



# Displaced Venezuelans and the Politics of Asylum: The case of Brazil's Group Recognition Policy

*Deslocados Venezuelanos, Política  
e Refúgio: O caso da Política de  
Reconhecimento em Grupo no Brasil*

*Desplazados Venezolanos, Política  
y Refugio: El caso de la Política de  
Reconocimiento Grupal en Brasil*

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## Abstract

Latin America is often referred to as a particularly successful case in refugee protection where, through the 1984 Cartagena Declaration, states have established a tradition of openness, solidarity, and humanitarianism. Nevertheless, in practice, the instrument has been unevenly implemented in the region. This has posed consequences to the protection of displaced Venezuelans, who are now the second largest displaced population in the world and often live with precarious statuses. Applying process tracing as a methodology, this article analyses the case of Brazil, one of the few countries granting asylum to this population, and identifies the drivers which influenced its response.

**Keywords:** Refugees; Politics; Process Tracing; Displaced Venezuelans; Brazil.

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## Resumo

A América Latina é por vezes referida como um caso de sucesso na proteção de refugiados onde, através da Declaração de Cartagena de 1984, Estados estabeleceram uma tradição de abertura, solidariedade e humanitarismo. Todavia, na prática, este instrumento foi implementado de forma desigual na região. Isto tem criado consequências para a proteção dos deslocados venezuelanos, que agora são a segunda maior população de deslocados forçados no mundo e muitas vezes vivem com um status migratório precário. Utilizando process tracing como metodologia, o presente artigo analisa o caso do Brasil, um dos poucos países reconhecendo venezuelanos como refugiados, e identifica os fatores que influenciaram sua resposta.

**Palavras-chave:** Refugiados; Política; Process Tracing; Deslocados Venezuelanos; Brasil.

## Resumen

Habitualmente se hace referencia a América Latina como un caso particularmente exitoso en la protección de refugiados donde, a través de la Declaración de Cartagena de 1984, los Estados han establecido una tradición de apertura, solidaridad y humanitarismo. Sin embargo, en la práctica, el instrumento se ha implementado de manera desigual en la región. Esto ha tenido consecuencias para la protección de los venezolanos desplazados, que ahora son la segunda población desplazada más grande del mundo y, a menudo, viven con un estatus migratorio precario. Aplicando process tracing como metodología, este trabajo analiza el caso de Brasil, uno de los pocos países que reconoce venezolanos como refugiados, e identifica los factores que influyeron en su respuesta.

**Palabras clave:** Refugiados; Política; Process Tracing; Venezolanos Desplazados; Brasil

## Introduction

The issue of how states respond to mass refugee arrivals has been under increasing academic analysis since the 1980s (Chimni 2009). According to most accounts, beyond making *stricto sensu* humanitarian considerations, responses to asylum-seekers arriving *en masse* tend to be impacted by a wide range of determinants at both international and domestic levels (Loescher 1989). Moreover, in developing countries, larger refugee movements and unique socio-political settings usually result in different approaches to asylum than those practiced in the global North (Jacobsen 1996; Loescher 1989; Milner 2009). Notably, however,





most works in the literature on responses to mass refugee influx situations engage with cases in Africa, Asia, and the Middle East, making the understanding of the politics of asylum in Latin America a less explored issue.

Latin America is often referred to as a particularly successful case in refugee protection, where states have established a “tradition of openness, solidarity and humanitarianism” (Grandi 2017, 4). Widespread political instabilities and human rights violations influenced the region to create its own mechanisms to respond to mass displacement. Amongst them is the 1984 Cartagena Declaration on Refugees, considered a milestone in refugee-protection law. The instrument was adopted by fifteen countries and is said to have inspired a legacy of commitment to protection and permanent solutions for refugee situations—which many authors have described as the ‘spirit of Cartagena’ (Barreto and Leão 2010; Jubilut, Espinoza, and Mezzanotti 2019; Waldely, et al. 2014). In addition, the Cartagena Declaration also expanded the *refugee* definition in Latin America. According to the 1951 Convention and its 1967 Protocol (jointly adopted by over 145 states), refugees are individuals outside their country of origin due to ‘a well-founded fear of persecution’ linked to their race, religion, belonging to a particular social group, political opinions, or nationality. However, the Declaration sets a lower threshold for refugee status determination (RSD), which forgoes the need for a fear of persecution, and also defines them as:

persons who have fled their country because their lives, security or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order (Cartagena Declaration on Refugees 1984, *Title III*).

As a result of the socio-political crisis in Venezuela, approximately 6.1 million of its nationals have left the country and are now displaced abroad. Currently, Venezuelans make up the second largest displaced population in the world, only after Syrians. Most of them (5 million) are hosted in neighbouring countries, such as Colombia (1.8 million), Peru (1.3 million), Ecuador (509,000), Chile (448,000), and Brazil (316,000) (R4V 2022). According to the United Nations High Commissioner for Refugees (UNHCR) and key legal experts, displaced Venezuelans are fleeing “massive human rights violations” and fall under the Cartagena Declaration’s ‘expanded’ refugee definition (Blouin, Berganza, and Freier, 2020; Freier, Berganza, and Blouin 2020; UNHCR, 2019).





