

Research Article

Learning from Global South Approaches to Tackle Refugee Crises: Assessing the Impact of Latin American Refugee Norms and Practices on the Global Compact on Refugees

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Abstract

With wars and civil unrest brewing in all corners of the world, many states are struggling with an increased influx of refugees. However, by being a refugee-producing as well as -accepting region, Latin America has developed a unique approach towards forced migration over the past decades, characterised by solidarity and long-term integration initiatives. This paper argues that this put the region into a favourable position to influence the UN negotiations on the Global Compact on Refugees (GCR) between 2016 and 2018. Since valuable contributions to solve global problems by the Global South often remain underestimated or disregarded, the article highlights the influence of Latin America's participation, written statements, and regional conference papers on the creation of the GCR. Particularly, the Global Compact's emphasis on solidarity between states and the linking of concepts like development and integration appear to have been shaped by the region's inputs – potentially contributing to positive changes for the human rights of refugees.

I. Introduction

In international law, the influence of the Global South is often overlooked, as these states tend to be considered rule-takers, rather than rule-makers.⁶¹² To challenge this view and highlight the potential of looking to the Global South for solutions to complex challenges, the following research paper assesses the impact of Latin American norms on the creation of the Global Compact on Refugees (GCR) from 2016 to 2018. This international soft law instrument aims to improve burden-sharing for refugee host countries and grant greater autonomy to refugees.⁶¹³ Even though the specific forced migration measures implemented by the various Latin American states vary, existing research highlights the presence of overarching norms within the region.⁶¹⁴ Therefore, the paper concretely addresses the research question: To what extent have Latin American norms and practices concerning refugees influenced new international norms, specifically the Global Compact on Refugees? The paper argues that Latin American countries have played a considerable role in shaping the GCR by actively participating in negotiations, submitting written contributions, and holding preparatory regional conferences - culminating in a document with 100 suggestions for the Compact.⁶¹⁵ While not all their recommendations were heeded, such as a broader definition for refugees, it is likely that several Latin American norms were at least partly incorporated in the agreement, such as their focus on solidarity and the connection between development and integration. In the implementation phase of the Global Compact, they may further serve as a good example of how soft instruments can guide

⁶¹² See, for instance, James Thuo Gathii, 'Promise of International Law: A Third World View (Including a TWAIL Bibliography 1996–2019 as an Appendix)', *Proceedings of the ASIL Annual Meeting* 114 (2020): 165–87.

⁶¹³ UNHCR, 'The Global Compact on Refugees', UNHCR UK, accessed 20 November 2024.

⁶¹⁴ See Stefania Barichello, 'The Evolving System of Refugees' Protection in Latin America' (Leiden, The Netherlands: Brill | Nijhoff, 2015), 147–71; Stefania Barichello, 'Chapter 8: Responsibility-Sharing in Latin America', in *Research Handbook on International Refugee Law*, ed. Satvinder Singh Juss (Edward Elgar Publishing, 2019); Natalia Cintra, David Owen, and Pía Riggirozzi, 'Latin American Normative Frameworks of Migration and Asylum', in *Displacement, Human Rights and Sexual and Reproductive Health: Conceptualizing Gender Protection Gaps in Latin America* (Bristol, UK: Bristol University Press, 2023), 64–88; Liliana Jubilit and Rachel Lopes, 'Forced Migration and Latin America: Peculiarities of a Peculiar Region in Refugee Protection', *Archiv Des Völkerrechts* 56 (1 June 2018): 131–54; Liliana Lyra Jubilit, Melissa Martins Casagrande, and Marina Cardoso Farias, 'Refugee Policy in Latin America: Structural Pillars and Good Practices', in *Research Handbook on Asylum and Refugee Policy*, ed. Jane Freedman and Glenda Santana De Andrade (Edward Elgar Publishing, 2024), 53–75.

⁶¹⁵ 'The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees', 20 February 2018.

cooperation in the field of forced migration.

To give the necessary context, the paper will initially provide a short overview of Latin American refugee norms and their specificities. Subsequently, the process and aims of the Global Compact on Refugees will be outlined. In the analysis section, the general role of Latin America in the negotiations will be highlighted before examining three features of the Latin regional refugee system in more detail to evaluate the extent to which they influenced the GCR. At the conclusion of this section, the paper will propose avenues for future research on how Latin America may impact the GCR's implementation.

Apart from relying on the few academic articles available on Latin America's impact on these negotiations, the paper will mainly use primary material published on the United Nations website. These include documents like summaries of negotiations, country statements, or speeches by UN officials. To assess the extent to which other regional blocs pushed for similar policies as Latin America, the paper will also take their positions into account. While this article will speak of Latin America, it should be noted that the Caribbean region was involved in the creation of most of the Latin documents and is thus implicitly included in the argument.

