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Displaced Venezuelans in Latin America A Test of Regional Solidarity?

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Center
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Abstract

Since 2015, South American countries have been dealing with the greatest forced displacement in their history. More than 5.6 million Venezuelans have left their country under harsh conditions, fleeing deteriorating living conditions, famine and lack of access to medical treatment and basic care. Eighty per cent of these people have gone to other South American countries, such as Colombia, Peru, Ecuador or Chili, sometimes even crossing a large part of the continent on foot. This displacement coincides with a difficult context for the entire continent due to economic, social and political challenges, in addition to the Covid-19 pandemic.

The reception of Venezuelan migrants and refugees is a major challenge for the region. South America has experienced substantial migration flows in the past, whose specificities inspired the foundation of a whole set of institutions, systems, practices and frameworks for migration governance. This governance is characterized by an open approach to migration and migrants' rights. It can be implemented to ensure a coordinated response to hosting migrants in conditions that respect human rights. It is clear that this framework has not been applied to address this migration crisis. Destination countries have had to adapt their migration policies and social systems to deal with the sudden arrival of large numbers of Venezuelans. The approach of Latin American countries has been disjointed and inconsistent. Most countries have opted for restrictive measures, imposing visas and deporting migrants, while fewer countries have decided to respect their traditions of compassion and grant Venezuelans a right of residence. The landmark case is Colombia, which is the main destination country, that has recently decided to grant a right of residence to Venezuelan migrants.

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Introduction

Latin America is a geographically diverse region, whose citizens share the same language and similar cultures and traditions, but with heterogeneous levels of development, access to rights, welfare, political and economic stability.

In terms of migration, the entire region has experienced significant extraregional and intraregional flows. However, there are major differences between migration trends in Central American countries and those in the Southern Cone, particularly due to geographic proximity to the United States. The violence and social, political and economic conditions in Central American countries (particularly in what is called the “Northern Triangle” of Honduras, Guatemala and El Salvador) have prompted large numbers of people to migrate to the United States, that, in response, has established a cooperation system with Mexico to relocate migration controls and asylum seekers there. In the Caribbean, the most significant flows are of Cubans and Haitians to the Dominican Republic, the United States and other countries on the continent.

On the other hand, South America has historically been a destination region for migrants. During the 19th and much of the 20th centuries, many Europeans specifically went to countries such as Argentina, Chile, and Venezuela. From the 1980s onwards, this trend was reversed: the emigration of South American nationals (particularly from the Andean countries of Colombia, Ecuador, Peru and Bolivia) became greater than the immigration of people from Europe. This immigration has affected the northern countries, but also other countries in the region, such as Argentina, Venezuela and Chile. In recent years, on the one hand, we are witnessing a diversification in extra-regional flows with the presence of people in transit from Asian countries (such as Nepal, Bangladesh and Pakistan) and African ones (such as the Democratic Republic of Congo, Ghana and Ethiopia), who decide to travel across the entire continent in order to reach the United States. On the other hand, since 2015 the region has had to cope with the mass exodus of migrants and refugees from Venezuela.

Venezuela: the worst migration crisis in the region

Between 2015 and 2020, 5.6 million Venezuelans left their country, 80% of them for another South American country: approximately 1.7 million for Colombia, 1 million for Peru, 450,000 for Chile and 450,000 for Ecuador. Brazil has more than 260,000 displaced Venezuelans and Argentina 180,000. It is the greatest migration crisis in the continent's recent history, comparable in scale to the Syrian migration crisis of 2015. Yet Venezuelans are not fleeing an armed conflict, but an economic, social and political crisis that has gradually worsened their living conditions and has no short-term, foreseeable solution.

Between 2013 and 2019, Venezuela's gross domestic product (GDP) fell by 70%. Economic decisions, implemented by President Nicolas Maduro and his predecessor Hugo Chavez, led to the country's total economic dependence on oil, whose international price fell by 54% in 2014. The mismanagement of state-owned companies, high levels of corruption, and the installation of a regime characterized by restrictions of some fundamental freedoms, repression of political opponents and concentration of all power in the president's hands contributed to the economic, social and political collapse that has dramatically escalated as of 2014.

The recession in Venezuela is of such a scale that it can be compared to that of war-torn countries, like Liberia, that lost 90% of its GDP during the civil war. Nowadays, the minimum income in Venezuela is \$2.4 (but the amount varies because of government subsidies given to supporters of Maduro's regime), that is insufficient to meet the population's basic needs. According to the National Survey on Living Conditions¹ (ENCOVI in Spanish), 79.3% of the population do not have the means to cover their basic needs and the malnutrition rate has increased fourfold since 2012. According to the United Nations' Food and Agriculture Organization (FAO)² estimates, Venezuela is the Latin American country most in need of food aid. The country is also experiencing significant restrictions in access to medical treatment and basic care. It ranks 176th out of 195 in the 2019 Global Health Index, that is the worst score in all of Latin

1. "Enquête nationale sur les conditions de vie (ENCOVI), 2019-2020", UCAB, available at: <https://assets.website-files.com>.

