



CADERNOS DE DEREITO ACTUAL

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© **Cadernos de Direito Actual** N° 24. Núm. Ordinario (2024), pp. 56-70  
·ISSN 2340-860X - ·ISSNe 2386-5229

## **Migrants' human rights in Brazil: state of the art\*** *Direitos humanos dos migrantes no Brasil: estado da arte*

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**Summary:** 1. Introduction. 2. Methodological procedures. 3. Migrants' human rights: a brief synthesis. 4. State of the art from 2012 to 2023: general characteristics of the studies. 5. Conclusion. Bibliography.

**Abstract:** The article examines the Brazilian academic production on migrants' human rights, focusing on postgraduate programs in Law. A mapping of available doctoral theses and master's dissertations was conducted using the CAPES (Brazil's Coordination for the Improvement of Higher Education Personnel) Theses and Dissertations Catalog, employing entries such as "migrants", "immigrants", "refugees" and "stateless persons", associated with "human rights" in the "Law" evaluation area. The state-of-the-art methodology enabled not only data collection but also contextualization and problematization of academic production on the subject. A total of 233 works were analyzed. The results reveal an increase in production in the second half of the 2010s, with emphasis on the Brazilian legal framework regarding migrants' rights, reflecting a growing engagement in the implementation of these rights at the local level, besides a rise in interest on environmental migrants from 2020 forward.

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\* This text was initially crafted as the culminating assignment for the course "Methodology of Scientific Research", instructed by Professor Dr. Luciano Athayde Chaves within the Master's program in Law at the Federal University of Rio Grande do Norte. I extend my profound gratitude for Professor Luciano's invaluable contributions to both my academic and personal growth, without which the completion of this article would have been unattainable.

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Recibido: 08/04/2024

Aceptado: 25/05/2024

DOI: 10.5281/zenodo.11305367

**Keywords:** human rights; migrants; refugees; stateless persons; state of the art.

**Resumo:** O artigo examina a produção acadêmica brasileira sobre os direitos humanos dos migrantes, com foco nos programas de pós-graduação em Direito. Realizou-se um mapeamento das teses de doutorado e dissertações de mestrado disponíveis no Catálogo de Teses e Dissertações da CAPES, utilizando termos como "migrantes", "imigrantes", "refugiados" e "apátridas", associado a "direitos humanos" na área de avaliação "Direito". A metodologia de estado da arte permitiu não só a coleta, mas também a contextualização e problematização da produção acadêmica sobre o tema. Foram analisados 233 trabalhos. Os resultados revelam um aumento na produção na segunda metade da década de 2010, com destaque para o marco legal brasileiro sobre os direitos dos migrantes, refletindo um crescente engajamento na implementação desses direitos em nível local, além de um aumento no interesse em deslocados ambientais a partir de 2020.

**Palavras-chave:** direitos humanos; migrantes; refugiados; apátridas; estado da arte.

## 1. Introduction

Contemporary migration movements have sparked growing interest from academia across various fields of knowledge, such as sociology, anthropology, international relations, and law. This global phenomenon generates, among other things, obligations for states that stem from international norms, notably those concerning human rights. These obligations have spurred researchers to explore the complexities associated with migrants' human rights.

In the field of law, attention is directed, among other things, towards the adequacy and effectiveness of national and international legal frameworks governing migrants' rights. Research involving migration issues is necessarily dynamic and interdisciplinary, meaning it must engage with various areas of knowledge. This multidisciplinary approach underscores the importance of understanding not only the legal aspects but also the social, cultural, and political dimensions related to contemporary migration movements.

In Brazil, studies on the human rights of migrants have gained prominence in the face of significant events, particularly from the second half of the 2010s onwards. Before that, however, the year 1997 represented a crucial milestone: with the promulgation of the Public Law no. 9,474/97, also known as the Refugee Statute, Brazil began to establish guidelines for the protection and reception of individuals seeking refuge in the country, expanding the hegemonic definition of refugee in international law. This made Brazil a leading reference in the protection of the rights of the refugee population.

In 2017, the Brazil Migration Statute (Public Law no. 13.445/17) revoked the old Foreigner Statute and consolidated a more human rights-centered approach, considering human mobility in its various forms and reaffirming the commitment to promoting and protecting migrants' rights. Furthermore, it partially distanced itself from the security-related perspective that stemmed from the laws of the dictatorial period.

The emergence of various migratory flows to Brazil, notably but not limited to those of Bolivians, Haitians, Syrians, and Venezuelans, underscores the need for studies on the subject, especially regarding the realization of the rights of this population. These analyses provide a broader understanding of the legal, social, and humanitarian complexities involved, enabling the formulation of more effective public policies and the promotion of a fair and compassionate state response to the challenges presented by migratory movements

Thus, stemming from legislative innovations and the need for rapid responses to humanitarian crises generating massive migratory flows, a research area related to migrants' human rights has been developing and strengthening on the national scene. From this, arises the issue: what has been produced on migrants' human rights in the Brazilian academia, notably in *stricto sensu* postgraduate programs?

In this context, this article aims to analyze and map the academic production found in Brazil's Coordination for the Improvement of Higher Education Personnel (CAPES) Theses & Dissertations Catalog (therefore referred as the "CAPES Catalog"), in the "Law" evaluation area, related to migrants' human rights, in order to understand the main trends and gaps in research on this topic.

