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Latin America's refugee protection mechanism and its constraints —an analysis based on Venezuela's refugee protection issues

Wu Haotan

Abstract: Latin America has always been regarded by the international community as a model for regional cooperation in the field of refugee protection. The "Cartagena Declaration" adopted by the Latin American region in 1984 defined refugees in the broadest terms. Many countries in Latin America have adopted the "Cartagena Declaration". The Tagena Declaration incorporated the definition of refugees into domestic law, promoting regional cooperation in refugee protection. In addition, Latin America has also adopted a number of regional refugee protection plans such as the Mexico Declaration and the Brazil Declaration. However, through the Judging from the regional practice of Venezuelan refugee protection, Latin America's advanced regional refugee mechanisms are more based on rhetorical politics. According to the Latin American refugee mechanism, Venezuelan asylum seekers meet the criteria for refugee status identification. Latin American countries should initiate a large-scale refugee influx. The popular "preliminary refugee determination" mechanism determines the refugee status of asylum seekers. However, Latin American countries except Brazil do not identify refugees in accordance with the "Cartagena Declaration". Instead, they use "temporary protection or stay arrangements" "The mechanism provides temporary protection for asylum seekers and even closes the door to refugees. The effectiveness of the Latin American refugee mechanism and the willingness and ability of refugee-receiving countries are the main factors restricting the implementation of the Latin American refugee mechanism. Refugee protection in Latin America It provides a useful

perspective on the plight of refugee protection worldwide. Keywords: Refugees, international refugee mechanisms, regional cooperation, Latin America, Venezuela. About the author: Wu Haotan, Lecturer, Institute of International Strategy, Party School of the Central

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The refugee issue is a major issue related to global and regional stability and development. The outbreak of the COVID-19 epidemic in early 2020 has caused unprecedented challenges to global refugee governance. According to the latest statistics from the United Nations Refugee Agency (UNHCR), as of June 2020, the world The number of people who have been forced to leave their countries of origin has reached more than 79.5 million, including more than 26 million refugees. ÿ These numbers have reached a record high. On average, 1 person in every 97 people in the world is forcibly displaced. ÿ In order to cope with the emerging refugee crisis ÿ The international community has established a set of international mechanisms with the international protection of refugees as its core. In addition, the regional refugee mechanism provides additional channels for the regional protection of refugees in addition to the international refugee mechanism. Latin America has

always been The international community regards it as a leader and model for regional refugee protection. Latin America has not only adopted the most comprehensive definition of refugees in the world, but also adopted a series of international declarations aimed at strengthening regional refugee protection, such as 2004 and 2014. The "Mexico Declaration and Action Plan to Strengthen the International Protection of Refugees in Latin America" (referred to as the "Mexico Declaration") and the "Brazilian Declaration and Action Plan" (referred to as the "Brazil Declaration") were adopted respectively in 2008. However, Latin America leads the way in global refugee protection. Have many mechanisms been implemented in practice? Or are they just words? What implications does this regional practice have for global refugee protection? This article explains in detail the unique mechanisms of Latin America on the basis of systematically sorting out the international refugee mechanisms and their core principles. regional refugee mechanism, and finally, combined with the regional protection practice of Venezuelan refugees, a comprehensive examination of the dilemmas faced by the Latin American refugee protection mechanism in practice, striving to reveal the dilemma of global refugee protection.

1 The Definition of Refugees and the International Refugee Mechanism

To understand the development of refugee protection mechanisms and practices in Latin America, one needs to first understand the international refugee mechanism. By comparison, we can see the advantages and disadvantages of the refugee protection mechanism in Latin America. Overall, the international refugee protection mechanism was formed during World War II. At the end of the period, the international community not only defined the concept of refugees, but also established an international refugee mechanism with "one core principle, three major solutions, and one core institution" as its main content. This mechanism is promoting the international protection of refugees. played a decisive role in Its role has enabled countless refugees to gain opportunities for survival and development.

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(1) The origin and definition of refugees.

The origin of the word "refugee" can be traced back to France in the 16th century. In 1573, the Calvinists who fled from the Netherlands to France to escape persecution by the Spanish rulers were called "refugees" in French. "Refugee" (Réfugié). At the same time, the definition of refugee is closely related to the formation of modern nation-states and the international system. With the signing of the "Peace of Westphalia" in 1648, refugees under the nation-state system also emerged. By the 18th and 19th centuries, the creation and protection of refugees had been integrated into the construction process of European countries. Newly established nation-states after revolutions, such as Italy, Germany, and France, often caused large numbers of people to flee during the establishment process. For example, during the period from 1789 to 1815, France, Italy and Poland in the 1840s and 1950s. ÿ In the middle and late 20th century, the independence of a series of former colonial countries in Asia, Africa and Latin America and the outbreak of international and regional conflicts caused a large-scale refugee flow to emerge again. ÿ At the same time, the refugee crisis was far away. It broke out far beyond the geographical limits of Europe and spread across the world.