2. "State of Food Security and Nutrition in the World", Food and Agriculture Organization of the United Nations, 2019, available at: www.fao.org.

America³. Finally, the United Nations Children's Fund (UNICEF) estimates that the Venezuelan crisis is causing a million children⁴ to drop out of school.

According to several surveys, 19% of households report that at least one member left the country between 2014 and 2019. Some of them were able to get a passport to leave the country, while others lacking resources had to use illegal channels to cross borders and continue their journey on foot through the rugged terrain of the Andean Mountains⁵.

Different national responses

Latin America in general, and the Southern Cone in particular, are characterized by a plethora of international organizations that have served as a framework for migration governance at regional level since the 1990s. In these organizations, states have agreed to create areas for freedom of movement, special asylum systems and standards to protect migrants' rights. The effectiveness of regional organizations, and of these regional standards, frameworks and systems have undoubtedly been tested against a backdrop of a migration crisis combined with an economic one.

Indeed, this migration crisis coincides with a context of economic, social and political challenges for the entire region, that have been exacerbated by the Covid-19 pandemic. Experts think that the region is on a trajectory that will result in this period being described as a "lost decade" in terms of per capita income, because of recession, lack of investment, high unemployment and poverty rates in most countries⁶. In addition, there was a high degree of social unrest that led to strikes in almost all South American countries.

In such a context, states decided to abandon multilateralism and adopt unilateral strategies to deal with the arrival of Venezuelans: some have opted to close their borders and deport migrants, while others have tried to honor established traditions and commitments in the region. The latter countries have allowed migrants to stay and supported their integration either by applying existing instruments or by creating alternative mechanisms.

The landmark case is Colombia that shares a 2,219 kilometer border with Venezuela. Despite its own economic and social

3. *Global Health and Security Index*, Johns Hopkins Bloomers Schools of Public Health, 2019, available at: www.ghsindex.org.

4. "Venezuela: UNICEF Providing More Than 300,000 Children with Education Supplies to Help Keep Them in School", UNICEF, September 2019, available at: www.unicef.org.

5. "Enquête nationale sur les conditions de vie (ENCOVI), 2019-2020", *op.cit.*

6. *Informe especial No. 11*, UN Economic Commission for Latin America and the Caribbean (CEPAL), 2021, p. 4., available at: <https://repositorio.cepal.org>.

challenges (an unemployment rate greater than 15% and economic contraction of 6.8% for 2020), Colombia has opted to receive and integrate Venezuelan migrants in the hope that they will contribute to the country's development in the medium term.

The reception of Venezuelan migrants and refugees enables us to draw lessons about regional migration governance and the role of cross-border cooperation, as well as strategies used by states in the region in this area. To better understand lessons from this migration flow, we should firstly try to understand some aspects of regional dynamics and trends, before addressing specific measures adopted by the states.

Although we will refer to the whole of Latin America, we will provide more details on migration governance in South America, since this is the area most affected by Venezuelan migration.

Migration Governance in South America

Managing migration flows in each region follows different objectives and responds to specific migration dynamics, but also to a particular social, economic and cultural context. For South America, the migration dynamics of the last 30 years, and the prevailing political trends in the region have resulted in the establishment of a plethora of regional migration governance frameworks.

As already discussed, South America was previously a destination region for Europeans, a trend that has gradually been replaced by intraregional migration. Until the early 2000s, approximately two million South Americans had moved intraregionally, with Argentina and Venezuela being the main destination countries⁷. This trend continued throughout the first decade of the century and involved a greater number of destination countries, such as Chile or Brazil. As intraregional migration flows became more important, regional organizations started to focus on managing these movements. Hence, the initial attempts at regional migration governance emerged.

The specificities of migration dynamics in Latin America

Regional migration flows in Latin America have four specific characteristics that explain the approach taken by regional organizations to manage these flows. Firstly, migrants come from relatively similar backgrounds in social and cultural terms, despite the heterogeneity of development levels between the various countries in the region. Migrants who move to neighboring countries have relatively similar lifestyles, as the economic differences between the destination and host countries are less marked than those that can be found along other migration channels. Secondly, the host countries do not have very robust welfare structures. Therefore, migrants are not perceived as coming to take advantage of more generous social systems. These two factors explain why migrants are perceived as being similar to the host society, which, according to some

7. "La Situación Migratoria en América del Sur", International Organization for Migration (IOM), 2001, p. 4; D. Massey, J. Arango *et al.*, *Worlds in Motion: Understanding International Migration at the End of the Millennium*, Oxford: Oxford University Press, 1999.

people, explains the adoption of a more favorable position on migration and migrants' rights by both regional cooperation bodies and the Inter-American Court of Human Rights⁸.

