

FORCED DISPLACEMENT IN THE AMERICAS AND ITS IMPACT ON REGIONAL MIGRATIONS

Deslocamento forçado nas Américas e seus impactos nas migrações regionais*

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This current article refers to the new trends of forced displacement in the region and the challenges of international protection of refugees within the increasing mixed migratory flows. While it is true that a distinction has been traditionally made between migrants and refugees, there is more and more consensus about a singular way to address their respective plights from a right-based approach, starting from the recognition that all persons under the jurisdiction of a State are entitled to protection, regardless of whether they are nationals or aliens, and in the case of the alter, of their migratory status.

Key-words: mixed migratory flows; migrants; refugees

O presente artigo se refere às novas tendências do deslocamento forçado na região e aos desafios da proteção internacional dos refugiados com vistas à crescente migração mista. É bem verdade que sempre houve uma distinção entre migrantes e refugiados, porém, existe hoje em dia, um consenso sobre o modo como se deve lidar com seus respectivos problemas baseando-se nos seus concernentes direitos, principiando do reconhecimento de que todas as pessoas sob jurisdição do Estado têm direito à proteção, independentemente de serem migrantes ou nativos, e, no caso do primeiro, de sua condição migratória.

Palavras chave: fluxos migratorios mistos; migrantes; refugiados

♦ The Spanish version is available at http://www.csem.org.br/artigos_esp_artigos08.html.

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"It is necessary to work for the children who have not yet being born."
Thiago de Mello

Introduction

On behalf of the Office of the United Nations High Commissioner for Refugees (UNHCR), I would like to thank the invitation of the Centro Scalabriniano de Estudos Migratórios of Brasília (CSEM) and the International Organization for Migrations (IOM) to participate in this Seminar "International Migrations and Human Rights". In addition we wish to congratulate the Centro Scalabriniano de Estudos Migratórios of Brasília (CSEM) for the commemoration of its twentieth anniversary.

We believe it is very important to reflect on the persistence of forced displacement in the Americas within the framework of this seminar and its thematic emphasis on international migrations. It is true that the phenomenon of migrations is getting more attention on the regional and international agenda; yet it is also crucial to remember that forced displacement remains as a contemporary situation in Latin America.

Bearing in mind the existing differences between migrants and refugees, and the distinct legal regimes for their treatment and protection, we want to underline that the respect of the fundamental rights corresponds to nationals and aliens alike, under the jurisdiction of a State or under its control and authority, regardless of the migratory status of the latter.

Because we are precisely applying a right-based approach, thinking of the new generations, we believe it is important to start this presentation with the above mentioned quotation of a Brazilian poet: Thiago de Mello. Indeed, by protecting refugees and migrants, as persons who have rights, we are also contributing to the protection of the new generations.

You might be asking yourselves what is the relation between migrations and international protection of refugees or why to talk about refugees in a seminar that focuses on international migrations. Some of you might even consider that they are two issues that exclude one another.

Actually, if they are dealt with from a right-based perspective, even if you believe that migration and refugee protection are two different issues, they are also complementary to each other, particularly in a context whereby migratory movements across the continent show that asylum seekers and refugees travel along with a large number of persons, whose main motivations for leaving their countries are not linked to the international protection of refugees. However, those persons who constitute the majority of the migratory flows, and who are usually refer

to as “migrants”, might also have various protection needs, including the respect of their fundamental rights. Let’s see some concrete examples:

1) Camila is a young 19 year old girl, coming from whichever country from the Southern Cone, who dreams to become a professional model and to travel around the world. One day, she reads a newspaper advertisement in which a modeling agency wants to hire young girls who want to travel and work as models in countries of South-east Asia. Camila considers that this is the opportunity of her life and gets in contact with the modeling agency. Soon after, she becomes a victim of trafficking.

2) Mario is a 10 year old child, from a Central American country, who wishes to reunite with his parents, who are living in the United States of America for a few years already. Therefore Mario starts a journey across Central America and Mexico up to the border with the United States of America. During his journey, Mario, as an unaccompanied child, becomes part of the south-north migratory flows, undergoes various violations of his rights, including being a victim of labor exploitation and sexual abuse.

