The Legal Framework and Institutional Assistance for Refugees in Brazil Since the Mid-Twentieth Century

The Impact on Refugee Integration and Assistance

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Abstract

This paper examines the evolution of refugee protection and assistance in Brazil with a focus on primary actors involved. Over the course of the last half-century, the government, international organizations, and non-governmental organizations became more cooperative. Moreover, refugees have been more widely accepted and have been provided care and services more effectively. In spite of the positive progression of Brazil’s refugee program, challenges remain, especially in terms of refugee labor market, education, and societal integration.

Research Strategy and Research Questions

I will pursue a qualitative research strategy and conduct archival research, and content analysis throughout to identify domestic laws and examine the language of those laws, participation in international agreements, and organizational involvement related to refugee protection and assistance in Brazil. Various resources will be utilized to gather information, including but not limited to academic journals, non-academic periodicals, legislation, scholarly books, and sources from organizations such as the UNHCR. Further, using existing research, available data, and content analysis, I will identify refugee integration in the country over the same period.

The literature (Andrade 1998; Andrade and Marcolini 2002; Jubilut 2006; Jubilut and Apolinário 2008; Moreira 2010; Nogueira and Marques 2008; White 2012) shows that Brazil has improved significantly in terms of laws related to refugees and institutional assistance for refugees, in a limited amount of time. Further, the fact that the international community, non-governmental organizations, and national governments are the three main sources of protection and assistance for refugees (Refugees 2010, 67) makes them each imperative to analyze in terms of Brazil’s refugee program. In spite of the considerable evolution of refugee protection and assistance in Brazil, (Jubilut 2006, 39), refugee acceptance has been limited and social services have not been effectively distributed to refugee populations (Arruda 2013; Ingleby 2005; Loue
and Sajatovic 2012; Moreira 2005). My paper addresses specific issues concerning legislation related to refugees and assistance to refugee groups by focusing on the following questions:

1) How has refugee law and institutional assistance in Brazil evolved since the 1950’s?
2) Who have been the actors involved and what patterns of cooperation exist?
3) What integration efforts and assistance have refugees in Brazil historically enjoyed since the mid-twentieth century?

The Refugee Situation and Brazil

One of the main difficulties the international community has encountered since the start of post-war approaches to human rights in the mid-twentieth century, has been to accurately define which migrants are refugees in need of international protection and assistance (Alston 2012). The term “refugee” is a category distinctly defined by various states and international organizations (Zolberg et al. 1989). For example, the UNHCR 1951 Convention, 1967 Protocol relating to the Status of Refugees, and the 1984 Cartagena Declaration on Refugees each specify what it means to be a refugee and have influenced the development of definitions and treatment of refugees in Brazil (Goodwin-Gill 2007). In the early years of discourse on refugees’ human rights, most notably in the UN Convention of 1951, the definition of the term refugee applied only to Europeans (Loescher 1993, 57). However, according to Michael Dummett,

all conditions that deny someone the ability to live where he is in minimal conditions for a decent human life ought to be grounds for claiming refuge elsewhere [and]… justice… requires extending a right to admission to those seeking to escape not just desperate straits where life and limb are under immediate threat but also those fleeing the poverty that afflicts much of the Third World (Dummett 2001, 25).
Definitions and international discourse on refugees’ human rights have evolved have generally become more inclusive. In the case of Brazil, the legal definition rests in article 1 of the Refugee Act of 1997; an individual is considered a refugee if:

- “due to well founded fears of persecution for reasons of race, religion, nationality, social group or political opinions, he or she is out of his or her country of nationality and cannot or does not wish to rely on the protection of such country;
- having no nationality and being out of the country where he or she had previously retained permanent residence, cannot or does not wish to return to such country based on circumstances mentioned in item I above;
- due to severe and generalized violation of human rights, he or she is compelled to leave his or her country of nationality to seek in a different country” (Jubilut 2006, 30).

Brazil’s current definition of ‘refugee’ generally follows the same criteria of the 1951 UN Convention and its 1967 Protocol (Jubilut 2006, 31).

In Brazil, some individuals who do not conform to the government’s definition as a refugee have historically been offered protection and assistance regardless. Non-governmental organizations and international organizations provide various forms of assistance to migrants who have not formally been recognized by the government as refugees. The government often funds the assistance provided and individuals who are supported are referred to and treated as refugees, whether or not they have been awarded the legal status. For this reason, I will utilize a more comprehensive definition of the term refugee for my general discussions in this paper.

Traditionally, studies use legal definitions of ‘refugee’. However, analysis of those protected and assisted by Brazil’s refugee program requires a more comprehensive definition. In
order to adequately address the complexities of refugee situations since the mid-twentieth century, this paper refers not only to the legal definition, but also to Zolberg’s sociological definition of a refugee; “on a sociological basis, that is, according to criteria grounded in observable social realities, independent of any determination by official bodies or by the refugee’s own claims” (Zolberg et al. 1989, 19). In other words, an individual is considered a refugee if he or she is a victim of events for which he or she “cannot be held responsible” (Zolberg et al. 1989, 18) and is consequently “forced abroad in order to survive, either because their own state is the cause of their predicament or because it is unable to meet…basic requirements” (Zolberg et al. 1989, 48).

Brazil is a strategic country to study in terms of modern discourse and action related to refugees because the country “occupies prominence in South America for having been the pioneer to regulate protection to refugees” (UNHCR, 2003). In the international context, Brazil was the first country in the region to adopt the Convention of 1951 and the second country in South America to join the Protocol of 1967 (White 2012). Brazil was also the first country in South America to regulate domestic refugee protection, ratifying their main international instruments of protection (Moreira 2005, 71). Although it did not sign the Cartagena Declaration of 1984, Brazil has applied the Declaration’s expanded definition of ‘refugee’ since 1989 (Da Silva 2013, 225). Additionally, Brazil was the first country in the region to create specific national laws on refugees (Federal Law no. 9,474, 1997). Furthermore, Brazil has been recognized as an emerging resettlement country since the start of the twenty-first century (Jubilut and Apolinário 2008, 29). Additionally, written laws in Brazil, most notably the Refugee Act of 1997, appear to be extremely progressive (Jubilut 2006, 33). However, Brazil is notorious for passing progressive laws and facing challenges with their implementation. The unique status
of Brazil as rising in appeal as a destination country for refugees, as well as the progressive laws in place in the country, make it important to analyze in terms of actual refugee protection and assistance. Actual implementation of refugee laws and international initiatives with the assistance of a network of organizations, along with possible improvements, will be discussed in the conclusion of this research.

**Structure of the Paper**

This paper includes a discussion of the legal framework and institutional assistance of refugees in Brazil since the mid-twentieth century and resulting refugee integration and assistance. The discussion will initially analyze international organizations and non-governmental organizations as contributors to the protection and assistance of refugees in Brazil. Next, it will examine the government’s progression in terms of refugee policy and assistance since the mid-twentieth century. There will be a discussion of health care assistance and integration efforts for refugees by the aforementioned actors’ over the same period. After a brief analysis detailing actors’ developments and contributions to refugee policy and assistance since the mid-twentieth century, the paper will focus on current Brazilian refugee laws and their implementation in a period with rising attraction to Brazil as a destination country and therefore, larger numbers of asylum seekers in the country. Ultimately, conclusions and suggestions for the future of the refugee program in Brazil will be provided.

**Background**

Brazil’s formal involvement in modern refugee matters began with the establishment of the UN High Commissioner (UNHCR) for refugees in 1950 (Hayes 1982, 104). Brazil was one
of 70 members of the Executive Committee of the Higher Commissioner’s program (Goodwin-Gill 2007). Brazil, along with Venezuela, was one of the first South American countries to be part of the Executive Committee of UNHCR” (Jubilut 2006, 24). During this initial stage, Brazil only offered refugee status to Europeans and NGOs were largely responsible for what little refugee assistance was provided.

In the early years of modern refugee policy, the main concern of most countries and international treaties was the resettlement of European refugees as a result of World War II. The Brazilian government provided visas for European refugees’ protection. Thanks to the help of NGOs, independent from the Brazilian government, some basic assistance was provided to refugees during that period, though such assistance was not recorded in detail.

