A Network Society Communicative Model for Optimising the Refugee Status Determination System

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For all refugees and asylum seekers
Who are strong enough to re-start their lives in adverse conditions.

Examine the position of all the peoples of the universe; they are established like this on a sequence of facts which appear to be connected with nothing and which are connected with everything. Everything is cog, pulley, cord, spring, in this vast machine. (Concatenation of events. Voltaire, 1924)

Summary

Foreword

The book "A Network Society Communicative Model for Optimising the Refugee Status Determination System" is another important contribution by Professor and Researcher Andrea Pacheco Pacífico. This woman, who has more than two decades dedicated to the study of issues related to the institute of refuge, presents us with a work that touches on key elements for the protection of this right that represented a real civilizational advance for humanity, but, at the same time, the need for adjustments and advances capable of providing protection to today's refugees for a situation that, according to data provided by the UNHCR itself, has been growing in recent years.

The book aims to analyse the Refugee Status Determination (RSD) in general, in order to locate the reader on the development of the theme, the forms and actors responsible for its application, and, in the last chapter, to present suggestions for improving the RSD system developed around the world.

This structure, in a theme so closely linked to the refugee debate around the world, may make it seems that the book is aimed only at scholars and experts on the subject, but, with great didactic capacity, the author makes

it possible for even people who are just beginning to study the subject to appropriate her ideas and teachings, because one of the main merits of the work is to transform a difficult technical subject into something fully understandable for audiences of different levels in terms of depth of knowledge of the subject.

In a way, the book represents the way in which the researcher has been engaged in relation to her research objective throughout her life, because, through her personal and institutional links with the main centers for refuge studies in the world, she is able to brilliantly bring these teachings and disseminate them throughout Brazil, even to regions where the knowledge and relevance of the theme had not yet presented itself in such a striking way as today. It may also provide training and knowledge to several people who can now act in a capable manner in a scenario in which the refuge institute has embraced more and more people.

Nevertheless, to achieve this merit, Andrea makes use of a deep scientific rigor related to the subject, in the sense of presenting it with some of the main scientific references on the issue, accompanied by a deep knowledge of practical realities that allow the exposure of the measures adopted literally around the world. At the same time, it establishes comparisons that facilitate to those interested in the issue the real understanding of what is being discussed.

The subtlety with which she quotes and describes the main points of various documents and manuals created by UNHCR and other authorities may seem like an easy exercise to do, which it is not, since the author's merit is precisely to facilitate the understanding of a scientific repertoire formed by many years of deep dedication to the subject.

In addition, the text provides several elements that mark these 70 years of development of the Convention Relating to the Status of Refugees, while touching on sensitive issues and provided by the historical moment we are living, such as the Venezuelan diaspora, in which the author presents considerations on practical responses made by UNHCR, by States, by Civil Societies entities, among others. History functions as the descriptive element of a picture of things that reach the present day with interesting responses, but, at the same time, requires adjustments.

In order to point out the suggested advances, the researcher dialogues in a very didactic way with some of the main exponents of the topic and of the contemporary social and legal approaches, managing to extract the main elements of the construction of these intellectuals and researchers in order to justify the proposal that is even present in the book's title. Beyond the debate at the theoretical level, there is an example through the good practices of the International Committee of the Red Cross (ICRC), which could guide UNHCR's own actions towards the improvement of RSD in general.

There is no doubt that the work will become an important academic and practical reference for the development of one of the central axes of refugee protection, the RSD, in another relevant contribution of this research that consolidates in works like this one, a very relevant trajectory for the theme.

Boa Vista, 18th September, 2021

Prof. Dr. João Carlos Jarochinski Silva
Federal University of Roraima

Initial considerations

The refugee status determination (RSD) system is very complex. It includes the roles of and interaction among some implementing partners, such as the UNHCR, sovereign states, local and international NGOs, as well as refugees and asylum seekers. Not all of them are thoroughly regulated by the international regime and the sphere of their legal competences sometimes clashs. A proposed solution is a network society formed by all above-mentioned implementing partners and based on a dialogical model inspired by a communicative action. Therefore, this book aims at giving an overview of the current international refugee regime on an individual basis, mainly as to asylum seekers and the procedures they have to go through in order to achieve refugee status within a host country.

Based on a previous research, as post-doctoral fellow, conducted at the York University Center for Refugee Studies, in Toronto, Canada, whose article was published at *Revista Brasileira de Política Internacional* (v. 56, n. 1, 2013, p. 22-39), the author has been working on this issue for a decade, searching for ways to provide a better life for asylum seekers, while they face a long and bureaucratic wait for the results of their claim for refuge. For instance, according

to the UNHCR (2021), more than 82 million people are forcedly displaced in the world, at the end of 2020, due to conflicts, persecutions, violence, etc, being more than 26 million of refugees.

In Brazil, the National Committee for Refugees (CONARE, 2021) had examined more than 71,000 requests for asylum between 1998 (when it is created) and April 2021, whilst more than 193,000 requests were pending and more than 52,000, of 109 nationalities, were granted asylum in the country.

Firstly, this book briefly describes the historical development of the RSD general procedures since 1951. Particular attention is paid to the 2003 UNHCR Handbook on Procedural Standards for Refugee Status Determination under UNHCR's Mandate (The Handbook), with revisions of articles 2.5, 2.7, 5, and 7, published in 2016 and 2017, which provides guidelines to UNHCR local officers on their tasks.

Secondly, it discusses rights, duties, obligations and responsibilities of above mentioned implementing partners. Regrettably, lack of standard rules on the roles of each of the partners leads to lack of coordination in their functions, as well as it creates duplication of activities in some areas and gaps in others. Useful practices do exists and are described in this book, for instance the Brazilian case, though partners in some cases do not work in 'real partnership", but in an adversarial way, due to conflicts of interests among them.

Hence, some failures and expected results are shown, mainly a new way of correcting the failures, by creating a coordinated system in which all implementing partners, for instance, are legally bound by some customary international

law and principles, mainly some administrative and natural justice principles.

In short, this book recommends a new way to optimise the RSD system, by proposing a network society communicative model. This model, named after collecting proposals from Castells (1997 & 2000), Habermas (1989), Appel (1997), Chimni (2001) and Betts (2006), would be coordinated by the UNHCR, that would act as a mediator as well as provide education and training to other implementing partners. It is suggested that the role of the UNHCR in this process be modeled after the International Committee for the Red Cross, which takes active role in publishing information, avoiding the dependence syndrome, fostering humanitarian diplomacy, developing link with the private sector, and promoting its rules and principles.

Finally, this paper suggests that a network society communicative model be built, by having all implementing partners on the "round-table" to speak and to be heard, as well as their own reality, needs and complains be taken into consideration. Additionally, the UNHCR's duty on protection should be more focused on, by building stantard rules, principles, and decision-making procedures to be followed by all partnerts, under organised domains, by educating and traning implementing partners and opinion-makers to disseminate the international refugee regime, and by periodically examining their roles, conducting local, regional, and international meeting with the aim at sharing knowledge and practice taken by different realities.

Refugee Status Determination
General Procedures

The current international refugee regime (principles, norms, rules, and decision making procedures) was legally created in 1951 as a response to the forced displacement of people after the World War II (WW2). It derives from the political and economic consequences of the WW2 and to provide protection to those in need of physical and economic security and social well-being. It should be mentioned that the regime concept used in this book is the one given by Krasner (1982: 186), that is,

> as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.

Additionally, legally defined in the 1951 Convention relating to the status of Refugees, article 1, A, and its 1967 Protocol, refugees are those who

> 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.

Refugee waves seem to be endless, though the current international regime, built under the support of The Office of the United Nations High Commissioner for Refugees (UNHCR), which was created as a temporary UN agency and later became permanent, provides policies, guidelines, and legal rules to deal with durable solutions (local integration in the first country of asylum, resettlement in a third country, and voluntary repatriation) for these vulnerable people who are forced to flee and leave behind family, home, and identity. The struggle is the application of the definition, the implementation of the solutions and, also, the observation of the refugee status determination procedural standards.

Provided that the 1951 Convention and the 1967 Protocol defined refugees, the refugee status determination system is expected to follow them. However, the current reality and regional differences lead each state/region to adjust the international and general rules to its own needs,

culminating at lack of standard rules and at failures of implementing policies toward refugees' integration into host places.

Hence, it seems that refugees' human rights are not observed, that is, though legally protected, a high number of vulnerable people have suffered from human rights violations for years. According to current data (UNHCR 2021), in 2020, out of 82.4 million of forcibly displaced people worldwide, 48 million were internally displaced people, 26.4 million were refugees, 4.1 million were asylum seekers, and 3.9 were Venezuelans displaced abroad (out of 5.4 million Venezuelan refugees and migrants). There were also 1.1 million new asylum seekers only in 2020.

Two initial examples relating to regional adaptation of the refugee regime are, in Africa, the 1969 OAU Convention (and the 2004 African Unity EXCL 127(5) decision) and the 2009 Kampala Convention (African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa); and, in the Americas, the 1984 Cartagena Declaration (and the 1994 San Jose Declaration on Refugees and Displaced Persons, the 2004 Mexico Declaration and Plan of Action, 2010 Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas, and the 2014 Brazil Declaration and Plan of Action – Cartagena +30), which expanded the international definition to recognise as refugees those fleeing from independence/ civil wars and human rights violations, respectively, due to political instability within those regions, as well as to protect not only refugees, but also other forced displaced persons, including internally displaced persons (the case of the Kampala Convention) and forced displaced persons for

humanitarian reasons and or in situations of vulnerability, independently of their migratory conditions.

Canada and Brazil, as countries, are useful examples, as Canada provides protection not only on the refugee convention grounds, but also on the basis of risk of torture or risk to life, according to the 2002 Immigration and Refugee Protection Act, and Brazil, according to the 2017 Migration Law (n. 13,445) also provides protection (that is, temporary visa for humanitarian reasons) "for those in situation of grave and imminent institutional instability, armed conflict, calamity of great proportion, environmental disaster, or grave violation of human rights or international humanitarian law, or other hypotheses, according to regulation." Brazil also recognises as refugees those who flee from "severe and generalised human rights violations" (Law n. 9474/1997, Art. 1, III).

One more example is as to the legal definition for refugee claimant and asylum seeker, as they are different regimes in the Latin American practice. Jubilut (2006: 29) and Piovesan (2007: 77-84) states that political asylum in the Latin America system is essentially a political measure and it may be granted while the seeker is still in the country of origin. Whereas states may decide on their own whether or not to give asylum, if they provide it, the procedures and the asylees' rights are bound by national law. Based on Jubilut (2006: 29) and Piovesan (2007: 77-84), Pacifico (2010: 105) has created the comparison table below:

Table 1: Comparison between Asylum`s and Refuge`s terminologies

Asylum	Refuge
Date from Ancient Greece	Date from XX Century
Regional (Latin America) Legal Institute	International Legal Institute
State Discretionary Act	Act regulated by International rules
No legal limitations regarding its concession	The UNHCR supervises its concession, giving limits, as clauses of exclusion, cessation, and loss
Only due to political persecution, whose existence is de facto and effective	Due to persecution (or founded fear of persecution) for reasons of race, religion, nationality, social group, or political opinion
Essentially political measure	Essentially humanitarian measure
It may be conceded still in the claimant´s sate of origin	It may only be conceded when the claimant has already crossed the borders of the state of origin
It only allows legal residence in the host state	It creates responsibility with regards to refugee´s protection by the host state.
It is based on constitutive state decision	It is based on declaratory decision (it is only considered the claimant´s situation in his/her state of origin is, not the host state´s decision)

Source: Pacifico (2010: 105), based on Jubilut (2006: 29) and Piovesan (2007: 77-84).

However, only asylum seeker terminology is used in this paper, as it is the most common terminology used to refer to those people forced to flee their own place of origin and to seek asylum or refuge somewhere.

Global general rules were created, by the 1951 Convention and the 1967 Protocol, to protect refugees and asylum seekers, but not specifically outline the stages of the RSD process and the implementing partners' roles. Hence,

it was necessary to standardise the procedures for the RSD system worldwide in order to avoid discrepancies among different regions and/or realities, which could culminate at human rights violations, such as lack of work permit and access to health care, education, job, or could culminate at *refoulement* (i.e. forcibly return) to the persecuting country.

It should be mentioned that, according to article 33 (1) of the 1951 Convention, *non refoulement,* embedded in customary international law as *jus cogens,* is a cardinal principle of refugee protection that prohibits states from returning a refugee or a refugee claimant to territories where there is a risk that his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group, or political opinion, apart from cases of asylum seekers who are dangerous to the security of the host country or are convicted of serious crime, being dangerous to the community, according to article 33 (2) of the same 1951 Convention.

The Office of the UNHCR published the Procedural Standards for Refugee Status Determination under UNHCR's Mandate (The Handbook), in 2003, not only because it "is a core UNHCR protection function", but also "to provide guidance on UNHCR procedures to determine eligibility for mandate refugee status on an individual basis" (The Handbook: 1-1).

RSD is, according to Kagan (2006: 45), "the procedure by which refugees are identified and distinguished from other migrants. RSD can be conducted on a group or an individual basis, but individual procedures are much more resource intensive and (because a person might be incorrectly rejected) riskier for refugees."

In short, The Handbook is divided into eleven parts, plus the Annex, dealing with different issues:

- An introduction which declares protection as the UNHCR core function, as well as general procedures for implementing the guidelines and for cooperation with implementing partners are addressed;
- General issues, as to information and confidentiality, file management, physical and human resources of the local UNHCR office, interpretation (revised in 2016) and complaint procedures, legal representation (revised in 2016), samples of forms to be used by UNHCR local staff;
- Reception, registration, interview, adjudication and decisions (procedures, review, notification and appeal – revised in 2017) of asylum seekers; process claims based on the right to family unity (revised in 2016); and procedures for asylum seekers in detention, for the application of exclusion clauses, for the UNHCR Refugee Certificate, for file closure/re-opening and for cancellation or cessation of refugee status; and
- Officers' training and supervisions.

The individual procedure may be conducted by local governments, by UNHCR, and/or by local NGOs, in partnership with local governments or the UNHCR local offices. It has, in general, some common steps: claimant's arrival, written application form filled with all reasons for the claim, interview, country of origin details gathered, decision with reasons given, administrative review, and right to judicial review.

As to The Handbook, besides establishing general standard procedures for determining international refugee status (from physical facilities and office security to reception, registration, adjudication and decisions of claims), it also defines the rights, obligations and responsibilities of UNHCR offices and of implementing partners, such as local governments and NGOs.

Asylum seekers have a right to an interpreter, access to information, right to a legal representative, reasons of the decision, right to review the decision, as well as right to appeal. At the same time, they also have obligations and responsibilities, for instance to avoid hiding information, to answer, accurately and with courtesy, all questions asked in the application form, as well as during the interview and to bring documents as requested.

Unfortunately, in practice, The Handbook does not provide details on the roles of each of the implementing partners. This leads to gaps in their roles, as well as it culminates in an inefficient and ineffective protection of asylum seekers in many places. In general, The Handbook gives the UNHCR local offices the right to implement the procedures according to their own reality, what is sometimes useful and necessary, but lack of supervision and comparison with other offices sometimes may lead to bad quality of RSD procedure and decision, affecting asylum seekers' lives negatively.

