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FORCED MIGRATION AND WOMEN'S RIGHTS

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INTRODUCTION

The present study was developed with the objective of analyzing the concept of refugees, as well as the reasons why these individuals flee their countries of origin, but mainly to explore some of the violations of rights suffered by women as a result of their gender.

It is known that migrations are increasingly constant around the world, caused especially by persecution, war, famine, among other violations of human rights, meaning that refugees do not have the freedom of choice regarding their departure from their home country. country, since the first objective is to escape from a context that threatens them. However, it must be stressed that refugee women are at much greater risk.

The research is based on scientific articles, books and specific legislation on the subject. Thus, we aim to deepen the debate on the issue of refuge and women's rights, and, for that, it will start with the concept of refuge, followed by an approach about violations of women's rights in relation to gender and, finally, present UNHCR's aim for refugees.

REFUGE CONCEPT

It is a fact that the number of migrations around the world is caused by persecution, wars, poverty, economic crisis, in addition to the violation of human rights. These are some of the reasons for this to happen, the affected people seek shelter and refuge in other countries, with the aim of having a dignified life with more opportunities and rights.

It turns out that migration can occur both voluntarily and forced. In the first case, the motivation for migration is influenced by the search for better living conditions. Therefore, in the second case, these are people who fear persecution for reasons of race, religion,

nationality, social group or political opinion, that is, motivated by an imminent situation of danger and due to this fear, fleeing the territory where reside to seek refuge in other countries.

Under international law, the Convention relating to the Status of Refugees of 1951, as well as the Protocol on the Status of Refugees in 1967, state in its Article 1 that the concept of refugee applies to any person.

[...] Who, as a result of events occurring before 1 January 1951 and fearing persecution for reasons of race, religion, nationality, social group or political opinion, is outside the country of his nationality and who cannot 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, does not want to return to it.

In view of this, it is clear that for a person to be recognized as a refugee, he must present the objective criteria brought by the 1951 Convention, but subjective criteria such as the well-founded fear of persecution are still necessary.

It must be noted that, for refugees, the struggle for survival extends over the long journey to the destination territories and does not cease when they arrive there, as many countries close their doors and restrict fundamental rights of migrants and refugees, directly contradicting basic concepts of international law, such as the principle of equality and non-discrimination (SCHWINN; COSTA, 2016).

It is fundamental that the refugee protection system is in constant evolution so that, in fact, they guarantee the rights of refugees, because only the concern with guaranteeing the protection of these individuals is not a more adequate solution.

REFUGEE WOMAN PROFILE - DIFFICULTIES AND VIOLATIONS OF RIGHTS DUE TO THE GENDER ISSUE

From a historical point of view, it is possible to analyze that gender inequality is more evident when it comes to women and, when related to refugees, it is clear that they encounter specific difficulties throughout the flight process.

According to UNHCR, about 49% of the refugee population in recent years are women (UNHCR, 2014, p. 36). Furthermore, at least 8.5 million women are fleeing their country of origin in response to the violation of various human rights.

On the long journey in search of security, women suffer from indifference, persecution and, not infrequently, sexual abuse, as armed conflicts have been a frequent cause of the great displacement of people, and, for refugee women, these situations represent a much greater risk, since in many cases rape has been used as a weapon of war (SCHWINN; COSTA, 2016, p. 224).

According to UNHCR data, among the displaced, women (and children) make up about half of the refugees. In the year 2020, the number of displaced refugees (including internal ones) was 67 million, constituting what can be called the feminization of migrations, as defined by the Migration Policy Institute (DONATO; GABACCIA apud CARAPETO, 2020).

Currently, women flee for the same reasons as men, however, the condition of gender implies some specific violations, such as forced marriage, generalized rape, female genital mutilation or cumulative gender discrimination (ABREU, 2018). Without a doubt, refugees are the ones who most experience abuses of their human rights, that is, they suffer because they are migrants, but mainly because they are women.