3) John Jairo is 22 years old, and comes from a country affected by an internal armed conflict. He fled his country, after receiving threats against his life, because he refused to pay a sum of money requested by an illegal armed group.

4) Angelica is 35 years old, and a single mother who lives in a country affected by an acute economic crisis and a high rate of unemployment. She wants to travel to Canada in order to build a better future for her two children (Juan, 7 years old and Maria, 10 years old). She wishes to improve her precarious economic situation, so Angelica gets in contact with a network for migrant smuggling, which provides a new passport and a fake visa to get into Canada.

Those cases exemplify the complexity of migratory flows (north-south and south-south) across Latin America and the incidence of victims of trafficking and persons who face smuggling.

When dealing with this very truth, one can question whether forced displacement is an issue of the past in Latin America or whether, on the contrary, the context in which international protection of refugees is provided has changed, and therefore its treatment requires a much broader and holistic perspective.

Indeed, due to the persistence of restrictive asylum policies, exacerbated by security considerations and increasing migratory control measures, forced displacement in Latin America has little visibility and presupposes a better understanding of the dynamics and magnitude of migratory flows.

The migration and asylum nexus

Nowadays, asylum seekers and refugees compose, in quantitative terms, a small percentage of the total number of persons taking part of migratory flows, who move from one country to another, for motivations different to international protection of refugees. This increasing new phenomenon is called “mixed migratory flows”,¹ meaning the presence of persons in need of international protection as refugees within broader migratory movements or flows in which the main motivations expressed by the persons to leave their countries are linked to poverty, social exclusion, lack of employment or economic alternatives and the search of better life perspectives.

Therefore, on the one hand, the protection needs of a relatively small number of asylum seekers and refugees in the region subsist, but the very context in which this international protection is provided has changed, as long as those in need are part of mixed migratory flows. Because of this one of the main challenges for international protection is to identify those in need of such protection (asylum seekers and refugees) within migratory flows.

While historically we have tried to establish clear-cut division lines between migrants and refugees, or between what traditionally has been called “voluntary migration” and “forced migration”, the truth is that from a human rights perspective, it is necessary to deal with their respective plights from a right-based approach and to assess the protection needs of people. However, bearing in mind the distinct legal protection regimes, it is necessary to continue fostering a better regional and international understanding on the protection needs of both migrants and refugees.

This understanding should be based in three fundamental principles of international law: 1) the sovereign right of States to adopt migratory policies has limits established by international human Rights instruments;² 2) the State should protect all persons under its jurisdiction, regardless of

¹ In this sense, see: UNHCR, *Composite Flows and the Relationship to Refugee Outflows, including Return of Persons not in Need of International Protection, as well as Facilitation of Return in its Global Dimension*, EC/48/SC/CRP. 29, May 25th, 1998, 12^a Meeting of the Standing Committee, p. 2.

² The human rights organs of the Inter-American System have reiterated in various opportunities that the sovereign right of States to adopt and implement migratory policies has limits established by human rights instruments. Please see: INTER-AMERICAN COURT OF HUMAN RIGHTS: *Case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*, August, 2000 and Advisory Opinion No. 18/03 *Juridical Condition and Rights of the Undocumented Migrants*, September 17th, 2003, requested by the United States of Mexico, dated September 17th, 2003.

their migratory status;³ 3) in case of persecution, a person has the right to seek for asylum.⁴

Although migration and refugee protection are distinct issues, they are also complementary and usually mixed up in the debates about irregular migration, and particularly, in the application of control measures to fight it. It often creates distortions and misunderstandings both in the public opinion and among politicians. As a consequence, many times asylum policies are merged and replaced by migratory policies, and migration control measures are applied indiscriminately to asylum seekers and refugees, whom are presumed as “migrants”.

Simultaneously, because of the lack of legal means to migrate, migrants, in many cases, have to resort to the domestic asylum systems to try to regularize their tenure in a country. It generates abuses and unnecessary delays of the refugee status determination procedures, as well as excess of costs for many States.

Nowadays the treatment of migratory flows makes it apparent that migrants and refugees, in many cases come from the same countries, use the same routes and means of transportation, and resort to the same smuggling networks, also becoming, in some instances, victims of trafficking.

