



**THE WELCOMING OF PEOPLE IN SEARCH OF REFUGE IN BRAZIL: CITIZENSHIP AND THE RIGHT TO THE CITY**

*O Acolhimento De Pessoas Em Busca De Refúgio No Brasil: Cidadania E Direito À Cidade*

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## ABSTRACT

Being the municipality the minimum federative entity recognized by the Federal Constitution, when received, the person seeking refuge will in fact be welcomed into a city. Whereas the current Brazilian migration and refuge policy is based on the principle of promoting citizen participation by the migrant, its effective reception would correspond to guaranteeing the enjoyment and exercise of citizenship and the right to the city, involving the understanding of the very concepts of city, citizenship, citizenship rights and the right to the city. The present juridical-sociological investigation uses theoretical bibliographic research to present the current Brazilian policy of welcoming people in situations of refuge and the rights guaranteed to them, in order to demonstrate, based on the concepts that (re)builds: (i) the citizenship of the refugee population and their ownership of the right to the city; and (ii) the correspondence between the guarantee of the full exercise of citizenship and the right to the city with its effective reception, within the scope of the Brazilian legal system. It concludes with the qualification of such a group as citizens, with the right to full participation of the city, as inhabitants, with attention to the challenges of realizing this right.

**Keywords:** Refuge. Welcome. Citizenship. Right to the city. Participation.

## RESUMO

Sendo o município o ente federativo mínimo reconhecido pela Constituição Federal, quando recebida, a pessoa em busca de refúgio será de fato acolhida em uma cidade. Considerando que a atual política brasileira de migração e refúgio é pautada no princípio da promoção da participação cidadã da pessoa migrante, o seu efetivo acolhimento corresponderia à garantia do gozo e exercício da cidadania e do direito à cidade, envolvendo a compreensão dos próprios conceitos de cidade, cidadania, direitos de cidadania e direito à cidade. A presente investigação jurídico-sociológica utiliza-se de pesquisa teórica bibliográfica para apresentar a atual política brasileira de acolhimento de pessoas em situação de refúgio e os direitos a eles assegurados, a fim de demonstrar, a partir dos conceitos que (re)constrói: (i) a cidadania da população refugiada e a sua titularidade do direito à cidade; e (ii) a correspondência entre a garantia do pleno exercício da cidadania e do direito à cidade com o seu efetivo acolhimento, no âmbito do ordenamento jurídico brasileiro. Conclui-se pela qualificação de tal grupo como cidadãos e cidadãs, com direito de participação integral da cidade, enquanto habitantes, com atenção aos desafios de concretização desse direito.

**Palavras-chaves:** Refúgio. Acolhimento. Cidadania. Direito à cidade. Participação.



## 1. INTRODUCTION

According to data presented by the National Committee for Refugees (Comitê Nacional para Refugiados - CONARE) and the National Secretariat of Justice, in partnership with UNHCR (2019, p. 07), in 2018 Brazil had an accumulated 11,231 formally recognized refugees and 161,057 requests for recognition of the legal status of refugee in progress. The same report points out that, between 2011 and 2018, Brazil received a total of 206,737 requests for recognition of refugee status, and from 2017 to 2018, the number of requests jumped from 33,866 to 80,057 (COMITÊ NACIONAL PARA REFUGIADOS; SECRETARIA NACIONAL DE JUSTIÇA DO MINISTÉRIO DA JUSTIÇA, 2019, p. 22).

With the expressive increase in the number of people in refugee situations received in the country in recent years, the promotion of their effective reception becomes a key issue. Considering that, when received, the person seeking refuge will in fact be welcomed in a city, guaranteeing their effective reception, with respect for their human rights and dignity, would mean assuring them the full enjoyment and exercise of citizenship and the right to City.

However, although there is no express mention of their right to the city, the current Brazilian migration policy is based on the principle of promoting citizen participation of the migrant person, under the terms of article 3, XIII, of Law No. 13.445/2017 (BRAZIL, 2017a). Accordingly, the effective reception of people in refugee situations involves understanding the very concepts of city, citizenship, citizenship rights and the right to the city.

