

## LESSONS FROM COLOMBIA'S RESPONSE TO VENEZUELAN FORCED DISPLACEMENT

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### I. INTRODUCTION

For nearly a decade, Venezuelans have fled their home in the millions to escape persecution, violence, and a lack of food, medicine, and essential services.<sup>1</sup> Today, the United Nations High Commissioner for Refugees (UNHCR) includes Venezuela among its top emergencies.<sup>2</sup> With 7.7 million refugees and migrants worldwide, Venezuela accounts for the one of the largest numbers of forcibly displaced peoples in the world, alongside Syria, Ukraine, and Afghanistan.<sup>3</sup> The vast majority of displaced Venezuelans are in Latin America, with Colombia, one of only three countries to share a land border with Venezuela, hosting by far the largest concentration

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<sup>1</sup> See Oriana Van Praag, *Understanding the Venezuelan Refugee Crisis*, WILSON CTR. (Sept. 13, 2019), <https://www.wilsoncenter.org/article/understanding-the-venezuelan-refugee-crisis> [https://perma.cc/R4JR-86UZ].

<sup>2</sup> See *Ongoing Emergencies*, UNHCR, <https://www.unhcr.org/emergencies/ongoing-emergencies> [https://perma.cc/WMA2-F2MF].

<sup>3</sup> *Venezuela Situation*, UNHCR, <https://www.unhcr.org/emergencies/venezuela-situation> [https://perma.cc/GN99-6A2F] (Aug. 2023); see UNHCR, MID-YEAR TRENDS 2023, at 13 (2023).

of Venezuelans.<sup>4</sup> By the end of 2021, the UNHCR placed Colombia as the second major hosting country in the world with 1.8 million forcibly displaced peoples in its territory, almost all Venezuelans.<sup>5</sup> By March 2023, Venezuelans in Colombia had climbed to 2.5 million.<sup>6</sup> How so many Venezuelans ended up in Colombia is not simply an incident of geography, although certainly neighboring proximity plays a significant factor.<sup>7</sup> Colombia's fifty-year-plus "armed conflict displaced millions of Colombians," many to Venezuela.<sup>8</sup> This history, combined with linguistic and cultural affinity, has forged strong familial-fraternal bonds between the two nations, which have also contributed to Venezuelan migration to Colombia.<sup>9</sup>

Despite the Colombia-Venezuela relative closeness, the fast pace and mass scale of Venezuelans arriving in Colombia have put a strain on its economy and legal infrastructure.<sup>10</sup> It has also given rise to xenophobia and social tensions directed at Venezuelans who are blamed for rising crime, job displacement, and other social ills.<sup>11</sup> Even so, Colombia's legal response to Venezuelans has included relatively open borders combined with regularization policies that have facilitated the flow and integration of displaced Venezuelans.<sup>12</sup> This is nothing short of remarkable. Indeed, Colombia's response is exceptional, comparable only to the European Union's response to displaced Ukrainians, and perhaps comparatively better at least insofar as it includes an eventual path for Venezuelans toward full

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<sup>4</sup> Joseph Kiprop, *Which Countries Border Venezuela?*, WORLDATLAS (May 12, 2018), <https://www.worldatlas.com/articles/what-countries-border-venezuela.html> [https://perma.cc/Q3TQ-XNJC]; see UNITED NATIONS HIGH COMM'R FOR REFUGEES, VENEZUELA SITUATION: FACT SHEET 1 (Mar. 2023) [hereinafter VENEZUELA SITUATION: FACT SHEET]. Venezuela shares a land border only with Brazil, Colombia, and Guyana. Kiprop, *supra*.

<sup>5</sup> See UNITED NATIONS HIGH COMM'R FOR REFUGEES, GLOBAL TRENDS: FORCED DISPLACEMENT IN 2021, at 2, 14 (2022) [hereinafter GLOBAL TRENDS: FORCED DISPLACEMENT IN 2021].

<sup>6</sup> See VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1.

<sup>7</sup> As UNHCR data shows, a substantial majority of refugees and forcibly displaced peoples, to the tune of 72% at the end of 2021, end up and stay in neighboring nations. GLOBAL TRENDS: FORCED DISPLACEMENT IN 2021, *supra* note 5, at 2. Additionally, Venezuela and Colombia share a vast border at 1,378 miles. Kiprop, *supra* note 4.

<sup>8</sup> Megan Janetsky, *Here's Why Colombia Opened Its Arms to Venezuelan Migrants—Until Now*, FOREIGN POL'Y (Jan. 14, 2019, 12:12 PM), <https://foreignpolicy.com/2019/01/14/heres-why-colombia-opened-its-arms-to-venezuelan-migrants-until-now/> [https://perma.cc/F4YV-449J].

<sup>9</sup> See Alexandra Gericke, *Difficult but Necessary: Venezuela-Colombia Relations Throughout Time—A Historical Depiction of Two Specially Connected Neighbors*, in VENEZUELA—DIMENSIONS OF THE CRISIS: A PERSPECTIVE ON DEMOCRATIC BACKSLIDING 197, 197, 212 (Miguel Angel Latouche, Wolfgang Muno & Alexandra Gericke eds., 2023).

<sup>10</sup> See *infra* Parts IV.B, V.

<sup>11</sup> See *infra* Parts IV.B, V.

