Country Fiche
BRAZIL

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Executive summary

Brazil is a party to the main international instruments regarding refugee protection. At the global level, it has ratified the 1951 UN Convention and its 1967 Protocol. At the regional level, it has signed every instrument of the Latin American regional network, with non-binding character, such as the Cartagena Declaration of 1984, the San José Declaration of 1994, the Mexico Declaration of 2004 and the Brasilia Declaration of 2014. Conversely, Brazil has not ratified the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Domestic law dealing with the protection of refugees became a reality in 1997 (Lei 9.474/1997), and it entails a comprehensive framework of refugee protection (Brasil 1997). The 1988 Constitution also provides for a wide range of fundamental rights, applicable to Brazilian nationals and foreigners in the national territory. Constitutional principles include the prevalence of human rights and the granting of political asylum. On the other hand, the Foreigners Statute (in force from 1980 to 2017) was a law that envisioned foreigners as a menace to national security (Brasil 1980). In 2017, the Foreigners Statute was finally replaced by Law 13.445/2017 (Brasil 2017), which brought a human rights paradigm to the migratory normative framework, although its reach was limited by a number of vetoes by the former President Michel Temer and its regulation by Decree 9.199/2017 brings setbacks to the scope of the law.

Although Brazil has been a country populated by migrants since colonization, in contemporary times immigrants have represented only a small fraction of the population. On the other hand, recent flows have tested the country's ability to respond adequately to the needs brought by these flows, especially those related to the arrival of immigrants and refugees from the Global South since the beginning of the 21st century, and with increasing intensity in the last ten years. As of 2010, there was a significant influx of Haitians and from 2015, in greater numbers, Venezuelans. Venezuela's refugees and migrants in Brazil make up a total of 264 167. The refugee population in Brazil totals approximately 56 000 people from 55 different countries, with Venezuelans representing 80% of this total. The arrival of Haitian nationals after 2010 fostered intense debates about what their status should be, since they requested refugee status and became asylum seekers. However, the National Committee for Refugees decided that
they were not refugees, but should be protected, and therefore sent all cases to the National Immigration Council, which ended up forging an *ad hoc* solution for the Haitian cases, the so-called "humanitarian visa". Such a solution was incorporated into the new immigration law in 2017. New developments have also come with the arrival of Venezuelans as of 2015. Their point of arrival has presented a huge challenge: the vast majority arrive by land in the remote state of Roraima, which shares a border with Venezuela and has no capacity to meet the needs of the refugees, who arrive in a severely vulnerable state. In response, Brazil’s federal government – with support from United Nations agencies in partnership with civil society entities, created “Operation Welcome” to receive, welcome and “internalize” Venezuelan refugees arriving in Brazil via Roraima, providing transportation and integration assistance in other states of Brazil. To address issues around their legal status, the National Immigration Council forged a solution, extending to them the possibility of obtaining regularization through temporary residency, inspired by the Mercosur Residence Agreement. In 2019, the National Committee for Refugees decided these Venezuelans should be recognized as refugees and adopted a fast-track procedure, applying an expanded definition of refugees to them. Implementation of the instruments, from decision-making to execution, is tripartite: government, civil society and international agencies share responsibilities. The National Committee for Refugees is made up of several ministries, entities representing civil society and UNHCR (the last with non-voting rights), and is coordinated by the Ministry of Justice. The operational leadership of Operation Welcome rests with the military forces. At the subnational and local levels, new government actors, such as state and municipal committees, have appeared, with the responsibility of building local integration policies for migrants and refugees. Civil society has a prominent role in assistance, as well as in constructing and implementing protection instruments. Caritas occupies a relevant place, taking a seat at CONARE, while IMDH (the Migration and Human Rights Institute) coordinates the “solidarity network for migrants and refugees”, a civil society network with more than 50 institutions. Since the beginning of the Venezuelan migration crisis, UNHCR’s presence in Brazil has grown considerably, as has IOM’s presence.
1. Introduction

1.1. Historic overview

As Zapata and Fazito (2018) argue, the demographic and social bases of the Brazilian nation-state are marked by international migration. Migration policies go back to the first quarter XIX century, when they were aimed to the "civilizing project", fostering the immigration of European citizens. These policies prevailed until the 1920s, when Brazil experienced a drastic reduction in the flow of immigrants. Between the 1920 decade and 1970 the country remained virtually closed to population exchanges with the rest of the world.

From the 1980s, during the military dictatorship, the Brazilian government's policy became strongly restrictive and bureaucratized, when the Foreigners Statute was instituted by Law 6815/80. This period was marked by emigration flows, which included, among others, people who fled State violence and human rights violations (Sartoretto 2018, p. 670). After re-democratization and especially as for the beginning of the 21st century, came a period of diversification and increase of migratory inflows, with immigrants coming from south American countries (Bolivia, Chile, Colombia, Peru and Paraguay) and other countries from global south as well as global north (Haiti, Senegal, Bangladesh, Portugal, Spain etc.). (Zapata and Fazito 2018)

More recently, two flows of immigrants have drawn much attention and induced new developments in migration policies: the entry of Haitians following the 2010 earthquake in Haiti and the inflow of Venezuelans, intensified from 2015 with an unprecedented number of arrivals. These new flows are usually categorized as both “mixed flows” or “forced migration flows”. Since the avowed reasons to migrate have been diverse, these new migratory flows have put pressure on the Refugee System and entailed new framings, such as the humanitarian visa, tailored both to protect and control.

With regard to refugee protection, Brazil fully participates in the international legal regime, having been the second South American country to ratify the 1951 Geneva Convention, in addition to having ratified the 1967 Protocol and integrating, since 1958, the UNHCR Executive Committee (ExCom) in Geneva. Despite this international commitment, Brazil’s practice did not observe international standards on refugee protection in those early times, considering the country faced a dictatorship internally (Jubilut 2006). Between 1977 and 1982 UNHCR’s office activities within Brazil were only “tolerated”, with its main work involving the resettlement of South American refugees (not recognized as
refugees by Brazil, in the face of geographical reservation), persecuted by other non-democratic regimes, outside the region (Jubilut 2006; Andrade 2017). Following re-democratization, the 1988 Federal Constitution was promulgated, and refugee protection gained new momentum. In 1990, the reservations to articles 15 and 17 of the 1951 UN Convention, which together with the geographic restriction had been adopted by Brazil, were withdrawn (Jubilut 2006, p. 34). At the regional level, Brazil started to adopt an active and purposeful attitude in the development of regional policy and law for refugees in Latin America and the Caribbean, especially after the San José Declaration on Refugees and Displaced Persons (1994) (Rodrigues 2010, p. 135-136).

In 1997 came the publication of Law 9474 of 1997, still in force today. It contains the definition of the concept of refugee, which is broader than the 1951 Convention and the 1967 Protocol. Article 1° (III) of the law includes in the refugee definition any person who ‘due to a serious and widespread violation of human rights, is obliged to leave his country of nationality to seek refuge in another country. This broader definition partially incorporates the expanded definition provided for in the 1984 Cartagena Declaration.

The law also guarantees protection of the rights of refugees and asylum seekers, including the right to work regularly while awaiting their application decision. Finally, it created the National Committee for Refugees (CONARE), implemented in 1998, a tripartite body (government, UNHCR, civil society), responsible for examining the application and declaring recognition, in the first instance, of refugee status. Before the creation of CONARE, UNHCR had recognized about 1510 people as refugees in Brazilian territory (between 1985 and 1997). With the new law and the creation of CONARE, the process was left to the Brazilian State. Thereafter, the refugee protection system was consolidated, and Brazil was an active participant in the regional debates, taking part in the negotiation, approval and implementation of Mexico's Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America (2004). Following the guidelines of the Plan, Brazil created its Solidary Resettlement Program (Rodrigues 2010, p. 135-136).

