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Public Policies to Unaccompanied Immigrant Children in São Paulo and Oslo

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MSc International Relations

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Declaration

I, Michelle Rodrigues Franco, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....

“Migration is inevitable, but the danger and discrimination experienced by refugee and migrant children doesn’t have to be.” - Laurence Chandy, director of data, research and policy for UNICEF

Acknowledgement

This master's thesis was for me as a long trajectory, a path full of challenges, uncertainties, joys and discoveries. As a researcher I found in my path people who are indispensable to follow it. And it is for them that I dedicate this project. In particular, my supervisor, Professor William Derman, who through his questions and critical and timely vision, guided by a scientific rigor and a real interest in the subject, contributed to the accomplishment of all the stages of this work.

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And finally, to God, my Lord, who gave me the life and opportunity to learn that faith in science makes us discover other realities.

Any errors are mine alone.

Michelle Rodrigues Franco, Oslo 10.06.2019

Abstract

In this Master thesis, the cities of São Paulo and Oslo are the points of study of Public Policies for unaccompanied minor asylum seeker (UMAs). São Paulo is the first city in Brazil to develop public policies for this population and Oslo is the city that receives most immigrants in Norway. This thesis explores how local governments deal with refugee children through their migratory policies from the perspective of children rights. Through interviews with public and private institutions that work with UMAs and documental analysis of laws and regulations, this study gained comprehension on how these local government respect children rights. In this research I used the CRC (1989) and the UN Guidelines for Refugee Minors to do the analysis of the children rights. This thesis research found how distinct types of public policies demonstrate the concern of the local governments have about the children rights. São Paulo still struggle with the lack of regulation, training of staff and prolonged period of analysis of applications of UMAs for asylum. But the city can count on independent initiatives of public and private institutions to give support to the children. In the case of Oslo, the large tradition of regulations on child reception guarantee that children have their rights respected. However, there is still differences in the treatment and reception of children younger than 15 years and the ones till 18 years old.

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1 Introduction

With the progression of the immigratory influx into countries around the world, countries and cities have developed public policies regarding the refugee minors. According to United Nations High Commissioner for Refugees (UNHCR), in the end of 2017, 68.5 million individuals were forcibly displaced worldwide because of persecution, conflict, or generalized violence, 52% were children (UNHCR, 2018a). These governments and their cities saw the need to prepare to receive these refugee minors, offering protection and integrate them. But building specific public policies for this population, and, at the same time, respect the children rights of these refugees, can be a challenge to governments around the world.

UNHCR (2019) presents data demonstrating that:

“Over half of the world’s refugees are children. Many will spend their entire childhoods away from home, sometimes separated from their families. They may have witnessed or experienced violent acts and, in exile, are at risk of abuse, neglect, violence, exploitation, trafficking or military recruitment” (UNHCR, 2019).

Public Policies for refugee minors bring together two different fields: the field of children’s rights and the field of public policies for child immigrants. Knowing public policies that are in place regarding receiving refugee minors, will allow us to observe how the children's rights are applied in these policies.

Inside this group, refugee children, the most vulnerable is the unaccompanied minor asylum seeker, that in this study will be referred to as UMA. In this thesis, I have chosen to focus on UMAs because their vulnerability makes them particularly exposed to varied types of violations of their rights, and bigger obstacles concerning integration into new societies.

This research aims to identify and understand the local public policies focused on UMAs in the cities of São Paulo and Oslo. I relate these initiatives to respect for the international rights of children. For this I propose an analysis of the legislation and public policies applied in each city, regarding the asylum application process. The focus of this dissertation is justified by the need to establish the protection of UMAs as a fundamental human rights issue, guaranteed by internationally agreed principles. It is necessary to know more about the participation of the municipalities, in the effective access of the UMAs to their rights through local public policies.

The governments decided to make international agreements to guarantee the human rights of immigrants and refugees. The Convention relating to the Status of Refugees was a historical frame, adopted on 28 July 1951 by the United Nations Conference of

Plenipotentiaries on the Status of Refugees and Stateless Persons. In the Convention, the Preamble reads as follows: “The High Contracting Parties, this convention was signed and ratified by Considering that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavored to assure refugees the widest possible exercise of these fundamental rights and freedoms”. In 1967 the Protocol relating to the status of refugees was created, in accordance with the Convention of 1951. 146 countries are signatories of this treaty, among them Brazil and Norway. The treaty governs specific aspects of refugee problems, and also establish a universal definition of a refugee and incorporate the basic rights and duties of refugees.

The declaration of the Rights of the Child serves to protect UMAs. The Declaration of The Rights of the Child (1959), in its principle 9, states that the countries have the duty “to protect the children against all forms of neglect, cruelty and exploitation. The child shall not be the subject of traffic, in any form” (UN, 1959, p.1). It is the duty of the states to guarantee the physical and emotional well-being of each child and each adolescent migrant.

Another agreement is the Convention on the Rights of the Children – CRC (Assembly UN, 1989) that in article 20 states that “A child temporarily or permanently deprived of his or her family environment, shall be entitled to special protection and assistance provided by the State”. It’s crucial that countries allow the entry and registration of children and adolescents as a prerequisite for the performance of adequate evaluation procedures to provide protection and care, determining the best interest of the child and adolescent.

However, the enforcement of these international agreements is still a challenge in the signatory countries. Some scholars affirm that human rights treaties are quite weak at changing domestic behaviors. Compared with other international institutions, the formal enforcement mechanisms in place regarding the international human rights are rather weak, especially because the institutions created to verify whether states are complying with a treaty, frequently operate on a system of self-monitoring (Hill, 2010).

International organizations agree that the countries should protect refugee children. Based on international agreements about the protection of children rights, organizations such as Unicef defends that it is up to States and the society to provide prioritized protection and immediate attention to children and adolescents during their migratory transit (Quintero, 2018). However, persistent violations of UMAs rights, makes us reflect on the protection of the rights of these minors. It is the duty of the states to guarantee the security of each refugee child through their laws and public policies.

Public policies on the national level contribute to the defense of the rights of their population. These policies are actions taken by the government, they are guaranteed by the Constitution and affirmed by society and/or public authorities as new rights for people and communities. Vázquez & Delaplace (2011) explain that “Public Policy is a collection of procedures that includes government allocation of inputs (financial, human, information, etc.).

On the local level, the municipalities/cities’ governments have a significant role in the direct supply of public goods and services and in the stimulation of social participation. The municipalities also develop local public policies with focus on the sustainability of the local governments (Ferreira, 2000). Usually UMAs are sent to areas where there are government personnel and procedures to deal with them. This means mainly cities, it is in the cities where the population is affected the most by the government's actions, it is in cities and municipalities that communities normally organize themselves, their members interact with each other, for different reasons: affective, informative, economic, social and other; express common forms of understanding (Klering & Schröder 2008). When local governments develop local public policies for minor immigrants, they also decide how these policies will be applied.

In summation, in this study I will provide a context for public policies for unaccompanied minor asylum seekers (UMAs), on a local level, in the cities of Oslo and Sao Paulo.

1.1 Presentation of research questions

To operationalize this research, this research question was elaborated:

“In what way are children's rights respected in the elaboration of public immigration policies in São Paulo and Oslo for unaccompanied minor asylum seekers?”

It was important to understand what the migratory policies for unaccompanied minors in Brazil and Norway are in their main cities, Oslo and São Paulo, and if they are directly related to the international rights of the child established by the Convention of the Children Rights, a treaty that is enforced, and ratified in both countries.

In that sense, we could characterize policies for UMAs in these cities as part of the foreign policy of their states. This is because these practices are a demonstration of the respect these countries have for the international agreements signed by these states. As Reis (2011) explains, immigration policies are an important concern for countries like Brazil, because it is important to be in line with international agreements the country has signed (Reis, 2011, p.49).

Therefore, I constructed another sub-research question that helps to complement this study:

“What are the main policies for the reception of UMAs in the cities of São Paulo and Oslo related to children rights?”

1.2 Relevance for the field minor’s immigration

Migration is an ancient phenomenon on all continents. The issue that we raise in this study is how local governments deal with the children migrations and what migratory policies are created so that the UMAs can entry in these countries and have their children rights respected.

Public policies are necessary for the protection of the rights of UMAs. United Nations Refugee Agency estimated in December 2017 that there were 173.800 UMAs in the world looking for refugee in a different country. This number is based on new applications of asylum-seekers that the organization has access to from reports of 67 countries (UNHCR, 2018a).

In this research we had the opportunity to clarify what the public policies for reception of unaccompanied minor immigrants are in Oslo and Sao Paulo.

We analyzed if the actions taken are based in the children rights approved by UN in 1959 and were the base of the Convention of Children Rights from 1989. The main rights cited are the rights to freedom, education, protection and social respect. We also will use the UNHCR Guidelines on Refugee Children “Refugee Children – Guidelines on Protection and Care”, in our analysis of application of observance of children rights. The guideline has a goal to secure the protection of the refugee children and helping countries of origin and countries of asylum to understand what UNHCR is trying to do for refugee children and why.

The creation of public policies aimed at UMAs has been a challenge for the cities. According to UN (2016), international migration is a global phenomenon where its complexity and impact are broadly felt. Researches related to international migration have been done by the academia in various disciplines such as Economics, Sociology, Geography, and Demography with the aim of theorizing the causes and effects of migration (Prakash, 2009). International immigration has raised issues about the state sovereignty.

There is an extensive debate about the limits of state sovereignty. While some authors argue that globalization restricts or renders concepts of national sovereignty and citizenship more fluid (Adler & Rubenstein, 2000), others believe that current immigration policies are proof that states have been following the changes (Menz, 2009).

São Paulo and Oslo has local policies for UMAs. The discussion about policies for immigrants is complex, but cities as São Paulo and Oslo developed specific policies for their populations of UMAs. This subject of immigration policies is part of a contemporary line of

research in the field of international relations. This subject matter involves reflections about sovereignty of states. Some authors define policies for immigrants as norms and practices adopted by an estate with the objective of influencing in the volume, origin and internal composition of migratory fluxes (Czaika & De Haas, 2013, p.5). In this view the state is the main actor, and to them the most important aspect is the immigration flows, not the immigrants.

However, other authors have a more humanistic view. These authors believe that immigration policies is a set of actions by the government that not just regulate the entry of immigrants in a country, but also has as objective to regulate the interaction between the estate and the immigrant in the national territory and all the social, economic and cultural implications that comes with that. Zolberg (2006) explains: “The relevant policies cover acquisition, manutention, loss or voluntary renounce of citizenship in all their aspects – political, social, economic and cultural”. (Zolberg, 2006, p.11).

Thus, these reflections take us to specific a research question that will lead us to focal points of this study, determine the methodology, and guide us during the analysis of the problem.

1.3 Presentation of the study

In the next chapters we will examine whether the local policies for UMAs recognizes the principles described in the Convention on the Rights of the Child (1989) in the cities of São Paulo and Oslo.

The diversity of the immigrants and their legal, economic and social conditions show the complexity of the phenomenon and ask for different policies, specially the UMAs, and it is this that we will present in the study, we are interested to know more about the local public policies for UMAs and how it is linked with the children rights, they can clarify how the local governments can protect UMAs.

This study is a result of a process of research in two cities in different countries, Brazil and Norway, and this research is divided into six chapters. Chapter 2 will provide a theoretical background about the children rights, and the understanding of public policies for refugees and immigrants. Chapter 3 will present the procedures of the first asylum for unaccompanied minors in São Paulo and Oslo. In chapter 4, the methodology is presented. Chapter 5 is the analysis of the data from Oslo and São Paulo and the results. The last chapter is the main findings and reflections about this research.

2 Theoretical Background

2.1 Refugee children

What is the international concept of refugee? UN defines a refugee as a person who leaves his or her country of origin or habitual residence because of a well-founded fear of persecution on the grounds of race, religion, nationality, social group or political opinion, as well as serious and widespread human rights violations and cannot or does not want to accept the protection of that country (UNHCR, 2018a).

War and local conflicts are one of the main reasons for displacement. The report “Global Trends- Forced displacement in 2017” (UNHCR, 2017) shows that at the end of 2017, about 68.5 million people, “were forcibly displaced worldwide as a result of persecution, conflict, or generalized violence” (UNHCR, 2017, p. 1). This includes 40 million internally displaced people (IDPs), 25.4 million refugees and 3.1 million asylum-seekers.

Even if it is a phenomenon that affect almost all countries in the world, some specific countries are more known for their internal and external displacement than others. 68% of the world's refugees come from five countries: Syrian Arab Republic (6.3 million); Afghanistan (2.6 million); South Sudan (2.4 million); Myanmar (1.2 million); Somalia (986,400) (UNHCR, 2018a).

In South America, Colombia is the country with the most internally displaced persons in the world in 2017, with 7.7 million people, mainly because of the conflict with the FARC (UNHCR, 2017).

Today Venezuela is the country with the highest number of external immigrants in South America, the number of Venezuelan refugees and migrants in the world has reached three million, as jointly announced by the United Nations Agency for Refugees (UNHCR) and the International Organization for Migration (IOM). The countries of Latin America and the Caribbean host 2.4 million Venezuelan refugees and migrants. Brazil received 85,000 refugees from Venezuela in the last 2 years, according to both UN agencies. (UNHCR, 2018a)

Among minors in situations of forced displacement, UNHCR (2017) estimates that there are 173.800 unaccompanied or separated children in the world.

Experience has shown that children are affected by migration in diverse ways: Children are left behind by migrant parents; they are brought along with their migrating parents; and they migrate alone, independently of parents and adult guardians.

As we saw in the last chapter, the number of immigrant children in the world correspond to over half of the immigrants, and their rights must be respected, regardless of their legal status whether they are refugees, asylum seekers or UMAs.

The UN Refugee Agency recommends that the governments embrace the principle of child care and protection. The United Nations Convention on the Rights of the Child (CRC) states that: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” (CRC, 1989, article 3).

The human rights protect the refugee even if they are out of their origin country. The universal declaration of human rights says that “everyone has the right to leave any country, including his own, and to return to his country (Article 13, UDHR). This right guarantee that all human beings are endowed of rights and freedom and cannot be deprived of their freedom. However, as Nash points out (2015) that the it is precisely because migrants and human rights are deterritorialized that it is so hard to construct the notion that migrants as worthy of human rights.

2.1.1 Denial of refugee rights

The human and children rights of UMAs must be respected. All individuals are attributed human rights. However, the respect of refugee rights, especially minors, are not frequently respected in many countries. The rights of immigrants most commonly disrespected are: denial of right to leave country; criminalisation of travel without documents; detention without judgement; sanctions against people and companies that are helping; human rights violations in camps (Kate Nash (2015, Chapter 7, pp. 138–141).

Other authors also denounce the denial of rights for immigrants and refugees. “migrants are routinely treated in a way which arguably negates their human dignity or appears discriminatory” Marie-Bénédicte (Dembour, 2015, p. 1)¹.

According to Dembour migrants are primarily human beings and should be protected. But this does not happen, and she gave examples of cases where children are looked on as people who threaten the state instead of human beings.

¹ Marie-Bénédicte Dembour is a professor of Law and Anthropology at University of Brighton. In her book “When Human become Migrants”, she makes a distinction between the European Court of Human Rights (ECtHR) in Strasbourg, and the Inter-American Court of Human Rights (IACHR), in her research on the two regional human rights courts where she examines court cases. Dembour denounces the ECtHR’s approach that treat migrants as “aliens” who are subject to the control of the state (2015, p. 8). Dembour makes the claim in her analyses that the Inter-American Court of Human Rights has a more *pro-homine* approach (2015, p.7).

