security rights. Likewise, unemployment especially affects migrant workers. Without a doubt, the highest rate of unemployment is suffered by migrant workers in the developed countries of the European Union and the OECD, compared to 6 national workers. Likewise, it should be noted that these high unemployment rates in developed countries have a more intense impact on migrant women and young people, who are particularly vulnerable to unemployment.

From the point of view of the protection of migrant labor, our attention is directed to workers who encounter discriminatory practices in access to employment and occupation linked to their migrant status and whose relationships are subject to high doses of job insecurity. The phenomenon of labor migration is connected to the challenges imposed by economic, demographic

[6] In this sense, ILO Recommendation no. 198 of 2006 (2006a), relating to the employment relationship, refers to migrant workers as a category of vulnerable workers [arts. 5 and 6 c)]. Similarly, and in relation to the reference to migrant workers as a particularly vulnerable group, see *International labor migration. A rights-based approach* (2010, págs. 94-95).

and technological changes, which demand the presence of foreign workers in industrialized countries. Certainly, migrant workers generally occupy jobs that cannot be filled by national workers, and in their incorporation and performance in the labor market they may encounter various formal or informal barriers that we will analyze. These obstacles prevent access to decent and fair work. However, it should be noted that the current economic and employment crisis has especially affected the employability conditions of migrant workers. The economic recession has meant, as we will see, a loss of prominence for the issue of migrant workers compared to international actions prior to the economic crisis.

3. THE EVOLUTION TOWARDS PROTECTION BASED ON HUMAN RIGHTS AND A MULTILATERAL TREATMENT OF INTERNATIONAL MIGRATIONS

The elimination of discrimination at work has been part of the founding principles of the ILO since its creation in 1919. International action against discrimination has its own origin in the objectives of the ILO, which include social justice, freedom and equality. Specifically, the 1919 Treaty of Versailles includes the ILO's duty to specifically protect migrant workers, especially in cases of human trafficking, as well as in the area of irregular migration. The Treaty of Versailles ensures equality in employment and occupation, given that "the rules that are issued in each country with respect to working conditions must ensure equitable economic treatment of all workers who legally reside in said country." (art. 427).

The Philadelphia Declaration itself of 1944, as well as the ILO Declaration on Fundamental Principles and Rights at Work of 1998 (International Labor Conference of June 18, 1998) grant maximum recognition to equal treatment of workers. migrant workers. Specifically, the commitment to eliminate any type of discrimination in employment and occupation is contemplated [point 2, letter d)] [7]. For its part, the 1944 Philadelphia Declaration, relating to the aims and objectives of the ILO, pays special attention to the problems of migrant workers. Said Declaration came at the time to significantly reinforce the objectives of the ILO Constitution, through the need to improve working conditions and the promotion of more equitable growth, with the objective of promoting full employment with respect for dignity, security and equal opportunities. Specifically, the 1944 Declaration of Philadelphia, the current Charter of the ILO, guarantees that "all human beings, without distinction of race, creed or sex, have the right to pursue their material well-being and spiritual development in conditions of freedom and dignity, economic security and equal opportunities" [Annex to the declaration relating to the aims and objectives of the ILO, section II,

[7] This Declaration was formulated within the framework of the 86th session of the International Labor Conference, Geneva, June 18, 1998. In this same sense, the ILO Declaration on justice takes on special importance in terms of recognition of the principle of non-discrimination. for Fair Globalization of 2008 and the Global Jobs Pact of 2009.

letter a)]. In this way, the labor rights of migrant workers are inextricably linked to the fundamental rights at work recognized in the ILO Constitution [8]. We are, therefore, facing a guiding principle of the ILO itself, which for practically a century has worked intensely to implement this maxim in labor relations from a globalized point of view.