II. Context

A. The development of informal refugee norms in Latin America

The right to asylum in Latin America is rooted in the 1948 American Declaration of the Rights and Duties of Man; however, at the time, Latin American states were reluctant to agree to more comprehensive global refugee regulation.⁶¹⁶ As a result, they did not meaningfully participate in the creation of the 1951 Geneva Convention and the document was not broadly adopted in the region until several decades later.⁶¹⁷ However, deteriorating political situations in different Latin American countries led to increased refugee streams over the following years. As there was no adequate

⁶¹⁶ Michael Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', in *In Flight from Conflict and Violence: UNHCR's Consultations on Refugee Status and Other Forms of International Protection*, ed. Volker Türk, Alice Edwards, and Cornelis Wouters (Cambridge University Press, 2017), 145–47.

⁶¹⁷ Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', 2017, 146–47; UNHCR, 'Refugee Treaty and Legislation Dashboard', Rights Mapping and Analysis Platform, accessed 20 November 2024.

regional system in place to deal with these high levels of forced migration, Latin states started adopting several soft law instruments. Since they developed out of necessity or to respond to specific refugee waves, the documents, more closely described in the following paragraph, tend to be practice- and solution-oriented.⁶¹⁸

Although not legally-binding, these agreements have deeply shaped Latin America's conduct regarding refugees.⁶¹⁹ Most significantly, the region refers to the 1984 Cartagena Declaration on Refugees and its follow-up documents (the 1994 San José Declaration, the 2004 Mexico Declaration and Plan of Action (MPA), and the 2014 Brazil Declaration and Plan of Action).⁶²⁰ Furthermore, at the UN-sponsored International Conference on Central American Refugees (CIREFCA) in 1989, participating states agreed on common interpretations of the Cartagena Declaration which, although it is outdated, still guides their conduct today.⁶²¹ Despite Latin America's forward-looking refugee norms, the region sometimes struggles with their full implementation, similar to other regions. However, several regimes, such as CIREFCA or the Borders of Solidarity Programme (part of the MPA), have been praised for being effective in both theory and practice.⁶²²

B. Latin American norms to be examined for their influence

Latin American norms contain several noteworthy elements due to the region's unique experiences with refugees, three of which will be analysed in more detail to determine their influence on the GCR in the due course of the paper.

⁶¹⁸ See, for instance, Penelope Mathew and Tristan Harley, *Refugees, Regionalism and Responsibility* (Cheltenham, UK: Edward Elgar Publishing, 2016), 218; International Conference on Central American Refugees (CIREFCA), 'Declaration and Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced Persons', 30 May 1989, CIREFCA 89/13/Rev.1 edition.

⁶¹⁹ Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', 2017.

⁶²⁰ 'San José Declaration on Refugees and Displaced Persons', 7 December 1994; 'Mexico Declaration and Plan of Action', 16 November 2004; 'Brazil Declaration and Plan of Action', 3 December 2014; Liliana Lyra Jubilut, Marcia Vera Espinoza, and Gabriela Mezzanotti, eds., *Latin America and Refugee Protection: Regimes, Logics, and Challenges*, Forced Migration, volume 41 (New York: Berghahn, 2021); Barichello, 'The Evolving System of Refugees' Protection in Latin America', 2015.

⁶²¹ International Conference on Central American Refugees (CIREFCA), 'Declaration and Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced Persons', 30 May 1989; Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', 2017, 153.

⁶²² Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 237.

Compared to other regions, the Latin approach is characterised by more solidarity than other parts of the world, having even established several explicit solidarity programmes, like ‘Solidarity Cities’ and ‘Borders of Solidarity’ in the MPA.⁶²³ In practice, the UNHCR highlights the importance of the concept in the region’s responses to the Colombian refugee crisis.⁶²⁴ The solidarity approach is also reflected in the states’ language, which consistently speaks of responsibility-sharing as opposed to burden-sharing – a term commonly used in other regions, such as Europe.⁶²⁵ Martuscelli and Jatobá even argue that Latin America exhibits a ‘South-South’ cooperative approach which extends to other parts of the world, since Brazil offered special humanitarian visas to individuals fleeing Syria from 2013 to 2019.⁶²⁶ In a quantitative study, Hammoud-Gallego and Freier emphasise the impact of Latin American leftist governments and regional integration on the formation of this norm.⁶²⁷ Thus, this feature sets Latin American refugee norms apart from other regional strategies.

Another distinctly Latin feature is the intimate linking of development and integration.⁶²⁸ As Mathew and Harley explain, programmes established by CIREFCA and the Mexico Declaration and Plan of Action “facilitated the integration of refugees in host communities and the return of persons to their country of origin” by improving the socio-economic conditions of locals and refugees.⁶²⁹ For instance, Costa Rican

⁶²³ ‘Mexico Declaration and Plan of Action’, 16 November 2004, 9–10; Tristan Harley, ‘Regional Cooperation and Refugee Protection in Latin America: A “South-South” Approach’, *International Journal of Refugee Law* 26, no. 1 (1 March 2014): 33; Susan Kneebone, ‘Comparative Regional Protection Frameworks for Refugees: Norms and Norm Entrepreneurs’, *The International Journal of Human Rights* 20, no. 2 (17 February 2016): 153–72.