Nevertheless, like elsewhere in the global South, refugee-protection law in Latin America tends to differ from real practice (Reed-Hurtado 2013). In fact, in most host countries, displaced Venezuelans are met with restrictive responses and provided with precarious (if any) statuses. While most of these countries have avoided recognising Venezuelans as refugees, Brazil's response has been considered exemplary by the international community. In the country, quality shelters were built along the border and, in addition to humanitarian assistance, this population has access to the same services offered to hosts. Moreover, the Government of Brazil (GoB) allows Venezuelans to either declare themselves refugees (whereby the Cartagena refugee definition is applied through group-based procedures) or simply migrants (through the same mechanism offered to Mercosur nationals), and this is embedded in a pathway to citizenship. This response has rendered Brazil increased international recognition within the global refugee regime and is linked to the country's recent election to chair UNHCR's main governance body, the Executive Committee (Ex-Com).

Recent works have helped to advance our understanding of Brazil's response to displaced Venezuelans (Jubilut and Silva 2020, Martino and Moreira 2020, Moulin and Magalhães 2020, Tavares and Cabral 2020). Nevertheless, these studies have the shortcoming of being insufficiently mindful of either domestic institutions or external agents driving policy formulation and implementation. Hence, this article critically investigates which factors and processes influenced Brazil's group recognition policy for Venezuelan asylum-seekers. By doing so, the article aims to properly incorporate the case of Brazil into the conversation on the politics of asylum and serve as a stepping stone for future studies on responses to refugees in the region. While the comparatively lower number of Venezuelans hosted in the country may have been relevant in allowing for the group recognition policy, the article raises the hypothesis that this response was also stimulated by other determinants at both domestic and international levels, such as foreign policy, the influence of UNHCR, domestic politics, bureaucratic factors, *inter alia*.

This article employs process tracing as a methodology. Therefore, through the amalgamation of different primary sources (such as official reports, meeting minutes, and interview transcripts) and secondary sources (mainly scholarly articles and book chapters), this research identifies some of the intermediate steps in policy-making to better comprehend the sequence and values of variables





that affected the country's response (Bennet and Checkel 2014, George and Bennet 2005). In the case of Brazil's group recognition policy, process tracing was particularly fit for conducting a nuanced analysis of meeting minutes made available by the country's national authority for refugee affairs and exploring the bureaucracy's decision-making 'black box', allowing the researcher to understand the chronological order of events and establish causal links between explanatory variables and the policy outcome.

Following this introduction, the article is divided into three major sections. The first explores important dynamics relating to the global refugee regime, including its regional adaptation through the 1984 Cartagena Declaration. This section also briefly introduces Brazil's past interactions with the regime, which lays an important foundation for the analysis of its response to displaced Venezuelans. The second section applies process tracing to investigate Brazil's policy-making process for displaced Venezuelans and explores the politics of asylum in the case. The final section offers a conclusion and lessons for the study of the politics of asylum in Latin America.

## Refugees in International Relations

The global refugee regime is the only area of migration governance in which nearly all states have adhered to a formal, treaty-based framework (Betts 2010). Today, its most prominent instruments are the 1951 Refugee Convention and its 1967 Protocol. While the 1951 Convention managed to create a refugee definition accepted by most states and establish the *non-refoulement* principle<sup>2</sup>, the 1967 Protocol sought to lift temporal and geographic reserves linked to the former instrument. At the core of the refugee regime is UNHCR, the United Nations agency responsible for ensuring that international protection is provided to refugees and access to permanent solutions to their plight is achieved.

Despite its clear governance structure, however, the global refugee regime also reflects some of the core characteristics of the international system, including

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2 According to the principle, countries should not forcibly return an asylum-seeker when there are substantial grounds for believing that the returnee would be at risk of irreparable harm upon return. Through the years, the principle acquired *jus cogens* status, generating legal impacts over all states under international law, regardless if they have adhered to instrument (Allain 2001).