For Pestre (2007: 157, 395, 389-91, 449), some of the negative effects are time delays for the decision, fear of *refoulement*, bad outcomes of poor interviews conducted by unprepared officers, and lack of necessary information. She (2007: 147-57) has also observed some difficulties and

bad effects encountered when asylum seekers can be re-traumatised during interviews, by remembering past events and/or by being interviewed in an insensitive manner, as well as when they need to be understood by interpreters. Therefore, the current international refugee regime needs to be re-evaluated and changed.

Some guidelines for change and to achieve a fast, fair, effective, efficient, and final refugee system can be found in Showler & Maytree (2009: 9-13), who recommend the Canadian government to make the steps of the process minimised, make the first decision the best one, have competent and independent decision-makers, manage the case load, let the claimant speak about his/her story, facilitate the access for legal representation, and invest in good mechanisms to achieve objective country of origin information.

With regards to a final decision, it has to result "in a reliable final outcome", "either receiving permanent residence if it is a positive decision or being removed from Canada if the claim is ultimately denied after the appeal process," but not to stay *in limbo* (i.e. without any rights, for instance work permit, access to health care, and education), without possibility to integration or suffering human rights violations. This report shows how The 2003 Handbook has been practiced differently: even Canada, a well-know host country for refugees and asylum seekers, has found difficulties in dealing with the standards procedures built by the UNHCR.

In Brazil, for instance, according to articles 29 and 31, of Law 9474/1997, in case of the claim is denied, the asylum seeker has the right to appeal before the Minister of Justice

"within 15 days from the date of the receipt of the notice." This decision is final and not subject to appeal. However, article 5th, XXXV, of the 1988 Brazilian Constitution, states that "the law may not exclude from review by the Judiciary any injury or threat to a right", that is, after a final administrative decision by the Minister of Justice, an asylum seeker may appeal to the Federal Supreme Court. Apart from the initial claim, in which an interview is essential, in both appeals (administrative and judicial), the asylum seeker is interviewed.

Brazil has only made the RSD system more flexible for Venezuelans` asylum seekers, in which the Brazilian Committee on Refugees (CONARE) started to apply *prima facie* procedures to recognise collectively as refugees, under some requirements, Venezuelans in Brazil, in 2019 and 2020 (UNHCR, 2020). According to Jubilut *et al* (2021: 11), the time for RSD decision in Brazil, between 1998 and 2007, used to be more than 12 months for only 5.78% of the cases and most cases used to be decided between four (16.35%) and five (15.02% months). However, this time increased for more than 12 months for 22.75% cases, between 2008 and 2017, as a result of the increase in the demand.

Having said that, it is clear that the procedures may not be absolutely standardised or global, as well as generalisation sometimes leads to lack of application. However, it is important to analyse the role of each partner, how each of them implements the UNHCR procedures and how cooperation is taken among them, though the relationship between international and domestic law occasionally produces barriers to agents' practice worldwide.

Apart from treaties (*e.g.* 1951 Convention and 1967 Protocol) and resolutions, other legal instruments addressed from international organisations are not legally binding, leaving states and other entities free to follow them or not. Whether or not the states follow their legal obligations depends more on economic, political, and humanitarian interests than on ratified treaties legal force.

Each partner in cooperation for a better way to accomplish a fair, fast, and reliable RSD system should take into consideration its own reality, though following some standard procedures, particularly as to its roles and as to asylum seekers' protection, a concept (Zetter 2005: 62-65) based on status-based (protection based on the 1951 Convention and other legal instruments), needs-based (protection based on humanitarian aid, irrespective of the category or normative status of the individual), and rights-based (protection belongs to all human beings, irrespective of their legal, social, or political status) approaches. However, the 2003 Handbook fails to establish these individual/single roles, producing confusion among the roles each partner has to follow locally and, consequently, the RSD system do not achieve its goal of protecting asylum seekers from human rights violations in many place.

Refugee Status Determination Implementing Partners

Whereas everyone has the right to seek and enjoy in other countries asylum from persecution (article 14 of the UN Universal Declaration of Human Rights), states have the sovereign power to bar people from entering. It means that everyone has the right to leave, but not to enter, which remains a paradox (right to claim refuge *versus* right of a sovereign state to guard its borders) within the international refugee regime, mainly following the aftermath of the 9/11. As mentioned by Tazreiter (2004: 1), "hostility toward refugees and asylum seekers has intensified since 2001."

States have to protect their citizens, as well as to abide by international agreements made on humanitarian grounds, according to transnational obligations pertaining to human rights. The dilemma is how to reach an equillibrium and how to deal with different implementing partners that hold different interests. The task is to re-organise each domain, that is, the role of implementing partners, as pointed out by Hardy (1994), and develop a collaborative organised domain.

In order to protect asylum seekers, not only states, but also NGOs, refugees, asylum seekers, and the UNHCR

need to interact with one another and to get along among themselves. Hardy (1994:280-282) considers refugee systems, in general, to be under-organised domains, as "interactions within and between stakeholder groups are complex because both collaboration and conflict occurs." For Hardy (1994: 289), a domain is under-organised if it "is still struggling with the earlier stages of domain development and characterised either by a lack of consensus around the legitimate stakeholders and/or a lack of common values."

Whilst states claim for their sovereign maintainance, NGOs, even if dependent on the former, push them to assure human rights and to legislate accordingly. Additionally, world events, media coverage with public opinion and complex legal systems lead to contradictions that "serve to render refugee systems underorganized domain."

As to the procedures to seek asylum, *ab initio*, it is necessary to identify the implementing partners and to legitimise their roles, along with the common goals, that is, to treat asylum seekers according to international human rights principles, such as right to seek asylum in a country different form his/her country of origin, and law, such as International Conventions (women, torture, etc). Then, a collaborative and consensual structure has to be built to achieve the aforementioned goal. This structure is legally part of the public policy domain, as a result of the constant change in the world society.

UNHCR

The first implementing partner to be evaluated is the UNHCR, which develops and practises its function by interpreting and appplying a regime it created. By listenning to states, NGOs, refugees, scholarly research/publications, and its own staff, the UNHCR is responsible for preparing and publishing principles, norms, rules, guidelines, and procedures, which will be later become states' domestic law.

A good practice in listening to NGOs and the Academia is the International Council of Voluntary Agencies (ICVA 2019), a global network of NGOs whose mission is to make humanitarian action more principled and effective by working collectively and independently to influence policy and practice. Accordingly, ICVA has had forced migration as its first focus since its creation in 1962. Out of its diverse partnerships and actions with the UNHCR, it is essential to mention the UNHCR-NGO Annual Consultation, in which ICVA "ensures NGOs are consulted and included in the process, from selecting the theme of the consultations, to shaping and convening a session".

Another example of good practice led by ICVA is the "High Commissioner's Dialogue on Protection Challenges", "a unique forum for free and open exchange of views between states, NGOs and other stakeholders", which has addressed different protection issues since its launch in 2007, such as protracted refugee situations, durable solutions and international migration, protection at sea, and understanding and addressing root causes of displacement. This partnership is useful in assisting the UNHCR to make certain decisions, for instance to make amendments in its norms, rules, and procedures.

Regarding the UNHCR Handbook (2003), it mentions some core standards for due process in mandate refugee status determination, for instance, appropriate access to UNHCR staff and procedures, non-discrimination, transparency, fairness, efficience, time-limit, impartiality, and qualified staff. However, nothing is said about partners, mainly how these standards may be implemented by the latter, taking into consideration regional realities, different qualifications, and different goals and values. These guidelines are well detailed and cover all necessary issues, but it does not mention who does what, what adjustments may be made and who gives training, in order to achieve a standard/common mandate, for instance registration, documents reception, evidence gathering, interview conduction, decision-making procedures, and notification.

The improvement of consistency of decision-making and of procedures was also among the aims of The Handbook (2003). Before being published, Alexander (1999) revealed the situation in some Asian states, where the RSD used to be conducted by the UNHCR local offices with lack of standard and generating a defficient system when assessed in the light of international human rights law and with some governments' practices.

Unfortunately, a claimant may not complain against the UNHCR to any Human Rights Committee or Court, because some Asian States, for instance, Cambodia, is not a party of the 1951 Convention and, hence, not legally bound by it, despite the UNHCR's duty to supervise governments and agencies to implement this regime and the UNHCR's officers be bound by it, as quoted by Alexander (1999: 262).

At most, there is a moral obligation to follow International Human Rights Law.

The UNHCR practice in some Asian states, for instance, used to differ from one another, as said by Alexander (1999), particularly as to right to interpreter, right to legal representative during the interview, access to information as to procedure and as to the reasons used for making a decision, access to one's own file, transcript of interviews availability and right to appeal. Additionally, in Africa, Kagan (2006) criticises the UNHCR's role in Egypt, by showing conflict of interest (as a refugee protector and as a decision-maker), lack of resources, risk of errant decisions, no reasons given for decisions, no access to information, appeals to UNHCR staff and not to an independent tribunal or body.

In short, it seems that the UNHCR, as a UN body with "supervisory responsibility as an integral and inherent part of its international refugee protection function" (Turk, 2002: 6), should be an umbrella agency responsible for creating a regime and supervising its implementation, by educating its partners and by accomplishing collaboration among them, instead of going to the frontline without enough resources, legally or not, for that. In order to be able to exercise its functions, the UNHCR needs to be legally recognised by states, due to the sovereignty principle, i.e. the "supreme authority within a territory" (Besson, 2011), which prescribes that states are free to admit or not anyone (individual or legal person) in their own territory.

States

States need to attain an equillibrium between the exercise of their sovereignty, through border control for collective and individual security reasons, and the human rights commitments, through international treaties signed and internalised into domestic law. It is not sufficient to sign and to ratify an international treaty. States also need to match international obligations with domestic interests. Furthermore, there is a need to create public policies as a tool to implement international obligations.

Within the international refugee regime, particularly the RSD procedures, states are bound by international conventions, as the 1951 Convention and the 1967 Protocol, as well as Human Rights Conventions, globally and regionally, making them responsible for implementing policies to carry them out. Public policy, according to Klein & Marmor (2006: 892), is quite simply: "what governments do and neglect to do. It is about politics, resolving (or at least attenuating) conflicts about resources, rights and morals." Therefore, Tazreiter (2004: 7) asserts that "refugee policy [of a state] also reveals aspects of the core values of a state, which immigration policy *per se* does not reveal."

As to asylum seekers, local governments, which accept a claim, should be in constant vigilance to follow their international obligations, through universal (directed to the whole population and also to asylum seekers) or targeted policies (directed to asylum seekers). Asylum seekers require special attention as a result of their vulnerability by the very nature of their present situation. However, states sometimes forget it and institutionalise a complex top-down system, mentioned by Clark (1985) and by Suzy (*apud* Buchwald,

1991), without taking into consideration local resources access, asylum seekers' need and local partnership with, for instance, NGOs. In addition to it, lack of standardisation within the UNHCR's regime leads to an under-organised system, failing to protect asylum seekers.

Ingram & Schneider (2006: 180) insist that "public policies that serve democracy need to garner support, stimulate civic engagement, and encourage cooperation in the solution of problems. It is difficult for public policies to achieve goals without sufficient support." This partnership may take various forms for a more efficient and efficacious RSD procedure, for instance, may simplify the procedure, standardise it and delegate power to local NGOs. The leading role of the government is undoubted, but, no state is able to act alone when dealing with waves of traumatised people, who fear persecution, lack family and identity, as well as face cultural/language differences.

Hence, some states delegate some duties to local NGOs (Egypt), others leave their task in the hands of the UNHCR local offices (some Asian states) and others share the task between local NGOs, the Academia, and the government (Brazil and Canada). Regarding Brazil, for instance, an agreement among the Federal Government, the UNHCR-Brazil and *Caritas* (and other NGOs and Research institutions afterwards) was established to execute the Refugee Status Determination (RSD) procedures, according to the International and the National Refugee Regimes (Pacifico, 2010: 102-118).

This lack of standardisation makes it difficult to protect asylum seekers' human rights, to follow the UNHCR regime, and to implement a standard regime to be pursued by all

interested partners, mainly those which operate locally and, for that, which know better the local region of its application.

Non-Governmental Organisations (NGOs)

Asylum seekers, vulnerable and traumatised persons, are in need of shelter, physically and mentally. Not always local governments have enough resources to deal with it or to implement the UNHCR procedures. Hence, a close relationship with local NGOs needs to be done, financially or politically. In fact, some agreements are made directly between UNHCR and NGOs, independently from governments, allowing NGOs to act free from local governments, yet following the UNHCR's regime as to fairness and impartiality. However, state sovereignty over NGOs' legal situation within the country has to be observed. For Tazreiter (2004: 16), "NGOs have been pivotal in the proliferation and efficacy of the universalisation of human rights", and, for Castells (1997: 352), they "are the most powerful proactive, mobilizing factor in informational politics. […] they do appeal to people's solidarity directly."

NGOs may protect asylum seekers' human rights independently, by pressing governments or by gathering media and public opinion support, or by formal collaboration with local governments and/or local UNHCR offices. Their roles are both advocacy and/or service delivery, for instance legal aid, language and culture course, and access to health care and to job opportunity.

Alexander (1999: 281) states the UNHCR's need "to set up local or regional mechanisms using local lawyers or

NGOs", especially in countries that are not members of the 1951 Convention and of the 1967 Protocol, as, in this case,

> the consequences of a favourable refugee status determination conducted by UNHCR are quite different from those when decisions are made by governments. If people are recognised as refugees by a government, they normally receive legal status in that country as well as other rights under the 1951 Convention. Recognition by UNHCR does not have the same outcome.

Hence, local lawyers (or any legal representative) and NGOs are able to represent asylum seekers, to provide legal advice and to press governments, by preparing asylum seekers psychologically for the interviews, by making them feel safe and by being well adjusted to the local environment, as they know all gaps and ways, the local culture and institutions as well as all difficulties encountered in the host place.

Kagan (2006) mentions local legal aid in Egypt as a useful example on how local organisations have achieved positive outcomes for asylum seekers. The Handbook (2003) allows all asylum seekers to have a legal representative (lawyer or not) and Kagan (2006: 49) states that "Egypt may have the largest and most developed asylum-seeker legal aid initiatives of any country where UNHCR is solely responsible for refugee status determination," such as Egyptian Organisation for Human Rights (EOHR), Refugee Legal Aid Project, Refugee Centre for Human Rights (RCHR), and Musa'adeen Project: All Saints Cathedral. In general, they provide asylum seekers with legal advice, evidence collection, application form preparation, country of

origin information research, legal memoranda preparation, interviews preparation/attendance, and claims preparation/ procedure teaching.

Legal aid programmes provided for asylum seekers in Egypt, in 2002, showed to be effective. Kagan (2006: 65-6, 60) concluded that it was "essential as a safeguard against RSD error at UNHCR", as well as individual and specific legal advice given by a trained and competent professional could "combat both applicant errors and decision-maker errors." As to the applicatn errors, "by helping clients recount their experiences coherently and in detail, and by encouraging honesty and combating damaging rumours about the RSD process that spread through refugee communities". As to the decision-maker errors, "by providing research and analysis of the facts and presenting legal theories that support a client's case."

Local NGOs are able to identify local partners, as it happens in Brazil, where *Caritas* has an agreement with the UNHCR local office and with the Brazilian Government. It is a catholic organisation responsible for interviewing asylum seekers and for sending the complete application forms to CONARE (National Committee for Refugees), the national administrative body with legal authority to make a decision about determining the refugee status (Law 9474/1997).