Equality and non-discrimination are configured as a right linked to the dignity of the person; and this is a consequence derived from the very nature of the fundamental principles and rights at work. Their universal nature implies their application to all people regardless of the State to which they belong and, therefore, they are rights enjoyed by migrant workers without prejudice to their regular or irregular situation in the country where they provide services. However, the ILO has been reinforcing the guarantee of equality and non-discrimination in its general international instruments. The 1998 Declaration of Fundamental Principles and Rights at Work contemplates the ILO's duty to pay special attention to the problems of migrant workers [9], ensuring free employment and occupation without the possibility of discrimination. Specifically, it guarantees equality and non-discrimination of migrant workers, regardless of their nationality or the situation of regular or irregular residence, (Organización Internacional del Trabajo, 1998)and the ILO member States undertake to observe these principles even prior to the ratification of the Conventions. specific international conventions of the ILO on migrant workers [10].

The approach to the development of the rights of migrants based on respect for human rights was recognized at the 1993 World Conference on Human Rights. This position has evolved to the configuration of the ILO Multilateral Framework for Migration labor (Organización Internacional del Trabajo, 2007c). The Multilateral Framework contemplates the guarantee of the human rights of workers regardless of their situation, although it is presented as non-binding criteria in the context of a global economy [11]. Without a doubt, there is a recurring debate on the insufficient legal effectiveness of international fundamental rights, especially due to the low level of enforceability of international standards. Therefore, the rules for the protection of migrant workers

[8] The ILO has, among its functions, the commitment to protect migrant workers. This is expressly stated in the preamble of the Constitution, which includes the ILO's obligation to improve the protection of the interests of workers employed abroad. See: *General survey on the Migrant Workers Convention* (Organización Internacional del trabajo, 2014)and the *Report of the Committee of Experts on the Application of Conventions and Recommendations , Report III (Part 1B), Migrant Workers, Third item on the agenda: Information and reports on the application of Conventions and Recommendations, International Labor Conference, 87th session , Geneva.* (2016)

[9] The United Nations World Development Summit, held in Copenhagen in 1995, declared the guarantee of employment and occupation without discrimination as a fundamental principle and is the precursor to the ILO Declaration on fundamental principles and rights at work.

[10] In this sense, it is worth remembering that the 2008 ILO Declaration on Social Justice for a Fair Globalization considers respect, promotion and application of fundamental principles and rights at work as one of the organization's four strategic objectives.

[11] Without a doubt, the ILO Multilateral Framework for Migration has represented a boost to action plans and programs aimed at migrant workers. See ILO, (2004), Report VI, International Labor Conference, 92nd session.

under equal conditions are presented as an international *soft law mechanism,* which aims to generate a reference regulatory context that encourages Member States to contemplate these norms in their legal-labor systems [12].

The specific agreements on migrant workers guarantee the principle of equal treatment and opportunities, as well as the absence of discriminatory practices at work. Without a doubt, the promotion of equal treatment and opportunities for migrant workers represents an effective protection measure, linked to respect for the dignity of the person. Likewise, it is considered that the guarantee of legal protection prevents the so-called social *dumping.* In this way, it is ensured that the use of migrant labor has the same value for companies as the cost borne by them with respect to national workers (Vittin-Balima, 2002, pág. 158).

The specific normative instruments adopted by the ILO are Convention No. 97 (revised) of 1949 and Convention No. 143 (complementary provisions) of 1975, as well as Recommendations no. 86 of 1949 and Recommendation no. 151 of 1975 of the ILO [13]. The norms contained in the agreements define the status of migrant workers, addressing the migration process from migratory transit to both temporary and permanent immigration situations. Likewise, exceptions are contemplated such as those relating to cross-border workers, artists or liberal professionals. These standards constitute the basic and minimum regulatory framework for the protection of migrant workers, recognizing as the main objective the elimination of discrimination and the achievement of equal treatment and opportunities [14]. Without a doubt, these specific agreements are a sign of the ILO's concern for migrant workers as a particularly vulnerable group. These conventions are complemented for protection purposes by other general ILO conventions such as the Convention on Discrimination in Employment and Occupation No. 111 of 1958, the equal remuneration convention no. 100 of 1951 or the agreements relating to Social Security (vid. infra). Without a doubt, one of the essential aspects of these regulatory instruments refers to their subjective scope of application, since these norms apply, as is generally the case with human rights, to all people