To achieve this purpose, it is essential to go through several steps, namely: determine the appropriate methodological protocol for analyzing the mapped works; briefly study the foundations of the migrants' human rights; and finally, gather the relevant theses and dissertations on the topic of migrants' human rights in the "Law" evaluation area in the CAPES catalog, identifying the characteristics specified in the methodological protocol.

For the fulfillment of the objectives, the article is structured into three sections, apart from the introduction and the conclusion: the first one outlines the adopted methodological procedures, the second one consists of brief comments on the topic of migrants' human rights; and the third one, the presentation and analysis of the data and results.

The research is justified primarily by the scarcity of "state of the art" studies in law, and, in this case, in international human rights law produced in Brazil. In preliminary research, it was found that the mapping developed in this research has never been conducted before in the country.

Furthermore, this study is fundamental in light of the increasing migratory flows and contemporary social transformations. The analysis of previously conducted research can not only inform public policies, judicial practices, and academic debates on the protection of migrants' rights, but can also shed light on topics that are still underexplored.

Nevertheless, there is a notable presence of numerous scientific works dedicated to the analysis of the protection of migrants' rights in various contexts. However, there is still no overview of what has already been researched in the country on this topic.

Moreover, it is relevant to highlight that the researcher is a member of the research group on International Human Rights Law and People in Vulnerable Situations (DIDHPSV) and the Observatory of International Law of Rio Grande do Norte (OBDI), both affiliated with the Federal University of Rio Grande do Norte and registered in the Directory of Research Groups (DGP) of the National Council for Scientific and Technological Development of Brazil (CNPq). Additionally, this article stems from the research project entitled "International Human Rights Law and its Implementation in the Domestic Sphere".

Nonetheless, the Sustainable Development Goals (SDGs) of the UN's 2030 Agenda, specifically Goal 10 (Reduce inequality within and among countries), emphasizes the importance of attention to migrants, as established in target 10.7. This target stipulates that states should "Facilitate orderly, safe, regular, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies". In light of this, it becomes evident that the migration issue holds high relevance on the public agenda, increasing the importance of its investigation. In this context, the expectation is that this research will stimulate academic debate on the topic and, indirectly, contribute to the enhancement of protection for this specific group, prompting an increase in the number of research endeavors.

## 2. Methodological procedures<sup>3</sup>

This study employs mixed methods<sup>4</sup>, as it starts with a quantitative analysis of the found productions and transitions to a qualitative study of Brazilian production in general. It has a basic nature<sup>5</sup>, as it does not address any specific problem. Regarding to its objectives, the research can be considered exploratory<sup>6</sup>. The predominant procedural technique is bibliographic research<sup>7</sup>, especially the literature review<sup>8</sup> of the 'state-of-the art'<sup>9</sup> type, which is the most suitable for addressing the chosen problem. The 'state of the art' technique allows the researcher to map what has been produced on a certain topic, making it evident what the trends and gaps are, and how events impact scientific production<sup>10</sup>.

Thus, the theses and dissertations available in the CAPES Catalog<sup>11</sup> were selected using the search entries "human rights" + "migrants"; "human rights" + "immigrants"; "human rights" + "refugees"; and "human rights" + "stateless persons", all within the filter "Area of Evaluation: Law"<sup>12</sup>. The entries were chosen to encompass the main groups and categories of migrants, and the evaluation area was the chosen filter for the mapping. Future research could delve into how this topic is addressed in different areas of knowledge. The material collection procedure took place between September and December 2023.

<sup>3</sup> The methodological protocol adopted in this study was inspired by that developed by Aline de Barros Vidal Gonçalves and Adriana A. Dragone Silveira in their study on the production related to the enforceability of the right to basic education in Brazil GONÇALVES, A. B. V.; SILVEIRA, A. A. D. "A exigibilidade do direito à educação básica no Brasil: estado da arte de teses e dissertações de 1988 a 2018", *Revista Educação e Políticas em Debate*, n. 10, v. 2, 2021, pp. 936–954.

<sup>4</sup> According to John W. Creswell, mixed methods research involves the use of a combination of quantitative and qualitative approaches. CRESWELL, J. W. *Projeto de pesquisa: métodos qualitativo, quantitativo e misto*, Artmed, Porto Alegre, 2010, p. 238).

<sup>5</sup> Basic research aims to contribute to the advancement of science, unlike applied research, which is intended to solve specific problems. HENRIQUES, A.; MEDEIROS, J. B. *Metodologia científica na pesquisa jurídica*, Atlas, São Paulo, 2017, p. 102.

<sup>6</sup> Exploratory research aims primarily to develop, clarify, and modify concepts and ideas, with the goal of formulating more precise problems or researchable hypotheses for subsequent studies GIL, A. C. *Métodos e técnicas de pesquisa social*, Atlas, São Paulo, 2008, p. 27.

<sup>7</sup> According to Antônio Carlos Gil, bibliographic research is conducted based on elaborated material, consisting mainly of books and scientific articles. GIL, A. C. *Como elaborar projetos de pesquisa*, Atlas, São Paulo, 2002, p. 44.

<sup>8</sup> A literature review serves several purposes. It shares with the reader the findings of other studies closely related to the one being conducted. It connects a study to the broader and ongoing dialogue in the literature, filling gaps and expanding on previous studies. It provides a framework for establishing the significance of the study and also a reference point for comparing the results with other findings. CRESWELL, J. W. *Projeto de pesquisa: métodos qualitativo, quantitativo e misto*, Artmed, Porto Alegre, 2010, p. 51.