Despite the development of a refugee protection system, refugees once recognized were subject to Law 6815 of 1980 (Foreigners Statute), in force until 2017. Created during the military dictatorship, this statute considered immigrants to be a matter of national security instead of a subject of rights. In practice, its application has been mitigated since the advent of the 1988 Constitution. In 2017, the enactment of Law 13 445 completed the regulatory
framework and established a paradigm for protecting the human rights of migrants, although its restrictive regulation has raised debates about setbacks and limited scope.

### 1.2. Main debates in the academic literature

Academic literature has been mainly dedicated to discussing new migratory flows towards Brazil, especially those of Haitians and Venezuelans, with attention to their characteristics, categorizations and impacts on the development of policies and instruments of protection. Academics also emphasize the critical aspects of this development, demonstrating the ambiguities in the country's institutional arrangements and its limits for dealing with contemporary migratory flows.

The inflows of Haitians and Venezuelans are both characterized by the diversity and complexity of the reasons for migrating and fall outside the classic definition of a refugee by the 1951 Convention. Together they present elements of insecurity, human rights violations and poverty. In the case of Haiti, emigration is also connected to the natural event of the 2010 earthquake, which killed 200 000 people and triggered a diaspora, although Haitians had been emigrating even before the earthquake due to several other factors.

A survey conducted in 2014 indicated that Haitians migrated for a number of reasons. When asked about their main reason for migrating, most respondents (61.5%) replied that they made the journey in search of work (Fernandes 2014, 66). Another finding of the research was that 12.8% of the interviewees intended to take another migratory route as soon as they received permanent residency in Brazil. For these, in 41.0% of cases, the declared destination was the United States or Canada. Dieme has discussed Brazil’s role as a destination for immigrants from the Global South, arguing that Brazil is seen by Haitians – especially after 2010 – as an “alternative North”, and also a temporary one (2019, p. 144).

This trend seems to be congruent with Venezuelan immigration from 2015, although with peculiarities. With increasing restrictions on the entry of Latin American immigrants into the United States and Europe, Brazil would become a “possible destination”. As Baeninger argues, Venezuelans coming to Brazil in the early 2000s had high qualifications and professional status and entered by plane
having large cities as destination, while the current inflow is characterized by more impoverished immigrants, in great volume, entering the land border in Roraima (Baeninger 2018, 137).

International literature has used the concept of crisis migration to explain migratory movements such as the influx of Haitians and Venezuelans to Brazil. It underlines the complex and diverse nature of migration caused by humanitarian crises, that fall out of institutional frameworks for addressing the displacement of people. Among the challenges to frame is the focus of instruments in the causality of migration, which have become blurred. Even when there is a specific event connected to migration flow, such as the 2010 earthquake in Haiti, “the hazard alone does not trigger the crisis” (Martin, Weerasinghe and Taylor 2013, 127). Instead there is a combination of factors that precipitate, or even perpetuate, a humanitarian crisis including underlying structural factors such as poverty and poor governance. In this context, it is difficult to accurately diagnose whether the movement is forced or voluntary, or somewhere in between. In Brazilian literature, Baeninger has discussed the Haitian inflow as a case of crisis migration arguing that although it appears as a migratory crisis attributed to the country of origin, it actually reveals the crisis in the receiving society. Thus, the Haitian presence in Brazil would have revealed “a society unprepared and old-fashioned in terms of its migratory legislation, its ability to scale and measure the migratory flow, in the absence of welcoming and employment policies, in prejudice, racism and xenophobia in relation to this immigrant population” (Baeninger 2017, 122)

As most crisis migrants do not meet the legal definition of a refugee (Martin, Weerasinghe and Taylor 2013) and there were no national instruments besides the Refugee Act to deal with the inflow from Haiti, the ‘Haitian question’¹ arose in academic literature debates. Already in 2011 there seemed to be an assessment in parts of the literature that they were not authentic refugees neither by international law nor by Brazilian law, and their massive migration could be explained by the 2010 earthquake, a major environmental disaster. However, it was recognized that this was a mixed migratory flow, including not only economic migrants, but also others with compelling protection needs of various types, which is why UNHCR itself recommended that people from Haiti

¹ The expression ‘Haitian question’ is used by Moulin (2016).
not be returned. The so-called “complementary humanitarian protection path” became an alternative (Godoy 2011, p. 64). In the same sense, Claro (2011, 259) defended the use of the expression “environmental refugees” to emphasize the need for protection, which should be built on the more general norms of international human rights law. Thus, the principle of non-refoulement “would be adapted – in eventual specific normative protection and only in it – to a guarantee of not repatriating the migrant to the country from which he migrated due to serious environmental, natural or anthropogenic damage”.

The debate about the “Haitian question” is an example of the replacement of the label ‘refugee’ with that of ‘forced migrant’ in the literature (Zetter 2007, 189). It prompted the formation of new labels, as well as the transformation of the refugee label and the development of bureaucratic fractioning (Zetter 2007). Finally, the solution for the ‘Haitian question’ was the designing of ‘humanitarian’ protection. This is an example of how ‘regime stretching’ was put into practice with the development of a new label: that of “humanitarian reception”. The concept of ‘regime stretching’ highlights the way in which a regime may adapt at the national level of implementation, even in the absence of adaptation at the levels of international negotiation or institutionalization (Betts 2014, 77). As Moulin and Thomas (2016) argue, the re-labelling of Haitians as humanitarian refugees has also had the effect of depoliticizing Haitian migrants’ claims to protection, modulating them in-between the refugee and the immigrant worker and enabling a dual process of authorized permanence and precarious reception, a strategy to govern mobility that seemed excessive. This hybrid category “attempts to normalize more restrictive boundaries around the refugee regime while at the same time enabling Haitians’ permanence in Brazil through market-oriented terms” (Moulin and Thomas 2016, 602).

This solution was considered inadequate by Sartorreto (2018), since the Brazilian Refugee Law has an expanded definition of refugee as mentioned above. The restrictive interpretation was based on the requirement by CONARE of the presence of the subjective element of "well-founded fear of persecution", an understanding shared by UNHCR. However, for Sartorreto, this interpretation would have emptied the content of the Law, whose main innovation (the expanded definition) would have been restricted to the protection of some categories. Some scholars suggest that Brazil's restrictive interpretation of the broad definition of Law 9474/97 may be related to diplomatic issues, since the
country was leading the UN Stabilization Mission to Haiti (MINUSTAH), and recognizing Haitians as refugees could be viewed as recognizing the failure of the operation. The military presence in Haiti is also considered a possible reason to disseminate the image of Brazil as a possible destination for Haitians (Fernandes 2014; Silva 2013). On the other hand, the label of humanitarian migration “normalizes the role of Brazilian military and diplomatic efforts in Haiti” (Moulin and Thomaz 2016).

As of 2015, with the increase of Venezuelan inflow, similar issues regarding defining legal status have followed. While defending the granting of refugee status, Silva and Jubilut (2018) noted that “migration from Venezuela into Brazil should be regarded as, at least, a situation of a mixed migration flow” since there were, among them, people who would meet the 1951 Convention, also pointing to the broader definition present in the Refugee Act of 1997. Nevertheless, Brazil did not recognize either refugee status or humanitarian protection to Venezuelans. Instead, CNIg adopted another ad hoc solution, with Resolution 126 (Brasil, 2017a). Silva and Jubilut (2018) stress that the “new human rights proclaimed by Law 13 445/17 doesn’t seem to have impacted the way Brazil deals with the protection of Venezuelans”, even with the adoption of Inter Ministerial Rule 9. The argument relates to the non-application by the Brazilian State of the humanitarian visa designed initially to cope with the Haitian case and incorporated in 2017 in the New Migration Law. In 2019 CONARE finally recognized Venezuelans as refugees, applying the broader definition via a fast-track procedure. Still, most Venezuelans are regularized by CNIg’s resolution.