Thus, as a general objective, the present work aims to verify if, even without express mention, the current Brazilian shelter policy guarantees people in refugee situations the full enjoyment and exercise of citizenship and the right to the city. As specific objectives, the work seeks to: (1) present the current Brazilian policy for welcoming people in refugee situations and the rights guaranteed by it; (2) define and (re)construct the concepts of citizen and the right to the city; and (3) demonstrate, from such concepts, (i) the citizenship of refugees and asylum seekers and their entitlement to the right to the city, and (ii) the correspondence between guaranteeing the full exercise of citizenship and the right to the city with its effective reception, within the scope of the Brazilian legal system.

The work configures a legal-sociological investigation (GUSTIN, 2010, p. 22) that uses the technique of theoretical research in the bibliographic form (GIL, 2002, p. 44-47), analyzing the legal phenomenon of citizenship; the right to the city and the Brazilian policy of welcoming people seeking refuge, with attention to the notion of effectiveness between law and society.



To this end, it first describes the Brazilian refugee reception policy currently in force in Brazil, highlighting the rights and guarantees it provides to the group. Then, it defines the concept of citizenship rights and the quality of citizen, demonstrating the rights guaranteed by the Brazilian reception policy that are classified in this category and that, consequently, qualify refugees as citizens. Finally, it defines the concept of the right to the city and demonstrates the ownership of people in a situation of refuge, based on the rights and guarantees granted by the Brazilian reception policy.

## 2 THE CURRENT BRAZILIAN POLICY OF WELCOMING PEOPLE IN SEARCH OF REFUGE

According to article 1 of Law No. 9,474/1997 (national law on refuge), any person who is outside his or her country of nationality and is unable or unwilling to receive the protection of that country is recognized as a refugee, due to well-founded fears of being persecuted for reasons of race, religion, nationality, social group or political opinions (I); having no nationality and being outside the country where one previously had the habitual residence, one is unable or unwilling to return to it, due to the circumstances described in the previous item (II); or one is forced to leave the country of nationality to seek refuge in another country, due to a serious and widespread violation of human rights (III) (BRAZIL, 1997).

According to the terminology used by the research project *Pensando o Direito* (“Thinking of Law”), run by the Ministry of Justice’s Legislative Affairs Department (Secretaria de Assuntos Legislativos do Ministério da Justiça – SAL/MJ), in partnership with the Institute for Applied Economic Research (Instituto de Pesquisa Econômica Aplicada – IPEA), the term “refugee” refer to the migrant(1) with status recognized by the Brazilian government, and “refuge seeker”, to each and every migrant who has formalized the asylum application and is awaiting a final decision (SECRETARIA DE ASSUNTOS LEGISLATIVOS DO MINISTÉRIO DA JUSTIÇA, 2015, p. 20).

As Julia Bertino Moreira (2010, p. 112) points out, Brazilian policy for people in refugee situations has a dual character, combining elements of foreign policy with domestic policy. Thus, it can be admitted that the policy for the protection of people in refugee situations is divided into three stages: 1) reception; 2) welcoming; 3) termination of protection.



Reception basically consists of guaranteeing access to the territory of the State of destination, or not impeding entry, in order to enable the person to request formal recognition of his or her refugee status. Welcoming, in turn, is the phase following reception and consists of guaranteeing the human rights necessary for the preservation and maintenance of a dignified life for the person seeking refuge, as an integral part of a community in the host country, either during the process of recognition of their condition, or after their status has been recognized. The termination of protection refers to the end of special refugee protection - which does not necessarily entail the return of the person to their country of origin - due to the causes of cessation or loss of refugee status provided for in articles 38 and 39 of Law. No. 9,474/1997.

In the case of Brazil, despite the maintenance and consolidation of “welcoming” refuge policies, externally and internally, the period from 2011 to 2017 was marked by the consequences of an international crisis of asylum seekers, in addition to the significant increase in the number of people in seeking refuge who entered the country (SALLES; GONÇALVES, 2016, p. 127). According to data presented by CONARE and the National Justice Secretariat of the Ministry of Justice (2019, p. 22 and 28), the 3,538 requests for refuge received in 2011 jumped to 80,057 in 2018, and the 4,035 refugees recognized in 2011 reached 11,231 in 2018.