<sup>12</sup> See *infra* Part IV.

and permanent integration.<sup>13</sup> Yet, in contrast to the European Union and most nations that comprise it, Colombia is still considered an emerging economy.<sup>14</sup> Colombia's economy "outperforms the [United States] and other developed" nations in terms of economic growth, is considered to have good investment potential, and has made some progress in social indicators such as reducing poverty.<sup>15</sup> Yet, other important indicators make it a middle-income country that is still struggling to improve the quality of life for most of its own citizens.<sup>16</sup> Colombia, for example, has a much lower gross domestic product per capita than developed countries.<sup>17</sup> Colombia's Human Development Index, or HDI, which measures a country's quality of life by using criteria such as healthcare and educational opportunities, while high, still hovers below the minimum threshold for consideration as a developed country.<sup>18</sup> As well, Colombia still experiences higher levels of poverty and inequality as compared to developed nations<sup>19</sup> and continues to be plagued with violence and political instability in large swaths of its territory.<sup>20</sup> Perhaps ironically, at the same time that Colombia occupies the place as the second or third nation in the world hosting the largest number of refugees,<sup>21</sup> it continues to "face[] one of the world's most acute internal[ly] displace[d]" populations of about 4.8 million Colombians associated with conflict and violence and

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<sup>13</sup> See *infra* Part IV.C. Other nations have also adopted temporary protection models to address the large influx of certain displaced groups. See *infra* notes 281–285. These models, which are discussed *infra* Part IV.C, lack either paths to permanent residency or support to encourage social integration.

<sup>14</sup> See, e.g., Greg Depersio, *Considering Colombia's Emerging Market Economy*, INVESTOPEDIA, <https://www.investopedia.com/ask/answers/090915/colombia-emerging-market-economy.asp> [https://perma.cc/54Z3-UVHA] (Sept. 11, 2022).

<sup>15</sup> *Id.*; see *The World Bank in Colombia: Overview*, WORLD BANK, <https://www.worldbank.org/en/country/colombia/overview> [https://perma.cc/V2GT-QE2W] (June 7, 2023).

<sup>16</sup> See Depersio, *supra* note 14.

<sup>17</sup> See *GDP Per Capita (Current US\$) – Colombia*, WORLD BANK, <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=CO> [https://perma.cc/2PW3-DXFW].

<sup>18</sup> See *Human Development Index (HDI) by Country 2023*, WORLD POPULATION REV., <https://worldpopulationreview.com/country-rankings/hdi-by-country> [https://perma.cc/65KX-HBUR].

<sup>19</sup> See *The World Bank in Colombia: Overview*, *supra* note 15.

<sup>20</sup> See MINISTERIO DE RELACIONES EXTERIORES DE COLOMBIA, OBSERVACIONES AL DOCUMENTO: "VIOLENCIA TERRITORIAL EN COLOMBIA: RECOMENDACIONES PARA EL NUEVO GOBIERNO" 4–5 (2022).

<sup>21</sup> UNHCR released its 2022 Figures at a Glance data in June 2023 and places Colombia in third place following Turkey and Iran among the top five countries hosting refugees in the world. *Figures at a Glance*, UNHCR, <https://www.unhcr.org/about-unhcr/who-we-are/figures-glance> [https://perma.cc/ZK68-23D5]. In 2021, Colombia was in second place and Iran did not feature in the list. See GLOBAL TRENDS: FORCED DISPLACEMENT IN 2021, *supra* note 5, at 2.

another 3.9 million displaced due to natural disasters.<sup>22</sup> How, then, does a nation like Colombia manage to engage in a meaningful process of integrating millions of Venezuelans, and how is it faring?

Surprisingly, Colombia's remarkable response to forcibly displaced Venezuelans has not received the attention it warrants. Given that nearly 80% of all the world's refugees are hosted in low-to-middle income countries,<sup>23</sup> Colombia's experience could yield important transferrable lessons to other nations with emerging economies experiencing similar challenges. Moreover, especially when global responses to refugees and other displaced migrants have been mainly to shut their borders or relegate them to irregular status,<sup>24</sup> Colombia's response offers unique opportunities to study the implementation of an alternative model in response to mass displacement that is more humane and more consistent with human rights norms. This Article provides such a preliminary assessment of Colombia's response. Part II provides the context for understanding the mass displacement of Venezuelans with a focus on their arrival and reception in Latin America and, in particular, in Colombia. Part III focuses on regional developments, mostly in Latin America, on refugee protections that informed the region's more welcoming response to Venezuelans in their territory. Part IV turns to Colombia's response to Venezuelans, including its grant of temporary protection to most Venezuelans, and highlights its uniqueness in contrast to other forms of temporary protection as a response to mass displacement in other parts of the world. Part IV examines how Colombia's temporary protection model is working with a focus on Venezuelans' social and economic integration and the overall impact of the program on Colombia's economic and social indicators. We conclude by offering a few preliminary lessons and policy implications based on the Colombian experience, which we hope can inform how a more welcoming and humane response to refugees can be achieved as well in other parts of the world.

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<sup>22</sup> *Country Profile: Colombia*, INTERNAL DISPLACEMENT MONITORING CTR., <https://www.internal-displacement.org/countries/colombia> [https://perma.cc/9BD3-X8M7] (May 24, 2023).

<sup>23</sup> *Figures at a Glance*, *supra* note 21. Colombia hosts 4.8 million internally displaced persons as a result of internal armed conflict. See *Country Profile: Colombia*, *supra* note 22.

<sup>24</sup> See, e.g., Anita Sinha, *Transnational Migrant Deterrence*, 63 B.C. L. REV. 1295, 1297, 1300, 1307, 1312–13, 1314, 1320, 1322, 1326 (2022); Rainer Bauböck & Julia Maurão Permoser, *Sanctuary, Firewalls, Regularisation: Three Inclusive Responses to the Presence of Irregular Migrants*, 49 J. ETHNIC & MIGRATION STUD. 3671, 3672 (2023).