The current international refugee mechanism was truly established only after the adoption of the 1951 United Nations

Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees (referred to as the "1967 Protocol") and the establishment of the United Nations High Commissioner for Refugees. ÿ Prior to this, The emergence of international treaties on refugees and international organizations such as the United Nations Relief and Relief Agency and the International Refugee Organization (International Refugee Organization) Refugee agencies, but these treaties and agencies only target refugees in one or certain countries and lack universal applicability. United Nations The establishment of the UNHCR and the Convention Relating to the Status of Refugees and its 1967 Protocol have gradually developed into current refugee institutions and laws with universal application, constituting the core content of the current international refugee mechanism. Among them, the 1951 Convention Relating to the Status of Refugees The Convention and its 1967 Protocol define the concept of refugees in the current international refugee mechanism. As of September 2019, a total of 146 countries around the world have ratified the 1951 Convention relating to the Status of Refugees, and 147 countries (region) ratified the 1967 Protocol. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol have therefore become the most widely applicable refugee law documents.

According to Article 1(1) of the 1951 Convention relating to the Status of Refugees, "refugee" is defined

ÿ Gan Kaipeng: «Research on European Refugee Policy», Xiamen: Xiamen University Press, 2011, page 17.

ÿ to the Status of Refugee ÿ". ÿÿÿ: / / ÿÿÿÿÿÿÿÿ - us/ 5d9ed66a4 [2021-11-01]

For: A person who is outside his or her own country due to events that occurred before January 1, 1951 and who has a well-founded fear of being outside his or her own country on account of race, religion, nationality, membership of a certain social group or political opinion, and who, because of this A person who is unable or unwilling to submit to the protection of that country because of fear, or a person who does not have a nationality and who, because of the above-mentioned circumstances, has remained outside the country of his former habitual residence and is now unable or because of the above-mentioned fear is unwilling to return to that country. It can be seen that in 1951 The "Convention Relating to the Status of Refugees" takes the persecution of individual refugees in terms of race, religion, nationality or political opinion as the main basis for defining refugees. It also emphasizes the definition of refugee status of stateless persons. At the same time, although the state parties to the Convention cover It was the refugee convention with the broadest coverage at that time, covering most countries in the world. However, it was still limited by time and geography when defining refugees. In terms of time, the convention stipulates that the definition of a refugee should be "due to January 1, 1951." "Things that happened before", and refugees caused by things that happened after that will not be recognized. Geographically, Article 1(2)(a) of the Convention stipulates "things that happened before January 1, 1951" j. Therefore, the refugees stipulated in the Convention mainly refer to refugees caused by things that happened in Europe.

However, this definition gradually ceased to adapt to the new developments in the refugee situation after the 1950s.

During this period, the refugee crisis began to move beyond Europe to developing countries, especially in the 1960s due to the ethnic minority. Africa is an independent country with frequent refugee crises. Therefore, the "Protocol on the Status of Refugees" adopted by the United Nations in November 1966 and entered into force in October 1967 supplemented the 1951 Convention and deleted the terms "time" and "time" in the definition of refugees. The "territorial" restriction expanded the scope of refugees to a global scope and is still applicable today. The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are considered to be the core of the international refugee mechanism and the basic document of international refugee law. The definition of refugees in these two documents has become the basic legal basis for the international community to identify refugees. It mainly includes the persecution suffered by individual refugees because of their race, religion, nationality, political opinions or belonging to a certain social group. At the same time, the Convention and its protocols stipulate the basic economic, cultural and other rights enjoyed by refugees, and protect the basic human rights and freedoms of refugees.

(2) The international refugee

mechanism faces increasingly serious and frequent refugee crises. In addition to the legal definition of refugees, the international community has also formed a complete system including "one core principle, three major solutions and one core institution".

 $[\]ddot{y}\,\ddot{y}\ddot{y}$ «Convention relating to the Status of Refugees» Chapter 1 Article 1, 1951

ÿ Astram, Marilyn Achlon: «Guide to International Refugee Law» (Chinese version), Beijing: United Nations Refugee Agency, 2004, Preface page 10.

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International Refugee Mechanismy

First of all, the international community has stipulated the core principle for solving the refugee problem - the "principle of non-refoulement" (principle of non-refoulement). The principle of non-refoulement comes from the rights of refugees under international refugee law. Right to push back ÿ No The right to refoulement specifically refers to the right enjoyed by refugees when they flow into the receiving country. The receiving country shall not push them back in any way to their life and freedom because of their race, religion, nationality, membership of a certain social group or certain political affiliation. The right not to be refouled is the most basic and core right granted to refugees by international law. Based on this right, the international community must protect refugees when protecting refugees. The most basic principle to be followed is the "non-refoulement principle". Following the non-refoulement principle means abiding by borders and not rejecting people, not refouling outside the territory, not extraditing, not deporting, and not pushing back large-scale influxes of people. At the same time, no refoulement The principle has the characteristics of "customary international law". This means that compliance with this principle applies not only to countries that have signed and ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, but also to the few countries that have not signed or ratified the Convention. Countries that have ratified the Convention and its Protocolsÿÿ

Secondly, on the basis of the principle of non-refoulement, international refugee law also provides three major durable solutions to refugee problems, namely voluntary repatriation, local integration and resettlement. (4) Voluntary repatriation (voluntary repetition) Refers to freedom of expression for refugees to return home On the basis of willingness, eligible refugees will be returned to their home countries. ÿ In 1983, the United Nations General Assembly officially recognized voluntary repatriation as "the most ideal and durable solution to the refugee problem." ÿ. Local integration means that refugees are granted some kind of A form of permanent legal status that allows them to stay indefinitely in the country of first asylum and fully participate in the social, economic and cultural life of the refugee-receiving country.