Thirdly, border controls in South America are complicated due to the region's complex geography, but also due to the lack of resources to cover the cost of these controls. Regional organizations have therefore chosen more realistic solutions to regularize the administrative situation of migrants instead of unsuccessfully trying to prevent their arrival. Fourthly, a large part of the population works in the informal sector in the region. According to the International Labor Organization (ILO), 84.9% of workers in Bolivia, 63% in Ecuador and 62% in Colombia work in the informal sector. Chile and Uruguay are the least affected countries in the region (25% and 24% respectively). As irregular migrants also tend to work in the informal sector, the regularization of their situation can lead them to move into the formal labor market and consequently better living conditions.

Migration strategy: a different regional approach?

Regional organizations are founded on geographical, cultural and historical similarities between countries with common social, political, economic or organizational goals. But, the different actors' interests and the political, economic and social context have a major impact on the life of these organizations. They have to adapt or change to deal with specific circumstances and respond to member states' interests.

These dynamics are particularly complex in Latin America, especially in South America, where a plethora of international organizations have been established to respond to political and economic issues at a specific time, but whose scope and legal framework are intermixed and overlapping. The Andean Community of Nations (CAN), the Southern Common Market (Mercosur), the Union of South American Nations (UNASUR), and the Pacific Alliance are among these organizations.

The topic of regulations on the movement of people within these blocs has been discussed by these organizations at varying times and with different interest. This has led to the development of different coexisting migration systems with varying scopes. Some people

8. This perception is in contrast to the more focused position on migration control and restrictions adopted by the European Union and the European Court of Human Rights, as evidenced by M.-B. Dembour, *When Humans Become Migrants: Study of the European Court of Human Rights with an Inter-American Counterpoint*, Oxford: Oxford University Press, 2014.

describe this situation as a “disorder of orders” with varying systems and levels of engagement⁹. However, there are two common features in all these frameworks: firstly, there are no enforcement mechanisms to ensure compliance with states’ commitments, and secondly, there is a determination to manage migration flows with a view to controlling them, but also to facilitate inter-regional movement and the regularization of migrants, as well as to guarantee their fundamental rights.

Existence of a regional framework to protect migrants’ rights

The Inter-American human rights system¹⁰ established a regional human rights legal framework using its own legal instruments (the 1948 American Declaration of the Rights and Duties of Man and the 1969 American Convention on Human Rights) and their interpretation, but also based on all other international standards applicable to member states. This legal framework also covers migrants’ rights.

The Inter-American Court on Human Rights’ judgments and advisory opinions on asylum, nationality and migrants’ rights are characterized by a progressive vision that guarantees their rights regardless of migration status. The Court and the Inter-American Commission’s work has not only helped to resolve individual situations, but also to lay the foundations for regional standards in this area, for example, taking into account the ban on discrimination against irregular migrants or the binding nature of the principle of non-refoulement¹¹. The court’s judgments have emphasized the limits of sovereignty and states’ scope to act in terms of border control, access to nationality and right of asylum. The Inter-American Court on Human Rights’ judgments and advisory opinions, as well as the Inter-American Commission’s recommendations played a key role in the design, implementation and interpretation of public policies, both regionally and in Latin American countries’ domestic law.

9. N. Walker, “Beyond Boundary Disputes and Basic Grids: Mapping the Global Disorder of Normative Orders”, *International Journal of Constitutional Law*, Vol. 6, No.3-4, 2008, pp. 373-396.

10. It comes under the institutional framework of the Organization of American States which also has an Inter-American Commission and Court on Human Rights.

11. “Arrêt Pacheco Tineo vs Bolivia”, Inter-American Court on Human Rights, 2013; “Avis consultatif No. 18 à la demande du Mexique sur la condition juridique et les droits des migrants sans papiers”, Inter-American Court on Human Rights, 2003.

A regional tradition of asylum

Latin America has a longstanding commitment to protecting refugees, stemming from the institutionalization of exile in the context of independence and the creation of the concept of diplomatic asylum. Countries in the region have been particularly sensitive to the reasons that force people to flee. In 1984 they wanted to deal with the flow of refugees from the region, whose situation did not correspond to the definition of asylum as set out in the United Nations' Convention on the Status of Refugees of July 28, 1951. In response to these new dynamics, Latin American countries adopted a broader definition of the right of asylum to include people fleeing because of internal conflict, international war, serious public order disturbances and major human rights violations. This definition is embodied in the Cartagena Declaration and thus focuses on the political and social context in the countries of origin, unlike the definition in the 1951 Convention that is based on individual persecution. Although the Cartagena Declaration is not a binding legal instrument, 16 countries have enacted this definition into their domestic law.