## II. A HARD-TO-PEG CRISIS BUT A HUMAN TRAGEDY NONETHELESS

In 2018 and again in 2019, the UNHCR issued Guidance Notes on International Protection Considerations for Venezuelans.<sup>25</sup> By 2019, UNHCR was already reporting 3.6 million Venezuelans displaced abroad,<sup>26</sup> a number that was then only overshadowed by the Syrian refugee crisis.<sup>27</sup> Unlike Syria, however, Venezuela was not embroiled in a violent civil war.<sup>28</sup> Rather, Venezuelans had been fleeing on a massive scale since at least 2015 based on drivers that escaped easy classification under the widely accepted definitions of a refugee.<sup>29</sup> Venezuelans were fleeing an economic and political crisis that was also giving rise to systematic violations of human rights, alarming levels of private violence, and a deep humanitarian crisis that manifested itself as “chronic shortages of food, medicine, and other basic necessities.”<sup>30</sup> The rapid and explosive scale of Venezuelan displacement would lead UNHCR to declare first in 2018 that “[w]hile individual circumstances . . . for these movements vary, international protection considerations have become apparent for a very significant proportion of Venezuelans.”<sup>31</sup> Just a year later, UNHCR’s embrace of at least some displaced Venezuelans within its universal refugee mandate was made explicit:

Based on reports received by UNHCR and its partners, as well as reliable information in the public domain from a wide range of sources about the situation in Venezuela, UNHCR considers that for a number of profiles, international protection considerations are likely to arise under the 1951 Convention/1967 Protocol relating to the Status of Refugees depending on the circumstances of the individual case.<sup>32</sup>

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<sup>25</sup> UNHCR, GUIDANCE NOTE ON THE OUTFLOW OF VENEZUELAN (2018) [hereinafter GUIDANCE NOTE ON THE OUTFLOW OF VENEZUELAN]; UNHCR, GUIDANCE NOTE ON INTERNATIONAL PROTECTION CONSIDERATIONS FOR VENEZUELAN—UPDATE I (2019) [hereinafter GUIDANCE NOTE ON INTERNATIONAL PROTECTION CONSIDERATIONS FOR VENEZUELAN—UPDATE I].

<sup>26</sup> UNHCR, GLOBAL TRENDS: FORCED DISPLACEMENT IN 2019, at 8 fig.2 (2020).

<sup>27</sup> See *id.* (reporting 6.6 million Syrian refugees).

<sup>28</sup> See Van Praag, *supra* note 1.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> GUIDANCE NOTE ON THE OUTFLOW OF VENEZUELAN, *supra* note 25, at 1.

<sup>32</sup> GUIDANCE NOTE ON INTERNATIONAL PROTECTION CONSIDERATIONS FOR VENEZUELAN—UPDATE I, *supra* note 25, at 1.

In this same document, moreover, UNHCR cited the Cartagena Declaration,<sup>33</sup> Latin America's broader codification of who is a refugee, as a basis for extending refugee protections to Venezuelans.<sup>34</sup> This meant, of course, that UNHCR was calling on nations to host Venezuelan refugees with the understanding that some would fall within the universal mandate, others solely within the regional mandate, and perhaps many others outside of either, relegated to deprotection under the label of economic migrant.<sup>35</sup> Perhaps nothing crystallizes the varied legal fates of Venezuelans more than the way UNHCR counts them: the overwhelming majority labeled “Venezuelans displaced abroad” and very few—a mere 211,000—labeled refugees.<sup>36</sup>

To most *Venezuelans displaced abroad*, these consequential legal labels largely failed to capture the commonality of their shared human tragedy. But there were differences. The demographics of those who fled when differed, as did their stated motivation for

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<sup>33</sup> Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama, Nov. 22, 1984, <http://www.refworld.org/docid/3ae6b36ec.html> [<https://perma.cc/U7AA-GG39>] [hereinafter Cartagena Declaration on Refugees]. For a discussion of the Cartagena Declaration's definition of refugee and its implementation in the American continent, including Colombia, see *infra* notes 102–106, 230–31 and accompanying text.

<sup>34</sup> See GUIDANCE NOTE ON INTERNATIONAL PROTECTION CONSIDERATIONS FOR VENEZUELAN UPDATE I, *supra* note 25, at 1 & n.4.

<sup>35</sup> See *id.* at 1, 2. UNHCR defines the term *economic migrant* as “a person who, for reasons other than those contained in the [refugee] definition, voluntarily leaves his country in order to take residence elsewhere.” U.N. High Comm'r for Refugees, Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection Under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, ¶ 62, at 22, U.N. Doc. HCR/1P/4/ENG/REV.4 (Feb. 2019) [hereinafter Handbook]. UNHCR recognizes the difficulty of drawing lines between economic migrants and refugees, such as when economic deprivations may be motivated based on protected grounds. *Id.* ¶ 63, at 22. It also, moreover, acknowledges that, under certain circumstances, even general economic policies—those that apply to the entire populations—could trigger refugee protections when these are politically motivated. *Id.* ¶ 64, at 22. How this latter approach to general economic policies apply to Venezuelans are taken up in Part III.