7 According to the special law on local integration issued by the United Nations Refugee Agency in 2002,

Scarecrow Pressÿ 1975ÿ p 88 Liu

ÿ Guofu: «International Refugee Law» Beijing: World Knowledge Press, 2014, page 358 ÿ ÿÿÿÿÿA/ ÿÿÿ / ÿÿÿ / ÿÿÿ / ÿÿÿ 1983 ÿ ÿÿÿÿÿÿ ÿÿÿ

ÿÿÿÿÿ he Rights of Refugees under International Law ÿ Cambridge: Cambridge University Press 2005 p p 977-978

Barbara E. Harrell-Bond (Barbara Harrell-Bond) emphasized that the local integration of refugees means that the host community and the refugee community can coexist and share common resources. without exceeding Greater conflict within the receiving community itself, see Barbara Harrell-Bondÿ Impossing Aid: Emme rgency Assistance to Refugeesÿ Oxford: Oxford UniversityPressÿ 1986ÿ p 7ÿ

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Ü Liu Guofu: «International Refugee Law». Beijing: World Knowledge Press, 2014, page 106. Referring to the definition of customary

ÿ international law by the International Court of Justice in the North Sea Continental Shelf Case, there are several characteristics that a legal treaty must meet to become customary international law. First, ÿ Legal treaties that become customary international law cannot have reservations for contracting states. Second, legal treaties that become customary international law should have the characteristics of creating norms. Third, legal treaties that become customary international law should be drafted extensively and representatively. The participation and ratification of states. Fourth, legal treaties that become customary international law should be widely and consistently practiced by all countries. The principle of non-refoulement conforms to the above four characteristics, and therefore has the characteristics of customary international law.

ÿ Guys S Goodwin - Gill and Jane McAdamÿ The Refu gee in International Law : Oxford University Press 2007 p 346 Sometimes these three options are also

According to legal documents, the local integration of refugees is a multi-faceted and multi-layered product, which includes the self- reliance of refugees. ÿ Resettlement of refugees refers to when refugees cannot be repatriated according to law or cannot freely choose to resume their lives in their country of origin. When he/she seeks asylum, he/she can seek asylum in another country that is willing to grant him/her permanent refugee status. ÿ Generally, refugees seek resettlement because the first host country is unwilling to submit a request for asylum.

Finally, in addition to stipulating the basic principles and three major solutions to the refugee problem, the international refugee mechanism also includes a core executive agency—the United Nations Refugee Agency. The United Nations Refugee Agency was established by the United Nations Security Council on December 14, 1950, and was established in 1951. It started operations on January 1, 2011. Its mission is to protect refugees and work towards a permanent solution to refugee problems. ÿ When the United Nations Refugee Agency was established, the United States did not support it becoming a permanent agency, but limited it to those after World War II. It is a temporary agency that provides legal protection to European refugees and only grants them a three-year lifespan. ÿ In the subsequent development process, the United Nations Refugee Agency gradually broke through the limitations of time and work scope and developed into a global refugee protection agency. In the 1960s, the world The rise of the independent wave in the world extended the assistance work of the United Nations Refugee Agency to the third world. Algeria was the first non-Western country to receive assistance from the United Nations Refugee Agency, which also marked the beginning of the work of the United Nations Refugee Agency going global. ÿ By the 1990s of the 20th century In the 1990s, the assistance work of the United Nations Refugee Agency has been fully launched around the world.

Since the 21st century, the United Nations Refugee Agency has continued to expand its scope of work and participated in the United Nations agency reform process that began in 2005. With the increase in the number of refugees and other people of concern, the United Nations Refugee Agency has tried to appeal to governments through different initiatives and programs. Opening the door to refugees and other groups of concern, its protection targets have been expanded from refugees and asylum seekers to the broad "populations of concern of the United Nations High Commissioner for Refugees". Guterres, the United Nations Secretary-General and former High Commissioner of the United Nations High Commissioner for Refugees, even The work target of the United Nations Refugee Agency has been expanded to include all "people on the move" (people on the move)

Order Office Agency (People on the move)

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To sum up, in the face of the increasingly severe refugee problem, the international community has introduced a complete set of international refugee mechanisms. First of all, the 1951 Convention relating to the Status of Refugees and its 1967 Protocol have updated the definition of "refugees" with the times. This advanced definition provides an international legal basis for many refugees to obtain refugee status and corresponding rights. Secondly, the international refugee mechanism provides a core principle, three major solutions and an executive agency for the international community to respond to refugee issues. This mechanism is based on theory The international protection of refugees has been strengthened at both the practical and practical levels.

2. Regional refugee mechanisms in Latin America

In addition to the international refugee mechanism, Latin America has established a regional refugee mechanism that is higher than the international refugee mechanism. First, Latin American countries adopted the Cartagena Declaration in 1984, which regulates "refugees". carry out It provides a broader definition than the international refugee mechanism, providing greater possibilities for more displaced people to fight for refugee status and corresponding rights. Second, Latin America has adopted a series of regional refugee protection plans based on the international refugee mechanism. For example, the "Mexico Declaration" and "Brazil Declaration" adopted in 2004 and 2014 respectively have strengthened the regional protection of refugees. Latin America has therefore established a good image in the international community as a model of regional refugee mechanisms, and has been recognized by the United Nations. The UNHCR and other international organizations have repeatedly

commended them. (1) Regional refugee definition in Latin

America For potential refugees, obtaining refugee status is crucial. Only by meeting the refugee definition and obtaining refugee status can refugees obtain corresponding employment., education and a series of rights. The international refugee mechanism provides countries around the world with basic guidelines for the definition of refugees. However, this definition is only based on the persecution of individual refugees because of their race, religion, nationality, political opinions or belonging to a certain social group. In addition, other reasons for displacement cannot be used as criteria for defining refugees. This has resulted in a large number of displaced people who cannot meet the refugee definition standards of the international refugee mechanism being unable to obtain corresponding refugee rights. Latin America has introduced regional refugee mechanisms to The international refugee mechanism has been supplemented, providing the possibility for more displaced people to obtain refugee status.

