

## **THE 100 POINTS OF BRASILIA**

### **Inputs from Latin America and the Caribbean to the**

### **Global Compact on Refugees**

The countries and territories of Latin America and the Caribbean, gathered in Brasilia on 19 and 20 February 2018 under the auspices of the Government of Brazil, with the support of the Office of the United Nations High Commissioner for Refugees (UNHCR) and the participation of other international organizations, observer countries, civil society organizations and representatives of the academia, share this document of regional experiences in the protection of asylum-seekers, refugees, displaced and stateless persons in the region.

In accordance with the Brazil Declaration and Plan of Action and the New York Declaration, the countries of Latin America and the Caribbean have been supporting the establishment and strengthening of legal frameworks and institutional practices for the protection of asylum-seekers, refugees, displaced and stateless persons. We reaffirm the importance of respecting the principle of non-refoulement and due process guarantees, the consolidation of quality asylum systems, the search for durable solutions, the use of other legal means of admission and access to documentation, livelihoods and basic services, the management of cases with differentiated protection needs and the fight against xenophobia and discrimination and the observance of human rights.

We highlight the importance to ensure the unconditional respect, protection and promotion of the human rights of asylum-seekers, refugees, displaced persons, and stateless people, with particular attention to groups in a situation of vulnerability. We underline the need to address the causes for individuals to seek international protection and to strengthen the means to boost sustainable development.

We reiterate our commitment to regional solidarity, south-south cooperation and shared responsibility to find effective and predictable responses to the humanitarian needs of asylum-seekers, refugees, displaced and stateless persons, and to progress towards durable solutions. In this sense, we draw attention to the importance of continuous dialogue and the exchange of experiences and good practices at regional and sub-regional levels, between the authorities of Latin America and the Caribbean, which has resulted in specific initiatives to respond to different challenges faced by the region.

The present document reflects the progress achieved in the implementation of the Brazil Declaration and Plan of Action and aims at significantly contributing to the development and implementation of the Global Compact on Refugees, in view of the solid legal framework established by the countries of Latin America and the Caribbean for the international protection of asylum-seekers, refugees, displaced

and stateless persons, as well as the generous State practice demonstrated through multiple initiatives.

This document is based on the national consultations carried out by States as part of the triennial evaluation of the 2014 Brazil Declaration and Plan of Action. Likewise, it considers the conclusions and recommendations emanating from the thematic sub-regional consultations held in the cities of Buenos Aires, Quito and Nassau at the end of 2017, as part of the same triennial evaluation process. These sub-regional meetings documented initiatives related to the implementation of programs on quality of asylum, durable solutions, regional solidarity with the Caribbean and eradication of statelessness.

This document also takes into consideration the strategic plans detailed in the Regional Comprehensive Protection and Solutions Framework (MIRPS in the Spanish acronym) agreed by six countries in the region - Belize, Costa Rica, Guatemala, Honduras, Mexico and Panama - through the adoption of the San Pedro Sula Declaration (October, 2017). We consider the MIRPS to be a pioneering and dynamic sub-regional initiative to practically apply the CRRF (Annex I of the New York Declaration for Refugees and Migrants) and to contribute to the development of the Global Compact on Refugees.

This document illustrates the success of international cooperation in the field of international refugee protection and reflects the long history of responsibility-sharing among countries of the region, initiated with the 1984 Cartagena Declaration on Refugees and implemented through distinct agreements, programs and mechanisms, such as the International Conference on Central American Refugees (CIREFCA); the 1994 San José Declaration; the 2004 Mexico Declaration and Plan of Action and its programs of "borders of solidarity", "cities of solidarity" and "solidary resettlement"; the 2014 Brazil Declaration and Plan of Action; and, most recently, the MIRPS in relation to protection in countries of origin, transit and destination.

With the purpose of inspiring States' action within and outside the region, taking into account distinct national and regional realities, and in the context of the formal consultations of the Global Compact on Refugees that will take place in Geneva, we present the following initiatives, experiences and practices carried out by one or more countries in Latin America and the Caribbean, in accordance with the national legislation of each country:

## **I. Quality of asylum**

1. The regulation of the right to asylum and/or refugee protection at constitutional level.
2. The progressive adoption of internal regulations on refugee protection that incorporate the highest standards of human rights and international refugee law, and reflects specific protection needs according to age, gender and diversity.