It is worth mentioning that the increase in the number of asylum requests was concomitant with the serious economic crisis recently faced by the country, which resulted in a shortage of resources for the reception of people seeking refuge and, consequently, in the explanation of the difficulties already faced in terms of local integration (SALLES; GONÇALVES, 2016, p. 127). In addition to the economic crisis, since mid-2014 the country has faced a generalized political crisis (not yet overcome) (AVRITZER, 2016, p. 92-94).

In May 2017, after extensive demands from civil society and after many draft bills and draft laws and a process that had dragged on since 2005, Law No. 13,445, of May 24, 2017 was enacted, which established the Migration Law and revoked the former Law No. 6,815/1980 (OLIVEIRA, A., 2017 p. 173-174). Despite the 20 presidential vetoes – all accepted by the National Congress – the new legal framework represents an advance in the legal treatment given to migration, now focusing on guaranteeing migrants (and not necessarily on preserving national security), whether they are not nationals who come to live in Brazil or Brazilians who live abroad (OLIVEIRA, A., 2017, p. 174).



Among the principles and guidelines of the new Brazilian migration policy provided for in article 3 of the aforementioned Law, the universality, indivisibility and interdependence of human rights (I); repudiation and prevention of any form of discrimination (II); humanitarian reception (VI); equal treatment and opportunity for migrants and their families, with the right to family reunification (VIII and IX); the social, labor and productive inclusion of migrants through public policies (X); migrants' free and equal access to social services, programs and benefits, public goods, education, comprehensive public legal assistance, work, housing, banking and social security (XI); the promotion and dissemination of migrant rights, freedoms, guarantees and obligations (XII); social dialogue in the formulation, in the execution and evaluation of migratory policies and promotion of citizen participation of the migrant (XIII); and the strengthening of the economic, political, social and cultural integration of the peoples of Latin America, through the establishment of spaces for citizenship and the free movement of people (BRASIL, 2017a).

Accordingly, article 4 of the new migratory legal framework guarantees the inviolability of the right to life, liberty, equality, security and property, on an equal basis with Brazilians, also ensuring a range of rights, such as civil, social, cultural and economic rights and liberties; the right to assemble for peaceful purposes and the right to association, including trade unions, for lawful purposes; the right to open a bank account; access to essential public services; and the right of access to justice and free full legal assistance (BRASIL, 2017a).

Regarding specifically the Brazilian policy on refuge, Law No. 13,445/2017 also established the National Policy on Migration, Refuge and Statelessness, to be regulated by a normative act of the federal Executive Branch, whose purpose is summarized in the coordination and articulation of sectoral actions implemented by the federal Executive Branch in cooperation with the States, the Federal District and the Municipalities, ensuring the participation of civil society organizations, international organizations and private entities, pursuant to Article 120 (BRASIL, 2017a).

The new migration law was limited, however, to reaffirming the authorization of residence, including provisional, to people in refugee situations, and the non-application of repatriation and extradition, in addition to reinforcing the maintenance of all the guarantees and protective mechanisms and facilitation of social inclusion provided in the Convention relating to the Status of Refugees of 1951 (1951 Geneva Convention) and Law No. 9. 474/1997, under the terms of articles 26, §2º; 30, I, "e"; 31, §4º; 49, §4º; and 82, IX (BRASIL, 2017a). Moreover, the application of the new law must observe the provisions of the national refugee law in all situations involving refugees and refugee applicants, according to article 121 (BRASIL, 2017a).



This is because the principles and rights listed by the migration law must be applied to all types of migrants, without distinction, including refugees, while the Refuge Statute is applied specifically to this group, in terms of obtaining formal recognition and special protection of their condition. In this sense, the migration law must be applied in a complementary way to the national refugee law, where applicable.

Likewise, Decree No. 9,199, of November 20, 2017, which regulated Law No. 13,445/2017, is silent on the regulation of the National Policy on Migration, Refuge and Statelessness, innovating only in the creation of the Provisional Document of National Migration Registration (Documento Provisório de Registro Nacional Migratório): document obtained by the applicant for recognition of refugee status that provides him or her with rights in the country, including the issuance of a provisional work permit; inclusion in the Individual Taxpayer Registry (Cadastro de Pessoa Física - CPF); and opening a bank account, pursuant to article 119, §§2 and 3 (BRASIL, 2017b).