<sup>36</sup> GLOBAL TRENDS: FORCED DISPLACEMENT IN 2021, *supra* note 5, at 3 & n.6; VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 2. In the 2021 Global Trends report, for example, UNHCR counted 4.6 million total Venezuelans in the combined categories of forcibly displaced and refugees. GLOBAL TRENDS: FORCED DISPLACEMENT IN 2021, *supra* note 5, at 3 & n.6. Another data point labels 4.4 million as “Venezuelans displaced abroad,” leaving only 0.2 million (200,000) under the label refugee. *Id.* at 2, 3 n.2. In 2022, the UNHCR stopped using “Venezuelans displaced abroad” as a category and replaced it with “other people in need of international protection.” UNHCR, GLOBAL TRENDS: FORCED DISPLACEMENT IN 2022, at 4 & n.11 (2023) [hereinafter GLOBAL TRENDS: FORCED DISPLACEMENT IN 2022] (The new category is defined as “[p]eople who are outside their country or territory of origin, typically because they have been forcibly displaced across international borders, who have not been reported under other categories (asylum-seekers, refugees, people in refugee-like situations) but who likely need international protection, including protection against forced return, as well as access to basic services on a temporary or longer-term basis.”).

fleeing and their mode of flight and destination.<sup>37</sup> Venezuela's so-called Bolivarian Revolution, begun by President Hugo Chávez in 1999,<sup>38</sup> first pushed out those who opposed it; they were either forced to flee or chose to leave.<sup>39</sup> In general, these first waves of migration included Venezuela's elite and then the professional middle-class who fled, out of economic or political necessity or both,<sup>40</sup> as the colossal failure of a deeply polarized revolution began to take shape.<sup>41</sup> Eventually, all Venezuelans who could, including the poor and destitute, fled when hunger and violence, likely more pressing than any political motivation, made it intolerable to stay.<sup>42</sup>

What led to Venezuela's massive collapse defies a simple explanation. Over the course of a century, Venezuela's economic

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<sup>37</sup> The Venezuelan Observatory at the Universidad del Rosario has described four migratory waves from Venezuela displacement since the beginning of Venezuela's Bolivarian Revolution as follows:

- First wave: Provoked by "eminently political motivations," the first wave of emigration began in 1999 and lasted until 2002, covering the period of adoption of the Constitution of 1999 and the political crisis of 2002, in which leading economic and social sectors of Venezuela had to leave the country. *See UNIVERSIDAD DEL ROSARIO & KONRAD ADENAUER STIFTUNG, RETOS Y OPORTUNIDADES DE LA MOVILIDAD HUMANA VENEZOLANA EN LA CONSTRUCCIÓN DE UNA POLÍTICA MIGRATORIA COLOMBIANA* 8, 10 (2018) (translation by author).
- Second wave: Caused by political and socio-economic persecution, this wave covered the period between 2005 and 2009, in which different sectors previously linked to the economy, business, and the State bureaucracy, including people who were part of the opposition parties and those who were affected by the different social and economic policies adopted by the Venezuelan Government, chose to leave the country based on political or economic considerations or both. *See id.* at 8, 10.
- Third wave: The Observatory characterizes it as the "emigration[] of elites and professional middle-class sectors." *Id.* at 9 (translation by author). Occurring between the years 2010 to 2014, this wave included many professionals from various sectors and the middle-class university students, many of whom settled in Colombia, with the urgent need to "protect their human capital" and "guarantee their personal development." *Id.* at 10 (translation by author).
- Fourth wave: In this new migratory cycle, identified as the "humanitarian crisis" that began in 2015 and is still ongoing, sectors in conditions of vulnerability and beneficiaries of state programs began to leave Venezuela. *See id.* at 9, 10 (translation by author). The Universidad del Rosario points out that within the group of migrants they met, there were persons suffering from significant levels of malnutrition and in some cases, chronic or infectious diseases. *Id.* at 10.

<sup>38</sup> Gregory Wilpert, *Venezuela, Bolivarian Revolutionary Anti-Imperialism, and Hugo Chávez (1954–2013)*, in THE PALGRAVE ENCYCLOPEDIA OF IMPERIALISM AND ANTI-IMPERIALISM 2853, 2855, 2861 (Immanuel Ness & Zak Cope eds., 2d ed. 2021).

<sup>39</sup> *See UNIVERSIDAD DEL ROSARIO & KONRAD ADENAUER STIFTUNG, supra* note 37, at 8, 10.

<sup>40</sup> *See id.* at 8, 9, 10.

<sup>41</sup> Daniel Hellinger, *Hugo Chávez and the Bolivarian Revolution in Venezuela*, OXFORD BIBLIOGRAPHIES: LAT. AM. STUD., <https://www.oxfordbibliographies.com/display/document/obo-9780199766581/obo-9780199766581-0074.xml> [https://web.archive.org/web/20231209054553/https://www.oxfordbibliographies.com/display/document/obo-9780199766581/obo-9780199766581-0074.xml] (Jan. 13, 2014).

<sup>42</sup> *See UNIVERSIDAD DEL ROSARIO & KONRAD ADENAUER STIFTUNG, supra* note 37, at 6.

destiny would be intricately intertwined with its oil, making it distinctively a Latin American nation characterized by “growth miracle and . . . growth disaster.”<sup>43</sup> Indeed, Venezuela’s oil is both “an example of . . . a resource[] blessing and a resource[] curse.”<sup>44</sup> For much of the twentieth century, Venezuelan oil wealth allowed the country to escape much of the intractable problems of violence, poverty, and democratic instability that plagued other nations.<sup>45</sup> However, Venezuela also failed to undertake the necessary economic and political reforms that would have allowed it to survive the volatility of the global oil market.<sup>46</sup> Venezuela’s massive collapse, a byproduct of years of bad policies, economic mismanagement, and official corruption, was precipitated by “a sharp decline in oil prices between 2013 and 2016.”<sup>47</sup> Venezuela’s economic and institutional decline was already present from the mid-2000s to early 2010s under Hugo Chávez’s regime, as he began an authoritarian political rule and drained funds and investments from the state oil industry.<sup>48</sup> After President Chávez’s death in 2013, however, his successor, Nicolás Maduro, Venezuela’s president to date, won an early election in April of the same year by the narrowest margin in Venezuela’s recent history,<sup>49</sup> further increasing the tensions with his political opponents.<sup>50</sup> Maduro’s mismanagement of the economy, misappropriation of State funds, divestment of the oil industry, and persecution of the opposition led to historic declines in economic

<sup>43</sup> Fabrizio Perri, *Discussion of the History of Venezuela 2*, in *A MONETARY AND FISCAL HISTORY OF LATIN AMERICA, 1960-2017*, at 529, 533–34 (Timothy J. Kehoe & Juan Pablo Nicolini eds., 2021).