3. The development of sub-regional guidelines for the protection of asylum seeking, refugee and stateless people, harmonizing regulations and improving national standards, with the support of UNHCR.

4. The incorporation into internal regulations of the broader refugee definition proposed by the 1984 Cartagena Declaration on Refugees.

### **1) Access to international protection**

5. The establishment of a legal support network for refugees in the region, including academic institutions, legal aid clinics, ombudsperson offices and civil society organizations, in order to enhance free and qualitative legal support interventions for asylum-seekers and refugees.

6. The organization of regional meetings to promote the exchange of good practices on topics of common concern in relation to the protection of asylum-seekers and refugees.

#### **a) Access to the asylum procedure and non-refoulement**

7. The decentralization of refugee status determination procedures, including from the filing of the asylum application, through case processing, until the decision phase in order to strengthen access to asylum in border areas.

8. The institutionalization of legal representation and sponsorship or free legal assistance in all instances of the procedure as a tool to strengthen respect for due process guarantees, respect for individual rights, and to streamline decision-making mechanisms and their foundations through Public or Federal Defenders.

9. The constitution of an independent body to review and/or appeal the negative decisions issued by the first administrative instances, with specialized personnel and exclusive functions for administrative or judicial review in order to ensure compliance with procedural guarantees and with the correct interpretation and application of national laws on refugee protection.

10. Refraining from administrative detention of asylum-seekers for irregular entry and/or stay.

11. The progressive implementation of alternatives to the administrative detention of asylum-seekers through shelters, reception centers or other measures with due consideration of the specific needs of individuals, family unity and respect for human rights.

12. The development of procedures for the readmission of refugees and asylum-seekers.

#### **b) High standards for the determination of refugee status**

13. The implementation of the Quality Assurance Initiative program (QAI) in order to offer a solid methodology to achieve maximum efficiency and justice in refugee status determination procedures.

14. The implementation of twinning programs among asylum authorities to strengthen the practical aspects of assistance and protection of asylum-seekers and refugees.

15. The inclusion in national legislation of the possibility of requesting UNHCR's technical advice on claims for the recognition of refugee status.

c) Complementary Protection

16. The dissemination of the human mobility concept as underpinning element of the different situations of people on the move.

17. The implementation of complementary protection measures, including the facilitation of the granting of visas, such as humanitarian visas for persons in need of international protection, in accordance with national legislation.

18. The granting of humanitarian visas to persons affected by natural disasters and who leave their countries, and the development of initiatives within the framework of the Nansen initiative and the platform on disaster displacement.

**2) Registration and documentation**

19. The compilation of qualitative and quantitative data on asylum-seekers, refugees, displaced and stateless persons through the collection and analysis of information disaggregated by sex, age and diversity, and the development of demographic and socioeconomic studies to improve protection responses.

20. The adoption of regional guidelines for the identification of migrants and persons in need of international protection with the technical support of UNHCR and the International Organization for Migration (IOM) in accordance with their respective mandates.

21. The development of protocols for the reception and assistance of returnees, as well as guidelines for the identification of persons with protection needs in migrants assistance centers who returned to the country of origin.

a) Early identification and registration

22. The establishment of procedures of early identification, protection and care for unaccompanied or separated children or adolescents in border areas in order to provide priority and expeditious processing in light of the best interest of the child.

23. The development of unified registration systems between asylum and migration authorities in order to ensure the interoperability of data, better management of asylum claims, protection of persons against detention and refoulement, as well as the faster issuance of documentation.

24. The institutionalization of specialized registration units that ensure better coordination among all actors and greater proximity to asylum-seekers and refugees, allowing for more transparency and better identification of needs and vulnerabilities.

25. The strengthening of care centers in the host country aiming at the establishment of early identification, orientation and referral procedures to persons with protection needs.

b) Documentation

26. The prompt issuance of documentation for asylum-seekers and refugees starting from the first contact with authorities and the filing of the asylum application, and the registration in civil registries and the delivery of identity cards, in order to guarantee non-refoulement, access to basic services and rights.