<sup>9</sup> The state-of-the-art literature review aims to map and discuss a specific academic production across various fields of knowledge, attempting to answer which aspects and dimensions have been highlighted and privileged in different times and places. It explores how, in what ways, and under what conditions certain master's dissertations, doctoral theses, journal publications, and conference proceedings have been produced. These reviews are also recognized for employing an inventorying and descriptive methodology of academic and scientific production on the investigated topic, using categories and facets that characterize each work individually and collectively. Under these categories, the phenomenon is analyzed. FERREIRA, N. S. A. "As pesquisas denominadas 'estado da arte'", *Educação & Sociedade*, n. 23, v. 79, 2002, p. 258.

<sup>10</sup> VOSGERAU, D. S. R.; ROMANOWSKI, J. P. "Estudos de revisão: implicações conceituais e metodológicas". *Rev. Diálogo Educ.*, v. 14, n. 41, 2014, pp. 165–189.

<sup>11</sup> Available on the website <https://catalogodeteses.capes.gov.br/catalogo-teses/#/>.

<sup>12</sup> Since the research was conducted in Portuguese, the actual entries were "direitos humanos", "migrantes", "imigrantes", "refugiados", e "apátridas". The filter was "Área de Avaliação: Direito". We chose to present them in English for the reader's convenience.

Based on the selected criteria, 233 works were chosen for analysis, comprising 33 doctoral theses and 200 master's dissertations. The products identified through the mentioned descriptors were listed in a spreadsheet, with each row including the following information about the work: authorship, title, thematic group, year, academic level (master's or doctoral), supervisor, author's university, type of university (public or private), program concentration area, region, keywords, as well as the availability for downloading the work in a PDF file.

The 233 selected works on the theme of migrants' human rights were organized into twelve thematic groups for better evaluation: 1) International Migration Law, encompassing works dealing with international norms safeguarding migratory flows and the rights of migrants and refugees, as well as the application of human rights treaties in a broad sense to this specific group and institutes inherent to international law; 2) regional systems for the protection of human rights and international organizations, highlighting the role of these institutions in safeguarding migrants' human rights; 3) statelessness, comprising productions specifically dedicated to this particular group; 4) environmental displacement, concentrating on works connecting environmental and climate-related themes with forced displacement of people; 5) Brazilian legal framework, the group with the largest quantity of texts, compiling works dedicated to understanding the role of the Brazilian State in safe-guarding migrants' human rights, as well as studying notably Brazilian strategies, such as the *acolhida humanitária*; 6) migrant workers, with theses and dissertations seeking to understand the specificities of this group; 7) migration and social rights, compiling works that discuss migration in relation to themes such as the right to health, education, and social security; 8) migration and situations of vulnerability, focusing on works dedicated to studying the intersections of migratory situations with other vulnerability situations, such as gender, sexual orientation, childhood, and disabilities; 9) Venezuelan migrants, with researches dedicated to understanding the specificities of the largest group of migrants in vulnerable situations currently in Brazil; 10) migrants from other origins, encompassing studies aimed at understanding the specificities of different groups of migrants, such as Haitians, Bolivians, Senegalese, etc.; 11) philosophy and sociology of migrations, a group composed of predominantly theoretical works that engage with these areas of knowledge, and finally, 12) others, encompassing works without thematic affinity with the other groups.

### **3. Migrants' human rights: a brief synthesis**

Before delving into the analysis of the data obtained from the research in the CAPES Catalog, we are interested in providing a brief introduction to the theme of migrants' human rights. In this context, international migration emerges as a central theme in international politics, challenging the traditional conception of the State. International mobility conflicts with the traditional idea of the connection between nation, territory, and state power. The migrant, by challenging these ideas, opens up space for an alternative configuration of the world, marked by deterritorialization, border permeability, and "hybridization of identity". Their very existence questions the liberal conception of state sovereignty<sup>13</sup>.

Although some aspects of migration are covered in existing instruments of International Law, primarily in specific treaties addressing refugee issues and migratory governance, there is still a lack of a comprehensive framework within the UN system that addresses migration as a whole. Thus, until a specific universal international instrument is created to regulate issues related to migration, people in situa-

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<sup>13</sup> DI CESARE, D. *Estrangeiros Residentes: uma filosofia da migração*, Âiyné, Belo Horizonte, 2020.

tions of international mobility, especially the vulnerable ones, rely on the general protection provided by the human rights treaties of the United Nations (UN) system<sup>14</sup>.

The Universal Declaration of Human Rights (UDHR), proclaimed in 1948, recognizes the right to freedom of movement and the right to emigration, but does not explicitly guarantee the right to immigration<sup>15</sup>. Nonetheless, it affirms, in abstract terms, the right to asylum. Despite this, some researchers have been defending the recognition of a "*jus migrandi*", which would be the human right to migrate. This perspective is advocated by them as an existential and political act<sup>16</sup>.

On another note, the Sustainable Development Goals (SDGs) of the 2030 Agenda have emerged as a pivotal focus within the United Nations, with particular attention on target 10.7, which endeavors to foster safe and orderly migration. This crucial goal has served as a catalyst for the creation of the Global Compact for Safe, Orderly, and Regular Migration<sup>17</sup>, representing one of the cornerstone treaties in contemporary international migration governance.

