

# RIGHTS OF MIGRANTS

PARLIAMENTARY OBSERVATORY OF THE UNIVERSAL PERIODIC REVIEW<sup>1</sup>

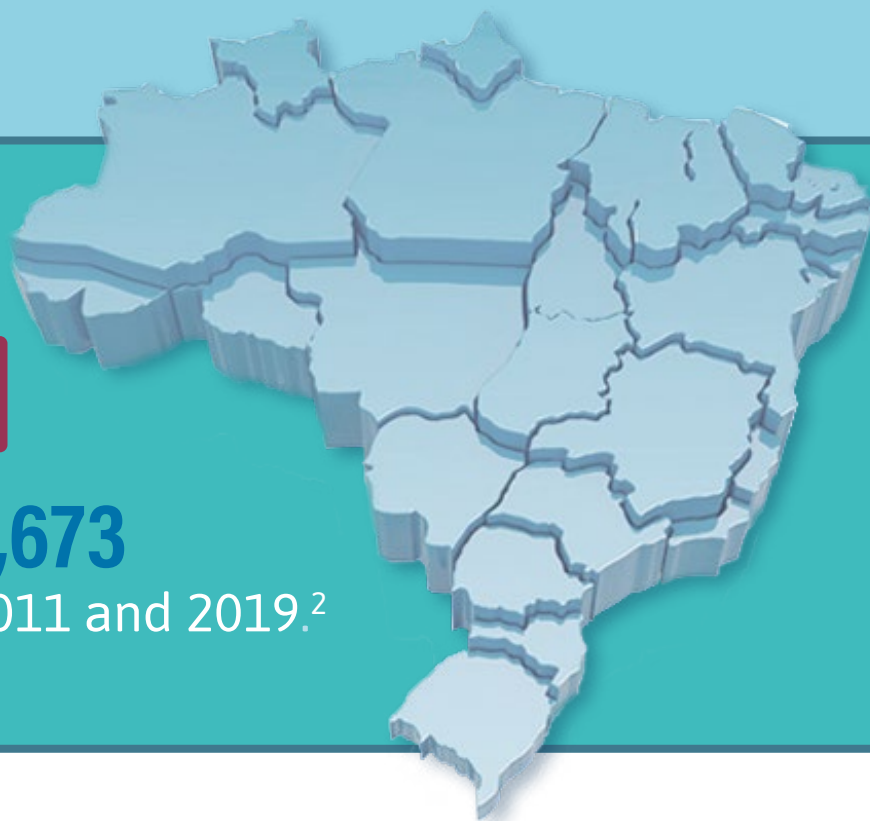
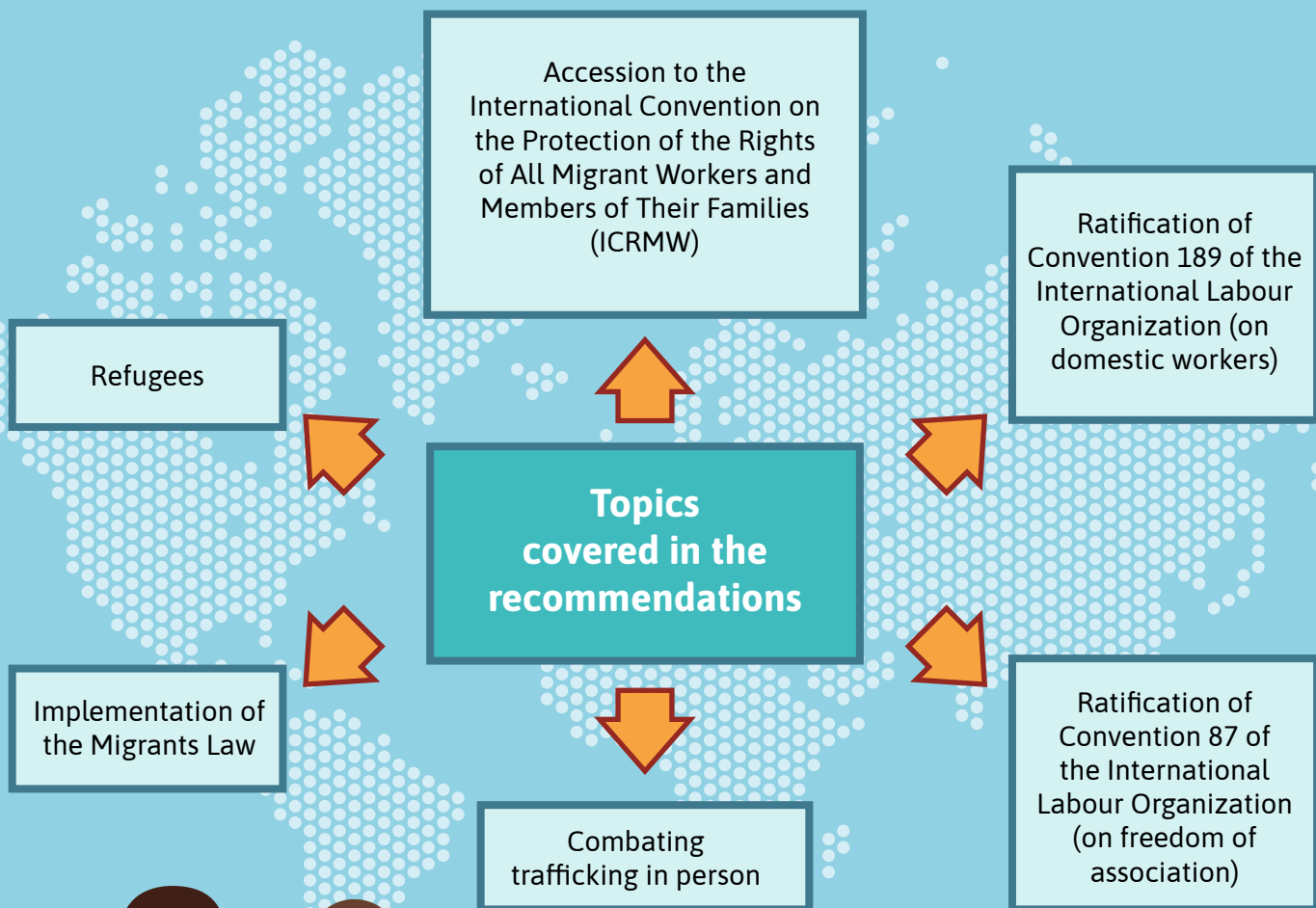
## RECOMMENDATIONS TO BRAZIL