27. The granting of a provisional documentation or its equivalent to asylum-seekers, free of charge and renewable, valid from the filing of the asylum application to the decision on the case, which allows for legal stay in the country and protection against refoulement.

28. The abstention from reference to the status of asylum seeker or refugee on personal identity documents in order to avoid possible instances of discrimination and to favor their access to basic rights and services.

29. The possibility for asylum-seekers, when lacking personal identity documents, to prove their identity through alternative means, such as by means of an affidavit before competent authorities.

## II. Durable solutions with an emphasis on local integration

30. The implementation of public policies, including social welfare and social inclusion programs for the protection of refugees, without discrimination, that include comprehensive strategies to find/search for durable solutions at the national or local levels.

31. The implementation of solidarity resettlement programs, and of new innovative Protection Transfer Arrangements (PTA) and humanitarian evacuation programs to protect people in high risk situations.

32. The development of legal frameworks in compliance with international standards for the protection of displaced persons.

### 1) Local Integration

33. The implementation by cities and local governments of programs and projects to promote the effective protection and integration of refugees, thereby providing new momentum to the Cities of Solidarity program.

34. Cooperation among governments and humanitarian actors, including local authorities, for the implementation of national programs of humanitarian assistance and social orientation for asylum-seekers and refugees.

35. The support to local authorities in designing specific responses to the displaced population in need of protection in the areas of prevention, assistance, protection and durable solutions.

36. The development of technical training programs to ensure the inclusion of the response to forced displacement within municipal plans, with the purpose of guaranteeing access to State services and promoting local integration.

37. The establishment of reception/transit centers in the country of origin for the orientation of returnees with protection needs and for the access to state services.

a) Legal Dimension of Integration

38. The issuance of provisional documents which provide effective and immediate access to rights, including formal employment and basic services.

39. The free provision of refugee status determination procedures as well as procedures to obtain visas and permits, including work permits.

40. The granting by governments of states, provinces, cities and municipalities of assistance and services to refugee and migrant persons, regardless of their migratory status, which recognizes them as rights holders.

41. The facilitation of access to permanent residency for refugees as means of promoting more local integration.

42. The decision that deadlines for the acquisition of permanent residency or naturalization begin to apply from the moment the application for refugee status determination is filed.

43. The reduction of costs of the procedures to facilitate the naturalization of refugees.

44. The implementation of regularization programs for persons under temporary humanitarian protection status.

b) Socio-Economic Dimension of Integration

45. The recognition of the right to work for asylum-seekers.

46. The issuance of documents that grant access to economic, social and cultural rights, including solidarity programs or the provision of services.

47. The development of national programs related to labor market insertion and corporate social responsibility in support of refugees.

48. The recognition of academic degrees obtained in the country of origin.

49. The possibility for refugees to access housing programs.

50. The implementation of programs that ensure housing, shelter and psychological attention for displaced persons, refugees and migrants. In some countries, priority is given to children and adolescents, and other groups with special protection needs.

51. The decentralization and coordination between municipalities and local governments on integration and settlement in the territory, in order to ensure access of displaced persons and refugees to housing, education and health programs at the local and territorial levels.

52. The promotion of policies and programs of social inclusion, access to public housing and health systems, including expedited issuance of documentation to promote access to a series of social rights, such as subsidies and professional and vocational training.

53. The exemption of the obligation to show migratory status - including the apostille of the country of origin - to enroll in school, to validate academic degrees obtained in the country of origin, and to participate in local language learning programs.

54. The provision of free of charge language classes in the country of asylum in order to facilitate local integration.

55. The development and access to information systems on rights and services for displaced persons, asylum-seekers and refugees.

56. The development of referral and inclusion mechanisms for displaced persons and refugees in local programs and services in order to avoid the creation of parallel systems.

57. The provision of free of charge access to health services and education for asylum-seekers and refugees.

c) **Socio-Cultural Dimension of Integration**

58. The active participation of displaced persons, asylum-seekers and refugees in evaluations of specific programs planned for their assistance, protection and solutions, including the consultations of the triennial evaluation of the Brazil Plan of Action and the national consultations for the adoption of the MIRPS.

