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Foreword

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The prognosis for the global refugee protection regime is not good. Wealthy countries are more determined than ever to avoid the arrival of refugees, investing massively in a variety of *non-entrée* policies to deflect refugees away from their borders. Yet despite the fact that only about 15% of the world's refugees reach such states, rich countries spend *four times as much* money to manage and process the refugee claims of the small number of refugees who reach them than to fund the protection of the 85% of refugees who remain in the less developed world. Roughly 1/3 of refugees in the global south are still stuck in refugee camps where they can make no contribution to even their own welfare, much less that of the neighboring communities; most refugees able to avoid the hellhole of refugee camps are forced to eke out an existence in equally hellish urban slums. And nearly 2/3 of the world's refugee population are living in "protracted refugee situations" – waiting on average 20 years for a solution to their plight, with none in sight.

The global response to this dilemma – the much vaunted Global Compact on Refugees, adopted at the United Nations in late 2018 – avoided even mentioning the deterrent practices of powerful countries. And while it acknowledged in principle the importance of both empowering refugees and engaging in burden and responsibility sharing, it established no obligation to effectuate either of these goals. The Compact did, however, tip its hand about the future look and feel of refugee protection. It noted that "[p]ast comprehensive responses have... demonstrated the value of regional cooperation in addressing refugee situations," and recommended that:

> Without prejudice to global support, regional and subregional mechanisms or groupings would, as appropriate, actively contribute to resolution of refugee situations in their respective regions, including by playing a key role in Support Platforms, solidarity conferences and other arrangements with the consent of concerned States.

> Comprehensive responses will also build on existing regional and subregional initiatives for refugee protection and durable solutions where available and appropriate, including regional and subregional resettlement initiatives, to ensure complementarity and avoid duplication.

Put simply, the future of refugee protection will in no small measure be predicated on "regional" – that is, predominantly south-to-south – cooperation.

The publication of *Latin America and Refugee Protection: Regimes, logics and challenges* by Prof. Jubilut and Drs. Vera-Espinoza and Menzzanotti is therefore especially timely. Even as it commemorates the 35th anniversary of the influential Cartagena Declaration, the book is fundamentally designed to explain and appraise the protection capacity of the Latin American refugee regime broadly conceived. It wisely pays as much attention to the general human regional human rights system and to migratory and other mechanisms as to the refugee-specific systems in the region, thus neatly positioning us to assess the viability in this part of the world of the regional thrust portended by the Global Compact.

In truth, regionalism – at least if properly supported by the broader global community – may stand a better chance of success in Latin America than in other regions of the global south.

To start, the reinvigoration of refugee protection is arguably a less politically marginalized concern there than in many parts of the world, with even the five richest countries in Latin America – Brazil, Mexico, Argentina, Colombia, and Chile – all having both *produced* and hosted refugees. There is therefore the basis for a deeper awareness of the importance of making refugee protection work. Latin America also comprises an especially diverse array of national communities, including states well-positioned economically and socially to take on the full range of refugee protection responsibilities – from initial reception, to protection for the duration of risk, to residual resettlement if needed. Equally

important, Latin America is home to the global south's most robust regional human rights system, meaning that governments are largely accustomed to taking their cue from non-national authoritative judicial and other decisions – including in relation to the rights of refugees and other non-citizens.

As the contributions to this volume may clear, however, Latin America also faces some of the same challenges that plague refugee protection in other parts of the world. The region is presently seeing much larger refugee flows than in the recent past, including in particular the exodus of refugees from not only Venezuela, but also the three countries of northern Central America, Colombia, and Haiti. These flows have contributed to the rise of popular xenophobia, leading in some cases to rights-abusive government policies. Compounding the pressure, the United States seems determined to turn Guatemala – and perhaps other states – into its own version of Nauru or Papua New Guinea, forcing refugees into unstable and often fundamentally unsafe conditions in order to avoid its protection responsibilities. The combination of more refugees, decreasing local support for their admission, and no obvious extraregional exit possibility is cause for concern.

That said, one of the truly valuable attributes of the Latin American refugee regime – thoughtfully explored in detail in this book – is its pragmatic and flexible character. The Cartagena Declaration is merely the foundation for an ongoing norm-setting and implementation process, including a formal reassessment of strategy each decade. The region is committed not only to a broadened understanding of refugee status, but also to complementary pathways for protection and to important general systems to facilitate cross-border movement, especially as pioneered under Mercosur. Taken in tandem with the strength of the regional human rights regime, there is every reason to see Latin America as having the resilience and institutional capacity needed to cope with refugee movements.

If the future of the refugee protection world is regional – and there is every reason to believe that it will be – then we all owe a huge debt to the contributors to *Latin America and Refugee Protection*. The breadth and thoughtfulness of the analysis presented here position readers not only to understand the

realities in one important region, but more generally to grapple with the opportunities and challenges of the brave new world in which refugee protection as a global enterprise – while normatively tethered and loosely coordinated – is likely to depend mainly on regional initiatives and institutions.

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