⁶²⁴ UNHCR, *Mexico Plan of Action - The Impact of Regional Solidarity*, 1st ed. (San José: Editorama, 2007), 6.

⁶²⁵ See Barichello, ‘Chapter 8: Responsibility-Sharing in Latin America’, 2019, 11; or, for practical examples, see ‘The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees’, 20 February 2018; European Union, ‘Statement of the European Union to the First Thematic Discussion’, 10 July 2017.

⁶²⁶ Patrícia Martuscelli and Daniel Jatobá, ‘Brazil as a Leader in the Latin American Refugees’ Regime’, *The Journal of International Relations, Peace Studies, and Development*: 4, no. 1 (13 December 2018); Liliana Lyra Jubilut and Melissa Martins Casagrande, ‘The Global Compact on Refugees and Latin America’, *E-International Relations* (blog), 17 December 2019.

⁶²⁷ Omar Hammoud-Gallego and Luisa Feline Freier, ‘Symbolic Refugee Protection: Explaining Latin America’s Liberal Refugee Laws’, *American Political Science Review* 117, no. 2 (2023): 454–73.

⁶²⁸ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 123, 247.

⁶²⁹ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 247.

authorities and UNHCR are operating a micro-credit system that has enabled refugees as well as Costa Ricans to build up small businesses.⁶³⁰ Such initiatives offering development opportunities to locals and refugees alike have strengthened the social cohesion between the two groups, leading to more successful integration.⁶³¹ While the provision of additional financial resources to deal with refugees is common, Latin America's connection of the resulting development with the integration of refugees is more unusual but has been valuable in the past.⁶³²

A final notable element of the Latin American approach is the expansive protection of refugees under the Cartagena Declaration, exemplified by the broader definition of refugees. The instrument extends the term to persons displaced due to “generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order”.⁶³³ This definition aims to shift the focus to objective reasons for fleeing a state, in contrast to the individualist approach of the Geneva Convention, which forces refugees to prove a personal risk of persecution.⁶³⁴ Although the inspiration for the broader definition came from the African context, Latin America has a more successful record of implementing it, making it an influential region regarding this norm.⁶³⁵

C. The Global Compact on Refugees

Due to increased numbers of refugees globally, including the 2015 refugee wave in Europe, the UN General Assembly passed the 2016 New York Declaration (NYD).

⁶³⁰ Harley, 'Regional Cooperation and Refugee Protection in Latin America: A "South-South" Approach', 1 March 2014, 35.

⁶³¹ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 123, 247; UNHCR, *Mexico Plan of Action - The Impact of Regional Solidarity*, 2007, 6.

⁶³² Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 123, 247.

⁶³³ For the Spanish original, see Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Cartagena de Indias, Colombia, 'Cartagena Declaration on Refugees', 22 November 1984, 16; translation taken from Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', 2017, 141; Harley, 'Regional Cooperation and Refugee Protection in Latin America: A "South-South" Approach', 1 March 2014.

⁶³⁴ Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', 2017, 152.

⁶³⁵ Reed-Hurtado, 'The Cartagena Declaration on Refugees and the Protection of People Fleeing Armed Conflict and Other Situations of Violence in Latin America', 2017, 151.

This resolution calls for a new global instrument on refugees in order to achieve “more predictable and equitable responsibility-sharing” and introduced the Comprehensive Refugee Response Framework (CRRF), which states should aim to apply in their respective contexts.⁶³⁶ As a result, the UNHRC led the negotiations of the Global Compact on Refugees over the following two years in parallel to the Global Compact for Safe, Orderly and Regular Migration (not discussed in this article). The four main points of focus of the GCR are a) better support for host countries, b) more self-reliance among refugees, c) third-country solutions to share the burden, and d) improving the situation in refugee origin countries in order to enable repatriation.⁶³⁷ The GCR was passed in 2018 with 181 votes in favour, Hungary and the US voting against, and a few abstentions.⁶³⁸

III. Assessing the influence of Latin American norms on the GCR

A. General influence: Latin America’s involvement in the negotiations

As in most modern multilateral processes, the negotiations around the Global Compact on Refugees included a host of different actors, including states, civil society, refugees, business interests, and international organisations.⁶³⁹ Accordingly, it can be difficult to ascertain to what extent Latin American states influenced the negotiations as opposed to actors with similar interests, such as NGOs. The latter were less active on the specific issues discussed in this section, so the main focus will be on the inputs of different blocs. Furthermore, NGOs were mainly able to speak during the thematic discussions, the later stages of negotiations tended to be exclusive to states.⁶⁴⁰ One could thus expect NGOs to have significantly less influence than state actors or regional blocs. Overall, there are several indications that the Latin experience was influential during the creation of the GC, which will be elaborated on in this section. For many years, Latin American refugee norms have been highlighted as good

⁶³⁶ UNHCR, ‘The Global Compact on Refugees’.

⁶³⁷ UNHCR, ‘The Global Compact on Refugees’.

⁶³⁸ Jubilut, Vera Espinoza, and Mezzanotti, *Latin America and Refugee Protection: Regimes, Logics, and Challenges*, 2021, 20.