59. The participation of faith-based and other relevant civil society organizations in the national consultations for the adoption of the MIRPS and in the elaboration of regional action proposals.

60. The development of awareness-raising projects for the host community and the promotion of civic participation to facilitate local integration of displaced persons and refugees.

61. The expansion of the Sergio Vieira de Mello Chair through the Montevideo Group of Universities, with the purpose of disseminating knowledge on the international protection of refugees and facilitating access of refugees to university education and to learning the local language.

62. The training of teachers and schools principals to create an inclusive environment in schools.

63. The development of projects aimed at including refugees in host communities through cultural events, awareness-raising and communication campaigns and capacity-building activities.

**2) Other legal channels of admission**

64. The granting of complementary protection measures, such as temporary or humanitarian residence permits or the granting of permanent residency for persons in need of international protection, in accordance to national legislation.

65. The implementation of humanitarian visa programs for people in areas of armed conflict to facilitate their exit from their country of origin or from neighboring countries, thus favoring coordination and support among different actors from civil society, private individuals and federal and local governments, as in the Syrian case.

**3) Resettlement**

66. The development of the solidarity resettlement program benefiting both refugees from within the region and those from other parts of the world that includes access to public housing.

67. The implementation of "rural resettlement" that includes access to free public housing, benefiting both host communities and refugees.

68. The establishment of a Protection Transfer Arrangement (PTA) to facilitate the departure of people in high risk situations in their countries of origin.

69. The establishment of an intra-regional transfer mechanism for refugees in the Caribbean, to facilitate resettlement within the Caribbean.

### **III. Management of special protection needs**

#### **1) Prevention and response to Sexual and Gender-Based Violence**

70. The incorporation into national legislation of gender-based persecution as grounds for the recognition of refugee status or as criterion for interpretation.

71. The creation of a Regional Network of Safe Spaces with different actors to prevent, identify and combat incidents of sexual and gender-based violence and the access of survivors to specialized protection services and assistance throughout the displacement cycle.

72. A special attention to providing protection against sexual exploitation and abuse (PSEA) of refugees and asylum-seekers in border areas, strengthening complaints mechanisms and access to assistance for victims, with a differentiated approach according to age, gender and diversity.

73. The creation of shelters for women, girls and boys survivors of sexual and gender-based violence and other types of violence.

74. The prioritization of survivors of sexual and gender-based violence in the implementation of a Protection Transfer Arrangement (PTA) to facilitate their access to international protection in third countries.

75. The provision of joint advocacy for the prevention of sexual and gender-based violence, as well as access to social integration and durable and comprehensive solutions for women, girls and other survivors of this type of violence.

#### **2) Children**

76. The establishment of specific asylum procedures with protection safeguards for asylum claims of unaccompanied or separated girls, boys and adolescents.

77. The establishment of a regional network of government officials to liaise on the protection of migrant and refugee children and adolescents in order to promote the implementation of standards and guarantees of access to the asylum procedure and the determination of their best interest, including the right not to be detained and the right to family unity.

78. The drafting and approval of the Regional Guidelines for the Comprehensive Protection of Children and Adolescents in the Context of Migration.

79. The establishment of the Regional Network of Safe Spaces with the technical support of UNHCR to improve the detection of protection risks to which refugee and in-transit children are exposed, and coordination mechanisms for the provision of specialized protection services throughout the displacement cycle.

80. The establishment of national protocols for the protection of unaccompanied asylum seeking children and adolescent to promote family tracing and reunification, and foster care as alternatives to detention, in accordance with the best interest of the child.



81. The establishment of procedures for determining the best interest of the child in coordination and with the support of UNHCR and civil society, and with the participation of communities, in order to guarantee prioritized, safe and dignified access for children and their families in a Protection Transfer Arrangement (PTA).

### **3) Respect for Diversity and Non-discrimination**

82. The creation of diversity commissions that collaborate with the institutions responsible for processing asylum claims.

83. The launching of awareness-raising campaigns to ensure respect for diversity and the adaptation of reception and service provision centers.