Another important subject discussed in the literature is the tension between care and control present in Brazilian responses to these latest inflows. While discussing the reception of Venezuelans and the ‘humanitarian infrastructure’ (reception, triage, data processing and shelters) the government has put in place to manage the Venezuelan inflow, Moulin highlights the strong military presence along the border and the security component of the operation. Still, as she puts it, “although the concern to bring order and increase security at the border are central to the operation, the program’s humanitarian nature is emphasized the most in governmental press releases” (Moulin and Magalhães 2020, 645). Operation Welcome and its ‘humanitarian infrastructure’ are seen as part of a larger effort to maintain border control and extend humanitarian assistance to Venezuelan migrants, “highlighting an inescapable tension between compassion
and repression in practices carried out under a humanitarian governmental rationale”. The control of mobility is empowered by the fact that many Venezuelans are trapped in the region of entry in Roraima, due to its remote and poorly connected location. (Moulin and Magalhães 2020, 645).

Life along the borders and the ways in which the border control produce containment and discipline is also a subject of interest. Shelter facilities play an important role in this, since they are a space of routines and rules to discipline bodies (Moulin and Magalhães 2020, 645). As the humanitarian infrastructure of hotspots, shelters are “spaces made of a combination of functions designed with the purpose of controlling or interrupting people’s mobility, collecting their personal and biometric data for the management of ‘crisis’ and in the hope of rendering them knowable” (Pallister-Wilkins 2018, 2). They should be a living space, but even Mexico’s Solidarity Borders Program failed to recognize this (Moulin 2009). This is especially true when we consider some members of the Warao and E’ñepa ethnic groups who come and go between Venezuela and Brazil (Magalhães 2018, p. 129). The problem is that, once recognized as refugees, individuals face important restrictions on their mobility (Moulin 2009).

Finally, it should be mentioned that in relation to legislation, Brazilian academics have always been unanimous in praising law 9474/97, considering it an achievement in protecting refugees, although as seen above, its implementation, especially regarding the application of the broader definition, has induced some debates. On the other hand, the approval of the new migration law of 2017 has fostered many academic debates. This law has been subject to criticism, because the bill underwent vetoes and regulations that limited the scope of more advanced proposals (Sprandel 2018; Weahmuth 2020; Zapata and Fazito 2018).

1.3 Latest policy developments

Thousands of asylum seekers’ applications remained pending a decision between 2015 and 2019 by CONARE. Meanwhile, CNJg adopted another ad hoc solution, by Resolution 126 from March 2017 (Brasil 2017a). The Resolution is “inspired in the Residency Agreement for Nationals of MERCOSUR States Parties and Associated Countries” and forged to deal with “the migratory flow to federation units, especially in the North region, of foreign nationals from border countries that are not yet part of the aforementioned Residence Agreement, who are in an
irregular migratory situation in Brazil and to which the refugee status does not apply”. The settlement under the terms of the resolution is made through temporary residence status for two years, which can then be converted into permanent residence status if, before the end of the period, the applicant requests and provides proof of subsistence conditions in the country, as well as the absence of any criminal record. Residency based on the resolution implies giving up the asylum request process.

As many applicants did not meet the documentation requirements of the Resolution, in March 2018 the Ministries of Justice, Foreign Affairs and Labour edited a new regulation, the Interministerial Rule n. 9 (Brasil 2018), which reduced documentary requirements. In August 2018 Interministerial Rule n. 15 was published (Brasil 2018a), which exempted the necessity of any document with the person’s affiliation be registered in the case of vulnerable immigrants. Brazil was one of three countries to unilaterally extend the Mercosur Residence Agreement to Venezuelans, along with Uruguay and Argentina (Acosta, Blouin and Freier 2019).

Even while Venezuelans’ legal status was defined, Brazil was still managing the situational realities at the borders, which had become a problem with the escalation of Venezuelans entering via the northern region of the country. The biggest challenge was their region of arrival, since the vast majority were coming through the state of Roraima, which shares a border with Venezuela. In 2017 the inability to provide adequate responses locally became evident. Faced with this scenario, several nongovernmental actors and international organizations began mobilizing to assist Venezuelans. In addition, since February 2018, the federal government initiated a more robust role in the management of migratory flow (Milesi 2018, p. 63-64)

The Brazilian response led by the federal government was the creation of ‘Operation Welcome’ (Operação Acolhida, in Portuguese). The army oversees its operational coordination (Humanitarian Logistics Task Force or FTLOG), hence its strong military character. It has been structured in three stages: border planning, reception and “interiorization”. The normative structuring of Operation Welcome was made by the edition of Provisional Measure 820/2018 (Brasil 2018b), which, with changes, was converted into Law 13.684 /2018 (Brasil 2018c). The three stages are defined on the Operation website as follows:

1) border ordering - documentation, vaccination and control operations by the Brazilian Army;
2) reception - offering shelter, food and health care; and

3) interiorization - voluntary displacement of Venezuelans from Roraima to other Units of the Federation, with the objective of socioeconomic inclusion.

The Federal Emergency Assistance Committee is the deliberative body responsible for establishing emergency assistance guidelines and actions. Under the coordination of the Civil House, the Ministries of Defense, Economy, Regional Development, Justice, Education, Health, Women, Family and Human Rights are involved in the actions of the Operation. In addition, “Operação Acolhida” has these partners: the United Nations, civil society, religious institutions, private initiatives, states and municipalities (Brasil 2020). Despite the complexity of the organizational structure, it is clear that the Ministry of Defense is the main subject of this articulation, using the army's logistical support base as the operation’s center (Silva 2020, p. 106).

In June 2019, CONARE recognized the scenario of a serious and widespread violation of human rights in Venezuelan territory, based on a Technical Note on the situation (Brasil 2019a). In October 2019, CONARE adopted Normative Resolution n. 29 (Brasil 2019b), which authorized the adoption of differentiated procedures for the instruction and evaluation of manifestly founded requests. This resolution also created SISCONARE, a digital system for processing applications for recognition of refugee status. Finally, at the 145th Regular Meeting of the National Committee for Refugees, held on 5 December 2019, the Committee decided to recognize the refugee status of about 20,000 Venezuelan nationals, thus applying the broader definition provided for in Article 1º, III, of the 1997 Refuge Act based on another Technical Note (Brasil 2019c), which made it possible to simplify the procedure (prima facie) without giving up the eligibility analysis. Brazil was the second country to apply refugee status to Venezuelans, after México (Acosta, Blouin and Freier 2019).

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2 Shelters can be overseen by state, municipal, civil society or multiple actors, with housing provided by a civil society entity or religious organization (Brasil 2020).

3 As of September 2020, 42 000 people have been interiorized (Brasil 2020b).

4 There is no single official document or resolution granting refugee status to Venezuelans. A summary of this trajectory is available on the CONARE website (https://www.justica.gov.br/seus-direitos/refugio/perguntas-frequentes). The minutes of the December 2019 meeting that decided for prima facie recognition of refugee status for 20 000 Venezuelan applicants are not available at the present.
2. Asylum and refugee statistics

Brazil has a relatively small immigrant population. The last national census taken in 2010 listed the foreigner resident population of Brazil at 599,934, that is, 0.3% of the total population (IBGE 2010). There are no available estimates of the undocumented migrant population. The number of asylum seekers and refugees has grown considerably in recent years.