Variable systems of free movement depending on the circumstances

Migration policies in the region have evolved through several stages depending on political and economic circumstances. Initially, there was a desire to facilitate the movement of people between neighboring and partner countries, in order to encourage the implementation of trade agreements adopted by regional organizations with a view to liberalizing markets. This was the case for Mercosur in the 1990s and CAN from 1970s to 1990s, and more recently for the Pacific Alliance. At that stage, technical requirements to standardize travel documents and facilitate the movement of nationals from member countries were adopted without much thought given to migrants' status.

Secondly, at the turn of the century, the continent experienced economic crises that resulted in significant political changes. This marked a new phase in regional cooperation on immigration. Existing regional organizations were changed under the influence of left-wing governments that came into power in the major countries in South America (Argentina, Brazil, Venezuela and Ecuador). New regional organizations, such as Unasur emerged to respond to the new vested interests. This period also coincided with increased regional migration flows mainly from Andean countries.

In the 2000s, Mercosur¹², which brings together the most powerful countries on the continent, revised its initially liberal stance to include new ideas about the role of markets. It also endorsed the idea of freedom of movement. Mercosur started to promote South American citizenship (as did Unasur¹³), and proposed regional migration governance that emphasized the social dimension and citizens' rights, leaving aside the focus on movement of labor. This approach, described as post-neoliberal, introduced a residence system that grants a right of residence for any national of a Mercosur member or associate state, allowing them to work in the country for a period of two years, provided they present an identity document and have no criminal record. Once this period elapsed, the temporary permit can be turned into a permanent one based on a means test. This right to residence comes with a number of rights, including the right to work and to equal treatment at work, as well as the right to family reunification and access to education for children. This system also aims to combat irregular immigration by simplifying regularization mechanisms and by removing sanctions for irregular migrants.

The Mercosur organization now includes all the countries in South America, with the admission in July 2010 of Guyana and Suriname as associate members. However, Mercosur was founded on the basis of inter-state cooperation. Consequently, it does not have supranational mechanisms, including judicial bodies, that would monitor the implementation of agreements. This means migrants are still largely dependent upon national laws and procedures and the good will of states to enact and comply with their commitments. Furthermore, Mercosur member and associate states are obliged to adopt the agreement into their domestic legislation so that it is directly applicable, which has not been done yet by Guyana, Suriname, Venezuela and Ecuador.

On the other hand, CAN¹⁴ was affected by Venezuela's departure from the organization in 2006, and now only has Ecuador, Bolivia, Peru and Colombia as members. Despite the organization's limited scope, it has taken many decisions to grant intraregional migrants

12. Mercosur is a regional organization founded in 1991. The four founding members are Argentina, Brazil, Paraguay and Uruguay. Venezuela joined Mercosur in 2012, but its membership was suspended in 2017. Bolivia joined on July 17, 2015. The six other South American countries are associate states.

13. Founded by Hugo Chavez in 2008 with the aim of bringing CAN and Mercosur's work together. He based his speech on the objective of building a South American citizenship and to this end intends to eliminate visas for nationals from member countries.

14. The Andean Community of Nations is a regional organization founded in 1961. The member countries are Colombia, Peru, Bolivia and Ecuador. Chile, Argentina, Uruguay, Paraguay and Brazil are associate member states. Venezuela joined the Community in 1971, but finally left the organization in 2006 in protest against Colombia and Peru's economic policies that were about to sign Free Trade Agreements with the United States.

social rights, and to promote the regularization and enforcement of migrants' social rights, particularly under the influence of Ecuador, which under President Correa adopted a very open stance on the movement of people. The organization's limited scope for action, due to the absence of the continent's most powerful countries, and the limited implementation of decisions within member countries, was in sharp contrast to Mercosur's great expansion. However, just recently in 2021, CAN adopted the "Andean Statute on Human Mobility" that enshrines the principle of freedom of movement of people by granting them a right to residence and work in the territory of other member states. It remains to be seen whether this new decision will yield results. In any event, as with the Mercosur agreements, the lack of genuine supranational monitoring mechanisms seriously undermines the enforceability of commitments within CAN.

In addition to Mercosur and CAN's regional freedom of movement systems, there have been consultation mechanisms for more than 20 years to observe migration trends in the region, but also to discuss, analyze and consider joint migration measures. These include the Specialized Forum on Migration (FEM) in Mercosur, the Andean Committee of Migration Authorities and the Andean Forum in CAN, but also the Continuous Reporting System on International Migration in the Americas (SICREMI in Spanish) in the Organization of American States (OAS). The American continent also has two consultative processes¹⁵ on migration: the South American Conference on Migration and the Regional Conference on Migration, known as the Puebla Process, which brings together the Central American countries and the United States. The main objective of these conferences is to bring together government representatives, to be a forum for discussion, and to promote regional cooperation in a non-binding framework.