In other articles, Dembour (2010, 2012) contests the procedures the UMAs receive to assure their ages, particularly in European countries. According to Dembour, UMAs are referred to the local authority to ensure that their needs of support, accommodation, education are met. The type of education, and accommodation depends on the age of the child. She claims that children should get the benefit of doubt relating to their claimed age, unless there is any incontrovertible evidence showing they are a different age.

Dembour says that the cases sometimes take too long and when the cases are finished, in many cases, the minors are already more than 18 years old. They then need to prove that they were under 18 when their process started. The researcher also said the medical evidences used by the countries are not conclusive. Consequently, in some cases, minors are treated in a way that is inappropriate for their ages. And their specific rights not attended.

2.2 UNHRC guideline for refugee reception

To improve and enhance the protection and care of refugee children, UNHCR has adopted a Guideline. The UN Guideline is a Policy on Refugee Children, endorsed by the UNHCR Executive Committee in October 1993.

The definition of Unaccompanied Refugee children and the responsibility of states is given by UNHCR Guidelines (1994). UMA is a person who is under the age of eighteen years, unless, under the law applicable to the child, majority is attained earlier and who is “separated from both parents and is not being cared for by an adult who by law or custom has responsibility to do so.” (UNHCR, 1994, p.121). The guideline recommends that “because of his/her vulnerability, an unaccompanied child seeking asylum should not be refused access to the territory and his/her claim should always be considered under the normal refugee determination procedure” ((UNHCR, 1994).

The framework of “Refugee Children – Guidelines on Protection and Care” (1994) helps define the parameters for policies and actions that must be developed by states at the local level. The guideline has a child rights-oriented framework for the design, development and implementation of law, policies, practice and services. The basic premises of the framework follow the four principles of the Convention on the Rights of the Child (non-discrimination; best interests of the child; life, survival and development; and child participation).

2.3 United Nations convention of the children rights

Before the creation of the Convention on the Rights of the Child (CRC) there were already international agreements related to the UMAs. The 1951 Refugee Convention and the 1967 Protocol of Refugees set rules that can be applied to children: (1) a child who has a "well-founded fear of being persecuted" for one of the stated reasons is a "refugee", (2) a child who holds refugee status cannot be forced to return to the country of origin (the principle of non-refoulement), and (3) no distinction is made between children and adults in social welfare and legal rights (UNHCR, 2018b, p.4).

With the ratification of the CRC, most of the countries looked for a change in the way children were treated. According to the CRC, children should be treated as human beings, with a distinct set of rights instead of as passive objects of care and charity (UNICEF, 2019). The CRC is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children. It was implemented in 1989 and it has been ratified by 196 countries, with United States as the only UN member not included (UN, 2017).

CRC is a universal treaty. Because of its scope and number of countries that ratified this document CRC has status of universal treaty. It is important especially for UMAs because all aspects of children life are covered (UNHCR, 1994, p.9), not all countries have laws that determine these rights. CRC cover the children rights for education (Art. 28), health (Art. 4) and social and politics rights (Art. 27). Some of the standards are specific, for example there are "rights against discrimination" (art. 2).

The CRC brings an innovative approach to children rights. Children don't have just needs, but also rights that should be respected. The three rights that are the base of CRC are: the "best interests" rule, non-discrimination, and the right to participate (UNHCR, 1994, p.8). These rights form what is known as "The Triangle of Rights". The objective of the triangle is to support the other rights and get the "the survival and development" of children (art. 6).

Image 1: UNHCR Approach to protect refugee children



Source: UNHCR Guideline, 1994.

The CRC has 54 articles that reaffirms the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to particular care and assistance.

2.3.1 Some important data regarding UMAs

According to Unicef (2018) in the end of 2016 there were 28 million, or 1 out of 80 children in the world, were living in forced displacement - this includes 12 million child refugees and child asylum seekers, and 16 million children living in internal displacement due to conflict and violence. These numbers do not include 7 million children internally displaced by natural disasters.

In 2014, 28 percent of all detected trafficking victims were children (20 percent girls and 8 percent boys). Other fundamental data showed by Unicef (2018) was that at least 300.000 unaccompanied and separated children who moved across borders were registered in 80 countries in 2015 and 2016. Some of the compelling causes of displacement are the internal conflict in the countries (Unicef, 2018). Around the world, almost 1 in 10 children live in countries and areas affected by armed conflicts, and more than 400 million live in extreme poverty.

But when these children flee, they can be an issue to the new countries. Over 100 countries are known to detain children in immigration detention. Another terrible consequence for these minors is that they are forced to stop studying and their right to education is not always respected.

Unicef affirms that Refugee children are five times more likely to be out of school compared to other children (Unicef, 2018). Only 50 percent of refugee children are enrolled in primary school, and less than 25 percent of refugee adolescents are enrolled in secondary

school. This means that the unaccompanied refugee minors are an even more vulnerable group when we talk about education, because we saw that the average age of children that fled alone was between 14-17 years old. The data of Unicef (2018) demonstrated that in this group, which according to their age should be in secondary school, just 25 percent get this right respected and can study.

The rights of the UMAs were also defined by Unicef in 1959. A child is a child, independent of his or her migratory status. Even when they flee, they do not lose their rights, because children`s rights are universal as recognized in the Universal Declaration of Human Right (Unicef, 1959).

UNHCR recommends that all policies regarding the refugee children made by states should be built upon the Convention on the Rights of the Child. The general comments of the CRC states that the realization of the rights of all children are related to developing the capacity of duty bearers to meet their obligations to respect, protect and fulfil rights (art. 4) (CRC/C/GC/13, 2011).

When a state builds its policies for children refugees based on the children rights this can strengthen the human rights and demonstrate the respect of the state for the rights of children and refugees.

2.4 Public Policies for refugees and immigrants

The growing influx of immigrants who cross borders from their countries require states to develop policies that can meet the demands and guarantee a dignified treatment to refugees. Public policies are of essential importance for the process of stabilization of a new group of people in a territory. Public policies involving issues of access to rights play a prominent role in understanding the public policies aimed at UMAs. According to Helbling et al. (2013) we can define immigration policy as government's statements of what the country intends to do or not (inclinations, decisions or orders) in regard to the selection, admission, settlement and deportation of foreign citizens residing in the country, including UMAs (Helbling et al., 2013, p.5).

In this same perspective, Rua (2009) defines public policies as “outputs, resulting from political activity” (Rua, 2009, p.20). The author also makes a distinction between public policy and a political choice. “A public policy generally involves more than one decision and requires several strategically selected actions to implement the decisions made. A political choice corresponds to a choice between a range of alternatives, according to the hierarchy of the preferences of the actors involved” (Rua, 2009, p.20).

Public policies and forms of governance are related and demonstrate how the implementation of human rights are handled by a government.

According to Perruchoud (2018) at IOM Glossary on Migration, the governance to migration is:

“The combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (sub-national, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation.” (Perruchoud, 2018, p. 43).

IOM defines migration policy as a law that affects the movement of people. To IOM migration policy includes policies regarding “travel and temporary mobility, immigration, emigration, nationality, labor markets, economic and social development, industry, commerce, social cohesion, social services, health, education, law enforcement, foreign policy, trade and humanitarian” issues (Perruchoud, 2018).

In 2015 IOM elaborated the Migration Governance Framework (MiGOF) to help the states to manage their migration policies. This framework has six dimensions of migration governance: Migrants Rights; Whole of Government Approach; Partnerships; Well-Being of Migrants; Mobility Dimensions of Crises; Safe, Orderly and Dignified Migration (IOM, 2015).

The management of public policies can affect immigration flows. Helbling & Leblang (2019) affirms that restrictive policies are not a guarantee that the immigration flows will decrease, because while policies have become more restrictive, immigration flows have still increased and this can be an effect of globalization that makes it difficult to the nations to prevent family members of labor migrants to ask for family reunion rights. Another unexpected effect is that strict asylum policies can reduce the number of new asylum seekers but at the same time lead to lower circulation of migrants by encouraging long-term settlement (Helbling & Leblang, 2019, p. 251).

To Helbling, immigration policies has as an objective to set limits to national membership and cultural belonging. To the author, cultural considerations can shape these policies (Helbling, 2013, p.28).

However, the main factors that affect the public policy in a state can vary from country to country. Howard (2009) says that countries with a colonial history and identity tied to liberal values, has more restrictive policies for immigrants, this can be justified by the theory defended by Timmer and Williams (1998) that says that income distribution and economic threat perception lead to more restrictive policies in developing countries.

Another study of Ramos, Matano, and Nieto (2013), demonstrated that the gap of wage between the national and foreign are smaller in countries that have less restrictive policies.

However, the inclusive or integrative policies do not necessarily change the level of trust of immigrants in a country as Dinesen and Hooghe (2010) present in their research. Other studies of authors as Helbling, Reeskens, Stark, Stolle, and Wright (2016) affirms that in countries where the policies are more generous for immigrants, we find the smallest gaps of engagement between foreign and nationals.

So, the existence of public policies for refugees can have effects on the influx of immigrants to the country, and this relates to the human rights that are included in these policies.

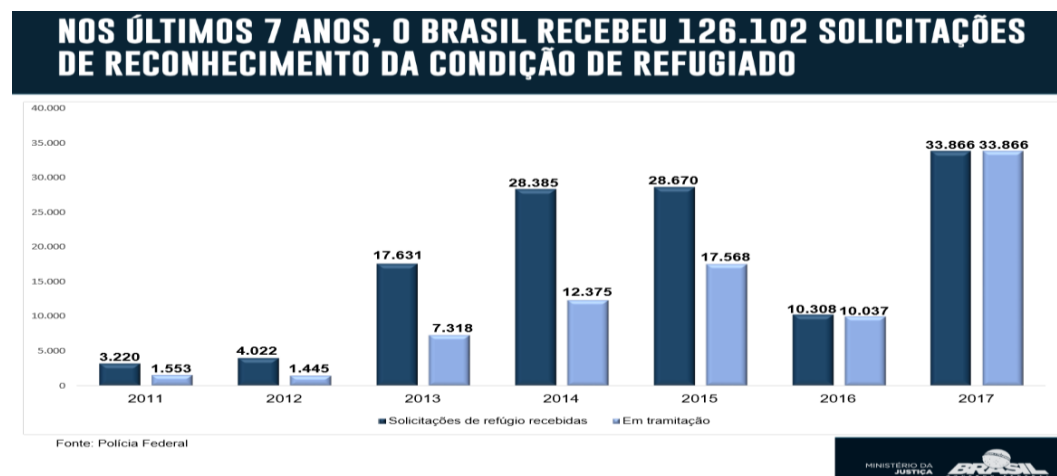
3 Contextual Framework

3.1 Brazil and São Paulo

The process of getting refugee status in Brazil is slow. Brazil is a country with 208,5 million of habitants as of 2017 (IBGE, 2018). According to data released by the National Committee for Refugees (CONARE), "Refugee in Numbers" (SNJ, 2018), Brazil has recognized a total of 10.145 refugees of different nationalities by the end of 2017 and received 33.866 applications of asylum seekers. Another important data from this report, is the fact that of the applicants that received recognition as refugee, 14% were in the age between 0-12 years and 6% between 13-17 years old.

This report used Federal Police data to reveal that between 2011 and 2017, the country received 126.102 solicitation of asylum seekers, and more than 80 thousand applications were still in process without a resolution.

Image 2: from 2011-2017 Brazil received 126.102 solicitations. Dark blue number of solicitations / clear blue solicitations still in process.



Source: SNJ Report (2018). Federal Police Data

However, Brazil hit a new record in the number of requests for refuge in 2018. In the first seven months of the year there was 41.915 requests, surpassing the total for the entire year of 2017 (Arcoverde, Sousa, & Salerno, 2018).

In a presentation in the Civil House about refugee numbers for Brazil in December of 2018, the Federal Police reported that, by the end of November 2018, there were 56.261 requests for refuge and 39.692 applications for residence in Brazil (Casa Civil, 2018).

This presentation also showed that most applicants in 2018 were Venezuelans, with 32,361 applications, far surpassing the Haitians, who came next, with 3,129 applications. Cuba, China and Bangladesh complete the list of the five countries with the most requests.

São Paulo is the city in Brazil that receive most refugees. In 2017, 9.591 of all asylum seekers (33.866) were living in São Paulo (SNJ, 2018).

Finding a safe shelter in São Paulo can be a challenge for refugees. The government of São Paulo have few shelters to receive and allocate refugees, while they wait for the answer of their applications. Most of these places also serve as shelter for the homeless population in the city. This arrangement has caused a conflict between the two groups, and danger for UMAs (Araujo, 2018).

Today there is 540 beds for refugees and immigrants spread out over 4 different shelters in Sao Paulo. Half of these places are supported by the catholic church in the city and receive support from the Municipal Department of Social Assistance and Development. There are 9 other shelters in the city from Caritas in Sao Paulo, but they are supported by private organizations and catholic churches without participation from the municipality (Caritas, 2019).

3.2 Norway and Oslo

Norway has 5,6 million habitants, and in 2017 the Statistics Data of Norway (UDI, 2017), showed that the country received 3.560 asylum applications for refuge, in 2017 the country guaranteed 3.832 asylums, and 409 asylums on base of humanitarian grounds (UDI, 2017).

In 2018, statistics of UDI (UDI, 2018b) demonstrated that 2.655 asylum seekers were lodged in Norway. Of these, 791 were children between 0-17 years, 40% were girls and 60% boys. (Annex 1).

The 422 Norwegian municipalities are sovereign to decide the number of refugees who may settle there in any year. The Norwegian Directorate of Integration and Diversity (IMDi) also reports that by the end of 2018, the municipalities were asked to settle 5.350 refugees, unaccompanied minors accounted for 270 of them (IMDi, 2018).

According to Statistics Norway, the Norwegian immigrant population in 2017 was 16.8% of the country's total population, including both immigrants and children born in Norway with 2 immigrant parents. (UDI, 2017).

In 2017, the 10 most common countries of origin of immigrants residing in Norway and associated refugee population numbers (UDI, 2017) were: Poland (97.196); Lithuania

(37.638); Sweden (36.315); Somalia (28.696); Germany (24.601); Iraq (22.493); Syria (20.823); Philippines (20.537); Pakistan (19.973); Eritrea (19.957).

The data of The Directorate for Integration and Diversity (IMDi) demonstrated that the municipality of Oslo was requested to settle 811 refugees in 2015, of which 40 unaccompanied minors; 1.000 in 2016 of which 108 unaccompanied minors; 850 in 2017 of which 30 unaccompanied minors; In total, Oslo municipality has settled 3.861 refugees in the past five years (IMDi, 2018). In 2018 the city of Oslo decided to settle 350 refugees, and the municipality already decided to settle 250 refugees in 2019 (IMDi, 2019).

3.3 Unaccompanied Minor Asylum Seekers

To UNHCR the basic guiding principle in any childcare and protection action is the principle of the “best interests of the child” (Guideline on policies and Procedures in dealing with Unaccompanied Children Seeking Asylum - UNHCR, 1997). This principle has fundamentals in the Convention on the Rights of the Child, Article 3 paragraph 1 that says: “In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” (Assembly UN, 1989)

The fact that this was pointed out in its Guideline on policies and Procedures in dealing with Unaccompanied Children Seeking Asylum, means that UNHRC defends an effective protection to unaccompanied children “in a systematic, comprehensive and integrated manner” (UNHRC, 1997, p.2).