In October 2019, Venezuelan nationals represented the largest number of asylum-seekers living in the country (120,467), followed by Haitians (23,133), Cubans (9,291), Chinese (4,435) and Syrians (4,289) (Brasil 2020a). During 2019, 92.5% of all CONARE’s decisions referring to refugee status determination regarded Venezuelan applicants. As of July 2020, more than 130,000 asylum requests had been submitted by Venezuelans in Brazil (UNHCR 2020).

In October 2019, there were 204,361 asylum seekers living in the country, and by October 2020, the amount has decreased to 187,398 asylum seekers living in the country. These numbers can be explained by the recognition of refugee status to more then 46,000 Venezuelan asylum seekers since December 2019.

The refugee population recognized by CONARE, historically very small, has grown considerably. From 1997 to November 2019 Brazil had recognized a total of 11,231 persons as refugees (from which about 6,500 still lived as refugees in the country), and in only two months, this number had more than quadrupled, reaching 48,098 by January 2020 (Brasil 2020a). On 28 August 2020, CONARE recognized 7,787 more Venezuelans as refugees. The refugee population in Brazil has approximately 56,000 people from 55 different countries, with Venezuelans representing 80% of this total.

<table>
<thead>
<tr>
<th>Date</th>
<th>Recognized refugees (accumulated)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Between 1997 and November 2019</td>
<td>11,231</td>
</tr>
<tr>
<td>by January 2020</td>
<td>48,098</td>
</tr>
</tbody>
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3 The last national population census by the National Institute of Geography and Statistics (IBGE, in Portuguese) was conducted in 2010. Therefore, there are no recent official and unified data on the immigrant population living in Brasil at present. Data on this section have been extracted from the CONARE database and official websites of CONARE, CNIG, federal police among other sources. The national census of 2020 has been postponed due to the COVID-19 pandemic.

6 The numbers refer to asylum seekers awaiting a decision by CONARE in October 2019.
In 2019, Venezuelans represented 65% of the total asylum requests (54,222). Haitians presented the second most requests (16,683), Cuba (4,018), China (1,492), Bangladesh (751), Angola (612) and Syria (437). The escalation of asylum applications from Venezuelan nationals can be seen by comparing some numbers from previous years; they increased from 822 requests in 2015 to 3,375 in 2016; 17,865 in 2017; and 61,681 in 2018 (Brasil 2020a).

Since 2019, Venezuelans have also moved to the top of the list of recognized refugees living in the country, followed by Syrians, Congolese (DRC), Angolans and Colombians. Until recently Venezuelans were behind the other four nationalities (Brasil 2020a). Brazil has now recognized more than 46,000 Venezuelans as refugees, accounting for the largest population with this profile in Latin America (UNHCR 2020).
<table>
<thead>
<tr>
<th>Rank</th>
<th>Nationality</th>
</tr>
</thead>
<tbody>
<tr>
<td>3rd</td>
<td>Congolese (DRC)</td>
</tr>
<tr>
<td>4th</td>
<td>Angolans</td>
</tr>
<tr>
<td>5th</td>
<td>Colombians</td>
</tr>
</tbody>
</table>

The rate of refugee recognition has been unstable since 2017 (data before 2017 are not available). In 2017 the recognition rate was 45%. In 2018 the rate dropped to 15%, because a normative resolution from CNIg established that asylum seekers who applied for and received permanent residency on the basis of employment should renounce RSD procedures. (This measure mainly affected nationals from Senegal and Haiti.) Finally in 2019 the recognition rate reached 97%. The reason for this improvement was another normative resolution, by which CONARE authorized the adoption of accelerated procedures in the instruction and evaluation of manifestly founded requests, after having recognized the scenario of a serious and widespread violation of human rights in Venezuelan territory. As a result, more than 20 000 Venezuelan nationals were recognized as refugees only in December 2019, a number which surpasses by far all the refugees recognized by Brazil since 1997.

Gender statistics are limited. There are no data available on the gender of asylum seekers. As for recognized refugees, with recent shifts in flow characteristics, there is a significant change in the demographic profile, with a greater balance between male and female refugees. Until 2014, 82% of the recognized refugees were male and 17% were female (LIMA 2017).

In 2018, 65.75% of recognized refugees were male and 34.25% were female; In 2019, 51.67% of the recognized refugees were male and 48.33% were female. By August 2020, 62.86% of recognized refugees were male and 37.13% were female (Brasil 2020a).
It is important to highlight some numbers about the Venezuelan presence in Brazil, considering its magnitude in the Brazilian immigration reality today: Venezuela’s refugees and migrants in Brazil make up a total of 262,475 (30 August 2020). Venezuelan asylum seekers living in Brazil add up to 102,504 (30 August 2020). There are also 148,782 Venezuelans with temporary or permanent residence permits living in Brazil (30 August 2020) (R4V 2020).

Between 2011 and 2018, 774,200 immigrants were registered in Brazil, encompassing all types of regular migration. In 2018, there was a predominance of migrants from the Global South, with emphasis on Haitians and Venezuelans who received the greatest number of work cards issued. Haitians figured as the main nationality in the formal labor market in 2018. The main nationalities of regular immigrants between 2010 and 2018 were: Haiti, Bolivia, Venezuela, Colombia, Argentina, China, Portugal and Peru. In 2018, Venezuela took first place on the list, followed by Haiti, Colombia, Bolivia and Uruguay (Cavalcanti 2019).

<table>
<thead>
<tr>
<th>Main nationalities of migrants (2018)</th>
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<tbody>
<tr>
<td><strong>1</strong>&lt;sup&gt;st&lt;/sup&gt;</td>
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<td><strong>2</strong>&lt;sup&gt;nd&lt;/sup&gt;</td>
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<tr>
<td><strong>4</strong>&lt;sup&gt;th&lt;/sup&gt;</td>
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3. Asylum governance instruments

Refuge in Brazil is regulated by the Refugee Act of 1997 (Lei nº 9474/97), by which the international protection of refugees became a state policy. This instrument comprises respect for the minimum international standards of international refugee law (e.g. the principle of non-refoulement) and includes an expanded definition of a refugee, alongside guaranteeing a range of social rights, which is why it is generally regarded as a modern law (Sartoretto 2018, 673), used by UNHCR as a model for Mercosur (Leão 2010). The fact that Brazil has a specific law about refugee protection is also considered a positive aspect, as other countries in Latin America either treat refugee protection along with diverse migratory situations, or in the same legal instrument with domestic asylum, a different kind of protection which share similarities with the refugee protection regime, causing confusion (Jubilut 2006, p. 40). Some other features worth mentioning are: the establishment of CONARE, a collegiate body for determining refugee status, with participation of civil society representatives, the regulation of refugee rights and obligations, including the right to work for asylum seekers, and the provision for durable solutions (repatriation, local integration and Brazil's participation as an emerging resettlement country) (González 2010).

According to Article 1 of the law, any person shall be recognized as a refugee if:

“I. - due to well-founded fears of persecution for reasons of race, religion, nationality, social group or political opinions, he is outside his country of nationality and cannot or does not want to accept the protection of that country;
II. - not having nationality and being outside the country where he previously had his habitual residence, he cannot or does not want to return to it, due to the circumstances described in the previous item;
III. - due to a serious and widespread violation of human rights, he is obliged to leave his country of nationality to seek refuge in another country”.