When the treatment and understanding of the rights of migrants improve, it will not only diminish the pressure on asylum systems, but also the term “migrant” shall no longer be used as a pejorative synonym of a “person without rights”. This will enable the recognition of the inherent rights of all persons under the jurisdiction of a State, regardless of their nationality or migratory status.

Hence, to preserve asylum and the international protection of refugees, it is necessary to better understand the complex phenomenon of migration, and in particular, the composition of mixed migratory flows and to support governments for the establishing of specific safeguards for both the identification and evaluation of protection needs of the persons participating in such flows.

The question is how to ensure that migration management is consistent with the international obligations of states on refugee protection and human rights. What kind of practical measures could be adopted

³ INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, *Case 9619 against Honduras* (Salvadoran refugees in Colomoncagua), resolution N° 5/87 of March 28th, 1987; *case 9903 Rafael Ferrer-Mazorra et al against United States of America*, report number 51/01 of April 4th, 2001; and Inter-American Court of Human Rights, *Advisory Opinion No. 18/03 Juridical Condition and Rights of the Undocumented Migrants*, September 17th, 2003, requested by the United States of Mexico.

⁴ Article 14 of the Universal Declaration of Human Rights, article XXVII of the American Declaration of Rights and Duties of Man and article 22.7 of the American Convention on Human Rights.

by states for the treatment of mixed migratory flows, with the support of international organizations and the organizations of civil society?

In April, 2006, UNHCR shared with states, thorough the so called "10 Point Plan of Action",⁵ its strategy to respond to mixed migratory flows. The document underlines that while refugees and asylum seekers represent nowadays a relatively small proportion of the general movement of persons, their movement takes place along persons who do neither seek nor are in need of international protection.

The challenge is precisely to set up mechanisms of migration management that allow the identification of those in need of international protection and to provide them with a differentiated response from those persons who are also within mixed migratory flows. The 10 Point Plan of Action is based on the need to ensure that the provision of refugee protection does not increase the difficulties faced by states to control the entry and permanence of aliens in their territories, and to combat trans-national crimes.

The new regional context

In the last years, there has been an increase of south-north and south-south migratory flows in the continent as far as that in many countries the situations and plights of being countries of origin, countries of transit and countries of destination. This huge human mobility in the continent has been facilitated by the advancement in communications and international transportation, and by regional integration approaches. Migration and its impact has become part of the regional and international agenda, particularly as regards to irregular migration and migratory controls. However, this increasing interest is not necessarily reflected in enhanced respect for the rights of migrants or the adoption of a right-based approach that allow the identification of which protection needs are at stake.

At the same time, faced with the lack of mass trans-border movements and refugee camps, in Latin America there is a certain belief that forced displacement because of persecution, intolerance, xenophobia, generalized violence, mass violations of human rights and armed conflicts is a far-off matter.

Nowadays we can not deny the complexity of the migratory flows across Latin America as well as the presence within those very same flows

⁵ UNHCR, *Refugee protection and mixed migration: The 10-Point Plan of Action*, Geneva, January, 2007, rev. 1, p. 1-10.

of unaccompanied/separated children, victims of trafficking, smuggled migrants, but also of persons in need of international protection as refugees.

Confronted with this reality one can ask himself if forced displacement in Latin America is an issue of the past or likewise, whether the context in which international protection of refugees is provided has changed, and therefore, its treatment requires a more holistic perspective. The question is who the refugees and the persons in need of international protection are now in the continent.

The increasing migratory flows represent the new context in which international protection is provided and constitute one of the main contemporary challenges for the international protection of refugees, as much as migration management should be respectful of the international protection of refugees and of human rights.⁶

In this sense, it is also important to highlight the pragmatic responses adopted by states to address the increasing migration phenomenon through regulation and documentation programs,⁷ which go far beyond migratory amnesties, as well as the adoption of regional approaches to reinforce the protection of refugees and other persons in need of international protection in Latin America.⁸

Indeed, some situations of tension remain in our continent, mainly in the Andean region and the Caribbean, which still generates forced displacement of persons.⁹ The lack of refugee camps or mass influxes of persons through an international boundary, and the increase of migratory flows, should not make us suppose that forced displacement is a solved matter in our region. On the contrary, the reality of our region shows that the plight of refugees prevails along with the phenomenon of internal

⁶ See *supra* footnote 2, page 4. and UNHCR, *Discussion Paper: Refugee Protection and durable solutions in the context of international migration*, Dialogue of the High Commissioner on Protection Challenges, UNHCR/DPC/2007/Doc. 02, Geneva, November 19th, 2007.