The decree, however, does not list the other rights whose enjoyment would be attributed to asylum seekers holding the provisional document, but only mentions the facilitation of the recognition of certificates and diplomas for educational purposes (article 120) and reiterates the submission of the of refuge to Law nº 9.474/1997 and to the Geneva Convention of 1951 (BRASIL, 2017b).

On February 5, 2018, the Federal Executive Power issued Decree No. 9,277, which provides for the identification of the person seeking refuge and regulates the Provisional Document of National Migration Registration. Thus, in addition to the rights conferred by Decree nº 9.199/2017, the new decree adds the rights of access to guarantees and protective mechanisms and facilitation of social inclusion deriving from the 1951 Geneva Convention and access to public services - especially those relating to education, health, social security and social assistance -, under the terms of article 3 (BRASIL, 2018).

With the exception that such a provisional document does not replace international travel documents (passport, for example), contained in the sole paragraph of article 3, article 4 conditions it to the number of the Refuge Protocol of the Federal Police (BRASIL, 2018) , which is issued after submitting the Refugee Recognition Request Form, as systematically provided for in Normative Resolutions No. 16/2013, No. 18/2014, No. 22/2015, No. 24/2017, No. 26/2018, No. 28/2018, No. 29/2019 and No. 31/2019, all from CONARE (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2013; 2014; 2015; 2017c; 2018a; 2018b; 2019a; 2019b).



It is observed that the creation of such a document aims to replace the Federal Police Refuge Protocol as an identification document, in order to avoid possible resistance to acceptance or refusal by public and private institutions and to guarantee greater legal certainty for such individuals (DELFIM, 2018).

In terms of concrete effects, however, the Provisional Document fulfills the same function and ensures the same rights as the Protocol, since the latter is considered proof of the condition of refugee status applicant, serves as identification of its holders and grants them: i) the rights guaranteed in the 1988 Federal Constitution (FC), in international conventions to which Brazil is a party, in Law no. 9,474/1997, Law no. 13,445/2017 and Decree no. 9,199/2017; ii) the right to enrollment in the Individual Taxpayer Registry - CPF; and iii) the right to the issuance of a Work and Social Security License (Carteira de Trabalho e Previdência Social – CTPS), with a validity period extendable according to the validity of the protocol, as provided in article 5 of CONARE Normative Resolution no. 29/2019(2) (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2019a).

It is noteworthy that said Normative Resolution established the use of an integrated system between the Federal Police and CONARE to process requests for recognition of refugee status, the so-called Sisconare (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2019a).

Thus, as explained, in view of the absence of regulation or a better legal provision regarding the National Policy on Migration, Refuge and Statelessness, the Brazilian policy for the reception of refugees and asylum seekers is currently regulated by the combination of: Law no. 9,474/1997; Law No. 13,445; Decrees No. 9,199/2017 and 9,277/2018; the 1988 FC; international and regional conventions, treaties and declarations to which Brazil is a signatory; and CONARE Normative Resolutions.

In fact, Brazil has an institutionally constituted policy for welcoming people in refugee situations, despite having made very little progress in the implementation of effective public policies for access to services by this group, including the participation of Municipalities with the definition of local public policies (MILESI; CARLET, 2012, p. 88; SALLES; GONÇALVES, 2016, p. 127; SECRETARIA DE ASSUNTOS LEGISLATIVOS DO MINISTÉRIO DA JUSTIÇA, 2015, p. 151).





This is because, considering that, once received, the person seeking refuge will in fact be welcomed in a city, ensuring their effective reception, with respect for their human rights and dignity, means ensuring their full enjoyment and exercise of citizenship and the right to the city.

### 3 CITIZENSHIP RIGHTS OF INHABITANTS IN A SITUATION OF REFUGE

According to Milton Santos (2014, p. 19-20), citizenship consists of a list of general and abstract principles that imposes itself as a body of concrete and individualized rights, to be recognized and affirmed according to the society of the time. As a source of rights, citizenship is enshrined in respect for (each) person and figures as a kind of "law" of society, which reaches everyone, without distinction, and invests each and every one with the necessary "force" to be respected against other "forces" (SANTOS, 2014, p. 19-20) - the violation of rights, for example.

The concept of citizenship expresses, therefore, a set of rights that enable (any) person to actively participate in the life and government of the community in which they interact (DALLARI, 2004, p. 22) - the so-called "citizenship rights" (3).