The South American Conference on Migration has been in existence since 2000 and currently brings together 12 states¹⁶. The South American Conference has particularly stressed the need to promote regional integration through Final Declarations adopted by consensus. The Conference has taken a critical stance on the European Union and the United States' restrictive immigration policies. It also put human rights at the forefront of the debate by emphasizing migrants' rights regardless of their national origin and migration status. Although this Conference is a diplomatic forum, whose conclusions and declarations are non-binding, its work has inspired decisions adopted regionally and has contributed to joint

15. There are 14 regional consultative processes in the world.

16. Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, Venezuela, Guyana and Suriname.

stances, particularly as part of the negotiations of the United Nations (UN) Global Compact for Migration. In this regard, the Latin American countries stressed the importance of ensuring the enforcement of migrants' rights, their access to justice and the non-criminalization of irregular immigration.

These different regional processes would suggest that there has been a coordinated response by states to the recent flows from Venezuela. Yet, this has not been the case, particularly because since 2015, political changes and new economic crises in the region have led to a shift in the stance of some countries towards more conservative immigration policies. This shift started during President Macri's government in Argentina and has spread across other countries on the continent, such as Brazil, Chile, and more recently, Ecuador and Peru. With this trend, we can see that although the aforementioned commitments remain binding on states, the region preferred migration governance that is more focused on securing and militarizing borders, adopting isolated measures and criminalizing irregular migration. While in rhetoric migrants' rights are always championed, in practice some states are enforcing increasingly restrictive policies that run counter to their human rights commitments. In terms of asylum, despite the existence of an expanded refugee protection framework in the region, refugee status determination figures remain low. Over the last ten years, on average, the number of people recognized as refugees has not exceeded 500,000 throughout the Americas.

South American Countries' Response to Venezuelan Displacements

The exponential increase in the number of Venezuelan migrants and refugees has taken the region's states by surprise. However, the social, economic and political situation in Venezuela did not deteriorate overnight, but gradually. President Hugo Chavez's expropriation policies accompanied by restrictions on some fundamental freedoms caused the first outflows of businesspeople and entrepreneurs. Young graduates then followed, while the repression continued and the country took a less democratic direction. The election of Nicolas Maduro in 2013 and the 47% drop in oil prices marked the start of the migration crisis we are witnessing today. During this time, countries in the region turned a blind eye to the gradual outflow of Venezuelans, and did not anticipate the scale of this migration wave.

The emigration of 5.6 million Venezuelans since 2015 is the largest forced displacement in the history of South America. A significant part of this migration is irregular due to migration restrictions introduced by the destination countries, but also, difficulties in obtaining a passport in Venezuela due to the price of the document and the waiting time to receive it. Furthermore, a high proportion of these people travel on foot, mainly to the neighboring country of Colombia. However, some continue their journey to other countries in the region. The scope of this migration is staggering. Migrants have walked from Venezuela to Chile, a distance of more than 4,700 kilometers in particularly challenging geographical conditions.

Venezuelan refugees and migrants in South America



Source: Map produced by R4V available at: www.r4v.info.

Migrants and refugees encounter difficult living conditions in destination countries. Most of them have to work in the informal sector to earn a living, and send money to their relatives in Venezuela. Others are forced to beg for a living or turn to prostitution. Cases of labor or sexual exploitation are increasing, as well as forcing people into begging, sometimes even using children. The pandemic has only increased migrant's vulnerability, and government-ordered isolation measures have made migrant's economic situation more precarious. Many have lost their jobs. Unable to secure a minimum income, many were evicted from their homes, and even had to make the return journey to Venezuela.

Limited support from the international community for host countries with displaced Venezuelans

Faced with this massive flow and despite the existence of a migration governance framework, countries in the region have taken separate decisions. They did not agree on enforcing the Mercosur residence agreement or on implementing the existing consultation mechanisms in international organizations. They have not even agreed to enforce the Cartagena Declaration and grant refugee status to Venezuelans.

Instead of implementing existing regional mechanisms, the government of Ecuador has forged ahead with the establishment of a new forum for discussion and interaction, dedicated to finding a joint solution to the migration crisis. Known as the Quito Process, this forum brings together 15 Latin American countries with support from the International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR)¹⁷. After the first meeting, the participants urged countries to improve their reception policies for Venezuelan migrants and to seek a regional response.

The funding of reception policies is an issue frequently raised by states in relation to the Quito Process. From the start of the crisis, countries in the region asked for help from the international community that has been slow to respond. The countries referred to the need for solidarity in dealing with migration flows, which translated into fundraising for reception programs. Through joint work between different UN agencies, UNHCR and IOM launched a Regional Refugee and Migrant Response Plan (RMRP) to

17. The Quito Process resulted in seven meetings. At each one of them, a non-binding declaration of goodwill was signed by representatives of the member states. More information on the website: www.procesodequito.org.

implement annual initiatives for migrants and refugees in 16 countries, and to centralize fundraising. It is clear the fundraising was not as successful as anticipated.