⁶³⁹ UNHCR, ‘The Global Compact on Refugees’.

⁶⁴⁰ Nicholas R. Micinski, *UN Global Compacts: Governing Migrants and Refugees*, 1st ed. (Routledge, 2021), chap. 3 Negotiations for the Compact (no page nrs).

examples for other states. A UNHCR discussion paper and an expert meeting dating to 2001 and 2011, respectively, already emphasise the effectiveness of Latin American schemes in responsibility-sharing. At the latter, several panellists represented the region, promoting Latin norms to the international community.⁶⁴¹ Similarly, when the Mexico Plan of Action was introduced in 2004, it was internationally hailed. Even Antonio Guterres, then UN High Commissioner for Refugees, commended it as the “most sophisticated operational instrument to protect and assist refugees in the world”.⁶⁴² This indicates that other actors were aware of the potential to learn from the Latin American approach to forced migration. Hence, Latin America likely benefited from its good reputation in the context of refugees when negotiating the GCR.

At the GCR, Latin American states were heavily involved in the negotiations, submitting statements, participating in discussion rounds, and repeatedly stressing their commitment. For instance, in a written contribution Brazil explicitly stated that it “stand[s] ready to play a constructive role throughout this Dialogue and next year’s formal negotiations”.⁶⁴³ Six Latin American countries further proved their serious intentions by publishing the San Pedro de Sula Declaration. This document explains how they are implementing the CRRF in the form of a Comprehensive Regional Protection and Solutions Framework, as was suggested in the NYD.⁶⁴⁴ Most importantly, as a regional bloc Latin America authored the 100 Points of Brasilia which enumerates 100 recommendations for the GCR, indicating that the region devoted significant resources to produce a shared document in order to contribute to the Compact.⁶⁴⁵ Thus, Latin America displayed a clear intention of influencing the Global

⁶⁴¹ UNHCR, ‘Mechanisms of International Cooperation to Share Responsibilities and Burdens in Mass Influx Situations’, *Global Consultations on International Protection*, 19 February 2001, EC/GC/01/7 edition; UNHCR, ‘Summary Conclusions - Expert Meeting on International Cooperation to Share Burdens and Responsibilities’ (Amman, 2011).

⁶⁴² William Spindler, ‘Action Plan Based on Solidarity Offers the Best Guarantee to Protect Refugees in Latin America’, UNHCR, 6 October 2005.

⁶⁴³ Brazil, ‘10th Annual High Commissioner’s Dialogue on Protection Challenges - Brazil Written Contribution’, December 2017, 1.

⁶⁴⁴ Belize et al., ‘San Pedro Sula Declaration’, 26 October 2017; MIRPS Countries, ‘Intervención de Los Países MIRPS - 10° Diálogo Del Alto Comisionado Sobre Desafíos de Protección’, 13 December 2017; Jubilut, Vera Espinoza, and Mezzanotti, *Latin America and Refugee Protection: Regimes, Logics, and Challenges*, 2021.

⁶⁴⁵ ‘The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees’, 20 February 2018, 2; UNHCR, ‘UNHCR Welcomes Renewed Commitment to Protect Refugees by Latin American and Caribbean States at Key Meeting’, UNHCR, 22 February 2018.

Compact and, through its active participation, was in a favourable position to do so. It is especially helpful to consider how Latin America could have influenced the Zero Draft of the GCR, as this served as the template for all subsequent negotiations. According to a letter by the UN High Commissioner for Refugees, the two main pillars for the Zero Draft were a) conclusions from the thematic discussions and the 2017 Dialogue on Protection Challenges and b) the “early application of the CRRF in specific countries and regions”.⁶⁴⁶ Concerning the first, Latin American documents, such as the outcomes of CIREFCA and the 2014 Brazil Declaration and Plan of Action, were discussed in both the preparatory High Commissioner's Dialogue proceedings and thematic discussion 1. In both cases, they were cited as good practice to inform the GCR.⁶⁴⁷ This points to Latin American countries wielding considerable influence in shaping these discussions and raising more awareness for Global South approaches.

Regarding lessons learnt from the Comprehensive Refugee Response Framework, Latin American states were also a leading actor. In late 2017, only 11 countries had implemented the CRRF that was presented in the New York Declaration.⁶⁴⁸ Since six of these were the Latin American states that signed the San Pedro de Sula Declaration, they made up the majority of countries with practical experience on the CRRF. For this reason, one could expect that their input held significant weight and helped shape the Zero Draft of the GCR, which the rest of the negotiations were based on. Thus, it is plausible that Latin American norms influenced the Global Compact on Refugees in some substantive ways.

⁶⁴⁶ UNHCR, ‘Zero Draft of the Global Compact on Refugees and Letter from the UN High Commissioner for Refugees’, 9 February 2018, 2.