The UN agency’s definition of an unaccompanied child is “a person who is under the age of eighteen, unless, under the law applicable to the child, majority is attained earlier, and who is “separated from both parents and is not being cared for by an adult who by law or custom has responsibility to do so” (UNHCR, 1997).

The countries that are members of the UN are recommended to not refuse an UMA seeking asylum in its territory, because of the fragility and vulnerability of his or her situation. With the high number of minors that are UMAs, the process of determining refugee status should be tailored to the particularities and rights of the child.

3.3.1 Brazil

In Brazil, the applicant for the recognition of refugee status is a person who requests the competent authorities to be recognized as a refugee but has not yet had his or her request

deliberated by the National Committee for Refugees (CONARE, 2019). In Brazil, 20% of the applicants that received refugee status were between 0-17 years old in 2017 (Casa Civil, 2018).

Brazil approved the Act no. 99.710 of November 21, 1990, which promulgates the Convention on the Rights of the Child. Article 1 of this Act guarantees that the Convention on the Rights of the Child will be executed and fulfilled completely.

In its preamble, the convention states that the child needs special protection. "As stated in the Declaration of the Rights of the Child," the child, because of his lack of physical and mental maturity, needs special protection and care, including due legal protection both before and after his birth." (UN, 1989)

Brazil ratified the convention, that in article 22 determines:

“States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties”. (UN, 1989).

3.3.2 Norway

The Directorate of Immigration in Norway (UDI, 2003) use the definition of an Unaccompanied minor asylum seekers as a person that are under the age of 18, and who came to Norway without their parents to apply for asylum protection.

Norway follows the immigration Act of 1988, which determines that in the country they do not make a distinction based on the age of refugees for application process purposes. However, in cases where the children have faced fear of persecution, death, torture, and other cruel or inhuman treatment in their home countries, they are already entitled to asylum in Norway. This determination is in accordance with the Convention on the rights of Children article 20: “A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State. (UN, 1989)

Statistical data of UDI in 2018 on January - December 2018: Asylum applications of UMAs (first application) lodged in Norway showed that 159 minors applied, and from those, 79 had favorable decisions, 4 were rejected, and the others received different kind of resolutions, between them 6 dismissed, and 25 has no resolution yet (see annex 2). The gender composition indicates that 88% of asylum-seekers in Europe who claimed to be UMAs were

boys in 2017 (See annex 3). According to the Agency Eurostat most of UMA applicants in Europe were between 16 – 17 years old. (EMN, 2018).

The number is not high, but they are part of a vulnerable group that need their specific rights respected by the states, especially by those that signed The Convention on the Rights of the Child, and Norway is one of those countries.

3.4 Migratory Policies

When we see the immigration scenario in the world it is important to understand the responsibilities of the States and the laws that these countries have in place for immigration. But what is a migratory policy?

In the first Chapter we saw that some authors such as Zolberg have a humanistic definition of a migratory policy and see it as a set of government actions to regulate the entry, stay and exit of foreigners from national territory. In his view, the central object of the Migration Policy is the foreign citizen (in national territory) and the national citizen that are not in the national territory (Siciliano, 2013). According to this vision the Migration Policy is the State action in the regulation of its bond with the foreign citizens who are in its territory, and national citizens that are under the jurisdiction of another State. Zolberg (2006) explains the concept of international migration:

"Is an essentially political process, as the relevant policies cover not only the regulation of movement across state borders but also the rules governing the acquisition, maintenance, loss or voluntary renunciation of citizenship in all its aspects - political, social, economic and cultural "(Zolberg, 2006, p.11).

The right to leave any country is recognized under international human rights law, the Article 13 of the Universal Declaration of Human Rights (1948) states that “everyone has the right to leave any country, including his own, and to return to his country”. The International Covenant on Civil and Political Rights (ICCPR, 1966) transpose this statement into a human rights responsibility for states, when in its Article 12 affirms that “everyone shall be free to leave any country, including his own”. However, this statement is not an obligation for the states to accept all immigrants. The Article 12(3) ensure the states’ right of elaborating restrictions provided by law which are necessary to protect national security, public order, public health or -morals, or the rights and freedoms of others, and are consistent with the other rights recognized in the Covenant. The ICCPR was signed by 175 countries and has been ratified by 169 states.

In this work we understand that in the migratory policy of a country we must consider fundamental elements such as: citizenship and the laws that decide on the condition of granting citizenship to foreigners, and the rights they will have access to. These elements can vary among countries, and each country has its own migratory policy.

The Border control process is correspondent to the migratory policy of a country. Aristide Zolberg, says the best question is not "who are we going to admit?" But "why do we not admit the entire world?". The author argues that strict border control is justified by the fear the destination countries have of being devastated by a massive influx of migrants in search of work, social benefits and security. "There is no denying that movements towards the target countries will be extremely large" (Zolberg, 2006, p. 456).

The frontier is related to power relations established internationally. Zolberg clarifies that if there were no frontiers, this would break the current power relations that currently exist because: "restriction for immigration prevails in the world because it is sine qua non for the maintenance of the Western international system of states and for the maintenance of the privileged position of the central states in highly unequal conditions". The author also says that Mercosur and the European Union suggest that the elimination of frontiers would stimulate world economic growth. (Zolberg, 2006, p.14).

About the border controls, Siciliano affirms (2013) "In fact, borders serve to prevent work from reaching the same value in all places, and to prevent people from poor countries from having access to the "public goods" of the main countries of destination" (Siciliano, 2013, p.12).

However, views like these from Zolberg has not been adopted by most countries for several reasons. Jonathon Moses (2006)² explains these reasons and shows examples as of the economist Milton Friedman, that says that the welfare state was incommensurate with free immigration. Another reason is that a rush of new immigrants could hypothetically undermine the hand-won civil liberties of citizens in the developed world. Questions about security of states and protection of property rights, or threat to democracy from immigrants with different political backgrounds are also demonstrated. Moses (2006) says that these reasons are "legitimate questions that need to be addressed" (p.79). The author explains that "larger

² Jonathon W. Moses is a Professor of Political Science at the Norwegian University of Science and Technology (NTNU). His research interests concern the impact of global economic integration on political sovereignty. In his book "International Migration" (2006) *Moses* makes a moral, political and economic arguments in favor of the free mobility of human beings across national borders.

migrant flows might require greater political adjustments” (Moses, 2006, p.80) and, in our consideration, also economic and social adjustments.

3.4.1 Migratory Policy in Brazil

Brazil deserves praise for its migratory policy. Brazil, since its discovery, has been directly linked to migratory processes with the entry of the Portuguese, and people from African countries who were forced to be slaves in Brazil. And at the beginning of the republican period, the country began to encourage the entry of immigrants, to stimulate the economy.

A new migratory movement wave has been occurring in the country since the 1950s. Brazil once again attracted the attention of immigrants, mainly from Europe and Japan, because of the Second World War (Figueredo, Zanelatto, 2016). Their descendants are considered Brazilians because the country apply the principle “jus soli”, that is the right of anyone born in the territory of a state to nationality or citizenship.

According to data from the Federal Police in Brazil (2018) there are around 1.2 million immigrants in Brazil. This number refers to non-Brazilian citizens registered till 2017, which compared to the total number of habitants, 208.5 (IBGE, 2017) millions, represents less than 1% of the total population.

Brazil is the only country that speaks Portuguese in South America, and when a refugee is looking for a new place to live, language and culture are aspect that also has influence in their choice of a new country.

Another crucial factor that can have impact over the number of immigrants in the country are the immigration laws that are in place. The most important law created till 2017 for immigrants in Brazil was the, “Immigrant Statute” law no. 6.815/1980, a conservative law, which was made during the military dictatorship (1964-1985) and saw immigration as a security issue to be tackled.

This old law, 6.815/1980, was marked by bureaucracy and the absolute power of the state to deal with the subject without hearing other actors. It restricted the freedom of migrants by prohibiting the rights of union activities and the right to free expression; That law was also selective regarding the economic conditions of the immigrant, to make it difficult to enter the country and get refugee status.

A new immigration policy started to be drawn up in Brazil. In 1997 the Brazilian government approved a specific law regarding refugees, Law no. 9.474/1997 (Law of Refuge). This law regulates the procedural aspects to obtain refugee status and even expands, in its first

article, the granting of such benefits to persons fleeing situations of "great and widespread" violation of human rights in their countries of origin (Valle, 2017).

This law was more advanced than the former law that exists till then, and served as a model for the countries of the region. However, because of the lack of regimentation of the "immigrant's statute" there was an overuse of the law of refuge (1997). Even in cases where a request for refuge would not be necessary because it was characterized as an economic immigration. Another issue was that "the refuge law" does not establish policies aimed at immigrants, it only refers to mechanisms to protect refugees and persecuted politicians (Figueredo & Zanelatto, 2016)

It was in this context that a group of civil society organizations in São Paulo presented five proposals for a new immigration law in accordance with the human rights perspective (Asano & Timo, 2017). The proposals were:

1. The guarantee of the human rights of migrants, without discrimination of any kind and regardless of the migratory situation;
2. The establishment of rapid, effective and accessible immigration regularization procedures as an obligation of the State and a right of the migrant;
3. The non-criminalization of migrations, including the principle of non-detention of the migrant for reasons related to their migratory situation;
4. Judicial control and access of migrants to effective remedies over all decisions of the public power that may generate violation of their rights;
5. The creation of an autonomous national institution, with a permanent and specialized professional body and mechanisms of supervision and social control, responsible for law enforcement (Asano & Timo, 2017).

This proposal was first presented in 2014 to the Brazilian government through a joint letter with about 40 signatures of civil society organizations. These organizations spoke with the political authorities in public meetings and international forums in the years that followed and promoted a broad debate in society through the publication of opinion articles and press releases.

Finally, in 2017, after some increments and the elimination of some points considered critical by the government, the new immigration law was approved. The New Immigration law n° 13.445/2017, that has a humanitarian aspect.

The result of all this work was the adoption of an innovative text that incorporated rights such as: (i) the principles of equality before the law and non-discrimination (including union association), (ii) de-bureaucratized and more accessible procedures for migratory

regularization , (iii) non-criminalization of migration and the right to ample defense (iv) humanitarian reception through the consolidation of the humanitarian visa policy (Brasil, 2017).

Another important item of the new law is the creation of an organization that will be the national civilian migratory authority, which is not a federal government security agency. At present, it is the Brazilian federal police that plays this role: "It is urgent in Brazil for the Federal Police to cease to be the main authority in charge of migration, since migration is a human right, not a police case" (Asano, 2017). The law passed in 2017, however, it still lacks regulation for the correct implementation. This regulation will ensure that the most humane views does not be eliminated. For example, it will protect immigrants from being criminalized for lack of documents or be deported without the opportunity to apply for asylum, especially in the border regions of Brazil.

3.4.2 Migratory Police in Norway

The Organization for Economic Co-operation and Development (OECD) demonstrated that over the last decade more than 58 million foreigners were living in the countries of the European Economic Area (OECD 2018, p.42). That is 11.5% of its total population. Two thirds of them are from non-European countries.

In January 2018 the "immigrant population" in Norway consisted of approximately 746.700 people, including 170.000 born in Norway to two immigrant parents. This corresponds to 14.1% of the total population (UDI, 2018). The city with the highest share of immigrants is Oslo (33.1%). Poland was the country of origin for the largest group of immigrants (UDI, 2018).

The migration policy of Norway has similarities with other north European countries, for example Sweden and Denmark.

Norway got its independence from Sweden in 1905 and at the same time started a tradition of receiving immigrants. "Nearly 850,000 Norwegians emigrated to foreign countries between 1825 and 1945, putting Norway second only to Ireland in terms of emigrants as a percentage of the population" (Cooper, 2005).

In the 1960s, the Norwegian economy had a high increase which led to the country accepting more immigrants from non-European countries, such as Pakistan, for labor purposes. In 1975 the country decided to elaborate its first legislation to control the entrance of immigrants in Norway.

Other forms of immigration got more popular as well, which had political consequences. There were public protests over the growing numbers of asylum seekers. Electoral support for the anti-immigration Progress Party confirmed xenophobic tendencies at this time. A new law was approved, The Immigration Act of 1988. The act provided permission of entry, a border and internal control mechanism, and a "sanctions system" for the cancellation of permits, rejections, and expulsions (Cooper, 2005).

The Norwegian citizenship was getting more difficult to obtain for foreigners. However, Norway in 1995 became a member of the Schengen Agreement. The Agreement facilitates the free movement of persons across the borders of European countries, except for Ireland and the UK.

Cooper (2005) explains that Norway's modern migration policy is based on the idea of the welfare state and has two basic principles: 1) immigration must be limited; and 2) all immigrants who are admitted to Norway should have equal legal and practical opportunities in society. These values demonstrate that there is a balance between human rights and control of borders in the country.

In 2017 new policy decisions changed the Norwegian migration policy structure that was established in the act of 1988. The Norwegian parliament, Stortinget, adopted new legislative amendments to ensure a more sustainable asylum and immigration policy that also represented a tightening of laws and the border control (Thorud, 2018). The regulation for unaccompanied minors also changed, the time limited residence permit for unaccompanied minors between 16 and 18 years was amended, from then the immigration authorities would have a list of factors that should be considered, when considering whether an unaccompanied minor should be given a time limited permit or not.

The unaccompanied minors “are accommodated either in special sections of a regular reception Centre or in a separate reception Centre for minors. The child welfare authorities are responsible for accommodating unaccompanied minors younger than 15 years in centers financed by and run under the supervision of the Ministry of Children and Equality. Residing in a reception Centre is voluntary, but it is a requirement for receiving subsistence support and pocket money” (UDI, 2018)

The new legislation is more specific about the detention of children. It says that this is to be used only as a last resort and for the minimal time necessary (UDI, 2018). The unaccompanied minor refugee can stay temporarily in Norway, in some cases until they become 18 years old or in other cases without a limitation of time, however it is necessary that they be recognized as minors. The new amendments can make this harder because most of the

minors come without any documentation and it depends on interviews, medical exams and subjective considerations if they will have UMA status or not.

The cities of Norway can themselves decide the number of refugees they will settle per year, except going over the total number the country has set. They receive a request from IMDi, concerning the number of settlements, but are not obliged to accept all the settlements suggested. These cities receive a grant from the government to compensate extra expenses (IMDi, 2018). In 2018, the grant for the five-year period is NOK 804.100 (about € 80000) for single adults and NOK 754.100 (about € 75000) for other adults, unaccompanied minors and other children under the age of 18. There are additional grants for unaccompanied minors, elderly and disabled persons. In 2017, 11.100 refugees were settled and provided with initial housing and integration support by the municipalities, a decrease from 15.300 in 2016. Of those 11.100, 750 were unaccompanied minors, compared to 1.600 the previous year (Thorud, 2018).

By the end of December 2018, 4.903 persons had been settled in Norway, UMAs accounted for 194 of them (IMDi, 2019), and the median waiting period in reception centers were between 4 and 5 months for all refugees (Thorud, E., 2018). To IMDi, the target is to settle UMAs within 3 months after their asylum application approval (IMDi, 2014). “The time limit has been important because of often poor living conditions in asylum centers and because of evidence that long-term integration into Norwegian society is negatively affected by delayed settlement in a local community” (Thorshaug et al., 2013).

We can see that the new political actions taken regarding the asylum processes and other international reasons, had effect on the drop of number of UMAs in Norway. In 2015 there were 5.480 new UMAs that applied for refuge in Norway (See annex 5), that number was down to 159 in 2018 (UDI, 2018).