84. Access of persons in situations of vulnerability to prevention treatments and HIV treatment in a confidential and safe manner.

85. The incorporation into legislation and public policies, as appropriate, of measures to prevent discrimination against lesbian, gay, bisexual, transgender and intersex persons (hereafter LGBTI), to promote their safe and dignified access to the asylum process and to protect their human rights.<sup>1</sup>

86. The development of information leaflets on how to access the asylum procedure as well as protection measures, and the implementation of initiatives that promote access to livelihoods for persons in situations of vulnerability, including LGBTI persons.

87. The prioritization of cases of persons in situation of vulnerability, including LGBTI persons, who have suffered or are at risk of suffering serious human rights violations in accessing international protection in third countries through a Protection Transfer Arrangement (PTA).

88. The existence of legislation protecting the rights of elderly people and persons with disabilities that applies equally to asylum-seekers, refugees and stateless persons.

89. The existence of social benefits for elderly people and persons with disabilities that equally benefit nationals as well as asylum-seekers, refugees and stateless persons.

## **IV. Statelessness**

### **1) Prevention of statelessness**

90. The training of government officials on matters of nationality and statelessness in regional courses organized by UNHCR.

91. The revision of the internal regulations to allow for the restrictive interpretation of the exceptions to the principle of acquisition of nationality by birth

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<sup>1</sup> The Republic of Paraguay expressed its reservation to points 85, 86 and 87 as follows: "The Republic of Paraguay reaffirms its commitment to the principles of the international instruments signed, approved and ratified, with regard to the protection of refugees, reaffirming the provisions of Article 46 "Of the equality of the people" of its National Constitution and related. Therefore, it expresses its reservations about the text of numbers 85, 86 and 87 of section 3 "Respect for diversity and Non-discrimination", of Chapter III, which will be interpreted in accordance with its internal regulations."

in the territory (*ius soli*), and the elimination of the requirement of residency for the acquisition of nationality by filiation (*ius sanguinis*).

92. The adoption of internal regulations to safeguard the acquisition of nationality by children who would otherwise be stateless due to legislative gaps.

93. The adjustment of the legal framework to allow for late birth registration in consulates or embassies abroad.

94. The implementation of projects that facilitate late birth registration through the elimination of practical barriers as well as strategies for approaching the community, bi-national cooperation and inter-institutional mobile brigades composed of government authorities, civil society and UNHCR.

95. The use of the annual conference of the Latin American and Caribbean Council for Civil Registration, Identity and Vital Statistics (CLARCIEV) to exchange good practices on preventing and resolving cases of statelessness in the area of civil registration.

## **2) Protection of stateless persons**

96. The use of legislative processes to review migration legislation in order to regulate various aspects of protection, legal residence, documentation and access to the rights of stateless migrants who are not refugees.

97. The drafting of bills or approval of laws that establish protection frameworks and procedures to determine statelessness, in line with the recommendations of UNHCR's "Draft Articles", and include assigning of competences to the National Refugee Commissions (CONARE); special procedures for unaccompanied or separated children; the absence of a peremptory deadline to submit the determination request; the possibility to initiate the procedure *ex officio*, and to present the request verbally or in writing; the possibility of submitting a request regardless of the migratory status of the applicant and in different areas of the country; a free of charge determination procedure; free legal assistance to the applicant without financial means; identification and referral mechanisms to the refugee status determination procedure; coordination measures with other special administrative procedures, such as late birth registration; the prohibition of discrimination based on sexual orientation or gender identity; family reunification; and the interpretation and application of protection norms from a gender, age and diversity perspective.

## **3) Resolution of cases of statelessness**

98. The adoption of internal regulations, the revision of existing ones, or the drafting of bills to facilitate the naturalization of stateless persons and stateless refugees, eliminating or reducing most of the legal requirements demanded to foreigners in general.

99. The granting of nationality documentation by bi-national mobile brigades to persons who, despite having been registered at birth, lack nationality documentation.

100. The re-registration as nationals of children who had the right to nationality by birth through a flexible interpretation of the criteria and the adoption of administrative regulations.

Brasilia, 20 February 2018.