While items one and two reflect the classic definition of refugee provided for in the 1951 Convention, item three incorporates one of the clauses contained in the 1984 Cartagena Declaration⁷, extending the refugee status to “any individual

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⁷ Section III (3) of 1984 Cartagena Declaration states: “To reiterate that, in view of the experience gained from the massive flows of refugees in the Central American area, it is necessary to consider enlarging the concept of a refugee, bearing in mind, as far as appropriate and in the light of the
who due to a serious and widespread violation of human rights, is obliged to leave his country of nationality to seek refuge in another country” (Brasil 1997).

There are no data on the application by CONARE of the concept of “serious and widespread violation of human rights” in the past. Based on information from civil society organizations, it is possible to deduce that CONARE has already recognized as refugees – based on the situation of serious and widespread violation of human rights – people from numerous countries, such as Somalia, Iraq, Afghanistan, Democratic Republic of Congo, Syria, Mali and Côte d’Ivoire (Holzhacker 2017, p. 128). In 2013, with the case of Syrian nationals escaping armed conflict, CONARE adopted Resolution n. 17/2013, creating a ‘humanitarian visa’ to guarantee their right to enter Brazil and apply for refugee status (Brasil 2013). In the same year, Syrian nationals had a 100% recognition rate of refugee status, and CONARE exempted them from personal interviews (Holzhacker 2017, p. 130).

Nevertheless, CONARE’s interpretation of the Statute considered it necessary to demonstrate the subjective element of "well-founded fear of persecution" for all hypotheses, including the expanded definition of item three, a position also adopted by UNHCR, at least until 2015 (Sartoretto 2018). This interpretation contradicts the literalness of the law, which does not provide, at least explicitly, the objective element (Godoy 2011). This understanding is considered incorrect by Sartoretto, for whom both the Cartagena Declaration and the Brazilian Refugee Law, Art. 1º (III) intended to eliminate the subjective element of the “well-founded fear of persecution” (2018, 675).

The dispute over the interpretation of Item three came to light with the arrival of thousands of Haitians as of 2010, who requested asylum on arrival. After deciding that Haitians should not be considered refugees on the basis of “environmental catastrophe” the CONARE plenary session indicated that the situation be forwarded to the CNlg (Leão 2011, p. 90), based on Normative

situation prevailing in the region, the precedent of the OAU Convention (Article 1, paragraph 2) and the doctrine employed in the reports of the Inter-American Commission on Human Rights. Hence the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order’. This regional definition was considered by 15 Latin American countries at the time of adoption of their internal regulations, including Brazil (González 2010, p. 53)
Resolution n. 27/1998 (Brasil 1998), that gave CNlg the competence to decide in omitted cases. The solution coined by the CNlg was the "humanitarian visa". CNIG’s Normative Resolution n. 97/2012 (Brasil 2012), instituted the issuance of permanent humanitarian visas at the Brazilian Embassy in Port-au-Prince, and established a quota system of 1200 visas per year in the face of concerns with the protection of the national labor market (Sartorreto 2018, 683). The quota system proved to be ineffective, as requests quickly surpassed the number of visas available and hundreds of Haitian nationals continued to migrate to Brazil through irregular means (Moulin and Thomaz 2016, 602). In April 2013, CNlg approved Normative Resolution n. 102/2013, which eliminated the limitation on the number of visas (Brasil 2013a).

As many Haitians continued to enter Brazil irregularly, from 2015 CNlg applied Resolution n. 27/1998, which authorized this body to decide “special situations and omitted cases” to grant residence permits to thousands of Haitians who entered Brazil by irregular means after the 2010 Earthquake (Brasil 1998). In 2015 alone, more than 36 000 immigrants, mostly Haitian nationals, received a residence permit based on Resolution n. 27/1998, for “humanitarian reasons” (Dieme 2019b, p. 45).8

Another characteristic feature of the asylum system is the right to work granted to asylum seekers. Upon requesting the recognition of his/her refugee status, the applicant receives a document that entitles him/her to obtain a provisional work card, allowing the exercise of any paid activity in the national territory (Barreto 2010, p. 175). The granting of documents to applicants for refugee status and permission to work are considered positive aspects of the Law (Jubilut 2006). Despite that, in practice asylum seekers find many constraints in accessing the labour market. The inclusion of refugees and applicants needs to be promoted, and there is a lack of public policies for refugees with respect to social, economic and cultural rights (Jubilut 2006, p. 34). In December 2017, the number of non-employed asylum seekers and refugees totalled 13 290, and the number of employed persons was 8493 (considering only those who had valid work cards). Therefore, at the end of 2017, most asylum seekers and refugees were outside the formal labor market. Such data demonstrate that a significant number of workers are not being inserted into the formal workforce (Tonhati 2019, p. 91). Refugee applicants depend highly on financial support, juridical
assistance and educational programs provided by civil society (Rodrigues 2010, p. 141). Among other reasons, the lack of training of public agents can impose concrete obstacles to the enjoyment of legal rights.

Access to public health and education policies is also guaranteed on equal terms with Brazilians to recognized refugees. The Brazilian Refugee Act establishes that the recognition of certificates and diplomas (the requirements for obtaining resident status and admission to academic institutions at all levels) should be facilitated, taking into account the unfavourable situation experienced by refugees. There are no compulsory mechanisms to implement such rights though, and few universities have created facilitation mechanisms.

Finally, Brazilian law establishes the possibility of resettlement. To implement this legal provision, Brazil created the Solidarity Resettlement Program (Leão 2011). The idea and practice of resettlement in solidarity is another positive aspect of Brazilian Law (Jubilut 2006). Initial steps around resettlement in the country were established in 1999, when the Macro Refugee Resettlement Agreement was signed between Brazil and UNHCR. In April 2002, the first resettlement experience after the agreement was carried out, with the arrival of 23 Afghan refugees coming from India and Iran (Leão 2011, p. 81). The Mexico Action Plan, signed in 2004, following the reopening of the UNHCR Office in Brazil, gave new impetus to the Brazilian resettlement program. There was an improvement in procedures at all stages of the process, from the interview mission conducted in the first country of asylum to the welcoming and integration project in Brazilian society. In 2005, due to the increase in the number of requests for resettlement of Colombians with serious problems of physical or legal protection in the country of first reception, Brazil created an emergency procedure, known as fast-track, allowing for the issuing of an order within 72 hours (Sampaio 2010.) It was applied to address mainly cases of refugees living in countries close to Colombia that faced the international scope of the Colombian conflict. By the beginning of 2011, about 124 refugees had benefited from this initiative. Brazil has also expanded its solidarity resettlement program to refugees from other regions. In 2007, the country received 108 Palestinian refugees (Andrade and Madureira 2017, p. 427).

Despite these normative advances, the number of refugees recognized elsewhere and later resettled in Brazil is still very small, which can be attributed to financing difficulties and integration challenges present in developing countries (Andrade and Madureira 2017, p. 427). Between 2014 and 2020, only
32 people were resettled. There are no official data from previous years (Brasil 2020a).

The second relevant legal instrument is Law 13 445/2017, which completed the normative panorama, replacing the old Foreigners Statute of 1980 (an anachronistic law of the military dictatorship, with authoritarian character, and incompatible with the spirit of the 1988 Constitution). Some authors claim that the discussions around the flow of Haitians and the new political demands were factors that drove the debates on the creation of the new Migration Law. (Fernandes 2014; Moulin and Thomaz 2016; Sartoretto 2018). Democratic mechanisms such as the holding of the National Conference on Migration (COMIGRAR) in 2014 and public hearings were put in place (Silva 2017). The construction of the Law also reflects a regional trend in Latin America to replace old legal diplomas concerning migration from past dictatorships for new human rights-based laws. Nevertheless, the strong presence of the Human Rights narrative co-exists across the region with a lack of effective implementation, creating a tension between discourse and public policies. This trend can also be observed in Brazil (Cernadas 2018).