[12] In this sense the art. 22 of the ILO Constitution obliges each of the member states to "submit to the International Labor Office an annual report on the measures it has adopted to implement the conventions to which it has acceded." Similarly, States are obliged to "report on the state of [their] legislation and practice with respect to the matters dealt with in the convention, specifying the extent to which any of the provisions have been implemented or are proposed to be implemented." provisions of the Convention, and indicating the difficulties that prevent or reject the ratification of said Convention".

[13] In any case, it is necessary to remember that the Conventions are normative instruments of direct and obligatory application by the States. On the other hand, the Recommendations effectively lack legally binding effect and are not subject to the act of ratification.

[14] Take into account the ILO Multilateral Framework for Labor Migration, Non-binding Principles and Guidelines for a Rights-Based Approach to Labor Migration.

equally [15], including irregular migrant workers. , unless expressly indicated otherwise, as the agreements expressly do in certain aspects (Garofalo, 2007, pág. 36); (Potobsky, 1984, pág. 333); (Fitzpatrick, 2003).

Certainly, these specific conventions were adopted many years ago and, without a doubt, the ILO's response to the phenomenon of labor migration has evolved [16]. This means that the norms contained in its articles should be interpreted in favor of freedom and the observance of equality, taking into account the promotion of fundamental rights at work carried out by the ILO (*see above*). Indeed, the economic and social context of international migration has changed substantially since the approval of Conventions 97 and 143, in 1940 and 1970 respectively. And this implies the need to adapt this framework to the current globalized economy, ensuring compliance with the principle of equality and non-discrimination (Organización Internacional del Trabajo, 2004, pág. 86). In this sense, we can cite as an example the increased role of women's participation in migration processes, which demands a special response from the perspective of equal treatment as a migrant person to which the condition of woman is added. In this way, the rights-based interpretation of the migrant worker status is a substantial change, which ensures a space for integration and social inclusion of migrant workers [17].

A major boost to the protection of migrant workers was made in 2007 with the adoption of the ILO Multilateral Framework for Labor Migration. This new framework of action places special emphasis on the discrimination suffered by migrant workers and requests the promotion of their rights from a human rights perspective. Certainly, this represented an important step forward, focusing on migration from a rights-based treatment. This new perspective based on protection through rights attempts to offer fair treatment to the group of migrant workers in the world and attempts to promote the adoption of legal norms that can promote policies and practices to benefit equality in the living and working conditions of workers. migrant workers.

This new treatment of labor migration implies the need to provide an adequate response to the so-called irregular (non-illegal) migration [18], which is the term generally accepted by the ILO

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[15] See ILO, conclusion number 28, and principle 9, section a), of the *Multilateral Framework for Labor Migration* (ILO, 2007).

[16] Indeed, these agreements were adopted in two key moments, such as the post-world war and the oil crisis of the 1970s, in order to stimulate migratory flows.

[17] See principle number 14 of the *ILO Multilateral Framework for Labor Migration Non-binding principles and guidelines for a rights-based approach to labor migration* (ILO, 2007 and *International labor migration. A rights-based approach* (ILO, 2010, .p.3).