power struggles and imbalances between the global North and the South. Notably, the search for protection and solutions is an inherently political task, that relies upon UNHCR's ability to influence states' behaviour (Betts, Loescher, and Milner 2012). During its existence, the Office has made widespread use of diplomatic channels and has often acted as a go-between in relations between governments with divergent interests (Fischel de Andrade 2019). Nevertheless, UNHCR is also constrained, mostly because it needs to secure permission from countries of asylum to operate in their territories, and also raise money from donor states to sustain its actions (Loescher 1989). As per the Office's 1950 Statute, with the exception of administrative costs (i.e. headquarters in Geneva), UNHCR operations have to be financed by voluntary contributions (Betts, Loescher, and Milner 2012). Therefore, due to the Office's fundraising mechanisms, the interests of large donors (generally global North countries) tend to be highly influential in determining activities and priorities (Loescher 2014). For instance, historically, more than 30 percent of UNHCR's budget has been provided by the United States of America, which is believed to have enabled the country to influence many policies and personnel decisions within the United Nations agency (Betts, Loescher, and Milner 2012). In tandem, the Office is able to carry some leverage over countries of asylum when assisting refugees and asylum-seekers in their territories, which is often the case in operations taking place in developing countries (Jacobsen 1996). Notably, today, the largest countries of asylum in the world are in the global South and depend on international assistance (i.e. *burden-sharing*) for sustaining their responses (Betts 2009; El-Taliawi 2018; Milner 2009).

As noted by Zolbert, Suhrke, and Aguayo (1986), refugee policy also lends itself to many uses as an instrument of foreign policy. For instance, states may adopt less restrictive asylum policies when looking to boost their own legitimacy vis-à-vis the international community (Betts 2013). In many cases, the decision to recognise citizens from another country as refugees implies the condemnation of another government for persecuting its citizens, or at least failing to afford them protection. For instance, the issue of how Western governments encouraged the flow of refugees from Communist countries as means of discrediting them during the Cold War is well noted in the literature (Chimni 1998; Keely 2001; Loescher 1993). Conversely, authors have also noted how positive relations with a country of origin may lead a host state to refrain from according refugee status to its nationals (Jacobsen 1994; Abdelaaty 2020).





## The 1984 Cartagena Declaration

The global refugee regime was adapted in regional contexts to better fit circumstances other than those envisaged by the 1951 Convention and the 1967 Protocol. This was particularly the case in regions where mass refugee outflows challenged individual RSD procedures, and a ‘well-founded fear of persecution’ was no longer the leading cause of displacement. For instance, in 1969, the African Union (OAU) Convention expanded Africa’s refugee definition to also encompass “external aggression, occupation, foreign domination or events seriously disturbing public order” (OAU Convention Governing the Specific Aspects of Refugee Problems in Africa 1969, Art. 1 ). This view became dominant in some circles within UNHCR in the 1980s, particularly in relation to mass refugee influxes occurring in Latin America.<sup>3</sup> As a result, in 1981, the Office sponsored a colloquium in Mexico City, where the Cartagena refugee definition was first drafted. Later, in 1984, the Office was also amongst the main supporters of the colloquium held in the city of Cartagena de Indias, where the Declaration was adopted (Fischel de Andrade 2019).

Although the 1984 Cartagena Declaration was originally intended to be applied within the specific contexts of Mexico and Central America, it was also adopted by many countries in South America. Albeit not legally binding, most of its signatories incorporated its ‘expanded’ refugee definition into their own domestic laws (approximately fifteen) (Jubilut 2018) . With the support of UNHCR, countries in the region have also established a follow-up process for the Declaration (known as the Cartagena process). Following the International Conference on Central American Refugees (CIREFCA) (1989-1994), which sought to achieve legal clarification and burden sharing agreements for countries in the region, follow-up meetings related to the Cartagena Declaration have occurred every 10 years.<sup>4</sup> Nevertheless, although the Declaration is considered a landmark in refugee-protection law, the majority of states in the region lack the experience, technical capacity, and political will for applying its refugee definition in practice (Blouin, Berganza, and Freier, 2020).

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3 See conclusion No. 19 (XXXI), issued by UNHCR’s Ex-Com in 1980, and report No. EC/SCP/16/Add.1, issued in 1981.

4 CIREFCA culminated in the document *Principles and Criteria for the Protection of and Assistance to Central American Refugees, Returnees and Displaced Persons in Latin America* (1989). Following the Esquipulas II Peace Accord, it also managed to bring development projects to Central America (Betts 2009).





## Brazil in the Global Refugee Regime

Historically, Brazil has interacted with the global refugee regime since its emergence. The country has been a member of UNHCR's Ex-Com since the year it was established (1958), and ratified most instruments relating to the regime without much delay. The 1951 Geneva Convention was ratified in 1960, and its 1967 Protocol in 1972 (Jubilut 2007). Nevertheless, similar to other countries, Brazil's real engagement with the regime has always been considered in terms of potential political and economic impacts. Hence, while at times the country has prioritised its adequacy to the regime, at others, refugee norms were relegated (Gonçalves, Loureiro, and Ornellas 2018).