The "Cartagena Declaration" adopted in Cartagena, Colombia, in 1984 defined refugees in the broadest terms in the world. The primary reason for the promulgation of this declaration was the outbreak of epidemics in Latin America in the 1970s and 1980s. There have been several large-scale refugee flows. The first wave of refugees originated from the civil war that broke out in Nicaragua in 1978. In 1978-1979 alone, about 100,000 Nicaraguans died, and about 200,000 others fled to neighboring countries to seek refuge. Chapter 1 The second wave of refugees came from El Salvador. The country's civil war that broke out in 1980 lasted for 12 years, causing about one-third of its labor force to flee to Nicaragua, Mexico and other countries.

The third wave of refugees originated from Guatemala. The massive earthquake that occurred in the country in 1976 caused a large number of people to become refugees. Coupled with Guatemala's economic development difficulties and lack of international assistance, about 1 million Guatemalans became internally displaced persons, and about 20 others. Thousands of people fled to Mexico. The fourth wave of refugees came from Honduras. In 1981, after former Honduras President Roberto Suazo Córdova came to power, he supported the Nicaraguan right-wing rebel organization "Contra". " (Contras), a large number of Hondurans who opposed this policy were executed extrajudicially. Since 1983, a large number of Hondurans have fled to the United States.

In the face of waves of large-

scale refugee crises in Latin America in the 1970s and 1980s, the Inter-American Commission on Human Rights pointed out that Latin American countries lacked domestic laws to identify refugees and lacked regional regulations to deal with large-scale refugee crises. Refugee Convention and entity organizations that coordinate the management of refugee crises. Against this background, the United Nations Refugee Agency saw the opportunity to promote the establishment of regional refugee mechanisms in the countries in the region and carried out a series of activities. From April 1981 to April 1983,ÿ The United Nations Refugee

Department has jointly held seminars such as the Mexican Institute of Foreign Affairs, the Instituto Matias Romero, and the Mexican Guoli Autonomous University.

Under the pavement of a series of previous meetings and initiatives of the United Nations Refugee Agency, in November 1984, the United Nations

UNHCR jointly organized the "Symposium on the International Protection of Refugees from Central America, Mexico and Panama"

in Cartagena, Colombia, with the Regional Center for Third World Studies and the National University of Colombia. The seminar was

led by Paul Hartling, High Commissioner of the United Nations Refugee Agency (Poul Hartling) and Colombian President Betancur

(Belisario Betancur Cuartas) presided over the meeting, and the participants included 6 Delegations from Central American countries

(Belize, Costa Rica, El Salvador, Honduras, Mexico, Nicaragua). The workshop culminated in the adoption of the famous The

Cartagena Declaration points out that the scope of refugees includes not only those defined by the 1951 Convention relating to the

Status of Refugees and its 1967 Protocol, but also those who are endangered by general violence, foreign invasion, People who

have fled their country due to civil unrest, large-scale violations of human rights, or other threats that seriously disrupt public order.

This means that according to the "Cartagena Declaration", the definition of refugees can not only be purely based on the perspective

of the individual refugee, but also can be defined from the perspective of the individual refugee. It is defined from the macro

perspective of domestic events in the country of origin of refugees. After the adoption of the "Cartagena Declaration", the United Nations Refugee Agency

ÿ United Nations Refugee Agency, Alliance of National Conferences: "Guide to International Refugee Law" (Chinese version), Beijing, 2004, p. 137.

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Its 1985 Executive Committee resolution emphasized that it "pays attention to the "Cartagena Declaration" and welcomes regional solutions to the refugee problem in the region"ÿ. This resolution was subsequently cited by the 1985 OAS General

Assembly. The resolution also called on its member states to "Cartagena Declaration » Addressing refugee issues in its territory.

Most Latin American countries have incorporated refugee laws into their domestic legal systems and adopted the definition of refugees in the Cartagena Declaration. Therefore, it can be said that Latin American countries are at the forefront of the world in building regional refugee

mechanisms. (II) Regional refugee mechanisms in Latin

America Latin America has established a regional refugee mechanism that is higher than the standards of the international refugee mechanism. The second manifestation of this is that the region has introduced a series of regional plans aimed at strengthening refugee protection. Among them, in 2004 The "Mexico Declaration" adopted in 2014 and the "Brazil Declaration" adopted in 2014 are important representative mechanisms of regional refugee protection mechanisms in Latin America. These two mechanisms advocate strengthening cooperation among regional countries and independently solving refugee problems, and have received high attention from the international community. Praise ÿ United Nations Secretary-General and former High Commissioner of the United Nations High Commissioner for Refugees Guterres praised Latin American

countries for being "brave, generous and visionary" in solving refugee problems after the signing of the "Brazil Declaration" ÿÿ The

main introduction of the "Mexico Declaration" ÿ In view of the following new characteristics of the refugee flow in Latin America: First, at the

beginning of the 21st century, more and more refugees in Latin America gathered in cities; second, more and more Colombian refugees

gathered at the borders of Ecuador, Panama and Venezuela. In order to strengthen Latin American In November 2004, it was jointly organized

by the United Nations Refugee Agency, the Norwegian Refugee Council, the Inter-American Commission on Human Rights, the Inter-American