⁷ Special mention deserves the programs *Patria Grande* (Big Homeland) implemented by Argentina to nationals from MERCOSUR and *Misión Identidad* (Mission Identity) developed by the Bolivarian Republic of Venezuela, as well as the regularization and documentation processes in countries such as Chile and Honduras.

⁸ Also, see: UNHCR, "Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America", in *Memoir of the Twentieth Anniversary of the Cartagena Declaration on Refugees*. Editorama, San Jose, Costa Rica, 2005, p. 349-362. This Plan of Action, adopted by 20 Latin American countries, is being applied by analogy for the protection of internally displaced persons in Colombia.

⁹ UNHCR, "Discussion Paper: The refugee situation in Latin America: Protection and durable solutions under the pragmatic approach of the 1984 Cartagena Declaration on Refugees", in *Memoir of the Twentieth Anniversary of the Cartagena Declaration on Refugees*, *op. cit.*, p. 13.

displacement and situations leading to statelessness, particularly of children born, in border areas, to foreign parents with irregular migratory status.¹⁰

By the end of 2007, UNHCR provided protection and assistance to a total of 31.7 millions of persons, including refugees, internally displaced, returnees, stateless persons and other persons in need of international protection.¹¹ For the second consecutive year, the number of refugees in the world increased from 9.9 million persons in 2006 to 11.4 million persons during 2007;¹² 9% of those refugees live in the Americas and are mainly Colombian nationals.¹³

Recent trends of forced displacement in Latin America

The phenomenon of forced displacement remains as a contemporary fact in our regional reality, and it is illustrated by its invisibility, in spite of affecting more than 3 million persons. The number of internally displaced in Colombia is one of the highest in the world and it is also estimated that more than 500.000 persons in need of international protection are living in border areas of Colombia: 250.000 persons in Ecuador and 200.000 in Venezuela.

It is also crucial to understand that the majority of forced displacements comes out of the action of non state agents of persecution, trans-national Networks of organized crime or individuals, and the national protection of states is ineffective or non-existent in these cases.

This explains that today's forced displacement takes place in peace times, as we well as in situations of internal armed conflict, generalized violence and mass violations of human rights, in a regional context where democratic, freely elected regimes prevail.

Besides, other forms of persecution and serious violations of human rights have emerged such as kidnapping, extortion, retaliation of civil population, the seizure of civil populations, forced recruitment of minors, and the use of sexual and gender-based violence¹⁴ as a war weapon.

¹⁰ While precise figures on the dimension of statelessness in the region, the most known cases correspond to children of Haitian descent born in Dominican Republic and children born to Guyanese parents, born in the border disputed zone between the Bolivarian Republic of Venezuela and Guyana.

¹¹ According to UNHCR figures available, women constitute 50% of the beneficiary population and children, 46%. UNHCR, *2007 Global Trends: Refugees, Asylum seekers, Returnees, Internally Displaced and Stateless Persons*, UNHCR, June, 2008, p. 12.

¹² *Idem*, p. 5.

¹³ *Idem*, p. 7.

¹⁴ This has been recently illustrated by the INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, *2007 Annual Report on Human Rights*, IV Chapter on Colombia, paragraph 15, available at <http://>

Furthermore, in situations of internal armed conflict, forced displacement could become a war strategy and even be the very objective of the conflict, due to the dispute of strategic territories among illegal armed groups.

Forced displacement in the region has also a disproportionate impact on women, children as well as in afro-descendants¹⁵ and indigenous populations¹⁶. In the case of these ethnic minorities we are talking not only about their very survival in terms of territory, culture and autonomy but also about their collective rights. It means that the humanitarian needs of refugees and other persons in need of protection should bring up gender, age and diversity as mainstreaming policy priorities.