3.5 Asylum Procedure in Brazil and Norway

3.5.1 Brazil

The structures responsible for immigration policy in Brazil are: 1. National Immigration Council (CNIg), which is a collegiate body, gathering 20 representatives divided into a quadripartite configuration. It is responsible for "formatting the national immigration policy." 2. Ministry of Foreign Affairs (MRE) who are responsible for issues related to visa applications of foreigners who are abroad, through Brazilian representations in other countries. 3. The Ministry of Justice (MJ) which has the responsibility of registering all the immigrants present in the country, through the registration of the National Registry of Migration (RNM) at the

Federal Police. And it is also responsible for procedures for the recognition of refugees and political asylum. 4. Federal Police (PF), which carries out immigration control at borders, but also acts as an intermediary between the foreigner in the country and the MJ for applications for residence visas, extensions and processing of work visas and applications for naturalization.

In Brazil, the system of procedures for refugees is governed by Law 9.474/1997 (Law of Refuge), this law determines how to proceed with the loss or acquisition of refugee status. The Brazilian Refugee Law considers every individual who leaves his or her country of origin due to well-founded fears of persecution due to race, religion, nationality, social group or imputed political opinions, or due to a situation of serious and widespread violation of human rights in their country of origin as a refugee (Brasil, 1997).

In Brazil, the National Refugee Committee (CONARE), is a body linked to the Ministry of Justice and composed of representatives of the Ministry of Justice, the Ministry of Foreign Affairs, the Ministry of Labor, the Ministry of Justice the Ministry of Education, the Federal Police Department and civil society organizations dedicated to assistance, local integration and protection of refugees in Brazil. International organizations such as UNHCR is also a non-voting member.

According to the Brazilian refugee law, the refugee applicant must be present in Brazil. After arriving in Brazil, the foreigner can, at any moment; seek a Federal Police Station or immigration authority at the border and expressly request to acquire the protection of the Brazilian government, if he considers himself to be the victim of persecution in his country (Brasil, 1997). Brazil follows the principle of non-refoulement, so the foreigner seeking refuge in Brazil cannot be deported.

Important aspects are: Unaccompanied minors under 18 will be assigned a responsible adult in court; In Brazil the request for refuge is free; Another key factor is that irregular entry into Brazil does not constitute an obstacle for the immigrant to seek refuge in the country.

The procedures for applying for the shelter are: The applicant must complete a refugee request form at a federal police station; after that, the police give out a provisional permit, valid for one year were the foreigner can stay in Brazil, renewable for another year, until the CONARE evaluates his case. this protocol serves as an identity document in Brazil. This document entitles you to other documents such as temporary permission to work and access to available public services, such as health and education (UNHCR Brazil, 2014). During the review period the refugee applicant will have the right to be personally interviewed by a county official, he is also entitled to an interpreter. The applicant may also request a second interview with the presence of his lawyer.

After collecting all the information brought by the refugee applicant, the application will be analyzed by the members of CONARE, who will decide whether the foreigner should be recognized as a refugee (UNHCR, 2014).

The law 9.474/1997 as we saw before is an advanced law, but some elements of the text such as the case of loss of refugee status, for example, which is referred to in article 39 of the law, open space for misinterpretation by authorities which demonstrates the instability of refugee law. As Leite (2014) says: "one should emphasize the existence of a great and profound heterogeneity of practice." (p.209). The federal police are a serious example of bad practices with immigrants. The institution has repeatedly been denounced for deportations without due process of law, lack of translators, and for having unprepared law enforcement officials not knowledgeable about refugee rights. "What should be highlighted is that maintaining an insufficient structure to meet a demand that is already recognized produces a chronic violation of the principle of the urgency of the refugee process" (Leite, 2014, p. 229).

3.5.2 Norway

In Norway the asylum process is governed by the Immigration Act of 15 May 2008 that was put into force in 2010. It regulates the rights of foreigners to enter, live and work in Norway.

The processes for asylum applications involves several agencies from the government such as UDI, Police Immigration Service, NOAS among others. The Directorate of Immigration (UDI) is subordinate to the Ministry of Labour and Social Inclusion and is Norway's central executive body for immigration and refugees (UDI, 2018). UDI works in accordance with the UN refugee Convention of 1951, and the criteria to give the status of refugee to an applicant follow the description of UNHCR (UDI, 2018).

For asylum applications the process starts with the registering of the application for asylum at the police station. The Police Foreign Unit is responsible for the registration of asylum seekers. After this initial procedure the asylum seeker is sent to an asylum reception center at Refstad in Oslo. The asylum seeker also must undergo a tuberculosis test, it is a compulsory test.

The Norwegian organization for asylum Seekers (NOAS) is the organization responsible for advocating for the rights of asylum seekers, so they provide information to the asylum seekers the first week they arrive in Norway, this includes an interview with NOAS staff member. It is also possible to have an interpreter present, but always in the language understandable by the asylum seeker.

Positive and negative answers from UDI regarding the application:

In case of positive answer, the refugee will be transferred to a municipality, and will have the right to learn the language, learn about the culture and life in Norway. However, when the application is rejected, the applicant has the right to file a complaint. If the complaint is also rejected, the applicant should return to their home country or make an appeal to the Immigrant Board (UNE). If the applicant decides to return within 3 weeks, it is established by law that he can receive support from the International Organization for Migration (IOM) which will assist him with the payment of the travel ticket. In case the person does not return voluntarily, the police will escort him back by force. (UDI, 2018)

In 2016 the asylum process in Norway had several amendments for stricter asylum regulations, as such: Refugee status and residence permits may be withdrawn once there is no longer need for protection; A requirement that both parties must be at least 24 years old is being introduced in family establishment cases. The purpose of this requirement is to combat forced marriage; The immigration authorities will be able to refuse an application for permanent residence if this would conflict with serious considerations relating to the regulation of immigration, for example, if the foreign national in question has actively obstructed attempts to clarify his or her identity since arriving in Norway (Regjeringen, 2018).

The Norwegian Government is making efforts to improve international coordination on migration issues. The government believes that the roots of the immigrations is the fragilization of the states:

“In September 2017, the Ministry of Foreign Affairs published a Strategic Framework for Norway’s engagement in Conflict Prevention, Stabilization and Building Resilience. This strategic framework will strengthen Norway’s overall engagement in vulnerable states. It provides guidance for development assistance as well as other means of support to and engagement with countries in fragile situations” (Thorud, 2018, p.88).

This action demonstrated the intention to reduce humanitarian vulnerability of the states that can force their populations to flee.

4 Methodology

In this study we did the research using complementary techniques: interviews and analysis of documents. These two methods corroborate with the information reached from the documents and help us produce comprehension about local public policies for UMAs.

This section will present the bases of the process that allowed the realization of the product. Reporting the research procedures offers us the chance to retrace our path and thus make a safer assessment that can provide a critical edge.

According to Gomes (2001) "The process of producing knowledge about the social world necessarily involves the re-elaboration of what we see, in the form of representations." Thus, scientific research helps us to understand the world, for through it we deconstruct the knowledge of the world and then we reconstruct it, so that we may know our object of study, and this reconstruction is based on knowledge linked to a praxis.

In sum, to produce science, we need to be supported by research techniques that help us to know our object of study.

4.1 Qualitative Interview as a Research Method

In this qualitative research we used qualitative semi-structured interviews as a technique to collect information about our research topic. Qualitative field methods are tools "for discovering and documenting the more microscopic types of social structure and process" (Lofland, 1974, p. 103). As a qualitative research we wanted to know how the encounters in the field interviews helped to build the perception for this research.

The data collection through documents was also used as a source for data in this study. They are important, especially in the case of public policies, where such policies can generate laws and regulations that prove their existence and their content.

Yin (2005) says that documents are important sources of data when their content serve to identify, verify and appreciate a scientific analysis. According to the author the use of research with documents helps to answer research problems, corroborating with evidence from other sources, besides deepening the knowledge about the studied subject. (Yin, 2005).

From the proposed objective, this study presents an inductive approach. This approach starts with a research question and aims and objectives that need to be achieved during the research process (Bryman, 2016).

4.2 Procedures of Data Collection

In this study the data obtained through the interviews are related to the opinions of the people interviewed, regarding the local public policies, and if they can recognize the remittance to the rights of refugee children in the policies developed.

Important factor was the availability, because we contacted the organizations and it was the organization who decided which representative that would talk about the subject. Below is the box with the name of each organization in Oslo and Sao Paulo:

OSLO	SÃO PAULO
Oslo Kommune – Språksenter Oslo	Coordination of policies for immigrants and promotion of decent work of the municipal department of human rights and citizenship of São Paulo.
The Norwegian Directorate For Children, Youth And Family Affairs (Bufdir)	The Center For Reference And Assistance For Immigrants (CRAI)
The Office For Children, Youth And Family Affairs (Bufetat)	Center For Human Rights And Immigrant Citizenship (CDHIC)
Refstad Transittmottak	Center For Support And Pastoral Of Migrants (CAMI)
Mysebu Statlige Transittmottak For Enslige Mindreårige	Coordination Of Policies For Children And Adolescents Of The Municipal Department Of Human Rights And Citizenship Of São Paulo (SMDHC)
Norwegian People’s Aid (Npaid)	
Byrådsavdeling For Eldre, Helse Og Arbeid (Oslo Kommune)	

The selection of informant in this study was based on the approach of sampling called “purposive sample”, which is a non-probability sample that is selected based on characteristics of a population and the objective of the study (Black, 2010). In this approach the idea is to gather varied information about the social phenomenon and with this information, help answer research questions.

The number of organization informants was considered satisfactory based on the purposive sampling criteria, financial resources and time.

The organizations that agreed to participate were informed by email and/or telephone about the thematic and objectives of the research before the interviews. Giving a introduction in advance was important because, as Selltiz et all (1987) explain, the interview has a much

broader response rate, since it is more common for people to agree to talk about certain subjects they are already familiarized with.

I traveled to São Paulo in December of 2018 to the interviews. The interviews were audio recorded to facilitate the transcription. In Oslo the interviews started in February of 2019. We used 2 guides of interviews, one for each city, with the same approach to ensure that the same areas of information were collected.

This research uses qualitative data which requires a qualitative analysis. This way we could get the answer on our initial question. For this, I did an analysis using the “Guidelines on Policies and Procedures in dealing with Unaccompanied Children Seeking Asylum of UNHCR” as a base. This led us to produce interpretations about the public policies in the cities of Oslo and São Paulo for UMAs.

With the purpose to secure the reliability of this study, it was important to make reviews on its quality throughout the entire process. Reliability addresses the issue of whether a finding is trustworthy and reproducible at other times and by other researchers (Kvale & Brinkmann, 2009, LeCompte & Goetz, 1982).

On the other hand, Goetz and LeCompte (1988) has the view that in most qualitative studies the conditions necessary for statistical generalization may be difficult to satisfy. This is because the meanings attributed by the participants and their own interpretations are fundamental to the findings.

In this qualitative research that uses interviews according to the availability of the interviewees and according to the organizations indication, the results cannot be replicated. Since their point of view and the knowledge, may be different depending on who the interviewee is, and when and where the interview is done.

However, in our study it is possible to compare results with other similar ones, even though the results could be different (since this validity of the study depends on the characteristics of the populations investigated, the concepts generated and the environments). We know that validity is also related to the understanding of the theoretical framework by other researchers (Godoy, 2005).

4.3 Ethical Considerations

The object of ethics is human action. Cenci (2000) says that ethics, from its origins, seeks to study and provide guiding principles for human action. This human action must be supported in the benefit of all. This philosophical basis of ethics guides us to give the interviewees sufficient information about the research. All the interviewees had declared, in

writing, they had received a justification for the thesis, its objectives and procedures, covered in a consent form. In addition, they were also informed about: The freedom to participate or not in the research, and may withdraw consent at any stage of the study without any kind of penalty or prejudice. (Appendix A)

Securing that they will not be identified and keeping the information related to privacy, image protection and non-stigmatization confidential is vital. This care with the interviewee is a necessary ethical procedure, because as they are citizens and some of them public officials, this care with the interviewee and the information given by him or her is indispensable.

5 Presentation Of Analysis And Results

5.1 Public Policies for UMAs

5.1.1 São Paulo

The city of São Paulo approved the first municipal policy for immigrant population in Brazil on July 7, 2016, Municipal Law No. 16.478. The text was presented for 13 organizations of the civil society and 13 organizations of the local government, that together formed the committee of Sao Paulo. After being submitted to public validation, the law was approved in 2016, before the new National Law for immigrants, approved in 2017 by the federal government.

The law was the first in the country to establish guidelines for immigrant policy at the municipal level. It institutionalizes the set of public policies that have been implemented in the city of São Paulo.

The Municipal law had the following objectives:

“I - ensure the immigrant's access to social rights and public services; II - promote respect for diversity and interculturalism; III - prevent rights violations; IV - promote social participation and coordinated activities with civil society”. (Sao Paulo, 2016)

Article 3º of this law refers to the children right and determines that the guidelines for the public administration in the implementation of this law is to prioritize the rights and well-being of children and youth, in the terms of the Brazilian Children and Youth Statute.

The Act nº 57.533, of December 15, 2016 regulates the municipal Law No. 16.478/2016 and defines procedures to be adopted within the Municipal Executive Branch of São Paulo for the implementation of the Municipal Policy for Population and has specific regimentations regarding UMAs, their access to health and education municipal services.

The interviewee from the Coordination of policies for immigrants of government of São Paulo, affirms that the innovative local legislation respects the human rights of refugees that lives in the city, “São Paulo has looked for, through different actions and programs, to protect the refugee and the human rights of these people”.

The law also establishes public services offered by the city to the refugees, such as Portuguese course and public shelter, as well as programs to prepare this population for the labor market. São Paulo was the first city in Brazil to develop a reference center for attention of immigrant, CRAI.

Concerning the UMAs in Sao Paulo, one of the main laws for their protection is the Statute of Children and Adolescent (Law 8.069/1990), this national law internalizes the

determinations of the CRC (1989). The statute guarantee rights for all children up to 18 years old, including the refugees.

The statute guarantees that no child will suffer neglect, discrimination, violence, cruelty and oppression (Article 5). It also emphasizes children's right to health services (Article 11). The right to education is also present in the ECA (article 52), in which the Brazilian State has a responsibility to offer public and quality education (from kindergarten through high school) to all children.

In São Paulo, the local Coordination of Policies for Migrants was also created, which based their actions on human rights, not national security or labor market protection. In addition, it was the first municipal public body specifically created to address the migratory issue in Brazil.

5.1.2 Oslo

Oslo is the city in Norway with the largest population of immigrants, 32 percent has a foreign background (UDI, 2018). The immigration is a issue that affect especially children. 13.6 percent of all children living in Norway are immigrants themselves or have an immigrant background. (Dyrhaug and Sky 2015: 4).

The immigration policy followed by the city of Oslo is based on the Norwegian system called “de facto multiculturalism” (Akkerman and Hagelund 2007, pp. 197–198). This notion refers to the actual actions of the government which aims to include immigrants in society. However, in Norway the “*jus soli*” citizenship principle is not applied to children born to immigrant parents, which can be considered contradictory as a multicultural frame.

The city of Oslo has made efforts in relation to the reception UMAs and the integration of newly arrived refugees. In the document of the City Council's meeting on 25.10.2017 in Case 287, it was decided that “The City of Oslo shall be a municipality that offers people who need international protection outside of their own home country and will build their work for asylum seekers and newly arrived refugees on the following main lines” (2017, p.1).