During Brazil’s military rule, refugee protection and assistance was limited on the part of the government but UNHCR and NGOs were actively involved in refugee assistance because of their flexibility as independent entities (“Protecting” 1999). Such organizations were primarily focused on basic resettlement and protection of refugees, particularly those from Latin American countries. There was high demand for resettlement because of repression and persecution in neighboring countries, but Brazil would not accept those individuals as refugees or permanent residents (Jubilut 2006, 25). From the late 1970s to 1990s, there was no UNHCR office in Brazil, only a regional office in Buenos Aires, Argentina (Jubilut 2006, 39). The UNHCR’s geographic limitation further hindered the UNHCR’s ability to resettle refugees. Further, high demand for non-governmental assistance for Latin Americans in need of protection and resettlement detracted from assistance in other matters during the period. Therefore, there are no documented cases of widespread health care assistance or integration efforts during the country’s military dictatorship.
With the return to civilian rule in 1985, Brazil began emphasizing the importance of refugee issues (Andrade 2002, 38). This period was marked by groundbreaking changes in refugee policy with Brazil’s acceptance of a broader refugee definition and without a regional restriction. The constitution of 1988 established Brazil’s “openness and political will to continually improve its policies and laws regarding the protection of refugees…proving that it is possible to combine governmental needs and the offer of protection and integration to those in need” (Jubilut 2006, 41). However, the country had not yet begun widespread assistance or integration programs for refugees beyond efforts by institutions independent from government.

In 1997, Brazil demonstrated to the international community its dedication to refugee assistance by creating a specific Refugee Act. The Refugee Act of 1997 “allows for a better correspondence between legal provisions, local conditions and the needs of refugees” (Jubilut 2006, 28). Additionally, it marked refugee inclusion in Brazil’s social services, including access to public hospitals. The Refugee Act of 1997 formally established Brazil’s tripartite structure for refugee policy with CONARE, involving UNHCR, the government, and NGOs. Brazil’s modern refugee policy structure is considered one of the “fairest and most democratic in the world” (Nogueira and Marques 2008, 57).

In spite of having to work under a regional office in Buenos Aires, Argentina, the UNHCR remained active in Brazil’s refugee policy and the government signed an agreement with the UNHCR in 1999 to begin a formal, domestic, refugee resettlement program (Amaral 2005, 8). In addition to the strengthening of UNHCR activity in Brazil, the country has become involved in various international treaties. For example, in 1992, Brazil joined the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and also the American Convention on Human Rights. Brazil also actively
participated in the Second World Conference on Human Rights held in Vienna in 1993 (Da Silva 2013, 223). In 2004, the UNHCR office formally reopened in Brazil and the UN’s refugee agency in Brazil (ACNUR) has maintained active involvement since (Estarque and Gomes 2014, 2). Brazil is credited with having proposed the Mexico Plan of Action regional Solidarity Resettlement Program in 2004 (Knight 2007, 1). More recently, Brazil participated in refugee integration discussions in Mercosur7 in alignment with the Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas in 2010 (White 2012, 5). Discussions resulted in the regional body developing a Declaration of Principles on the International Protection of Refugees in 2012, which reasserts a “commitment to non-refoulement; respect for age, gender and diversity inclusion principles” as well as the adoption of Cartagena’s wider definition of a “refugee”, and the creation of national and regional resettlement programs (Tanner 2012, 3).

NGO’s became more active during this period as well. In the early 1990s, NGOs and the UNHCR planned a ‘partnership in action’ (PARinAC), which “included recommendations for the coordination of protection activities, the joint development of protection priorities and strategies, and the strengthening of the complementarity of UNHCR and NGO protection activities” (Refugees 2010, 82). In addition, UNHCR and various NGOs worked together on the Global Consultations on International Protection on the 50th anniversary of the 1951 UN Convention relating to the Status of Refugees (Refugees 2010, 83). In 1997, Brazil’s Refuge Act formally incorporated non-governmental organizations and international organizations in the government’s determination of refugee status (Article 2) (Jubilut and Apolinário 2008, 31). The federal government began financially supporting such organizations in 2007 with a contribution of about $350,000 US to CONARE, which transferred funds to Caritas and provided resettled refugees with financial support and help finding jobs and housing (Moreira and Baeninger 2010,
As actors in Brazil became more integrated in terms of refugee protection and assistance, the country’s refugee program improved; more refugees were accepted as shown by UNHCR reports (detailed later in this paper) and access to assistance was more widespread.

Brazil has made considerable human rights contributions by protecting and assisting large numbers of refugees beginning with European migrants after the Second World War and more recently, significant numbers from Angola, Afghanistan, and Haiti among others (Bodman et al. 2011). Unfortunately, refugee assistance has historically been very limited around the world. António Guterres, former prime minister of Portugal and United Nations High Commissioner for Refugees (UNHCR), explained that “the precarious situations more than 6 million refugees face today, extensive camp stays, the inability to repatriate, inadequate healthcare and education, and human trafficking and violence” (Refugees 2010, 69). The solution should be refugee integration into their country of refuge. Specifically, refugees should have access to “health and all the other services of a government in the same way that local people do” (Refugees 2010, 199). Those who fit the sociological framework of refugees are provided health care assistance by NGOs and UNHCR services in Brazil. The government also funds and supports many of the organizations that provide health care assistance. Asylum seekers and refugees are included in Brazil’s social services and provided access to public hospitals, as is offered to Brazilian citizens (Moreira 2005). Brazil’s refugee protection system should be seen as a model for the evolution of International Refugee Law and protection at large (Jubilut 2006, 41). That said, there is room for improvement, particularly with distribution and access of refugee services.
Table 1: Primary Actors’ Involvement in Protection and Assistance of Refugees in Brazil Since the 1950s*

| | Ação Comunitária no Brasil Chamber of Commercial Entrepreneurs | Instituto Migrações e Direitos Humanos de Brasil National Association of Enterprise |
| | National Association of Commerce | |
| | | CONARE 'National Committee for Refugees' Foreigners’ Decent Work Program |
| | | Emergency Resettlement Procedure (2005) |

*All mentioned terms are defined in the glossary. Dates mentioned correspond with Brazil’s ratification or implementation. This chart is not exhaustive.

**Brazilian Refugee Policy**

**Early Refugee Policy**

Despite appearing exceptionally committed to international refugee protection, Brazil applied discriminatory policies in its early years of formal refugee protection. Brazil maintained the 1951 Convention’s geographic reservation to only permit refugees of European descent, even after signing the 1967 Protocol, which eliminates such restriction (Jubilut 2006, 24). Further,
with the installment of military rule in 1964, Brazil “moved away from the UN system regarding human rights protection…taking defensive positions towards international bodies on human rights in its external policy” (Da Silva 2013, 217). The military dictatorship avoided assisting Latin American refugees from politically motivated armed conflicts (Moreira 2005, 71). In fact, although Brazil adopted international refugee laws, the government did not implement them or respect their provisions during the dictatorship (Jubilut 2006, 24).

In the 1970s and 1980s there were a large number of refugees escaping neighboring Latin American nations “due to the persecution of populations following the establishment of non-democratic regimes” (Jubilut 2006, 24). Even though Brazil was a major recipient of European refugees, it only “granted ‘tourist visas’, which allowed the provisional stay of 90 days in the country… [While] waiting to be resettled in a third country” (Moreira 2005, 65). Transient refugee policies included “about 20,000 Argentines, Bolivians, Chileans and Uruguayans [being] resettled from Brazil to Australia, Canada, Europe, New Zealand and the US” (Jubilut 2006, 24).

Over the years, the UNHCR encouraged Brazil’s government to accept certain populations of concern. For example, despite the geographical limitation, in 1979 and 1980, Brazil received about 150 Vietnamese refugees who were accepted as immigrants thanks to the influence of the UNCHR (Andrade and Marcolini 2002, 169). It is important to note, however, that many refugees have been turned away by Brazil’s government for political reasons, based on their country of origin. For example, in 2002, after a peace agreement ended civil war in Angola, Brazil’s government began to reject asylum seekers in genuine need of refuge, in order to “maintain good political relations” (Frayssinet 2007, 3). Refugee acceptance remains imperfect in Brazil and country of origin can affect whether those in need of refuge are granted asylum.
Re-Democratization and Refugee Policy

The military government lasted from 1964 to 1985 (Da Silva 2013, 221). When Brazil’s military dictatorship initially turned over the government to a civilian regime, the newly democratic Brazilian government considered refugees the UNHCR’s responsibility and not their own (Jubilut 2006). In time, however, “the period of re-democratization marked a new phase in Brazilian policy for refugees, retrieving the engagement with the theme, as well as its humanitarian tradition, which had been initiated in the post-war, but had retreated during the military dictatorship” (Moreira 2010, 115).