[18] The expression illegal migration is a negative and often unfair term, since many migrants enter the host country with valid documentation, but subsequently suddenly become irregular. The Commission of Experts has interpreted that equal treatment equally affects irregular migrants who are compared to the extent possible with migrants in a regular situation. This allows irregular migrant workers to also receive protection with respect to the rights derived from the work actually provided. (Organización Internacional del trabajo, 2014).

and which is projected on the clandestine work carried out by people whose immigration status in the country of employment are not formally regularized. Without a doubt, this is a major social problem, since it is estimated that around fifteen percent of migrant workers are in an irregular situation (International Labour Organization, 2010, págs. 31-36); (Jandl, 2004). In many cases, these are obvious and structurally implemented situations, which labor authorities tolerate and which develop in the informal economy. Currently, in the specific regulations of the ILO there is a protection gap in relation to temporary migrant workers and migrants who provide services in an irregular situation. States generally tend to formally guarantee regular or irregular migrant workers equal treatment with nationals with regard to remuneration, limits on working time and breaks. Indeed, the ILO recommends the development of these national practices in order to help the development of fair and equitable migration processes from the point of view of decent work [19].

Evidently, the current temporary labor migration programs developed by States do not respond to the permanent demand for migrant workers and generally prevent migrant workers from settling permanently in the country of employment. Without a doubt, these temporary and circular migration programs should respect the principle of equal treatment between migrant workers and nationals. In particular, irregular migration is not only a matter of public order, but also implies the need to implement alternative means of regulation that take into account the reality of existing private legal relationships. Without a doubt, regularization policies can be a way to promote decent work, avoiding situations of abuse and exploitation. Likewise, they can reduce the scope for action of discriminatory practices, without forgetting their important impact on the reduction of the informal economy and the declaration of salaried work, which is a source of income for Social Security through social contributions [20]. In short, it would be a mechanism that ensures increased protection and avoids non-discrimination, recognizing situations of equal rights.

The ILO develops programs and actions aimed at the protection of migrant workers, which derive from the application of fundamental international rights at work contemplated in specific and general international conventions. This means promoting conditions to ensure that labor migration

[19] Likewise, it is necessary to highlight the ILO's actions aimed at promoting decent work by country, which have included equality as an essential objective for achieving decent working conditions. Currently, ILO programs on decent work and gender equality have progressively reinforced the inclusion of the migration perspective in recent years. One of the essential objectives of the programs is the development and exchange of knowledge and experiences in relation to the elimination of discrimination in employment and occupation. These programs are also configured as action plans aimed at harmonizing national legislation with ILO conventions, overcoming existing problems related to the application of the principle of non-discrimination at work. Without a doubt, in this context, the ILO's monitoring of the level of monitoring of international conventions takes on special importance, especially through the monitoring bodies of international treaties, as well as through the special mechanisms that exist in the United Nations on compliance. of national practices derived from international treaties.

[20] In this sense, it is worth remembering the projection of the regularization of migrant workers in times of prosperity, for example, within the European Union. (Consejo de Europa, 2008).

flows are developed, guaranteeing equality of treatment and opportunities, recognizing the important contribution that such migrations make, especially in destination countries, since they contribute to economic growth and the creation of well-being.

4. PROBLEMS OF ACCESS TO SOCIAL PROTECTION BY MIGRANT WORKERS

Migrant workers continue to encounter problems in accessing social protection. Without a doubt, these workers suffer from a protection deficit generally linked to the short duration of employment relationships, the wage gap present in salary conditions and the periods of informal and undeclared work that are outside social protection. All of this is combined with the unavoidable problem of obstacles to access and maintenance of regular residence situations and administrative authorizations to work. Certainly, this is a series of factors that often mean the impossibility of accessing social benefits in the country of destination. This implies the possibility of excluding migrant workers from social protection, because in many cases the social response is limited to short-term situations linked to temporary stay, which in many cases prevents the transfer of benefits such as unemployment or long-term benefits such as retirement, permanent disability or widowhood.

In terms of social security, ILO conventions contemplate technical clauses related to equality of work between national workers and migrant workers. The agreement no. 102 of 1952 guarantees the principle of equal treatment between nationals and migrants in relation to all branches of social security (art. 68) (part XI). Certainly, this basic ILO Social Security Convention refers to the principle of equality in a flexible way, since it is allowed to exclude migrant workers when the benefits or a part of them are paid entirely from public funds. We are, therefore, in the presence of an international *soft law regulation,* which allows informing and complementing the national *hard law regulations,* especially for the purposes of extending social protection rights (Supiot, 2006). In this sense, we must indicate that a more intense response to the recognition of the principle of equal treatment in matters of Social Security is complemented by other ILO Conventions.