Court of Human Rights, the Inter-American Institute of Human Rights and the governments of Brazil, Costa Rica and Mexico. A new round of

seminars on the refugee issue in Latin America was held and the "Mexico Declaration" was adopted. After judging the new situation of the

refugee issue in Latin America, the declaration put forward specific measures to strengthen refugee protection in the region. First, strengthen

the research and publicity on the refugee protection mechanism in Latin America. It is proposed to publish the "Procedures and Standards for

the Implementation of the Cartagena Declaration" and the "Concepts and Legal Terminology of International Refugee Law" manuals to provide

relevant information on refugee governance, personnel to conduct training on the "Latin America International Refugee Protection Training

Project", strengthen the connection between regional countries' domestic laws and international refugee mechanisms, and increase civil society support and training for refugee governance.

ÿ UNHCRÿ "Cartagena + 30: Latin America and the Ca ribbon Adopt a Common Plan of Action"ÿ Decemb er 2014 https://cartagena30 acnur org / en [2022-05-05] In the «Mexico Declaration» Prior to its introduction, Latin American

ÿ countries in 1994 On the 10th anniversary of the adoption of the Cartagena Declaration in 2007, the San Jose Declaration for Refugees and Displaced Persons (referred to as the San Jose Declaration) was adopted in San Jose, the capital of Costa Rica (now San Jose), with a strong emphasis on internal displacement. International protection issues for the population (people who have not fled their country of origin)

to develop lasting solutions to the refugee problem in Latin America, including the "Solidarity Cities" project to help refugees gathered in cities better integrate into host communities, and the "Solidarity Borders" project to help those who have not yet obtained refugee status obtain appropriate assistance, and the establishment of a "Solidarity Resettlement" project to promote the resettlement of refugees in third countries. ÿ After the promulgation

of the "Mexico Declaration", other similar declarations were issued in Latin America, including the 2010 "Declaration on the Protection of Refugees and Stateless Persons in the Americas" Brasilia Declaration» ("Brasilia Declaration") and the 2012 Mercosur Declaration on Principles for International Refugee Protection ("Mercosur Declaration"). The Brasilia Declaration endorses the provisions of the Mexico Declaration Regarding the durable solution to the refugee problem, it was decided to use the proposals of the "Mexico Declaration" to solve the problem of mixed population migration. ÿ The "Mercosur Declaration" mainly includes two aspects: First, it affirms the role of the "Mexico Declaration" in solving the refugee problem. The second is to propose the establishment of national and regional refugee resettlement projects. Generally speaking, the contents of these two declarations are similar to the "Mexico Declaration", and further strengthen the content of the "Mexico Declaration". December 2014 From September 2 to 3, at the ministerial meeting held in Brasilia

to celebrate the 30th anniversary of the signing of the Cartagena Declaration, jointly organized by the United Nations Refugee

Agency, the Norwegian Refugee Council and the Brazilian government, 28 Latin American countries The country and three regions
jointly adopted the famous "Brazil Declaration". The "Brazil Declaration" pointed out three new situations faced by the refugee problem
in Latin America: First, since the adoption of the "Mexico Declaration" in 2004, the Andes Mountains of South America have The number
of refugees is increasing. Secondly, transnational human trafficking in the countries in the Northern Triangle of Central America
(Guatemala, Honduras, El Salvador) has resulted in an increasing number of forced migrations. Thirdly, the Caribbean region is
experiencing increasing trends in exporting, receiving and forced migration of immigrants. The situation faced by the sexually migrant
population is becoming more and more complex. ÿ In order to better respond to

the new situation of refugee issues in Latin America, the "Brazil Declaration" puts forward two major initiatives. First, it is

proposed to establish a prevention and control center in the Northern Triangle of Central America. Refugee generation mechanism,
establish a maritime refugee protection mechanism in the Caribbean, and establish a stateless population eradication project throughout

Latin America. Second, emphasize the Latin American region's implementation of the "three major durable solutions" in the international
refugee mechanism, including the establishment of a "voluntary "Repatriation" project, "In situ integration" project and "Solidarity

Resettlement" project. In addition, the "Brazil Declaration" also proposed the establishment of a "labor mobility" project that has not been established in the international refusee.

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The purpose is to help refugees obtain necessary jobs in refugee-receiving countries and meet their self-sufficient living needs.ÿ

The "Mexico Declaration" and the "Brazil Declaration" are the most representative and innovative action plans for Latin American countries to independently solve regional refugee issues after the "Cartagena Declaration". Many of the two declarations The content has exceeded the protection level of the international refugee protection mechanism and provided a reference sample for regional refugee protection mechanisms around the world.