Re-democratization occurred gradually over the period of ten years and during this time, there were significant changes to Brazil’s human rights agenda. In 1981, the government established the Brazilian National Council of Immigration (CNIg), which was in charge of immigration matters (Soares 2013, 1). Three years later, “refugees were allowed to stay on Brazil’s national territory for an unlimited amount of time while awaiting resettlement in other countries” (Moreira 2005, 66). A few other landmarks of Brazil’s refugee assistance programs include the government’s more comprehensive inclusion of refugees as a consequence of the 1984 Cartagena Declaration (Jubilut 2006, 31), “the approval of the Federal Constitution in 1988; and the lifting of the geographic and temporal restrictions in 1989” (Jubilut and Apolinário 2008, 31). Additionally, the UNHCR and NGOs became increasingly incorporated in government decisions on refugee matters. For example, in 1986, with the assistance of the UNHCR, about 200 Iranians were resettled in Brazil (Andrade and Marcolini 2002, 169). This acceptance demonstrates an example of the government recognizing a groups’ need for protection and assistance and being encouraged to act by the UNHCR because at the time, Brazil did not formally accept Iranians as refugees.
In 1988, Brazil’s newly drafted constitution incorporated important principles of human rights (Amorim 2009, 2). Specifically, the Constitution includes protections of “the ‘dignity of the human being’ (Article 1) and the obligation to promote the welfare of all without discrimination (Article 3), as well as the prevalence of human rights and the concession of political asylum (Article 4, II and Article 4, X, respectively)” (Jubilut 2006, 27). Further, in Article 5, all people are established as equal before the law “without discrimination of any kind and assures the inviolability of the rights to life, to freedom, to equality, to safety and to property of Brazilians and resident foreigners alike” (Jubilut 2006, 27). Thus, on the basis of rights granted to both Brazilians and foreigners, those in search of refuge can exercise all of the guarantees and responsibilities of the Brazilian juridical system. Re-democratization, the 1988 Federal Constitution, and the evolution of human rights in Brazil contributed to the evolution of Brazil’s refugee policy and eventually, the creation of a comprehensive Act on refugee status determination.

The Refugee Act of 1997

As aforementioned, during the early stages of Brazil’s modern refugee policy, the country adopted a geographic reservation stipulating the acceptance of exclusively European refugees. In light of Brazil’s newfound emphasis on human rights, the government finally withdrew the geographic restriction in 1989, consequently providing refugee status to asylum seekers from all over the world (Jubilut 2006, 26). From the early 1990s to the Refugee Act of 1997, Refugee Status Determination “in Brazil was regulated by…Inter-Ministry Rule 394 (and not by a specific bill), and was conducted mainly by UNHCR” (Jubilut and Apolinário 2008, 30). After 1997, Brazil expanded refugee rights and established more government involvement through “a specific administrative process for the granting of refugee status, involving both UNHCR, which
analyzed the individual cases, and the Brazilian Government, which gave the final decision on the matter” (Jubilut 2006, 26).

Following the adoption of a more comprehensive refugee definition from the Cartagena Declaration and the decision to withdraw the geographic restriction of the 1951 Convention, Brazil immediately experienced an increase in refugee arrivals from non-European countries. For example, between 1992 and 1994 nearly 1,200 Angolans fleeing civil war arrived in Brazil in search of refuge (Jubilut 2006, 26). Angolans arrived in Brazil after a troubled period of elections in Angola and were accepted as refugees by the Brazilian government despite not meeting the traditional definition of a refugee according to the 1951 Convention (Moreira 2005, 67), marking a pivotal transition in Brazilian refugee policy to a more universally accepting country of refuge.

In 1997, Brazil established a progressive National Refugee Act⁹ that was the first national law on the matter in the region (Da Silvia 2013, 215). Previously, the UNHCR and various NGOs were mostly responsible for refugee status and welfare. However, those organizations cannot perform official acts such as, grant asylum, provide settlement, or even gain access to information about certain refugee situations (Hayes 1982, 106) so it is important that governments regulate such processes. Brazil’s 1997 Refugee Act established a new procedure for refugee status determination in that country and gave the government “full responsibility for refugee matters… [including the] initiation of the procedure, eligibility interview, provisional and definitive documentation and eligibility decision, most of which was previously carried out by UNHCR” (Andrade 1998, 408). Additionally, the Act established the 'National Committee for Refugees' (CONARE), to be responsible for eligibility decisions and for determining the claims of the petitioners (Souza Kim 2006, 7).
Brazil’s Refugee Act of 1997 “includes the expanded definition of the Cartagena Declaration” (White 2012, 11). National law established by the Act “translates the main universal protection clauses to the Brazilian legal system [and] enlarges the traditional protection by establishing the possibility of recognizing a person as a refugee due to gross violations of human rights” (Jubilut and Apolinário 2008, 30). The Act generally follows the same criteria as the 1951 UN Convention but with a few major alterations. For example, “the 1997 Refugee Act was the first legislation in South America to consider ‘severe and generalized violations of human rights’ as legitimate grounds for refugee status and became a model for other countries in the region” (Nogueira and Marques 2008, 57).

According to Article 7 of Brazil’s 1997 Refugee Act, the “possibility of making a request for refuge to any immigration authority” is assured, and according to article 8, “the Act also establishes that an irregular entry does not prejudice the possibility of asking for refugee status (Article 8)” (Jubilut 2006, 32). Additionally, the Refugee Act, Forbids the extradition of refugees and applicants for refugee status pending a decision on their cases, with the exception of cases where national security or a threat to public order are involved, in which case the refugee or applicant will not be sent to his/her country of origin or residence or to a place where his/her life, liberty or welfare may be in jeopardy (Jubilut 2006, 32).

Such assurances for entry are innovative because previously, there were no legal safeguards in Brazil for refugees in such situations.

Before the 1997 Refugee Act, non-governmental organizations in conjunction with the UNHCR primarily controlled the reception and assistance of refugees. After the Refugee Act of 1997, the responsibility of refugee status determination was transferred to the government with
the UNHCR in a supervisory role (Jubilut and Apolinário 2008, 31). Another innovation of the
Act was the extension of status to a refugee’s legal companion, under-aged children, and
“parents and under-aged orphan siblings, grandchildren, great-grandchildren, nephews and
nieces” (Nogueira and Marques 2008, 57). Also, with the implementation of exclusion clauses,
the Act adds that a person can be denied refugee status because of past criminal activity (The
Government of Brazil 2013, 3).

Refugee Status Determination

The current process for refugee status determination in Brazil is outlined in articles 17,
18, 19, and 20 of the National Refugee Act of 1997 (Da Silva 2013, 226). The first step of the
process requires that the Federal Police formalize a document request, also known as a
Declaration Term with the asylum seeker’s information (name, nationality, name of parents,
birthdate, and the reason for leaving the country of origin). The document is considered the start
of the refugee status determination procedure. After this document is issued, the asylum seeker
must complete a questionnaire within six months, either regulated by NGO’s, Cáritas
Arquidiocesana do Rio de Janeiro or Cáritas Arquidiocesana de São Paulo, or if the refugee is
not in Rio de Janeiro or São Paulo, the questionnaire would be completed in a Federal Police
Department (Jubilut and Apolinário 32).

The questionnaire is then reviewed by CONARE, a tripartite collective body composing
of the government, civil society, and the UNHCR, which grants the asylum seeker a provisionary
identification document called a the Provisional Protocol (Nogueira and Marques 2008, 58).
After the Provisional Protocol is issued, asylum seekers must complete two interviews, one with
a lawyer from an NGO that is funded by the UNHCR, and the second interview is with a
representative of CONARE. A Preliminary Analysis Group consisting of CONARE’s general
coordinator, a representative of the Ministry of Foreign Affairs, a representative of the Federal
Police, a representative of UNHCR, and a representative from a civil society organization, then
holds a meeting to assess the merits of the asylum seekers’ case. Each member of the
Preliminary Analysis Group then votes, a positive decision requiring majority vote. If a decision
is negative, there is an option to appeal within fifteen days after the asylum seeker is notified.
The Minister of Justice gives final decisions on appeals (Jubilut and Apolinário 32).

The procedure for refugee status determination typically takes about six months to be
analyzed by CONARE. While applications are being reviewed, asylum seekers have permission
to work, although as examined later in this paper, language barriers, experience, and
discrimination are often obstacles for those in search of employment. One downside of refugee
status determination in Brazil is that there is no procedure for determining eligibility for refugee
status on a group basis (Jubilut and Apolinário 33). The fact that Brazil’s procedure is completed
through individual screening makes it impossible for the country to respond to large numbers of
asylum seekers in a timely manner. This is especially troubling because Brazil’s recent economic
growth and improving status as a global power have made it an increasingly attractive
destination country for refugees. Consequently, applications for asylum have increased in
number and CONARE has been under increasing pressure to respond to those requests.