In general, the Equal Treatment (Social Security) Convention of 1962 (No. 118) guarantees the principle of equal treatment, respecting the maintenance of rights acquired or in the process of being acquired. Certainly, migrant workers need a special protection regime that guarantees their rights during transnational movements. Specifically, the need to ensure access to social coverage and equality with national workers in relation to the right to social benefits is especially important. The projection of the principle of equal treatment between national and migrant workers is recognized in relation to immigrants in a regular situation who consolidate their social security rights

in the country of employment and social coverage for migrant workers in an irregular situation will depend on the legislation. of each country and the extent of its protective action. This, therefore, is in line with the response offered by the specific ILO Conventions, especially Convention No. 143 of the ILO (vid. supra).

Likewise, agreement no. 118 ensures the maintenance of acquired rights and the export of social benefits. Migrant workers must have the rights acquired in the State of employment guaranteed, and benefits may be exported when leaving the country where they were contributed at a contributory level. Likewise, another essential element is the possibility of being able to accumulate and total the rights acquired in different countries where one has worked and contributed to the public social security systems [21]. The agreement no. 118 obliges States to ensure the provision of benefits abroad in a specific branch for their own nationals and for the nationals of any other State, when the latter has accepted the obligations of the convention for a specific branch of social protection.

Precisely, the problems of equal treatment reside in many cases in the conservation of rights or in the process of acquisition, which allows one to be a beneficiary of rights regardless of the transfer to another country. At this point, the action of the 1967 Convention on Disability, Old Age and Survivors No. is especially important. 128, which recognizes the guarantee of acquired rights. However, and despite the formal recognition of the right to export social security benefits abroad from the perspective of equal treatment, it is worth noting that effective export is conditioned on the type of social security benefit and the country that has to recognize the right. transfer of protection. However, the Convention on Equal Treatment (Social Security) of 1962 (No. 118) articulates a system of recognition between States, with respect to their nationals who exercise equal access to and enjoyment of protective action [22]. The agreement no. 157 of the ILO of 1982, relating to the maintenance of social security rights, guarantees the maintenance of acquired social security rights regardless of whether workers transfer their residence from one country to another, maintenance of rights that are guarantees to the nationals of the other States parties to the convention. Both Convention no. 157, like Recommendation no. 167 of 1983, which accompanies it, promote the principle of equality to the extent that an international system is configured that allows the maintenance of rights acquired or in the process of being acquired, ensuring access to

[21] Regarding the conservation and export of social security rights generated in the country of employment, See: *Portability regimes of pension and health care benefits for international migrants: An analysis of issues and good practices* (Holzmann, Koettl, & Chernetsky, 2005). Document prepared for the Research and Policy Analysis Program of the World Commission on International Migration.

[22] Specifically, in terms of social security benefits, protective action is divided into nine different branches, that is, medical assistance and sickness benefits, unemployment, old age, work accidents and occupational diseases, family, maternity, disability and survivors.

benefits generated abroad when they return to their home country. country of origin. In this sense, without a doubt, the conservation and export of unemployment with respect to temporary migrant workers is the case of protective action that poses the most problems from the point of view of recognition between States.

According to Convention no. 157, the recognition of the State that has ratified the agreement and effective protection will be provided to migrant workers, provided that the State of the citizen who seeks to access the protection is also party to the agreement on equality of work in social security. Along these lines, Convention No. 19 of the ILO, of 1925 on equal treatment between foreign and national workers in matters of compensation for work accidents, also provides for the export of benefits for foreign workers covered by the agreement, although once again when the State that ratifies also contemplates said export of benefits for its own nationals. All of this places us before the projection of the principle of reciprocity that governs bilateral international relations. We are, therefore, facing an objective that depends on institutional mechanisms that allow coordination between national social security systems [23]. These bilateral or multilateral agreements, especially at the regional level, ultimately make it possible to strengthen the coverage of social risks and ensure the transferability of social security benefits. In this sense, we can highlight as an example the European Union model regarding Social Security for migrant workers, which contemplates a specific legal framework that broadly guarantees the transferability of social security rights for nationals of both the European Union and third countries [24].