<sup>44</sup> *Id.* at 533–34.

<sup>45</sup> See Moisés Náim, *The Venezuelan Story: Revisiting the Conventional Wisdom*, CARNEGIE ENDOWMENT FOR INT'L PEACE 3 (Mar. 22, 2001), <https://carnegieendowment.org/2001/03/22/venezuelan-story-revisiting-conventional-wisdom-pub-652> [https://perma.cc/859K-G98Y].

<sup>46</sup> See *id.* at 2, 7; see also Amelia Cheatham, Diana Roy & Rocio Cara Labrador, *Venezuela: The Rise and Fall of a Petrostate*, COUNCIL ON FOREIGN RELS., <https://www.cfr.org/backgrounder/venezuela-crisis> [https://perma.cc/SBY6-TNJ7] (Mar. 10, 2023, 1:05 PM).

<sup>47</sup> Van Praag, *supra* note 1; see also Michelle Carmody, *What Caused Hyperinflation in Venezuela: A Rare Blend of Public Ineptitude and Private Enterprise*, CONVERSATION (Feb. 5, 2019, 2:10 PM), <https://theconversation.com/what-caused-hyperinflation-in-venezuela-a-rare-blend-of-public-ineptitude-and-private-enterprise-102483> [https://perma.cc/46U4-J8PG].

<sup>48</sup> See *Venezuela: Chávez’s Authoritarian Legacy: Dramatic Concentration of Power and Open Disregard for Basic Human Rights*, HUM. RTS. WATCH (Mar. 5, 2013, 5:24 PM), <https://www.hrw.org/news/2013/03/05/venezuela-chavezs-authoritarian-legacy> [https://perma.cc/64HW-TSYP]; Cheatham et al., *supra* note 46.

<sup>49</sup> Virginia Lopez & Jonathan Watts, *Nicolás Maduro Narrowly Wins Venezuelan Presidential Election*, GUARDIAN (Apr. 15, 2013, 6:31 PM), <https://www.theguardian.com/world/2013/apr/15/nicolas-maduro-wins-venezuelan-election> [https://perma.cc/7C5Y-XMNT]; Cheatham et al., *supra* note 46.

<sup>50</sup> See Lopez & Watts, *supra* note 49.

growth, and the highest level of hyperinflation in the world.<sup>51</sup> Also, since 2017, the United States imposed economic sanctions on Venezuela that punished people, businesses, and oil entities associated with the Maduro regime, which aggravated Venezuela's humanitarian crisis.<sup>52</sup>

The fall of the Venezuelan economy was so fast and the increase in poverty so great that more than seven million Venezuelans have fled the country since 2014, over half of them youth between the ages of fifteen and twenty-nine in search of economic survival.<sup>53</sup> Since 2014, in the absence of any official figures, researchers at Venezuela's Andrés Bello Catholic University have been tracking the scale and impact of Venezuela's economic crisis through a national survey known as ENCOVI, or Encuesta Nacional de Condiciones de Vida.<sup>54</sup> In 2021, ENCOVI determined that from 2014 to 2020, Venezuela lost 74% of its gross domestic product due to losses in production, population, and oil revenues.<sup>55</sup> Indeed, every crucial social indicator in Venezuela has worsened in recent years. ENCOVI found, for example, that in 2021 three-quarters of Venezuela's population lived on less than \$1.90 a day, the benchmark for extreme poverty,<sup>56</sup> while

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<sup>51</sup> See Carmody, *supra* note 47; Steve Hanke, *Venezuela's Hyperinflation Hits 80,000% Per Year in 2018*, FORBES (Jan. 1, 2019, 5:00 PM), <https://www.forbes.com/sites/stevehanke/2019/01/01/venezuelas-hyperinflation-hits-80000-per-year-in-2018> [<https://perma.cc/AP4E-TCRB>]; Anna Fleck, *The Countries with the Highest Inflation Rates*, STATISTA (Nov. 22, 2023), <https://www.statista.com/chart/31306/countries-with-the-highest-annual-increases-in-consumer-prices/> [<https://perma.cc/CKS7-Q568>].

<sup>52</sup> See, e.g., U.S. GOV'T ACCOUNTABILITY OFF., GAO-21-239, VENEZUELA: ADDITIONAL TRACKING COULD AID TREASURY'S EFFORTS TO MITIGATE ANY ADVERSE IMPACTS U.S. SANCTIONS MIGHT HAVE ON HUMANITARIAN ASSISTANCE 8 fig.2, 29 (2021); see also Press Release, *New Report Documents How U.S. Sanctions Have Directly Aggravated Venezuela's Economic Crisis*, WASH. OFF. ON LAT. AM. (Oct. 29, 2020), <https://www.wola.org/2020/10/new-report-us-sanctions-aggravated-venezuelas-economic-crisis/> [<https://perma.cc/7KNG-AJ5J>]. But see DANY BAHAR, SEBASTIAN BUSTOS, JOSE R. MORALES & MIGUEL A. SANTOS, *IMPACT OF THE 2017 SANCTIONS ON VENEZUELA: REVISITING THE EVIDENCE* 9 (2019) ("The weight of evidence seems to indicate that, rather than being a result of U.S.-imposed sanctions, much of the suffering and devastation in Venezuela has been, in line with most accounts, inflicted by those in power.").

