

Brazil: ten years of refugee protection

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The international solidarity and responsibility sharing evident in refugee protection in Brazil contrast sharply with the restrictive trends seen in many other countries.

In 2008, the Brazilian National Committee for Refugees (CONARE) celebrates its 10th anniversary. Created by the 1997 Refugee Act, CONARE is an inter-ministerial and inter-institutional body which works to determine refugee eligibility, promote refugee-related public policies, design and evaluate resettlement activities and regulate the legal framework for asylum in Brazil. The Committee comprises representatives of the ministries of Justice, Foreign Relations, Labour, Health and Education, plus the Federal Police Department and Caritas Arquidiocesana, an NGO long engaged in refugee protection and assistance in the country. UNHCR has observer status.

As the first forum in Latin America where government, civil society and the UN work together to design refugee policies and procedures, CONARE has a lot to celebrate. The 1997 Refugee Act was the first legislation in South America to consider “severe and generalised violations of human rights” as legitimate grounds for refugee status and became a model for other countries in the region.¹ UNHCR considers the asylum procedure in Brazil one of the fairest and most democratic in the world.

The Act has been further clarified and expanded by CONARE. In particular, one subsequent resolution expands refugee status to family members.² Not only are a refugee’s legal companion and under-aged children eligible for refugee status but also parents and under-aged orphan siblings, grandchildren, great-grandchildren, nephews and nieces. In this, CONARE went beyond what is required by the 1951 Convention and has promoted a broader notion of the refugee’s right to family life.

Eligibility decisions made by CONARE have recognised gender-based persecution, given special consideration to children and other vulnerable groups, and acknowledged the complementarity between asylum and internal displacement.³ The Committee also chose not to abide by new legal doctrines such as ‘internal flight alternative’ and ‘safe third country’, so as to preserve a case-by-case approach to dealing with each situation.

Asylum and integration

According to the Refugee Act, asylum seekers in Brazil enjoy rights to work and temporary residence and are entitled to use the public health and education systems until a decision on their cases is reached. They are also permitted to move around freely within Brazil. Assistance during the asylum procedure is provided by a network – the largest refugee support network by far in Latin America – of some 96 civil society organisations, in close partnership with the government and UNHCR. Shelter, language classes and some free legal aid are offered to claimants in several states. CONARE has prioritised training of those involved in the asylum process. In 2007, the Committee’s technical staff, with UNHCR, travelled around the country doing capacity building on the national eligibility system with NGOs and federal police officers. This has led to significant improvements in the quality of the refugee determination procedure.

A reflection of the fairness and professionalism of the asylum system has been the increased number of people seeking protection in the country. In 1998, when CONARE was newly formed, Brazil had 1,991 recognised refugees within its borders. That number increased to

2,884 in 2002. Now, Brazil hosts 3,857 refugees of 70 different nationalities.

Social and economic integration has been the biggest challenge to date. Although refugees are entitled to all basic public services, some of their specific needs and vulnerabilities are not being met. UNHCR tries to address these needs and for years has been the main funder of shelter and local integration programmes, with its contribution complemented by government funds of US\$ 470,000 for 2005-07. These resources are transferred directly to Caritas Arquidiocesana which implements social integration activities for refugees, such as Portuguese lessons, psychological assistance and employment training. Food, health care and financial support may also be provided for up to six months.

The private sector is beginning to be involved in local integration initiatives. Professional capacity building has been offered by the National Associations of Enterprise (SENAI) and Commerce (SENAC), while the Chamber of Commercial Entrepreneurs (SESC) incorporates refugees in its health and education programmes, as well as offering technical training.

Finally, integration is also boosted by the inclusive nature of Brazilian legislation. In contrast with many other countries which operate temporary protection schemes, forced removals and restrictions on permanent residency, refugees in Brazil are allowed to apply for a permanent visa and for citizenship after six years of residence in the country.

Resettlement

Brazil has been strengthening its position as an emerging country of resettlement. Since the signing of the Resettlement Agreement between the government and UNHCR in 1999, the country has resettled 373 people of seven different nationalities.

CONARE prioritises the protection of two distinct vulnerable groups: refugees without legal and physical protection, and women at risk. The special attention to vulnerable women, particularly women heads of household and/or victims of violence, has rendered extremely positive results in terms of local integration. It is estimated that 20% of resettled refugees in the country are women heads of household.

In 2004, in the framework of the Mexico Plan of Action for Strengthening the International Protection of Refugees in Latin America,⁴ Brazil proposed a pioneering regional initiative called the Solidarity Resettlement Programme. Grounded in principles of international solidarity and responsibility sharing, the Programme invites countries to offer resettlement to refugees presently hosted by those countries which are disproportionately affected by massive flows in the region – such as Ecuador and Costa Rica which receive large contingents of people fleeing from Colombia.

This Programme has not only succeeded in boosting resettlement in countries such as Chile and Argentina but has also significantly strengthened the Brazilian initiative. In a decentralisation effort, 22 cities across the country have become part of the Solidarity Resettlement Programme, plus 80 new partners from the private and public sectors. New resettlement missions to Ecuador

have been scheduled and CONARE regularly approves refugees from Colombia for admission.

Another ground-breaking innovation of the Brazilian programme has been the emergency resettlement procedure, set up in 2005, whereby refugees at immediate risk can have their resettlement applications examined within approximately 72 hours. If resettlement is agreed, their arrival in Brazil takes place within a maximum of seven days. Since the end of 2007, 60 cases have been successfully presented under this procedure.

With solid resettlement experience in Latin America, CONARE has since decided to expand its programme beyond the region's borders. In 2007, a group of 108 Palestinian refugees arrived in Brazil from the Ruweished camp in the Jordanian desert, fleeing persecution in Iraq and having been denied protection by several traditional countries of resettlement.

Future challenges

Despite ten years of positive developments, many challenges remain, the biggest being refugee self-sufficiency and sustainability. Deficiencies in education and professional training make it difficult for some refugees to find proper jobs or earning opportunities in the country – something of course shared with some Brazilian nationals.

Decentralisation of refugee care is also a big challenge for a continent-

sized country like Brazil. New investments, partnerships with local governments and public information campaigns are being implemented in order to improve the quality of refugee reception and assistance in all parts of the country, as well as to optimise asylum proceedings and local integration.

In sum, the Committee's main challenge is to reduce refugee exclusion from full integration by facilitating their access to social benefits as well as by encouraging further involvement of the private sector. We believe the tripartite structure – government, civil society, UN – established for the implementation of refugee policy in Brazil is CONARE's biggest asset and a possible model for other national committees around the world.

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1. See José H Fischel de Andrade and Adriana Marcolini, 'Brazil's Refugee Act: model refugee law for Latin America?', FMR 12: www.fmreview.org/FMRpdfs/FMR12/fmr12.13.pdf

2. The extension of the condition of refugee to family members is enshrined in article 2 of the Law 9.474/97.

3. CONARE (2007) O reconhecimento dos refugiados pelo Brasil: comentários sobre as decisões do CONARE, Brasília, CONARE/ACNUR.

4. Full text at www.acnur.org/biblioteca/pdf/3453.pdf See also William Spindler, 'The Mexico Plan of Action: protecting refugees through international solidarity', FMR 24: www.fmreview.org/FMRpdfs/FMR24/FMR2438.pdf