This was particularly the case during Brazil's military regime (1964-1985), when a restrictive approach prevailed. During this period, the country did not have a national refugee law and displaced individuals were received on an ad-hoc basis, with the expectation that they would be soon resettled. Moreover, although the 1967 Protocol was ratified by Brazil in 1972, the country maintained strict geographical restrictions until 1989, thus limiting its application to refugees from Europe for many years. In 1977, looking to assist the resettlement of Latin American asylum-seekers fleeing dictatorships in neighbouring countries, UNHCR set up an ad-hoc office in Brazil.<sup>5</sup> However, its operations were only officially recognised by the government in 1982. Moreover, the country refused to take part in the 1984 colloquium which resulted in the Cartagena Declaration (Fischel de Andrade 2017).

For its part, the end of the military regime created conditions for a more open approach toward refugees in the country. During this period, UNHCR was also able to establish better relations with the government and became involved in the domestic politics regarding refugees (Jubilut 2006). In 1995, the recently inaugurated President Fernando Cardoso (1995-2002) pursued a foreign policy strategy focused on renewing Brazil's credentials abroad and expanding the country's adherence to international regimes (Fonseca 1998). Notably, President Cardoso has been himself an asylee<sup>6</sup> in Chile during the

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5 These individuals were usually granted short-term stay permits by the Brazilian government and recognised as mandate refugees by UNHCR. However, asylum-seeker certificates issued by UNHCR only started being recognised by the government in 1986 (Fischel de Andrade and Marcolini 2002).

6 In Latin America, political asylum status (or *asylee status*) is distinguished from refugee status. The political asylum regime in Latin America commenced with the 1889 Montevideo Treaty on International Penal Law (Fischel de Andrade 1998).







1960s, and his administration was largely human rights-oriented (Lampreia 1998). Perceiving this as an opportune conjuncture, UNHCR started advocating for the enactment of a national refugee law in Brazil and was soon asked to draft a bill proposal for the government. Although the draft issued by the Office had incorporated the Cartagena refugee definition, members of the Ministry of Justice discarded its inclusion when the Bill was sent to Congress in 1996. Nevertheless, UNHCR personnel and members of NGOs, such as Caritas<sup>7</sup>, convinced members of Congress to make amendments and include the ‘expanded’ definition into the final Bill (Fischel de Andrade 2017). The Bill was sanctioned by President Cardoso in 1997, becoming the first legislation to implement an international human rights treaty in Brazil (Jubilut 2007).

The 1997 Refugee Act established Brazil’s RSD authority, the National Committee for Refugees (CONARE), which is presided by a representative of the Ministry of Justice and has a representative of the Ministry of Foreign Affairs as vice-President. The bureaucracy has representatives of other ministries and NGOs (represented by Caritas Rio de Janeiro and São Paulo) as general voting members. UNHCR is also invited to participate in monthly plenary meetings, but with voice-no-vote status (MoJ 2021b).

Notwithstanding the incorporation of an ‘expanded’ refugee definition in Brazil’s Refugee Act, in practice, CONARE has enjoyed significant liberty in regards to its usage, having only applied it in exceptional cases. In fact, for many years, the bureaucracy did not have an official procedure or criteria for applying the definition. Consequently, as argued by the bureaucracy’s former President, Dr. Renato Leão (2009-2012), “all cases approved by CONARE involve, to some extent, persecution or a well-founded fear of persecution by the asylum-seeker” (Leão 2011, 170, own translation).<sup>8</sup>

In addition to the lack of an official procedure for applying the Cartagena definition, the personal views of members of CONARE have also hindered its usage. For instance, when Brazil experienced an influx of Haitians in the early 2010s (mostly because of that country’s generalised instability following an earthquake in 2010), members of CONARE argued that recognising them as refugees would devalue the refugee norm, and the ‘expanded’ definition was not applied (MoJ 2011).

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7 Both Caritas Rio de Janeiro and Caritas São Paulo have been key players in assisting refugees in Brazil, acting as UNHCR’s main implementing partners since the 1970s and 1980s, respectively (Fischel de Andrade 2017).

8 Original, “todos os casos resolvidos pelo CONARE materializam, em maior ou menor grau, a importância crucial da perseguição materializada e/ou o fundado temor de perseguição consubstanciado por parte do solicitante.”





Moreover, a strong presence of the Ministry of Foreign Affairs as the vice-President of the bureaucracy may also have hindered the application of the definition at a time Brazil started prioritising relations and initiatives in the global South, where most asylum-seekers in the country come from. For example, considering the GoB led the United Nations Stabilisation Mission in Haiti (UNSTAMIH) between 2004 and 2017, recognising nationals of that country as refugees could undermine Brazil's moral authority while leading the Mission.

CONARE's response to Haitians was also backed by UNHCR. In fact, although the Cartagena refugee definition has been recently raised by the Office as an adequate instrument for responding to individuals fleeing adverse effects of climate change and disasters (UNHCR 2020c), then prevailing CIREFCA interpretative guidelines considered that events triggering the Cartagena definition "cannot constitute natural disasters" (CIREFCA 1989, 11). On the other hand, since 2013, CONARE has also followed UNHCR's recommendation for recognising Syrians and Palestinians from Syria as refugees through the Cartagena definition (Salles, et al. 2019; UNHCR, 2012).