More specifically, when we talk about the issue of refugees, the 1951 Convention Relating to the Status of Refugees is a crucial legislation, as it provides a general definition of refuge and refugee, and imposes significant obligations on states, albeit limited. Article 22 of the Convention stipulates that refugees should receive treatment equivalent to that of nationals, and if such treatment is not possible, it requires that treatment be as favorable as possible. Additionally, the Convention ensures non-discrimination, equal treatment for refugee workers, and rights related to housing, public assistance, labor protection, and social security.

Additionally, it's worth noting that several other international agreements, including the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), and a multitude of conventions established by the International Labour Organization (ILO), delve into the protection and promotion of migrants' rights. These documents collectively contribute to the comprehensive framework for safeguarding the rights and well-being of migrants worldwide. All migrants, regardless of their legal status, are entitled to the protection afforded by these instruments. However, in the ICESCR, certain provisions outline the gradual allocation of rights. For instance, Article 2(3) grants developing countries the discretion to determine the extent to which they will ensure economic rights recognized in the Covenant for non-nationals<sup>18</sup>.

When addressing the protection of migrants' labor rights, a thorough examination of the standards set forth by the International Labour Organization (ILO) is paramount. Notably, three conventions play a significant role in ensuring the right to work for migrants: Convention No. 97, Convention No. 111, and Convention No. 143. These conventions serve as essential frameworks for establishing guidelines and principles aimed at safeguarding the labor rights of migrants across different contexts and regions.

Convention No. 97 of the ILO requires that states ratifying it establish governmental measures to support migrant workers, prohibiting any form of discrimination or unequal treatment regarding public services and the workplace. Convention No. 111 of the ILO reiterates this purpose by prohibiting any type of distinction or discrimination concerning employment or occupation. In addition to the previ-

<sup>14</sup> MOREIRA, T. O. *A Concretização dos Direitos Humanos dos Migrantes pela Jurisdição Brasileira*. Instituto Memória, Curitiba, 2019, p. 175.

<sup>15</sup> MOREIRA, T. O. *A Concretização dos Direitos Humanos dos Migrantes pela Jurisdição Brasileira*. Instituto Memória, Curitiba, 2019, p. 175.

<sup>16</sup> DI CESARE, D. *Estrangeiros Residentes: uma filosofia da migração*, Âyné, Belo Horizonte, 2020, p. 14.

<sup>17</sup> SOLOMON, M. K.; SHELDON, S. "The Global Compact for Migration: From the Sustainable Development Goals to a Comprehensive Agreement on Safe, Orderly and Regular Migration". *International Journal of Refugee Law*, v. 30, n. 4, 2018, pp. 584–590.

<sup>18</sup> MATTILA, H.S. "Protection of Migrants' Human Rights: Principles and Practice", *International Migration*, n. 38, 2001, pp. 55-56.

ously mentioned conventions, Convention No. 143 of the ILO, which has not been ratified by Brazil, specifically focuses on migrant workers in irregular situations. Apart from prohibiting discrimination in the treatment of these individuals, the Convention also demands that member states develop policies to regularize their status and proposes sanctions for labor traffickers and employers who exploit the vulnerability of irregular migrants to subject them to illegal conditions<sup>19</sup>.

Additionally, within the UN system, there are at least two agencies with exclusive mandates focused on the protection of refugees. The United Nations High Commissioner for Refugees (UNHCR) serves as a central authority in addressing refugee issues globally. Specifically, the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) is tasked with providing assistance and protection to refugees originating from Palestine, offering vital support and services to this distinct refugee population in the region.

Moreover, within the broader scope of migration, the UN system has another agency dedicated to the protection and management of migrants. The International Organization for Migration (IOM) serves as the primary UN agency focused on addressing migration-related challenges worldwide. With a mandate spanning a wide range of migration issues, including migration management, such as migration and development, facilitating migration, regulating migration, and forced migration; as well as humanitarian assistance, and migration policy development, the IOM plays a crucial role in promoting the well-being and rights of migrants across various regions and contexts<sup>20</sup>.

Regionally, to understand the protection of human rights in the Americas, it is essential to consider the Inter-American System of Human Rights (IASHR), which includes specific norms for the continent's reality. The Organization of American States (OAS) plays a crucial role in protecting the human rights of migrants through norms that emphasize that this protection is not linked to nationality. The implementation of the Inter-American Plan for the Promotion of the Rights of Migrants is a milestone, but most instruments are declaratory in nature, making it difficult to enforce these rights<sup>21</sup>.

Latin American and Caribbean countries have regionally adopted the Cartagena Declaration of 1984, the Decennial Declarations of San José on Refugees and Displaced Persons, and other initiatives to strengthen the protection of refugees<sup>22</sup>. The Cartagena Declaration, in particular, expanded the concept of refugee, recognizing the status for those who fled their countries due to threats to life, security, or freedom caused by violence, aggression, internal conflicts, or massive human rights violations<sup>23</sup>.

The foundational treaties of the OAS, the American Declaration of the Rights and Duties of Man (American Declaration), and the American Convention on Human Rights (Pact of San José, Costa Rica), as well as the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (or Protocol of San Salvador), also establish rights for the migrant population within the regional scope.

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<sup>19</sup> VILAS BOAS, M. S.; DANIELE, A. L. W. S; PAMPLONA, D. A. "Direito Humano ao Trabalho: políticas públicas para a inserção dos imigrantes, refugiados e apátridas no mercado de trabalho na região sul do país", in: ANNONI, D. (Coord.). *Direito Internacional dos Refugiados e o Brasil*. Coord. Gedai/UFPR, Curitiba, 2018, pp. 231.