The document of the City Council’s meeting aims to lay down the framework for the City Council's overall strategy for the City of Oslo's work related to the role of host municipality and operating asylum reception centers, and the municipality strategy to the new refugees to be included in the urban community. The City Council bases this message on the recognition of human dignity, human rights and the need for international protection for refugees. The goal is that the individual district in Oslo should be above the national average

when it comes to the results of the integration work for asylum seekers and newly arrived refugees.

Regarding asylum seekers and reception centers, it is confirmed that the city is open to state reception establishments in Oslo within manageable frameworks, but that one does not want single reception with more than 500 residents.

The City Council also established the following guidelines: “A principle of early intervention and the importance of establishing a good team around the child, should be the leading effort for children that comes to Oslo as asylum seekers and refugees” (2017, p.2). This means in practice that the City of Oslo shall ensure the coordination of objectives and instruments between education and work in the introductory program for asylum seekers.

Another decision was that a separate assessment of the settlement of unaccompanied minors shall be made regarding the distribution between the districts, with regard to the need for expertise and special facilitation (2017, p.3). An important principle served as basis for the assessment of UMAS is that all unaccompanied minors must be assessed by the child services body. (p.3).

These measures were made to guarantee that UMAs will receive the services and protection that they need according to their age.

5.2 Children rights for UMAs

The U.N. Convention on the Rights of the Child (CRC) formulates in Article 19 a state’s obligation to protect children against detrimental care:

“State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of *the child*.”(CRC, 1989)

The cities of São Paulo and Oslo, in cooperation with their national governments, developed their own initiatives for the protection of their children and UMAs.

5.2.1 São Paulo

The city of São Paulo has developed several initiatives of its own or supported by national laws for the protection of children rights, as well as UMAS, in several areas as education, health and culture.

Education

An interesting initiative of the municipality in the area of education is the Open Doors Project. 600 open spots are offered for all immigrants, including UMAs, interested in learning

the Portuguese language. Schools of the municipal public network participate in the project in different regions of the city, and open the doors to receive the international students, who will have free continuous and regular access to the classes.

The teachers of the municipal network are also preparing to receive the children of immigrants. According to the Coordination of Policies for Migrants of São Paulo (CPMig), more than one thousand workers in the areas of health, social assistance, education and the Metropolitan Civil Guard were trained in training workshops, seeking to ensure humanized care and access to rights for immigrants.

Health and interculturality.

A group of municipal public servants was selected to work with the health of immigrant women. The main highlight of this action was the exchange of experiences between the diverse cultures and customs of the people involved in the program. This was done to ensure that there was an awareness of the cultural habits of all people involved.

Population Awareness Campaigns.

In an attempt to combat xenophobia, the municipality supports the celebration of artistic and cultural manifestations of immigrants. CPMig also carries out awareness campaigns through folders and banners. “The pride of the immigrant” a parade that has been going on for 12 years in Sao Paulo, and other proposals to sensitize the population, are ways to bring the issue of immigration to the debate and ensure interaction with the local community.

Information.

A primer compiled by the São Paulo City Hall brings together the main actions of CPMig in a didactic and explanatory way.

Laws and municipal Acts were also made to protect the rights of children in general, reaching the UMAs as well:

- Law No. 16,710 of October 11, 2017 - Provides principles and guidelines for the preparation and implementation of public policies for early childhood in the Municipality of São Paulo and the Municipal Plan for Early Childhood.

- Law No. 15,276, of September 2, 2010 - Establishes guidelines for the Municipal Policy for Prevention and Combating Child Labor in its Worst Forms.

- Law no. 14.957, of July 16, 2009 - Provides for the inclusion of measures to raise awareness, prevent and combat school bullying in the pedagogical project elaborated by public schools of basic education in the City of São Paulo.

- Law nº 11,123, of November 22, 1991 - Provides for the municipal policy of attending to the rights of children and adolescents

- Decree nº 58.514, of November 14, 2018 - Approves and establishes the Municipal Plan for Early Childhood 2018-2030. This plan aims to contribute to ensure the rights and integral development of children in this age group and has a dual function: to be a guide for the performance of public power, society and families, responsible for guaranteeing the conditions for the full development of children; and be a tool to monitor and control this action, since it provides the necessary goals and strategies for the fulfillment of its strategic axes.

- Decree No. 58,294, dated June 28, 2018 - Regulates article 8 of Law No. 16,710 of October 11, 2017, which provides for the establishment of an Inter-Sectoral Steering Committee for Municipal Policy Integrated by Early Childhood.

- Decree No. 57,300, of September 9, 2016 - Provides for the competencies of municipal agencies in the supervision and management of the functioning of the Tutelary Councils created in the Municipality of São Paulo.

5.2.2 Oslo

The Norwegian system upheld standards for children protection grounded in CRC that is extended to the city of Oslo. The country has The Child Welfare Act, that applies to all children who live in Norway. All children living in Norway are entitled to protection against abuse and neglect, regardless of the child's nationality or residency status.

Families and children.

The Ministry of Children, Equality and Social Inclusion ensures that children and young people get a good upbringing and that families can feel secure, both financially and socially.

Child welfare services.

In Norway they work to ensure that children and young people living under conditions that may harm their health and development will receive the necessary assistance.

Unaccompanied minor asylum seekers.

It is the obligation of the state to ensure child welfare service offer accommodation to all unaccompanied asylum seekers under the age of 15 years. The Norwegian Directorate of Immigration is responsible for offering unaccompanied minor asylum seekers over the age of 15 a place in a reception center for unaccompanied minors or in a separate department.

Education and cultural activities.

Kindergarten/early childhood education and care (ECEC). The Government has implemented a number of measures aimed at increasing flexibility in ECEC admissions and making ECEC more accessible to families, free core hours have helped to recruit more children with immigrant backgrounds.

Funds are being allocated so municipalities, as Oslo, can intensify their efforts to inform parents of ECEC to increase the presence of children in low-income families and minority language children.

Health services.

A guide on health services for refugees, asylum seekers, reunified family members is available at UDI's website and they also inform about psychosocial follow-up of unaccompanied asylum-seeking minors.

The National Strategy for Immigrant Health (2013-2017) aims to help ensure that everyone with an immigrant background receives the health and care services tailored to their linguistic and cultural circumstances irrespective of status of residency, from the municipalities.

Freedom of association.

Norway facilitates freedom of association and peaceful assembly by supporting a diverse NGO sector. In 2014, 63 percent of young people aged 13-15 were involved in an organization.

Adequate standard of living

Children with immigrant backgrounds represents 12% of all children. They also represent 51% of all children in financially vulnerable families. The government developed a strategy "Children Living in Poverty (2015-2017)", it implemented measures to prevent the intergenerational transmission of poverty and to improve children's quality of life.

The Norwegian government elaborated the Immigration Act, that stipulates that weight must be given to the best interests of the child when assessing the need for protection from persecution. This act is the foundation for the UDI guidelines for processing applications for UMAs. The guidelines take in consideration the need of protection.

5.3 Presentation of results

The analysis of the main findings will help us to make reflections regarding the research question. The analysis is based on the observance of Children Rights in public policies for UMAs in São Paulo and Oslo. We will use the guidelines "Refugee Children – Guidelines on Protection and Care" (1997), made by UN on basis of Convention of Children Rights (1989), Convention Relating to the Status of refugees (1951), and the Protocol relating to the Status of Refugees (1967), to analyze if the policies made for local governments concerning UMAs, respect children rights. The UNHCR guideline embraces the universal principles of child care

and protection that we find in the Convention on the Rights of the Child, Article 3 paragraph 1, which provides that:

“In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.” The Guideline for refugee Children articulates how States Parties shall take appropriate measures to ensure that a child who is seeking refugee status receive protection.

There are 8 items that will be analyzed, which are the following:

5.3.1 Access to the territory

“Because of his/her vulnerability, an unaccompanied child seeking asylum should not be refused access to the territory and his/her claim should always be considered under the normal refugee determination procedure. Upon arrival, a child should be provided with a legal representative”. (Office of the United Nations High Commissioner for Refugees, 1997, p.5).

São Paulo:

In Brazil, the unaccompanied child should have access to a guardian who takes care of their basic needs. Such designation is provided for in Immigration Law nº 13.445, that in article 40, item V, assure for the sending of the unaccompanied immigrant child to the Guardianship Council.

The regulation of the law 13.445, through the Act No. 197, of March 6, 2019, determines that the residence permit provided for the children shall be required by a public defender; or by the legal representative appointed by the competent court.

São Paulo has the Municipal Law No. 16.478, which establishes the local Policies for the Immigrant Population in the city, in Article 3 it affirms the importance to “prioritize the rights and well-being of immigrant children and adolescents, in accordance with the Statute of the Child and Adolescent” (São Paulo, law). The Statute of the Child and the adolescent is the legal and regulatory framework for the human rights of children and adolescents in Brazil.

The municipal Act. N. 57.533 that regulates the law 16.478, ensure in its article 11 that the network of assistance in social assistance of the Municipality of São Paulo should meet the immigrant population, considering their specificities.

During the interview with the Coordinator of Public policies for children in Sao Paulo, about the municipal law for the protection of immigrant children, the interviewee said that the political will to serve the vulnerable public will always be decisive for success. And that the city of São Paulo has formulated and followed up on projects and policies aimed at the

promotion and protection of the population between zero and eighteen years, including refugee minors and other immigrant children.

The municipal laws for immigrants in São Paulo also target the UMAs, which makes sure that the vulnerability of minors will be respected in accordance with the Brazilian Statute of the child. This statute, in its art. No. 100, assures that the child has the right to full and prioritized protection, in addition to free and integral legal assistance.

Oslo:

In Norway the Guardianship Act of 1927, determines that every child has the right to have a guardian. This right is supported by the Immigration Regulations of 1990, § 55a, which ensures UMAs will have a provisional guardian present during the interview.

In July 2013, Norway introduced a statutory representation arrangement for unaccompanied asylum-seeking minors. The representative must perform all of the duties of an ordinary guardian, as well as some special duties. The representative must safeguard the minor's interests in the asylum case, including attending interviews with the authorities, assisting investigations into identity, age, etc., helping to trace parents, and liaising with the minor's lawyer.

In the City Council Case 5/17 of Oslo (Oslo Kommune, 2017), it says that “all unaccompanied minors under the age of 15 are taken care of by child services. Understanding the needs of unaccompanied minors over the age of 15 is vital for organizing living measures, follow-up and assistance” (p.21).

In the interview with the representative of Bufdir., The Norwegian Directorate for Children, Youth and Family Affairs, the interviewee said that it is an obligation for Norway to take care of UMAs, he said “When children come here, we need to take care of them”. His phrase was in a context of responsibilities of the organizations in Oslo and Norway.

In Norway the right of UMAs regarding the access to a guardian are clear in the laws and already regulated in the activities of UDI, the local acts ensure that the UMA will receive all necessary protection according to their needs and offered by the child service of the city.

5.3.2 Identification and Initial Action

Specific identification procedures for unaccompanied children need to be established in countries where they do not already exist. The main purposes of these procedures are two-fold: first, to find out whether the child is unaccompanied and second, to determine whether the child is an asylum seeker or not. (Office of the United Nations High Commissioner for Refugees, 1997, p.6).

“States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child’s or his or her parents or legal guardians race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.” (CRC, Article 2, paragraph 1).

São Paulo:

In Brazil, in the booklet for refugees made by the Federal government and UNHCR it said that one of the rights of the asylum seeker is to not be discriminated. No one can have their rights restricted because of the color of their skin, because they are women or children, because of their sexual orientation, their social situation, their economic conditions or their religious beliefs.

The municipal law of the city of São Paulo no. 16.478 states in Art. 3 that there are guidelines of the action of the Public Power in the implementation of the Municipal Policy for the Immigrant Population:

I - confer isonomy in the treatment of the immigrant population and the different communities;

II - prioritize the rights and well-being of immigrant children and adolescents, in accordance with the Statute of the Child and Adolescent;

III - respect specificities of gender, race, ethnicity, sexual orientation, age, religion and disability;

In the interview with the representative of CAMI, that has worked more than 20 years with refugees in São Paulo, the representative told that the definition of being well received and integrated in a society is when the person has access to work, a decent living and is able to be in a country without being discriminated. The representative said, “a refugee must be treated as an equal and be respected. We have made efforts to make this happen, combating child labor, defend the rights of the children, make sure they have good health and are respected. Unfortunately, every time there are changes in the municipal government, doors are closed for the conversation about the care of refugee children”.

The representative was talking about the political changes that have occurred in São Paulo the last year after the elections, where the new mayor and governor are part of more conservative parties regarding the subject of immigrants, which can affect the priority for the public policy measures for immigrants in the city.

Oslo:

In Norway, the asylum interview of UMAs is only a part of a more comprehensive process (UDI, 2003a). Therefore, the UDI oversees the asylum procedures in Norway. After registration with the police, which involves an initial interview, the minor becomes an unaccompanied minor asylum seeker. Thereafter, a provisional guardian is appointed by the state to help UMAs and represent their interests. Following age assessment procedures necessary for distinguishing adults from children in cases of uncertainty, UMAs get accommodation at a reception center for children between 15 and 18 years of age and get judicial help if they prove to be younger than 18.

UMAs are interviewed directly by the Norwegian Directorate of Immigration (Immigration Regulations, 1990). The legal aspect of the asylum interview dictates that children have special needs during the interview situation, independent of asylum grounds and their life situation as stated in § 55a (ibid.). In other words, one must take into consideration the child's age, and maturity level in forming out and conducting interviews. The UDI provides an interpreter whose task is to accurately communicate what is being said. A guardian is also present at the asylum interview.

According to the City council case 5/17 of Oslo, all unaccompanied minors must be assessed by the child welfare service. For the individual unaccompanied minor over the age of 15, an assessment of the extent and use needed of different services from the child service and NAV office must be made based on what is considered most appropriate for the individual's integration into Norwegian society.

The City of Oslo also ensure that all asylum seekers who are in the city for more than three months get the recommended medical examination according to the City council case 5/17.

In the interview with the representative from the elderly, health and work department in Oslo Commune, the representative said that the city of Oslo has specific acts for immigrants and is listed in the City Council Case 5/17. And that the city gives all minors access to the education and health programs the national law has granted them. The city also wants to treat the refugees the same as any other citizen "We have a multicultural society; we think that a healthier society is made of different people. Here we have gender equality, freedom of speech, and other characteristics that the refugees have to adapt to. Our challenge in integration is that everyone here should know the language. Language, education and getting a job is what we are looking for them to obtain".

The representative was talking in the context of the responsibility of the city to guarantee that the rights of refugees shall be respected in Oslo without any discrimination, including the children rights.

5.3.3 Access to Asylum Procedures

Children should be entitled to access to asylum procedures, regardless of their age. (Office of the United Nations High Commissioner for Refugees, 1997, p.10).

São Paulo:

In Brazil, the new immigrant law n. 13.445/2017 says in its Art. 40, that exceptional admission may be authorized in the Country of a child or adolescent unaccompanied by a legal guardian and without expressed authorization to travel unaccompanied. The procedures were just regimented in 2019 through the ordinance No. 197, of March 6, 2019. Before that, the admission depended on the discretion of the CONARE.

In São Paulo the municipal law 16.478, Art. 3 states that the municipality must respect particularities of gender, race, ethnicity, sexual orientation, age, religion or deficiency.

The Non-Governmental Organizations in São Paulo complained about the lack of regulation of the new Brazilian immigrant law. The Center for human rights and immigrant citizenship (CDHIC) is one of these organizations that work for better regulation.