The new law is committed to the human rights paradigm, bringing in its text a series of protective principles and eliminating the discriminatory language that was present in the former legal framework. Another advancement is the possibility of migratory regularization for migrants who are irregular in the national territory, which was previously prohibited (Ventura 2017, p. 433). Among the principles ensured by the new diploma are: non-criminalization of migration, non-discrimination due to the criteria or procedures by which the person was admitted in national territory and humanitarian reception (Brasil 2017). There is also a concern to ensure the right to family reunion and equal treatment and opportunity for migrants and their families, as well as social, labor and productive inclusion of migrants through public policies, enabling equal and free access of migrants to services, programs and social benefits, public goods, education, comprehensive public legal assistance, work, housing, banking and social security, promoting and disseminating migrants' rights, freedoms, guarantees and obligations (Brasil 2017; Wermuth 2020, p. 15)

Despite its advanced character, the new law still carries contradictions related to the incomplete political transition to democracy, such as the role - played since military dictatorship - of the federal police in the implementation of the immigration policy (Zapata and Fazito 2018). Institutional reform is one of the
pillars of transitional justice, and despite major institutional transitional advances, reforms in the armed forces and security forces are still issues to be faced (Abrão and Torely 2011). In addition, although the debates on the New Migration Law started in 2014, the political reality has changed in recent years, and final approval took place in a context of authoritarian speeches (which included praise for the military dictatorship and the resumption of anti-human rights language) (Zapata and Fazito 2018). The text approved by the National Congress suffered 18 vetoes by former President Michel Temer, some on essential points of the law. Among the justifications of the vetoes there are many references to the maintenance of state discretion and national sovereignty (Brasil 2017b).

Among the vetoes is a fundamental concept for the law: that of migrant. This veto expresses the persistence in wanting to place the migrant closer to the stranger and the foreigner, instead of a subject in mobility in the contemporary world. Other vetoes affect the right to free movement of indigenous peoples in traditionally occupied lands, the affirmation of the vulnerability of asylum seekers and victims of human trafficking, among others. The vetoes and their justifications reflect the resistance to giving up a security approach to immigration.

Finally, Decree 9199/17 (Brasil 2017b) which regulates the law, brings a restrictive interpretation of several provisions and directly contradicts others, in addition to not resolving implementation issues and preventing the practice of the rights provided for in the law (Zapata and Fazito 2018). For instance, Article 14 of the Migration Act states that the immigrant worker, in order to grant a temporary visa, must provide proof of a formal job offer. The requirement is waived in the case of a higher education degree (Brasil 2017; Wermuth 2020, p. 20). In turn, Decree 9199/2017 imposes a stricter requirement, namely that the job offer is characterized by an individual employment contract or service contract (Brasil, 2017b). This is considered by some authors as unconstitutional. Such a regulatory decree marks a movement of recrudescence in relation to the text of the Migration Act of 2017. This is quite evident through the use of the depreciative expression “clandestine” (Wermuth 2020, p. 21).

Another core development of the new law was the incorporation of the instruments of the humanitarian visa and humanitarian residency that had been created by CNtg to cope with the Haitian inflow. Additionally humanitarian reception is listed in Article 3 among the principles and guidelines of the law.
regulatory decree, however, is silent on the humanitarian visa, offering no regulation. Among the reasons for granting the temporary visa provided for in the law, the humanitarian reception is the only one that was not transported to the decree, regardless of the presence of humanitarian reception among the law's principles. The regulation of humanitarian reception was left to Ministries of Justice and Public Security (equivalent to the Ministry of Interior in other jurisdictions), Labour and Foreign Affairs, as predicted in Article 36 of the law. Such regulation came through Interministerial Rule n. 10, of April 6, 2018, replaced by Interministerial Rule n. 12, of 20 December 2019 (Brasil 2018d; 2019). Although these instruments are based on the law, the humanitarian visa and the residence permit for the purpose of humanitarian reception continue to be applied exclusively to Haitians. Between October 2018 and January 2019, the Brazilian government granted residence permits to 13,539 Haitians or stateless residents of Haiti who were already in Brazilian territory.

The absence of a broader regulation of the humanitarian visa directly affects Venezuelans entering the country in a situation of great vulnerability. As previously discussed, for them, being recognized as refugees only became possible at the end of 2019. Before that date, the only possible regularization was the residence permit provided for in CNig’s Resolution n. 126/2017. Silva and Jubilut (2018) stress that the “new human rights proclaimed by Law 13 445/17 doesn’t seem to have impacted the way Brazil deals with the protection of Venezuelans”, even with the adoption of Inter-Ministerial Rule n. 9 whose only aim is to reduce documentary requirements. The argument relates precisely to the non-application of the humanitarian visa by the Brazilian State.

4.1. Global compact on refugees

Brazil participated actively on the GCR proposal. On 20 February 2018, the countries and territories of Latin America and the Caribbean, assembled in Brasilia, approved “The 100 Points of Brasilia: Inputs from Latin America and the Caribbean to the Global Compact on Refugees” (Brasil 2018e). Although there is no legal instrument adopted specifically to implement the GCR, there were several actions taken, including pledges by the Brazilian federal government, to implement the GCR. These actions are related to the Venezuelan influx, at present the most significant refugee influx to Brazil. “Operation Welcome” (Operação Acolhida), which started before the GCR, is now implicated in achieving the GCR Goals. Brazil has made several pledges related to the operation, in addition to pledges made by civil society entities.
Operation Welcome is directly involved in enacting pledges made by the Brazilian State on the GCR Platform, specifically the ones related to: maintaining the Brazilian policy of admission, assistance and inclusion of Venezuelan refugees and migrants; expanding the “interiorization” of Venezuelan refugees and migrants; improving the monitoring of the process of “interiorization” of Venezuelan refugees and migrants; deepening multi-stakeholder engagement from diverse sectors of society, in response to the movements of Venezuelan refugees and migrants in the country, with a view to expanding access to jobs and livelihoods and fundraising through the newly established "Operation Welcome" trust fund.

Currently, several actions proposed by Brazil are suspended or seriously threatened, considering the closure of borders justified by the COVID-19 pandemic. In April, when the number of cases in the country exploded, the government decreed the closure of borders for a period of 30 days, a measure that has been reissued monthly ever since (Brasil 2020c). With borders closed, the COVID-19 pandemic has created a worldwide crisis of immobility. This reality is in line with the immobility crisis generated by the closing of borders around the world, creating a series of problems for migrants (Newland 2020). The deprivation of migrants’ rights is the third COVID-related crisis, following health and economic crises (MMC 2020, 7).

The government’s behaviour has shown a lack of commitment to the pacts adopted regarding the protection of migrants. In early 2019, one of the first acts of the current President, Jair Bolsonaro, after taking office, was Brazil’s rupture with the UN Global Compact on Safe, Orderly and Regular Migration. The measures of border closures particularly affect Venezuelans nationals, to whom most pledges are related. Surprisingly, the ordinances on the closure of borders allow the entry of migrants with permanent residency, but they exclude Venezuelan nationals from this permission, indicating the adoption of a discriminatory measure against them.