<sup>53</sup> See INSTITUTO DE INVESTIGACIONES ECONÓMICAS Y SOCIALES, UNIVERSIDAD CATÓLICA ANDRÉS BELLO, CONDICIONES DE VIDA DE LOS VENEZOLANOS, ENTRE EMERGENCIA HUMANITARIA Y PANDEMIA: ENCOVI 2021, at 32–33 (2021), [https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7\\_Presentacion%20ENCOVI%20202021%20V1.pdf](https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/6153ad6fb92e4428cada4fb7_Presentacion%20ENCOVI%20202021%20V1.pdf) [<https://perma.cc/D9NB-GRYK>] [hereinafter CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2021]; *Venezuela Humanitarian Crisis*, USA FOR UNHCR, <https://www.unrefugees.org/emergencies/venezuela/> [<https://perma.cc/7Q63-WUNX>].

<sup>54</sup> See *¿Qué es la Encovi?*, ENCOVI, <https://www.proyectoencovi.com/sobre-encovi> [<https://perma.cc/6LN8-8SGU>]; see also *Venezuela Crisis: Three in Four in Extreme Poverty, Study Says*, BBC (Sept. 30, 2021), <https://www.bbc.com/news/world-latin-america-58743253> [<https://perma.cc/EY8N-HUQD>].

<sup>55</sup> See CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2021, *supra* note 53, at 6.

<sup>56</sup> See *id.* at 48–49, 55.

facing hyperinflation and high levels of unemployment in the formal economy (between 2014–2021, a loss of 21.8% of formal employment opportunities, 70% of them in the public sector).<sup>57</sup> Food insecurity also worsened, with only 5.8% of the population reporting not experiencing food insecurity, while 24.5% cited experiencing severe forms of food insecurity.<sup>58</sup> According to the United Nations World Food Program, as of 2020 one in every three Venezuelans is facing hunger, while 9.3 million—a third of the population—are moderately to severely food insecure.<sup>59</sup> Venezuela experienced modest economic gains in 2022 (7.5% increase in economic production) and a modest decrease in inflation, at least compared to 2017 levels.<sup>60</sup> Nevertheless, Venezuela remains the country in the world with the highest rates of inflation at 125%.<sup>61</sup> Also, for the first time in seven years, Venezuela experienced modest reductions in poverty and some improvements in food insecurity; nevertheless, nearly 80% of the population is still reporting some level of food insecurity, while 81.5% live in poverty and 53.3% in extreme poverty.<sup>62</sup> Moreover, in the last couple of years, Venezuela has become the most unequal country in the Americas,<sup>63</sup> which also indicates that extreme economic vulnerabilities are experienced in worse ways by Venezuelans across racial and gender differences.<sup>64</sup> Worsening the economic situation is the fact that millions of Venezuelans are unable to access basic services, such as adequate healthcare, electricity, water, and, ironically, even gasoline.<sup>65</sup>

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<sup>57</sup> *Id.* at 40.

<sup>58</sup> *Id.* at 66.

<sup>59</sup> WORLD FOOD PROGRAMME, VENEZUELA FOOD SECURITY ASSESSMENT: MAIN FINDINGS 1, 2 (2020), <https://reliefweb.int/report/venezuela-bolivarian-republic/wfp-venezuela-food-security-assessment-main-findings-data> [https://perma.cc/CC57-LKW6].

<sup>60</sup> See *Venezuela GDP Annual Growth Rate*, TRADING ECONOMICS, <https://tradingeconomics.com/venezuela/gdp-growth-annual> [https://perma.cc/A92Q-MZ8U]; INSTITUTO DE INVESTIGACIONES ECONÓMICAS Y SOCIALES, UNIVERSIDAD CATÓLICA ANDRÉS BELLO, CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022, at 34 (2022), [https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/636d0009b0c59ebfd2f24acd\\_Presentacion%20ENCOVI%202022%20completa.pdf](https://assets.website-files.com/5d14c6a5c4ad42a4e794d0f7/636d0009b0c59ebfd2f24acd_Presentacion%20ENCOVI%202022%20completa.pdf) [https://perma.cc/8V4D-BPQ2] [hereinafter CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022].

<sup>61</sup> CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022, *supra* note 60, at 6.

<sup>62</sup> *See id.* at 41, 53.

<sup>63</sup> *See id.* at 42.

<sup>64</sup> See CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2021, *supra* note 53, at 57; CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022, *supra* note 60, at 45.

<sup>65</sup> CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022, *supra* note 60, at 6; see CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2021, *supra* note 53, at 6, 22, 51; see also *Venezuela: Events of 2022*, HUM. RTS. WATCH, <https://www.hrw.org/world-report/2023/country-chapters/venezuela> [https://perma.cc/9Z2J-XH7L]; ORG. OF AM. STATES, VENEZUELAN