<sup>20</sup> IOM. "Who We Are". *International Organization for Migration*. [no date]. Available in: <https://www.iom.int/who-we-are>.

<sup>21</sup> MOREIRA, T. O. *A Concretização dos Direitos Humanos dos Migrantes pela Jurisdição Brasileira*. Instituto Memória, Curitiba, 2019, p. 112.

<sup>22</sup> CANÇADO TRINDADE, A. A. *Princípios do direito internacional contemporâneo*. FUNAG, Brasília, 2017, pp. 418-419.

<sup>23</sup> CARVALHO RAMOS, A. "Asilo e Refúgio: semelhanças, diferenças e perspectivas", in: ALMEIDA, G. A.; CARVALHO RAMOS, A.; RODRIGUES, G. (Org.), *60 anos de ACNUR: perspectivas de future*, Editora CL-A Cultural, São Paulo. 2011, p. 26.

Additionally, the bodies that comprise the Inter-American System of Human Rights play a crucial role in ensuring rights, particularly in the realm of state accountability. These include the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR). Both have played an immensely significant role in safeguarding the human rights of migrants in the region.

In the advisory and contentious jurisdiction of the IACtHR, numerous decisions and advisory opinions have been issued regarding the human rights of migrants in the region. Interpretations provided by the Inter-American Court of Human Rights establish responsibilities and prerogatives related to migrants<sup>24</sup>.

Through Advisory Opinion OC-16/99, for example, the Court determined that States must adopt affirmative measures to eradicate practices that infringe upon fundamental rights, while ensuring consular assistance to foreigners.

Advisory Opinion OC-18/03 underscores the imperative for immigration policies to uphold human rights, emphasizing the vulnerability of migrants and the imperative of safeguarding them against discrimination, particularly in the workplace and access to justice. This encompasses, among other things, the prohibition of denying educational access to this demographic.<sup>25</sup>

Advisory Opinion OC-21/14 emphasizes the safeguarding of the rights of migrant children, covering access to justice, asylum, and the prevention of arbitrary detention. Finally, Advisory Opinion OC-25/18 outlines rights and duties related to asylum, prohibiting forced repatriations and ensuring equitable procedures for determining refugee status, without distinction and even beyond national borders.

In contentious cases judged by the Inter-American Court, various protection standards and rights related to migrants have been established and reiterated. In decisions such as *Tibi v. Ecuador* and *Acosta Calderón v. Ecuador*, the Court affirmed the right of individuals deprived of liberty to be informed about their right to contact family members, lawyers, or consular representatives before giving a statement.

The case of *Yean and Bosico v. Dominican Republic* underscored the significance of nationality as an inherent right of individuals, emphasizing states' responsibility to prevent statelessness and safeguard all individuals, irrespective of their origin. Additionally, in the *Case of Vélez Loor v. Panama*, the Court reiterated the necessity of guaranteeing due process of law for both nationals and migrants, highlighting principles of equality and non-discrimination, along with the critical importance of access to justice and legal assistance.

In other important decisions, such as *Nadege Dorzema y otros v. Dominican Republic* and *Familia Pacheco Tineo v. Bolivia*, the IACtHR emphasized the obligation of States to prove the absence of racial discrimination, as well as the right to asylum and non-extradition for political reasons. In the *Case of Dominican and Haitian Expelled Persons v. Dominican Republic*, the Court insisted on the need for an individual assessment of the circumstances of each individual subject to expulsion, condemning immigration policies based on arbitrary detentions.

Cases like *Wong Ho Wing v. Peru* highlight the Court's emphasis on the principle of *non-refoulement* in situations involving the risk of torture or the death penalty in another country. Similarly, the Court reiterated the crucial importance of due process for all migrants, particularly children, including notification and the opportunity to appeal unfavorable decisions in cases such as *Roche Azaña and others v. Nicaragua* and *Habbal and others v. Argentina*. These rulings underscore the Court's dedication

<sup>24</sup> Regarding the Inter-American protective standards on international human mobility, see DANTAS, B. L.; MOREIRA, T. O. "Desenvolvimentos recentes na proteção interamericana dos migrantes: um estudo à luz dos casos Roche Azaña y otros vs. Nicaragua e Habbal y otros vs. Argentina", *Revista Jurídica da UFERSA*, n. 13, v. 7, 2023, pp. 186-207.

<sup>25</sup> MOREIRA, T. O.; COSTA, A. C. F. "Direito Internacional à educação como ferramenta emancipadora dos imigrantes em situação de vulnerabilidade", in: BORGES, A. W.; GASPAR, R. A. *Uma Leitura do DIN a partir do Sul: Direito, Globalização e Cidadania*, LAECC, Uberlândia, 2022, pp. 111-129.

to protecting the human rights of migrants and ensuring their equal treatment under the law. Most recently, the Court addressed the principles of equality and non-discrimination in the case *Hendrix v. Guatemala*.

Discussions regarding the human rights of migrants in Brazil are still in their early stages and frequently approached from a security-oriented standpoint<sup>26</sup>. Although there has been legislative advancement concerning migration-related matters, dedicated national programs tailored to the international migrant population are yet to be implemented<sup>27-28</sup>.