There is also increasing awareness in the region on the international protection needs of victims of trafficking, unaccompanied/separated children, victims of the actions by criminal organized transnational groups (i.e. the phenomenon of the *maras* in Central America and narco/drugs dealing networks), victims of domestic violence and survivors of situations of “social cleansing” (i.e. street children).

Because of the persistence and surfacing of new agents of persecution, of more perverse forms of persecution, and of new social situations that generate forced displacement, it is vital to identify and perceive the humanitarian dimension in the continent, as well as provide international protection for those who need it and deserve it, and for those who the national protection is ineffective and/or non-existent. More than ever, our region should be faithful to its generous asylum tradition and to provide protection to the persecuted.

The new Latin American refugees

As regards to the protection of refugees and other persons in need of protection, there are various coexistent situations in the continent:

www.cidh.org/annualrep/2007eng/Chap.4.htm#COLOMBIA.

¹⁵ By 2004, UNHCR estimated that the Afro-Colombian communities represented 11% of the population internally displaced. For more information on this subject, please refer to: ACNUR, *Balance de la política pública de prevención, protección y atención al desplazamiento interno forzado en Colombia (2002-2004)*”, ACNUR, 2004, p. 114.

¹⁶ This has been recognized by the Colombian Constitutional Court in its resolution 218 of 2006: “Forced displacement is particularly serious for ethnic groups, who in proportional terms are the one who suffer a larger level of displacement in the country as repeatedly being informed to the Court and as been declared by various analysts of the phenomenon. The displacement of indigenous and Afro-Colombian groups implies a serious violation of the specific constitutional rights to which they are entitled, including their collective rights to cultural integrity and to their territory. Furthermore, the relationship of the ethnic indigenous groups and Afro-Colombian descendants with their territory and sources therein present transform forced displacement in a direct threat for the survival of their cultures.”

1. Developed countries with complex asylum procedures, which are among the countries which receive more refugees around the world, both spontaneously and/or through specific resettlement programs;¹⁷
 2. Countries which host a significant number of known refugees and/or asylum seekers;¹⁸
 3. Countries which continue receiving a reduced number of asylum seekers and refugees within regional and hemispheric migratory flows;
 4. Countries with situations of internal forced displacement that affects thousands of persons;
 5. Countries with emerging resettlement programs,¹⁹
 6. Countries which are not parties to the international refugee instruments²⁰ and/or which do not have mechanisms for the identification of asylum seekers and refugees,²¹ and;
 7. Countries with situations generating cases of stateless persons.
- As regards to trends and global and regional statistics observed during 2007, it is important to indicate the following:
1. After Afghanistan (3.1 million) and Iraq (2.3 million), Colombia is the third country of origin of refugees in the world with 552.000 refugees.²² The majority of Colombian refugees is living in border areas of Ecuador and Venezuela, but also in Panama and Costa Rica, as well as in Argentina, Chile and Brazil.
 2. As for the rest of the World, asylum claims were lodged mainly by Iraqis (52.000), Somalis (46.100) and Eritreans (36.000), in our region, asylum claims were mainly lodged by Colombian nationals (23.200 claims), but also by Cuban and Haitian nationals,
 3. There is also an increase in the number of Mexican and Salvadoran asylum seekers (more than 7.000 claims and 3.500 respectively), particularly in the case of the United States of America and Canada,

¹⁷ This is the case of Canada and the United States of America.

¹⁸ In Latin America the countries which host more recognized refugees are Ecuador and Costa Rica.

¹⁹ The emerging resettlement countries are Argentina, Brazil and Chile, and Paraguay and Uruguay have recently joint the program.

²⁰ The following countries are not parties to the international refugee instruments: Barbados, Cuba, Granada, Guyana, and Saint Lucia.

²¹ In Caribbean, Jamaica and Cayman Islands there are *ad hoc* mechanisms for the identification and the determination of refugee status, and it is also necessary to reactivate the functioning of the eligibility commissions of Belize and the Dominican Republic.

²² UNHCR, "2007 Global Trends:...", *op. cit.*, p. 8, and UNHCR, "Refugee Daily", *Refugees Global Press Review*, June 17th, 2008.