5. CONCLUSIONS

First. - The fight for decent work for migrants. The essential purpose of the protection of migrant workers is necessarily the fight for decent working conditions that are applied in models of stable labor relations. The ILO encourages the development of regulatory frameworks that can withstand changes in economic cycles. This is considered the best way to reduce social exclusion and poverty, which generate new forms of inequality. When we talk about decent work we are thinking about the development of fair working conditions linked to the dignity of the person . This

[23]The very Convention No. ILO Recommendation 157 provides for the conclusion of bilateral or multilateral agreements related to social security and, in this sense, ILO Recommendation 167 contemplates the model of provisions related to said international agreements, which allow expanding the coordination mechanisms of the systems. national social security.

[24]In terms of social security for migrant workers, we highlight EEC Regulation No. 1408/71, which replaced EEC Regulation no. 3/1958 of the Council, of December 29, 1958. Likewise, we must take into account EC Regulation no. 883/2004 of the European Parliament and of the Council, of April 29, 2004, which is configured as a base regulation, partially reformed by Regulation no. 988/2009, of September 16. Likewise, EC Regulation no. 987/2009, of September 16, is configured as a new implementing regulation, completing the community regulation on the matter.

certainly implies the achievement of adequate remuneration, the exercise of work in conditions of freedom, the equitable application of working conditions, legal security and respect for the dignity of the worker. There is no doubt that since it is an extremely ambitious objective, it goes beyond the purely labor perspective and has an obvious social projection.

Second. - the protection of migrant workers from the perspective of human rights. The approach to the development of the rights of migrants based on respect for human rights was recognized at the 1993 World Conference on Human Rights. This position has evolved to the configuration of the ILO Multilateral Framework for Migration labor. The Multilateral Framework contemplates the guarantee of the human rights of workers regardless of their situation, although it is presented as non-binding criteria in the context of a global economy. Without a doubt, there is a recurring debate on the insufficient legal effectiveness of international fundamental rights, especially due to the low level of enforceability of international standards. The rules for the protection of migrant workers under equal conditions are presented as an international *soft law mechanism,* which aims to generate a reference regulatory context that encourages Member States to consider these regulations in their legal-labor systems.

Third. - Social cohesion and the fight against poverty in the field of labor migration. Connecting equality with decent work means fighting for social cohesion and combating poverty rates. Poverty and social exclusion are present in the labor market and generate situations of labor discrimination and precisely the reduction of poverty has direct application mechanisms in the labor market. This objective is especially important in a globalized world like the current one, in which labor migrations have intensified and societies are becoming increasingly diverse. In these contexts, the fight to defend fundamental rights at work and in society depends on guaranteeing assimilation and social inclusion.

Fourth. - The great challenge of equal treatment in access to Social Security for migrant workers. Migrant workers need a special protection regime that guarantees their rights during transnational movements. Specifically, the need to ensure access to social coverage and equality with national workers in relation to the right to social benefits is important. The projection of the principle of equal treatment between national and migrant workers is recognized in relation to immigrants in a regular situation who consolidate their social security rights in the country of employment and social coverage for migrant workers in an irregular situation will depend on the legislation. of each country and the extent of its protective action. The problems of equal treatment reside in many cases in the conservation of rights or in the process of acquisition, which allows one to be a beneficiary of rights regardless of the transfer to another country. The preservation and

export of unemployment with respect to temporary migrant workers is the case of protective action that poses the most problems from the point of view of recognition between States.

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