⁶⁴⁷ See UNHCR, ‘Summary Conclusions of Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, in *“Towards a Global Compact on Refugees”* (Geneva, 2017); Daniel Endres, ‘Remarks to the Special Session on Lessons Learned and Good Practices in Applying the Comprehensive Refugee Response Framework (CRRF)’ (High Commissioner's Dialogue on Protection Challenges, Geneva: UNHCR, 2017); UNHCR, ‘Panel Three: In What Ways Can Regional Institutions Contribute to Comprehensive Refugee Responses?’, in *“Towards a Global Compact on Refugees”* (Thematic discussion five: Issues that cut across all four substantive sections of the comprehensive refugee response framework, and overarching issues, Geneva, 2017); UNHCR, ‘Agenda for Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, in *“Towards a Global Compact on Refugees”* (Geneva, 2017); UNHCR, ‘Summary Conclusions of Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, 2017.

⁶⁴⁸ SDG Knowledge Hub, ‘Governments Consider Zero Draft of Global Compact on Refugees’, 15 February 2018.

To gain a deeper understanding of this dynamic, the following section will examine the impact of the three different Latin American norms described earlier.

B. Solidarity: influencing a guiding principle of the GCR

As one of the most distinctive features of Latin American refugee norms, solidarity was continuously advocated for by the region.⁶⁴⁹ The 100 Points of Brasilia document stresses the importance of solidarity in the introductory paragraphs and then refers to this principle throughout the document.⁶⁵⁰ Moreover, the Brazil Declaration has the explicit purpose of being a “Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean”.⁶⁵¹ In their written contributions, several Latin American states also highlighted the importance of solidarity, including responsibility-sharing and resettlement schemes.⁶⁵² For instance, Brazil supported holding more solidarity conferences in its contribution – an idea that can also be found in Paragraph 27 of the Global Compact.⁶⁵³ Hence, Latin American states tried to influence the GCR with their regional emphasis on solidarity.

There are indications that Latin America played a significant role in the negotiations surrounding responsibility-sharing, a heavily debated topic in the run-up to the GCR.⁶⁵⁴ The first thematic discussion on July 10th, 2017, centred around “Past and current

⁶⁴⁹ Harley, ‘Regional Cooperation and Refugee Protection in Latin America: A “South-South” Approach’, 1 March 2014.

⁶⁵⁰ ‘The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees’, 20 February 2018.

⁶⁵¹ ‘Brazil Declaration and Plan of Action’, 3 December 2014, 1.

⁶⁵² Costa Rica, ‘Statement of Costa Rica to the First Thematic Discussion’, 10 July 2017; Mexico, ‘Statement of Mexico to Thematic Discussions Two and Three’, 18 October 2017; Mexico, ‘Statement of Mexico to the First Thematic Discussion’, 10 July 2017; Mexico, ‘Statement of Mexico to Thematic Discussions Four and Five’, 15 November 2017; Honduras, ‘Additional Recommendations from the Government of Honduras to the Zero Draft GCR’, 14 February 2018; Honduras, ‘Statement of Honduras to the First Formal Consultation, Agenda Item Two’, 14 February 2018; Honduras, ‘Written Contribution of Honduras to the First, Second and Third Formal Consultations’, April 2018.

⁶⁵³ Brazil, ‘10th Annual High Commissioner’s Dialogue on Protection Challenges - Brazil Written Contribution’, December 2017, 2; UNHCR, ‘The Global Compact on Refugees’, para. 27.

⁶⁵⁴ United Nations General Assembly, ‘Global Compact on Refugees’, 17 December 2018, 2; United Nations General Assembly, ‘New York Declaration for Refugees and Migrants’, 19 September 2016, UN Resolution A/RES/71/1 edition.

burden- and responsibility-sharing arrangements” to inspire the Global Compact.⁶⁵⁵ According to the agenda of this meeting, a representative from Brazil was one of the four main panellists, presenting the Brazil Plan of Action for discussion. Additionally, the side event on the same day featured CIREFCA as one of three examples to be debated, given by a lecturer from the University for Peace (based in Costa Rica).⁶⁵⁶ This suggests that Latin American norms could be propagated and explained due to the favourable positions of panellists. As a result, Latin solidarity measures were highlighted in both the documents from the thematic discussion on burden-sharing and the High Commissioner's Dialogue process.⁶⁵⁷ These outcomes, in turn, are known to have shaped the GCR, indicating that Latin American solidarity norms likely influenced the GCR's understanding of solidarity, its guiding principle.⁶⁵⁸

While some may contend that Latin America's contribution in this regard was not exceptional, CIREFCA presents a more far-reaching and effective solidarity regime than other prominent regional ones, such as the International Conferences on Assistance to Refugees in Africa (ICARA) or the Comprehensive Plan of Action (CPA) for Indochinese Refugees so that more practical lessons could likely be drawn from CIREFCA.⁶⁵⁹ As Kneebone explains, the CPA “failed to imbue norms of refugee protection in the region”, meaning that South East Asia still tends to view refugees from a security rather than a rights-based perspective, which is less in line with the solidarity focus of the GCR.⁶⁶⁰ Moreover, neither the CPA nor the African ICARA

⁶⁵⁵ UNHCR, ‘Summary Conclusions of Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, 2017.