4. The United States of America remains as one of the main countries of asylum in the world with 281.200 refugees.²³ In the case of Latin America, Ecuador is the country which hosts more recognized Colombian refugees, followed by Costa Rica, Brazil, Argentina and Chile,
5. Out of 647.200 asylum claims lodged in the world, 100.300 were filed in the Americas, and the United States of America are the main asylum country with 50.700 claims. In Latin America, Ecuador received a total of 11.600 asylum claims,²⁴
6. In the Americas, 28.000 were recognized as refugees (18.000 in the United States of America and 5.900 in Canada),²⁵
7. The United States of America received 48.000 resettled refugees and Canada, 11.200, and Argentina, Brazil and Chile received Colombian refugees resettled from Costa Rica and Ecuador.²⁶

The new regional trends and statistics demonstrate that forced displacement in the region remains as a contemporary problem, along with increasing migratory flows.

Final considerations

Migration and refugee protection are two distinct, but complementary issues. Refugees and migrants both have human rights, and therefore, their plight should be addressed based on this fundamental premise. States should protect both nationals and foreigners under their jurisdiction.

Nowadays, refugee protection presupposes the understanding of the dynamics of mixed migratory flows. Those constitute the new context in which international protection of refugees is provided. Therefore, as much as it improves the understanding of the rights of migrants and the legal regime for their treatment and protection, plus an increase in the legal alternatives for migrating, this will diminish the pressure on the asylum systems.

The protection considerations of refugees and migrants are not a problem of mandates or distinct legal regimes, but it certainly requires a better understanding of their rights, in order to avoid that both terms get to be used indistinctly as means to precisely nullify or deny the rights that need to be protected.

²³ UNHCR, "2007 Global Trends: ...", p. 8.

²⁴ *Ibidem*, p. 13-15.

²⁵ *Ibidem*, p. 16.

²⁶ *Ibidem*, p. 12.

Because of this, it is necessary to continue strengthening the legal and institutional frameworks for the protection of refugees and migrants. Hemispheric ratification of international refugee instruments needs to be achieved, and it is needed to promote the ratification by a larger number of countries of the international Convention on the protection of the rights of all migrant workers and their families.

Besides a solid legal and institutional framework for the protection of refugees and migrants, it is also imperative to count with migration and border officials, duly trained on their differentiated protection, and who are aware of the specific bodies and procedures for their treatment and protection. Indeed, migratory controls, particularly at border areas should be sensible to the specific needs of refugees and migrants, and keep in mind the central bodies in charge of their treatment and protection.

Far from being an isolated fact, forced displacement has exacerbated in the last years in some countries of the region, and taking into account that it is linked to mixed migratory flows, it is of vital importance to increase border monitoring aimed at identifying those in need of international protection.

In this sense, the legitimate interest of States to control their borders should be compatible with their international human rights obligations, in particular as regards to the humanitarian concerns of those who are in need of international protection. This explains why state migratory policies should neither merge national policies for the protection of refugees, nor should migratory controls be applied indiscriminately towards asylum seekers and refugees.

Among mixed migratory flows, special attention should be paid to the assessment of the protection needs of victims of trafficking and unaccompanied/separated children, taking into account their high vulnerability, regardless of if they are in need of international protection or not as refugees.

Considering the disproportionate impact of the migration and forced displacement in indigenous and afro-descendant populations in the region, it is important that institutional responses consider the factors of diversity, gender and age.

Bearing in mind the increasing interest of States to discuss migratory issues in regional, hemispheric and global *fora*, it is important to underline the nexus between migration and refugee protection, and to give more visibility to the existing challenges for the proper treatment of mixed migratory flows.

Finally, governments, international organizations, in particular UNHCR and IOM, along with the organizations of civil society should reinforce their cooperation, based on their respective mandates, to encourage a right-based approach for the treatment of refugees and migrants. As much as it improves the understanding of the human rights of migrants, regardless of their migratory status, it shall also safeguard the integrity of asylum and the international protection of refugees.

Building upon a right-based approach, ensuring the respect of the human rights of all persons under the jurisdiction of a state, regardless of their migratory status, it is clear that any migratory policy could and should be consistent with the existing commitments on human rights and international protection of refugees.

