

Brazil and the spirit of Cartagena

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The Declaration of Cartagena is important as it includes elements that link the three threads of international protection – humanitarian law, human rights and the rights of refugees – in legislation, interpretation and operation.

The Cartagena Declaration on Refugees (1984) was the outcome of meetings between government representatives and specialists from ten Latin American countries who met in Cartagena de Indias, Colombia, to consider the situation of refugees in Central America. It established the basic concepts of the issue in the human rights field and launched the term ‘massive violation of human rights’ as an element in the broader definition of refugees. On the Cartagena Declaration’s 10th Anniversary, the San José Declaration on Refugees and Displaced Persons (1994) provided further innovatory insight into the specific protection of the internally displaced, stating that their displacement was mainly caused by the violation of human rights, thereby expressly recognising convergences between the international systems of protection of the human person and emphasising their complementary nature.

The Mexico Plan of Action, which marked the 20th Anniversary of the Cartagena Declaration, proposes actions to strengthen international protection for refugees in Latin America. As host of the Southern Cone’s preparatory meeting for the 20th anniversary, Brazil contributed to the historic consolidation of principles and regulations for the international protection of the human person. The protection of human rights and strengthening of the democratic system are the best measures that can be taken in the quest for lasting solutions and in the prevention of conflicts, exoduses of refugees and serious humanitarian crises.

The spirit of Cartagena

The Brazilian state has made efforts to catch the ‘spirit of Cartagena’. It has not only incorporated the concepts of the 1951 Convention and the 1967 Protocol but in 1997 passed a law defining a refugee as any person who “due to grave and generalised violation

of human rights, is obliged to flee their country of nationality to seek refuge in another country.”

In practice, the spirit of Cartagena has been gradually built into Brazilian legislation since the Constitution was promulgated in 1988. The first article of the Constitution of Brazil enumerates its fundamental elements, including “the dignity of the human person” and the third article describes the fundamental objective of Brazil as “to promote the well-being of all, without prejudice as to origin, race, sex, colour, age and any other forms of discrimination.” Moreover, the fourth article – referring to the principles governing international relations – cites among other criteria “the prevalence of human rights; the self-determination of the peoples; cooperation among peoples for the progress of humanity; and granting of political asylum.”

Furthermore, the Constitution stresses that “all persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being assured of inviolability of the right to life, to liberty, to equality, to security and to property....” It stresses that “the rights and guarantees expressed in this Constitution do not exclude others deriving from the regime and from the principles adopted by it, or from the international treaties to which the Federative Republic of Brazil is a party.”

Since the 1990s Brazil has ratified and is ratifying most of the international human rights treaties, so that these already form part of the Constitution. The country also participates unconditionally in the human rights regimes of both the UN and the Organisation of American States. As a result, the nation is under an obligation to observe the principles and regulations of these regimes. Thus, in 1997 Brazil met no obstacle in incorporating the Cartagena principles into national legislation.

Resettlement

The full application of regulations for the international protection of the human person and actions undertaken to consolidate this state policy are of genuine concern to Brazilian society whether through government or civil

society action, or both together. For example, Brazil has undertaken a refugee resettlement programme in close collaboration with civil society and UNHCR. Brazil and UNHCR signed the Macro Agreement for the Resettlement of Refugees in Brazil in 1999. However, it was not until 2002 that Brazil received its first group of resettled refugees. The group consisted of 23 Afghans who were settled in Rio Grande do Sul. However, owing to Brazil’s lack of experience in the resettlement of refugees, the gap between Afghan and Brazilian culture and UNHCR’s



Resettled refugees in language class, Brazil.

own lack of experience of the social, political, economic and cultural characteristics of Brazil, only nine of those 23 people have remained in Brazil in the long term.

Subsequently, improvements were made to the programme – through training resettlement specialists and exchanging international experiences in this sector. As a result Brazil is now a leader in the reception and resettlement of refugees, and CONARE, the National Committee for Refugees, has been noted as implementing best practice in the reception of resettled refugees. CONARE officials hold interviews with resettlement candidates for Brazil in the first country of asylum, for example. Brazilian officials seek to represent the real economic, social and cultural situation of the country to interviewees in the most explicit manner possible, providing a fair representation of the potential for integration and helping to avoid later frustration among settlers.

Brazil also does ‘fast-track’ resettlement in response to requests for emergency resettlement presented by UNHCR.

In an overview of the issue of asylum in Latin America, a UNHCR document in 2004 stated that there are three parallel situations in this region: 1) countries that continue to receive a reduced number of asylum seekers and refugees as part of the mixed flows of

regional and hemispheric migration; 2) countries that host a significant number of Latin American asylum seekers and refugees; and 3) emerging resettlement countries. Brazil falls into the third of these categories.

Thus it is hardly surprising that Brazil has played a leading role in terms of resettlement within celebrations for the 20th anniversary of the Declaration of Cartagena, which called for “solidarity resettlement for Latin American refugees” by countries in the region who receive a large influx of refugees as a result of conflicts and humanitarian tragedies in Latin America. Representatives of all countries in the region approved this initiative. Thus, as a result of this regional initiative, Brazil saw its population of resettled individuals grow from 25 in 2003 to 208 in 2006 and 397 in 2009, of whom three-quarters were Colombians.

Brazil is working hard to demonstrate the spirit of fraternity and human solidarity with international society through a multilateral approach within the framework of the current regulatory norms on international protection.

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