3. Review of Venezuela's Refugee Protection Practices

Latin America has established a refugee mechanism that is higher than international standards, but whether this mechanism can be implemented still needs to be tested in practice. The regional protection of Venezuelan refugees provides the possibility to test the effectiveness of this mechanism. According to «Cartah The large-scale asylum seekers caused by the economic and social crisis in Venezuela that began in 2014 meet the definition of refugees. Receiving countries in Latin America should treat Venezuelan asylum seekers under the "Preliminary Refugee Declaration" (PFRSD) mechanism. However, in reality, When Venezuelan asylum seekers seek asylum in many Latin American countries, they are not treated as refugees, but are treated under the "Temporary Protection or Stay Arrangements" (TPSAs) mechanism. This reality reveals the dilemma in the implementation of Latin America's refugee protection mechanism. ÿ

(1) Refugee status determination

mechanism The 1951 Convention relating to the Status of Refugees and its 1967 Protocol are universal legal documents for determining refugee status internationally, while the 1984 Cartagena Declaration is specifically applicable to Latin America. Refugee legal documents. According to the "Cartagena Declaration", the determination of refugee status mainly depends on whether the asylum seeker's life, safety and freedom are subject to widespread violence, foreign invasion, civil strife, large-scale violations of human rights or other situations that seriously disturb public order. flee their country due to threats. However, this standard is generally only applicable to refugee status recognition on an individual basis, and is difficult to apply to refugee status recognition for large-scale asylum seekers. This is because when faced with a large-scale influx of asylum seekers, At that time, it was difficult for the receiving country to have the ability and resources to identify each individual individually. Therefore, in order to quickly identify refugee status for large-scale asylum seekers, the "preliminary refugee identification" mechanism provides a good solution. This mechanism is based on "Whether the obvious and objective circumstances in the country of origin or former habitual residence of the asylum seekers meet the conditions for defining refugees" are used to quickly provide group refugee status identification for large-scale asylum seekers. Specifically, according to the 2015 United Nations Refugee Agency's "Article 2 International Protection Guidelines No. 11» "Prima refugee" (prima facie refugee) status can be obtained as long as it complies with any refugee legal document (including the 1951 "Refugee Refugee Regulation").

The Convention on the Status of Citizenship and its 1967 Protocol, the 1969 African Union Convention or the 1984 Cartagena Declaration) suffices to define refugees. In other words, when a large number of asylum seekers influx into the receiving country, the refugee The country can activate the "preliminary refugee determination" mechanism to quickly determine whether a large number of asylum seekers are refugees based on the overall situation of the country of origin, without the need to identify individual asylum seekers one by one. This mechanism can allow Asylum seekers can obtain refugee status and corresponding rights as early as possible, which can also help the receiving country save the human and material costs of large-scale refugee identification.

However, in reality, when large-scale asylum seekers flow into the receiving country, in order to evade the obligation to accept large-scale refugees, the receiving country often adopts the "temporary protection or stay arrangement" mechanism to accept the asylum seekers. "Temporary protection or stay arrangement" is Temporary mechanisms cannot provide long-term and stable protection for asylum seekers. For example, in response to the Yugoslav refugee crisis in the 1990s, the time span for accepting asylum seekers in various Western European receiving countries ranged from 6 months to 5 years, and they were granted The rights of asylum seekers (such as the right to work, the right to family reunification) are also different. In order to standardize this mechanism, the United Nations Refugee Agency issued a document again in 2014, emphasizing that "temporary protection or stay arrangements" are only temporary and flexible arrangements. It does not apply to protracted refugee crises, nor can it replace the normal refugee determination process.

(2) Venezuela Refugee Crisis The outbreak

of Venezuela's economic and social crisis is the result of the overlapping of multiple factors, especially the impact of the fall in international oil prices. The international oil price fell from 111 US dollars per barrel in 2014 to less than 30 US dollars per barrel at the beginning of 2016. This directly caused Venezuela's GDP to fall by 10% to 15% and the domestic inflation rate to reach 800%. As of April 2019, Venezuela's hyperinflation rate has reached 1,000,000%. The foreign debt is as high as approximately 157 billion U.S. dollars, equivalent to its domestic production. 150% of the total value. The minimum monthly salary fell to US\$6. At the same time, the Venezuelan state oil company (PDVSA), which controls the extraction, refining and export of Venezuela's oil, has poor management and internal corruption. Coupled with the economic sanctions of the United States, it is heavily dependent on the oil industry. The Venezuelan economy has experienced a historic setback unprecedented in the Western Hemisphere.

What follows is a nationwide shortage of food, medicine and basic medical services in Venezuela. According to data from the Pan

American Health Organization (Pan American Health Organization) ÿ Diseases that were once extinct in Venezuela are once again attacking
the country. For example, from 2008 to 2015, Only one case of measles was reported in Venezuela during the year

