

“[T]he Venezuelan displacement crisis is a crucial test of the liberal immigration policies that have been adopted across Latin America.”

The Regional Response to the Venezuelan Exodus

LUISA FELINE FREIER AND NICOLAS PARENT

One day in May 2018, Annicary Torres was in tears as she hung up her scrubs and stethoscope, knowing that she would probably never work as a doctor again. She told the journalist Stephania Corpi that this was the day she decided to leave Venezuela—after treating an eight-year-old child who weighed four kilograms (less than nine pounds). She would not let that happen to her daughter.

Thousands are leaving the country every day to escape the political and humanitarian crisis that has shaken every aspect of their existence. Venezuelans have been facing severe food insecurity for years; according to Caritas, only 3 percent of households can afford three daily meals. The inflation rate had soared to 1.37 million percent by the end of 2018, according to the International Monetary Fund. In other words, if you are paid in bolivars, your money is worth close to nothing.

In a recent National Survey on Living Conditions, 94 percent of respondents said that their income is insufficient to cover their living costs. Some 7.3 million households—more than 16 million people, or nearly half the population—were enrolled in the Local Committees for Supply and Production (CLAP) subsidized food system in 2018, a 22 percent increase from the previous year. (CLAP is notorious as a vehicle of corruption and a reward system for Maduro’s supporters.) Increasing poverty and food insecurity have resulted in 32 percent of babies under six months of age and 49 percent of pregnant women suffering from moderate to severe malnutrition.

These conditions sparked more than 10,000 protests in 2018, which were met with repression

and lethal state violence. Emigration rates are skyrocketing. Hundreds of thousands have sold all their belongings to pay for bus tickets to neighboring countries. Others set out on foot, some leaving behind their parents and children. This has become the largest international forced displacement of people in Latin American history.

According to the International Organization for Migration (IOM), the Venezuelan exodus to other Latin American countries increased by close to 1,000 percent between 2015 and 2017. A joint report issued in November 2018 by IOM and the United Nations High Commissioner for Refugees (UNHCR) said 3 million Venezuelans had left the country since the beginning of the crisis. They acknowledged that this estimate is conservative, since official data can be incomplete and often do not account for migrants with irregular status. Other sources estimate that the exodus had already surpassed 4 million people by the end of 2017 and is closer to 5 million or more today.

According to IOM and UNHCR, as of November 2018 the countries hosting the most Venezuelans were Colombia, with more than 1 million, and Peru, with over 600,000. More than 222,000 Venezuelans were officially registered in Ecuador, 130,000 in Argentina, 100,000 in Chile, and 85,000 in Brazil.

The scale of Venezuelan displacement is comparable to the Syrian refugee crisis of 2015, according to Matthew Reynolds, UNHCR’s regional representative for the United States and the Caribbean. But the international attention given to the Venezuelan crisis lags far behind in terms of both media coverage and financial support.

Although most countries in the region have recently adopted legislative frameworks that would allow for the recognition of Venezuelans as refugees, they have largely opted to respond to the in-

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flux with special visa schemes that provide varying degrees of protection. Still, by international standards countries across Latin America have been generous in their reception of Venezuelans. Despite the increasing numbers, most are upholding open-door policies.

Initially, foreign policy drove these generous responses. But the rise of xenophobic sentiment across the region has increasingly turned the Venezuelan exodus into a domestic policy issue—one that requires regional cooperation.

WAVES OF DISPLACEMENT

According to a 2017 Freedom House report by Tomas Paez and Leonardo Vivas, there have been three notable phases of Venezuelan emigration since the charismatic leftist Hugo Chávez came to power in 1999. The first phase, beginning in 2000, was marked by a middle-class outflow of entrepreneurs and students whose primary destinations were the United States and Europe. Their decisions to emigrate typically resulted from factors including growing insecurity, political tensions, nationalization of various industries, and social polarization following a failed coup attempt in 2002.

The second phase, starting in 2012, came after the collapse of a Latin American commodities boom and Chávez's reelection to a fourth term as president. As the economic crisis began, political repression increased while shortages of food and medicines emerged. In this phase, migrants' profiles were more varied, representing both middle- and lower-income social strata. Destinations also diversified: Venezuelans continued to migrate to the United States and Europe, but some also started settling in nearby countries such as Colombia, Panama, and the Dominican Republic.