The 2017 Brazilian Migration Statute (Public Law no. 13.445/17) represented an advancement by replacing the *Foreigner Statute*, a law from the Brazilian dictatorial period that had a perspective detached from human rights. The new law acknowledges the universal rights of migrants, based on international obligations assumed by Brazil, and ensures equality in treatment and opportunities for migrants and their families, as described in Article 3.

This legislation provides specific guarantees, such as access to public services, the right to education, and labor protection, prohibiting discrimination based on nationality and migratory status. Additionally, since 1997, Brazil has adhered to the principles of the 1951 Geneva Convention and its 1967 Protocol, incorporated by the *National Refugee Statute* (Public Law No. 9,474/94), considered a global reference in Refugee Law. The Refugee Statute introduced “durable solutions”, such as the issuance of documents and local integration through work, aligning with UNHCR proposals to address the refugee issue in various legal, economic, and social dimensions<sup>29</sup>.

While laws and treaties delineate obligations and rights, it is scientific research that underpins the development of legislation and public policies, as well as the evaluation of the practical impact of these norms. Thus, we proceed to analyze the mapping conducted on the theses and dissertations available in the CAPES Catalog.

#### **4. State of the art from 2012 to 2023: general characteristics of the studies**

Although no temporal limit was defined for the collection of works, the first study available in the database dates back to 2012. The temporal distribution of the 233 works started with 1 in 2012, 49 in 2019, which was the period with the highest annual production recorded, and 15 in 2023, representing a steep decline in the production on the topic.

These data show a significant increase in production in the second half of the 2010s, perhaps due to the massive influx of Venezuelan migrants to the country in 2016 and the publication of the Migration Statute in 2017, but also a significant decline from 2020 onwards, especially in 2023, that had a 57,14% decrease in production compared to the previous year. Perhaps due to the COVID-19 pandemic and the consequent decrease in mobility, interest in migrations may have decreased. It will be necessary to continue monitoring interest in the field to confirm this.

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<sup>26</sup> Regarding the issue of integrative policies in Brazil: GUERRA, S.; CHALOUB, L. “Brazilian's integration policies and the public budget: a study of the main intersection factors within the migration governance framework”. *Cadernos de Direito Actual*, n. 19, 2022, p. 56-74.

<sup>27</sup> In 2024, several municipal, state, regional, and thematic conferences are scheduled to take (and have already taken) place with the aim of composing the II COMIGRAR (National Conference on Migration, Refugee, and Statelessness). One of the main objectives of the conferences is the elaboration of the National Policy on Migration, Refugee, and Statelessness, provided for since 2017 by the Migration Statute, but not yet implemented.

<sup>28</sup> OLIVEIRA, D. A. “O imigrante na política educacional brasileira: um sujeito ausente”, *Praxis Educativa*, n. 15, 2020, p. 10.

<sup>29</sup> BARRETO, L. P. T. F.; LEÃO, R. Z. R. “O Brasil e o espírito da Declaração de Cartagena”, *Forced Migration Review*. 2010, n. 35, pp. 45-46.

It is important to mention that one of the pioneering works in the field of migrants' rights was Liliana Lyra Jubilut's master's dissertation<sup>30</sup>, which did not appear in the search results. It can be inferred that this occurred because the production predates the implementation of the Sucupira Platform, the system which hosts the CAPES Catalog. That said, it is possible that other works may have escaped mapping because they were not included in the chosen database.

When examining the criterion of institutional origin, it becomes apparent that the private sector exhibits a higher production rate, accounting for 57.08%. Notably, the philanthropic and community-based private sector, characterized by its nonprofit nature, constitutes the primary source of the produced works, comprising 36.48% of the total.

Despite the collective contribution of state and federal public networks falling short of constituting half of the total productions, with 42,02% of the total, the federal public network stands out when analyzed independently, emerging as the second-largest contributor in terms of the sheer volume of works produced: 29,61%. This highlights the significance of the federal public network's role in the overall landscape of production within this context.

Regarding the production level, it's noteworthy that there are no works stemming from professional master's degrees. Instead, academic master's dissertations dominate the landscape with 200 submissions, accounting for 85.84% of the total output. This is followed by 33 doctoral theses, which comprise 14.16% of the works produced. This distribution underscores the prevalence of academic research and scholarly contributions within the analyzed context.

Another interesting piece of data concerns the concentration area of the studies. From the research conducted, it was possible to ascertain that, up to this point, there is no postgraduate program in law in Brazil with a concentration area dedicated to the study of migrants' rights. The concentration area most closely related to the theme is the one linked to the Master's program in Human Rights at the Federal University of Mato Grosso do Sul (UFMS), which is dedicated to the study of "Human Rights, State, and Border". In general, the works produced on the topic stem from concentration areas in international law or human rights.

When examining the geographical distribution of the works by region of the country, it is evident that the South and Southeast regions concentrate the highest number of productions, accounting for over 70% of the total. The Northeast region is the third largest producer, with 18.02%, followed by the Central-West, with 8.15%, and finally, the North region, with 2.57%, despite being one of the regions most impacted by migratory flows into the country. This is justified as the North region currently holds only 6 Postgraduate Programs in the Law evaluation area<sup>31</sup>.