Jubilut (2007: 196-197) states that, as to the *Caritas,* financial resources are received from the UNHCR local office for its staff and for claimant's payment, as well as permission is received for making local agreement with schools, hospitals, shelter houses, and community-based services for claimant's needs. The first step of the RSD system is in charge of *Caritas*, which registers the asylum

seekers, interviews them and sends the first opinion (report) to be considered by CONARE, before delivering the final decision.

In Brazil, the Academia has also been an example of good practice for implementing Refugee Status Determination procedures in partnership the government and the UNHCR. Through partnership with the UNHCR-Brazil, Sergio Vieira de Mello Chairs have been established since 2003, with the aim at disseminating refugee law knowledge, doing and publishing research, and building community-oriented projects and programmes, for instance at assisting asylum seekers in all steps of the RSD procedures. Currently, there are 28 chairs in 13 Brazilian states, assisting refugees and asylum seekers in Brazil with legal aid, Portuguese as second language courses (Portuguese as Host Language Programme), health care assistance, labour market integration, etc.(ACNUR, 2021).

In Canada, the Canadian Council for Refugees (CCR) is a non-profit umbrella organisation dealing with rights and protection of refugees. Among its roles, it advocates for a better refugee determination system, lack of oral appeal and for people without status (*e.g.* "refugee in limbo", whose status was given by the administrative tribunal – IRB, but not confirmed by the Citizenship and Immigration Canada – CIC, due to lack of documentaion and/or evidence). Meeting cycles, workshops and roundtables, with refugees' participation included, and a mailing list are among CCR activities to advocate in favour of this group of people.

Local NGOs, as well as the UNHCR local offices, need legal permission of local states to operate within a territory. If, due to any new circumstances, government policy

changes, states may withdraw the permission given before, even in case of the public power needs to indemnify for having broken the partnership. In case of a state closes the doors of a UNHCR local office, political sanction from the international society, such as exclusion and loss of places before International organisations, may happen. This is the reason why, in general, states collaborate with the UNHCR local office, by facilitating its job and by building partnerships with it and also with local NGOs.

Hardy (1994: 286) points out that "the demarcation between government and non government helps to minimize conflict because each is perceived to be doing a different kind of job." A good example is the relationship between the Danish government and NGOs, which "is far more straightforward than in either of the other two countries [Canada and the UK]. It is *contractual* and based on a clear demarcation of responsibilities between the two parties."

Refugees and Asylum seekers

Some NGOs have a useful support from refugees and former refugees (currently citizens). In Canada, for instance, FCJ House, Matthew House and Somali Immigrant Aid Organization (SIAO) have former refugees working in different functions. This is important when dealing with asylum seekers from the same country, that is, same language, culture, values, past, and needs. Furthermore, refugees have also been recognised as legitimate partners in the eyes of government, not only in developed countries, such as the UK and Canada, but also in developing countries, such as Brazil and Egypt, where refugees and asylum seekers

become active by getting the media support to struggle for rights. Unfortunatelly, this activism is seen among refugees and former refugees (current legal citizens), not among asylum seekers, due to their vulnerable situation within the host country. Tazreiter (2004: 55) emphasises that a refugee claimant "is a voiceless individual in a country in which s/he has no membership claim and yet wishes to claim protection."

Pestre (2007: 20), by indirectly agreeing with Tazreiter (2004: 7), claims that states usually forget the asylum seekers' real situation and submit them to the legal-administrative state machinery which does not have, and it is not interest in, psychotherapic competence to deal with them. Tazreiter (2004: 53) insists that an ideal RSD system "is challenged and called into question by the everyday realities of the physical, legal and psychological needs" of asylum seekers during the determination process. Indeed, immigration officers, who are the first contact with asylum seekers, should have deeper knowledge on psychic disturbances.

Asylum seekers (not only refugees) also need to be engaged in daily activities, in order to overcome traumas, memories and, sometimes Post-Traumatic Stress Diseases (PTSD) as soon as possible. Lack of support and system institutionalisation (top-down system created without taking into consideration their needs and wishes) make claimants suffer from the dependency syndrome (physically protected and psychologically unprotected). Clark (1985) and Suzy (*apud* Buchwald) define institutionalisation as "the rigid and powerful system of protection created to take care of refugees, leading to a self-sustainable vicious-circle, as many tasks the refugee used to do, to have control and

responsibility of, in his/her country of origin, have now been conducted by this system."

According to Suzy (*apud* Buchwald), the best teraphy is to include them in community activities. Clark (1985) adds that unnecessary obstacles must be avoided in order to increase the refugee's participation, as his/her active participation assists in his/her self-steem and self-confidence reconstructions, as well as in reducing feeling of lethargy, isolation, depression and dependence.

If considered that all partners have their own values and interests, but also the same goals (to protect those who claim for refuge), it is expected that they treat each other fairly, despite the unbalanced power relations among them: states are the most powerful, legally speaking, while refugees are the least powerful, and NGOs are something like mediators. The UNHCR seems to be the umbrella of the system, gathering information from them, talking to them separately and together, proposing international rules, guidelines, principles and procedures, stimulating states to adjust their domestic law to the international regime and advocating for an equitable network society. Regrettably, positive results are not always reached.

Refugee Status Determination Practice

The Global Consultation on International protection Report (2001: §49-50) brought some recommendations which were included in The Handbook (2003), though, these recommendations sometimes exists only in theory, and they would be useful in the building process of a more humane RSD system, named "best practice", such as:

- International refugee law standard rules and basic guiding principles be applied;
- Domestic legislation on refugees be introduced compatible with the international refugee regime;
- Fast, single, prompt, efficient, and confidential core decision-making procedures, guidance aid, advice and legal counsel;
- Right to contact UNHCR and recognised NGOs working in cooperation with UNHCR;
- Personal interview and chance to present evidence;
- Single and central specialised decision-making authority, with accurate, impartial, sensitivity, flexibility, and up-to-date Country of Origin Information (COI) from a variety of sources;
- "Trained in appropriate, cross-cultural interviewing skills, be familiar with the use of interpreters, and have requisite knowledge of refugee and asylum matters";
- Written decisions delivered automatically; and

- Right to an independent appeal or review against a negative decision.

As to COI, Mason (2002) published a good and complete "update to guide to country research for RSD," showing a review of the mechanics of country research.

All the above-mentioned recommendations have the ultimate goal of protecting refugee and asylum seekers, as protection is the major purpose of the current international refugee regime. Not only refugees, but also asylum seekers should be legally protected, internationally (through international obligations taken by states) and domestically (through fair, fast and efficient procedural rules).

According to Kagan (2006: 4), "UNHCR RSD facilitates protection for refugees in three main ways: promoting the principle of *non-refoulement*, assisting in the promotion of durable solutions, and identifying refugees in need of social and economic assistance."

This book has the focus to primarily deal with asylum seekers, to whom protection should mean to avoid *refoulement* and to facilitate integration. It means not only socio-economic assistance, but also human rights in full, as granted by the 1948 UN Universal Declaration of Human Rights, which codifies the general principles of equality, liberty, and dignity of all human beings, regardless of their legal status in a country, and led to the creation of the International Human Rights Regime.

Total protection means, in the end, durable solutions achieved through human rights promotion and implementation, which is a way to reach fast integration,

a first step to attain legal citizenship and also sense of belonging, as reminded by Tazreiter (2004: 36-39).

Mashall's classical concept of citizenship (*apud* Vieira, 2001; Isin, 2002; Nyers, 2004; and Joppke, 2007), introduced, in 1950, as "right to have rights", by developing "rights and obligations inherent to the citizen's condition", should apply to thousands of refugees, internally displaced people and stateless in his concept. Hence, Isin (2002: 15) and Nyers (2004: 26) affirm that the need to create new forms of citizenship is based, for refugees and immigrants in general, on constant threats that affect the immigrant's image within the host community.

These images are associated with terrorism, crimes, diseases, and unemployment. This label on refugees, and also on immigrants in general, affects deeply their local integration, preventing them from seeing themselves and from being seen by local community as social citizens with a sense of belonging. After being recognised as citizens, structural difficulties can be transformed to allow them to avoid, or at least to reduce, the risk, the danger and the insecurity of being labelled by these negative words. For instance, in Canada, according Kymlicka (2003: 1999), the purpose of giving legal citizenship to refugees and to immigrant in general, in a short time, is because

> when immigrants gain psychological and legal security that comes with citizenship, they are more likely to put down roots, to contribute to local community initiatives, to care about how well their children are integrating, to invest in the liguistic skills and social capital needed to prosper, and more generally to develop stronger feelings of Canadian identity and loyalty.

Acquisition of citizenship is the top of the RSD system. However, expected results are not always achieved because of lack of standardised procedures and measures taken to their implementation. A just RSD system, for Tazreiter (2004: 28-29), should start "in the selection processes of who may and may not remain in a given territory, in the appplication of an impartial law and in the way quotas are set, while decent conduct and decency in institutions is evident in the everyday interactions between institutions and people."

According to Alexander (1999: 283-287), once the claim is made, it is expected that a fair hearing be conducted, physical and human resources be allocated properly, institutional integrity be shown and a fair and open process applied. Fair hearing means, quoting Wade & Forsyth (2009: 402), "hear the other side", *audi alteram partem*, a general principle of law and recognised as a human right by the 1966 International Convenant on Civil and Political Rights, whose article 14 (1) provides that

> All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law." (Underlined by the author).

Even though the article deals with criminal charges, the same guarantee should be applied to refugees and asylum seekers, as it applies to everyone, no matter the legal status within a country, as a citizen, as a permanent resident, as a refugee or as a refugee claimant.

The Canadian law, for instance, has been applying fair hearings since the Singh Case (Singh *v.* Minister of Employment and Immigration, [1985] 1 S.C.R. 177), by allowing an asylum seeker an oral hearing during the first phase of the procedure and during the judicial review before the Federal Court (CANADA, 2019). It does not mean that lack of oral hearing is the same as unfair procedure. Other jurisdictions, like Australia, do not have oral hearings in the first instance, but they have them in the appeal level and it is recognised as a fair procedure.

Fairness (i.e. consistency of behaviour with top-down expectation) and impartiality (i.e. give equal and/or adequate consideration to all concerned parties) are natural justice principles, as affirmed by Wade & Forsyth (2009: 371-375, 328-348), used to promote efficiency within a reasonable time. They have to be followed in order to preserve the asylum seeker's human rights, for instance, to avoid infringement of fundamental rights (economic, social, cultural, political and civil), "penalization of innocent" (*refoulement*), indiscriminate action, racial discrimination and undue delays.

As to physical and human resources, "time is money" and processes need to be fast and effective, to avoid errors with long-life consequences for asylum seekers. The Handbook (2003: 4.5) determines, for example, as a general rule, that RSD decisions, when delivered by local UNHCR offices, should be issued within one month following the RSD interview. Nothing is said as to the specific roles of implementing partners related to RSD procedures, apart from UNHCR local offices. Hence, Alexander (1999: 284-5) asserts the "UNHCR's role to convince governments to

allocate the necessary resources" in order to achieve a more effective RSD system, particularly for inland asylum seekers and *refugees in limbo*.

The process is expensive, but resources might be shared between the states and the UNHCR in order to provide funding to determine refugee status within a country, according to human rights standards, that is, avoid backlog (asylum seekers waiting to have their claims heard) and be based on a fair, impartial and not biased procedure.

Before 2003 The Handbook existed, the Global Consultation on International Protection (EC/GC/01/12), published, in 2001, a report from its second meeting, where it is argued the need of fair, efficient, more accelerated, single and simple procedures, access to legal aid, and non-penalisation for illegal entry and *non-refoulement* as key principles on refugee regime (§ 3-6). In fact, according to the Report, at that time, some states had already introduced a more equitable regime (§ 7-12), by adopting effective protection in the first country of asylum, by acepting that a claim could and should be requested in a safe *en route* country and by stablishing time limits for a claim within a country.

Unfortunately, due to not having implemented properly, some of these measures have led to unjust and unfair decisions, affecting the claimants' lives that are sometimes sent back to torture or death, as showed by the Canadian Council for Refugees Report "Less Safe than Ever", published in 2006, as a result of the 2004 US-Canada Safe Third Country Agreement (CANADA 2004), which recognises both countries as safe for refugees by limiting the flow of people between both countries, and the US policies

and practices related to claims under the 1951 Convention, to obligations under the Torture Convention and also to human rights abuses.

In the same sense, the European Union Common European Asylum System (EU 2019a), under Dublin Regulations (III, of 2013, is the one in force), also regulates the limit of flow of people between its member states, that is, refugees must seek asylum in the first country of arrival, which is responsible for the application. For instance, "M.S.S. v. Belgium and Greece", as a leading case, was the first to be brought before the European Court of Human Rights, in 2010: The applicant, M.S.S., an Afghan national, left Kabul early in 2008 and, travelling via Iran and Turkey, entered the European Union through Greece.

On 10 February 2009, after passing through France, he arrived in Belgium, where he applied for asylum. By virtue of the "Dublin II" Regulation, the Belgian authorities submitted a request for the Greek authorities to take charge of the asylum application. The applicant objected, arguing that he ran the risk of detention in Greece in appalling conditions, that there were deficiencies in the asylum system in Greece and that he feared ultimately being sent back to Afghanistan without any examination of the reasons why he had fled that country. He claimed he had escaped a murder attempt by the Taliban, in reprisal for having worked as an interpreter for the air force troops stationed in Kabul.

On 15 June 2009, the applicant was nonetheless transferred to Greece, as the Aliens Office considered that Belgium was not the country responsible for examining the asylum application under the Dublin II Regulation and that there was no reason to suspect that the Greek authorities

would fail to honour their obligations in asylum matters, under Community Law and the 1951 Geneva Convention on refugee status.

On arriving at Athens airport, the applicant was immediately placed in detention in an adjacent building, where he said the conditions were overcrowded and insalubrious. Following his release on 18 June 2009, he lived in the street, with no means of subsistence. He kept waiting for his first interview with the Greek asylum authorities for months.

The applicant alleged that by sending him back to Greece, the Belgian authorities exposed him to a risk of inhuman and degrading treatment there, and that he was indeed subsequently subjected to such treatment. He also complained that he was sent back to Greece in spite of the risk that the authorities there would order his expulsion to Afghanistan without examining the reasons that made him flee that country. He further contended that he had no effective remedy in Belgium against the expulsion order, and no real guarantee that his claim for asylum would follow its normal course in Greece, in particular because of the deficiencies in the Greek refugee system. He relied on articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment or punishment) and 13 (right to an effective remedy) of the European Convention on Human Rights. The application was lodged with the European Court of Human Rights on 11 June 2009, which, on 2 July 2009 decided to apply Rule 39 of the Rules of Court (interim measures) against Greece pending the outcome of the proceedings before the Court. On 16 March 2010 the Chamber to which the case had been allocated relinquished

jurisdiction in favour of the Grand Chamber. Finally, the sentenced date was 21/01/2011, as said:

> on the 21st of January 2011, the European Court of Human Rights issued the M.S.S. v. Belgium and Greece judgment, on the asylum seekers transfer system within the European Union. The Court held that asylum conditions in Greece were so bad that not only Greece had violated the ECHR, but also Belgium for having transferred an asylum seeker back to Greece. On the 22nd of September 2011, according to the opinion of Advocate General Trstenjak, asylum seekers may not be transferred to other Member States if they could there face a risk of serious breach of the fundamental rights which they are guaranteed under the Charter of Fundamental Rights. (EU, 2019b).

