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(Book review) Latin America and Refugee Protection: Regimes, Logics and Challenges
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published in

International Journal of Migration and Border Studies

2023

[Link to publication in VU Research Portal](#)

citation for published version (APA)

Larruina, R. (2023). (Book review) Latin America and Refugee Protection: Regimes, Logics and Challenges by: Liliana Lyra Jubilut, Marcia Vera Espinoza and G. Mezzanotti. *International Journal of Migration and Border Studies*, 7(3), 296-301.

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Book Review

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Latin America and Refugee Protection: Regimes, Logics and Challenges
by: Liliana Lyra Jubilut, Marcia Vera Espinoza and G. Mezzanotti
Published 2021
by Berghahn,
New York, 434pp
ISBN: 978-1-80073-114-1
eISBN: 978-1-80073-115-8

The inverted map of South America, also called the upside-down map, created by the Uruguayan artist Joaquín Torres García (1874–1949), gracing the front of *Latin America and Refugee Protection* is one of the most fitting book covers I have ever seen. It shows a world where the southern continents are at the top of the map, rather than the bottom. While I may not be impartial when it comes to my fellow countryman's drawing, I feel confident stating that this book is important for theoretically and methodologically understanding the particular needs and challenges of a region and how that can impact the application of the International Refugee Regime (IRR) to protect refugees (and other migrants). The content of the book fits a key interpretation of Torres García's drawing, which is to challenge taken-for-granted assumptions about how we view the world. Like the artist, the authors reformulate existing paradigms and assumptions concerning the dominance of the Global North. This edited volume appraises Latin America's recent achievements in the twin arenas of refugee reception and protection by analysing key documents, the aspects of national and regional regimes, and their emergence, development, and impact. Adding another layer of interest to this is that this book's chapters are interdisciplinary and, to a certain extent, embrace *polyvocality*¹, with texts authored by expert academics and practitioners, as well as including contributors and perspectives from Latin America, North America, and Europe. This book is a comprehensive source for understanding Latin America and the historical and political circumstances that have led the region to its current state concerning refugee protection. *Latin America and Refugee Protection* is a unique book. No other book written in English, Spanish, or Portuguese conveys such a thorough approach to the protection of refugees in the region.

The introduction chapter sets the scene and meticulously dissects refugee protection in Latin America by showing its distinctive contextual and conceptual aspects. At the contextual level, the following characteristics help to define Latin America as a particular region:

- 1 Latin America is a region that simultaneously produces and protects refugees. It has produced refugees that went elsewhere (outside the region) and refugees that remained in the region.

- 2 It has systems of political asylum and refugee status that coexist with the Cartagena Declaration and Inter-American Human Rights System (IAHRS) (a dialogue between International Refugee Law and Human Rights Law) and an expanded notion of refugee status together with internationally recognised concepts.
- 3 The region faced multiple challenges regarding the Refugee Status Determination (RSD), the legal and administrative processes that define whether an individual seeking protection is a refugee under international, regional, or national law.
- 4 The region has witnessed the emergence of humanitarian actions (i.e., Resettlement in Solidarity and Humanitarian Entry Visas).
- 5 Latin-America has established complementary protection alternatives (i.e., MERCOSUR) (Jubilut and de Oliveira Lopes, 2018).

While similar characteristics can be identified in other regions of the world, Latin America is distinct because these five characteristics co-exist creating a unique milieu for refugee protection.

Conceptually, Latin America is a region that has been committed to refugees since the institutionalisation of exile during the independence processes in the 19th century, which allowed for the diplomatic recognition of the newly formed governments and contributed to overcoming the incapacity to create pluralistic and inclusive models of participation (Sznajder and Roniger, 2009). In the latter decades of the 20th and early 21st century, this was enhanced with mechanisms of solidarity and cooperation. All in all, between mandated political exile and through solidarity with one another, Latin America has a history of allowing refugees to enter and resettle that goes back more than two hundred years.

To further understand the previous point, the introduction elaborates on the concept of Latin America, an area currently formed by 20 different nations with approximately 642 million inhabitants, and briefly describes the historical and circumstantial characteristics of the region. This provides a much-needed explanation for locals and outsiders alike, something that perfectly contributes to framing the narratives in subsequent chapters. Readers are also introduced to the origin and relevance of the Regional Refugee Law, which is vital to refugee reception since it paves the way to expanding the relevant international frameworks and examines the potential to generate new norms and produce localised and tailored responses, as presented in the following sections.