These numbers reflect the proportion of postgraduate programs in law distributed across the country. Despite efforts to distribute programs evenly across different regions of the country and thus ensure access to postgraduate education for people residing in peripheral regions, the vast majority of postgraduate programs are still concentrated in the South and Southeast regions

In this regard, the research found that among the existing postgraduate programs in law in the country, those that produce the most studies on the subject at hand are the PPGD (postgraduate program in Law, acronym in Portuguese) at the University of São Paulo (USP), with 18 works, followed by the PPGD at UFMS, with 11 thesis and dissertations, and in third place, the PPGD at the Catholic University of Santos (UniSantos), with 10 studies.

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<sup>30</sup> JUBILUT, L. L. O Direito Internacional dos Refugiados e sua aplicação no ordenamento jurídico brasileiro. Dissertação de mestrado, Universidade de São Paulo, São Paulo, 2003.

<sup>31</sup> BRASIL. "Painel de Dados do Observatório da Pós-Graduação", Plataforma Sucupira. 2024. Available in: <https://sucupira-v2.capes.gov.br/sucupira4/painel/ReportSection5195196f249c6711e140>.

When it comes to the most engaged supervisors on the subject, the top three professors who supervised works on human rights of migrants were Ana Paula Martins Amaral, from UFMS, with 7 supervised works, followed by Liliana Lyra Jubilut, from UniSantos, and Giuliana Redin, from the Federal University of Santa Maria (UFSM), both with 5 works each.

Assessing the content of the works, the analysis of the keywords employed in the selected studies assumes importance due to its potential in highlighting the breadth of research, allowing the visualization of the theme beyond the title. The term "human rights" is the most recurrent, followed by "refugees" and "refuge". The presence of subthemes in the keywords is notable, such as "refugee women", "environmental displaced persons", and "Venezuelan migrants", as well as the reoccurring mention of the term "Brazil", indicating that the majority of research is centered on the country<sup>32</sup>.

To facilitate understanding of the most studied topics as well as existing gaps, the works were categorized into twelve thematic groups, considering that migratory studies are an extremely dynamic and interdisciplinary field, therefore categorization is somewhat imprecise. Nonetheless, based on the collected works, the mentioned list was developed, with the groups: **G1) International Migration Law.** Works that address international norms protecting the rights of migrants, refugees, and the application of human rights treaties in a broad sense to this group, exploring institutes of international Law. G1 was comprised of 41 studies; **G2) Regional Systems for the Protection of Human Rights and International Organizations.** Theses and dissertations that highlight the role of regional systems of human rights protection, international courts, and other international organizations in safeguarding the human rights of migrants. G2 was comprised of 12 studies; **G3) Statelessness.** Specific research on statelessness, addressing productions dedicated to understanding the peculiarities of this particular group of people. G3 was comprised of 8 studies; **G4) Environmental Displacement.** Concentrates works that explore the interactions between environmental and climatic issues and forced displacements of people. G4 was comprised of 18 studies; **G5) Brazilian Legal Framework.** Compiles texts dedicated to understanding the role of the Brazilian state in protecting the human rights of migrants, including strategies such as *acolhida humanitária*. G5 was comprised of 49 studies; **G6) Migrant Workers.** Theses and dissertations that seek to understand the particular characteristics of migrant workers, exploring their rights and challenges. G6 was comprised of 15 studies; **G7) Migration and Social Rights.** Works that address the intersection between migration and topics such as the right to health, education, and social security. G7 was comprised of 13 studies; **G8) Migration and Situations of Vulnerability.** Focuses on works that study the interactions between migratory situations and other forms of vulnerability, such as gender, sexual orientation, childhood, and disabilities. G8 was comprised of 26 studies; **G9) Venezuelan Migrants.** Research dedicated to understanding the specificities of the largest group of migrants currently in vulnerable situations in Brazil. G9 was comprised of 21 studies; **G10) Migrants from Other Origins.** Studies aimed at understanding the specificities of different migrant groups, such as Haitians, Bolivians, Senegalese, among others. G10 was comprised of 17 studies; **G11) Philosophy and Sociology of Migration.** This group comprises predominantly theoretical works that engage with the fields of philosophy and sociology, exploring fundamental concepts related to migration. G11 was comprised of 9 studies; **G12) Others.** This category encompasses works that do not fit thematically into the previous groups, exploring various perspectives and approaches in migration research, such as studies on

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<sup>32</sup> As in footnote 12, since the research was conducted in Portuguese, the keywords were translated into English for the reader's convenience.

Brazilian emigrants, as well as the role of a university outreach project in strategic litigation. G12 was comprised of 4 studies<sup>33</sup>.

The group with the highest number of works, totaling 49 productions, focuses on the Brazilian State's efforts to ensure the rights of the migrant population. This includes legislative efforts, with several works dedicated to studying the Migration Statute, as well as specific public policies. Additionally, there are studies on the challenges of migration regulation, Supreme Court decisions impacting the protection of this population, as well as works dedicated to the Brazilian institute of *acolhida humanitária*.

Although broader in scope, the thematic group on International Law of Migrants is only the second most numerous. This group contains works on R2P (Responsibility to Protect), more general works on the protection of migrants' human rights at the international level, as well as works that address specificities of treaties and documents, such as the 1951 Convention relating to the Status of Refugees, and the New York Declaration for Refugees and Migrants.

Although not the largest, the thematic group on environmental displacement gained volume from 2020 onwards, with only one work in the group produced before that year. The topic of environmental displacement is of utmost relevance in the current international relations arena, as it intertwines discussions on international migration governance and migrants' rights with environmental and climate discussions, which are currently at the center of international negotiations.