UNHCR AND THE REFUGEE ISSUE

In view of this, UNHCR (United Nations High Commissioner for Refugees), historically, develops projects aimed at the effectiveness of refugee rights, as well as the protection of refugee women. It happens, however, that the protection mechanisms of this international body do not cover the current scenario of refugee women, still holding on to archaic concepts for the definition of what refuge is (ABREU, 2018).

Over the years, one can see the emphasis given to refugee women within the scope of public policies developed by UNHCR (2011), such as, for example, the Action Against Sexual and Gender Violence, which aims to protect boys and girls who somehow suffer from sexual violence.

Even more remotely, Abreu (2018) cites the World Conference of the International Year of Women, held in Mexico in 1975, as an important milestone for refugee women, as it was the first time that the topic of violence against refugee women would be exposed internationally. In addition, the aforementioned author explains that through the first Guidelines on International Protection by UNHCR, in 1991, persecution based on the female gender was recognized.

However, when analyzing the effectiveness of the 1991 Guidelines in relation to the 1951 Convention on the Status of Refugees (also known as the Geneva Convention), the position of women refugees in the international arena has a legal gap; because due to the international legal nature of the Statute, the signatory countries committed themselves to effectively practice the mechanisms defined in the document, which does not occur when it comes to Guidelines, which the countries are not signatories, that is, they do not effectively commit to fulfill them.

Furthermore, according to Abreu, the

Refugee Statute of 1951, which, among other established definitions, conceptualized who refugees were; remained in its status quo under the Guidelines that recognized gender-based persecution. Even after some modifications made to the Statute in 2002, there were no changes in its core regarding the forms of persecution that entail refuge, understanding it only as a “reason” for persecution, the five drafted in 1951.

With the new wording of the Refugee Statute in 2002, it can be said that there was an extensive interpretation regarding the refugee woman and how she would face each “modality” of persecution, nullifying specific questions, for example: “caforced marriage, domestic violence or female circumcision” (ABREU, 2018, p. 50 apud OXFORD, 2014, p. 160-161), thus, international norms target as refugees those whom they are interested in, and exclude from their protection those that suit them, as Jubilut explains “This time, on the one hand, although every refugee is a forced migrant, not every forced migrant is a refugee” (JUBILUT, 2021, p.18).

In 2004, the UN Secretary General on Women, Peace and Security stated that gender-related problems still persisted, even in the face of the organization’s efforts, this statement caused other Resolutions to be edited with a view to ending sexual violence in conflict areas (ABREU, 2018 apud FRITZ, 2010, p.341).

UNHCR’S ROLE IN DEVELOPING POLICIES TO COMBAT GENDER-BASED VIOLENCE

One of the tools used by UNHCR in the fight against gender violence was the implementation of five objectives in refugee camps, places that house a large number of women and girls, among them we can mention the promotion of women in functions within the refugee camps. refugees; proper

recording and documentation; combating sexual violence through elaborate strategies; ensure that women help in the distribution of supplies (ABREU apud UNHCR, online).

In addition, the Action Against Sexual and Gender Violence, brought several prevention mechanisms, detailing factual problems versus practical solutions. Among the challenges exposed and the solution presented, one can mention the previously mentioned issue, called “survival sex”, or sex for survival and how the delivery of supplies on time, by the partners and the organization itself, avoids the practice of “trading favors” (UNHCR, online).

Another point highlighted in the document by the High Commissioner is the integration of the community with the refugees, such as partnerships with religious groups, youth clubs, sports associations, professional training institutions, training and leadership development.

FINAL CONSIDERATIONS

In view of the above, when analyzing the international concept of refugee, it is verified that despite the 1991 Guidelines pointing to gender violence as one of the faces of persecution, no changes occurred in the text written by the 1951 Convention, or with the new wording of the Refugee Statute in 2002, leaving, therefore, the refugee woman in the shadows of the International Community and adrift of mere interpretations regarding the legal text.

Despite the efforts of the United Nations High Commissioner to effectively protect refugee women, it is understandable that little has been done, given the challenges experienced by these women who, upon leaving their country, due to the Organization’s lack of effectiveness in providing a safe host environment, often also abdicate hope for a better future.

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