Following Chávez's death in 2013 and the election of his chosen successor Nicolás Maduro, conditions in Venezuela significantly worsened. The third and current phase of Venezuelan emigration started in 2015 as the humanitarian crisis spiraled out of control. Alongside crippling inflation and aggravated food and medicine shortages, political violence rapidly escalated.

Maduro holds on to power through repression, including the imprisonment and forced disappearances of dissidents. At the same time, crime and looting have become rampant. Forced displacement is now widespread across all social groups, regardless of income, education, or employment status. Given these conditions, the definition of

refugee status laid out in the Cartagena Declaration of 1984 and subsequently adopted by nations across the region should apply to Venezuelans.

A RIGHT TO MIGRATE

A wave of democratization swept the region in the 1980s, leading to a human rights revolution. The Cartagena Declaration made groundbreaking advances, expanding on the 1951 Refugee Convention, a UN treaty responding to persecution based on race, religion, nationality, membership in a particular social group, or political opinion.

The Cartagena Declaration was signed in the context of the mass displacement of hundreds of thousands of Central Americans to Mexico, at a time when memories of the forced exile of tens of thousands of South American political opponents of the region's dictatorships—many of whom returned and became active in politics—were still fresh. It defined refugees as people (including large groups) forced to flee their country “because their lives, security, or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights, or other circumstances which have seriously disturbed public order.”

Latin American governments have since made a concerted effort to better align their domestic policies with the Refugee Convention, its 1967 protocol, and the large body of regional protection instruments including the Cartagena Declaration. Brazil took the lead in 1997, incorporating the expanded refugee definition in its domestic legislation. Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay followed suit.

The “pink tide” that rolled across the region at the turn of the twenty-first century, when left-of-center presidents were elected in a number of countries in Chávez's wake, was conducive to the spread of rights-based immigration and refugee policies. The progressive regional political climate saw the adoption of new laws and policies rooted in the protection of international migrants' human rights. This was a clear rejection of the restrictive approach to immigration inherited from the military dictatorships of the 1970s and 1980s.

Argentina led the way in 2004, when President Néstor Kirchner's government replaced the nation's dictatorship-era 1981 migration law. The new law was the first in the world to enshrine the “human right to migrate.” Although this right re-

mains vague in legal terms, it embodies a revolutionary view of migration.

In 2008, Uruguay and Ecuador, both under leftist presidents, made similar moves. Uruguay further expanded on the principles of the Argentine law, while Ecuador's new constitution guarantees migrants' human rights as well as the right to migrate. In addition to formally recognizing freedom of movement, it states that Ecuador strives toward universal citizenship, which will grant migrants the same rights as nationals.

Also in 2008, the intergovernmental Union of South American Nations (UNASUR) was established. Its constitution stipulates the right of all South American citizens to move freely across the continent, reflecting principles espoused in a 2002 agreement among the members of the Southern Common Market (MERCOSUR).

Rights-based migration policy and the right to migrate were enshrined in a 2013 law enacted by President Evo Morales's socialist government in Bolivia. Brazil, Costa Rica, Colombia, Cuba, the Dominican Republic, Mexico, Nicaragua, Panama, Peru, and Venezuela have also reformed their immigration laws since 2004, to varying degrees.

This wave of new laws and policies on migrants and refugees, promulgated by leftist governments, makes Latin America truly distinctive. There are various explanations for the legislative shift from closure and securitization to an emphasis on migrants' rights. First, human rights discourses remained prominent in the aftermath of the democratization that occurred across the region. Second, regional integration processes led to a more liberal outlook on migration. Third and perhaps most importantly, it made sense for leftist governments, in the context of mass emigration from their own countries to North America and Europe, to condemn the restrictive policies of the United States and the European Union and champion a more progressive approach to managing migration.

PUT TO THE TEST

The trend of policy liberalization occurred during a period of limited migration within the region. In the past few years, however, the political scene has changed with the rise of the new right. Argentina, Brazil, Chile, Paraguay, and Peru have all undergone a shift from left-wing to right-wing presidents, leaving Ecuador, Bolivia, and Venezuela as the last remnants of the pink-tide era. The Venezuelan displacement crisis is a crucial test of

the region's liberal immigration policies in this new political environment.