Brazil is an example of good practice in protecting refugees and asylum seekers. Article 5th of the 1988 Constitution provides that "all persons are equal before the law, without any distinction whatsoever, Brazilians and foreigners residing in the country being ensured of inviolability of the right to life, to liberty, to equality, to security and to property, on the following terms."

Hence, it is clear the aim of the legislator to preserve a way of life with dignity for all persons, without repression, torture, disrespect, and religious or political impositions, giving everyone the right to live according to his/her beliefs and opinions, apart from when they are merely allegedly in order to be exempt from imposed legal obligation or when there are excuses to perform alternative obligations.

Following the spirit of the 1988 Constitution, the 1997 Brazilian Refugee Law (Law 9474) also prevents refugees and asylum seekers to be subject to *refoulement*. Articles 33 to 37 provide that refugees and asylum seekers shall not be subject to extradition or expulsion (apart from reasons of national security and public order), that a recognition of refuge ceases any request for extradition, and that a claim for refuge also cease, until its final decision, any pending extradition request, based on facts that have founded the granting of such refuge on both cases.

Article 37 provides that, in case of expulsion, it "shall not result in his or her withdrawal to a country where his or her life liberty or physical integrity may be at risk, and shall only be effected upon satisfaction of his or her admission to a country where there are not risks of persecution", and article 7, paragraph one, provides that deportation will never happen to a country where his or her life or liberty is threatened by reasons of race, religion, nationality, social group, or political opinion.

Additionally, there are time limits for the asylum seeker to initiate the process in some countries (not in Brazil), but not for the decision-maker to deliver decisions. Secondly, some developed countries, for instance, Canada, have implemented policies and tools to select asylum seekers abroad and to settle them as permanent residents, while inland procedures show failures, such as asylum seekers' unprotection due to lack of automatic work permit.

The Brazilian Resettlement Programme has also been active since the resettlement of Palestinian refugees from Iraq in 2007. And, at the end of 2018 (Brazil, 2019a), the country had resettled 719 refugees, being 504 Colombians

and 116 Palestinians. In 2019, Brazil resettled only 24 refugees and none of them in 2020 (BRAZIL, 2021: 46-48). Additionally, in Brazil, asylum seekers have work permit and an Identity Card to take part in normal daily life (Article 21, paragraph one, of the Law 9474/97), for instance, open bank account, enroll in schools, have access to government social programmes.

A good practice to be mentioned is "Operação Acolhida" (Host Operation), a Humanitarian Logistic Task Force comprised of around 600 military staff of the Armed Force (Navy, Army, and Air Force) in partnership with the UN system (for instance ACNUR, IOM, and UNFPA), which manages 13 shelters hosting around 6,500 Venezuelan citizens in the cities of Pacaraima and Boa Vista, in the state of Roraima, supporting with actions in infra-structure, transportation, health care, and administration. Its task is reception, identification, and host of Venezuelan citizens arrived in Brazil through the Border with Roraima. (BRASIL, 2019b).

It should be emphasised that all Venezuelan citizens hosted in shelters receive, while still there, Labour Card (50,000 issued between 2018 and 2019), vaccines (300,000 doses between 2018 and 2019) and Immunisation Cards, and CPF (Individual Taxpayer Registration Number), before being selected for the Interiorisation Programme, that is, an internal resettlement programme which has resettled more than 300,000 Venezuelan citizens for different Brazilian cities all over Brazil since 2018: 175,000 requested regularisation of the migratory situation, 75,000 claimed for asylum, and 100,000 requested temporary residence visa. (BRASIL, 2019c). In 2020, out of 28,899 claims for asylum

in Brazil, 17,385 were from Venezuelan citizens (BRAZIL, 2021: 10). It should also be noted that the National Council for Refugees (CONARE) decided 63,790 claimed for asylum, being 46,192 claims from Venezuelans, as a consequence of backlog cases from previous years (BRAZIL, 2021: 15-16).

Regarding numbers, until December of 2018, for instance, Brazil received 85,438 claims for asylum from Venezuelan citizens, being 81% only in the state of Roraima, justifying the need for the "Operação Acolhida" and its internal resettlement programme. Caused by this huge number of asylum seekers (The Brazilian authorities estimate that some 224,000 Venezuelans are currently living in the country (data of 6 December 2019), the Government has recognised 21,000 claims for refuge from Venezuelans on a *prima facie* basis, it means an accelerated procedure without the need for an interview. According to the UNHCR (2019c),

> [t]his move constitutes a milestone in refugee protection in the region and follows a decision in June this year by CONARE to recognize that the situation in Venezuela amounted to serious and generalized human rights violations as described under the 1984 Cartagena Declaration on Refugees.

The Brazilian example follows The Handbook (2003: 2.3) that requests maintenance of adequate physical facilities for the reception of asylum seekers and for conducting RSD procedures. This is in conformity with human rights principles and rules, such as claimants' human dignity and due process, as well as safety and security of UNHCR staff.

Unfortunatelly, the Handbook only outlines procedures for local UNHCR offices and not for the implementing partners.

As to eligibility for interviews and adjudication (The Handbook 2003: 4.1), they are in hands of qualified and trained UNHCR officers, designated by the supervisor. At first, an officer should possesses legal knowledge and ability to apply legal principles, good analytical and oral/written communication skills, strong personal skills, cultural and gender awareness, tolerance for diversity and the ability to work effectively under stress and in crisis situations.

Secondly, officers' trainning, and its continuity, emphasises the following: law and legal principles, examination of UNHCR regime, training on how to track country of origin information (COI) and other research tools, training on interview to avoid re-traumatisation, as previously said, and written assessment preparation, as well as instruction on RSD procedures in the UNHCR office and operations.

Regarding COI reports, this author has prepared a couple of them since 2014, in order to assist Courts in the UK and in the USA to decide claims for asylum, in these countries, from Brazilian citizens abroad or foreigners who lived in Brazil before moving to a third country (UK or USA) and claimed for asylum there. Although no contact with the asylum seeker is made, this is an emotionally tough task, as the expert/consultant makes deep contact with the personal situation of the asylum seeker' and their family, being sometimes hard to avoid emotional links with the case. Hence, training is essential in all phases of RSD procedures.

Again, nothing is said in the 2003 Handbook as to psychological training or as to implementing partners: how

they are chosen, elected, trained, and who pays for that. Therefore, each government has its own training procedures. In Brazil, for instance, there are social workers hired by *Caritas* and paid by the UNHCR local offices, to assist *Caritas*' lawyers to interview asylum seekers, particularly in cities with huge numbers of claims (i.e. Sao Paulo, Rio de Janeiro, Boa Vista, and Manaus). The UNHCH in Brazil has also assisted Sergio Vieira de Mello Chairs` members with training, workshops, and relevant published material to facilitate local aid for asylum seekers and refugees too.

As to institutional integrity, it means, for Alexander (1999: 286), that the local system has to be open, reasonable, workable and consistent. Publicity (*e.g.* written decisions delivered with clear reasons) and efficiency (*e.g.* backlog cases avoidance) are general principles of administrative law which should be taken into account by those responsible for RSD system, not only by UNHCR staff, but also for all implementing partners dealing with asylum seekers. Furthermore, the Report of the Global Consultation on International Protection (2001: § 41-43) declares that

> procedures in place in most States recognize that standards of due process require an appeal or review mechanism to ensure the fair functioning of asylum procedures, although the nature of the appeal or review can vary quite widely depending on admnistrative law standards applicable in the country.

Taken into account the Asian reality, in 1999, for instance, where and when UNHCR used to conduct RSD, Alexander (1999: 286) affirms that "in any system of refugee status

determination, a culture of cynicism or disbelief can emerge, particularly where people are overworked and exposed to large volumes of asylum seekers." Hence, he advocates in favour of an "independent appeal structure" to provide "a corrective to any imbalances which may develop", and to ensure "consistency amongst decision-makers".

Therefore, not only the hearings have to be fair and open, but also there need be physical and human resources well prepared and established within a system built on the grounds of cultural integrity. All together should be the basis of a fair and open process for asylum seekers.

Decision-makers are not machines, that is, they need to have enough resources and to be prepared for their tasks. It is not possible to avoid backlog cases and human rights violations of asylum seekers if there is lack of resources, such as: lack of staff to deal with a huge number of asylum seekers, lack of resources to track Country of Origin Information (COI), inappropriate physical facility for claimants' reception, and lack of adequate training.

For Alexander (1999: 286-287), and according to The Handbook (2003), a fair and open process means publication of rules and guidelines, standardised and clear written information, free access to legal advice and representation, access to files, and impartial body to decide appeals. This means a fair procedure, which should be followed by the UNHCR office, local governments, and local NGOs in implementing RSD procedures in a way that asylum seekers have their basic human rights protected, such as right to life, liberty, equality and/or equity, or, at least, have access to them.

Some NGOs are good examples on what should be done to protect asylum seekers. In Brazil, as previously said, *Caritas* has an agreement with the UNHCR and the federal government to conduct the first interview and to send a written assessment to the National Committee on Refugees, responsible for delivering decisions. According to the agreement, *Caritas* also seeks to integrate asylum seekers, by giving them advice on how to proceed to get work permit and to find a job, to register for Portuguese and academic courses (school or university level), to get financial aid, shelter and health care assistance.

Another good practice in Brazil is consequence of the previously described "Operação Acolhida", in which many NGOs have resettled Venezuelan citizens (migrants with temporary visa our refuge claimants) and assist them during the RSD procedures or with getting the visa, depending on the case. NGO Aldeias Infantis SOS, in the Northeastern state of Paraiba, had been an active partner in this programme, hosting more than 200 Venezuelans, between 2018 and 2020, and making different partnerships with local actors to facilitate their integration, for instance: free Portuguese Language Course (with Paraiba State University and Federal University), free SENAC Courses, meetings with the private sector for employment, and find public school places for the children.

In Cambodia, Alexander (1999: 288-289) refers to a local NGO called the Jesuit Refugee Service (JRS), which provides general assistance to asylum seekers and refugees as a result of an agreement with the UNHCR, a funding provider for financial, housing, medical and any emergency assistance. JRS assists them with lawyers who prepare, present, defend and request to reopen their cases to the UNHCR.

This kind of professional legal aid, no matter it comes from lawyers or paralegal representatives, has a high positive impact on claims and it is part of the procedural standards for RSD under UNHCR's mandate, as prescribed by the Handbook (2003: 4.3.3). Unfortunatelly, UNHCR has not yet implemented "an accreditation system to acknowledge the qualifications of legal representatives who regularly represent applicants in UNHCR RSD procedures and who are known to the UNHCR Office," as prescribed by The Handbook.

In addition to it, all legal representatives are reminded about the non-adversarial character of the RSD system. Hence, their role is to prepare the asylum seeker to tell the truth in a complete, consistent, clear and reliable way, in order to avoid discrepancies in asylum seekers' testimony, which may lead to negative decision.

In this sense, there is a gap in 2003 The Handbook, as it does not require that legal representatives and decision-makers have educational background in Psychology. To have legal education or legal knowledge is not enough to prepare vulnerable and traumatised people suffering from persecution for an interview which will generally decide between their life and death.

At the level of appeal, legal training is more likely to achieve positive results, as legal analysis of the case and strong arguments required in a more adversarial adjudication are intrinsic to a lawyer's daily strategy, as well as reversal of any negative decision is a lawyer's daily challenge.

In Egypt, for instance, the above mentioned Egyptian Organisation for Human Rights (EOHR) Refugee Legal Aid project, as declared by Kagan (2006: 55-6), "offer full service

legal aid", that is, "a traditional lawyer-client relationship in which a lawyer interviews and counsels a client, prepares documents, represents the client in court or in negotiations as necessary from the beginning to the resolution of a case."

Kagan, however, adds that "non-lawyer legal assistance" deprives clients of the competent service they should expect if legal representatives lack legal and psychological educational, mainly as to asylum seekers who are nervous, stressed, anxious, scared, traumatised, depressed, suffering from language and cultural differences and eager to achieve legal status in the host country.

Regarding Brazil, many institutions also provide free legal aid to asylum seekers, for instance: Fundação Casa Rui Barbosa (Rio de Janeiro), Instituto Migrações e Direitos Humanos (Brasília, DF), Pastoral do Migrante (Catholic Church service), and some Sérgio Vieira de Mello Chairs.

This kind of aid has to be individual, confidential, private and case by case, due to the very nature of each asylum seeker. According to Pestre (2007: 143-171), states aggravate asylum seekers' traumas in several situations, such as: pain of waiting (*e.g.,* public service insecurity and uncertainty of a positive decision, joined with the awaiting decision, make traumas stronger and favour self-conservative behaviour returns) and compulsory interviews (which make asylum seekers re-live past conflicts, ghosts that destroy their daily lives, all they wish to forget about, all which hurt them). In fact, states should have mechanisms to avoid these external stimulus capable of boosting traumas.

In addition of being full of traumas and disturbances, easily identified in asylum seekers, as observed by Pestre (2007: 342), these human beings are forced to re-live all

again in (judicial or administrative) tribunals, when states call them to prove that they have been persecuted in the home country and also to prove the route taken to reach the new host place.

According to the Report of the Global Consultation on International Protection (2001: § 34-37), "many states have faced a growing problem of asylum-seekers who arrive with no or forged documents and/or who are unwilling to cooperate with the authorities." Nevertheless, awareness and sensitivity are necessary to recognise the difference between the cases where the claim is abusive and fraudulent (that is, the asylum seeker has destroyed or disposed of travel documents or other documents on purpose, but for reasons unrelated to the substance of the claim) and the cases where "initial lack of cooperation results from communication difficulties, disorientation, distress, exhaustion, and/or fear. Credibility may be an issue." The very need of a legal representative with psychological education/training is proved from this level on.

The cases of Haitians leaving Brazil to the USA is a clear example: this author has prepared some COI reports on this issue and is aware of the consequences of lack of psychological training of their legal representatives payed by the Government, legal aid representatives, or government authorities dealing with RSD procedures. They sometimes do not even understand the asylum seekers' language or the refugee regime, giving wrong advices or wrong decisions on the claim, forcing them to leave Brazil to other countries.

Clearly, there is a need to build a fast and simple method to separate legitimate claims for asylum from those claims by economic voluntary migrants who get advantage

of the claim as an excuse to enter the country. The need to separate the claims is mainly to manage backlog cases. Briggs Jr (2003: 281), for instance, claims for change in the U.S. refugee procedures. For him, "the current system of lenghty appeals, protracted cases, and high legal costs simply cannot be sustained. A way of bringing fair but rapid closure to these cases must be found." The practice of detention and lack of work permit may be also added as changes to be made.

In the USA, for instance, despite current restrictive policies and rules on migrants, asylum seekers, and refugees, particularly in the Mexico Border, the USA has implemented a good practice (USNEWS, 2019): in September 2019, "tent courtrooms have opened in two Texas border cities to help process thousands of migrants who are being forced by the Trump administration to wait in Mexico while their requests for asylum wind through clogged immigration courts."

However, some "critics have denounced the proceedings because they are closed to the public and difficult for attorneys to access to provide legal representation." Hence, it does not seem that US authorities are psychologically prepared to deal with vulnerable Mexican citizens claiming for asylum.