Faced with an increasing number of persons in need of protection in the continent, it is necessary to bear in mind the importance of creative and innovative regional approaches, based on humanitarian principles and regional solidarity.

Let me conclude taking in account the words of the Brazilian poet, Thiago de Mello, *É preciso trabalhar pelas crianças que ainda vão nascer*. We hope that your children and my children will never have to become refugees or migrants one day, but if it ever happens we hope that your children and my children, either as refugees or migrants, would find the protection that they need and deserve in a country, as generous as Brazil.

Bibliographical references

ALTO COMISIONADO DE LAS NACIONES UNIDAS PARA LOS REFUGIADOS. *Balance de la política pública de prevención, protección y atención al desplazamiento interno forzado en Colombia (2002-2004)*.

_____. Legal data base from UNHCR Spanish web site (www.acnur.org).

American Convention on Human Rights, available at http://www.hrcr.org/docs/American_Convention/oashr.html.

American Declaration on the Rights and Duties of Man, available at http://www.hrcr.org/docs/OAS_Declaration/oasrights.html.

COLOMBIAN CONSTITUTIONAL COURT, *sentence number 218 of 2006*, available at <http://www.acnur.org/biblioteca/pdf/4415.pdf>.

EXECUTIVE COMMITTEE OF THE PROGRAM OF THE UNITED HIGH COMMISSIONER FOR REFUGEES. *Composite Flows and the Relationship to Refugee Outflows, including Return of Persons not in Need of International Protection, as well as Facilitation of Return in its Global Dimension*, EC/48/SC/CRP.29, 25 May 1998, 12^a Meeting of the Standing Committee, p. 2, available

at <http://www.unhcr.org/excom/EXCOM/3ae68d0914.html>.

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS. *Case 9619 against Honduras* (Salvadoran refugees in Colomoncagua), resolution N^o 5/87 of 28 March, 1987, available at <http://www.cidh.org/annualrep/86.87eng/Honduras9619.htm>.

_____. *Case 9903 Rafael Ferrer-Mazorra et al against United States of America*, report number 51/01 of April 4th, 2001, available at <http://hrlr.oxfordjournals.org/cgi/content/citation/2/1/117>.

_____. *2007 Annual Human Rights Report*, Chapter IV on Colombia, available at <http://www.cidh.org/annualrep/2007eng/Chap.4.htm#COLOMBIA>.

_____. *Case Haitian and Dominican persons of Haitians and Dominicans of Haitian Origin in Dominican Republic*, resolution of August 17th, 2000, available at <http://www1.umn.edu/humanrts/iachr/E/haitianorigin8-7-00.html>.

INTER-AMERICAN COURT OF HUMAN RIGHTS. Consultative Opinion number 18/03, *Juridical Condition and Rights of the Undocumented Migrants*, September 17th, 2003, requested by the United States of Mexico, available at http://www.corteidh.or.cr/docs/opiniones/seriea_18_ing.doc.

UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES. "Discussion paper: Refugee Protection and Durable Solutions in the context of international migration", Dialogue of the High Commissioner on the Challenges of Protection, UNHCR/DPC/2007/Doc. 02, Geneva, November 19th, 2007, available at <http://www.unhcr.org/protect/PROTECTION/4742a6b72.pdf>.

_____. "Discussion paper: The refugee situation in Latin America: Protection and durable solutions under the pragmatic approach of the 1984 Cartagena Declaration on Refugees", in *Memoir of the Twentieth Anniversary of the Cartagena Declaration on Refugees*. Editorana. San Jose, Costa Rica, 2005.

_____. "Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America" in *Memoir of the Twentieth Anniversary of the Cartagena Declaration on Refugees*. Editorana. San Jose, Costa Rica, 2005.

_____. "Refugee protection and mixed migration: The 10-Point Plan of Action", available at <http://www.unhcr.org/protect/PROTECTION/4742a30b4.pdf>.

_____. "Refugee Daily", *Refugees Global Press Review*, June 17th, 2008.

_____. "2007 Global Trends: "Refugees, Asylum seekers, Returnees, Internally Displaced and Stateless Persons", UNHCR, June, 2008.

Universal Declaration of Human Rights. Available at <http://www.un.org/Overview/rights.html>.