The National Committee for Refugees

The National Refugee Act of 1997 created an administrative refugee status determination
procedure in Brazil through a body called the National Commission for Refugees (Comité
Nacional para Refugiados, or CONARE) (Da Silva 2013, 226). CONARE is responsible for
analyzing individual refugee cases (Souza Kim 2006, 11) and is the first forum in Latin America
that allows tripartite participation by the UN, civil society, and the government to design and
enforce refugee policies and procedures (Nogueira and Marques 2008, 58). CONARE is a committee comprising of representatives of the ministries of Justice, Foreign Relations, Labor, Health and Education, plus the Federal Police Department and Caritas Arquidiocesana, an NGO engaged in refugee protection and assistance in the country, and the UNHCR with observer status (Da Silva 2013, 226). The many checks on refugee determination from international organizations and non-governmental organizations as established in the Refugee Act of 1997 make Brazil’s legal domestic refugee program is well regarded internationally (Jubilut 2006, 33). In reality, not all actors involved in CONARE are held equally. Agencies such as the UNHCR have fewer possibilities because of restrictions to their activity such as the inability to vote on decisions. Therefore, although CONARE includes civil society actors and international organizations in government refugee determinations, it is not a truly tripartite enterprise.

Figure 1: Brazil’s Principle Refugee Status Determination Entities in Relation to CONARE
Source based on information from, Jubilut and Apolinário, 2008.

For the first time in Brazil’s modern refugee policy, social services and assistance were formally regulated with the introduction of the Refugee Act of 1997 (Moreira 2010, 96). Under
the 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 and they are permitted to “come and go without having to worry about the risk of being deported to their home countries” (Frayssinet 2007, 2). However, while it was established that refugees “are entitled to all basic public services…some of their specific needs and vulnerabilities are not being met” (Nogueira and Marques 2008, 57). The law is progressive in nature but difficult to enforce, as explained in a latter part of this paper detailing challenges of Brazil’s refugee program.

The Refugee Act of 1997 outlines that when a person is granted refugee status, they are issued an identity card and given the right to public medical assistance as well as the right to study and work Brazil (Andrade 2002, 38). In spite of formal integration efforts introduced by the Act of 1997, specific health care services for refugees were not recorded and most likely non-existent at the time. Furthermore, Brazil continues to struggle reducing “refugee exclusion from full integration by facilitating their access to social benefits as well as by encouraging further involvement of the private sector” (Nogueira and Marques 2008, 58).

Praise and Criticism

The Refugee Act of 1997 has been admired as one of the most innovative governmental policy actions in Latin America. While many countries utilize discriminatory refugee laws to deflect their international obligation to protect people in need (Refugees 2010, 89), the Refugee Act of 1997 established a legal framework to regulate the “the delivery of effective protection to refugees who are some of the most vulnerable people in any society” (Refugees 2010, 89). Further, by sharing responsibility for important decisions such as refugee status determination with UN representatives and NGOs, the Brazilian government models as system of checks and
balances that is respected by human rights advocates in the international community (Jubilut 2006, 33).

Despite widespread praise from the international community, there are also critics of the 1997 Refugee Act. The refugee status determination process has been “criticized for the fact that, with rare exceptions, the majority of the representatives of…ministries are not qualified on the subject” (Jubilut 2006, 33). Additionally, some believe that the lack of established time frames in refugee status legislation is a serious fault (Souza Kim 2006, 22). Moreover, “there is no provision for refugee status determination in the event of a massive influx of refugees [and]…the Refugee Act does not provide any possibility of recourse to the judicial system” (Jubilut 2006, 36). The most notable criticism, however, has been that in spite of the progressive nature of Brazil’s Refugee Act of 1997, many of its intentions have been difficult to implement. This is clear with refugee populations in far reaching areas of the country, including Haitians in Acre who have received minimal assistance from the government (Daibert 2013, 1). In fact, the vast majority of refugees arrive in Brazil ‘spontaneously’ and only about one-tenth were resettled through the Brazilian program coordinated by the National Committee for Refugees (CONARE) with UNHCR support (Frayssinet 2007, 1).

**Recent Trends in Protection and Resettlement**

Since re-democratization, the Brazilian government has improved legislation to expand refugee protection and rights (Arruda 2013, 109). A Macro Agreement for the Resettlement of Refugees in Brazil, based on article 46 of the Refugee Act, was negotiated and signed in 1999 (Jubilut 2006, 37-38) to provide lasting solutions for refugees in Brazil and also to commit to the resettlement of refugees in the country (Moreira 2005). Resettlement projects in Brazil began in
2001 and “the first resettled refugees to take advantage of the program were Afghans…Later, Colombians began to arrive in 2003 and by 2004 Brazil had received over 100 Columbian refugees” (Zaki 2005, 1).

In 2002 the Brazilian government started a domestic resettlement program specifically created to resettle refugees in the region. The program was part of a “Memorandum of Understanding” that Brazil had signed with the UNHCR and it recognizes resettlement as “an important tool of protection in seeking durable solutions” and states that the Brazilian government “is responsible for the reception and will facilitate the integration of resettled refugees, with the support of UNHCR and NGOs” (White 2012, 12).

Improvement of Brazil’s refugee programs is evident. CONARE, the government organization that adjudicates applications, granted refugee status to just over 3,000 people between January 1998 and February 2005, more than Brazil accepted in previous decades (Amaral 2005, 8). Refugees have arrived in Brazil from all over the world and been offered protection and assistance. For example, in 2007, Palestinian refugees fled the Ruweished camp in the Jordanian desert and after having been denied protection by several traditional countries of resettlement, they were granted refuge in Brazil (Moulin 2011, 149). According to the UNHCR report on global trends in 2012, following the UNHCR’s recommendation, “on 26 October 2012, a decree was issued by the Brazilian Government to grant permanent residency to nearly 2,000 former Angolan and Liberian refugees [who arrived] during the 1990’s, fleeing internal civil conflicts that displaced millions of people” (“UNHCR” 2013, 19).

The Mexico Plan of Action

In 2004, government representatives from 20 Latin American countries met in Mexico City to commemorate the twentieth anniversary of the Cartagena Declaration on refugees
(Jubilut 2006, 38). Brazil’s government used this occasion to propose “the establishment of a regional resettlement program for Latin American Refugees” (Zaki 2005, 1) “in the framework of international solidarity and responsibility-sharing...based on the experience of Brazil and Chile as emerging resettlement countries...to support the strengthening and consolidation of these initiatives” (White 2012, 3). The objective of the proposed program would be to protect the refugees who are fleeing from conflicts and persecutions in the region, primarily Colombians11 (Moulin 2011, 148).

Based on the proposal by the Brazilian government, in the framework of the Mexico Plan of Action, a resettlement program for Latin America called “the Solidarity Resettlement Program” was created (Spindler 2005). Under the auspices of the program, in 2004 alone, “the Brazilian government approved the resettlement of 97 people” (Jubilut 2006, 38). Not only has Brazil spearheaded resettlement programs in the region, the country has also been a model for innovative approaches to improve refugee protection (Jubilut 2006, 38).

*Refugee Populations in Brazil*

The trends from 2000-2012 (“UNHCR Global” 2012) indicate that in 2000, the country housed 2,722 refugees and 543 asylum seekers for a total of 3,265 individuals. The number of refugees in the country increased every year following and by 2012, Brazil housed 4,611 refugees and 1,380 asylum seekers, with a total population of 11,571 populations of concern living in the country at that time (“UNHCR Global” 2012).

“Between 2010 and 2013, the number of people seeking asylum in Brazil increased nearly tenfold, from 566 to 5,200” (Estarque and Gomes 2014, 1). Brazil has become increasingly appealing as a country of destination for asylum seekers, which can be attributed to Brazil’s growing economy and status as an emerging world power. It has also been observed that
the number of Haitians seeking refuge in Brazil has increased every year after the 2010 earthquake (“Ajuda” 2012, 1), which contribute to the increased number of asylum seekers.

Combining these sources, (Daibert 2013), (Frayssinet 2007), (Moreira and Baeninger 2010), (“UNHCR” 2013), (“UNHCR Global” 2012), and (White 2012), we can observe the following trends. First, the majority of asylum seekers in Brazil are from African nations, commonly from Angola, Liberia, and Democratic Republic of Congo. Second, from 2000-2003 large numbers of asylum seekers came from Romania. Third, large numbers of Colombians have consistently applied for asylum. Fourth, current trends show an increasing number of Haitian and Syrian asylum seekers. Finally, the number of refugees and total population of concern in Brazil have increased continuously from 2000 to 2012. By 2012, Brazil admitted 4,611 individuals as refugees and hosted a population of concern amounted to 11,571 from 96 nationalities.