States, by aiming at categorising an individual in his/her medical-legal aspect, recognise him/her as victim of persecution and of trauma to give him/her access to citizen's rights in the new home; on the other hand, if not chracterised as a victim, he/she will not have refugees' rights and may be forced to leave. As discovered by Pestre (2007: 367-368), "traumas and the way of diagnosing them have a strong weight in the legal sciences, which are summarized

by the evidence regime and by the possession of attention to legal scene."

All this information, from Pestre's research, shows the need to have asylum seekers' lawyers better prepared with psychological background. For instance, in 2007, while gathering data for another research, this author interviewed 33 refugees in Sao Paulo and 30 in Toronto, as to their opinion about the refugee law in Brazil and in Canada, respectively. In Brazil, 24% did not have any opinion about the law, 12% did not know anything, 12% did not answer and 6% were uninterested to it, totalizing 54% without any knowledge about the law. In Toronto, 47% of the refugees interviewed simply said to be good (on average), without coming to details, but only saying that they got a positive decision and they were eventually refugees. The full results of this research is already published (Pacifico, 2010).

Many interviewed said that they did not know anything about the Canadian refugee law or the procedures for their case, as their legal representatives did not tell them. They were only told to follow what the legal representative designated them to do. Indeed, formal legal aid is a safeguard against errors, because not only the decision-maker error (that is, misinterpretation of evidence or of refugee definition), but also the asylum seekers error (that is, inability or unwillingness to coherently produce facts or evidence), as declared by Kagan (2006: 59), means risks of being sent to death.

Not all Law Schools offer courses in Refugee Law and Legal Psychology as compulsory course. As a result, few lawyers worldwide are trained in Refugee Law, in Legal Psychology, or are aware of the refugee regime.

Additionally, the UNHCR has not yet implemented, as said, an accreditation system with qualified legal representatives.

According to the 2016 UNHCR RSD Procedural Standards – Legal Representation in UNHCR RSD Procedures (UNHCR, 2016), article 2.7.3, "a", the required qualifications to act as a legal representative are training and experience in International Refugee Law, in UNHCR procedures, in assisting asylum seekers, in understanding the claim, and in being bound by a code of ethics or professional responsibility.

In some countries, like Brazil, only lawyers are allowed to act as asylum seekers' legal representatives at the judicial level, though few of them are trained in refugee law. It would save money and time to have a system implemented in a way to prevent errors and to avoid backlogs.

Capacity for adjudicating with legal, psychological, and ethical professional qualifications, particularly something like a code of conduct (such as the Model Rules of Ethics for Legal Advisors in Refugee Cases - "Nairobi Code", or the Brazilian Bar Association Code of Ethics) for those adjudicating for asylum seekers, should be the basis of the system and would prevent abuses and exploitation of asylum seekers.

The UNHCR should assist governments and local NGOs to ensure that legal representatives are experts in refugee law, nationally and internationally. It does not mean to require any law licence or to regulate professions domestically, as UNHCR lacks legal competence for that. Yet, states, under UNHCR's assistance and coordination, might consider evaluating competence before conferring authorisation to act as asylum seekers' legal representative.

The asylum seeker (UNHCR 2016, 2.7.3., "b") may appoint, by written consent sent to the UNHCR, a legal representative, at any stage of RSD procedure, "provided that the proposed legal representative has the qualifications to perform this role, as set out in § 2.7.3(a)", full or partial, such as "counseling, preparation of written submissions, and interview preparation and attendance (see § 2.7.4(a)".

Kagan (2006: 64) insists that "[…] competence in UNHCR RSD should be tied to the service provided. Non-lawyers or less qualified people may be competent to provide testimony preparation services under supervision, but not to write legal memoranda, prepare appeals, or represent clients in RSD interviews." According to the article 2.7 of the 2003 Handbook (Legal representative in UNHCR RSD Procedures), revision of 2016,

> [l]egal representation includes legal and procedural advice, assistance with the completion of various forms, including the RSD Application form, preparation of oral and written submissions, collection and submission of supporting evidence, and attendance of interviews throughout the RSD process, including where applicable at the appeal stage, as well as in re-opening procedures and procedures for cancellation, revocation or cessation of refugee status. In all instances, legal representation must be consistent with the non-adversarial nature of UNHCR RSD procedures. Legal representation is an important factor in establishing fair and transparent mandate UNHCR RSD procedures and strengthening the quality of decision-making.

To achieve this goal, according to the above-mentioned document, the UNHCR may "develop partnerships with established legal aid providers that offer responsible, high quality legal representation in mandate RSD procedures, and which have appropriate systems of training and ensuring accountability for their staff." In Brazil, for instance, the UNHCR has partnerships with *Cáritas* and with the *Instituto Migração e Direitos Humanos* (IMDH) to provide legal aid for asylum seekers.

Article 2.7 of the 2003 Handbook still recommends that to act as legal representative, "an individual must have the necessary training and/or experience to perform this role". It does not mean to hold a Law degree, but full knowledge of the International Refugee Regime, the UNCHR RSD procedures, the claim, and "be bound by a code of ethics or professional responsibility, such as the Model Rules of Ethics for Legal Advisors in Refugee Cases ("Nairobi Code") (see § 2.7.4(c) – Professional Conduct and Adherence to Code of Ethics)." In Brazil, for instance, lawyers are bound by the Brazilian Bar Association (OAB) Code of Ethics, as previously addressed.

Legal assistance is essential. In some countries, non-lawyers are legally competent to represent asylum seekers. In this case, they should receive more focused training, mainly at the appeal level, when stronger legal qualification is necessary. This is why the UNHCR and local governments need to be in partnership. Kagan (2006b: 4) declares that "UNHCR has the power to promote, but not to provide, refugee protection." It has to facilitate basic protection, to fill gaps left by governments, to reduce its activities by motivating governments, as well

as local NGOs, to provide it, mainly for asylum seekers. Kagan (2006b: 24) insists that

> UNHCR has a duty to protect refugees, but only by indirect means, principally by encouraging governments to live up to their protection obligations and share protection responsibilities. The difference between promoting protection and directly providing it is not just a legal nuance. UNHCR lacks the power to effectively protect refugees when governments steadfastly refuse to do so. […] UNHCR's power to protect refugees depends heavily on its moral authority and its capacity to focus its resources where they can best encourage governments to develop their own protection capacity.

A useful way to persuade governments and private bodies to follow their rules is by educating them, especially lawyers, professors, public servants, etc. The already mentioned Global Consultation on International Protection Report (2001: § 44-47) states that "targeted training can clearly enhance officials' sensitivity towards and awareness of legal and procedural issues as they are related to each of these groups and their particular needs." With regard to "these groups", the report points torture victims, victims of sexual violence, women under certain circumstances, children particularly unaccompanied or separated children, the elderly, psychologically disturbed persons, and statelees persons."

According to Stavropoulou (2008), the UNHCR may influence states' behavior for refugee protection by convincing them to take part in refugee protection fora, which should

be more inclusive; to create precise refugee protection norms and rules to be followed domestically; and to create enforcement mechanisms for refugee protection, such as creating and implementing good practices, monitoring and reporting, criticism of bad actions, binding decisions, and material sanctions application.

For her (2008: 2-4), states' compliance with the rules of the International Refugee Regime is just a question of political will, what makes the UNHCR responsible for influencing them to respect the Regime through social mechanisms, for instance coercion to compliance, persuasion (convincing and change), and acculturation (adoption of behavioural patterns).

For an optimised international refugee regime, Kagan (2006b: 13) declares that "UNHCR's most explicit authority is to promote, facilitate, and assist refugee protection by others, principally by governments," as well as by local NGOs, instead of doing the frontline work without enough resources. It is more important to educate and to press implementing partners to determine a refugee status under humanitarian grounds, to avoid *refoulement*, to implement the 1951 Convention, the 1967 Protocol, and to apply them fully domestically, as well as to advocate for fast, fair, efficient and impartial internal procedures.

In this sense, Turk (2002) emphasises the UNHCR's supervisory responsibility. It means that the UNHCR has, among others, the role of collect and assess information from states, and enforce mechanisms (i.e. intervention and advocacy) to promote compliance with rules (International Refugee Regime) to protect refugees and other persons of its concern, despite no proper procedures or international

enforcement mechanisms. In practice, the UNHCR has gone to the field to get information via states' and UNHCR's reports, and has enforced political processes, quasi-judicial and judicial mechanisms.

Kagan (2006b: 17-18) adds that "UNHCR's publications make clear that RSD systems that meet standards of fairness and efficiency are quite costly in terms of financial and human resources. Individual refugee status determination requires significant staffing, time, and facilities when it is conducted fairly." By the reason that "refugees, [and asylum seekers due to delays in the RSD process] also "need education, social security, shelter, health care, and other services [basic human rights] that impose a costs on a state", states usually deny their responsibilities and undermine protection. This "negative responsibility" by states "gives UNHCR a limitless burden while simultaneously allowing states to stand back and let UNHCR do the hard work of implementing refugee protection."

The ideal RSD system should show the same procedural standards for UNHCR and for governments, though Kagan (2006b: 19) emphasises that "UNHCR's interests are less adverse to refugee claims than those of governments. UNHCR was established to protect refugees, while governments might be interested in migration control and restricting access to asylum," mainly for security reasons.

Government policies, as immigration and refugee policies, are directly related to economic purposes, as a matter of national interest. In the USA, for instance, Briggs Jr (2003: 14-6) affirms that the immigration and refugee policies are guided by economic reasons, and, therefore, it has to be in constant change to serve national interests

during the process of restructuring the nation's labor market.

Regrettably, as to refugees, he (2003: 281) insists that the goal should be to treat "refugees ideologically neutral", that is, the U.S. government should participate in worldwide efforts to assist them, at first, by providing assistance to resettle them in other regional countries and to provide financial aid to support in camps, and, only afterwards, by admitting them within the U.S. territory. In this case, "the federal government would absorb all of the financial costs associated with preparing refugees for employment and their families for settlement for at least three years." However, this task cannot be conducted without the UNHCR's support, due to its experience on this field.

Therefore, on one hand, UNHCR needs to strengthen its moral authority, at least in states which are members of the 1951 Convention, by persuading governments and private entities to obey the international refugee regime. On the other hand, states are very protective of their sovereignty and would like to avoid being pressed into fulfillment of their international obligations. For Tazreiter (2004: 6), regrettably, powerful states have always been making efforts to deter irregular arrivals and to introduce measures for removal, instead of creating solutions for stopping refugee-causing conflict and violence in less developed states, where most refugees come from.

The Westphalian nation-states failed and sovereignty is increasingly relative, that is, even thought states still claim they are sovereign entities, their sovereign is more relative than ever, as they need to make changes in their internal legal order to adjust to the Blocs they are members of.

Yet, for Tazreiter (2004: 24), they still have "the sovereign right to administer, manage and direct members and non-members who are within a given territory, including various forms of coercion and at times even the utilisation of violent means in defence of 'national interest'". She (2004: 37-38) adds that, ideally, as to refugee and asylum seekers policies,

> the need for not only consistency but also flexibility of the bureaucracy and administrative arms of government in dealing with what are often highly complex and changing circumstances is necessary both to ensure that genuine refugees are not mistreated or refouled, as well as maintaining the integrity of a states' immigration system.

Although sovereign states are in crisis, losing power, wealth, and information to other entities, for instance, NGOs and private transnational companies, Castells (1997: 355-359) insists that we live in an information age, characterised as a network society, "made of markets, networks, individuals, and strategic organizations". Hence, for him, power

> is no longer concentrated in institutions (the state), organizations (capitalist firms), or symbolic controllers (corporate media, churches). It is diffused in a global network of wealth, power, information, and images, which circulate and transmute in a system of variable geometry and dematerialized geography. Yet, it does not disappear. Power still rules society; it still shapes, and dominates.

In short, it means that, on one hand, power is, theoretically, commonly distributed and decentered among all subjects of this new network society, formed by states, NGOs, transnational firms and individuals (refugees and asylum seekers, in this case). On the other hand, in practice, sovereign states remain concentrated on protecting themselves from unwanted foreigners, especially refugees and, before that, asylum seekers, who suffer from traumas, bureaucratic delays which lead to no integration, lack of just, equitable, fair and fast RSD system, lack (or wrong) of adequate public policies to deal with them while waiting for the decisions, and human rights violations, for instance, no right to work, to health care or to study, especially as to undocumented asylum seekers, who remain *in limbo* for years, forced to live under inhumane conditions.

In fact, the current RSD procedures system has several failures, which lead to human rights violations and bring domestic and international problems for host states, for the UNHCR, for NGOs, for refugees and also for asylum seekers. These failures have several causes, such as:

- Lack of physical structure to welcome asylum seekers for registration and interviews;
- Lack of legally and psychologically competent, available, trained and educated human resources to interpret and to apply RSD procedures, to meet asylum seekers and to prepare them for interviews and for the whole process, monitoring them from the beginning to the end, even during the appeal level, and to avoid backlog cases;

- Lack of financial resources, as donour states are never committed enough to asylum seekers, besides preferring sending financial aid and keeping them abroad instead of hosting them within their borders;
- The very nature of the International Law, as it is the International Refugee Regime, whose principles, regulations, and guidelines are only moral, not legal, obligations for states, making them free to apply or not the International Law in the domestic jurisdicition, and lack of a legal binding committee on international refugee law, as there are some in the international law sphere, for instance, on civil and political rights, on elimination of all forms of discrimination against women, against torture, and also against cruel, inhuman and degrading treatment; and
- Failure to take into account regional realities/ differences when implementing the RSD system, due to the amount of refugees, types of conflict, borders policies/features, domestic realities and asylum seekers' cultures.

All these causes should be addressed and, though not easily, the failures might be overcome and adjusted to the current RSD system, to assist asylum seekers to achieve legal status in the host country before domestic mechanisms, such as single, clearer, simpler, fair, efficient, and consolidated procedures. Responsibility for implementing solutions should be shared by all implementing partners, in a clear way and taking into consideration each regional reality.

Suggestions for optimising the UNHCR RSD System

At first, UNHCR has to be seen as a means to persuade and press governments to follow rules, not a body to do the frontline work, especially as it lacks human and financial resources and also legal competence, which has to be given individually by states where the UNHCR local office wants to be located.

Kagan (2006b: 25-27) points out strategies for the UNHCR to reconfigure its RSD activities as a means to promote government protection of refugees: promote *prima facie* refugee recognition, link UNHCR RSD procedures to government reciprocity and burden sharing, limit UNHCR RSD procedures in states party to the 1951 Refugee Convention, and make UNHCR RSD procedures a model of best practice (fairness, transparency, ombudsman, feedback mechanisms, reports publication, and appeal level) which can be promoted by governments.

All above cited are only suggestions to achieve an ideal RSD system to treat asylum seekers according to the UN Human Rights framework. Showler & Maytree (2009: 13-19), for instance, also have their own suggestions for optimising the Canadian RSD system, namely:

- eligibility and security screening with a substantive consideration of the claim or extensive information gathering outside of security and identity concerns;
- tribunal members appointed solely on merit;
- informal procedures within basic administrative law principles of natural justice and with a six-month average processing time;
- time limit during all phases of the process;
- both asylum seekers and the government should be allowed to appeal, though judicial review should be limited to issues of law;
- good legal representation;
- humanitarian applications decided concurrently with the refugee claim decision to avoid delays in the Federal Court or the removal process; and
- voluntary removal programs.