According to their own laws, most Latin American countries ought to recognize Venezuelan migrants as refugees. Venezuela's crisis meets three of the Cartagena criteria: generalized violence, massive violations of human rights, and other circumstances that have seriously disturbed public order. Refugee status would prevent countries from sending Venezuelans back home until the situation has significantly improved, and would broaden their access to public services such as health care and education.

Yet only a small fraction of Venezuelans file asylum claims. Many do not know that they can apply for asylum. Others do not want to be recognized as refugees because they feel it comes with a stigma attached, or might limit their freedom to return home even for visits.

Still, asylum applications by Venezuelans have almost tripled each year since 2014. Their numbers worldwide totaled 375,012 from 2014 to 2018. In 2018, 156,700 Venezuelans had applied for asylum in Peru by the end of October, 72,722 in the United States by the end of June, and 65,846 in Brazil by the end of September, according to the latest data compiled by UNHCR.

Latin American governments are processing only a very small number of these applications. From 2014 to 2017, Peru ruled on just 971 cases, accepting 239 and rejecting 548 (applying only the 1951 refugee definition). The large number of pending claims—whether due to a lack of capacity, deliberate policy or both—leaves many Venezuelans without adequate protection.

Official statements by the Organization of American States and the Inter-American Commission on Human Rights, as well as a formal request by five South American nations for the International Criminal Court to investigate whether Maduro's actions qualify as crimes against humanity, refer to the Cartagena criteria. In private conversations, many officials and representatives of international organizations share the assessment that the forced displacement of Venezuelans meets the Cartagena definition.

Yet the political cost of being the first and potentially the only country to recognize this publicly could be high. Governments in the region have responded rather gingerly to the question of whether Venezuelans qualify as refugees under Cartagena, and instead have adopted alternative visa regimes. They fear that applying the Cartage-

na standard could lead to a further influx of Venezuelans, putting more stress on already underperforming public services and stirring up more xenophobic sentiment. This has led to a consensus in the region that Cartagena does not apply to Venezuela's displacement crisis.

Venezuelans have found other means of at least temporarily regularizing their situation. In the first waves of emigration, many sought to secure their status in other Latin American countries through existing channels for visa and residency applications. The MERCOSUR Residency Agreement of 2009 allows citizens within the trading bloc—comprising Argentina, Brazil, Paraguay, Uruguay, and Venezuela—to apply for a temporary residence permit of up to two years in any member state.

As the Venezuelan exodus increased in late 2016 and early 2017, governments in the region began implementing special legal arrangements. Colombia started issuing Border Mobility Cards in February 2017, allowing Venezuelans to travel freely between both countries. In January 2017, Peru became the first country to devise what the UNHCR terms “alternative legal stay” residency schemes, offering Venezuelans the right to work and study with a one-year Temporary Stay Permit. Colombia followed with a Special Stay Permit granting temporary residence to Venezuelans who arrived between July and December 2018.

In March 2017, Brazil granted Venezuelans temporary residence for a period of two years. In April 2018, Chile started issuing a special one-year residency permit called the Visa of Democratic Responsibility. Argentina and Uruguay have been more generous, granting visas under the MERCOSUR Residency Agreement despite Venezuela's suspension from the bloc in 2016.

These programs have been plagued by problems including long wait times, collapsing online registration systems, high application costs (especially in Chile and Ecuador, which effectively restrict visa access to members of the Venezuelan elite), limited information available to migrants, and lack of communication between state agencies. In some cases, as in Peru, the alternative visa regimes have already expired. While Venezuelans can still enter and apply for refugee status in Peru, in practice their applications are not being decided, which leaves them with limited protection.

DOMESTIC MISGIVINGS

Despite these shortcomings, the regional response generally has been well received by the international community, and indeed is generous by comparison with European policy responses to the Syrian refugee crisis since 2015. Some experts had initially expected more restrictive moves, predicting that the newly elected conservative governments would embody anti-immigrant sentiment and enact protectionist policies such as those recently ascendent in Europe and the United States.

While the responses of Latin American nations to the Venezuelan displacement crisis fall short of full implementation of their progressive laws, especially regarding the Cartagena definition of refugee status, it can be said that the migration policy liberalization of the pink-tide era has not been undone. This may be explained by the fact that foreign policy considerations initially drove regional responses to the Venezuelan displacement crisis. Conservative governments that openly criticize Maduro's socialist regime have been the most

welcoming to Venezuelans. Countries still aligned with Maduro, notably Bolivia and Ecuador, until very recently denied the existence of a migration crisis in Venezuela.