Figure 2: UNHCR Data on the Number of Refugees, Asylum Seekers, and Total Population of Concern Residing in Brazil from 2000 – 2012. Source: (“UNHCR Global” 2012).
Colombian Refugees in Brazil

Colombia is the biggest source of refugees in the Western Hemisphere and according to UN figures, Colombian refugees are under-registered in Brazil (Frayssinet 2007, 2). From 2005 to 2012, Brazil resettled a total of 308 Colombian refugees (White 2012, 6). Over the same period, 688 Colombians sought asylum in Brazil and by 2012, Brazil housed 742 Colombians as refugees (“UNHCR Global” 2012). However, it is believed that there are at least 17,000 Colombians living in Brazil, primarily on the border with Colombia (Frayssinet 2007, 2). A representative of Brazil’s refugee program explained that the country only reports those Colombians who apply for asylum and “no one can force anyone to seek asylum” (Frayssinet 2007, 2). Additionally, it has been noted that many Colombian refugees, formerly recognized or not, frequently cross back and forth across the border (Frayssinet 2007, 2). The underrepresentation of Colombians in Brazil’s refugee program can be considered evidence of the difficulty of applying for asylum in the country and potential disinterest of refugees who do not consider benefits of asylum to outweigh their current situations and the application process.

Haitian Refugees in Brazil

According to the UNHCR report on global trends, in 2012, Haiti had a population of concern listed by the UNHCR of 46,920 individuals (“UNHCR” 2013, 38). According to the Migration and Human Rights Institute, more than 5,000 Haitians entered Brazil in the first quarter of 2010 in response to the earthquake (“Ajuda” 2012, 1). Migration of Haitians did not begin with the earthquake of 2010, however. For decades, the Haitian state has served “as a vehicle for the enrichment of a small elite at the expense of the majority of the population” and Haitians flee by the thousands to escape “extreme poverty caused by political exploitation” (Loescher 1993, 16). Thus, the international community defines Haitians migrants as ‘economic
refugees’ who leave their home country in search of better opportunities. Such a distinction in discourse on refugees offers an excuse for host countries to avoid the obligation of protecting or assisting Haitians because they do not qualify as “refugees” under most international agreements\textsuperscript{13} (Loescher 1993, 16).

Due to limited international acceptance of Haitian refugees because of their designation as ‘economic refugees’, they typically enter new countries informally and do not carry the necessary national documents, making it difficult to integrate those individuals in receiving countries (Arruda 2013, 108). In fact, Haitians have such difficulty obtaining visas to Brazil, that many resort to paying traffickers up to $4,000 to fly from Haiti to Ecuador, Bolivia, or Peru and smuggle them overland to Brasileia (Daibert 2013, 1). According to Brazil’s Ministry of Justice, after smuggled Haitians arrive in Brazil, “federal police issue them with local documents, which can take less than 72 hours, and then the migrants look for jobs or wait until companies hire them and fly them to other parts of Brazil while their federal humanitarian visa application is processed” (Daibert 2013, 1). Haitians are attracted to Brazil because according to Brazilian law, individuals who fall in the category of asylum-seekers, as Haitians do, receive temporary residence permits and have the right to work with a possibility of applying for refuge to ensure a more regular situation (Arruda 2013, 108). However, the process is not as simple as it sounds because smuggled Haitians are left to pay the debts of their journey and often live in poor conditions and have trouble finding work for various reasons including discrimination, visa complications, and language barriers (“Ajuda” 2012).

In June 2011, CONARE confirmed that Brazil would not receive Haitians as refugees since they do not meet the requirements characterized in accordance with the 1951 Convention and its 1967 Protocol (“Ajuda” 2012). However, the Brazilian government recognized that
Haitian migrants are in need of assistance and the National Committee on Immigration (CNIg), issued asylum seekers a “Humanitarian Visa” to allow certain regularization (Arruda 2013, 109). The Humanitarian Visa symbolizes the Brazilian government’s recognition of Haitian migration as a serious situation and constitutes measures to protect human rights and institutionalize their support (Arruda 2013, 109). According to CONARE, there have been more than 5,200 formal asylum claims made by Haitians and there are many more individuals who have not formally been accounted for (Arruda 2013, 108). Due to the massive influx of Haitians in Brazil, in 2012 the Brazilian government decided to limit the number of Humanitarian Visas to 1,200 a year in an effort to curb illegal entry of Haitians (Arruda 2013, 109). In 2013, however, the government announced that illegal entry of Haitians asylum seekers continued at growing rates despite the Brazil’s efforts to halt such movement; for that reason, the government decided to revoke it’s Humanitarian Visa limit (Soares 2013, 1). In 2014, it is estimated that there are about 15,000 Haitians in northern Brazil alone and about 70 arrive per day in the state of Acre, bordering Peru (Estarque and Gomes 2014, 1).

Syrian Refugees in Brazil

In September of 2013, Brazil announced that it would also provide special Humanitarian Visas for those affected by the conflict in Syria (“UN Welcomes” 2013, 1). As of January 2014, during the writing of this paper, there are nearly 2.5 million Syrian refugees registered with the UNHCR and the real number of refugees could be much larger (Chalabi 2014, 1). CONARE announced that Brazilian embassies in Syria’s neighboring countries are responsible for issuing travel visas for asylum seekers and although the approximately 280 refugees in Brazil from the Syrian crisis seems like a small number, the government insists that all claims for refugee resettlement have been approved (“UN Welcomes” 2013, 1). Syrian asylum seekers are attracted
to Brazil because “Syrians already have a tradition and a relationship with Brazil. Their ancestors were migrants here and they [maintain] good relations with the Arab community” (Hearst 2014, 1). With the number of visa requests increasing, it is unknown how many Syrian’s will obtain refugee status and assistance in Brazil in the coming months and years.

*Current Assistance and Integration Efforts*

Brazil’s government offers refugees “international protection and anyone can be admitted to the program independently of their religion or race—even when they have entered the country illegally” (Frayssinet 2007, 2). For the first six months that refugees spend in Brazil, they are entitled to more financial aid than is provided by general government programs including assistance programs like the *Bolsa Família* family grant, which provides a small monthly stipend to millions of poor families in Brazil (Frayssinet 2007, 2). In addition to providing monetary assistance, such programs help to integrate refugees into Brazilian society. “The inclusion of refugees in governmental assistance programs (such as Bolsa Família)…that benefit both the refugees and the host community are essential” (Moreira and Baeninger 2010, 49).

When the government issues refugee identity cards, they are also given the right to study, work, and as access public medical assistance in the country (Andrade 2002, 38). CONARE currently supports refugee- specific services such as public housing for refugees in São Paulo, and educational scholarships offered by the Federal University of Minas Gerais and the Federal University of Juiz de Fora (Moreira and Baeninger 2010, 48). Asylum seekers, regardless of their refugee status, are also eligible for work permits (Frayssinet 2007, 2) but frequently face obstacles to acquire employment.

Currently, the government does not have medical requirements for refugee resettlement in Brazil, but “refugees' general health information will be considered in the decision process in
order to better assess integration prospects in the country” (The Government of Brazil 2013, 5). Some of the most common health concerns among refugee populations include mental health trauma, diarrheal diseases, respiratory infections, malnutrition, sexually transmitted diseases including HIV/AIDS, among others (Munson 2012). Medical treatment is often necessary to ensure the survival of refugees. Legally recognized refugees and asylum seekers have access to public hospitals (Moreira 2005, 68) but NGOs and IGOs also provide medical services regardless of legal refugee status.

Brazil’s government is constantly developing public policies to improve refugee assistance. Such initiatives include the State Committees on Refugees, under the guidance of the UNHCR in Sao Paulo and Rio de Janeiro, which assist over 90% of the refugees in Brazil (Jubilut 2010, 46). Sao Paulo’s State Committee has been particularly active. Some specific issues addressed by the committee include the issue of public security involving resettled refugees in the countryside, hospital access for resettled refugees’ health concerns, and the inclusion of 102 refugees and asylum seekers in the Committee’s state work program (Jubilut 2010, 47). CONARE has also actively supported programs for health including one of few special programs for mental health care facilities for refugees (Moreira and Baeninger 2010, 48).