⁶⁵⁶ UNHCR, ‘Agenda for Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, 2017.

⁶⁵⁷ UNHCR, ‘Summary Conclusions of Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, 2017; Endres, ‘Remarks to the Special Session on Lessons Learned and Good Practices in Applying the Comprehensive Refugee Response Framework (CRRF)’, 2017.

⁶⁵⁸ UNHCR, ‘Zero Draft of the Global Compact on Refugees and Letter from the UN High Commissioner for Refugees’, 9 February 2018, 2; United Nations General Assembly, ‘Global Compact on Refugees’, 17 December 2018, para. 5.

⁶⁵⁹ United Nations General Assembly, ‘International Conference on Assistance to Refugees in Africa’, 4 December 1980, UN Resolution A/RES/35/42 edition; ‘International Conference on Indo-Chinese Refugees (Geneva, 13 and 14 June 1989): Declaration and Comprehensive Plan of Action’, *International Journal of Refugee Law* 5, no. 4 (1 January 1993): 617–24.

⁶⁶⁰ Kneebone, ‘Comparative Regional Protection Frameworks for Refugees: Norms and Norm Entrepreneurs’, 17 February 2016, 159.

allowed for local integration, impeding their implementation in the long run and thus limiting the positive lessons that can be drawn from them.⁶⁶¹ One could thus expect CIREFCA to have received serious attention in discussions as the solidarity conference with the most long-term success. This is significant, since the importance attached to such regional events can be seen when the GCR recommends holding more solidarity conferences.⁶⁶² This reinforces the idea that Latin American solidarity frameworks like CIREFCA considerably influenced the Global Compact on Refugees.

Even though the European Union also claimed to promote solidarity in the context of refugees, Latin America was in a more favourable position to shape this concept. Europe considers itself a “non-refugee-producing region”, meaning that its forced migration norms historically tended to develop around deterrence more than around solidarity.⁶⁶³ Accordingly, the EU supported regional responsibility-sharing mechanisms over global ones, like in Paragraph 13 of the EU’s written statement, because it lets Europe avoid taking in more refugees directly.⁶⁶⁴ While the EU also drew some general lessons from regional solidarity measures in the Global South in the statement, it is clear that it has less practical experience and thus credibility in these contexts. In contrast, Latin America has very comprehensive regional solidarity norms and frameworks in place, which were also discussed during the negotiations.⁶⁶⁵ As a result, they had a higher chance of being influential on the GCR and, since they focus on South-South approaches, probably even had Europe’s support. Hence, Latin America likely played a significant role as a good example that aspects of the GCR could be modelled on, even though the European Union also had ideas about responsibility-sharing measures.

⁶⁶¹ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 237.

⁶⁶² United Nations General Assembly, ‘Global Compact on Refugees’, 17 December 2018, para. 27.

⁶⁶³ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 239; Kneebone, ‘Comparative Regional Protection Frameworks for Refugees: Norms and Norm Entrepreneurs’, 17 February 2016, 156.

⁶⁶⁴ European Union, ‘Statement of the European Union to the First Thematic Discussion’, 10 July 2017, para. 13; European Parliamentary Research Service, ‘The Global Compact on Refugees - Strengthening International Cooperation to Ease the Plight of Refugees in the World’, European Parliamentary Research Service (European Parliament, January 2019); Kneebone, ‘Comparative Regional Protection Frameworks for Refugees: Norms and Norm Entrepreneurs’, 17 February 2016.

⁶⁶⁵ UNHCR, ‘Agenda for Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements’, 2017.

C. The link between local integration and development: the search for sustainable long-term solutions

A further focus of the Global Compact is the support for host countries. In line with Western interests, the GCR emphasises that “[l]ocal integration is a sovereign decision” and repatriation should be favoured, but it also recognises that states wishing to integrate displaced persons should be supported.⁶⁶⁶ To achieve the latter, Latin America is a proponent of integrating development with the integration of refugees, as the region has successfully applied this strategy in the context of CIREFCA and the Mexico Declaration and Plan of Action.⁶⁶⁷ Accordingly, Latin states directly advocated for this approach in the largest section of the 100 Points of Brasilia, titled “Durable Solutions with an Emphasis on Local Integration,” which covers a third of the points.⁶⁶⁸ Furthermore, several Latin American countries highlighted this strategy in their written contributions and statements, indicating that they explicitly lobbied for it on the floor of the negotiations.⁶⁶⁹ For example, Ecuador emphasised in a statement how “promoting the integration of refugees as key elements for development” can balance other costs associated with forced migration.⁶⁷⁰ This suggests that Latin America actively sought to influence the GCR negotiations to incorporate this idea.

There are several indications that Latin America successfully influenced the parts of the Global Compact emphasising the connection between development and integration. For example, Paragraph 32 recommends that host states receive additional aid to benefit the development of local communities as well as refugees.⁶⁷¹ Furthermore, Paragraph 99 asks for national development plans in areas with more refugees to be “actively promoted”.⁶⁷² These correspond to Latin American demands

⁶⁶⁶ United Nations General Assembly, ‘Global Compact on Refugees’, 17 December 2018, para. 97.