In 2019, the Plan sought \$737 million, of which only 54.6% was received (\$402 million). Dedicated integration projects only received 10.8% of the funding requested. The main donor, the United States, contributed approximately 74.9%. For 2020, the appeal for funding was \$1,400 million, of which 46.7% has been covered (\$657 million). Although the Plan received more funding than in the previous year, however, this funding covered a smaller share of the appeal. With regard to migrant integration, only 8.9% of the required funds were received. At that time, the United States had financed 69.1% of the Plan. Finally, for 2021, the \$1,400 million appeal for funds had only received about 27.6% (\$397 million), of which 82.8% was from the United States. Only 3.6% of funds required for migrant integration were received.

Overall, between 2019 and 2021, the Plan obtained \$1,456 million of the \$3,537 sought, or only 41% of the funds. During the four first years of the crisis, the international community had only given \$580 million. In comparison, the international community pledged \$20.8 billion for the Syrian crisis that involved a similar number of refugees (5.6 million). The international community was also more generous in supporting Rohingya and South Sudanese refugees (\$3,200 million for 3.2 million refugees).

There is a paradox here: although many states and international organizations welcome the measures taken to receive Venezuelan migrants, not as many are supporting these efforts financially or showing the same solidarity on their own territory. Venezuela's geographical position, which is less strategic than other regions in the world, the low migration pressure that Venezuelan migrants exert on Global Northern countries, and the economic climate related to the health crisis, partly explain the international community's limited financial contribution to reception programs for Venezuelan migrants. This is a crisis whose consequences are not widely felt by European countries, except in Spain where the number of Venezuelans increased by 53.3% in 2020 to 152,017 people¹⁸.

The World Bank and the Inter-American Development Bank also granted funds for states to help them finance their programs, but the lack of resources is a very challenging factor for destination

18. "El número de venezolanos residentes en España aumentó el 53% en 2020", *Swissinfo*, 2021.

countries of migrants that affects the institution and continuity of reception policies¹⁹.

Initially, South American countries opened their doors. They instituted ad hoc temporary regularization procedures or adapted existing mechanisms. But as the Venezuelan crisis worsened and the number of migrants increased, many governments adopted more restrictive measures such as imposing visas, deporting migrants and militarizing borders. Others, fewer in number, have remained true to their traditions and to the regional agreements by continuing to host Venezuelan migrants and refugees.

The gamble on regularization: a regional tradition

Although the arrival of Venezuelan migrants comes at a challenging time from a political, economic and social point of view, four South American countries have opted to continue receiving them and granting them a right to residence. These are Argentina, Uruguay, Brazil and Colombia.

Argentina, the main advocate of the Mercosur residence agreement, and Uruguay decided to extend the application of this agreement to Venezuelan migrants, although Venezuela was suspended from Mercosur in 2017 for “disruption of the democratic order”. Despite a change in rhetoric on migration in 2017 and a more secure immigration policy since 2018, the Argentinian president, Mauricio Macri, who is openly opposed to Nicolas Maduro's government, decided to simplify the conditions for regularizing Venezuelan migrants. Meanwhile, Uruguay has maintained an open migration policy since 2015. The Mercosur residence agreement has been enacted into Uruguayan legislation since 2005. It was even extended to other countries in 2014, and the requirements for accessing a residence permit have been eased. Uruguay has not adopted specific decisions for Venezuelans, but has allowed them to benefit from the Mercosur agreements. Both countries have the highest number of residence permits granted to Venezuelan migrants in proportion to the total number of Venezuelans in their territory.

Brazil, the country which shares a border with Venezuela, has opted for a mixed strategy. The border area authorities advocated closing the borders and restricting migrants' access to public services. But in an effort to regularize these people's situation, the National

19. “US\$31.5 Million to Help Improve Services for Migrants from Venezuela and Host Communities in Colombia”, World Bank, 2019, available at: www.worldbank.org; “IDB Approves Grant Funds for Countries Receiving Migrants in Latin America and Caribbean”, Inter-American Development Bank, 2019, available at: www.iadb.org.

Asylum Commission granted refugee status to a large number of Venezuelans based on the Cartagena Declaration (38,000 people) on the grounds of “serious and widespread violation of human rights”. Also in 2017, the Brazilian authorities instituted a regularization procedure for nationals from neighboring countries that Venezuelans were able to take advantage of.

Colombia is a landmark case, as the country hosts 75% of displaced Venezuelans. Historically, Colombia is a country of emigration with approximately 5 million nationals abroad. In contrast, the country only had 130,000 foreigners in its borders until 2013. For more than 20 years, Venezuela was one of the main destination countries for Colombians, attracted by the prosperity and economic opportunities provided by the neighboring country, that contrasted with Colombia’s economic challenges. Violence was also a driver in these population movements. Thousands of Colombians left the country through irregular channels in the face of threats from armed groups and drug traffickers.