Accordingly, considering the current Brazilian policy for the reception of refugees and refugee seekers, it is observed that they are already formally assured the human rights essential to the preservation and maintenance of their dignified life in the national territory. In the silence of Law No. 9,474/1997, the rights and guarantees of this group are listed by Law No. 13,445/2017; by Decrees No. 9,199/2017 and No. 9,277/2018 and by CONARE's Normative Resolutions dealing with the refugee request procedure.

Law No. 9,474/1997 provides that formally recognized refugees have the same rights and duties applied to migrants residing in Brazil, in addition to those provided for in the 1951 Geneva Convention, especially the right to an identity card proving their legal status, work license and travel document, under the terms of articles 5 and 6 (BRASIL, 1997).

With regard specifically to the local integration of the refugee, the law only makes generic mention of the "exercise of their rights and duties" and the facilitation of the recognition of certificates and diplomas; compliance with the requirements for obtaining the status of resident and admission to academic institutions of all levels, pursuant to articles 43 and 44 (BRASIL, 1997).



As for the person seeking refuge, the rights of residence and provisional work permit are guaranteed, which are conditioned to the issuance of the Request Protocol by the Federal Police, according to article 21 of the aforementioned Law (BRASIL, 1997). As Juan Carlos Murillo González (2010, p. 56) observes, this guarantee of the right to work for asylum seekers is extremely relevant when the process of formal recognition tends to take a long time; however, the aforementioned Law makes no mention of other rights “eventually” necessary for their (dignified) stay in the country.

It is noteworthy, however, that the very obligation of non-return of refugees to their territories of origin (*non-refoulement* principle) guarantees asylum seekers the rights “eventually” necessary for their stay in Brazil while processing their request for recognition of their legal status, as it guarantees them temporary protection for access to a fair and effective process of status recognition without the risk of being returned to the territory where they may suffer persecution or a violation of human rights (OLIVEIRA, L., 2017, p. 39).

However, in order to overcome the imprecision of Law No. 9,474/1997, CONARE issued Normative Resolution No. 18/2014, establishing the procedures applicable to the request and processing of the asylum request and the related measures, later amended by the Normative Resolutions No. 22/2015; No. 24/2017; No. 26/2018; No. 28/2018; No. 29/2019 and No. 31/2019.

Thus, the form of request for recognition of refugee status must be filled out electronically, by Sisconare, prior to registration in the system and presentation of personal and contact data, which must be kept up to date. Once the form of request for recognition of refugee status has been completed, the applicant must appear in person at one of the Federal Police units to collect biometric data, which can also be collected at the place where the applicant is, in cases of physical or legal restrictions that make personal attendance impossible. After collecting the biometric data, the Federal Police will issue the Refuge Protocol, with a validity period of one year, extendable for an equal period, successively, until the final decision of the process, in accordance with articles 2 to 5 of Resolution No. 29/2019 cumulated with article 1, §1, of Resolution No. 24/2017 (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2017; 2019a).

As provided for in the caput of art. 5 of Resolution No. 29/2019, the Refuge Protocol constitutes sufficient proof of the status of applicant for recognition of refugee status, even serving as identification of its holder and granting: i) the rights guaranteed by the 1988 FC, by the international conventions to which Brazil is a party, by Laws No. 9,474/1997 and No. 13,445/2017 and by Decree No. 9,199/2017; ii) the right to be enrolled in the Individual Taxpayer Registry (CPF); and iii) the right to issue a Work and Social Security License (CTPS), with a period of validity that can



be extended according to the validity of the protocol, pursuant to art. 5, I, II and III of Resolution No. 29/2019 (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2019a).

However, despite being issued individually, the effects of the Asylum Protocol are extended to the family group of the person seeking asylum who so requests, by completing a Family Member Identification Form for Extending the Effects of Refugee Status, which is linked to the Refugee Recognition Request Form completed by the main applicant, as can be seen from article 5, §1, of Resolution No. 29/2019, combined with Article 2, caput and §1, of Resolution No. 24 /2017 (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2017; 2019a).