In addition to the introduction and conclusion, the book is organised into five sections. Sections 1 to 3 focus on specific regimes of regional protection; the Cartagena Declaration, the regime of the IAHRS, and regional responses to the international regime on refugee protection. Section 4 presents examples of national regimes, and section 5 brings examples of ‘crises’ and the responses at regional and national levels. Each of the chapters has an interdisciplinary analysis and pays attention to the geopolitical, social, and economic impacts of the norms in question. Each section ends with analysis and commentary by leading experts in the field of forced migration that discusses how the chapters in that section relate to each other and the rest of the book.

Part 1 deals with the regime of the Cartagena Declaration, also known as the Cartagena Declaration on Refugees, a non-binding regional instrument for the protection of refugees adopted in 1984 that has been incorporated into the laws and practices of

14 Latin American countries. The section also addresses the San Jose Declaration of refugees and displaced persons, adopted by the International Colloquium in Commemoration of the ‘Tenth Anniversary of the Cartagena Declaration on Refugees’. They also discuss the Mexico Declaration and Plan of Action (MPA), a continent-wide framework for the protection of displaced people adopted by 20 governments, and the Brazil Declaration. The Brazil declaration, created on the 30th anniversary of the Cartagena Declaration, encompasses the commitment to support the highest protection standards for refugees, displaced, and stateless persons in Latin America and the Caribbean.

The analysis chapter for part 1 discusses the constructive role played by the UNHCR in promoting and consolidating the Cartagena regime. It shows how the Cartagena regime addresses the shortcomings in the legal principles of the IRR through:

- a providing an expanded definition of refugee
- b supporting the process of formulating guiding principles and consequently recognising the junction of human rights, international humanitarian law and refugee law
- c going beyond state responsibility to common responsibility with transnational and subregional actors and the international community.

More concretely, through the MPA, the non-binding norm of responsibility is a core feature addressing the three central pillars of solidarity: borders, cities, and resettlement.

Part 2 focuses on the regime of the IAHRs, with a chapter focused on the protection of asylum seekers, refugees, and other persons in need of international protection, and another chapter elaborating on refugee protection and the Inter-American Court of Human Rights. The IAHRs has tracked the human rights standards and combined the principles of refugee protection to safeguard the rights and deliver relief to a more wide-ranging set of individuals who need international protection. Consequently, the IAHRs has contributed to developing public policies and laws related to asylum, complementary protection, statelessness, and international protection in general. Yet, it has not contributed to strengthening the region’s refugee protection regimen. The progress of IAHRs has been limited because it does not have jurisdiction over Canada and the USA. This lack of jurisdiction means that an important number of refugees in the US are not protected by the region’s strongest mechanism of enforcement. The commentary section elaborates on the important role of NGOs as an integral (informal) part of IAHRs because they have a significant role in the identification and exposure of human rights abuses and helping victims to make this abuse public, as well as in pressuring governments to provide protection.

Part 3 expands on how Latin America responds to the international regime on refugee protection by making regional contributions to the Global Compact on Refugees (GCR). The first chapter discusses the application of the Brasilia Declaration that led to the adoption of the Brazil Plan of Action. It presents a variety of actors and tools to tackle statelessness. The following chapter discusses the 100 points of the Brasilia Declaration as a Latin American dialogue with the GCR. It elaborates on the four protection axes: quality of asylum, durable solutions, management of special needs, and statelessness. The chapters in this section fill an important gap in relation to the recent global discourse on statelessness and refugee protection in Latin America and throughout the world. The commentary section expands on how this region has led the world in its understanding

that scales of protection are not always state-centred or legal systems. There are alternative protection strategies and complementary paths, such as cities of solidarity and borders of solidarity. Besides the regional and national, urban areas can be (de facto) spaces for humanitarian support and livelihood, a place of refuge.

Part 4 focuses on other forms of protection that address population movement and provide status to individuals fleeing danger. The chapters in this section expand on the residence agreements of MERCOSUR (Mercado Común del Sur-Southern Common Market), a regional integration process, originated by Argentina, Brazil, Paraguay and Uruguay, and later joined by Venezuela and Bolivia (still in the accession procedure). One chapter looks at how MERCOSUR has become an alternative form of security of migration status for individuals and the challenges of this milestone in regional migration governance. Another chapter describes Latin American domestic refugee law trends, demonstrating how legislative reforms in refugee protection, mostly in South America, do not reflect the constricting patterns emerging in other relevant literature. Instead, they represent, at least partially, new and experimental ideas in human rights-based asylum legislation. The chapter describes complementary forms of protection, showing how humanitarian visas and conditional authorisations to enter and remain – granted by some countries to protect refugees fleeing persecution based on the 1951 Refugee Convention – fit into this complementarity. It further elaborates on how humanitarian visas have increasingly been used in the region and their role during the Venezuelan displacement crisis (the largest recorded refugee crisis in the US, which displaced more than seven million individuals). The chapter ends with a thorough elaboration on the case of Peru and its restrictive application of humanitarian visas. The commentary in this section reflects on how comprehensive and complementary approaches to regional and national instruments work. At the regional level, the MERCOSUR agreements have contributed to preventing irregular migration, protecting individuals in vulnerable circumstances, and generating positive outcomes in terms of labour, social protection, and public security. At the national level, the complementarity in different pieces of legislation led to more effective refugee policies. Similarly, humanitarian visas have helped provide residence and protection to individuals who would otherwise be rejected due to restrictive migration and refugee policies.

