



A NEW BOOK ON INTERNAL AND INTERNATIONAL DISPLACEMENT

Latin America and Refugee Protection: Regimes, Logics, and Challenges. Edited by Liliana Lyra Jubilut, Márica Vera Espinoza, and Gabriela Mezzanotti. Oxford/New York: Berghahn Books, 2021, Pp. 433. ISBN 978-1-80073-114-1 (hardback) and 978-1-80073-115-8 (ebook)

*Andrea Pacheco Pacifico**

Journal of Internal Displacement, Volume 12, Number 2, July 2022, 02-04

Link: <https://journalofinternaldisplacement.org/>

Abstract

The current crisis migration¹ has been under debate for years, for instance, discussions on Convention Plus and migration nexus with development, security, and environment. Hence, the 1951 International Refugee Regime (IRR) also needs change, particularly due to some regional peculiarities that lead to limitations to protect those in need². The Latin American Refugee Regime (LARR), created by the 1984 Cartagena Declaration on Refugees (CD), has been an example of how local needs may adjust the IRR to protect refugees and other migrants and to find local solutions for them. Hence, for Hathaway (p. XV), “regionalism is the future of refugee protection” and Good Practices to be replicated. Jubilut, Espinoza, and Mezzanotti (p. 1-31), outstanding leading scholars and practitioners in the field, have edited this book to fill out a gap of knowledge on the LARR and to disseminate its Good Practices. Firstly, it addresses the logics behind its creation, that is, the history of Latin American multiracial population and its regional refugee law and protection, through periods of politicisation and securitisation of the issue in some states.

Keywords

Refugee protection, Latin America, migration crisis, politics, history

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Submission (July 2022 Edition): <http://journalofinternaldisplacement.com>

Author's Institutional Affiliation and Correspondence

*Associate Professor of International Relations at Paraíba State University, in Joao Pessoa, Brazil and founder/coordinator of the Study and Research Center on Environmentally Displaced Persons (NEPDA) and co-coordinate of the Sergio Vieira de Mello Chair.

Email: apacifico@servidor.uepb.edu.br

¹ J McAdam, 'The concept of crisis migration', (2014) *Forced Migration Review* 45, 10-11.

² R Zetter, 'A fragmented landscape of protection' (2015) *Forced Migration Review*, 50, 62-65.

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Jubilut, Espinoza, and Mezzanotti (p. 1-31), outstanding leading scholars and practitioners in the field, have edited this book to fill out a gap of knowledge on the LARR and to disseminate its Good Practices. Firstly, it addresses the logics behind its creation, that is, the history of Latin American multiracial population and its regional refugee law and protection, through periods of politicisation and securitisation of the issue in some states.

Secondly, it highlights the dilemma of different states with different laws and policies to host, protect, and integrate refugees and other migrants, leading to a regime complexity. Lastly, the book discusses the challenges that the current crisis of displacement brings to the region in a way to “seek integral protection for refugees in the region.”

The book has five parts. Parts one to three deals with the LARR. Fischel de Andrade (p. 31-51) highlights the practical, political, and legal relevance of the 1984 Cartagena Declaration (CD) and its role in advocacy, particularly the refugee’s broad definition. He shows how the CD has “stretched” the IRR to adjust it to regional needs, that is, Betts’ theory of regime stretching⁵. Rushing and Rodriguez (p. 52-76) address the dilemma of internally displaced persons (IDPs) in the region in a legal, historical, and policy analysis, highlighting that only Colombia and Guatemala have laws and policies on IDPs. Espinoza (p. 77-95) deals with the legacy of the 2004 Mexico Declaration and Plan of Action (MPA), for instance, regarding solutions based on solidarity, responsibility sharing, and regional cooperation. For her, there has been rhetoric and uneven implementation of MPA across the region.

Arnold-Fernandez, Torres, and Kallas (p. 96-115) evaluate the 2014 Brazil Declaration and Plan of Action (BPA). For them, the main challenge to promote refugee protection in Latin America has been lack of political will, as the case of Venezuela’s crisis, to put promise into practice. An example of Good Practice in BPA was the civil society’ inclusion on the debate, as Brazil has done during the preparation of the new 2017 Migration Law, characterising a network society communicative model⁶. For Kneebone (p. 116-124), the 1984, the 1994, the 2004, and the 2014 instruments “form the Cartagena Regime to respond to local needs and to gaps in the international refugee protection regime”, also “thanks to UNHCR constructive role” in the region.