However, although the aforementioned CONARE Normative Resolutions have extended to people requesting refuge the generality of rights guaranteed by Law No. 9,474/1997 to formally recognized to refugees the precision of its content occurred with the edition of Law No. 13,445/2017, in its article 4, as mentioned in the previous topic. In addition, paragraph 1 of article 4 establishes that the rights and guarantees provided for in the migration law will be exercised in compliance with the constitutional provisions, regardless of the person's migratory status, without excluding other rights and guarantees arising from treaties to which Brazil has complied with (BRAZIL, 2017a).

Thus, we observe that article 4 ensures the civil, social, cultural, and economic rights and freedoms of the migrant population, but with no express provision about their political rights, being guaranteed only the rights to assemble for peaceful purposes and to associate for lawful purposes, including trade unions - which would also cover the assembly and composition of civil associations that exercise political participation.

However, under the terms of §1 of article 4, even though the 1988 FC expressly prohibits the electoral enlistment of migrants in its article 14, §2 (BRASIL, 1988), the 1966 International Covenant on Civil and Political Rights guarantees the right of political participation to every citizen, either directly or representatively, without any discrimination on account of nationality, social origin or situation, in the terms of its articles 25 and 2(1) (ASSEMBLEIA GERAL DAS NAÇÕES UNIDAS, 1966) .

This is because the (human) right to political participation is not restricted to mere electoral enlistment, but encompasses all forms of participation or influential manifestation of citizens in the establishment of rules of coexistence and government decisions of the community they inhabit (CARVALHO, 2015, p. 15; DALLARI, 1992, p. 38 and 91). It is noteworthy that the Brazilian republic is constituted in the form of a Democratic State of Law and, thus, popular sovereignty is exercised both through elected representatives and directly, as provided for in article 1, sole paragraph, of the 1988 FC (BRASIL, 1988).



Considering the concept of citizenship as a set of rights - that is, an instrument - of full participation, the practice of citizenship is also extended to refugees and asylum seekers, with respect to differences and independently of them, allowing them to actively participate in decision-making processes of formulating public policies for them, with the recognition of their protagonism as political subjects.

Thus, the quality of citizen should be defined by how inhabitants belong to a network of distinct social practices in their family, profession and habitat (FERNANDES, 2007, p. 209), corresponding to people's belonging to multiple forms of interaction in the (political) community (BELLO, 2012, p. 85). Being a citizen means, therefore, practicing citizenship as inhabitants of the space in which one interacts and claims rights. As inhabitants who interact in the Brazilian community, people in situations of refuge are also Brazilian citizens - participants, not mere objects of protection.

Thus, despite the omission of Laws nº 9,474/1997 and nº 13,445/2017 regarding the express provision of political rights for refugees and asylum seekers, this guarantee is indirectly made by §1 of article 4 of the new migration law, which ensures the right of political participation to such individuals and citizens contained in the 1966 International Covenant on Civil and Political Rights.

In addition, the Migration Law also establishes social dialogue in the formulation, execution and evaluation of migration policies and the promotion of citizen participation of the migrant as two of its guidelines, under the terms of article 3, XIII (BRASIL, 2017a).

Nevertheless, the normative body that regulates the refuge in Brazil guarantees to this group a set of rights that allow them to inhabit the community, that is, to practice all the acts of daily life that ensure the existence and interactional coexistence: the civil, social, cultural and economic rights and freedoms; the right of access to essential public services, including public education; the right to work; the right of assembly and association for peaceful and lawful purposes; the right to full access to justice; etc.

Accordingly, both formally recognized refugees and refugee applicants are guaranteed a set of (human) rights necessary for the enjoyment and exercise of full citizenship, allowing them to actively participate in the life and governance of the community in which they interact. This set is translated into citizenship rights.



#### 4 THE RIGHT TO THE CITY OF THE POPULATION IN A SITUATION OF REFUGE

In fact, when received, the person seeking refuge is welcomed in a city, since the municipality is the lowest federative entity recognized by the 1988 FC. Thus, in order to guarantee the effective reception of refugees and asylum seekers who now inhabit cities, respecting their citizenship rights and dignity, it is essential that they be guaranteed their own right to inhabit the urban space, that is, the right to fully participate in the city, with access to all services, opportunities and advantages (indispensable to a dignified life) offered by the urban environment, as well as participating in the elaboration, execution and supervision of urban policies.