Aside from group 12, which compiles works not aligned with the other groups, the least expressive one is group 3, concerning statelessness. Despite being an extremely relevant topic in the realm of human rights, as it involves the total absence of ties with the State, its theoretical complexity may possibly be a deterrent to researchers' interest. That said, as a field of study, statelessness may be prominent, once it is not the most sought after.

On another note, considering only the migrant category (e.g., refugees, stateless persons, environmentally displaced people, migrant workers, etc.), the most specifically investigated category was undoubtedly the refugees, with 93 works dedicated to studying them. Followed closely, with 77 works, by the migrants *latu sensu*. In third place, corroborating the information regarding group 4, were environmental migrants, studied in 21 works.

Studies dedicated to exploring the specific role of the Inter-American System for the Protection of Human Rights were relatively scarce, representing only a small portion of the total analyzed works. Only eight studies focused on this regional human rights protection system in the Americas. This finding suggests that, despite the importance of the system in defending human rights in the region, there was limited interest among researchers in delving deeper into the functioning and effectiveness of this specific system. This gap may indicate a potentially fertile area for future research and more in-depth analysis on the subject.

Finally, it is worth mentioning the production of the Federal University of Rio Grande do Norte's (UFRN) PPGD, this study's host institution. So far, it has been identified the existence of 4 dissertations: one which addresses the international protection of migrant workers<sup>34</sup>, one aimed at understanding Brazilian migration legislation in light of the Inter-American System for the Protection of Human Rights<sup>35</sup>,

<sup>33</sup> It is important to note that a single work could be included in more than one thematic group. However, for the purposes of this work, this option was discarded. Therefore, to avoid imprecision, the works were allocated to the group that best represents their main objective.

<sup>34</sup> RODRIGUES, F. L. F. *A proteção internacional do trabalhador migrante frente ao direito brasileiro: avanços e lacunas na legislação e na efetivação dos direitos dos migrantes*. Dissertação de mestrado, Universidade Federal do Rio Grande do Norte, Natal, 2019.

<sup>35</sup> SILVA, T. R. *A (necessária) convencionalização da legislação migratória brasileira: uma análise da regulamentação da política migratória à luz do Sistema Interamericano de Proteção dos Direitos Humanos*. Dissertação de mestrado, Universidade Federal do Rio Grande do Norte, Natal, 2020.

one on the intersections between refuge and gender<sup>36</sup>, and finally, an investigation into the realization of the human rights of Venezuelan migrants<sup>37</sup>. Currently, at least one master's level work is being developed on the topic of human rights of migrants, specifically focusing on public policies instituted by the Brazilian State. In this institution, the most engaged advisor on the topic is Thiago Oliveira Moreira, with two completed supervised works and one in progress.

In general, it is observed that more works have been produced on the realization of rights than purely theoretical works, and there has been an emphasis on works with a focus on Brazil. This highlights an approach of the academia, particularly in law, an area historically more inclined towards theoretical studies, towards empiricism and understanding real-world issues.

## 5. Conclusion

International migration has become a key topic in global politics, challenging traditional state concepts and reshaping the global landscape. Despite some coverage in existing international legal frameworks, a comprehensive UN framework for migration is lacking. Consequently, individuals, particularly vulnerable ones, rely on broad UN human rights treaties for protection. This underscores the need for enhanced legal mechanisms to address the complexities of global migration. Therefore, comprehending the specificities of the scientific research developed in this area is essential.

The mapping of the production of theses and dissertations on the topic of migrants' human rights from 2012 to 2023 revealed a significant increase in interest in this subject, particularly in the second half of the 2010s, and a slight decline starting in 2020 (despite the significant increase in research on environmental displacement from this same period). This movement is possibly due to the fact that during the same period of increased production, there were also numerous massive migration flows to the country, as well as legislative changes, particularly with the publication of the Migration Statute in 2017.

Furthermore, a significant portion of the studies focuses on understanding the challenges and contributions of the Brazilian State, as well as the realization of rights outlined in international laws and treaties, rather than solely theorizing about them. Additionally, the majority of production is centered in non-profit private universities, followed by federal universities.

Regionally, the concentration of research reflects the distribution of postgraduate programs in law. The vast majority of works come from the Southeast and South regions, followed by the Northeast and the Center-West - the only region hosting a law postgraduate program with a concentration area close to migration studies. There are few works produced in the North region, despite it being one of the most affected by migration flows.

In conclusion, the research emphasizes the importance of not only fostering production in peripheral regions but also expanding scholarly inquiries into critical themes such as statelessness, the philosophy and sociology of law concerning migrations, and the role of the Inter-American System for the Protection of Human Rights in advocating for migrants' rights. Further exploration of these areas is essential for a comprehensive understanding of the complexities surrounding migration and for the development of effective policies and interventions aimed at safeguarding the rights and dignity of migrants globally.

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<sup>36</sup> SILVA, W. M. N. P. *Mulheres e refugiadas: uma análise da proteção internacional dos direitos humanos conferidos às mulheres refugiadas sob a ótica interseccional entre gênero e refúgio*. Dissertação de mestrado, Universidade Federal do Rio Grande do Norte, Natal, 2021.

<sup>37</sup> CARDOSO, J. L. M. S. *Direitos humanos dos migrantes venezuelanos e sua efetivação pela justiça federal brasileira no contexto da pandemia da Covid-19*. Dissertação de mestrado, Universidade Federal do Rio Grande do Norte, 2023.

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