REGARDING THE THIRD CYCLE (2017-2021) OF THE UPR

RECOMMENDATION	ASSESSMENT
<b>9.</b> Sign and accede to the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (Sierra Leone)	✘
<b>10.</b> Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Chile)	✘
<b>11.</b> Step up the procedure for the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Togo)	✘
<b>12.</b> Promptly ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Guatemala)	✘
<b>13.</b> Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (El Salvador)	✘
<b>14.</b> Accelerate efforts towards ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Domestic Workers Convention, 2011 (No. 189) (Philippines)	↑
<b>17.</b> Ratify the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and finalize the domestic procedures to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Ecuador)	✘
<b>128.</b> Effectively implement the anti-trafficking law and provide resources and training for government officials (United States of America)	↑
<b>129.</b> Preserve its positive record on combating trafficking and modern slavery by fully implementing activities envisaged in its Second National Plan to Fight Human Trafficking (Azerbaijan)	↑
<b>130.</b> Continue policies to combat trafficking and promote assistance to victims (Lebanon)	↑
<b>244.</b> Implement the recently approved new Migrants Law and its human rights perspective on the migration issue (Timor-Leste)	↑
<b>245.</b> Implement the new Migrants Law fully (Greece)	↑
<b>246.</b> Expand settlement services for newly arrived refugees and ensure their right to a decent standard of living through the establishment of a National Local Integration Plan (Canada)	↑

Caption: In progress ↑ Not fulfilled ✘

<sup>1</sup> The Observatory is a government mechanism to monitor the effectiveness of the recommendations made to Brazil in order to improve our human rights situation. It is a partnership between the House of Representatives and the United Nations in Brazil (UN Brazil)



Brazil received **1,085,673** immigrants between 2011 and 2019.<sup>2</sup>

<sup>2</sup> CAVALCANTI, L; OLIVEIRA, T.; MACEDO, M. (2020). **Imigração e Refúgio no Brasil. Relatório Anual 2020**. Series Migrations. Observatory of International Migrations; Ministry of Justice and Law Enforcement / National Council of Immigration and General Coordination of Labour Immigration. Brasília, DF: OBMigra. p. 9. Available at : <https://portaldeimigracao.mj.gov.br/pt/dados/relatorios-a>. Accessed on: 11/04/2021.

## Brazil in 2020

**50% drop**  
in the number of registered  
immigrants compared to  
2019. Reason: restrictions  
on the entry of foreigners in  
the context of the covid-19  
pandemic

**2019**  
181,556 applications  
for residence

**2020**  
92,521 applications  
for residence<sup>3</sup>



**65% drop**  
in requests for recognition  
of refugee status<sup>4</sup>

**2019**  
82,552 applications  
for residence

**2020**  
28,899 applications  
for residence

Highest number of requests  
recorded for a single year, in  
the entire historical series  
since the regulation of  
the Statute of Refugee by  
Brazilian legislation

- From 113 countries,  
62% are Venezuelan and  
23% are Haitian
- The majority are men  
(57.3%) and in the age  
group of up to 39 years  
(84.7%)