Brazil’s government is promoting the Foreigners’ Decent Work Program, designed by the Ministry of Labor and Employment in collaboration with the Immigration National Council and the Ministry of External Relations, to eradicate migrants’ exploitation in Brazil’s workplaces ("Aliança" 2009, 13). Brazil’s government has also been involved in international integration efforts including the UNHCR’s Resettlement in Solidarity Program and Mercosur’s Declaration of Principles on the International Protection of Refugees.
Challenges Refugees Face

The massive influx of refugees in the Brazil in recent years is proving difficult to handle and “authorities just aren't prepared to take on so many people” (Estarque and Gomes 2014, 1). In a country like Brazil where over 10 million nationals still lack food security (Bodman et al. 2011, 19) it is difficult to extend social services to refugees while locals continue to struggle. Thankfully, “in recent years Brazil has begun to be concerned with the development and economic and social rights for its native population and this focus seems to have spread to refugees as well” (Jubilut 2010, 47). Strong economic growth and a developing dedication to social services through the Fome Zero program in the 2000s have been platforms for the introduction of such assistance (Moreira and Baeninger 2010, 48). However, challenges remain. For example, only 2.8% of refugees interviewed in a recent study in Rio de Janeiro were included in the governmental assistance program Bolsa Família (Moreira and Baeninger 2010, 48). Refugees in Brazil often find it difficult to access basic public services (Moreira and Baeninger 2010, 48).

Successful refugee integration requires “employment, language skills and access to public services, as well as citizenship rights, duties and political participation and social relations with their community” (Moreira and Baeninger 2010, 48). Refugee education and professional training in Brazil is lacking, which makes “it difficult for some refugees to find proper jobs or earning opportunities in the country – something…shared with some Brazilian nationals” (Nogueira and Marques 2008, 58). Furthermore, “decentralization of refugee care is also a big challenge for a continent sized country like Brazil” (Nogueira and Marques 2008, 58) particularly because many refugees are located in remote areas of the country.

Refugees in highly populated cities of Brazil also face challenges. In an interview of
refugee families in Rio de Janeiro and Sao Paulo in 2007, it was found that “in terms of labor market integration, 56.7% were working, although over half of these were working in informal job occupations” (Moreira and Baeninger 2010, 48). Employed refugees consider “their working conditions and pay as unsatisfactory…and…they feel discriminated against by the local population” (Moreira and Baeninger 2010, 48).

Although Brazil has provided health care assistance to legally recognized refugees, the government has “limited financial resources, and refugees suffer from problems similar to those faced by Brazilians in terms of public health and other precarious situations” (Frayssinet 2007, 2). Additionally, mental health care assistance is not adequately available. Many refugees that arrive in the country exhibit severe mental health issues (Ingleby 2005). Unfortunately, “existing mental health services are not able to engage [refugees] meaningfully in treatment” (Teixeira da Silva et al. 2013, 50). In fact, research related to refugee mental health in Brazil is severely lacking and “further qualitative and quantitative research is required to provide data for policy makers to implement strategies focusing on the promotion and prevention of mental health disorders in this vulnerable population in the Brazilian public health system” (Teixeira da Silva et al. 2013, 50).

*Discrimination*

Discrimination is considered one of the main factors inhibiting refugee workplace integration. In Brazil, African refugees in particular face discrimination, “first of all, because they are black, second, because they are poor, and third, because they are refugees…and that makes their integration in society difficult, despite the government’s assistant plans” (Frayssinet 2007, 2). Further, although refugees receive work permits in Brazil, it is difficult for them to find work because of “the stigma of being refugees, and…black” (Frayssinet 2007, 2). As explained
by a refugee from the Democratic Republic of Congo, “the process for getting a job in Brazil is too long for those who need to survive… when I arrived, I had to wait four months to be able to work” (Hearst 2014, 1).

The problems black refugees face are prevalent, despite many Brazilian laws that prohibit discrimination. The law prohibits denial of public or private facilities, employment, or housing to anyone based on race and prohibits and provides jail terms for the incitement of racial discrimination or prejudice and the dissemination of racially offensive symbols and epithets (“Brazil” 2007, 2459). Even though such laws exist Afro-Brazilians, representing almost half of the population, frequently encounter discrimination. Afro-Brazilians are significantly underrepresented in professional positions and in the middle and upper classes and experience a higher rate of unemployment, earn average wages that are approximately half of the average wage for a white person (“Brazil” 2007, 2459). According to Brazil’s Ministry of Education, there is also a sizeable racial education gap; “Afro-Brazilians received an average of 5.3 years of schooling, compared with 7.1 years for whites [and] Afro-Brazilians constituted 16 percent of the university population” (“Brazil” 2007, 2459).

Discrimination and racial gaps in employment and education in Brazil add to the difficulties refugees encounter in Brazil. It has been noted that Brazil’s society, business community, and even public agents such as the police “see refugees as 'bad guys' or delinquents who fled their country” (Frayssinet 2007, 2). General misunderstanding of refugee situations and racial discrimination present a two-fold challenge, making it extremely difficult for refugees to find employment. Lack of employment is one reason that “a majority of refugees from Africa live in favelas (shantytowns) in Brazil's big cities” (Frayssinet 2007, 2). Another factor that contributes to refugee situations is the fact that organizations like Caritas only provide aid to
refugees for six months and afterwards, they are left to their own devices. Compounded discrimination on the grounds of race and refugee status makes integration especially difficult for black refugees. The reason for short term assistance is explained by Nara Conceição, head of Brazil’s National Committee for Refugees who said, the country has “funding for addressing their initial needs, and after that, they have to get on their own two feet…this isn't the United States, which can afford to help refugees study for 10 years” (Frayssinet 2007, 3).

Conclusions

In spite of Brazil’s improved acceptance of and assistance to refugees, it has been argued that the country’s generosity has ulterior motivations. For example, it is speculated that the generosity of Brazil’s acceptance of Haitian refugees is perhaps not solely to protect individuals in need, but rather, to improve the country’s international image; drawing significant numbers of refugees to Brazilian territory can generate an impression of growth and development in Brazil as a location that offers opportunities for work and economic markets (Arruda 2013, 110). Another argument is that Brazil is working to enhance its global image and influence the international community to endorse Brazil as a permanent member of the United Nations Security Council (Bodman et al. 2011).

In order to prove itself a leader in refugee protection, Brazil must continue demonstrating its legal dedication to international human rights while actually implementing those progressive policies. This entails reducing the gap between accepting migrants who fit Zolberg’s sociological definition of refugees and current refugee acceptance in Brazil. Further, there can not be arbitrary limitations on refugee acceptance. Therefore, Brazil should not place additional limitations on refugees as it did briefly in 2012 with a limit of Humanitarian Visas for Haitian asylum.
applicants. Moreover, as the country continues to develop social services for its citizens, refugees must continue to be included. Not only should refugees have access to the Brazilian government’s social services but programs should be developed and improved to adequately address the unique and specific needs of refugees, including mental health care. “Recent initiatives in Brazil have strengthened protection and enhanced integration opportunities for refugees” (Jubilut 2010, 46) but the country’s main actors for refugee protection and assistance, international organizations, non-governmental organizations, and the government, must continue to work cohesively to develop solutions for remaining issues that refugees face throughout Brazil’s vast territory.

Discrimination is one of the most notable challenges that refugees in Brazil face. In order to overcome discrimination, public education is necessary to raise awareness about diversity and refugee situations. A good example of an education program implemented is a health campaign that was “developed by UNHCR in partnership with the local NGO Ação Comunitária no Brasil that took place in the Complexo da Maré slum quarter in Rio de Janeiro” (Moreira and Baeninger 2010, 49). Awareness was raised through plays “performed by Angolan refugees and young Brazilians. This kind of effort is critical because it strengthens refugees’ social relations with the local population, a vital component for successful local integration” (Moreira and Baeninger 2010, 49).

Furthermore, in spite of challenges to refugee policy, protection, and assistance that Brazil faces, it should be noted that Brazil was the first Latin American country to adopt the Convention of 1951 and the second country in South America to join the Protocol of 1967 (White 2012), as well as the first country in the region to create specific national laws on refugees (Federal Law no. 9,474, 1997). Additionally, Brazil has made significant improvement
with very progressive laws since the mid-twentieth century. That being said, it is imperative that Brazil effectively implements refugee protection and assistance policies and avoid reinforcing its reputation as a country that struggles to follow through with legal promises. Despite many shortcomings, assistance provided to refugees in Brazil is now more available than at the beginning of the country’s modern refugee program. The country must continue to improve its refugee program to ensure its position as a global leader with a commitment to its obligation to international human rights.
References


Da Silva, Cesar Augusto Silva. 2013. "Brazil, Human Rights and Environmental Refugees Brasil, Derechos Humanos y Refugiados Ambientales".


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**Endnotes**

1 This paper was built upon a term paper I wrote for Dr. Margarita Rodriguez’s International Migration and the Health Care System course at the University of Miami and was developed under the guidance of Margarita Rodriguez, Ph.D., Ariel Armony, Ph.D., Merike Blofield, Ph.D., and Ambler Moss, J.D. in the Departments of International Studies and Latin American Studies at the University of Miami.