As the numbers continue to rise, however, the exodus is having an increasing domestic impact in host countries. Signs of xenophobia first flared up in countries bordering Venezuela.

In August 2018, Brazilian protesters in the northern border town of Pacaraima burned down a temporary settlement, prompting 1,200 migrants to return to Venezuela. A few hundred kilometers south, in the city of Boa Vista, the lynching of a Venezuelan migrant who had allegedly murdered a local resident during a robbery also drove hundreds to return in September. A state of emergency has been in effect in Brazil's northern border state of Roraima since February. The part of the border near Boa Vista, the state capital, was temporarily closed on August 6.

In Colombia, a planned relocation of migrants by the municipal government of Bogotá drew fierce disapproval from locals in August. About 500 migrants living in an informal settlement were offered the opportunity to move to a temporary camp set up at a soccer field. Local residents blocked entry to the site, claiming that the migrants would bring diseases and insecurity to the area.

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Although few instances of violence inspired by xenophobia have been reported in Peru, a September survey conducted by the newspaper *El Comercio* and the polling firm Ipsos found that 55 percent of Lima residents had negative views of Venezuelan immigration, with 46 percent citing “loss of employment” as a major concern. Fifty-eight percent of respondents said they had heard discriminatory comments about Venezuelans.

Conversely, an October survey conducted by Click Report in Ecuador found that just 10.5 percent of Ecuadorians considered Venezuelan migration as the most important problem facing the country. Ecuador is effectively a transit country that Venezuelans quickly pass through on their way to settle in Peru, Chile, and Argentina. According to the Interior Ministry, 800,000 Venezuelans had entered Ecuador in 2018 through late November, but 700,000 did so only in transit. In Peru, however, 80 percent of the 600,000 Venezuelans now settled in the country arrived in 2018 alone.

Even so, Ecuador’s Ministry of Foreign Affairs and Human Mobility on August 8 declared a state of emergency in the northern provinces of Carchi, Pichincha, and El Oro. Extra migration control and security personnel were deployed in the border zones, along with doctors and social workers. On August 19, Ecuador announced new regulations requiring all Venezuelans seeking entry to show a passport.

Peru quickly followed suit, announcing on August 25 that Venezuelans would be required to present a valid passport upon entry rather than the national identity card that had previously sufficed. A few days earlier, the Peruvian Interior Ministry issued a decree changing the rules for Temporary Stay Permit applications. The deadline for entering Peru was moved up two months, to October 31, and the deadline for submitting applications was brought forward by six months, to December 31. Venezuelans denied a permit would no longer have the right to appeal, and would be required to leave Peru within 30 days.

Although domestic political concerns have prompted some governments to impose entry barriers for Venezuelans, in many cases the judiciary has played an important role in upholding liberalized immigration laws and policies. Brazil’s Supreme Court overturned the Boa Vista border closure a few hours after it was announced. In

Ecuador, just five days after the government announced its new regulation requiring Venezuelans to produce a passport upon entry, a court in Quito annulled the rule.

A Peruvian court also temporarily suspended Peru’s passport requirement, finding that the policy was flawed since it was based on the fact that Venezuela had been suspended from MERCOSUR. The court, noting that Venezuela had been suspended as a result of its “rupture of the democratic order,” ruled that Peru had an international responsibility to leave its borders open to Venezuelan migrants and refugees.

However, politicians may see political advantage in catering to xenophobia. After mass demonstrations in Buenos Aires in response to proposed austerity measures, Senator Miguel Ángel Pichetto called for the expulsion of four foreign nationals, claiming with little evidence that they were agitators inciting social unrest. The Network for Refugees and Migrants in Argentina condemned his call to deport the migrants—two Venezuelans, a Paraguayan, and a Turk—and accused him of stirring up xenophobia.

But President Mauricio Macri indicated in early November that migration policy changes were under consideration, and that visas would be contingent on offers of employment. These changes would be in line with Macri’s attempt in 2017 to modify Argentina’s widely praised 2004 immigration law. His decree, which was ruled unconstitutional, would have allowed for expedited deportations of undocumented migrants.