As Sister Rosita Milesi (2008, p. 05 and 07) and Julia Bertino Moreira (2014, p. 89) rightly state, welcoming transcends hospitality: it presupposes equality of opportunity and access to basic public services, housing, labor space and political rights, since taking refuge is precisely to seek conditions to realize their fundamental rights, in conditions of dignity and respect as human beings. Welcoming therefore means guaranteeing the refugee population's (effective) right to the city.

In order to understand the concept "right to the city", it is necessary to emphasize that the notion of city has a legal, political and sociological meaning (CARVALHO FILHO, 2009, p. 03), revealing itself as an organized set of activities in everyday life, from simple existence to the ways in which the inhabitants relate to each other, being in this urban environment - understanding by "urban" the natural, economic, social and cultural environments that comprise the city's territory (DIAS, 2010, p. 02) – that people develop and maintain the material and psychosocial conditions of their existence (HARVEY, 2012, p. 73-74; INSTITUTO PAULO FREIRE; PREFEITURA MUNICIPAL DE SÃO PAULO, 2015, p. 09).

The city represents a set of material, legal, social and political relationships of heterogeneous and conflicting existence, as a meeting point for a diversity of people, in which actions and relationships are combined in the territorial and administrative arrangement, in commerce, in the social division of labor and even in the urbanization process itself, they structure urban life (BORJA; MUXÍ, 2000, p. 13; INSTITUTO PAULO FREIRE; PREFEITURA MUNICIPAL DE SÃO PAULO, 2015, p. 09) and the practice of citizenship. This is because the practice of citizenship is only possible in the public space, which is the city itself (BORJA; MUXÍ, 2000, p. 07-08).



The city reveals itself, therefore, as the scope for exercising citizenship, since it enables the exercise of faculties linked to citizenship rights, such as, for example, the choice of work and housing, access to education and basic services, self-government, diversity of interpersonal relationships, etc. (BORJA; MUXÍ, 2000, p. 76).

It is noteworthy that in the city we live, work, study, eat, live together, love: in short, we live. By inhabiting the city, we practice all the acts of everyday life that ensure our existence and interactional coexistence in the community. Thus, the meaning of “inhabiting” encompasses all actions that imply the exercise of all dimensions of their citizenship – civil, political and social, according to the classification proposed by Thomas H. Marshall (1967, p. 75-76) and José Murilo de Carvalho (2015, *passim*).

Being a citizen, therefore, means inhabiting the city and fully participating in it, both enjoying the benefits and opportunities offered by it, and influencing its construction and transformation. Consequently, the act of inhabiting the heterogeneous space that is the city links the refugee population to the inhabited community and results in the ownership, practice and enjoyment of all urban citizenship rights.

The right to the city, on the other hand, corresponds to this right to inhabit the urban space, that is, to fully participate in the city (LEFEBVRE, 2011, p. 23), being able to enjoy the advantages, opportunities and services offered by the urban system and indispensable to a dignified life – housing, transport, work, culture, leisure, etc. –, as well as participating in the elaboration of urban policies and the construction of the city itself (SANTOS, 2014, p. 157; TRINDADE, 2012, p. 149-151).

This right also encompasses the need to balance the development of the city and the general well-being, for the benefit of the community, and not as a mere privilege of isolated groups (CARVALHO FILHO, 2009, p. 36). It is the right to effective democratic equality of opportunities and dignity in the urban space (BORJA; MUXÍ, 2000, p. 12; DALLARI, 2004, p. 31).

Accordingly, the content of the right to the city itself is reconstructed with the emergence of refugees and asylum seekers – “new” political subjects – and their “new” demands for urban rights, according to the specifics of the differentiated situation of social vulnerability in which they live.



Understood as a right of full participation of all the inhabitants of the city, which brings together a range of citizenship rights indispensable for the preservation and maintenance of a dignified life in the urban space, the right to the city also aims to guarantee the well-being and the development of such individuals, indistinctly and collectively, based on the principles of social justice; the full exercise of citizenship; participatory democracy; of equal dignity among differences; of political and legal pluralism and ecological balance, according to the general guidelines of the urban policy established in article 2 of Law No. 10,257/2001 (City Statute) (BRAZIL, 2001).