“The regulation is very important, the ruling dealt more with the administrative question, with several ordinances issued by the ministries. Article 120 of the new law of immigrant creates the national policy of the immigrant, and CDHIC has a campaign to try and make the government regulate this article. Since there is no clear definition of duties in Brazil, it is not clear who should be responsible for what. Immigrants arriving in a town, for example, create a large visibility, public equipment as hospitals and schools are overcrowded, creating a crisis. Article 120 speaks precisely about creating a national immigration policy, with the participation of states, municipalities and entities”.

The representative of CDHIC was explaining the need of regimentation of the new immigrant law, what would facilitate the activities of the cities and entities, because this way each one would know their duties regarding refugees and immigrants.

Oslo:

In Norway following age assessment procedures it is necessary for distinguishing adults from children in cases of uncertainty. UMAs get accommodation at a reception center for children between the age of 15 and 18 and get judicial help if they prove to be younger than

18, and also a guardian who will act to look after your rights in Norway, both legally and financially.

Frequently, UMAs lack documentation confirming their identity and age. Medical examinations to determine age are used in Norway by the immigration authorities when doubts about someone's age exist.

The UDI has its own transit reception for UMAs between the age of 15 and 18. Since the autumn of 2016, Oslo is home to two transit reception centers: The Hero-managed Refstad transit reception and the Norwegian People's Aid-run Torshov transit reception.

It is Bufetat who is responsible for UMAs under the age of 15 until they settle in a municipality or travel out of the country. Bufetat will give unaccompanied minors under the age of 15 an offer to live in a care center and ensure daily care for them and to accommodate children staying in Norway. A spot is offered at an UDI asylum center when they are over the age of 15. If the child lives in a transit reception center it is the County Governor in Oslo and Akershus that decides who will be the child's representative, regardless of where the child is living.

The Bufetat representative said that before 2007 UDI was responsible for all UMAs. But, because of pressure from social movements, UMAs under the age of 15 got the protection of Bufetat.

“The refugees under 15 that are under our responsibility goes through the same process at UDI, but Bufetat give them the security of a good place to live. The center of Bufetat is run by ourselves, and the big difference between our asylum center and UDI's Center for minors is the Norwegian Child protect Act. Our centers follow strong requirements about the qualification of the professionals, quality, external analysis to provide the best services for these children. It was said when we got this responsibility that we soon would unify all systems and take care of children between 15 and 18 years old. However, there was no political will for this and UDI still get responsibility for them”.

The Office for Children, Youth and Family Affairs (Bufetat) is an agency under the Ministry of Children, Equality and Social Inclusion. Bufetat is responsible for state-funded child welfare and family counselling services. The Children Protection Act of Norway was made to support the Hague Convention and must be applied by authorities that implement measures for the protection of children. In Norway a separate law has been passed that regulates this, the Norwegian Implementation Act (Lov om Haagkonvensjonen 1996). Courts, the child welfare services, the county social welfare boards, the county governors and other decision-

makers must apply the convention. This Act in Norway was made to contribute to make sure the best interests of the child are respected.

5.3.4 Interim Care and Protection of Children Seeking Asylum

“Children seeking asylum, particularly if they are unaccompanied, are entitled to particular care and protection; Children seeking asylum should have the same access to health care as national children; Every child, regardless of refugee status, should have full access to education in the asylum country”. (Office of the United Nations High Commissioner for Refugees, 1997, p.10).

São Paulo:

The new Brazilian immigration law no. 13.445/2017 defines in its article 4 paragraph VIII - access to public health and social welfare services and social security, in accordance with the law, without discrimination based on nationality and immigration status; the national law also guarantees in its paragraph X - the right to public education, discrimination on grounds of nationality and immigration is prohibited.

The Municipal law of the city of São Paulo no. 16.478, in its Art. 7 “guarantee universal access of the immigrant population to health”; In the same article, paragraph IV the law determines that it is a priority for the city of São Paulo to guarantee all children, adolescents, and young adult immigrants the right to education in the network of municipal public education, through its access, permanence and terminality.

Despite the law, UMAs in São Paulo still face some barriers in their process of integration in the city. The first of these is the language, Brazil is the only country in South America whose official language is Portuguese, which can generate problems in the student’s learning process, especially in schools not yet prepared to receive foreign students. One emblematic case that was told by the interviewee from CRAI was that in some schools, children were diagnosed as autists by professors because there was not participation of the new students with the activities from the class. When psychologists were called to analyze the children, they verified that it was a mistake to consider these children as autists. In fact, the students just didn’t understand the language, which made it difficult for them to interact with the others.

Another lack of guarantee of the children rights was in the public system of health, reported by the interviewee from Center for Support and Pastoral of Migrants (CAMI), according to her many of the professionals of the public health system are not totally aware about the rights of refugees. This can lead to discrimination and the denial of services for refugees. The organization also works to teach the refugees about their rights and duties. The

interviewee from SMDHC said they have programs to guarantee the training of these professionals in all public services, but it takes time to reach everyone.

Oslo:

The National Strategy for Immigrant Health (2013-2017) aims to help ensure that everyone with an immigrant background receives decent quality, equal health and care services tailored to their linguistic and cultural circumstances. The strategy is of relevance for children with immigrant backgrounds. A Regulation from 2012, concerning the right of people without permanent residence in Norway to health and care services, stipulates that children have the same right to the health and care services they need from the municipality and specialist health services as children with permanent residency in Norway. The right applies irrespective of whether they are in Norway legally or not.

According to the City Council 5/17 The municipality of Oslo is responsible to provide health, child welfare and school services to asylum seekers in reception areas located within the municipal boundaries.

The representative of the “Refstad Transittmottak” in Oslo said that when an asylum seeker arrives in Oslo, irrespective of their age, they are offered mandatory tuberculosis examination on arrival (within 14 days). Children under the age of 15 should if necessary, be offered measles, mumps and rubella vaccines, and after moving to the Refstad center they have free public access to the doctors, exams, and hospitals if needed.

Regarding the access to educational system, in 2012 the Norwegian Parliament determined full access to education and equal opportunities for children with an immigrant background, and it should be prioritized in Norwegian policies for immigrants.

The Education Act establishes that the right to primary and lower secondary education applies when it is probable that the child will reside in Norway for a period of more than three months. These rules apply to every child, including children of asylum seekers, UMAs and irregular children migrants.

In section 2-8 of the Education Act it says that a child attending the primary and lower secondary education and who has a mother tongue other than Norwegian, has the right to adapted education in Norwegian until they are sufficiently proficient in Norwegian to attend the regular curriculum offered. The Municipalities are responsible for primary and lower secondary school and the municipality where the refugee/immigrant settles down has the obligation to provide language tuition within three months after settlement.

During the interview with the representative of the Språksenter in Oslo, the representative of the Language Center, said the center was established as a 3-year project in

the autumn of 2014, but the success led to it becoming definitive in Oslo. The aim of the project is that newly arrived pupils should learn Norwegian as soon as possible so that they can follow the training at the local school.

According to Østberg (2008) the Norwegian immigration policy has as the main goal the inclusion of the immigrant into society, through the equality and rights provided. This free access of UMAs to health care and education in Oslo and other municipalities in Norway, demonstrate the respect to the municipal and national laws of the children rights of education and health.

5.3.5 Refugee Status Determination for Unaccompanied Children

Children's refugee status applications should be given priority and every effort should be made to reach a decision promptly and fairly. All appeals should be processed fairly and as expeditiously as possible. (Office of the United Nations High Commissioner for Refugees, 1997, p.12).

São Paulo:

The municipal law for immigrants of São Paulo no. 16.478/2016 in its Art. 2° shows the main principle of the Municipal Policy for Immigrant Population: Equal rights and opportunities, subject to the specific needs of the immigrants.

The Statute of children and adolescents in Brazil guarantees in its Art. 4 that it is the duty of the family, the community, society in general and the public power, to ensure with absolute priority, the realization of rights relating to life, health, food, education, sports, leisure, professionalization, culture, dignity, respect, freedom and family.

The representative of the Center for Reference and Assistance for Immigrants (CRAI) talked about the new immigrant law of Brazil from 2017 and the municipal law of São Paulo regarding the public policies for immigrants "I think they are very significant. They are a very advanced. However, the new Act that regulate the new immigrant law of Brazil is clearly something completely different from what is established in the new immigration law. The Act did not listen to the population. It is clear that the one who wrote the Act does not work with immigration, because it uses terms that are not used by those who work with immigration, such as the clandestine term. Which generated a lot of difficulty in our day-to-day operations, so in the first half of 2018, the federal police avoided making several types of assistance, as long as there were no ordinances that explain the Act".

The immigrant law and municipal law of the city of São Paulo were created to offer dignity in the assistance of the refugee. However, the national Act no. 9.199, November 20th of

2017 was not well accepted by the entities that work with immigrants and refugees in Brazil. This Act 9.199/2017 regulates the new national immigrant law 13.445/2017 and should facilitate the services offered by the entities and municipalities.

The Act 9.199 had a negative reception by the non-governmental entities, they understand that this Act did not correspond to the humanitarian level of the new law of immigration n. 13.445/2017. As said by the representative of the “Center for Reference and Assistance for Immigrants – CRAI, an entity part of the city government in São Paulo, “the new Act of regulation is clearly something completely different from what is established in the new immigration law, to the construction of this Act. The population was not listened to, different from what happened with the law. It is clear that the one who wrote the Act does not work with immigration, because it has terms that are not used by those who work with immigration, such as the “clandestine” term. So the idea was that these new 300 articles would facilitate and regulate the new immigration law and at end what it did was to make it more difficult to understand the law” said the representative. The decree was drawn up by all the State Ministers of Justice and Public Security, Foreign Affairs and Labor of Brazil.

Oslo:

The Immigration Act of Norway stipulates in which degree the best interests of the child should be considered. The UDI has guidelines for processing applications for protection for UMAs. The perspective of the child is particularly relevant when considering evidence and assess what risks they might face and provide a basis for protection. In assessing, the immigration authorities must consider the fact that the child's age, maturity, and mental health may affect their ability to substantiate statements and submissions.

An UMA that is recognized as an unaccompanied minor in Norway, but who does not have grounds for protection, in some cases can have been granted temporary residence until they become 18 years old. This demonstrates the respect the country has for the child best interest principle.

The responsibility to settle these minors falls on both central and local government. It is up to each municipality to decide if they want to settle refugees, and how many. Thus, the central government provide economic incentives, for example through extra grants to municipalities for settlement of refugees. In 2016, 15 300 refugees were settled in Norway and provided with initial housing and integration support by the municipalities. Of this group, 1.600 were unaccompanied minors.

In 2017, the median waiting period in reception centers from the arrival until settlement in a municipality was 4.5 months for adults (UDI, 2018). In 2018, according to the interviews

at reception centers, the waiting time, even for minors has been longer than 6 months, and in some cases more than 9 months, for UMAs.

The National and local laws in Oslo determines the priority for UMAs in the process of getting recognition as a refugee. However, the asylum centers and even governmental organizations such as Bufetat and Bufdir affirm that better efforts should be made to shorten this process.

5.3.6 Identification of Durable Solution

The best interests of an unaccompanied child require that the child is not to be returned, unless prior to the return, a suitable care-giver such as a parent, other relative, other adult care-taker, a government agency, a child-care agency in the country of origin has agreed, and is able to take responsibility for the child and provide him/her with appropriate protection and care. (Office of the United Nations High Commissioner for Refugees, 1997, p.13).

São Paulo:

Better solutions for the assistance of the refugee minors in São Paulo are taken to guarantee that the child is not separated from the family when they migrate together. The Act. no. 57.533, ensure attention to the principle of family reunion in shelters, in accordance with the Statute of the Child and Adolescent.

In the cases where refugee status is not recognized, the Brazilian national immigrant law permit that the refugee, including UMAs, presents an appeal to the Ministry of Justice, the immigrant also have the right to have an attorney from the Federal Public Defender's Office or one of UNHCR's partner organizations, in order to make his/her appeal. However According to the Brazilian Federal Constitution, every individual, Brazilian or foreign, has the fundamental right of access to justice, even if he does not have the financial means to pay a private lawyer. In this case, the state has the duty to guarantee free legal assistance, through the Office of the Public Defender.

Although guaranteed by article 134 of the Federal Constitution of 1988, the right to free legal assistance in Brazil is still restricted to the needy population. This deficiency occurs because, although the guarantee is determined on paper, the lack of public defenders, especially on the countryside, it does not allow effective access of the population to the judicial power or even to defense.

Brazil currently has 5.842 defenders working at the state level in the 27 federative units of the country. In 2013, the Institute of Applied Economic Research (IPEA) identified, based on data from the National Association of Public Defenders (Anadep), a deficit of 10.578 public

defenders throughout Brazil (IPEA, 2013). This deficit may cause greater delays in the access of the applicant for asylum to a proper juridical process.

To resolve this lack of access to proper juridical processes in Sao Paulo, the municipality elaborated a public policy for UMAs to the creation of a juridical department just to attend UMAs, the department works at the tribunal for childhood in Sao Paulo. This initiative is the first in Latin America according to UNHCR in Brazil (2018).

With the creation of “Sector for Children and Adolescents Refugee Applicants and Foreign Victims of International Trafficking in Persons” (SANCAST) in São Paulo, Brazil responds to part of its obligations to the international community to protect and integrate children in situations of refuge or who are seeking asylum in the country. SANCAST has the responsibility to determine and monitor compliance with protective measures for unaccompanied or separated children and adolescents who are accommodated in public shelters.

The children and adolescents served by SANCAST have the cases analyzed by the technical departments of psychology and social services of São Paulo. The situations are then debated in hearings with the child and adolescent protection network, technicians from public shelters in São Paulo, mental health care equipment, Public Defender, Public Ministry, UNHCR and Caritas.

The interviewee from the Coordination of policies for immigrants of São Paulo (CPMig) clarified that the local law was made to protect the rights of every type of immigrant in any situation, even unregulated immigrants. "This is a characteristic of the legislation, which has as one of its guidelines the flexibility in the identification of immigrants” said the representative.

What we can see is that the laws were made for all, but there is a need for specific entities to meet the demand of all, and the creation of a legal entity to serve minors was one of these public policies aimed at guaranteeing the access for UMAs to their rights.

Oslo:

When the UDI receives a request for return from an unaccompanied minor, IOM usually uses their resources and routines to see if they can facilitate a safe return. UDI does the considerations whether a return to a given country is safe.

All applicants receiving a rejection of their application of asylum have the right to appeal to an independent appeals board (UNE).

In 2015, the Norwegian Parliament, the Stortinget, adopted a number of legislative amendments to guarantee a sustainable immigration policy. The border control was strengthen

and other measures entered into force in 2017, such as: the condition for permanent residence permit require a minimum level of Norwegian and a test about the Norwegian society must be passed; An application for family immigration may be rejected in cases where the sponsor has been granted protection in Norway, but not a permanent residence permit.

Temporary accommodation in reception centers are offered to all asylum seekers arriving in Norway. UDI finances and supervises these centers, while municipalities, NGOs, and private companies operate them.

As previously mentioned, Oslo was the host municipality for two transit reception centers: Refstad transit reception run by Hero and Torshov transit reception run by Norwegian People's Aid. For residents in these areas, the municipality covers, through the districts: health- and school services. In the spring of 2016, a pedagogical offer is also offered to children in childhood gardening.

The interview with the representative of Norwegian People's aid (NPA), the labour movement's humanitarian solidarity organization, demonstrated that the changes in 2015 when the border controls was strengthened in Norway and in EU, affected the activities of the organizations that works to find better solutions for refugees in the Country.