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Nearly 10,000 measles cases have been reported in the country since June 2017. At the same time, patients with chronic diseases (such as cancer, kidney disease, diabetes, AIDS and other diseases) are also unable to obtain corresponding medicines and treatments. ÿ In terms of food supply, a survey by three well-known Venezuelan universities found that about 10 million Venezuelans can only meet the food needs of two meals a day. At the same time, as the COVID-19 epidemic rages around the world, about half of Venezuela's doctors have fled the country and stayed in the country. Domestic doctors face extremely high risks of infection due to a lack of basic medical supplies such as gloves

and masks. In addition, Venezuelans also face the threat of widespread sexual violence and large-scale human rights violations. According to data from the Organization of American States, in January 2014 Between November 2018 and November 2018, approximately 130,000 people were arbitrarily detained. 4 According to the Venezuelan Violence Observatory (Venezuela Observatory of Violence) Lence) data, more than 160,000 intentional homicides occurred in 2019 alone, with an average of 603 people out of 100,000 people were intentionally killed, making it one of the countries with the highest crime rate in Latin America.ÿ On September 27, 2019, the United Nations Human Rights Council established an independent international fact-finding mission on Venezuela and on September 15, 2020 A report was released on 2014-04-05 stating that serious

human rights violations have occurred in Venezuela since 2014. ÿ Due to the worsening economic and social crisis

and large-scale human rights violations, a large number of Venezuelans have fled the country. As of September 7, 2020,

fleeing The number of Venezuelan asylum seekers has reached 5.1 million, of which about 4.2 million have fled to other Latin

American countries. 7 Among the countries in Latin America that accept Venezuelan asylum seekers, Colombia has the

largest number of asylum seekers, about 1.8 million, followed by Peru (about 1.3 million), Ecuador (about 510,000), Chile

(about 450,000), Brazil (about 260,000), Argentina (about 170,000), Panama (about 120,000)ÿThese receiving countries are all signatories of the "Cartagena"

ÿ OASÿ "Preliminary Report on the Venezuelan Migrant and Refugee Crisis in the Region"ÿ 2019ÿ p 10

ÿ Mercy Venice enÿ "How Food in Venezuela Went from Subsidized to Scarce"ÿ in The New York Timesÿ July 16ÿ 2017 https://www.ny.times.com/interactive/2017/07/16/world/americas/venezuela-shortages.html [2021 - 09 - 17] The

number of specific cases of new coronary pneumonia in Japan is unknown.Gideon Longÿ "No Glove sÿ No Masks: Venezuela's ÿ Exposed Health Workers " ÿ in Financial Timesÿ September 7ÿ 2020 https://www.ft.com/content

Countries that have incorporated the "Cartagena Declaration" into their domestic laws to define refugees, thus providing an ideal case for refugee protection practice in Latin America.

(3) Regional protection practices and restrictive factors for Venezuelan refugees. Through

the above description of Venezuelan asylum seekers, we can find that Venezuelan asylum seekers do not meet the definition of refugees under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol. However, However, they are in line with the definition of a refugee in the 1984 Cartagena Declaration. This is because the situation in Venezuela has caused the life, safety and freedom of the people to be threatened by widespread violence, large-scale violations of human rights or other situations that seriously disturb public order. As for those countries who have fled their country, as a signatory of the Cartagena Declaration or a country that has incorporated the definition of refugees in the Cartagena Declaration into its domestic law, it should initiate the "preliminary refugee determination" mechanism to determine the refugee status of Venezuelan asylum seekers. However, in reality, Venezuelan asylum seekers face completely different treatments. First, the asylum application of Venezuelan asylum seekers is directly rejected. For example, the Peruvian government announced in August 2018 that it would no longer provide temporary asylum seekers after October 31, 2018. Second, obtain a visa and related fees from the asylum seeker. For example, Chile requires Venezuelan asylum seekers to apply for a humanitarian visa from the Chilean consulates in Caracas and Puerto Ordaz, Venezuela, before they can obtain a Chilean asylum seeker. "Temporary protection or stay arrangements"ÿ, and Argentina, Chile, Ecuador, Paraguay, and Peru also ask Venezuelan asylum seekers for visa fees or stay fees ranging from US\$14 to US\$220. Third, they arrange asylum seekers with temporary measures. For example, although Brazil and Uruguay allow Venezuelan asylum seekers to stay permanently and do not ask for fees from Venezuelan asylum seekers, the two countries have only launched the "temporary protection or stay arrangement" mechanism and have not formally recognized the refugee status of the asylum seekers. Faced with this situation.

Due to Venezuela's worsening domestic crisis and the difficult situation of regional cooperation, the United Nations High

Commissioner for Refugees issued a document in May 2019 calling on Venezuelan asylum-seeking countries to launch a "preliminary

refugee determination" mechanism to determine the refugee status of asylum seekers. ÿ Under this initiative, Brazil In December

2019, we took the lead in launching preliminary refugee identification for Venezuelan asylum seekers in accordance with the refugee definition standards of the Cartage

ÿ Later, this provision was canceled on June 24, 2019, and Chile instead allowed Venezuelan asylum seekers to apply for visas at any Chilean consulate in Latin America. However, for Venezuelan asylum seekers who had nothing, this still caused problems for them to enter Chile for asylum. There was a big obstacle. Chile's Ministry of Foreign Affairsÿ "Serv icos Consulares ÿÿÿÿÿÿÿÿÿ 2019 ÿÿÿ: // ÿÿÿÿÿÿÿÿÿÿÿÿÿÿÿÿ 21/ ÿ ramites/visa-de-responsabilidad-democrati ca [2021-09-17]

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mechanism, recognized by the United Nations Refugee Agency. ÿ As of October 2020, Brazil has recognized 46,224 Venezuelan refugees. ÿ

Among the 3.9 million Venezuelan asylum seekers who have fled to South American countries, only 2.3 million have received "temporary protection or stay arrangements." " Treatment of the mechanismÿÿ

incorporated the standards for refugee definitions in the Cartagena Declaration into domestic law, when facing a large number of Venezuelan