Venezuela's political, social and economic situation explained the reversal of these migration dynamics. From 2015, Venezuelans became a major presence in Colombia. An increasingly desperate migration has been taking place, first in the border areas and then throughout Colombia. At the same time, there is a trend of Colombian and binational families returning to the country from Venezuela.

The arrival of more than 1.7 million migrants has put a strain on infrastructure, resources and the Colombian state’s migration policy. Initially, the authorities opted to grant special residence permits (PEP as per the Spanish acronym). These permits, which lasted for a period of two years, allowed Venezuelans time to regularize their administrative situation and, under certain circumstances, gain access to a right to residence in Colombia, the right to work and to public health and education services.

Despite these measures, the situation for Venezuelan migrants remained insecure. Most of them did not meet the requirements for residence permits, and 53% were still in an irregular situation (almost a million people). Some migrants had humanitarian assistance needs that were not met by the government, and depended on support from non-governmental organizations (NGOs). The PEPs were insufficient. Their temporary nature hindered integration of migrants, as it prevented them from accessing the banking system, opting for visas or other more stable permits, and did not allow children born in Colombia to acquire Colombian nationality, which led to a risk of statelessness that had to be managed by the authorities through exceptional measures.

With regard to asylum, although Colombia has incorporated the expanded refugee definition set out in the Cartagena Declaration, it does not grant refugee status to Venezuelan asylum seekers based on this definition. It requires applicants to establish proof of persecution based on the 1951 Convention definition. Therefore, the refugee status determination rates remain very low, with only 0.04% of favorable answers. The authorities decided to give priority to issuing residence permits rather than refugee status determination.

In 2021, in the middle of a major economic, social and even political crisis, exacerbated by the Covid-19 pandemic, the Colombian government made a risky, and completely unexpected decision. While some of the neighboring countries had opted for deportation and imposition of visas for Venezuelans, Colombia chose to introduce a temporary protection status allowing Venezuelan migrants in Colombia on January 31, 2021 to regularize their status and to stay in the country for ten years. The new temporary protection permit (PPT as per the Spanish acronym) also allows Venezuelans who enter the country with passports and through a border checkpoint, to be issued with a residence permit for the next two years. Finally, this reform includes a biometric registration system and a survey of the socio-demographic characteristics of Venezuelan migrants.

This Colombian regularization process focuses on two aspects. Firstly, it is a realistic approach that acknowledges it is impossible to effectively control the more than 2,200-kilometer border. This approach is consistent with the regional logic of regularization since the early 2000s. According to this approach, regularizing migrants' status allows for better migration control. Secondly, the Colombian state has adopted a positive approach to Venezuelan migration that emphasizes the opportunities that the arrival of people represents for the country's development. In the short term, immigration is proving expensive for Colombia. Indeed, the fiscal cost of aid for Venezuelans who arrived between 2015 and 2019 in Colombia is equal to 0.12% of GDP²⁰. But according to International Monetary Fund estimates, Venezuelan immigration could also bring a 0.25% increase in annual GDP for the country in the medium to long term²¹.

20. "Impacto fiscal de la migración venezolana", Banco de la República, 2020, available at: <https://repositorio.banrep.gov.co>.

21. "Migración desde Venezuela: Oportunidad", Portafolio, 2020, available at: www.portafolio.co.

From regularization to the adoption of restrictive migration policies

Peru is the second host country for Venezuelan migrants and the first one in terms of numbers of asylum seekers. It was the first one to introduce temporary residence permits to regularize Venezuelans in 2017. But very quickly in 2018, the authorities abolished this permit and started to require a passport to enter the country. In June 2019, Peru had further restricted its policy by implementing a mandatory visa system for Venezuelans. These changes can be explained by internal tensions in Peru due to friction between the executive and the legislative branches, but also by the rise in xenophobic and discriminatory rhetoric, particularly for electoral reasons. However, since January 2021, Peru has introduced a registration process for irregular Venezuelan migrants with a view to their future regularization.

Ecuador, the fourth host country for Venezuelan migrants (approximately 400,000 people) was previously a great advocate of freedom of movement. For example, Ecuador received the greatest number of Colombian refugees and migrants under the Cartagena Declaration and the Mercosur residence agreement. Due to political changes, the state has gradually changed its rhetoric and migration policy. In 2010, Ecuador and Venezuela reached a bilateral agreement on labor migration. Under this agreement, 8,000 visas were granted to Venezuelans between 2013 and 2016. However, it was a visa reserved for people with declared and stable employment. As of 2017, a new immigration law was enacted by Ecuador allowing migrants to apply for the Unasur visa. This visa gave them the right to enter and stay in the country, and from 2018, the requirements for applying for it began to change. Firstly, Ecuador required the presentation of a passport to enter the country. Then in 2019, President Moreno required Venezuelans to apply for a humanitarian visa to enter the country. Finally, legislative reforms accelerated the removal processes for migrants and suspended the Unasur visa. These measures have made it more dangerous for Venezuelans who travel to Ecuador.