## **The Case of Displaced Venezuelans in Brazil**

Displaced Venezuelans started to arrive in Brazil in 2015, albeit the flux only reached a vast scale between 2016 and 2017. Although Venezuela was suspended from the Mercosur in 2016, the country is still a state-party to the bloc's Agreement on Travel Documents (2008), which has allowed its nationals to enter Brazil with their national ID cards (without needing a passport or visa). However, Venezuela has never adopted Mercosur's Residence Agreement (2002), which initially made legal conditions for their stay in the country precarious.

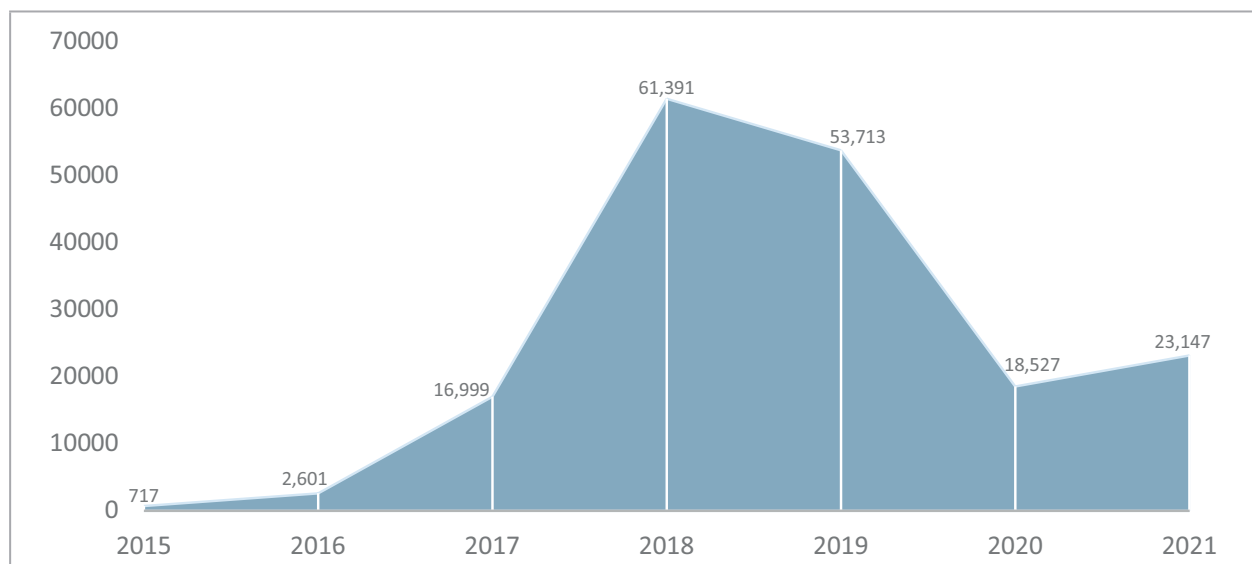
Together with legal impediments to their stay, Venezuelans also posed unprecedented strains over the northern state of Roraima, their main point of entry into Brazil. An initial lack of response from both local and Federal authorities led Venezuelans to build irregular shelters and work without proper permits, which fuelled resentment from hosts and even deportations between 2015 and 2016. Stronger commitments from Federal authorities in handling the situation only occurred after a state of emergency order enacted by the local government in 2017. This led to a turning point in Brazil's response and the establishment of 'Operation Shelter', which brought considerable resources and personnel to support displaced Venezuelans in Roraima. Although the Operation is led by



the Brazilian military, it receives generous support from NGOs and international organisations, including UNHCR and the International Organisation for Migration (IOM) (Ruseishvili, Carvalho, and Nogueira 2018).

The issue of the growing number of displaced Venezuelans lodging asylum claims in the state of Roraima was first raised in CONARE's plenary meetings in Brasília in early 2016. Initially, UNHCR did not advocate for the applicability of the Cartagena refugee definition for Venezuelans and CONARE members agreed to create a solution similar to the one created for Haitians back in 2013 (MoJ 2017). At the time, the Ministry of Foreign Affairs was also reluctant of framing nationals of Venezuela as refugees, as this could further damage Brazil's bilateral relations with that country (MoL 2017). As a result, starting in early 2017, Mercosur residency rights were extended to Venezuelans in Brazil.<sup>9</sup> Considering asylum-seekers in Brazil have access to various public services and rights (e.g.: education, work, health care, etc.), CONARE saw no urgency in adjudicating asylum claims that had been lodged by Venezuelans. Hence, with the exception of cases with acute protection needs, the bureaucracy decided to put their claims on hold. However, with time, the number of claims continued to increase and a significant backlog was created. By the beginning of 2019, over 120,000 asylum claims had been lodged by Venezuelans and only eighteen had been adjudicated and approved (MoJ 2019a).