⁶⁶⁷ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 247.

⁶⁶⁸ ‘The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees’, 20 February 2018, 6; Harley, ‘Regional Cooperation and Refugee Protection in Latin America: A “South-South” Approach’, 1 March 2014, 35.

⁶⁶⁹ Mexico, ‘Statement of Mexico to Thematic Discussions Two and Three’, 18 October 2017; Mexico, ‘Statement of Mexico to the First Thematic Discussion’, 10 July 2017, 4; Brazil, ‘10th Annual High Commissioner’s Dialogue on Protection Challenges - Brazil Written Contribution’, December 2017.

⁶⁷⁰ Ecuador, ‘Statement of Ecuador to the First Thematic Discussion’, 10 July 2017, 2.

⁶⁷¹ United Nations General Assembly, ‘Global Compact on Refugees’, 17 December 2018, para. 32.

⁶⁷² United Nations General Assembly, ‘Global Compact on Refugees’, 17 December 2018, para. 99.

and experiences discussed in preparation for the Compact.⁶⁷³ In the High Commissioner's Dialogue proceedings towards the GCR, the socio-economic opportunities created for the integration of refugees in Latin America were commended as lessons for the Compact.⁶⁷⁴ Furthermore, Latin America's successful examples of linking development and integration were discussed during thematic discussion 1.⁶⁷⁵ This indicates that the region's experience was taken into account at the global stage. Due to Latin America's recognised achievements in this regard and its continuous promotion of this approach, the region may have effectuated the inclusion of the link between development and local integration in the Global Compact.

One may argue that other regions could have impacted the inclusion of this aspect, too. Most significantly, receiving more financial aid for taking in refugees could be observed in several African cases, so it is possible this continent also played an influential role. However, while Africa promoted receiving more financial aid for taking in refugees, too, the region does not directly connect this support to the integration of displaced persons, merely considering it compensation.⁶⁷⁶ Unlike Latin America, Africa "failed to view refugees as agents of development" and preferred short-term solutions over more sustainable long-term integration into local communities, as Mathew and Harley describe.⁶⁷⁷ Therefore, it is likely that Latin America had a greater influence than other regions in this context.

D. Broadening the definition of refugees: no discussion possible

The wider definition for refugees is an example of advocacy by Latin America and Africa that failed to be included in the GCR since the UNHCR, as the negotiation

⁶⁷³ 'The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees', 20 February 2018, 6; Harley, 'Regional Cooperation and Refugee Protection in Latin America: A "South-South" Approach', 1 March 2014, 35.

⁶⁷⁴ Endres, 'Remarks to the Special Session on Lessons Learned and Good Practices in Applying the Comprehensive Refugee Response Framework (CRRF)', 2017.

⁶⁷⁵ UNHCR, 'Summary Conclusions of Thematic Discussion 1 - Past and Current Burden- and Responsibility-Sharing Arrangements', 2017, 4–5.

⁶⁷⁶ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 123, 239–40; Fatima Khan and Cecile Sackeyfio, 'Situating the Global Compact on Refugees in Africa: Will It Make a Difference to the Lives of Refugees "Languishing in Camps"?', *Journal of African Law* 65, no. S1 (2021): 35.

⁶⁷⁷ Mathew and Harley, *Refugees, Regionalism and Responsibility*, 2016, 239.

leader, vetoed it.⁶⁷⁸ Point 4 of the 100 Points of Brasilia recommends the “incorporation into internal regulations of the broader refugee definition proposed by the 1984 Cartagena Declaration on Refugees”.⁶⁷⁹ Over the past decades, many Latin American countries have integrated the principles of the Cartagena Declaration in their national law, making it an effective measure in this context.⁶⁸⁰ Accordingly, the Latin American experience could have been expected to carry some influence, even though Africa was the first region to use a broader definition for refugees.⁶⁸¹ However, despite Latin America and Africa’s advocacy, this was not even discussed in the Global Compact negotiations since UNHCR feared that Western states would use the opportunity to further dilute the definition of refugees if it was up for debate.⁶⁸²

It is likely that the Global South’s efforts in this regard would have been fruitless even if the UNHCR had allowed it on the agenda. As the refugee agency suspected, the West probably would have refused to widen the 1951 Geneva Convention definition to avoid an influx of refugees. The current political climate, with many Western countries seeing a surge in anti-immigrant populism, meant that a broader understanding of refugees did not align with most of the negotiators’ party ideologies. Additionally, even for a non-populist Western democracy, it would have been politically costly to streamline refugee asylum processes due to unfavourable public opinion.⁶⁸³ Accordingly, it is plausible that the definition would have narrowed instead of widened, like the UNHCR feared, particularly when considering the populist backlash the parallel

⁶⁷⁸ Micinski, *UN Global Compacts: Governing Migrants and Refugees*, 2021, chap. 3. Negotiations for the Compacts (no page nrs).