Part 5, dedicated to the regional refugee ‘crises’, has chapters that focus on displacement in the northern part of Central America, displacement in Colombia, and the Venezuelan exodus that resulted in an unprecedented number in the arrivals of refugees in Colombia and Brazil. It ends with a chapter dedicated to the flow of Haitian refugees within Latin America and the challenges of international protection in situations of disaster. The summation of this section reflects on the fragility of the state, poverty, corruption, environmental decline, and the normalisation of sexual violence in patriarchal cultures. It examines how each of these factors, alone or in combination, forces the exodus of people. Currently, these elements bring more questions than answers to the current migration scenarios in Latin America. Nevertheless, there are important lessons to be learned. Those include the following:

- a Each country should be understood as a nation with unique characteristics embedded in a region of expulsion and transit migration.

- b Environmental causes need to be discussed as a source of recognition of refugee status. This discussion is fundamentally connected to an in-depth review of the relevant frameworks and a description of causes that justify international protection.
- c Violence, rather than political or religious persecution, is one of the main factors explaining the current forced displacement crisis in Latin America.

The book *Latin America and Refugee Protection* has a comprehensive annex, with a structured overview of legal frameworks for refugee protection, which can be used as a reference document. The annex is organised into three sections. Section 1 provides information on the regime of the Cartagena Declaration on Refugees. Section 2 lists the main documents of the regime of the IAHRs. Section 3 outlines refugee protection policies in the region by describing national legislation in seven categories:

- 1 the right to asylum in the constitution
- 2 laws on refugees
- 3 humanitarian visas
- 4 the adoption of a regional definition of refugees
- 5 no deadline for applying for refugee status
- 6 the non-criminalisation of entry
- 7 the right to work.

This well-organised and wide-ranging book sensibly deals with all aspects of refugee protection in Latin America. It swiftly takes the reader from the fundamental structures underlying the refugee protection system by going through its current state and translating it into situations that test and challenge those fundamental structures. The book pays attention to all the possible details that the reader might need to know and consider to understand the inner workings of refugee protection in Latin America. Its interdisciplinary and polyvocal approach builds a bridge between different fields of expertise, going beyond the scope of the purely legal into geopolitical, social, and economic spheres. Combining those disciplines adds valuable insights to a complex subject. The book provides the tools, perspectives, and concepts necessary to advance the fundamental understanding of the field of refugee protection in order to have a direct impact on the migrants and societies in countries of origin, transit, and destination.

With the future of refugee protection is uncertain and the number of internally and externally displaced people worldwide increasing by the minute, this book is a welcome contribution. The current international refugee protection regime is broken (Betts and Collier, 2018). It is rife with incongruent regulations, practices, and policies that make it unable to manage the growing displacement and settlement of people forced from their homes. Possible solutions to this situation may align with the logic behind this book, where we see how the cooperation and specific circumstances of a particular area manifest in localised, tailored, and contextual actions, while remaining embedded in regional and international agreements.

Currently, the northern hemisphere's policies aim to deter refugees in their areas of origin (Betts and Loescher, 2013), demanding more from the South, which would further aggravate the distribution of responsibilities between the South and North. The North-South power imbalance has mostly characterised the IRR, so the future of refugee

protection seems to be regional, mostly in some form of South-South cooperation. This makes *Latin America and Refugee Protection* a welcomed source with relevant information to illuminate the understanding of the situation in Latin America, and reflect and elaborate on possible translations into other regions of the Global South. These translations should consider how local needs may adjust the International Refugee Regime to protect refugees and find solutions that can eventually lead to successful reception and integration paths.

Latin America and Refugee Protection: Regimes, Logics, and Challenges is an important book for scholars, students, policymakers and civil society practitioners in the field who want to have a reference source for understanding the complexities and idiosyncrasies of refugee protection specific to Latin America. Furthermore, this book could serve as a blueprint for similar studies in other world regions, particularly in the Global South.

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Notes

- 1 The use of multiple voices to convey a message.