**Figure 1. Asylum claims lodged by Venezuelans in Brazil, 2015-2020**



Source: Own elaboration based on Silva, et al . (2021).

<sup>9</sup> Beneficiaries have temporary resident status during the first two years of stay, then permanent resident status. Both statuses allow foreigners to have access to work, health care, education, and other social rights in the same way as Brazilian citizens.



Amidst this scenario, in 2018, UNHCR's position on the applicability of the Cartagena refugee definition changed. Particularly considering the situation of displaced Venezuelans in neighbouring countries, who were often living with irregular statuses, the Office issued a guidance note to all countries in Latin America. In the note, UNHCR stated that "international protection considerations have become apparent for a very significant proportion of Venezuelans" and countries' responses should be "in line with national and regional standards", including the 1984 Cartagena Declaration (UNHCR 2018, 1-2). Aiming to achieve this, the Office also appointed a new country representative, Mr. Jose Egas, and changed its posture during CONARE plenary meetings. Accordingly, UNHCR first attempted to introduce the presumption of 'massive human rights violations' for cases from Venezuela in October 2018, recommending the application of the Cartagena refugee definition for its nationals. However, even though the proposal was supported by some of CONARE's members, most of them voted to withdraw the proposal, citing the need to further consult with the incoming administration led by President Jair Bolsonaro (2019-).

## Political and Bureaucratic Changes

Diplomatic relations between Brazil and Venezuela have deteriorated progressively in recent years. Since the passing of Hugo Chávez and Venezuela's turbulent power transition in 2013, the GoB opted to discretely distance itself from that country and gave up the mediator role it once had (Moreira 2018). When President Bolsonaro took power in 2019, however, bilateral relations reached an all-time low. Under Bolsonaro's administration, the GoB has overtly questioned the existence of rule of law in Venezuela, often delegitimising its government in international fora and framing its current President, Nicolás Maduro, as a dictator (Araújo 2020).

While CONARE's structure had remained virtually unaltered since the start of the influx of displaced Venezuelans, the change in Brazil's Federal administration in 2019 stimulated significant personnel changes within the bureaucracy. As a result of the government change, CONARE started being presided by Secretary Maria Hilda Marsiaj Pinto, and new representatives from the Ministry of Foreign Affairs were appointed. While having other core functions as National Justice Secretary<sup>10</sup>, Ms. Pinto put the issue of displaced Venezuelans amongst her top

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10 The Secretary's mandate encompasses, managing conflicts in the judiciary system, coordinating efforts related to public safety, leading the national policy on drugs, inter alia. Ms. Pinto served as National Justice Secretary until February 2020 and resigned from office due to "personal reasons" (Palma 2020).





priorities and showed considerable determination to deal with the bureaucracy's backlog of asylum claims. CONARE's new representatives from the Ministry of Foreign Affairs were also more aligned with the Bolsonaro administration and had fewer reservations vis-à-vis solutions that could potentially hurt relations between Brazil and Venezuela.

Some key members of CONARE who had supported UNHCR's recommendation for employing the Cartagena refugee definition for Venezuelans in 2018 also remained in the bureaucracy, such as Mr. Bernardo Lafarté, CONARE's Coordinator-General. Since 2018, Mr. Lafarté had advocated that the bureaucracy should create a more consistent manner for applying the Cartagena refugee definition, preferably through clearer criteria and periodical country of origin information (COI) studies. Mr. Lafarté also defended that the application of this definition should always be in line with recommendations from UNHCR (MoJ 2018). Accordingly, in early 2019, CONARE decided to conduct a COI study on Venezuela and, with support from UNHCR, establish an official procedure and criteria for applying the Cartagena refugee definition.<sup>11</sup>

## Group Recognition Policy and International Repercussion

CONARE published its COI study on Venezuela in June 2019. The study concluded that circumstances in Venezuela triggered the applicability of the Cartagena refugee definition and the bureaucracy soon announced it would recognise the refugee status of Venezuelan asylum-seekers through group-based procedures. Similar to other countries in the region, however, Brazil had never applied the Cartagena definition *en masse* and lacked adequate capacity to do so. At that time, asylum claims still had to be manually processed, which hindered the establishment of simplified or group-based procedures.<sup>12</sup> As a result, CONARE expedited the creation of a digital-based system for managing and adjudicating asylum claims (Sisconare).

With a delay of almost six months, CONARE's policy for recognising the status of Venezuelan asylum-seekers through group-based procedures was finally implemented in December 2019. On the occasion, over 21,000 Venezuelans were

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11 The criteria set for applying the definition were (i) generalised violence, (ii) foreign aggression, (iii) internal conflicts, (iv) massive violations of human rights, (v) other circumstances disturbing the public order, (vi) guidance from UNHCR, (vii) guidance from the Ministry of Foreign Affairs (MoJ 2019b).