Brazil’s actions and pledges are listed here, as they appear on the GCR database9. Comments and further developments on the actions have been added to the right column:

<table>
<thead>
<tr>
<th>Implementing Entities</th>
<th>Pledge or Contribution</th>
<th>Description</th>
<th>Present Situation and</th>
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<tbody>
<tr>
<td>Brazil</td>
<td>Deepening multi-stakeholder engagement in response to the movements of Venezuelan refugees and migrants in Brazil</td>
<td>&quot;Brazil commits to continuing to seek ways to deepen multi-stakeholder engagement, from diverse sectors of society, in the response to the movements of Venezuelan refugees and migrants in the country, with a view to expanding access to jobs and livelihoods and fundraising through the newly established ‘Operation Welcome’ trust fund.&quot;</td>
</tr>
<tr>
<td>Brazil</td>
<td>Expanding the &quot;interiorization&quot; of Venezuelan refugees and migrants in Brazil</td>
<td>&quot;Brazil commits to expanding the ‘interiorization’ of Venezuelan refugees and migrants, in particular through the broadening of the base of engaged actors.”</td>
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<td>Brazil</td>
<td>Maintaining the Brazilian policy of</td>
<td>&quot;Brazil commits to maintaining its</td>
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<tr>
<td>Brazil</td>
<td>Exploring modalities of private and community sponsorship for resettlement</td>
<td>“Brazil commits to exploring modalities of private and community sponsorship to resettlement, with a view to launching a pilot initiative until 2021”.</td>
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<tr>
<td>Brazil</td>
<td>Improving the monitoring of the process of &quot;interiorization&quot; of Venezuelan refugees and migrants</td>
<td>“Brazil commits to further developing the &quot;Acolhedor&quot; platform, as a system to monitor the process of &quot;interiorization&quot; of Venezuelan refugees and migrants, as well as seeking to integrate it with other governmental platforms”.</td>
</tr>
<tr>
<td>Brazil</td>
<td>Strengthening the Brazilian eligibility processing system</td>
<td>“Brazil commits to strengthening its national eligibility system, through the implementation of the &quot;SISCONARE&quot; platform, with a view to expediting the processing of asylum</td>
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Brazil also commits to enhancing procedures of refugee status determination through new, standardized and simple methods, including a fast-track”.

Information source: SISCONARE
website: http://sisconare.mj.gov.br/

A simplified prima facie procedure (fast-track) was adopted in October 2019

Source: https://globalcompactrefugees.org/article/brazil.

Brazil has also benefited from pledges made under the mantle of GCR to the Americas, such as Adventist Development and Relief Agency, who pledged to give technical and cost share support for the Latin America migrants. As reported on the ADRA website, in Brazil the institution is supporting the local government in providing aid to refugees, meeting basic needs, with the capacity to help 4500 people. Americas Network for Refugees Legal Aid (ANRLA) has also pledged to implement a Guide to Good Practices for Legal Clinics for Refugees in view of the increase in the creation of legal clinics that provide legal advice to the population of concern in the region of the Americas. Finally, the 22 SVM Catedras in Brazil pledged to implement scholarships as technical support and scientific initiation for refugees, and to provide refugees with a welcoming experience on language learning.

4. Governance actors

Considering the legal landscape and recent developments in migration policy, the implementation of mobility policies in Brazil involves multiple actors, such as various government actors (collegiate bodies, ministries, federal policy), civil society and international organizations (UNHCR, IOM).

The National Committee for Refugees (CONARE) is responsible for building the refugee policy and deciding on requests for recognition of refugee status. Government actors are the Ministries of Justice, Foreign Relations, Labor, Health

10 ADRA website: https://adra.org.br/estado/roraima/
and Education and the Federal Police Department. In addition CONARE also has the participation of civil society and UNHCR, the latter without the right to vote. Civil society is represented by the Caritas Archdiocesan of Rio de Janeiro and the Caritas of São Paulo, thus comprising a tripartite body: government, civil society and the United Nations (Brasil 1997). It should be highlighted that although the Federal Police Department is part of the structure of the Ministry of Justice, it has an exclusive seat. This is justified by their direct participation in controlling the entry and exit from the country, registering and executing compulsory measures (Barreto 2010, p. 171-172), an inheritance of securitization of migration (Acosta, Espinoza and Brumat 2018).

CONARE is situated in the within the structure of the Ministry of Justice and Public Security. It’s Coordination is part of DEMIG (Migration Department) responsible for processes and matters related to nationality, naturalization, recognition of refugee status, statelessness, residence permits, smuggling of migrants, expulsion of foreigners and the legal regime for immigrants.

Another important body in DEMIG’s present structure is the National Immigration Council (CNIg). Previously a part of the Ministry of Labor and Employment, it was created by the former Foreigners Statute (Lei 6.815/80), revoked by the New Migration Act (Lei 13.445/2017). In the new configuration, the CNIg lost part of its duties, which are now laid down in Decree No. 9873, of 27 June 2019 and in Decree No. 9199, of November 20, 2017. CNIg’s composition includes, besides several ministries and federal police, one representative from each of the three union centers with the highest rate of representativeness of workers and three employers’ representatives and a representative of the scientific and technological community. As seen above, the CNIg was a key actor in creating ad hoc policies for the reception of Haitians and Venezuelans. Currently, regulations about this contemporary migration flows are no longer set by it. The residence permit to Venezuelans and the humanitarian visas to Haitians are now being regulated by interministerial rules.

It is important to note that the process of construction of the Migration Law sought to change the competences of several actors linked to the migration policy. The preliminary project built by the Commission of Experts appointed by the Ministry of Justice in 2014 proposed the creation of a National Migration Authority, which would perform various functions related to documentation,

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11 The Ministry of Labor and Employment was restructured in 2019, becoming a Secretariat within the structure of the Ministry of Economy (https://www.gov.br/trabalho/pt-br)
among others, which were overseen by the federal police. Although the structure and content of the preliminary draft was largely incorporated into the approved bill, the National Migration Authority was not created. Decree 9199/2017, in turn, maintained and reaffirmed the powers of the federal police, already exercised since the time of the Foreigners Statute (Silva 2017). The Decree, as Acosta, Espinoza and Brumat argue ‘was largely the work of the Executive and there was little room for input from other actors’. Also, ‘hidden actors’ with decision-making powers in migration policy, such as the Presidency’s Chief of Staff (Casa Civil), emerged (2018).

Alongside the federal police, the role played by the army, the operational head of Operation Welcome, is of central importance. The strong presence of these two actors with security attributions, exposes ambiguities in the implementation of the migration law.

At the subnational level, some councils, committees and coordinating bodies were created to deal with the matter of refuge and migration, monitoring situations and proposing public policies that affect migrants and refugees. Local governments are important actors in the local integration of refugees and immigrants, especially considering the continental dimensions of the Brazilian territory. In this sense, the city of São Paulo has played a pioneering role, launching the first Municipal Plan for Policies for Immigrants in August 2020. This plan is an instrument for planning, implementing, monitoring and evaluating municipal policy for the population of other nationalities living in the city, between the years 2021 and 2024, and it was elaborated with technical support from IOM and UNHCR (São Paulo 2020).

Civil society is engaged in all phases of the protection of refugees (decision-making/protection, assistance, and local integration) (Jubilut 2006, p. 40). Historically, they have always played an important role in the protection of refugees, even before the creation of legal instruments and the presence of UNHCR in the country. Caritas was chosen to represent civil society in CONARE. Caritas in Rio de Janeiro has worked with refugees in Brazil since the 1960s and 1970s, when military dictatorships arose in several countries in South America, as well as in Brazil. Since then, the institution has also been promoting extensive work. This experience was then taken to CONARE, along with other civil society entities, helping Brazil to formulate and implement an entire refugee policy (Barreto 2010, p. 171-172)

The scalabrini “Migrations and Human Rights Institute” (Instituto Migrações e Direitos Humanos - IMDH), a leading institution in the debate and actions of civil
society, coordinates the Solidarity Network for the Protection of Migrants and Refugees, composed of about 50 civil society institutions in all five regions of the country.