According to Betânia de Moraes Alfonsin (2015, p. 83), all people have the right to a city without discrimination based on gender, age, race, health conditions, income, nationality, ethnicity, migratory conditions, political, religious, sexual, or any other form of discrimination.

In the case of the refugee population, their effective social, economic and cultural integration (and interaction) depends on the elaboration of specific public policies for their reception, as well as their inclusion in existing public policies, which also promotes the social balance in the face of different situations of social inequality in the city (MILESI, 2008, p. 05; MILESI; CARLET, 2012, p. 88).

Accordingly, Emanuele Sgroi (apud MARINUCCI, 2018, p. 07-08) deals with the so-called "sanctuary cities" or "refuge cities", which seek to build urban networks of solidarity and, from them, generate a set of interdependent and participatory local policies, in order to recognize the right to the city of all subjects residing in the urban space (and welcome them), regardless of their origin, nationality or migratory status.

Nevertheless, once the urban environment is understood as a public and political space of heterogeneity, where the most varied demands and interests meet and conflict, the effective welcoming of its citizens and the achievement of a truly democratic and citizen city depend on the engagement of all its inhabitants in the construction of the space, including the refugee population.





## 5 FINAL CONSIDERATIONS

Although the right to the city is not expressly and formally guaranteed by the legal framework of protection and reception of people in situation of refuge, to such group are assured the rights of citizenship necessary for the preservation and maintenance of a dignified life in the urban environment, which allow them to access and participate in the city.

This is because the right to the city itself is a full citizenship right, consisting of a set of (human) rights indispensable to the full participation in the city, either by enjoying all the services, opportunities and advantages offered by the urban space, or by contributing to the elaboration, execution and inspection of urban policies.

According to the meanings of city and citizenship adopted in this paper, refugees who inhabit the urban space become part of this community, (re)constructing it through their presence and their interaction with other members, under a citizen perspective. Because they qualify as legitimate citizens, people in refuge situations have a right to the city they inhabit, and the enjoyment and exercise of this full citizen right leads to their effective reception.

However, despite the institutionalization of a reception policy, with the provision of several rights and the establishment of procedures for the legal recognition of the refugee condition, the realization of this policy depends on the elaboration and execution of public policies directed to such group, in all sectors of services and advantages offered by the urban environment, as well as its insertion in the already existing public policies, with the active and dialogical participation of all social groups belonging to the community - especially the refugee population.

Considering that the preparation and execution of legislative norms and public policies are carried out predominantly by representatives elected by popular vote, through the electoral system, in all federal spheres, the non-recognition of electoral rights of the migrant population - including the refugee population - proves to be a major obstacle to the enjoyment and exercise of the right to the city by such population and, consequently, becomes an obstacle to its effective reception.

Thus, despite the advances of Brazilian legislation in terms of guaranteeing citizenship rights to the refugee population, their effective reception as citizens and inhabitants of the city still faces a second challenge: the realization of such rights through public policies, to be developed and implemented with the (active) participation of this population.





## 6 NOTES

(1) It is noteworthy that the present work adopts the terminology “migration” and “migrant”, in the places of “immigration” and “immigrant” or “foreigner”, respectively, considering that the constant flow of people between national borders in the present times, in a circular fashion, makes it impossible to categorize the “individual in mobility” in the fixed conception of “immigrant” (or “emigrant”) (FIRMEZA, 2007, p. 18). According to the definition brought by item I of art. 1, §1 of Law No. 13,445/2017 (Migration Law), then vetoed, “migrant” is any person who moves from a country or geographic region to the territory of another country or geographic region, including the immigrant - in this covered the refugee and refugee applicant –, the emigrant, the stateless person and even the border resident (BRASIL, 2017a).

(2) It is worth mentioning that, by revoking art. 2, §2, of Normative Resolution No. 18/2014, CONARE's Normative Resolution No. 29/2019 does not expressly provide for the guarantee to asylum seekers of the same rights inherent to migrants in a regular situation in the national territory, until the final decision of the administrative procedure (BRASIL, Coordenação-geral de Assuntos de Refugiados, 2014).

(3) Some authors understand that citizenship would imply both rights and duties (DALLARI, 2004, p. 25; BENEVIDES, 2012, p. 05), but the present work considers that also the obligations and duties arising from the right of active participation in the life and government of a community – the right to participate, and all its nuances and implications – constitute a right.

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