The National Committee for  
Refugees (Conare), linked to  
the Ministry of Justice and  
Law Enforcement, assessed a  
total of **63,790 recognition of  
refugee status requests.**

By the end of 2020, there were **57,099  
recognized refugees** in Brazil.<sup>5</sup>

## World in 2020

**281 million** is the number of  
registered international migrants  
(World Migration Report 2022/UN)<sup>6</sup>

**3.6%** of the world's population



<sup>3</sup> MANTOVANI, Flávia (2021). **Pandemia reduz pela metade registros de imigrantes no Brasil.** Available at: <https://www1.folha.uol.com.br/mundo/2021/06/pandemia-reduz-pela-metade-registros-de-imigrantes-no-brasil.shtml>. Published on: 6/22/2021. Accessed on: 11/04/2021.

<sup>4</sup> SILVA, G. J.; CAVALCANTI, L.; OLIVEIRA, T.; COSTA, L. F. L.; MACEDO, M. **Refúgio em Números**, 6th edition. Observatory of International Migrations; Ministry of Justice and Law Enforcement / National Committee for Refugees. Brasília, DF: OBMigra, 2021. p. 10.

<sup>5</sup> Same, p. 20.

<sup>6</sup> The world registered about 281 million international migrants last year. Available at: <https://news.un.org/pt/story/2021/12/1772272>. Accessed on: 4/7/2022.



# RELEVANT FRAMEWORK

## MIGRANTS LAW Law No. 13.445/2017, regulated by Decree No. 9.199/2017

The paradigm that prevailed in the country under the aegis of the Foreigner's Statute (Law No. 6.815/1980) changed: it considered immigrants undesirable and a threat to national security (CAVALCANTI, OLIVEIRA, MACEDO, 2020, p. 10)



Now it provides for the rights and duties of migrants and visitors, regulates their entry and stay in the country and establishes principles and guidelines for public policies for migrants, with measures to meet the huge contingent of Brazilians living abroad.



Guideline of the new law: respect for the human rights of migrants. Introduced significant changes in the way foreigners are welcomed, repudiate migration criminalization, xenophobia, prejudice and discrimination.

## REFUGEES Law No. 9.474/1997

Defines mechanisms for the implementation of the 1951 Refugee Statute



People who request refugee status in Brazil are also supported by the aforementioned Migrants Law



Created the National Committee for Refugees (Conare) and established that the processes for recognition of refugee status "will be characterized as an urgency"



Has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)<sup>7</sup>

It is signatory to the Convention relating to the Status of Refugees (1951) and to the Protocol relating to the Status of Refugees (1967)

## TRAFFICKING IN PERSON Law No. 13.344/2016

Address the trafficking in person committed in national territory against a Brazilian or foreign victim, and abroad with a Brazilian victim



Brazil has adopted a National Policy to Combat Trafficking in Person (Decree No. 5.948/2006)



The Third National Plan to Combat Trafficking in Person is in force (Decree No. 9.440/2018)

## HUMANITARIAN RECEPTION Decree No. 9.285/2018

Recognizes the situation of vulnerability resulting from the migratory flow caused by a humanitarian crisis in the Bolivarian Republic of Venezuela



Operation Acolhida was created: to welcome, shelter and internalize Venezuelan immigrants



## HUMANITARIAN RECEPTION Law No. 13.684/2018

Provides for emergency assistance measures for welcoming people in vulnerable situations during migratory flows caused by humanitarian crisis



Established a "Federal Committee for Emergency Assistance to welcome people in vulnerable situations due to migration caused by humanitarian crisis"

<sup>7</sup> The Statute was promulgated by Decree No. 50.215/1961 and the Protocol, by Decree No. 70.946/1972.

# LIVING CONDITIONS OF IMMIGRANTS IN BRAZIL



Violations of human rights such as violence and physical and verbal offences, racism, xenophobia, informal and inadequate work, low remuneration, lack of access to adequate housing, food insecurity, as well as obstacles to regularize their situation in Brazil and to revalidate diplomas obtained in other countries. Available at: <https://museudaimigracao.org.br/blog/migracoes-em-debate/imigrantes-entre-a-vulnerabilidade-e-a-violencia>



Black immigrants of African or Haitian origin, in particular, have been the group that suffers the most from violence. But xenophobia and precarious living conditions affect people coming from all different countries.



Repeated cases of violence and aggression against Venezuelans, who also face discrimination and integration difficulties. Available at: <http://www.oas.org/en/cidh/relatorios/pdfs/Brasil2021-en.pdf>



Reports received by the IACHR of work exploitation of migrants and refugees. Available at: <http://www.oas.org/en/cidh/relatorios/pdfs/Brasil2021-en.pdf>



Brazil is not accepting the individual micro-entrepreneur (MEI) documentation of migrants as part of regularization processes. Only work with a formal labour contract are considered (HOUSE OF REPRESENTATIVES, 2021).