Nevertheless, despite all strategies and suggestions, the report above mentioned had a narrow scope on the role of the state and its institutions and did not intend to address the roles of other implementing partners or as to how to re-organise their domains, by work collectively in favour of asylum seekers worldwide, though each of them have their particular aims.

As a solution for optimising the domain of the each implementing partner to a better refugee status determination system, a network society communicative model could be used. It would be built by gathering ideas from Castells, Habermas, Apel, Chimni and Betts. Castells (1997 & 2000) mentions the network society as the best

one, Habermas (1989) advises for the communicative action theory as the most valuable, Apel (1997) is in favour of a communication and argumentation community, Chimni (2001) prefers using the dialogical model, and Betts (2006) suggests interconnections in global governance.

At first, applying Castells' ideas to the international refugee regime, mainly to the RSD system, all partners should be linked as nodes of a net, with different roles, but united for the same goal, that is, the refugee and the asylum seeker protection under the international human rights system framework. In this case, the UNHCR should be responsible for educating/training civil servants and NGOs staff for this purpose and for introducing (promoting) UNHCR rules, principles, and guidelines amongst all implementing partners.

For Turk (2002), the UNHCR should also promote more and annual dialogue with its implementing partners, particularly states, in order to persuade them to co-operate more with the Regime. A way of achieving this goal would be a direct monitoring system with *in loco* visits, standard interpretations of provisions, and enforcement rules, by a Protocol. Brazil`s CONARE has applied this idea, by having *Cáritas* – Brazil (a NGO) as its full member, with right to vote, and the UNHCR-Brazil, as partial member, with right to speak, but not to vote.

Secondly, for Habermas (1989), whose theory has been criticised as meritocratic and illusory, the goal is a world where all live together without violence, exploitation or imperialism, in a democractic state of law. For him, the way of doing that is the communicative action (social integration), namely, communication as an action focused

on mutual understanding, full of rules that guide the actors' behaviour, who are members of a social group with common values sharing.

Communication, for him, will be a success only if it produces an agreement among all partners (he calls them "speakers") about the meaning of the transmitted messages. Therefore, he defends that the solution for all conflicts is to create a "universal discursive ethics", that is, all capable individuals (able to act and speak) might be allowed to negotiate and be treated equally, with the same rights to speak and act, in order to, through arguments and dialogical relationships, reach a consensus. Discourse, for him, is the means of reaching a mutual understanding.

In short, Habermas selects three basic rules for his ethics of communicative reason: inclusion (individuals linguistically able to express themselves are included in the negotiation and allowed to speak), participation (all speakers have rights to say what they think, to act and to be equally treated) and communication free from violence and coercion.

With respect to the International Refugee Regime, all implementing partners (speakers, for Habermas' theory), especially refugees and asylum seekers, might be allowed to express their opinions and to provide input into the discussions of the RSD process, even if taken into consideration refugees and asylum seekers' cultural background, and states sovereignty. UNHCR might act as a means for that, by changing partners' minds with a bottom-top education and training programme at all spheres of life: public, private and the third sector, to teach them new behaviours, a new way to apply moral rules in favour of refugees and asylum seekers.

Regarding some criticisms, according to Rienstra and Hook (2006: 1),

> Habermas expects too much of his agents. His theory of communicative action, built upon the necessary possession of communicative rationality, requires individuals to have clear, unfettered access to their own reasoning, possessing clear preference rankings and defendable rationales for their goals and values. Without such understandings, agents would have no reasons to extend or defend their positions in a discursive interchange; no validity claims are redeemable between communicative participants if the agent cannot access, substantiate or understand their own rationality.

Thirdly, Apel (1997), *apud* Velasco (2001: 62-74), agrees with Habermas by favouring a communication and argumentation community to solve all humanity's conflict, mainly due to the cultural relativism and diversity problems caused by globalisation (distance shortening). Even considering that an ideal communication community does not exist yet, he claims that a real community is enough to start an attempt for building a universal solidarity ethics, which culminates at consensus and mutual understanding among all people, based on the individual freedom of decision, freedom to build consensus and freedom to work. According to him, *apud* Carbonari (s.d.), only human desires which can be universalised through an agreement based on rational arguments, whose aim is the solidarity formation of will, are ethically relevant.

By now, due to the globalisation conflicts created, as well, by the cultural relativism and technological revolution, this communication community is not possible, but, as to the international refugee regime, UNHCR has enough mechanisms, tools and power to educate and train humankind and, particularly, RSD system implementing partners to reciprocally recognise one another as partners in a discussion with equal rights for all and where all partners capable of communicating linguistically may be subjects of argumentation.

RSD system implementing partners must be aware of the dangerous outcomes of lack of responsible, solidarity and universal rules in favour of a consensual International Refugee Regime, particularly as to the asylum seekers' procedures and their human rights protection.

Fourthly, Chimni (2001: 152-168), following Castells' and Habermas' steps, proposes a new model for reforming the current International Refugee regime, namely the dialogic model. He proposes that the dialogue be among all partners (states, civil society, UNHCR, and refugees) on a continuous and institutionalised basis, conducted by democratic principles (for instance, individual rights, rule of law, and judicial review), and it should be between states; between NGOs, academics, and UNHCR; within UNHCR; and between NGOs and governments. It means a network society adapted for the refugees and asylum seekers' needs, *stricto sensu*, and for the international community, *lato sensu*. He (2001: 152) adds that

> in conducting the dialogue these actors must of course ensure that they do not always speak on behalf of, but in

conversation with, refugees. The need to listen to refugee voices, and allow them to participate in decisions which directly affect their lives, is of supreme significancce in giving content to the concept of refugee protection.

Instead of focusing on what changes should be made, Chimni proposes new ways of achieving changes in a dialogical model. As to dialogue between states, he (2001: 156-158) reminds that the weight and the need of inter-regional dialogue should come first, due to regional differences and desires, for instance: causes of refuge, unequal resources to deal with RSD system, physical proximity with certain conflicts, cultural and language similarity and regional mobility within regions. The global regime should be discussed only after regional consensus is achieved.

Examples of Good Practice regarding inter-regional dialogues have happened in Jordan, South Africa, and Brazil, in 2019, for the first time. In Rio de Janeiro, named "Solidarity in action on the path to the Global Refugee Forum", almost 100 representatives from civil society (i.e. refugees, Academia, think tanks, faith-based organisations, and the private sector), covering 13 countries, were together to reflect on "key issues affecting displaced persons, such as **education**, **protection capacity**, **innovation**, **solutions and livelihoods**." (Emphasis in the original). (UNHCR 2019d).

The UNHCR Annual Consultations with Non-Governmental Organizations (NGOs) have traditionally taken place on an annual basis in Geneva, with the

> objective of **strengthening dialogue and advocacy with partners on global and regional themes** related to displacement and refugee protection.
>
> With a view to ensure a deeper analysis of the context in South America, and following regional consultations earlier in the year in Amman and South Africa, the **first regional UNHCR-NGO consultations for South America** took place in Rio de Janeiro on 21 and 22 November, co-hosted by UNHCR, HIAS and CEPRI. (Emphasis in the original). (UNHCR 2019d).

For him (2001: 162-163), in dialogue with states, NGOs might play their key role by placing "norm-violating states on the international agenda", by publishing reports and by circulating them and by building transnational coalitions "to persuade States to negotiate with each other with respect to finding innovative solutions to the global refugee problem," because refugee and asylum seekers should have their rights "safeguarded by a transnational coalition of activists and NGOs."

The dialogue between civil society (NGOs and the Academia) and UNHCR should be transparent. Chimni (2001: 158-160) states that UNHCR should "use its special status and experience in a manner inimical to the interests of the refugees." UNHCR shall consider scholars and NGOs as a means to clarify its mandate, to offer independent reviews of UNHCR operations in complex situations and to suggest internal organisational changes to promote protection.

Within the UNHCR, dialogue between different divisions and a long-term pattern plan are essential, according to Chimni (2001: 160-2). In general, he (2001:

164) favours a dialogical model (process of argumentation) among all RSD system implementing partners in order to transform state interests and identities, mainly as to burden sharing [North-South relations], education, and people mobilisation. Again, education and training are at the top of proposed model of change.

In this sense, a good practice has been, since 2003, the implementation of the previously addressed Initiative Sergio Vieira de Mello Chairs (CSVM), by the UNHCR in partnership with Brazilian Academic Institutions and the National Committee for Refugees (CONARE), to promote the teaching/education, research and, direct benefits to the refugee and refugee claimant population, through community projects.

During these 18 years, CSVM has been a fundamental actor to ensure refugees and asylum seekers access to rights and services in Brazil, providing them with support during the local integration process, for instance legal aid, Portuguese language courses, special procedures to facilitate access to university places and diploma revalidation, health care services, and mental health and psychosocial support. (ACNUR 2019a). As a result, academic production in refugee matters and related issues have improved in quality and in numbers in Brazil since then (Pacifico *et al*, 2020).

> The chairs were an initiative of UNHCR's Regional Office for southern Latin America, aiming to involve governments, universities and international organisations in a partnership to broaden human rights related academic programmes. UNHCR is currently discussing with IOM [the International Organization for Migration] and other organisations

> their involvement in this project which has been enthusiastically received by the governments of southern Latin America, and by academic circles in the region. (UNHCR 2003).

The 2020 CSVM Report published by the UNHCR-Brazil (ACNUR 2020) shows that there are 23 universities with active CSVM chairs in the whole country, until September 2020. CSVM of the Paraiba State University (UEPB) is the only one in Northeast of Brazil, coordinated by this research since 2014, when it was implemented at UEPB. However, another Chair was implemented in the Northeastern state of Bahia at the end of 2020, totalising 24 chairs in Brazil. Currently, according to data of March 2022, there are 28 SVM chairs in all regions of the country, in addition to one in Dominican Republic and one in Ethiopia.

Hence, in addition to "attract the participation of universities in promoting international refugee law and educate teachers and students on issues related to refugees", this initiative is considered a good practice because it has "stimulated sustainable training of intellectuals, students and teachers on refugee matters, the development of services benefiting this population, and the production of academic knowledge in areas of asylum, statelessness, and forced displacement." (ACNUR, 2019c).

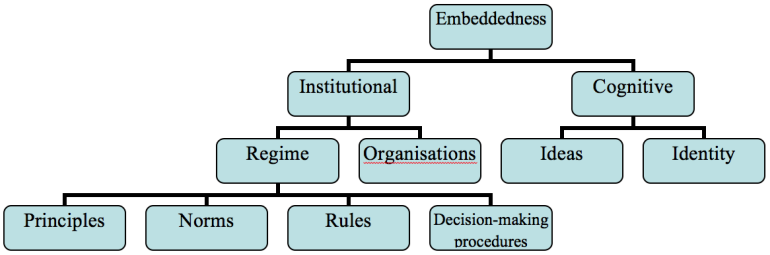
Fifthly, Betts (2007: 11-12) also describes his own model for a better refugee protection system, by conceptualising interconnections in global governance, that is, "refugee protection is interconnected with migration, security, development, peace-building and human rights and these interconnections have significant implications for the politics of protection", in an interdisciplinary way (for

instance, different disciplines maintain their borders, but work together to build a programme on the same subject).

His (2007: 6-8) new conceptual framework for understanding interconnections is based on a structure-agency approach and develops two main concepts: embeddedness (the structural relationship between the issue-areas above mentioned) and linkages (the way issue-areas are grouped together in bargaining), as well as it explores the relationship between both. Baker (2005: 448) conceptualises "structure" as the recurrent patterned arrangements, which influence or limit the choices and opportunities available and "agency" is the capacity of individuals to act independently and to make their own free choices.

For Betts (2007: 8-11), embeddedness can be understood through regimes, organisations, ideas, and identity, as all of them belong to the International Refugee Regime sphere, as showed below:

Figure 1: The International Refugee Regime Sphere



Source: Betts (2007: 8-11)

By applying this approach to the issue-area of refugee protection, Betts (2007: 11-16) shows some areas in which refugee protection is interconnected, as above mentioned, "through a range of normative and legal frameworks, inter-organizational structures and mandates, discourses on causal

connections, and identity structures." Firstly, concerning the International Refugee Regime, it is a set of principles (*non refoulement*, family reunification, etc.), norms (asylum, assistance and burden-sharing), rules (1951 Convention and other treaties), and decision-making procedures (the workings of UNHCR's Standing Committee and EXCOM). In fact, many of these are interrelated with other legal and normative framework, for instance international humanitarian law, international human rights law, and domestic laws.

Secondly, as to organisations, Betts (2007: 13) mentions that "UNHCR has developed both highly institutionalised forms of collaboration with other UN agencies and a range of less formal partnerships with other actors." The Partnership in Action (PARinAC) programme, for instance, links NGOs, transnational corporations and UNHCR in dealing with refugees' integration.

Thirdly, as to the ideas, Betts (2007: 13-15) revels three "dominant discourses" that have linked refugee protection to other issues, as a result from "[…] the interaction of epistemic communities with policy-makers, particularly through the interaction of academics with UNHCR staff":

- The Refugee Aid and Development (RAD) debate of the 1980s, which defined a relationship between refugee protection and development;
- The Asylum-Migration Nexus of the early 2000s, which describes the causal relationship between asylum and migration; and
- The Security-Development Nexus, which has highlighted the relationship between security and development.

All these discourses, for Betts (2007: 14-15), are drawn by states "to create linkages with bargaining on refugee issues."

Fourthly, as to identities, Betts (2007: 15-16) insists that "states have rarely contributed to the protection of refugees beyond their own borders for altruistic reasons," unless they have personal (political, economic, ideological, etc) interests.

As said before, and Betts (2007: 15) confirms it, "states' foreign policy concerns and security interests have generally defined asylum and refugee policies." This world of "structure and power" justifies the need of interconnections among all RSD system implementing partners, a world in which all partners collaborate with one another, though in a different degree, to ensure human rights protection to refugees and asylum seekers.

Kagan (2006b: 24), for instance, affirms that "UNHCR has engaged in a large and diverse group of countries with growing backlog cases, growing financial strain, and continuing procedural gaps. These circumstances call for a re-assessment about if, when, where, why, and how UNHCR should conduct RSD." Hence, the way of optimising the RSD procedures is through a bottom-up educational and training programme, directly established and monitored by UNHCR, where dialogue with all implementing partners be done, building a networking " round-table of negotiations."

A way to implement "round-table of negotiations" may be Betts' (2009) cross-issue persuasion, described as "the conditions under which UNHCR has been able to persuade states of the connections between refugee protection and other issue-areas (migration, security, trade, development,

or peace-building), as a means to induce states to act in refugee protection." For him (2009), *apud* Pacifico (2011),

> refugee protection is a global public good, its benefits being available to all states irrespective of which states contribute to protection. However, contrary to the existing literature, he argues that the main obstacle to developing international cooperation is the North–South impasse, which may be overcome through cross-issue persuasion. In this sense, cross-issue persuasion is also a resource of power as weaker states can overcome the North–South impasse by using conditionality or issue-linkage to encourage powerful states to cooperate in refugee protection.
>
> In order to persuade states to cooperate, Betts (2009: 51–52) emphasises UNHCR's role in creating, changing, highlighting— or simply recognising and effectively communicating— the substantive linkages between issue-areas. For him, UNHCR's ability to show that refugee protection is linked to other key issue-areas requires two underlying conditions: a structural basis (institutional and ideational linkages) and agency (UNHCR playing an active role as political leader).