2 The 1951 UNCHR Convention Relating to the Status of Refugees defines a refugee as “any person who, (1) has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization; Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfill the conditions of paragraph 2 of this section; (2) as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national” (Goodwin-Gill 2007, 573).

3 The 1967 Protocol defines a refugee as “any person who is outside the country of his nationality…because he has or had well-founded fear of persecution by reason of his race, religion, nationality, membership of a
particular social group or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality.”

Article 1 (2) of the 1967 Protocol relating to the Status of Refugees defines the term ‘refugee’ as “any person within the definition of article 1 of the Convention as if the words “As a result of events occurring before 1 January 1951 and…the words...a result of such events”, in article 1 A (2) were omitted” (Goodwin-Gill 2007, 588).

4 The 1984 Cartagena Declaration on Refugees uses a broader definition of ‘refugee’ than the UNHCR’s 1951 Convention or the 1967 Protocol. According to the Declaration, “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” (Goodwin-Gill 2007, 624).

5 The criterion for refugee status has evolved since the mid-twentieth century. Today, many refugees in Brazil have not yet been specifically designated as such.

6 According to Da Silva, “resettlement” is when a country acts to “receive displaced people who have not been adapted to the country of first asylum” (Da Silva 2013, 277).

7 Mercosur is an economic and political agreement among Argentina, Brazil, Paraguay, Uruguay, and Venezuela (”Aliança” 2009, 14).

8 The CNIdg was established by Decree No. 86.715, article 142 of 10 December 1981, and is responsible “for the orientation of immigration officials and the coordination of immigration activities; preparation of immigration policies; creation of immigrant selection rules designed to provide the many sectors of the economy with specialized workers; promotion of studies related to immigration problems; elaboration of immigration plans; conducting of periodic surveys related to the needs for qualified international workers, whether permanent or temporary; settlement of disputes and solution of cases unforeseen by immigration law in regards to the admission of immigrants; and provision of opinions on proposals to change immigration legislation” (Soares 2013, 1).

9 “The Act deals with seven key issues,
— Title I stipulates the definition of refugees,
— Title II deals with entry into Brazilian territory and application for refugee status,
— Title III establishes the competence of the National Committee for Refugees (Comite Nacional para Refugiados, CONARE), which is the organization responsible for deciding whether to grant refuge,
— Title IV specifies the rules for refugee status determination,
— Title V deals with the possibilities of expulsion and extradition,
— Title VI establishes the hypotheses of loss and cessation of refugee status,
— Title VII is related to durable solutions, and
— Title VIII stipulates the final provisions” (Jubilut 2006, 31).

10 Brazil’s National Refugee Act establishes the procedure for Refugee Status determination, “stating that, Art. 17—A foreigner shall appear before a competent authority and state his or her desire to request recognition of the condition of refugee.

Art. 18—The competent authority shall notify the requester to give information and such notification shall set the date for commencement of procedures.

Paragraph One—The competent authority shall inform the United Nations High Commissioner for Refugees-UNHCR on the existence of a proceeding for request for refuge and shall enable UNHCR to offer suggestions to facilitate the development of the proceeding.

Art. 19—In addition to the information, given if necessary with the assistance of an interpreter, a foreigner shall complete a request for recognition as a refugee, including a complete identification, professional qualification, schooling of the requester and members of his or her family group, as well as report on the circumstances and facts that form the basis of the request for refuge, indicating the appropriate evidences

Art. 20—The record of the information and supervision of the request form completion shall be effected by qualified officials and in condition to guarantee information confidentiality” (Jubilut and Apolinário 2008, 31).

11 Columbians make up the “largest refugee population in the Latin America” (White 2012, 1)
Individuals are included in the “population of concern” if the UNHCR “extends its protection and/or assistance services, based on humanitarian or other special grounds”, which include refugees, asylum seekers and displaced people, among others (“UNHCR” 2013, 37).

“European governments have resorted to strict interpretation of the 1951 U.N. Convention definition of refugee, to erection of barriers to entry, and to containment of forced migration in countries or regions of origin. But for those uprooted…the consequences of these restrictive policies can be lethal” (Loescher 1993, 164).