The absence of documents leads to the impossibility of signing formal housing contracts, working formally, creates obstacles to entry into the banking system and compromises access to social benefits (HOUSE OF REPRESENTATIVES, 2021).



## Related Issues<sup>8</sup>

- > There is a need to approve migratory amnesty, because “there are a significant number of migrants who are in the country, that entered Brazil before 2017, before the new law, and are not able to obtain their documentation”. Approval of bills such as Bill No. 2,699/2020 and Bill No. 7,876/2017, which deal with the subject, are suggested.
- > It is necessary to intercede with “the Federal Council of Education, so that it reviews the processes of updating and accepting foreign diplomas, so that migrants can ascend to more dignified life conditions”.
- > Lack of structure of the bodies in charge of these processes, lack of clarity in the criteria adopted for granting refugee status, as well as problems in family reunification processes.



## RESTRICTIONS ON ENTRY OF MIGRANTS



Rules drafted by the Executive Branch have been the object of criticism as they might, eventually, end up violating rights recognized by Brazilian law and international conventions to which the country is a signatory.

### Ordinance No. 666/2019

Ministry of Justice and Law Enforcement (MJSP)  
**(Revoked)**

Provides for the impediment of entry, repatriation and final deportation of a dangerous person or who has committed an act contrary to the principles and objectives set forth in the Federal Constitution.



The ordinance resumed seeing a foreigner as a threat, a conception dismissed by the new Migrants Law.

### Ordinance No. 770/2019

Ministry of Justice and Law Enforcement (MJSP)<sup>9</sup>

It replaced Ordinance No. 666/2019 (MJSP), but with an identical amendment.



It provides for the implementation of serious measures such as imprisonment, deportation and repatriation on the basis of very subjective assessments by migratory authorities and constitutes a retrogression from the Migrants Law.

### Ordinance No. 658/2021

Ministry of Justice and Law Enforcement (MJSP)<sup>10</sup>

Provides as a punishment for non-compliance with rules of entry into the country the “disqualification of the refugee request, a provision that directly violates the international commitment assumed by Brazil to guarantee access to refugee requests”.



It called for “immediate deportation in an indiscriminate manner, including to countries that Brazil recognizes are in a situation of serious and widespread violation of human rights, which is contrary to the principle of non-refoulement from International Law”.



It forbade migrants who had entered the country by land (barred, except for Venezuelans) the right to apply for recognition of refugee status or for a residence permit.

<sup>8</sup> HOUSE OF REPRESENTATIVES (2021). Shorthand Notes of the Extraordinary Public Hearing (semi-presential) from the Commission on Human Rights and Minorities, held on November 10, 2021.

<sup>9</sup> The Draft Legislative Decree No. 62/2022, authored by Deputy Carlos Veras, is pending appreciation in the House of Representatives, which “suspends, under the terms of art. 49, V, of the Federal Constitution, the application of Ordinance No. 770, of October 11, 2019, from the Ministry of Justice and Law Enforcement”. Available at: <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2318180>. Accessed on: 5/3/2022.

<sup>10</sup> CÂMARA DOS DEPUTADOS/HOUSE OF REPRESENTATIVES (2021), p. 11. Presentation at the CDHM public hearing of Marianna Borges, advisor in the area of protection of the Institute of Migration and Human Rights (IMDH).

# TRAFFICKING IN PERSONS

The groups most vulnerable to trafficking in persons are women, unaccompanied or separated children or adolescents; and the LGBTQIA+ population.

Situational Report Brazil: human trafficking in migratory flows, especially Venezuelans. United Nations Office on Drugs and Crime (UNODC), June/2021



Unemployment is the main contextual risk factor for migrants and refugees to fall victim of trafficking in person, especially Venezuelans.

## BRAZIL'S ADHESION TO INTERNATIONAL CONVENTIONS

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

UN General Assembly Resolution 45/158 (December/1990)



- Text of the Convention sent by the Executive Branch to be considered by National Congress on December 15, 2010.
- The House of Representatives, the first House to consider international conventions, decided that the matter should be considered by 4 merit committees, which lead to the creation of a special committee to address the matter.
- The special committee is in the process of being set up.

Convention No. 87 from the International Labour Organization (ILO) on Freedom of Association and Protection and on the Right to Organise Convention



Until this date, Brazil has not signed the Convention and has not submitted its text for discussion in the National Congress

International Labour Organization (ILO) Convention No 189 on Domestic Workers



Ratified by Brazil in January 2018

## LEARN MORE

### Full report – Rights of Migrants

- [Public Hearing on 11/10/2021](#)
- [Report on the audience](#)
- [Parliamentary Observatory of the Universal Periodic Review](#)