In the end, no matter the terminology given/chosen, what really matters is that all implementing partners are capable and allowed to communicate and negotiate effectively among themselves, in a useful, clear and necessary way, as all of them have their own importance and domain within the RSD system, which should be more organised in order to "build bridges instead of walls." Their domains will only

be organised by education and training conducted by and with the UNHCR support and coordinatioon.

With regards to education and training, the International Committee of Red Cross (ICRC) is a valuable model to be followed. The ICRC activities are similar to those of the UNHCR, as both are international organisations dealing with international protection on human beings, such as: protection, assistance, promotion of its regime, target programmes, humanitarian diplomacy, cooperation with national societies, and private sector relations.

As a priority, ICRC (2019a) seeks to protect people affected by armed conflicts and natural disasters (civilians, prisoners, detainees and civilian internees), mainly by re-establishing contact between families, tracing missing people and building respect for international humanitarian law. Documents, reports, and testimonies are published to achieve this goal. Unfortunatelly, on the UNHCR's side, much information is private and confidential, leaving scholars, researchers, NGOs, and policy-makers unaware of real and useful information to press governments in order to protect refugees and asylum seekers.

Secondly, ICRC (2019b) assistance for people under its concerns means, for instance, restoration of their ability to provide for themselves, ensuring health care of a universally accepted standard and clean water, by providing, for instance, economic support and rehabilitation to boost the economic security of people who have lost the necessary means of production to be self-sufficient. In the end, besides providing physical protection, ICRC assistance is thouroughly involved in preventing the dependency syndrome, by teaching them how to live on their own.

Thirdly, the ICRC (2019c) conducts humanitarian diplomacy with the aim at making "[s]tates aware of problems and issues of humanitarian concern, and share these concerns with the international community." It seeks to heighten awareness of humanitarian imperatives and principles in various international and regional fora (that is, the UN system, especially the Human Rights Council and the General Assembly, the OSCE and other organisations). The practice comes by publishing and giving access to texts/articles/documents/press releases/official statements on key issues, visits, and meeting related to humanitarian diplomacy.

Again, UNHCR and states avoid to publish much information and data about local practice, which would be useful for advocating in favour of refugees and asylum seekers, making them unavailable for scholars, researchers, NGOs, and policy-makers. According to Pacifico (2010: 398), it is sometimes difficult to access data to do deep academic research on refugee issues.

Even some NGOs do not make all data available publicly. In this case, comparing to other fields of human protection (for instance, International Humanitarian Law and International Human Rights Law), International Refugee Law lacks deep and updated published research, apart from superficial official documents published by the UNHCR and, occasionally, by local governments.

Fourthly, the ICRC (2010) works cooperatively with national societies of Red Cross and Red Crescent and with their International Federation "in order to ensure a concerted, rational and rapid humanitarian response to the needs of the victims of armed conflict or any other situation

of internal violence." Being cooperation as one of the four pillars of the ICRC action (besides protection, assistance, and prevention), it is built by:

- operational cooperation within affected countries;
- coordinating the Movement's components, by organising its own operations and by coordinating the partners'activities operating in the country, "thereby maximizing complementarity of mandates and skills";
- national societies capacity-building; and
- cooperation in designing and implementing policies for the Movement which are adopted at statutory meetings.

Fifthly, the ICRC (2019d) also establishes links with the private sector, by promoting "humanitarian principles with companies operating in war-prone areas" and by enhancing its capacity to help the victims of war by establishing strategic partnerships that are mutually beneficial and based on clear ethical criteria. An example of good practice was, in 2017, a two-year project that brought together businesses to invest in a physical rehabilitation project in Nigeria, Mali, and Democratic Republic of Congo, having "governments served as outcome funders to pay back the businesses who had invested in it upon successful completion in five years. Two years into the project, construction is underway and I can confidently say we are progressing well", said Peter Maurer, ICRC President (2019).

On the UNHCR's side, the PARinAC (i.e. Partnership in Action) Programme (UNHCR 2019b), created by the

1994 Oslo Plan of Action, was designed mainly to give professional training and job to refugees, after having established "a framework for cooperation between the UNHCR and the more than 800 NGOs around the world with whom it works." However, it seems that it has stopped working, because nothing has been found at the UNHCR website about it, for instance reports and actions, since 2002.

At last, a better way to optimise the RSD system, especially as to asylum seekers, is to promote the international refugee regime (IRR), in the same way as the ICRC does to promote the International Humanitarian Law (IHL). ICRC promotes IHL with armed forces, police, security forces, decision-makers and opinion-leaders at international and national levels, as well as university students and other young people, as a prevention policy.

The strategy behind these activities comprises promotion of humanitarian law through teaching and training and integration of humanitarian law into official legal, educational and operational curricula. Accordingly,

> [i]ntegration may be described as the translation of IHL rules into concrete mechanisms or measures for the respect of its principles, specially protected persons and objects as well as the adoption of necessary means to this end. It must necessarily and constantly address doctrine, teaching & education, as well as training & equipment issues. (ICRC, 2019e).

For public servants (armed forces, polices etc.), ICRC trains them in IHL, with specific sections focusing on their

own needs. In general, the ICRC aids governments to respect IHL rules and principles, by making specialists available to support their training programmes.

As to educational programmes, useful examples existed in the last decade, such as the modules for young people "Exploring Humanitarian Law" and the Secondary School Programme" for individuals and communities living in conflict zones. They aimed at familiarising young people with the notion of human dignity as an inviolable quality that must be respected and with the principles of IHL and with the nature and work of the International Red Cross and Red Crescent Movement.

Regarding access to education, however, the ICRC (2019f), in 2017, formalised two new approaches aiming at giving "children and young people the skills to make reasoned choices in life, build their resilience and to develop coping mechanisms": "to strengthen our existing work in education; and to step up our support for efforts to ensure education is part of any humanitarian response."There are also communication approaches for young people not attending school.

At the university level, the ICRC (2019g) promotes the inclusion and consolidation of IHL courses in the curricula of leading universities around the world," besides producing and distributing teaching materials, with the aim at ensuring "that future leaders and opinion makers understand the practical relevance of IHL and have a thorough knowledge of its basic principles. It is useful to mention that the ICRC has partnerships with academic institutions in some 130 countries.

A "train of trainer" approach encourages self-reliance and the development of local capacities. This has happened to this researcher, who has been a professor in International Law since 1997 and was trained in IHL by the ICRC, in 2002. Since then, the ICRC keeps sending her updated information on IHL, books and other teaching tools for use in courses.

In general, UNHCR also protects and assists refugees and asylum seekers, promotes its regime, creates and implements target programmes in emergency situations, conducts high diplomacy, and cooperates with local societies and private sectors, usually in partnerships. However, promotion of the International Refugee Regime (IRR) is not a state obligation/responsibility, legally prescribed by the IRR.

States are only forced to follow the norms and rules prescribed by the treaties they sign and ratify in good faith, according to the article 26, of the 1969/1980 Vienna Convention on the Law of Treaties, which prescribes that "every treaty in force is binding upon the parties to it and must be performed by them in good faith," namely, the principle of *pacta sunt servanda*. Regarding the IHL, by ratifying the 1949 Geneva Conventions, a state is legally bound to promote IHL, especially among all people affected by an armed conflict.

UNHCR does not publish, as already said, all essential and deep reports and information necessary for the media, public opinion, NGOs, scholars, and government officers to deal with, and to advocate for, the International Refugee Regime in a way of following the international protection on human beings, in this case, refugees and asylum seekers. Open workshops, particularly in places where there are huge

numbers of urban refugees and asylum seekers threatened with deportation, *refoulement,* or detention, should be conducted on a regular basis, giving refugee and asylum seekers a chance to be heard and have their human rights protected.

Hearing all implementing partners, refugees and asylum seekers included, decision-makers training, and school and university educational programmes coordinated by UNHCR should be seen as mid-term solutions on how to build a RSD system recognised as good practice, especially as to its administrative and judicial procedures. It should be based on human rights promotion/protection/implementation, through a collaborative society where all partners are in regular and constant dialogue and are treated on an egalitarian basis.

Final considerations

The current International Refugee Regime is on the threshold of a new change. Being created more than Sixty years ago, during the Cold War and when the world was politically and ideologically divided, it currently needs legal change, mainly for asylum seekers (and other categories of forced displaced persons, i.e. environmentally displaced persons) and with regards to the procedures involved on the RSD system, for instance, legal representation, hearing redesign, time limit, and implementing partners' role re-organisation.

The World has new characteristics regarding Power relations and North-South relations have been designing the New World Order, for instance migration and refugee crisis caused by countries of origin (Mexico, Syria, Venezuela, etc.), of transit (many African and Latin American countries, and cities like Moscow, Istanbul, Tunis, and Tanger) and of destination (European Union, the USA, Colombia, Lebanon, etc.). (Pacifico, 2017: 280-286).

Refugees and asylum seekers have been legally protected by useful theoretical rules, norms, principles and decision-making procedures, implemented by the UNHCR, by states, and also by NGOs. Unfortunatelly, International

Refugee Law has not been well applied in practice, mainly as to procedures used to deal with asylum seekers, when human rights violations seem to be concrete.

Procedures taken to decide a claim should be fast, fair, effective, and efficient based on minimal principles of administrative and natural law, in a safe and equipped place, conducted by educated, trained and competent decision-makers well prepared for this task. Nevertheless, there is a huge gap between theory and practice, which sometimes takes, in some places, asylum seekers to feel human rights violations. While they are asylum seekers, for instance, they do not automatically have right to work, to education or to health care, being sometimes *in limbo*, without enough means to provide from themselves to be fully integrated. This leads them to suffer from the dependence syndrome, which affects not only their own life, but also the local society health and the state's equilibrium, due to the fact that asylum seekers will be under the government's, UNHCR's and local NGOs' assistance, instead of doing what they are able to do in order to favour the local host place and themselves.

This book insists that a way of changing this current situation is by organising the domain in which all implementing partners act, as good legal rules do already exist in theory. UNHCR, states, NGOs, and refugees should have their rights and duties clearly established, taking into consideration local and regional realities. Standard rules should be created and implemented for all and for each partner. General customary law and principles of natural justice should be emphasised, due to the cultural differences among partners and asylum seekers.

A way of doing it is by giving all partners a chance to speak and to be heard before a "round table", where all of them are treated equally and be capable of expressing their wishes, needs, actual situation, and giving options to new steps to be followed.

The Handbook prepared by UNHCR, in 2003, with few updates in 2016 and 2017, is a useful and well prepared tool to start with. Many examples are as to local places adjusted it to their own reality with positive outcomes for asylum seekers, in one or more aspects, such as Brazil, Cambodia, Canada, and Egypt. However, many gaps still need to be filled. This will only be achieved when the implementing partners are aware of their own domain, created, and examined on regular basis by UNHCR, which has the main goal to promote the International Refugee Regime.

States should act as local partners, providing human, physical, and infra-structural resources to be educated and trained by UNHCR officers and allow the UNHCR to inspect and evaluate their functions. NGOs should be legally and psychologically prepared to assist refugees and asylum seekers with their claims, should be UNHCR's partners by implementing the RSD procedures and by being politically active to persuade governments to promote and implement the RSD system,

UNHCR, as the regime global coordinator, would remain central to the RSD system and should be aware of its particular goal of educating, training and establishing clear rights, duties and responsibilities for all other partners, as a result of a dialogical-communicative model implemented. A useful example is the ICRC, which well promotes the International Humanitarian Law among states, NGOs,

police, teachers, Academia, etc, in a top-down system, by listening, educating, and facilitating their roles as multipliers partners, in order to find out better ways of developing and implementing its system.

References

ACNUR (2021). **Cátedra Sérgio Vieira de Mello.** *In* https://www.acnur.org/portugues/catedra-sergio-vieira-de-mello/ Accessed 24th June 2021.

ACNUR (2020). **Brasil reconhece mais de 7,7 mil venezuelanos como refugiados.** *In* https://www.acnur.org/portugues/2020/08/28/brasil-reconhece-mais-77-mil-venezuelanos-como-refugiados/ Accessed 24th June 2021.

ACNUR (2020). **Relatório anual da Cátedra Sérgio Vieira de Mello: 2020** *In* https://www.acnur.org/portugues/wp-content/uploads/2020/11/Relatorio-ANUAL-CSVM-2020-V2.pdf Accessed 24th June 2021.

ACNUR (2019a). **Cátedra Sérgio Vieira de Mello.** *In* https://www.acnur.org/portugues/catedra-sergio-vieira-de-mello/ Accessed 6th December 2019.

ACNUR (2019b). **Relatório anual da Cátedra Sérgio Vieira de Mello: 2019** *In* https://www.acnur.org/portugues/catedra-sergio-vieira-de-mello/ Accessed 6th December 2019.

ACNUR (2019c) **Sérgio Vieira de Mello Academic Chair**. *In* http://livelihoods.acnur.org/en/search-by-category/art/sergio-vieira-de-mello-academic-chair/ Accessed 6th December 2019.

AFRICAN UNION (1969) **Convention Governing the Specific Aspects of Refugee Problems in Africa**. *In* http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Refugee_Convention.pdf Accessed 6th December 2019.

AFRICAN UNION (2004) **Decision on the Situation of Refugees, Returnees and Displaced Persons.** EX.CL 127(5). *In* www.african-union.org Accessed 6th December 2019.

AFRICAN UNION (2009) **African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).** *In* https://au.int/sites/default/files/treaties/36846-treaty-0039_-_kampala_convention_african_union_convention_for_the_protection_and_assistance_of_internally_displaced_persons_in_africa_e.pdf Accessed 6th December 2019.

ALEXANDER, M (1999) Refugee status determination conducted by UNHCR. **International Journal of Refugee Law,** 11 (2), 251-289.

BARKER, C. (2005). **Cultural Studies: Theory and Practice**. London: Sage.

BESSON, S. (2011). Sovereignty. **Max Planck Encyclopedias of International Law.** *In* https://opil.

ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1472 Accessed 6th December 2019.

BETTS, A (2006) Conceptualising interconnections in global governance: the case of refugee protection. **Working Paper Series** No. 38. Oxford: Refugee Studies Centre.

BETTS, A. (2009) **Protection by Persuasion: International Cooperation in the Refugee Regime**. Ithaca and London: Cornell University Press.

BRASIL (1988). **Constitution of the Federal Republic of Brasil.** *In* http://www.stf.jus.br/arquivo/cms/legislacaoConstituicao/anexo/brazil_federal_constitution.pdf Accessed 6th December 2019.

BRASIL (1997). **Lei 9474 - Define mecanismos para a implementação do Estatuto dos Refugiados de 1951, e determina outras providências.** *In* http://www.planalto.gov.br/ccivil_03/leis/l9474.htm Accessed 6th December 2019.

BRASIL (2019a). **Refúgio em números 5th ed.** *In* https://www.acnur.org/portugues/wp-content/uploads/2019/07/Refugio-em-nu%CC%81meros_versa%CC%83o-23-de-julho-002.pdf Accessed 6th December 2019.

BRASIL (2019b). **Operação acolhida.** *In* https://www.defesa.gov.br/noticias/61414-governo-federal-lanca-nova-fase-da-operacao-acolhida-para-acelerar-

interiorizacao-de-venezuelanos Accessed 6th December 2019.