Economic despair is most certainly a central factor contributing to Venezuelans' flight en masse, but it is not the sole factor. A 2021 report published by the Organization of American States (OAS) Working Group on the Crisis of Venezuelan Migrants and Refugees in the region cites, in addition to severe economic reasons and its resulting complex humanitarian crisis, human rights violations and widespread violence as additional push factors.<sup>66</sup> A plethora of human rights reports by international bodies, non-governmental groups, and states alike accuse the Venezuelan government of crimes against humanity and other forms of severe human rights violations.<sup>67</sup> In 2019, the U.N. Human Rights Council established the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela (FFMV), which has produced three reports documenting the Venezuelan government's human rights record.<sup>68</sup> In its 2020 Report, the Mission concluded that Venezuela's military and intelligence services committed crimes and human rights violations as "part of a widespread and systematic attack . . . against [the] civilian population," as part of a strategy to suppress opposition to the Maduro regime.<sup>69</sup> The FFMV elaborated further on these findings in its 2022 Report and found that said acts amounted to crimes against humanity since they were particularly cruel and grave and targeted individuals who were defenseless.<sup>70</sup> Similarly, the OAS General Secretariat documented in 2021 that since 2014, Venezuela's security forces or *colectivos* carried out 18,093 extrajudicial executions.<sup>71</sup> In fact, in 2021, the International Criminal Court (ICC) opened an investigation into possible crimes against humanity in Venezuela.<sup>72</sup> Human Rights Watch (HRW) reports also highlight the persecution of journalists, human rights defenders, civil society, and Indigenous peoples, especially those in opposition to the state's

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MIGRATION AND REFUGEE CRISIS 20 (2021) (In 2020 alone, Venezuela registered 157,719 blackouts nationwide, while "92% of households . . . d[id] not receive water continuously.").

<sup>66</sup> ORG. OF AM. STATES, *supra* note 65, at 12–18, 21–22.

<sup>67</sup> See, e.g., *id.* at 16; *Venezuela: Events of 2022*, *supra* note 65.

<sup>68</sup> Press Release, *Venezuela: New UN Report Details Responsibilities for Crimes Against Humanity to Repress Dissent and Highlights Situation in Remote Mining Areas*, UN OHCHR (Sept. 20, 2022), <https://www.ohchr.org/en/press-releases/2022/09/venezuela-new-un-report-details-responsibilities-crimes-against-humanity> [https://perma.cc/7RW7-JMR5].

<sup>69</sup> Hum. Rts. Council, Rep. of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, ¶ 23, U.N. Doc. A/HRC/51/43 (2022).

<sup>70</sup> *Id.* ¶ 26.

<sup>71</sup> ORG. OF AM. STATES, *supra* note 65, at 16.

<sup>72</sup> Press Release, *ICC Prosecutor, Mr Karim A.A. Khan QC, Opens an Investigation into the Situation in Venezuela and Concludes Memorandum of Understanding with the Government*, INT'L CRIM. CT. (Nov. 5, 2021), <https://www.icc-cpi.int/news/icc-prosecutor-mr-karim-aa-khan-qc-opens-investigation-situation-venezuela-and-concludes> [https://perma.cc/36CG-CVYZ].

mining activities.<sup>73</sup> According to HRW, Venezuelan “[j]udicial authorities have been complicit in [the] abuses, . . . including by issuing retrospective warrants . . . , ordering pre-trial detention[s] routinely, . . . and failing to protect victims of torture.”<sup>74</sup> The U.S. State Department Human Rights Reports are consistent with these findings. In 2022, the U.S. State Department Report found that Venezuela engaged in significant human rights violations, including: “unlawful or arbitrary killings . . . ; forced disappearances . . . ; torture . . . ; harsh and life-threatening prison conditions; arbitrary arrest[s];” detention and prosecution, including of political prisoners and journalists; and noted “serious problems with the independence of the judiciary.”<sup>75</sup>

In addition to Venezuela’s economic and human rights crisis, the country is also experiencing a public safety emergency from private actors wreaking violence on innocent civilians. Today, private forms of violence in Venezuela place the country above even the notorious levels of violence experienced in the Northern Triangle nations of Central America.<sup>76</sup> The 2022 Global Peace Index ranks Venezuela as 148 out of 163 ranked nations, placing Venezuela as the worst ranked nation in the entire region of the Americas.<sup>77</sup> The country “continues to record the highest possible scores in homicide rate,”<sup>78</sup> placing second in 2022 for the entire region of the Americas (40.4 per 100,000 inhabitants), second only to Jamaica.<sup>79</sup> Political violence is indeed a culprit in Venezuela’s rise to one of the most unsafe countries in the world, but gangs and organized crime also play a prevalent role.<sup>80</sup>

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<sup>73</sup> See *Venezuela: Events of 2022*, *supra* note 65.

<sup>74</sup> *Id.*

<sup>75</sup> U.S. DEPT’ OF STATE & BUREAU OF DEMOCRACY, HUM. RTS. & LAB., *Venezuela 2022 Human Rights Report*, in COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 2022, at 1, 2 (2022).

<sup>76</sup> Compare INST. FOR ECONS. & PEACE, GLOBAL PEACE INDEX 2022: MEASURING PEACE IN A COMPLEX WORLD 11, 20 (2022), <https://www.economicsandpeace.org/wp-content/uploads/2022/06/GPI-2022-web.pdf> [https://perma.cc/5EBW-R9AZ] (ranking Guatemala as 106, El Salvador as 114, Honduras as 117, and Venezuela as 148 out of 163 on the Global Peace Index), with Diana Roy & Amelia Cheatham, *Central America’s Turbulent Northern Triangle*, COUNCIL ON FOREIGN RELS., <https://www.cfr.org/backgrounder/central-americas-turbulent-northern-triangle> [https://perma.cc/E6KS-222H] (July 13, 2023, 2:55 PM) (identifying Guatemala, El Salvador, and Honduras as compromising the Northern Triangle).

<sup>77</sup> INST. FOR ECONS. & PEACE, *supra* note 76, at 10, 20 tbl.1.11. For Venezuela, this rank is even a slight improvement from the prior rank (by three points). *Id.* at 11.

<sup>78</sup> *Id.* at 20 (emphasis omitted).

<sup>79</sup> *Homicide Rates in Selected Latin America and Caribbean Countries in 2022*, STATISTA (Feb. 2023), <https://www.statista.com/statistics/947781/homicide-rates-latin-america-caribbean-country/> [https://perma.cc/Z6RY-TCEF].