⁶⁷⁹ ‘The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees’, 20 February 2018, 3.

⁶⁸⁰ UNHCR, *Mexico Plan of Action - The Impact of Regional Solidarity*, 2007, 6.

⁶⁸¹ See Eduardo Arboleda, ‘Refugee Definition in Africa and Latin America: The Lessons of Pragmatism’, *International Journal of Refugee Law* 3, no. 2 (1 April 1991): 185–207; Khan and Sackeyfio, ‘Situating the Global Compact on Refugees in Africa: Will It Make a Difference to the Lives of Refugees “Languishing in Camps”?’’, 2021; ‘The 100 points of Brasilia. Inputs from Latin America and the Caribbean to the Global Compact on Refugees’, 20 February 2018.

⁶⁸² Micinski, *UN Global Compacts: Governing Migrants and Refugees*, 2021, chap. 3. Negotiations for the Compacts (no page nrs).

⁶⁸³ See, for instance, Laura Silver, ‘Populists in Europe – Especially Those on the Right – Have Increased Their Vote Shares in Recent Elections’, *Pew Research Center* (blog), 6 October 2022; Deutsche Welle, ‘Hungary Will Not Sign UN Migration Compact’, *Dw.Com*, 18 July 2018; Tim McDonnell, ‘The Refugees The World Barely Pays Attention To’, *NPR*, 20 June 2018, sec. Goats and Soda.

negotiation process for the Global Compact on Migration received when right-wing groups misrepresented it as an invitation for more migration.⁶⁸⁴ Thus, it is highly unlikely that Latin American norms could have successfully led to a broader definition of refugees, even without the UNHCR's intervention.

E. Soft law: using Latin America as a good example in the implementation

A common criticism of the GCR is its soft legal character, because states can decide to ignore the document completely. The anti-immigrant sentiments in many countries explain the political reluctance to agree to binding regulation, making soft law the only realistic outcome for the Global Compact on Refugees. While Latin America thus did not cause the GCR to be a soft instrument, the result mirrors how the Latin system operates. In contrast to the African continent, where soft law has proven to be relatively ineffective, Latin America has demonstrated that soft law can be politically useful and successful in a contested political field like forced migration, improving the human rights of refugees.⁶⁸⁵

As the only region with a functional soft law approach in this field, the Latin American experience may continue to influence how the GCR is implemented. For instance, at the fourth formal consultation, Brazil suggested changes to the plans for a Global Refugee Forum, which is to be held every four years to report on the implementation of the GCR. The state called for optional mid-term reviews, which were finally included in Paragraph 104 of the Global Compact.⁶⁸⁶ Such contributions by Latin American states, which are based on a long history of regional solidarity on forced migration, will likely prove valuable in the implementation phase of the Global Compact. While it is beyond the scope of this paper to assess the impact of Latin America on the later implementation of the GCR, further studies should consider this issue.

⁶⁸⁴ Micinski, *UN Global Compacts: Governing Migrants and Refugees*, 2021, chap. 3. Negotiations for the Compacts (no page nrs).

⁶⁸⁵ Jubilut, Vera Espinoza, and Mezzanotti, *Latin America and Refugee Protection: Regimes, Logics, and Challenges*, 2021; Khan and Sackeyfio, 'Situating the Global Compact on Refugees in Africa: Will It Make a Difference to the Lives of Refugees "Languishing in Camps"?', 2021.

⁶⁸⁶ International Council for Voluntary Agencies, 'Global Compact on Refugees – Fourth Formal Consultations', *Notes for NGOs*, May 2018; United Nations General Assembly, 'Global Compact on Refugees', 17 December 2018, para. 104.

IV. Conclusion

In conclusion, the value of Latin American norms in tackling the complex challenges posed by forced migration should not be underestimated since they appear to have considerably influenced the Global Compact on Refugees in its creation. By contributing to the GCR negotiations through written contributions, panel discussions, and even 100 concrete suggestions for the document, the Latin region played an active role in trying to improve refugees' human rights. As analysed, it seems to have had a significant influence in contexts where Latin America has developed strong norms, such as solidarity. It is difficult to pinpoint specific paragraphs in the GCR that were likely influenced by Latin solidarity, apart from the emphasis on solidarity conferences. Nevertheless, the Latin American experience was consulted repeatedly in this context, implying that it impacted the overall understanding of solidarity as a guiding principle of the GCR. Furthermore, Latin America recommended that host countries link the integration of refugees with their development, as this was effective within the region. This suggestion can also be found in the Global Compact, suggesting that Latin America's continuous promotion efforts were successful. However, not all Latin American features of refugee management were implemented. Although the region and other Global South actors advocated for the broadening of the refugee definition, this was not accepted in the Global Compact. Lastly, Latin America may be in a position to advise and guide the implementation process of the GCR due to its extensive experience with soft law in the context of refugees. It would be worthwhile for a future study to consider the region's global involvement in shaping refugee norms in the implementation process of the Global Compact on Refugees, since further lessons could likely be drawn from the region's promotion of refugee rights in this context.

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