Therefore, it can be seen that although the host countries of Venezuelan asylum seekers have signed the Cartagena Declaration or

asylum seekers, When applying for refugee status, most countries choose the "temporary protection or stay arrangement" mechanism to arrange asylum seekers to avoid long-term responsibilities after recognizing Venezuelan asylum seekers as refugees. Although Brazil is the first country to launch the "preliminary refugee determination" mechanism. It has set an example for refugee protection in regional countries, but whether other countries will follow this policy is still unknown. At the same time, regional refugee mechanisms such as the "Mexico Declaration" and "Brazil Declaration" formulated in Latin America are also difficult to implement in the practice of refugee protection in Venezuela. ÿ First of all, most countries that accept Venezuelan refugees have not initiated refugee status certification procedures for Venezuelan asylum seekers, and various refugee protection measures of regional refugee mechanisms such as the "Mexico Declaration" cannot be implemented. Secondly, for Brazil, which has launched As for the host countries that have refugee recognition procedures, the number of refugees they accept is also very limited, and it is difficult to have a substantial impact on the protection of Venezuelan refugees.

The factors that restrict the implementation of the refugee protection mechanism in Latin America can be examined from two aspects. First, the national

Therefore, it can be said that the advancement and exemplary nature of the refugee mechanism in Latin America remains more at the rhetorical level. rather than an action level

The effectiveness of the international refugee mechanism and the Latin American refugee mechanism itself is an issue. Although the international mechanism for refugee protection has been increasingly improved since the early 1950s, neither the international mechanism nor the regional mechanism itself is mandatory for sovereign states. Sovereign states It is still one of the most important forces in solving the refugee problem. The attitude of the refugee-receiving country towards refugee protection greatly affects the degree of refugee protection.

When the receiving country (such as Brazil) is willing to accept and fulfill its international responsibility for refugee protection, refugees On the contrary, it is difficult to advance the protection work of refugees. The second problem is the ability and willingness of Latin American countries to accept refugees. Most Latin American countries themselves have slow economic development, frequent political unrest, large poverty population base, and poor wealth. The problem of unequal distributionly has been further aggravated by the outbreak of the epidemic.

ÿ R4Vÿ "Coordination Platform for Refugees and Migrants from Venezuela"ÿ 2020 https://r4v info/en/ÿÿÿÿÿÿÿÿÿÿÿÿÿÿÿÿ [2021-09-17] Wu Haotan: «The interests of major donor countries and

ÿ the action space of international organizations: based on the United Nations High Commissioner for Refugees Refugee protection in the 1990s "Investigation of Protective Actions", published in "International Political Research", Issue 5, 2019, pp. 140-141.

ÿ Jiang Kai: "The Construction and Constraints of Human Rights Protection Mechanisms in Latin America", published in "Latin American Studies", Issue 2, 2022, Page 136

Accepting large-scale refugees will undoubtedly impose new burdens on the political, economic, environmental, social, security and other aspects of the receiving country. Therefore, most countries are very conservative in accepting refugees.

Only a few countries (such as Brazil) consider regional influence and are more willing to accept refugees.

Four Conclusions

The regional refugee mechanisms in Latin America have higher protection standards for refugees than the international refugee mechanisms. Latin American countries adopted the "Cartagena Declaration" in 1984 to define refugees in the broadest terms, which is no longer limited to individual asylum seekers through review. To determine whether a refugee has been persecuted because of his or her race, religion, nationality, political opinion or membership of a certain social group, it is based on examining whether the asylum seeker has been endangered by general violence, foreign invasion, To determine whether an asylum seeker is a refugee because he fled his country due to threats of internal unrest, large-scale human rights violations, or other situations that seriously disrupted public order. This has greatly lowered the threshold for asylum seekers to apply for refugee status and improved the regional protection of refugees in Latin America. At the same time, Latin American countries have also formulated a number of regional cooperation plans aimed at protecting the rights and interests of refugees, such as the "Mexico Declaration" in 2004 and the "Brazil Declaration" in 2014, which have been highly praised by the international community.

The Venezuelan refugee crisis is currently one of the largest refugee crises in the world. A large number of asylum seekers from this country have fled to Latin American countries to seek asylum. According to the criteria for refugee definition in the "Cartagena Declaration", Venezuelan asylum seekers meet refugee status. When receiving Venezuelan refugees, Latin American countries should activate the "preliminary refugee determination" mechanism to determine the refugee status of asylum seekers when there is a large-scale refugee influx. However, Latin American countries except Brazil have not followed the "Cartagena" standard. Instead of identifying refugees under the Nasdaq Declaration, it provides temporary protection to asylum seekers through the "temporary protection or stay arrangement" mechanism, and even closes the door to refugees. The regional protection practices of Venezuelan refugees show that Latin America's advanced regional refugees The mechanism is more superficial than rhetoric, and there is still a serious lack of regional cooperation actions. The effectiveness of the Latin American refugee mechanism and the willingness and ability of refugee-receiving countries are the main factors restricting the implementation of the Latin American refugee mechanism. The Venezuelan refugee problem It reveals the dilemma of refugee protection worldwide. The international protection of refugees not only needs to be improved in mechanism construction, but also requires substantial assistance from the international community.

(Editor Gao Han)