Overtly restrictive policies

Out of the many states that have adopted an overtly restrictive policy, the case of Chile is the most notable, as it is the third host country of Venezuelan migrants (457,000 people). In 2018, Chile created the Democratic Responsibility Visa, which allowed migrants to stay for a year, but the conditions for accessing it have become increasingly difficult to meet. From June 2019, Venezuelans were also required to have a tourist visa. A large number of migrants then decided to enter

the country illegally in dangerous conditions by crossing the desert for weeks. Between 2018 and 2020, more than 35,400 people entered the country via irregular channels. In 2020, the government amended the immigration law to impose new restrictions on administrative regularization and strengthened the removal processes for irregular migrants. This led to mass deportations even during the Covid-19 pandemic.

Other countries in the region have opted for a restrictive approach with regard to Venezuelan migrants. Currently, 12 countries in the region require visas for Venezuelans. In addition to Ecuador, Peru and Chile, they are Panama, the Dominican Republic, El Salvador, Honduras, Guatemala, Saint Lucia, Trinidad and Tobago, Aruba and Curaçao.

Despite the visa requirement, the Dominican Republic is the Caribbean country with the greatest number of Venezuelans (114,500 of which 100,000 are irregular migrants). In January 2021, the government introduced a temporary regularization program for migrants who entered the country legally between 2014 and 2020. Likewise, Curaçao instituted a visa requirement from January 2021, as the 17,000 Venezuelans in its territory represent more than 10% of its population. Given the challenges of the Covid-19 pandemic, the country granted a one-year residence permit to all migrants who entered the country legally before March 14, 2020. They also ordered all deportations to be suspended until September 2021.

It is clear that Latin America has not been spared from global trends, and is experiencing a growth in anti-immigration feeling along with increased xenophobia and discrimination against Venezuelan migrants. These feelings are particularly significant in the current situation of a lack of resources and the health crisis. Demonstrations against the arrival of Venezuelans have increased throughout the continent, according to surveys conducted in Colombia, Ecuador, Peru and Chile. On average, 64% of the 2,300 migrants surveyed reported having been victims of discrimination, mostly in the workplace or the public sphere²².

Challenging economic conditions and the lack of resources to host migrants, contribute to negative perceptions about migrants and ultimately justify the introduction of restrictive measures. However, these short-term approaches do not take into account the permanence of Venezuelan migration, and the reality that Venezuela continues to encourage people to leave their country. Therefore, in a context of restrictions, Venezuelans will continue to migrate under more

22. “Segunda encuesta Regional: migrantes y refugiados venezolanos”, Equilibrium CenDE, 2021, available at: <https://equilibriumcende.com>.

precarious conditions with more detrimental outcomes for their lives and well-being. Adopting a more realistic approach and a greater focus on states' international commitments is not only advisable, but also necessary to avoid the gradual deterioration in Venezuelans' living conditions in Latin America.

Conclusion

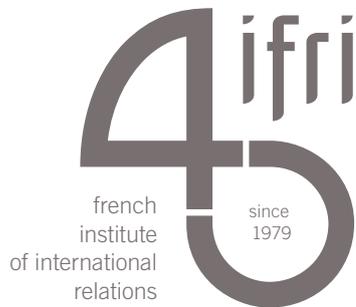
The situation that we have described enables us to draw some lessons. Firstly, receiving a large flow of people from Venezuela has tested the regional organizations in Latin America and their more open approach to immigration and respect for migrants' rights, contrasted with that of the Global North countries. Despite the existence of a framework for freedom of movement, the results have been quite negative. The states are not agreed on a coordinated or standardized approach to hosting Venezuelans. To the contrary, the states' responses have varied over time between regularization and restrictions.

The lack of a more binding regional framework that asserts states' international responsibilities undermines the enforceability of regional agreements. This is particularly true for the right to asylum and the application of the Cartagena Declaration. The very low refugee status determination rates show that this legal framework was not used for Venezuelans and highlights that the institution of asylum could be in crisis in Latin America.

In such a context, the work of the judiciary could play a major role in ensuring that states act in accordance with their obligations. For this purpose, the jurisprudence of the Colombian, Peruvian and Ecuadorian Constitutional Courts, and the Brazilian Federal Supreme Court, has been crucial in guaranteeing migrants access to some rights, and even in preventing additional conditions being imposed on them to enter the country.

Secondly, despite inconsistent practices by the states, some countries in the region have tried to comply with their regional commitments, like Uruguay, or to propose sustainable solutions, such as the medium-term regularization proposed by Colombia, which opted to integrate Venezuelan migrants in its territory.

Finally, the response of states in the region, but also by the international community to a large-scale migration crisis, also makes us consider the Global Compact on Migration and Refugees, and its failure to date to provide a solidarity framework for migration governance.



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