12 At the time, asylum claims (a 12-page questionnaire) had to be filled manually by asylum-seekers, scanned, and e-mailed to CONARE's headquarters in Brasília (Moulin and Magalhães 2020).







recognised as refugees at once, constituting what UNHCR called “a milestone in refugee protection in the region” (UNHCR 2019). In fact, this was the first time a country in Latin America applied the Cartagena refugee definition *en masse*, and resulted in the approval of 18 percent of all asylum claims lodged by Venezuelans in Brazil (Waldely 2019). Since then, other group recognition exercises have occurred and almost 55,000 Venezuelans have been recognised as refugees in the country, making Brazil the country with the largest number of Venezuelans recognised as refugees in the world (MoJ 2021a).

Brazil’s 2019 group recognition policy for Venezuelans had a significant implementation delay, but occurred at a timely moment for the first Global Refugee Forum. In fact, the first *en bloc* recognition was announced only twelve days before the event held by UNHCR in Geneva. During the Forum, the Brazilian delegation was in an optimal space to showcase the country’s recent decision to the international community. CONARE’s President, Secretary Pinto, who had already taken part in UNHCR’s Ex-Com meetings a few months prior to the event, also joined the Brazilian delegation for this occasion, aiming to integrate their efforts. As a result of Brazil’s increased engagement in refugee affairs, which was seen as exemplary, the country was elected to chair UNHCR’s Ex-Com in 2020, two years after occupying its vice-Presidency (UNHCR 2020a).

## **The Politics of Asylum in Brazil’s Group Recognition Policy**

A constellation of factors at both domestic and international levels is seen to have influenced Brazil’s eventual decision to recognise Venezuelans as refugees through group-based procedures.

In the past, one of the main barriers to the application of the Cartagena refugee definition in Brazil was the country’s reluctance to overtly discredit foreign governments. After all, recognising ‘massive violations of human rights’ or ‘circumstances disturbing the public order’ in countries of origin could be seen as criticism and damage Brazil’s relations with these states. With the election of President Bolsonaro in 2019, the GoB’s relations with Venezuela reached an all-time low, partially through Brazil’s open accusations of human rights violations in that country and intent to discredit left-wing governments. Bolsonaro also makes use of the displacement of Venezuelans to delegitimise that country’s government, often referring to a moral duty to help the so-called ‘Venezuelan brothers’ (Folhapress 2019), a dynamic that was common during the Cold War





and is well-noted in the literature (Chimni 1998, Keely 2001, Loescher, 1989). Hence, in that year, CONARE was amidst a permissible political conjuncture for applying the Cartagena definition for Venezuelan asylum-seekers.

For most of CONARE's existence, some of its key members were also against applying the Cartagena refugee definition (e.g.: by interpreting that the definition could devalue the refugee regime) and conditioned the approval of asylum claims to the existence of a 'well-founded fear of persecution' in the terms of the 1951 Convention. Hence, even though Brazil's 1997 Refugee Act expressly incorporates an 'expanded' refugee definition, on many occasions, CONARE members were also personally responsible for its non-application in practice. Therefore, similar to what was noted in other cases in the literature (Landau and Amit 2014; Milner 2014a), individual and bureaucratic practices are also pivotal for understanding the case of Brazil. Changes in these practices were only seen following the election of President Bolsonaro in 2019, which resulted in a change in CONARE's configuration. In this case, Mr. Bernardo Lafarté and Secretary Maria Pinto were of particular importance. Although Mr. Lafarté was already a member of CONARE prior to the 2019 government change, he was a key supporter of the application of the Cartagena definition, and the new configuration of the bureaucracy reduced contestation against his views. On her part, Secretary Pinto, appointed by Bolsonaro's administration, also favoured recognising Venezuelans as refugees and demonstrated great determination in dealing with CONARE's backlog of asylum claims. Together, Mr. Lafarté and Secretary Pinto also maintained a good working relationship with UNHCR's representative for Brazil, Mr. Jose Egas, and demonstrated a significant alignment to solutions set forth by the Office.

Accordingly, the case of Brazil is also a case in point for understanding how UNHCR acts as a persuasive actor in international relations, often influencing states' responses to mass refugee influxes (Loescher 2001). Although it has been argued that the Office has an "epiphenomenal" role in shaping countries' asylum policies (Betts 2013, 192), since the 1990s, UNHCR has exerted considerable influence over refugee affairs in Brazil, having virtually designed the country's 1997 Refugee Act and acting proactively in CONARE plenary meetings (Fischel de Andrade 2017). Notably, the Office's position vis-à-vis the application of the Cartagena refugee definition has varied according to each context and country of origin. For instance, while UNHCR did not support its application for Haitian





asylum-seekers, it advocated for its usage for recognising the status of Syrians and Venezuelans. Ultimately, however, its recommendations were always followed by the GoB — even though with a significant delay in the case of Venezuelans. Moreover, CONARE's new procedure for applying the Cartagena refugee definition now expressly requires UNHCR's guidance.