The representative said during the interview that "Our refugee, asylum and integration work in Norway has four different components: Reception centers for asylum seekers; Reception of quota refugees at Oslo Airport; Integration projects on local levels; Antidiscrimination work and empowerment programs. Our refugee and integration work have changed the last years due to low arrivals numbers of asylum seekers to Norway (since 2016). In 2018, it was 30 years since NPA started its first asylum center in Norway. In 2015, we ran 13 reception centers, but in April 2019 we are closing down our last center".

Their work to find solutions to secure the right to asylum and to strengthen the well-being and basic rights of asylum seekers, refugees and immigrants in Norway, are affected when the entrance of Asylum seekers is more difficult in the country.

5.3.7 Implementation of Durable Solution

In recognition of the vulnerability of unaccompanied children, every effort should be made to ensure that decisions relating to them are taken and implemented without any undue delays. As soon as the child has been recognized refugee status or permitted to stay on humanitarian grounds, long-term placement in a community should be arranged. (Office of the United Nations High Commissioner for Refugees, 1997, p.15).

São Paulo:

The principles of the Municipal Policy for Immigrant Population in São Paulo defend a more sustainable and humanitarian system, as is specified in article 2 of the municipal law: equal rights and opportunities, subject to the specific needs of immigrants; promoting the regularization of the situation of the immigrant population; universality, indivisibility and interdependence of human rights of migrants; combating xenophobia, racism, prejudice and all forms of discrimination; Promoting social rights for immigrants through universalized access to public services under municipal law; promotion of family and community.

With regard to housing, the same municipal law 16.478, Art. 7, says that priority actions in the implementation of the Municipal Policy for the Immigrant Population in its section "VI - coordinate actions to give access to the immigrant population to housing programs, promoting the their right to decent housing, whether temporary, short- and medium-term or permanent"; (Sao Paulo, 2016).

In the interview with the representative of Coordination of policies for immigrants in São Paulo (CPMig) we discussed long term solutions, the representative said; "the challenge of creating an official migration policy with a specific budget and specific competencies for the Union, states and municipality. Migration makes us think of immediate responses to arrival, but it also has the potential to make us look for more lasting answers, to look at the network of actors and to see what we have of connections already in the territory and what needs to be structured for the long term".

The representative of CPMig affirmed that it is important with a clear distinction between the duties of each actor regarding the application of immigrant policies in a city as big as Sao Paulo, this would facilitate the elaboration of public policies even more effective.

Oslo:

When an UMA apply for asylum, they are offered accommodation in a care center run by Bufetat, if they are under the age of 15. The provision is governed by chapter 5A of the Child Welfare Act. County governors are responsible for supervising care centers and other child welfare institutions. The UDI is responsible for the care of UMAs aged 15-18 living in reception centers and must ensure that they receive the necessary care and security if they are living in a center. This provision is at present not standardized by law but is regulated by a series of instructions of UDI to the centers. The Council did not yet extent chapter 5A of the Child Welfare Act concerning care centers for minors to cover children over the age of 15 as well. The Child Welfare Act is for all children in Norway, including UMAs.

Municipalities that settle UMAs receive financial contribution from the Government per settled UMA. The objective is to make sure that UMAs can be settled in a faster way by the municipalities.

In recognition of the vulnerability of UMAs, Norway has made efforts to protect the interest of the child. Internationally, Norway is fighting the violence against children. Norway was part of the countries responsible for developing the Council of Europe's Strategy for the Rights of the Child in the years 2016 to 2021. The strategy focuses on the application of standards for child rights in Europe, including UMAs.

Looking for more independence of the UMAs, when the UMAs are 18 they can choose whether to continue living in the measure they live in or move somewhere else. If the youth decides to move the municipality help him/her to find suitable housing.

In Oslo, it is up to each district to decide how they organize their services for UMAs. Many prefer to work together with child services. At the national level, the child care services is responsible for 75% of the municipalities, while the rest have placed responsibility for UMAs on NAV offices.

Municipalities where asylum reception centers are established receive host municipal subsidies from the state. This is a compensation for the municipality's average expenses for health, child welfare, interpreter and administration in connection with receiving refugees in the municipality.

Integration grant subsidy is paid per settlement for persons who have received protection with refugee status (asylum) in Norway. The grant amount is NOK 717,400 over five years for single children.

Municipalities that settle UMAs receive a special grant in addition to the ordinary integration grant. The grant amount was NOK 207,000 in 2016, per person (UDI, n.d.).

This represents a contrast to the actions applied in Brazil, since all cities there, including Sao Paulo, are responsible for the reception, maintenance and integration of these UMAs. The federal government does not give subsidies to the municipalities for this hosting. However, registration services are done by the federal institutions.

In Oslo, the municipality is already responsible for providing school services to everyone that are of school age. Costs for children under school age in integration reception are refunded.

Costs for operating the integration reception are covered by the UDI, IMDi, VOX and AVdir. It is therefore assumed that this measure will not entail any additional costs for the municipality.

5.3.8 Staff Training

The Guidelines for UMAs rules that is desirable that agencies dealing with unaccompanied children establish special recruitment practices and training schemes, so as to ensure that persons that will assume responsibilities for the care of the children understand their needs and possess the necessary skills to help them in the most effective way. (Office of the United Nations High Commissioner for Refugees, 1997, p.17).

São Paulo:

The city of Sao Paulo, through the Municipal law 16.478 Art. 4º determines that skilled care to the immigrant population shall be ensured in the context of municipal public services. The following administrative actions are considered: training of public officials, with guidance on human rights and migrants concerning legislation; be trained regarding their Interculturalism and languages, with emphasis on the services with higher demands from immigrants; Hiring immigrants for the public administration; Training of tutelary counselors to child protection and immigrant adolescents; Appointment of cultural mediators in public facilities with a large influx of immigrants to aid in communication between professionals and users.

The public policy was clear regarding the necessary training of personnel that will assume responsibilities with immigrant children and UMAs. However, the city of São Paulo for reasons such as high number of public employees and absence of budget money for training, has this policy still running in a slow pace. According to the representative of CMig, the new Migration Law provides for a greater welcome for those who have to start a new life in Brazil.

"The need to improve policies and public management in health, preparing health managers and professionals to meet this demand of international immigrant populations that have different specificities and vulnerabilities, which require the adoption of strategies that guarantee the rights of health in Brazil".

Many of the refugees find difficulties in the public network because they do not understand simple requirements, but in other cases, "there is a lack of knowledge of professionals in the services for refugees". The representative reported situations in which the issue of culture or gender is a barrier to access health services, for example for Muslim women. "It is important that the professional understands cultural factors. We need to look at migration as a human rights issue, and access to public policies helps ensuring that these people are integrated as actors with the potential to contribute to society".

The city of São Paulo has shared the responsibility to train staff with all municipal secretaries regarding refugee rights and UMAs. However, there is no specific training about

the Convention on the Rights of the Children, but general information about access to public services and some human rights, which demonstrates a lack of information to the employees of public services.

Oslo:

The municipalities in Norway, including Oslo are regulated by the Police register Act. This means that a certificate of good conduct has become obligatory in a number of areas, for example staff of refugee reception centers, as a measure to protect minors from people who are inept to have responsibilities for minors.

Other training measures in child welfare services was also adopted in the municipalities, from 2016, employees in municipalities and child welfare institutions are encouraged to take professional child welfare education. The objective is to improve the qualification of the staff.

The county governors are responsible for inspections of child health centers' services for children after the first national inspection in 2013, the municipalities receive special grants to improve the training of staff.

Municipalities are free to organize their own services, within the framework of the law and regulations. Another measure existent in the municipalities are based on the Child Welfare Act which determines the responsibility for notifying municipal child welfare services in the event of concern for a child. Training seminars were held for staff in reception centers and child welfare services to ensure that vulnerable children receive appropriate treatment.

In all the interviews done in entities in Oslo, including the one part of Oslo Commune, the interviewees said that the staff of their organization receive periodically training about children rights and refugee rights.

6 Conclusion

In this study we present concepts of public policies for immigrants, its application in the cities and the respect to the rights of the children. The objective was to verify respect for the rights of UMAs through local public policies.

Through the study of international agreements for the defense of the rights of immigrant children, we then seek the local public policies elaborated by the cities of Oslo and São Paulo for the reception of the UMA population.

The public policies for UMAs reveal how their rights are respected in a society. In both countries the National law was a support for the implementation of the local policies. However, the existence of a national law is not a certitude that all children rights are respected, and that local policies are not necessary.

In São Paulo, the pioneering initiative for the development of public policies aimed at refugees demonstrates that local public power is sensitive to this humanitarian cause. However, planning, training and regulation, in addition to partnership with the federal government, are fundamental to the fulfillment of these policies so that the UMAs are received in a dignified manner with their rights respected. Despite the pioneering role of the City of São Paulo in Brazil in this elaboration of specific refugee policies, if these policies do not have a structure that makes them viable, there is a risk of an increase in social ills and a disrespect for human rights refugee children.

In this research I used the CRC (1989) and the UN Guidelines for Refugee Minors to verify if the local public policies are being respected and if the best interest of the child has been taken care of. "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration" (CRC, 1989). The understanding of the local public policies for UMAs is a focus of this research.

According to the interviewees the public policies that exist in São Paulo and Oslo can be described as significant in regard to access to public services such as health and education. And the role of staff training in public organizations that provide services for UMAs is essential to avoid discrimination.

Analyzing the 8 items described in the UN guidelines for UMAs shows us that local policies that match the UN guidelines, can contribute significantly in the respect to the children rights. According to the interviewees, the public policies were made to facilitate the life of UMAs and at the same time contribute to organize the public services in a way to best respect

the human and children rights. My findings indicate that the elaboration of these policies contribute to the best reception of the UMAs in the cities that are part of this study.

The interviewees point out a problem that happens in both cities, even with the totally different structure of services they have. They talk about the long time that the process for getting the status of UMA can take. In Brazil this can take up to two years, and in Norway some asylum centers have cases of until 9 months waiting periods. This can force the children to pause their life, and the uncertainty of what will happen to him or her in the future can cause an unfortunate psychological reaction.

Migration is an important challenge, even for developed cities. When they are looking for protection, they need to be supported by a social structure that guarantees their rights. One of my findings indicates that in Oslo the treatment of minors can change depending on the age of the child. If they are under the age of 15, they receive protection in special care centers by Bufetat that follows strict guidelines of protection of children rights. But if the minors are over the age of 15, they are taken to UDI asylum centers, with a different guideline of protection and selection of staff to work with these UMAs.

Findings in the city of São Paulo showed that even if the public policies endorse the need of each municipal entity to train their staff to know how to deal with immigrants, the interviews demonstrated that there is still a lack of training in basic public services.

In Oslo, during the interviews with Oslo Commune and the “Språksenter”, who are responsible for courses for immigrant minors, they demonstrated that there has been progress in Oslo on introductory program for immigrants. This is because the refugees receive a preparation in language schools, before to be inserted in a regular school. This way the adaptation to the new school system get easier and lessens the workload of teachers. More research is still necessary if one wishes to know about the application and results of the local public policies, taking the UMAs perspective as the frame of reference.

During this study, we tried to present some discussion about the development of policies for UMAs, which would demonstrate the level of political commitment with respect to the rights of the children. Our goal with identifying existing local policies, has been to understand how these policies take children's rights into account. One of the starting points of the discussion is that it is the role of the state to protect the rights of children and that cities cannot ignore this challenge of accommodating the UMAs with the necessary dignity within their municipal boundaries.

The path taken for the central argument of this research included an investigation into the concept of public policies for immigrants to understand their functionalities and children's

rights, which need to be understood to identify them in the public policies existing in the two cities studied. The next step was the contextualization of the cities of Oslo and Sao Paulo, regarding immigration issues and existing laws. Soon after, we seek to present the Guidelines of the UN regarding the due process of hosting UMAs in the states and cities. The elements of this guideline consist of 8 main items that identify the main rights that need to be respected according to the UMAs reception process. The exercise of elucidation of public policy proposals in the cities of Oslo and Sao Paulo, through interviews, also allowed us to clarify that public policies still need adjustments in specific items such as staff training; combat xenophobia; adequacy of spaces in reception centers, time of process analysis and access to health services in the case of São Paulo. And in the case of Oslo, if the children are receiving equal treatment, or unequal treatment in equal cases; the basic interest of the child in cases of application for asylum; procedures of identification of age, using medical procedures; the time of analysis of the cases of each UMA in the cases of recognition of refugee status.

The types of public policies directed at UMAs reflect the concerns of each city on which rights should be prioritized. São Paulo developed public policies even before the new immigration law of Brazil. These local public policies reflect a concern with the human rights of this population. São Paulo has a certain autonomy in the elaboration of policies, since the country still lacks regulation regarding the delimitation of tasks and attributions of each public actor, especially regarding the delimitation of the attributions of the government, the state and municipalities to the reception of immigrants.

In the case of Oslo, the difference is that the country has a tradition of humanitarian aid and all regulations on child reception are in place, and the role of the city in the elaboration of public policies was only to improve this system and ensure that rights were fully guaranteed. However, Oslo modifies its policies according to the federal and European determinations.

Even though Brazil have a new humanitarian law that serves as an example for the rest of Latin America, Law 13.445/2017, we have seen that the mere existence of a law does not guarantee that it is enforced. Especially when refugees in Brazil still have a series of restrictions on political participation and even impediments to the right to vote. It is necessary to understand the mechanisms that influence the access of UMAs to legal recognition and access to basic services offered in the cities where they are situated.

CRC and UN guidelines for UMAs should be the standard for the Oslo policies of reception and treatment of UMAs and process of asylum. When we review the research of this study about the recognition of children in the public policies for UMAs in Norway, we do not find the same ground of protection for the UMAs over 15 years old as the under 15 receive.

There are no specific local rules to resolve this. However, the municipality has made extra efforts to guarantee the training of staff in schools and care centers, to give them knowledge about the rights of UMAs.

The local authorities should consider the best interest of the child in the analysis of the process of reception, and the services the UMAs receive at reception centers in Oslo.

Norway has specific rules about giving grants for municipalities that settle UMAs, and this is a positive policy, demonstrating the respect they have for the right of children to live in good conditions. As shown in Chapter 3, the temporary residence permits for UMAs, may not match the CRC articles of protection.

Norway together with the city of Oslo have found positive solutions for the minors. For example: the access to the local public services of health to all children, independent of their refugee status; access to free education; introductory program for immigrant children; access to guardians since they arrive in the first care center; and the establishment of care facilities for UMAs. This improve the living conditions of the UMAs in Oslo. The responsibility for all of them, under and over the age of 15, should be transferred to the child welfare services (Bufetat), to provide adequate reception and services.

Cities should be very careful with the policies for UMAs, and use the principle of best interest of child, in accordance with the recommended guidelines of CRC and UN for unaccompanied minors.

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Appendix A. Content Form



Norwegian University of Life Sciences

Department: Faculty of Landscape and Society

Course in: M30-IR -
Master's
Thesis International Relations
Course code Course name

Advisor professor: William Derman
Name

Student name: Michelle Rodrigues Franco



Norwegian University of Life Sciences

CONSENT FOR PARTICIPATION IN INTERVIEW RESEARCH

1. I volunteer to participate in a research project conducted by MSc. Student investigator Michelle Rodrigues Franco from Norwegian University of Life Sciences. I understand that the project is designed to gather information about "Public Policies to immigrant children in São Paulo and Oslo". I will be one of approximately 10 people being interviewed for this research.
2. I understand that if, however, I feel uncomfortable in any way during the interview session, I have the right to decline to answer any question or to end the interview.
3. Participation involves being interviewed by the researcher Michelle Rodrigues Franco. The interview may last approximately 30 minutes. An audio tape of the interview and subsequent dialogue can be made. Question by email can also be made by the researcher.
4. I understand that the researcher will not identify me by name in any reports using information obtained from this interview, and that my confidentiality as a participant in this study will remain secure. Subsequent uses of records and data will be subject to standard data use policies which protect the anonymity of individuals and institutions.
5. I understand that this research study has been reviewed and approved by the **Norwegian University of Life Sciences**. For research problems or questions regarding subjects, the Institutional Review Board may be contacted through mrodrigu@nmbu.no or contact her advisor professor William Derman, through the email bill.derman@nmbu.no

I have read and understand the explanation provided to me. I have had all my questions answered to my satisfaction, and I voluntarily agree to participate in this study. I have been given a copy of this consent form.