Deportation has also become a growing concern in Chile, where the government recently started to repatriate approximately 1,600 Haitians. Migrant rights groups have argued that this potentially amounts to forced deportation and risks setting a precedent for the eventual deportation of Venezuelans. Given that Venezuelans are theoretically eligible for refugee status under the Cartagena Declaration, this would constitute a breach of the principle of nonrefoulement, which bars repatriation of migrants who face persecution or other threats to their safety in their country of origin.

The October 2018 victory of the far-right populist Jair Bolsonaro in Brazil’s presidential election may lead to further restrictions on the entry and movement of Venezuelans. Bolsonaro has indicated that he envisions two possible responses to the

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Venezuela crisis: revoking the 2017 Migration Act or building refugee camps at the border.

TIMID STEPS

Given the mounting numbers of Venezuelan migrants and the resulting domestic pressures, Latin American governments are not prepared to deal with the exodus on their own. They have timidly turned toward regional cooperation.

The first notable instance of this was the establishment of the Lima Group under the leadership of then-Peruvian President Pedro Pablo Kuczynski. At their first meeting in August 2017, the group's members—Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Panama, Paraguay, and Peru—signed the Lima Declaration, which expressed concern over the breakdown of democratic order in Venezuela, called for free elections and the release of political prisoners, and demanded that humanitarian aid be allowed into the country.

While the displacement crisis was not the Lima Group's original focus, an October 30 meeting in Bogota included discussion of measures to facilitate both permanent status for migrants and their transit across the region. But the group did not reach any conclusions or make any commitments.

Although the Lima Group describes itself as noninterventionist, and its members have made it clear that they do not wish to consider any military response to the Venezuelan crisis, the group positions itself in opposition to the Maduro regime. As an apolitical alternative, Venezuela's former ally Ecuador initiated the "Quito Process." Eleven Latin American countries—Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Paraguay, Peru, and Uruguay—September 4 signed the Declaration of Quito on Human Mobility of Venezuelan Citizens in the Region.

The declaration stated the signatories' commitment to combat discrimination, intolerance, and xenophobia against Venezuelans, and to protect them against human trafficking and smuggling. They pledged to ease entry and documentation requirements to make it easier for Venezuelans to regularize their status: refugees would be allowed to apply for residency with expired documents and without passports. Regional cooperation would focus on information sharing, primarily to support high-inflow countries such as Colombia, Ecuador, and Peru within the framework of the Andean Community of Nations.

The second Quito meeting on November 22–23 was also attended by UN agencies, along with representatives of the United States and European nations. Intergovernmental agencies have become increasingly involved in the regional response since mid-2018. In May, IOM and UNHCR established the Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela.

In December 2018, UN Under-Secretary-General for Humanitarian Affairs Mark Lowcock indicated that \$738 million was needed for a new response plan led by IOM and UNHCR. It is intended to reach 2.2 million of the projected 3.6 million displaced Venezuelans in 2019, with funds allocated to countries based on the extent to which each has been affected by the crisis.

This budget is extremely small compared with UNHCR's appeal for \$5.5 billion in funding to help Turkey, Jordan, Iraq, Egypt, and Lebanon continue hosting Syrian refugees. But the increasing gap between the amounts that UNHCR has sought to raise through such appeals and how much it has actually received suggests that even this modest funding target may not be met.

Coordination of the regional response to the Venezuelan exodus is still far from becoming a reality. Bolivia has declined to send representatives to meetings on the crisis—an indication that Morales's government still places greater importance on foreign policy alignments than on humanitarian considerations. The new populist governments in Brazil and Mexico could make things even more complicated. At a meeting of the Lima Group in Peru on January 5, Mexico declined to sign a joint statement urging Maduro to cede power to the opposition-controlled National Assembly and allow fair elections. While Brazil continues to reject Maduro, the country pulled out of the new UN global migration compact on January 8 as Bolsonaro took an outspoken nationalist approach to the issue.

There is little evidence to suggest that the Venezuelan crisis will abate any time soon. A survey conducted by Consultores 21 in the third quarter of 2018 found that 38 percent of Venezuelans want to flee the country. The Brookings Institution recently published a report estimating that the exodus will total as many as 8 million people. The groundwork for regional cooperation has been set. But the Latin American response will have to move out of the conference room and into the lives of Venezuelan migrants and refugees. ■