Some universities and educational institutions have also expanded interest in the issue of refugees, both as a topic of diffusion and teaching, and as a subject of research and extension. The Sergio Vieira de Mello Chair, created by UNHCR in 2003, aims to involve Latin American universities in activities focused on refugee policy, thus contributing to the policies of local integration of refugees with civil society. Some good practices for the inclusion of refugees developed by universities are: entrance exams aimed at refugees, recognition of certificates, service and training of refugees (Rodrigues 2010; Haydu 2011).

A non-voting member of CONARE, UNHCR established an office in Brazil in the late 1970s and remained in the country until 1998. It was only in 2004, with Brazil becoming a resettlement country and in recognition of its good practice regarding refugee law, that UNHCR re-established itself in the country (Jubilut 2006). In the last few years, UNHCR's presence in Brazil has grown, following the increased arrival of refugees. At present the organization has added offices in São Paulo-SP, Boa Vista-RR, Pacaraima-RR, Belém-PA and Manaus-AM. UNHCR's relevance goes far beyond refugee assistance. Although not entitled to vote in CONARE, the organization’s understanding was relevant in the construction of the humanitarian visa for Haitians, since it defended their non-return and at the same time advocated that they were not authentic refugees. Regarding Venezuelans, the organ's official stance is to treat them as refugees (https://www.unhcr.org/venezuela-emergency.html), and coincides with Brazil's recognition of this status since 2019.

IOM has also augmented its presence due to the Venezuelan influx. Besides its national office in Brasilia, it opened a field office in Boa Vista-RR and a service station in the border city of Pacaraima-RR. The IOM works to regulate migration, supporting the federal police in issuing documents, in addition to supporting the strengthening of initiatives to access food and hygiene items, in partnership with civil society organizations. Initiatives are also developed by IOM with public and private sectors focused on professional training and promotion of entrepreneurship. Finally, the organization also produces documents and information related to the monitoring of Venezuelan border movements (Otero 2018, p. 38-44).
5. Conclusions

In Brazil, there is a wide range of legal and political instruments for the protection of refugees. However, only in recent years have these instruments really been put to the test, with the great increase in the flow of migrants and refugees coming from the Global South, especially from Haiti since 2010 and Venezuela since 2015. Internationally, much has been said about the limitations of the refugee protection system to deal with contemporary migration flows. With globalization, migration has become more complex and diverse, and the root causes for migrating are blurred. In view of this reality, the expanded definition contained in Article 1 (III) of Law 9.474 / 97 seemed promising, as it offered a broad concept of a refugee.

The arrival of thousands of asylum seekers from Haiti since 2010, however, revealed the limitations of this system, since the predominant interpretation of the device, defended by UNHCR and adopted by CONARE, understood that Haitians did not qualify for refugee status. The solution was the construction of an ad hoc instrument to fill the gap: the humanitarian visa. The instrument, developed by CNIg, has been accused of emptying the institute of refuge, for being granted to people who would fit the definitions of the Refugee Statute of 1997, especially considering the Brazilian-expanded definition. Besides, it does not have the same guarantees and legal security as refugee status (Sartorreto 2018).

Nevertheless, the humanitarian visa has an element of protection, making it possible for Haitians to enter and remain, preventing their forced return and figuring as an alternative to mobility. On the other hand, it also acts as a mechanism for containment. This is evident when we observe the first resolution of the CNIg on humanitarian visas, which restricted the issuance to only 1200 visas per year (100 visas per month) at the Embassy of Brazil in Port-au-Prince. Even after the end of this limitation, many have pointed out the limits of the diplomatic offices to process the large amount of visas required, so that thousands of Haitians still enter the country by irregular means and apply for refugee status as soon as they enter the country, a path to obtaining temporary migratory regularization.

In the case of Venezuela, border control is more ostensive, since Operation Welcome, led by the Army, deployed a massive task force that aims, in addition to providing protection to immigrants, at securing the borders. The legal status of Venezuelans was once again an ad hoc solution adopted by the CNIg, that of
granting them temporary residency, following the model of the Mercosur residence agreement. This instrument, even more than the humanitarian visa, fails to recognize the vulnerability of Venezuelans crossing the border, offering a path for regularization rather than an international protection mechanism. The instrument was conceived as an alternative to refuge, although with far fewer responsibilities for the Brazilian State to shoulder. The residence permit is a temporary instrument of regularization, the transformation of it into a permanent residence dependent on proof of subsistence conditions at the end of a two-year period.

More recently, in 2019, CONARE not only recognized that Venezuelans were covered by the expanded definition of the law, but also facilitated the recognition of refugee status for Venezuelans through a fast-track procedure. Since then, more than 46,000 Venezuelan refugees were recognized. In this context, it is even more relevant to emphasize that any regularization through another instrument, including temporary residence and other alternatives such as residency due to work, implies the withdrawal of the asylum application process. Thus, the refugee becomes rather one more addition to sit under the umbrella of migratory regularization. The ambivalent solution of the Brazilian State on the one hand expands the alternatives for regularizing mobility; on the other hand it dilutes the institute of refuge as an instrument of protection.

Migration legislation has also been modernized with the enactment of Law 13,445 /2017, the New Migration Act. Nevertheless, the Regulation by Decree 9199 limits its scope, and the political context reveals great tensions between the human rights narrative present in the law and the re-emergence of a sovereignist and securitist rhetoric in the migratory field. An example of this is the closing of borders based on the pandemic of COVID-19, even with the recognition of the refugee status of Venezuelans. The militarization of borders, the role of the federal police as a migratory authority and the lack of regulation of the freedom to migrate of indigenous peoples in traditionally occupied lands are also examples of how containment is established alongside the mobility alternatives provided by legal instruments. In view of the securitization discourse, the mobility alternatives for the population of Venezuela also need to be seen from the perspective of foreign policy, since “these ad hoc measures are a foreign policy instrument used to criticize and denounce the Maduro government (Brumat 2019).

Refugees and asylum seekers are entitled to work regularly. In the case of Venezuelans, within the scope of Operation Welcome, immediately after entry
there is registration and documentation, including the issuance of a work card. Federal police receive support from international agencies in the issuance of documents. Despite multi-stakeholder engagement, it is important to note that real inclusion and integration, both in the labor market and in society, faces enormous challenges in a very unequal country such as Brazil. Having a job card is no guarantee of employability, and despite the joint efforts made by civil society and international agencies and coordinated by federal, state and local governments, there is a shortage of shelters, housing, access to education (including Portuguese courses) and other social rights. Even so, the right to work for asylum seekers is an extremely important means of integration, in which Brazilian legislation has been innovative.

There are multiple governance actors at all stages – both at the decision-making level and in the integration of refugees. The collective action by government, civil society and international agencies in Operation Welcome has been the means found to address the limitations of the Brazilian state in terms of resources to integrate Venezuelan refugees, especially considering the complexity of migratory flow and the territorial dimensions of the country. Indigenous minorities, for example, face violence in regular shelters and can require exclusive shelter arrangements, which are provided by civil society actors, with support from international agencies.

It is important to highlight that data are lacking for a better dimensioning of public policies. Detailed statistics on labor inclusion are limited to access to the formal labor market. There is scant data that consider gender and other potential vulnerabilities and challenges of inclusion, such as belonging to indigenous ethnic minorities. In any case, the profile of refugees has changed sharply in a short time, and the female presence among refugees has increased significantly, but it is still not possible to analyse the impacts of this presence on the labor market.

Finally, the presence of racist and xenophobic discourses adds to the difficulties of a country that is in an economic crisis and facing a particularly difficult public health situation with the large number of COVID-19 infections.
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