BRASIL (2019c). **Governo Federal lança nova fase da Operação Acolhida para acelerar interiorização de venezuelanos.** *In* https://www.defesa.gov.br/noticias/61414-governo-federal-lanca-nova-fase-da-operacao-acolhida-para-acelerar-interiorizacao-de-venezuelanos Accessed 6th December 2019.

BRASIL (2021). **Refúgio em números 6th ed.** *In* https://www.justica.gov.br/seus-direitos/refugio/refugio-em-numeros Accessed 24th June 2021.

BRIGGS, Jr, V (2003) **Mass immigration and the national interest: policy directions for the new century**. Third edition. NYC: M. E. Shape.

BUCHWALD, U (1991) The Refugee Dependency Syndrome: Origins and Consequences. *In* **Conferência Internacional sobre Saúde Mental e Bem-Estar Psico-Social dos Refugiados e dos Deslocados.** Stockholm, 6-11 October.

CANADA (1985) **Singh *v.* Minister of Employment and Immigration, 1 S.C.R. 177**.

CANADA (2002) **Immigration and Refugee Protection Act**.

CANADA (2004) **Agreement between the Government of Canada and the Government of the United States of America for cooperation in the examination of refugee status claims form nationals**

of third countries. *In* https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/policies-operational-instructions-agreements/agreements/safe-third-country-agreement/final-text.html Accessed 6th December 2019.

CANADA (2019) **Apply to the Federal Court of Canada for Judicial Review.** *In* https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/claim-protection-inside-canada/after-apply-next-steps/refusal-options/federal-court-review.html Accessed 6th December 2019.

CANADIAN COUNCIL FOR REFUGEES (2006) **Less Safe than Ever.** Report. *In* www.ccrweb.ca

CARBONARI, P. C. (s.d.), **Dignidade Humana: Conceito Base da Ética e dos Direitos Humanos,** *in* www.dhnet.org.br/direitos/codetica/textos/carbonari_digh.htm, 1-6. Accessed 11th October 2019.

CASTELLS, M (1997) **The power of identity.** The information age: economy, society and culture. Volume 2. Second edition. Malden (USA): Blackwell.

CHIMNI, B S (2001) Reforming the international refugee regime: a dialogic model. **Journal of Refugee Studies**. 14 (2), 151-168.

CLARK, L (1985) **The Refugee Dependency Syndrome: Physician, Heal Thyself**. Washington, D.C: Refugee Policy Group.

CONARE (2021). **Plataforma Interativa de Decisões sobre Solicitações da Condição de Refugiado no Brasil.** Recurso online, s.d. *In:* https://app.powerbi.com/view?r=eyJrIjoiNTQ4MTU0NGItYzNkMi00M2MwLWFhZWMtMDBiM2I1NWVjMTY5IiwidCI6ImU1YzM3OTgxLTY2NjQtNDEzNC04YTBjLTY1NDNkMmFmODBiZSIsImMiOjh9. Accessed 10th August 2021.

EU (2019a) **Country Responsible for Asylum Application (Dublin).** *In* https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/examination-of-applicants_en Accessed 6th December 2019.

EU (2019b) **Case of M.S.S. v. Belgium and Greece, Application no. 30696/09.** *In* https://ec.europa.eu/anti-trafficking/legislation-and-case-law-case-law/case-mss-v-belgium-and-greece-application-no-3069609_en Accessed 6th December 2019.

HABERMAS, J (1989) A Filosofia como Guardador de Lugar e Intérprete. **Consciência Moral e Agir Comunicativo**. Rio de Janeiro: Tempo Brasileiro.

HARDY, C (1994) Underorganized interorganizational domains: the case of refugee systems. **Journal of Applied Behavioral Science**. 30 (3), 278-96.

ICRC (2010). **Cooperation with National Societies**. *In* https://www.icrc.org/en/doc/what-we-do/cooperating-national-societies/overview-cooperation-national-societies.htm

ICRC (2019a). **Mandate and mission.** *In* https://www.icrc.org/en/who-we-are/mandate Accessed 6th December 2019.

ICRC (2019b). **What we do**. *In* https://www.icrc.org/en/what-we-do Accessed 6th December 2019.

ICRC (2019c). **Humanitarian Diplomacy**. *In* https://www.icrc.org/en/what-we-do/humanitarian-diplomacy-and-communication Accessed 6th December 2019.

ICRC (2019d). **Working with the Corporate Sector**. *In* https://www.icrc.org/en/what-we-do/private-sector-relations Accessed 6th December 2019.

ICRC (2019e). **Armed forces: Integration of IHL**. *In* https://www.icrc.org/en/doc/resources/documents/misc/armed-forces-ihl-integration-310503.htm Accessed 6th December 2019.

ICRC (2019f). **Access to education.** *In* https://www.icrc.org/en/document/access-education-overview Accessed 6th December 2019.

ICRC (2019g). **Learning and teaching IHL**. *In* https://www.icrc.org/en/what-we-do/building-respect-ihl/education-outreach Accessed 6th December 2019.

INTERNATIONAL COUNCIL OF VOLUNTARY AGENCY (2019). **Forced Migration.** *In* https://www.icvanetwork.org/forced-migration Accessed 6th December 2019.

INGRAN, H & SCHNEIDER, A L (2006) Policy Analysis for Democracy. *In* MORAN, M; REIN, M & GODIN, R (ed). **The Oxford Handbook of Public Policy**. Oxford (Inglaterra): Oxford University Press, 169-89.

ISIN, E F (2002) **Being Political: genealogies of Citizenship**. Minneapolis: University of Minnesota Press.

JOPPKE, C (2007) Transformation of Citizenship: Status, Rights, Identity. **Citizenship Studies** 11 (1), 37-48.

JUBILUT, L (2006) Refugee Law and Protection in Brazil: a Model in South America? **Journal of Refugee Studies**, 19 (1), Oxford: Oxford University Press, 22-44.

JUBILUT, Liliana Lyra et al. **Reconhecimento de Status de Refugiado pelo Brasil: Dados dos primeiros 20 anos da Lei 9.474/97.** Brasília: ACNUR, 2021.

KAGAN, M (2006) The beleaguered gatekeeper: protection challenges posed by UNHCR refugee status determination. **International Journal of Refugee Law.** 18 (1), 1-29.

_____ (2006b) Frontier justice: legal aid and UNHCR refugee status determination in Egypt. **Journal of Refugee Studies**. 19 (1), 45-68.

KLEIN, R & MARMOR, T (2006) Reflections on Policy Analysis: Putting it Together Again. *In* MORAN, M; REIN, M & GODIN, R (ed). **The Oxford Handbook of**

Public Policy. Oxford (Inglaterra): Oxford University Press, 892-912.

KRASNER, S. (1982). Structural causes and regime consequences: regimes as intervening variables. **International Organizations.** 36 (2): 185-205.

KYMLICKA, W (2003) Immigration, Citizenship, Multiculturalism: Exploring the Links. *In* SPENCER, S (ed). **The Politics of Migration – Managing Opportunities, Conflict and Change. Malden**, EUA: The Political Quarterly Publishing & Blackwell Publishing, 195-208.

MASON, E (2002) **Features – Update to Guide to Country Research for Refugee Status Determination**. *In* www.llrx.com Accessed 6th December 2019.

MAURER, P. (2019). **In Africa, investors and aid intersect to fund sustainable humanitarian assistance.** *In* https://www.icrc.org/en/document/africa-investors-and-aid-intersect-fund-sustainable-humanitarian-assistance Accessed 6th December 2019.

NYERS, P (2004) **The Regularization of Non-Status Immigrants in Canada – 1960-2004**, Toronto: CERIS.

OAS (2004) **Mexico Declaration and Plan of Action to Strengthen the International Protection of Refugees in Latin America** *In* https://www.oas.org/dil/mexico_declaration_plan_of_action_16nov2004.pdf

PACIFICO A. P. (2010). **O Capital Social dos Refugiados - Bagagem Cultural e Políticas Públicas**. Maceió: Edufal.

PACÍFICO, A. P. (2011). Protection by Persuasion: International Cooperation in the Refugee Regime. Book Review. By Alexander Betts, **Journal of Refugee Studies**, 24 (2), 422-424.

PACÍFICO, A. P. (2013). A network society communicative model for optimizing the Refugee Status Determination (RSD) procedures. **Revista Brasileira de Política Internacional,** 56 (1), 22-39.

PACIFICO, A. P. (2017). Estado (de origem; de trânsito; de destino). *In* CAVALCANTI, Leonardo *et al* (org.) **Dicionário Crítico de Migrações Internacionais** Brasília: EDUNB.

PACIFICO, A. P. et al. **O Estado da Arte sobre Refugiados, Deslocados Internos, Deslocados Ambientais e Apátridas no Brasil:** Atualização do Diretório Nacional do ACNUR de teses, dissertações, trabalhos de conclusão de curso de graduação em João Pessoa (Paraíba) e artigos (2007 a 2017). João Pessoa: EDUEPB.

PESTRE, E (2007) **L'État, le réfugié et son thérapeute: Les Conditions de vie psychique des refugiés**. Paris: Université Paris 7 – Denis Diderot. PhD Dissertation in Scientific Medicine and Psychoanalysis.

PIOVESAN, F (2007). O Direito de Asilo e a Proteção Internacional dos Refugiados. *In* RODRIGUES, V M (org). **Direitos Humanos e Refugiados**. Vila Velha: UVV, 54-95.

Rienstra, B.and Hook, D. (2006) Weakening Habermas : the undoing of communicative rationality. **Politikon: South African journal of political studies**, 33 (3), 313-339.

SHOWLER, P & Maytree (2009) **Fast, fair and final: reforming Canada's refugee system** (report). *In* www.maytree.com/policy Accessed 6th December 2019.

STAVROPOULOU, M. (2008) Influencing state behavior for refugee protection: UNHCR and the design of the refugee protection regime. **New Issues in Refugee Research. Working Paper No. 154.** Geneva: UNHCR.

TAZREITER, C (2004) **Asylum seekers and the state: the politics of protection in a security-conscious world.** Aldershot (UK): Ashgate.

TURK, V. (2002) UNHCR's supervisory responsibility. **New Issues in Refugee Research. Working Paper No. 67.** Geneva: UNHCR.

UN (1948**) Universal Declaration of Human Rights.** *In* http://www.unhchr.ch/udhr/lang/eng.htm Accessed 6th December 2019.

UN (1969/1980). **Vienna Convention on the Law of Treaties.** *In* https://treaties.un.org/doc/

Treaties/1980/01/19800127%2000-52%20AM/Ch_XXIII_01.pdf Accessed 6th December 2019.

UN (1966) **International Covenant on Civil and Political Rights.** *In* http://www2.ohchr.org/english/law/ccpr.htm Accessed 6th December 2019.

UNHCR (1951) **Convention Relating to the Status of Refugees**. *In* http://www.unhcr.org/3b66c2aa10.html Accessed 6th December 2019.

UNHCR (1967) **Protocol Relating to the Status of Refugees**. *In* http://www.unhcr.org/3b66c2aa10.html Accessed 6th December 2019.

UNHCR (1984) **Cartagena Declaration on Refugees**. *In* http://www.unhcr.org/cgi-bin/texis/vtx/search? page=search&docid=45dc19084&query=cartagena%20declaration Accessed 6th December 2019.

UNHCR (1994) **San Jose Declaration on Refugees and Displaced Persons**. *In* https://www.refworld.org/docid/4a54bc3fd.html Accessed 6th December 2019.

UNHCR (2001) **Global Consultations on International Protection/Third Track: Asylum Processes (Fair and Efficient Asylum Procedures),** 31 May, EC/GC/01/12. *In* http://www.unhcr.org/refworld/docid/3b36f2fca.html Accessed 6th December 2019.

UNHCR (2003) **Procedural standards for refugee status determination under UNHCR's mandate.** *In*

http://www.unhcr.org/4317223c9.html Accessed 6th December 2019.

UNHCR (2003b) Academic chairs in memory of Sergio Vieira de Mello *In* https://www.unhcr.org/news/briefing/2003/10/3f8fbe093/academic-chairs-memory-sergio-vieira-de-mello.html Accessed 6th December 2019.

UNHCR (2010) **Brasilia Declaration on the Protection of Refugees and Stateless Persons in the Americas.** *In* https://www.unhcr.org/events/commemorations/4ec12c4f9/brasilia-declaration-protection-refugees-stateless-persons-americas.html Accessed 6th December 2019.

UNHCR (2014) **Brazil Declaration and Plan of Action (Cartagena +30).** *In* https://www.acnur.org/es-es/5b5101644.pdf Accessed 6th December 2019.

UNHCR (2016) **UNHCR Refugee Status Determination Procedural Standards - Legal Representation in UNHCR RSD Procedures**. *In* https://www.refworld.org/docid/56baf2c84.html Accessed 4th December 2019.

UNHCR (2019). **Figures at a glance.** *In* https://www.unhcr.org/figures-at-a-glance.html Accessed 6th December 2019.

UNHCR (2019b) **Partnership in Action.** *In* https://www.refworld.org/publisher/PARINAC.html Accessed 6th December 2019.

UNHCR (2019c) UNHCR welcomes Brazil's decision to recognize thousands of Venezuelans as refugees. *In* https://www.unhcr.org/news/briefing/2019/12/5dea19f34/unhcr-welcomes-brazils-decision-recognize-thousands-venezuelans-refugees.html Accessed 6th December 2019.

UNHCR (2019d). **UNHCR Consultations with NGOs and civil society in South America.** Unpublished.

UNHCR (2021). **Global Trends in Forced Displacement 2020.** *In* https://www.unhcr.org/uk/statistics/unhcrstats/60b638e37/global-trends-forced-displacement-2020.html Accessed 24th June 2021.

USNEWS (2019). **Tent Courtrooms Open to Process Migrants Waiting in Mexico**. *In* https://www.usnews.com/news/us/articles/2019-09-16/tent-courts-hearings-underway-for-migrants-waiting-in-mexico Accessed 10th December 2019.

VIEIRA, L (2001) **Os Argonautas da Cidadania**. RJ: Record.

VELASCO, S L (2001) Ética, Ciência, Educação e Ensino de Ciências Sociais na Escola**. Revista Eletrônica do Mestrado em Educação Ambiental**, (6), Porto Alegre: Fundação Universidade Federal do Rio Grande, 62-74.

VOLTAIRE. 1924. Concatenation of events. **The Philosophical Dictionary.** *In* https://history.hanover.edu/texts/voltaire/volconca.html Accessed 24th June 2021.

WADE, W & FORSYTH, C (2009) **Administrative Law**. 10th edition. Oxford (UK): Oxford University Press.

ZETTER, R. (2015). A Fragment Landscape of Protection. **Forced Migration Review**, 50: 62-65.

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The book aims to analyse the Refugee Status Determination (RSD) in general, in order to locate the reader on the development of the theme, the forms and actors responsible for its application, and, in the last chapter, to present suggestions for improving the RSD system developed around the world.

This structure, in a theme so closely linked to the refugee debate around the world, may make it seems that the book is aimed only at scholars and experts on the subject, but, with great didactic capacity, the author makes it possible for even people who are just beginning to study the subject to appropriate her ideas and teachings, because one of the main merits of the work is to transform a difficult technical subject into something fully understandable for audiences of different levels in terms of depth of knowledge of the subject.

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