It is worth noting that, although UNHCR acts with voice-no-vote status in CONARE, its interests are often represented by Caritas, a voting member in the bureaucracy.<sup>13</sup> In addition, since 2018, the Office has been an essential player in 'Operation Welcome', channelling significant resources to the response to displaced Venezuelans in the northern region of Brazil. Hence, similar to other cases in the literature (Jacobsen 1996; Milner 2009; Voutira and Harrell-Bond 1996), it is plausible to deduce UNHCR has enjoyed increased leverage over the GoB and also influenced its eventual decision to recognise Venezuelans as refugees by means of providing international assistance. Between 2017 and 2020, the Office's annual budget for operations in Brazil increased by a staggering 1075 percent, going from USD 4 million to USD 47 million (UNHCR 2020b). Moreover, UNHCR's regional funding platform for displaced Venezuelans in the region (Response for Venezuelans — R4V) directed an additional USD 82.2 million to operations in the country between 2019-2020 (R4V 2020a, 2020b).

On the other hand, Brazil's adherence to UNHCR guidance for displaced Venezuelans may not only have been driven by the Office's power of influence, but also by the country's desire to boost its international legitimacy, a strategy noted in other cases in the literature (Betts 2013). Notably, starting in the 2010s, Brazil assumed the leadership in refugee affairs in Latin America, hosting several events sponsored by UNHCR and raising its profile vis-à-vis the Office. Nevertheless, the GoB's diplomatic efforts and actions may not have been calculated as means of achieving a leadership position in the global refugee regime *per se*, but also as means of obtaining moral authority in face of the United Nations system as a whole and the wider international community. This view is corroborated by Brazil's Ambassador to the United Nations, Amb. Maria Nazareth Farani de Azevêdo, who has argued that the GoB's election to chair UNHCR's Ex-Com (i.e. the "bureau") may render diplomatic gains to the country on other fronts:

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13 Although both Caritas Rio de Janeiro and São Paulo have independent funding mechanisms and receive private donations, most of their budget is covered by UNHCR.





I believe the presidency of the ‘bureau’ will represent an excellent opportunity to continue enhancing the country’s image, since, undoubtedly, humanitarian efforts have gained more and more relevance in the international agenda, transforming the subject into a multisectoral platform for diplomatic action (Azevêdo 2020, 10, own translation).<sup>14</sup>

This would be especially the case considering that, in 2018, Brazil launched its candidacy for a non-permanent seat at the United Nations Security Council (UNSC) for the 2022-2023 term. Aiming to back its campaign, which culminated with its election in 2021, Brazil showcased the humanitarian achievements of ‘Operation Welcome’ and its group-based recognition approach to Venezuelan asylum-seekers to the international community Council (MoFA 2021a, 2021b).

## **Conclusion: Lessons for the Politics of Asylum in Latin America**

This article has elucidated how Brazil’s group recognition policy for Venezuelans has not been based on *stricto sensu* humanitarian considerations or the relatively lower number of refugees hosted in the country. Rather, this article points to several factors which, when in interaction, have corroborated with its decision to apply the Cartagena refugee definition *en masse*. Amongst them were international relations, foreign policy considerations, domestic politics, bureaucratic processes, and the role of key individuals. Nevertheless, this conjuncture is not static, and Brazil’s response may be prone to further changes in the future. This is particularly relevant considering challenges may emerge during implementation and the country navigates uncertain times during the pandemic. This has been the first time a country in Latin America has applied the Cartagena definition in the context of a mass refugee influx and it is yet unclear if neighbouring countries are willing to follow.

Notably, most works in the literature exploring the politics of asylum engage with cases in Sub-Saharan Africa and the Middle East, making the understanding of factors driving refugee policies in Latin America a less explored issue. In fact, while the region is well-known in the field of forced migration studies for having established the Cartagena process and its own refugee definition in the 1980s,

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14 Original, “avalio que a presidência do ‘bureau’ consistirá em excelente oportunidade de continuada projeção da imagem do país, já que, indiscutivelmente, a ação humanitária tem ganhado cada vez mais relevância na agenda internacional, transformando o tema em plataforma multissetorial de atuação diplomática.”





few studies engage with how refugee protection occurs on the ground. Although this research analyses the specific context of Brazil and some of its findings may not be generalisable, it ultimately aims to serve as a stepping stone for further studies looking to understand the politics of asylum in Latin America and the region's implementation gap vis-à-vis the 1984 Cartagena Declaration. Ideally, future research should critically analyse other countries in the region that host far more displaced Venezuelans than Brazil and integrate their cases into the conversation. By doing so, researchers in social sciences would not only promote a more nuanced understanding of the politics of asylum in Latin America, but also advance the literature by providing important lessons and making it more representative of the political realities in the region.

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