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⁴ R Zetter, ‘A fragmented landscape of protection’ (2015) *Forced Migration Review*, 50, 62-65.

⁵ A Betts, ‘Regime Stretching: How International Institutions Adapt at Implementation’, (2010) Oxford, University of Oxford, Politics Department, Lecture.

⁶ AP Pacifico, ‘A network society communicative model for optimizing the Refugee Status Determination (RSD) procedures’, (2013) *Revista Brasileira de Política Internacional* 56 (1), 22-39.

Part two of the book has a focus on the Inter-American Human Rights System's role (IAHRS) - the Commission and the Court - in protecting asylum seekers, refugees, and other persons in need of protection in the region. Navarro (p. 125-149) highlights its role in favour of *non-refoulement*, complementary protection, right to due process, and judicial protection during Refugee Status Determination procedures. Casagrande (p. 150-168) brings a legal perspective of the Court's fundamental role in the consolidation of forced migrants' protection.

For Anker (p. 169-180), on one hand, "the IAHRS offers a robust set of protection for persons seeking asylum in the Americas", being NGOs "an integral part of it". On the other hand, "the System have limitations to realise their rights and protection", for instance, the USA and Canada have not yet ratified the Inter-American Convention on Human Rights and not submitted to the jurisdiction of the Court.

In Part three, Mondelli (p. 181-202) and Jubilit, Mezzanotti, and Lopes (p. 203-227) evaluate some regional responses to refugee protection through the 2010 Brasilia Declaration, the 2014 Brasilia Plan of Action, the 2018 100 Points of Brasilia, and the Global Compact on Refugees (GCR). The first article describes the region as a leader in the global eradication of stateless persons, whilst the latter emphasises the importance of regional-universal action and dialogue for regional solutions, though recognising the limitations of the GCR (non-binding, repatriation and economic development emphasised, lack refugees' participation, etc.). Hyndman (p. 228-236) also acknowledges the "distinct regional contributions" that Latin America has had to the GCR.

Part four examines Good Practices implemented by national regimes. At first, Brumat (p. 237-255) evaluates the 2002 Mercosur Residence Agreement to facilitate movement and to solve irregular migration. Secondly, Freier and Rodriguez (p. 256-275) publish a comparative analysis of current trends in LARR, with a human rights-based approach to rights to work, education, and health care. At last, Freier and Luzes (p. 276-293) analyses some Latin American countries' complementary forms of protection. Cernadas (p. 294-302) concludes that some Good Practices adopted have limitations and contradictions.

The last part of the book addresses the current displacement crises and the regional and/or national responses. At first, Nelson-Pollard (p. 303-322) examines the causes and consequences of unaccompanied minors at the US-Mexico border. Secondly, Carneiro (p. 323-345) assesses different types of displacements in Colombia and national laws and policies for Peace. Finally, Jarochinski Silva, Franco, and Sampaio (p. 346-368) explore the Venezuelan displacement as a regional protection challenge, and Sanchez-Mojica (p. 369-391) evaluates the Haitian flow after two natural disasters and their need of international protection.

Hence, this last article reveals the only gap of the book, as it fails to address the dilemma of environmentally displaced persons, within a region characterised by geographical diversity, with constant risk of natural or human-made disasters. Calderón Chelius (p. 392-396) comments on the importance of **including environmental conditions as trigger for such forced migration and Moulin (p. 397-402) concludes that LARR is ambivalent with mixed results, regarding protection and integration policies, "despite considerable gains in relation to the normative dimension" at regional level.**

Lastly, after Kvalvaag (p.403-412) identifies, in a complete Annex, a chronology of legal frameworks for refugee protection in Latin America, it is clear the interdisciplinary approach of the book, whose authors are outstanding scholars or practitioners from Latin America and overseas. Hence, the book fills out a theoretical and methodological gap that contributes to better knowledge of theory and practice of the LARR, particularly regarding protection law and policy, **being of paramount importance for scholar, students, policymakers and civil society members that deals or not with this issues in the region and overseas.**