### Glossary and Definitions

<table>
<thead>
<tr>
<th>Term</th>
<th>Description</th>
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<tbody>
<tr>
<td><strong>1967 Protocol relating to the Status of Refugees</strong></td>
<td>Along with the 1951 Convention, the 1967 Protocol Relating to the Status of Refugees is one of the central elements in the international protection of refugees. The Protocol entered into force in 1967 and is an independent instrument that has been ratified by Brazil. “The State Parties to the Protocol, as ratification or accession by a State does not make it a party to the Convention, simply agree to apply Articles 2-34 of the convention with respect to refugees” (Sarimiento and Soley 2013, 8).</td>
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<tr>
<td><strong>394 Inter-ministry Rule</strong></td>
<td>The 394 Inter-Ministry Rule regulated refugee status determination before the institution of Brazil’s Refugee Act in 1997 (Jubilut 2008, 30).</td>
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<tr>
<td><strong>Ação Comunitária no Brasil (NGO)</strong></td>
<td>NGO located in the Rio de Janeiro area active in refugee integration efforts (Moreira and Baeninger 2010, 49).</td>
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<tr>
<td><strong>American Convention on Human Rights</strong></td>
<td>Brazil joined the American Convention on Human Rights in 1992. It is an instrument that guarantees and protects the rights of refugees and asylum-seekers (Sarimiento and Soley 2013, 13).</td>
</tr>
<tr>
<td><strong>Archdiocesan Caritas of Rio de Janeiro/Caritas Arquidiocesana do Rio de Janeiro (NGO)</strong></td>
<td>Archdiocesan Caritas of Rio de Janeiro, (Archdiocesan Cáritas of Rio de Janeiro, or CARJ), a branch of Caritas international, was founded by the National Conference of Bishops of Brazil in 1956. The institution provides assistance to refugees and was essential in supporting UNHCR operations in Brazil during the dictatorship (Da Silva 2013, 218).</td>
</tr>
<tr>
<td><strong>Archdiocesan Caritas of Sao Paulo/Caritas Arquidiocesana de Sao Paulo (NGO)</strong></td>
<td>Archdiocesan Caritas of Sao Paulo, (Archdiocesan Cáritas of São Paulo, or CASP), a branch of Caritas International, supported UNHCR operations in Brazil during the dictatorship (Da Silva 2013, 218).</td>
</tr>
<tr>
<td>Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas</td>
<td>The Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas is a pledge adopted in 2010 by eighteen Latin American Countries to resect non-refoulement including non-rejection at borders and non-penalization of illegal entry. It also supports incorporation of gender, age, and diversity considerations for refugee laws and encourages states to address displacement situations that do not fall under traditional refugee categorizations as outlined in the 1951 UN Refugee Convention (White 2012, 5).</td>
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<tr>
<td>The Brazilian Bar Association/Ordem dos Advogados do Brasil (OAB) (NGO)</td>
<td>The Brazilian Bar Association was essential for the protection of refugees and political prisoners during Brazil’s military dictatorship (Da Silva 2013, 217).</td>
</tr>
<tr>
<td>Brazilian National Council of Immigration/Conselho Nacional de Imigração (CNIg)</td>
<td>Brazil’s government established the National Council of Immigration in 1988 to control immigration matters (Ramos 2011, 57).</td>
</tr>
<tr>
<td>The Brazilian Press Association/Associação Brasileira de Imprensa (ABI) (NGO)</td>
<td>The Brazilian Press Association was essential for the protection of refugees and political prisoners during Brazil’s military dictatorship (Da Silva 2013, 217).</td>
</tr>
<tr>
<td>Caritas Brasileira (NGO)</td>
<td>Caritas Brasileira, a body of the Brazilian Conference of Bishops, was founded in 1956 and is a historical partner of UNHCR. Caritas continues to be an active NGO for refugee rights today by supporting 500,000 beneficiaries from 10 regional offices, with 170 member entities (“Quem” 2013).</td>
</tr>
<tr>
<td>Caritas International</td>
<td>Caritas International is a confederation of 154 national Caritas organizations operating in 184 countries. Brazil’s branch is called Caritas Brasileira (Jubilut 2006, 25).</td>
</tr>
<tr>
<td>Cartagena Declaration on Refugees of 1984</td>
<td>The Cartagena Declaration on Refugees “is a regional instrument adopted by the Colloquium on the International Protection of Refugees in 1984. It is based on the 1951 Convention, the American Convention on Human Rights, the doctrine of the Inter-American Commission on Human Rights, and the Convention on Refugees adopted by the Organization of African Unity” (Sarimiento and Soley 2013, 11). The Cartagena Declaration uses a broader definition of ‘refugee’ than the UNHCR’s 1951 Convention or the 1967 Protocol. Brazil has implemented the definition proposed by the Cartagena Declaration with their domestic rules for treatment of refugees, which is specifically included within the Refugee Act of 1997 (Sarimiento and Soley 2013, 11).</td>
</tr>
<tr>
<td>Chamber of Commercial Entrepreneurs (SESC) (NGO)</td>
<td>The Chamber of Commercial Entrepreneurs is a private sector organization in Brazil that has provided refugees with health and education programs in an effort to improve refugee integration (Nogueira and Marques 2008, 57).</td>
</tr>
<tr>
<td>Cities of Solidarity Program (Ciudades Solidarias) under the Mexico Plan of Action</td>
<td>The Cities of Solidarity Program, under the Mexico Plan of Action, is considered “a novel strategy offering refugees better options and opportunities for local integration” (Varoli 2010, 45). The program promotes an attitude of refugee integration in the urban context. “The city is presented as an open space and a place for opportunities to be explored and exploited. Beyond providing short-term support for the refugee or asylum seeker, UNHCR and its partners look for interaction with community networks and public social programs, recognizing the fundamental role of local, municipal or district public administrations in caring for refugees” (Varoli 2010, 45).</td>
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<tr>
<td>The Commission for Justice and Peace/Comissao Justica e Paz (NGO)</td>
<td>Brazil’s Justice and Peace Commission is “composed primarily of scholars and lawyers who worked on the legal aspects of the Catholic Church’s humanitarian work with victims of human rights violations, including refugees” (Jubilut 2006, 25). The organization, in partnership with Caritas, assisted refugees and supported UNHCR operations in Brazil during the dictatorship.</td>
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<tr>
<td><strong>CONARE</strong> 'National Committee for Refugees' (Comitê Nacional para Refugiados) (Government)</td>
<td>Established in Brazil by the 1997 Refugee Act, CONARE is the governmental body responsible for refugee status determination (Souza Kim 2006, 11) and is the first forum in Latin America that follows a tripartite system where the UN, civil society, and the government work together to design and enforce refugee policies and procedures (Nogueira and Marques 2008, 58). CONARE is essentially a committee comprising of representatives of the ministries of Justice, Foreign Relations, Labor, Health and Education, plus the Federal Police Department and Caritas Arquidiocesana, an NGO engaged in refugee protection and assistance in the country, and the UNHCR with observer status (Da Silva 2013, 226).</td>
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<tr>
<td><strong>Declaration of Principles on the International Protection of Refugees</strong></td>
<td>The Declaration of Principles on the International Protection of Refugees was established by Mercosur to reassert a “commitment to non-refoulement; respect for age, gender and diversity inclusion principles” as well as the adoption of Cartagena’s wider definition of a “refugee”, and the creation of national and regional resettlement programs (Tanner 2012, 3).</td>
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<td><strong>Emergency Resettlement Procedure</strong></td>
<td>The Brazilian government established the Emergency Resettlement Procedure in 2005 so that “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” (Nogueira and Marques 2008, 58).</td>
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<tr>
<td><strong>Executive Committee (ExCom) of the United Nations High Commissioner for Refugees (UNHCR)</strong></td>
<td>Brazil “has been a member of the Executive Committee (ExCom) of the United Nations High Commissioner for Refugees (UNHCR) since 1958” (Jubilut 2008, 29).</td>
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<tr>
<td><strong>The Father Antonio Vieira Society of the Company of Jesus/Sociedade Padre Antonio Vieira (NGO)</strong></td>
<td>The Father Antonio Vieira Society of the Company of Jesus is a Catholic Catholic organization in Brazil and was one of the first NGOs to provide resettled refugees with assistance (Jubilut 2006, 37-38).</td>
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<tr>
<td><strong>Foreigners’ Decent Work Program</strong></td>
<td>A refugee assistance program designed by Brazil’s Ministry of Labor and Employment, in collaboration with the Immigration National Council and the Ministry of External Relations, to eradicate migrants’ exploitation in Brazil’s workplaces (“Aliança” 2009, 13).</td>
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<tr>
<td><strong>Global Consultations on International Protection</strong></td>
<td>A global process under the guidance of the UNCHR, with contributions from NGOs, designed to improve the international protection of refugees (Refugees 2010, 83).</td>
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<tr>
<td><strong>Instituto Migrações e Direitos Humanos de Brasil (IMDH) (NGO)</strong></td>
<td>Organization in Brazil that provides legal services and advocates for policy that favors the population of refugees (Sarimiento and Soley 2013, 8).</td>
</tr>
<tr>
<td><strong>International Covenant on Civil and Political Rights</strong></td>
<td>Brazil joined the International Covenant on Civil and Political Rights in 1992. It is an instrument that guarantees and protects the rights of refugees and asylum-seekers (Sarimiento and Soley 2013, 13).</td>
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<tr>
<td><strong>International Rescue Committee’s Surge Project</strong></td>
<td>The International Rescue Committee’s Surge Project was established by NGOs to strengthen UNHCR’S protection presence in Brazil (Refugees 2010, 83).</td>
</tr>
<tr>
<td><strong>Macro Agreement for the Resettlement of Refugees in Brazil</strong></td>
<td>In 1999, “a Macro Agreement for the Resettlement of Refugees in Brazil (based on article 46 of the Refugee Act) was negotiated and signed” (Jubilut 2006, 37-38) to provide lasting solutions for refugees in Brazil and also to commit to the resettlement of refugees in the country (Moreira 2005).</td>
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<tr>
<td><strong>Memorandum of Understanding (MOU) on resettlement with UNHCR</strong></td>
<td>A domestic resettlement program established in 2002 as part of a “Memorandum of Understanding” that Brazil had signed with the UNHCR. The memorandum established a program that recognizes resettlement as “an important tool of protection in seeking durable solutions” and states that the Brazilian government “is responsible for the reception and will facilitate the integration of resettled refugees, with the support of UNHCR and NGOs” (White 2012, 12).</td>
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<tr>
<td><strong>Mercosur (Mercado Comum do Sul)</strong></td>
<td>Mercosur is an economic and political agreement among Argentina, Brazil, Paraguay, Uruguay, and Venezuela (“Aliança” 2009, 14).</td>
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<td>Mercosur’s Declaration of Principles on the International Protection of Refugees</td>
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<td>The Declaration of Principles of Mercosur on International Protection of Refugees was signed in 2012 by Mercosur member states, Argentina, Brazil, Uruguay, and Venezuela and partner states, Bolivia and Chile. It “highlights the commitment of States to harmonizing country laws in order to strengthen the protection and integration structures for asylum-seekers and refugees, ensuring respect for the human rights of refugees and their families” (Sarimiento and Soley 2013, 8).</td>
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<th>The Mexico Plan of Action</th>
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<td>In 2004, government representatives from 20 Latin American countries met in Mexico City to commemorate the twentieth anniversary of the Cartagena Declaration on Refugees (Jubilut 2006, 38). During the commemoration, they established the Mexico Plan of Action, a regional resettlement program for Latin American Refugees “in the framework of international solidarity and responsibility-sharing…based on the experience of Brazil and Chile as emerging resettlement countries…to support the strengthening and consolidation of these initiatives” (White 2012, 3). The objective of the proposed program would be to protect the refugees who are fleeing from conflicts and persecutions in the region, primarily Colombians (Moulin 2011, 148).</td>
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<td>“The Mexico Plan of Action to Strengthen International Protection of Refugees in Latin America (MPA) emphasizes solidarity as a fundamental principle guiding state policies on refugee matters. More specifically, the MPA established as one of their action plans a regional resettlement program (the Mexico Plan of Action’s Solidarity Resettlement Program) as a response mechanism to the displacement of Colombian refugees, the largest refugee population in the Latin America” (White 2012, 1).</td>
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<td>“The ‘solidarity resettlement’ program is one of the main pillars of the Mexico Plan of Action. It is an expression of the commitment of Latin American countries to resettle refugees arriving in first asylum countries in the region, in a sign of regional solidarity and burden and responsibility sharing and is already helping to sustain first asylum in the face of continued flows of refugees” (White 2012, 2).</td>
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<td><strong>Non-refoulement</strong></td>
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<td><strong>Partnership in Action (PARinAC)</strong></td>
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<td><strong>Population of Concern</strong></td>
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<td><strong>Second World Conference on Human Rights held in Vienna in 1993</strong></td>
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<td><strong>State Committees on Refugees</strong></td>
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<tr>
<td><strong>UN High Commissioner (UNHCR)/Alto Comissariado das Nações Unidas para os Refugiados (ACNUR)</strong></td>
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<td><strong>UNHCR 1951 Convention</strong></td>
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