My Signature

Date

My Printed Name

Signature of the Investigator

For further information, please contact:
 Michelle Rodrigues Franco
mrodrigu@nmbu.no
 +4745917395

Appendix B. Interview guide

Context and Training:

1. what are the main activities of your organization?
2. how long have you worked in this organization?
3. what are your major activities in this organization
4. what are the main policies/laws that guide your work?

Policies for Immigrants and Unaccompanied Minors In Oslo

5. Are there specific local policies for unaccompanied minors immigrants in Oslo (São Paulo)?
6. all children with families treated the same no matter their immigration status? what about the unaccompanied minors?
7. can new unaccompanied child arrivals obtain what kind of benefits?
8. what happens to unaccompanied children once they are in Norwegian custody in Oslo (São Paulo)?

concept of integration of immigrants

9. in your opinion the local policies for reception of unaccompanied children immigrants are effective in Oslo (São Paulo)? what still need to be done?

Politics:

10. the political parties in Norway (Brazil) have different immigration policies . these policies are made at the national level but the city of Oslo (São Paulo) has a green government. how this can affect the work of your organization?

Concept of Human Rights:

11. what are the main challenges for the elaboration / implementation of these policies for welcoming unaccompanied children?
12. Your institution offer training for employees about children and human rights?

Appendix C: Coding

Oslo	São Paulo
Oslo kommune – språksenter oslo	Coordination of policies for immigrants and promotion of decent work of the municipal department of human rights and citizenship of São Paulo.
The Norwegian Directorate For Children, Youth And Family Affairs (Bufdir)	The Center For Reference And Assistance For Immigrants (CRAI)
The Office for Children, Youth And Family Affairs (Bufetat)	Center For Human Rights And Immigrant Citizenship (CDHIC)
Refstad transittmottak	Center For Support And Pastoral Of Migrants (CAMI)
Mysebu statlige transittmottak for enslige mindreårige	Coordination Of Policies For Children And Adolescents Of The Municipal Department Of Human Rights And Citizenship Of São Paulo (SMDHC)
Norwegian people's aid (npaid)	
Byrådsavdeling for eldre, helse og arbeid (Oslo Kommune)	

São Paulo:

What are the main policies that guide your work?			
Promoting the universality of rights, in accordance with the guidelines and principles of the Municipal Policy for Immigrant Population	now we do not know what to do, we are waiting for the authorities to explain the decree that regulates the Brazilian immigrant law, mainly because of the federal police. We must follow the law, which is the highest hierarchical norm.		We work promotion processes of discussion and advocacy in decision-making spaces for the elaboration of migratory policies based on the guarantee of human rights and citizenship at the local, national, regional and international level
We formulate and follow projects and policies aimed at the promotion, protection and protection of the population between zero and eighteen years in the city of São Paulo, always in accordance with the determination of the municipality's government.			we work in a network and without the public policies we cannot integrate the services provided to the immigrants. but we managed to work more in line with municipal and state policies.
Local policies	State policies	International Policies	mixed

Oslo:

What are the main policies/laws that guide your work?			
We work here at integration area with refugees at municipality of Oslo. We do not have much contact with UDI.	The city can contribute, but these introductory programs that we apply are from federal government.		We have a national responsibility To provide safe places for unaccompanied children. Our significant difference is the Norwegian child protect act and we follow procedures according the CRC.
	Bufdir is a state department.		In UDI asylum we follow both: UDI procedures and children rights principles.
	When a family comes with kids, our employees follow stric rules of UDI about immigrants' rights.		NPA's goal is human worth and equal rights for all. We work to secure the right to asylum and to strengthen the well-being and basic rights of asylum seekers, refugees and immigrants in Norway
Local	State	International	Mixed

São Paulo:

In your opinion the local policies for reception of unaccompanied children immigrants are effective in São Paulo? what still need to be done?		
There is the need to improve policies and public management in health, preparing health managers and professionals to meet this demand of international immigrant populations that have different specificities and vulnerabilities.	I often say that in recent years we have made progress in terms of immigration regularization, in terms of reception policies. And now we need to take this step to combat xenophobia, to value the culture of the immigrant. We still need to break with many stigmas.	the political context affects my work, because we work in a network and without the local public policies, we cannot integrate the services provided to the immigrants. But with each new government these policies can be stopped.
the CRAI acts mainly in the formation of the immigrant and refugees so that he knows his or her rights, and knows that he has right to access all the public services.		Political will to serve the vulnerable public will always be decisive for success.
Improve access to services	To combat xenophobia	Political will

Oslo:

In your opinion the local policies for reception of unaccompanied children immigrants are effective in Oslo? what still need to be done?		
If I have the power, I would work about the immigrant integration, like after school integration, opportunities.	We have a good system, but the time is a important factor, I would like the application for asylum just be taken faster.	What I would most recommend is the same level of treatment between children under 15 and children till 18 in the asylum centers for immigrants.
Yes. We have a multicultural society; we think is healthier society is made of different people.	The system works but could be much better, staying in the same place for months and then have to go back their country. If I could, I would tell to the government make an effort regarding policies for children immigrants, I would tell them to give priority for the cases of refugees families, because is not good to them stay here months and months without nothing to do. Specially if they are over 15 years old, because they just go to language course.	The City Government in Oslo support our organization economically. The local government has the possibility to develop more progressive policies that the national government. Norway has been criticized by the UN for having a differential treatment for children over and under 15. We recommend that all children should be living in care centres run by the child welfare services
	Two or three years ago the process of decision was done in a shorter time. These minors get bored in our Arrival transition reception. They need to do some activity. The government should be faster with the processes.	
Integration	Time	equality

São Paulo:

What are the main challenges for the elaboration / implementation of these policies for welcoming unaccompanied children?			
The challenges of a public and private partnership are to reconcile interests of both the municipality and the non-governmental organizations. This is the major challenge.	Many of the asylum seekers find difficulties in the public services because the lack of knowledge of professionals in the services.	The regulation is very important, in Brazil is not clear who should be responsible for what, regarding refugees and immigrants. immigrants arriving in small towns, for example, they create a large visibility, public equipment get overcrowded, creating a crisis. We need regulate the article 120 of the new immigrant law that refers about the creation of the national immigration policy, with the participation of states, municipalities and entities.	
The articulation of policies, qualifying staff has been challenging.		The main problem is not the law, but the regulation, we feel it in practice, every day we try to schedule appointments in the federal police, every hour becomes more difficult.	The other challenge is funding, just with enough funding we can do a quality work, with qualified staff.
Network between governmental and non-governmental organizations	Lack of knowledge, lack of training of staff	Regulation	Funding

Oslo:

What are the main challenges for the elaboration / implementation of these policies for welcoming unaccompanied children?				
Before this introductory was established in Oslo we had classes with diverse backgrounds, it was a challenging for teachers.	UDI take more one year to decide an application, and the others process as settlement cannot be taken before the decision	Because of pressure off social movement children under 15 got protection of Bufetat. After that there was no political will to include children till 18 years old. And UDI still get responsibility for them	We don't have any money for other projects or activities when we receive them here.	All people in Norway has the right to some basic rights, but the government affords families different treatment based on age and immigration status.
	We had minors that stayed with us until 10 months, they get worried about the uncertainty in the future.		Our challenge in reception and integration is that everyone that arrives here should know the language, but the skills to get a job and employment rate are different things. Some years ago we were asked to settle around 400 now less. We need to think about the expenses. There are differet opinion about how many to settle. Some political parties think we should settle more than 250.	
Diverse backgrounds	Prolonged time	Political will	Budge	Diverse treatment

Annex 1:

Asylum applications lodged in Norway in 2018 by age and sex

UTLENDINGS DIREKTORATET (NO) | <https://www.udi.no/en/statistics-and-analysis/statistic> 80%

Front page > Statistics and analysis > Statistics on immigration > Asylum applications lodged in Norway by Citizenship, Sex and Age

January - December 2018: Asylum applications lodged in Norway by Citizenship, Sex and Age.¹

Citizenship	Female total	Male total	Total	Female 0 - 5 years	Female 6 - 10 years	Female 11 - 17 years	Female adults	Male 0 - 5 years	Male 6 - 10 years	Male 11 - 17 years	Male adults
Afghanistan	24	67	91	4	3	8	9	6	4	31	26
Albania	21	44	65	4	2	1	14	0	2	9	33
Algeria	0	13	13	0	0	0	0	0	0	2	11
Angola	13	15	28	1	0	2	10	2	1	0	12
Armenia	2	1	3	0	1	1	0	0	0	1	0
Australia	0	1	1	0	0	0	0	0	0	0	1
Azerbaijan	1	8	9	0	0	0	1	0	0	0	8
Bangladesh	1	5	6	1	0	0	0	1	0	0	4
Belarus	2	4	6	0	0	0	2	0	0	0	4
Bosnia and Herzegovina	2	2	4	0	0	1	1	0	0	0	2
Brazil	0	2	2	0	0	0	0	0	0	0	2
Burundi	1	1	2	0	0	0	1	0	0	0	1
Cameroon	1	9	10	0	0	0	1	0	0	0	9
Central African Republic	1	0	1	0	0	0	1	0	0	0	0
Total	1 090	1 565	2 655	154	80	89	767	195	92	181	1 097

Resource: UDI, 2018b

Annex 2:

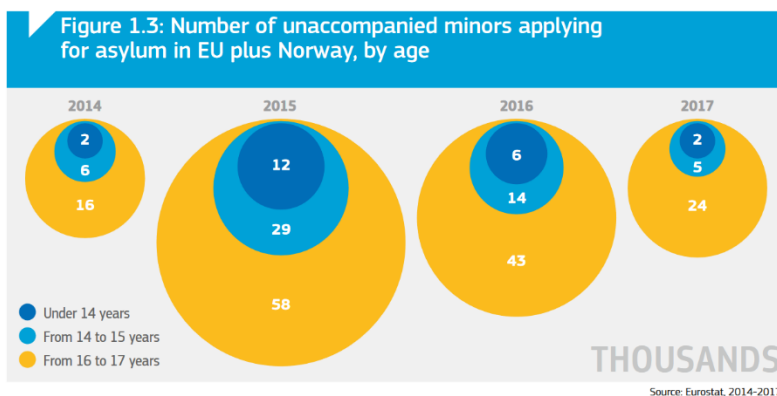
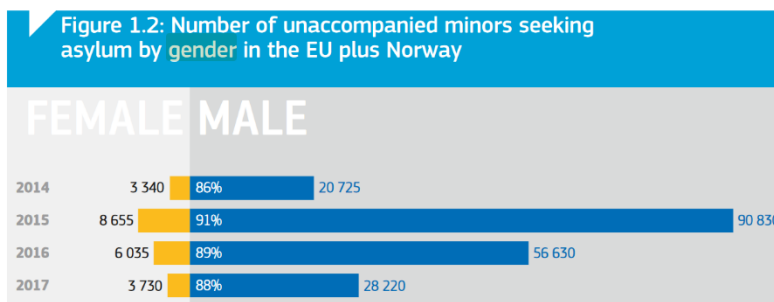
January - December 2018: Asylum applications of unaccompanied minors¹ lodged in Norway by nationality and month.²

Citizenship	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Totalt
Afghanistan	2	0	2	3	3	4	0	3	5	5	3	7	37
Albania	0	1	0	2	1	0	0	0	1	0	0	0	5
Algeria	0	0	0	0	0	0	0	1	0	1	0	1	3
Angola	0	0	1	0	0	0	0	0	0	0	0	0	1
Bosnia and Herzegovina	0	0	0	0	1	0	0	0	0	0	0	0	1
Congo	0	0	0	0	0	0	0	0	2	0	0	0	2
Côte d'Ivoire	1	0	0	0	0	1	0	0	0	0	0	0	2
Eritrea	2	4	7	5	0	6	1	3	2	2	1	1	34
Ethiopia	1	0	1	0	0	0	0	1	0	0	0	0	3
Gambia	1	0	0	0	0	0	0	0	0	0	0	0	1
Guinea	0	2	0	1	1	0	0	0	0	0	1	0	5
Iran	0	0	0	0	1	0	0	0	0	0	0	0	1
Iraq	0	0	0	0	1	0	0	0	1	0	0	0	2
Lebanon	0	0	0	0	0	0	0	0	1	0	0	0	1
Morocco	2	0	2	0	0	0	0	0	1	0	0	0	5
Nigeria	1	0	0	0	0	0	0	0	0	0	0	0	1
Pakistan	0	0	0	0	0	0	0	1	0	0	0	0	1
Poland	0	0	0	0	1	0	0	0	0	0	0	0	1
Russia	0	0	1	0	0	0	0	2	0	0	0	0	3
Senegal	0	0	0	0	0	0	0	0	0	1	0	0	1
Somalia	0	0	0	0	0	0	0	2	1	0	0	0	3
Stateless	0	0	0	0	0	0	0	2	0	3	0	0	5
Syrian Arab Republic	0	4	3	2	3	2	1	4	6	6	2	7	40
Ukraine	0	0	0	0	0	0	0	0	1	0	0	0	1
Total	10	11	17	13	12	13	2	19	21	18	7	16	159

¹Unaccompanied minor asylum seeker is an asylum seeker who claims to be under 18 years of age and who has no parents or others with parental responsibility in Norway.

Resource: UDI, 2018a

Annex 3:



* Eurostat indicator "Asylum applicants considered to be unaccompanied minors by citizenship, age and sex Annual data (rounded) [migr_asyunaa]" 2014-2017 (extracted on 25 April 2018).

Resource: EMN, 2018

Annex 4:

Front page

Statistics and analysis

Statistics on immigration

Asylum applications of unaccompanied minors lodged in

Asylum applications of unaccompanied minors lodged in Norway by nationality and month (2015)

The table shows how many people claimed to be under the age of 18 and unaccompanied by parents or others with parental responsibility when they applied for protection (asylum) in Norway in 2015. The figures also show their citizenship.

Filter data

Download CSV file

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January - December 2015: Asylum applications of unaccompanied minors¹ lodged in Norway by nationality and month.

Citizenship	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Afghanistan	49	18	37	34	132	212	261	334	437	849	946	228	3 537
Albania	1	1	0	0	1	3	2	0	6	2	0	1	17
Algeria	0	2	0	1	3	0	2	1	1	0	1	0	11
Bangladesh	0	1	0	0	0	1	0	0	0	0	3	0	5
Brazil	1	0	0	0	0	0	0	0	0	0	0	0	1
China	0	0	0	0	1	0	0	0	1	0	0	0	2
Congo	1	0	0	0	0	0	0	0	1	0	0	0	2
Congo, Brazzaville	0	0	0	0	1	0	0	0	0	0	0	0	1
Egypt	0	0	0	0	1	0	0	0	0	1	1	0	3
Total	93	42	70	88	384	324	413	543	791	1 249	1 209	274	5 480

Resource: UDI, n.d.



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