<sup>80</sup> Suzette Shultz, *10 Facts About Violence in Venezuela*, BORGEN PROJECT (June 30, 2019), <https://borgenproject.org/10-facts-about-violence-in-venezuela/> [https://perma.cc/X6JW-QDSP].

The International Rescue Committee (IRC) also featured Venezuela, while unranked, among its 2022 Emergency Watchlist nations, citing as one of the reasons for displacement conflicts between non-state armed groups along the Colombia-Venezuela border with Colombian armed forces over disputed territory within Venezuela.<sup>81</sup> Venezuela's alarming violence and the numerous other problems highlighted in this section led the IRC to predict that even more Venezuelans would flee the country to join the more than six million forcibly displaced Venezuelans abroad.<sup>82</sup> UNHCR's latest report on the figures of Venezuelan displacement certainly show upward trends. By March 2023, more than "7.1 million [Venezuelans] have left their home[], of which more than 6 million are in the Americas."<sup>83</sup>

### III. AMERICA'S [THE CONTINENT] MODEL OF REGIONAL COOPERATION APPLIED TO VENEZUELAN

The March 2023 UNHCR Fact Sheet on the Venezuela situation reports that, while UNHCR has recognized only 211,000 as refugees, about 4.2 out of the 7.1 million forcibly displaced Venezuelans have gained residence or temporary legal stay permits since 2014.<sup>84</sup> Much of the explanation for the fact that over half of forcibly displaced Venezuelans have been granted some level of protection, despite their near total exclusion as refugees under the U.N. Convention on Refugees,<sup>85</sup> is that their host nations have overwhelmingly been Latin American countries.<sup>86</sup> This is because, as this section explains, for decades these nations have been engaged in meaningful conversations and preparations to pave the way for a more open response to forced mass displacements in the region—one that emphasizes protection, human rights, and socio-economic integration.<sup>87</sup> This model, which predates the comparable vision enshrined in 2018 in the Global Compact on Refugees,<sup>88</sup> has required

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<sup>81</sup> INT'L RESCUE COMM., 2022 EMERGENCY WATCHLIST: SYSTEM FAILURE 63 (2022), <https://www.rescue.org/sites/default/files/document/6423/cs2201watchlistreportfinal.pdf> [<https://perma.cc/7BYV-APGT>].

<sup>82</sup> *See id.* at 62–63.

<sup>83</sup> VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1.

<sup>84</sup> *Id.* at 1.

<sup>85</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137.

<sup>86</sup> *See* VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1; *The Venezuelan Exodus*, HUM. RTS. WATCH (Sept. 3, 2018), <https://www.hrw.org/report/2018/09/03/venezuelan-exodus/need-regional-response-unprecedented-migration-crisis> [<https://perma.cc/D5RC-BQ4Z>].

<sup>87</sup> *See infra* notes 102–06, 112–41, 230–31 and accompanying text.

<sup>88</sup> Compare *infra* note 100–03 and accompanying text, and *infra* note 109–11 and accompanying text, with *Global Compact on Refugees*, UNHCR 1–2, 7 (2018), <https://www.refworld.org/docid/63b43eaa4.html> [<https://perma.cc/8KFZ-H9NW>].

broad engagement from multiple actors to share in the responsibility of forging a different vision for responding to the humanitarian migration crisis.<sup>89</sup> Importantly, Venezuela is becoming one of the most important test cases to reimagine whether this model can be successful.

UNHCR's figures at the beginning of 2023 show that over six million Venezuelans are displaced throughout the Americas, but principally in Colombia.<sup>90</sup> In fact, the United States, at number three in the list of top ten nations, hosts only 545.2 thousand Venezuelans, or one for every five Venezuelans who stay in Colombia.<sup>91</sup> Colombia is home to around 2.5 million Venezuelans,<sup>92</sup> around 5% of its total population.<sup>93</sup> Aside from Colombia, the top other Latin American nations hosting Venezuelans are: Peru (1.5 million); Ecuador (502.2 thousand); Chile (444.4 thousand); Brazil (414.5 thousand); Argentina (171.1 thousand); Panama (147.6 thousand); and the Dominican Republic (115.3 thousand).<sup>94</sup> All combined, Latin American nations are hosting around 5.8 million of the displaced Venezuelans and are doing so by embracing a broader definition of who is a refugee,<sup>95</sup> opting, in general, for welcoming policies and practices, despite the enormous challenges posed by the scale and humanitarian needs of Venezuelans.<sup>96</sup>

For the host nations of millions of Venezuelans in the region, their dire and urgent humanitarian needs have caused enormous financial and institutional challenges.<sup>97</sup> These have not, however, necessarily translated into legal or political impediments, even as social tensions

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<sup>89</sup> See *infra* notes 102–106, 112–41, 230–31 and accompanying text; Abby Cahn-Gambino, *Explainer: The Global Compact on Refugees*, REFUGEES INT'L (June 4, 2021), <https://www.refugeesinternational.org/explainer-the-global-compact-on-refugees/> [https://perma.cc/2MSY-CGXE] (discussing the vision of the Global Compact on Refugees); DANISH REFUGEE COUNCIL, INT'L RESCUE COMM. & NORWEGIAN REFUGEE COUNCIL, THE GLOBAL COMPACT ON REFUGEES THREE YEARS ON: NAVIGATING BARRIERS AND MAXIMIZING INCENTIVES IN SUPPORT OF REFUGEES AND HOST COUNTRIES 26 (Nov. 8, 2021), <https://www.rescue.org/sites/default/files/document/6324/ircdrcnrcjointreportv4final.pdf> [https://perma.cc/W4FH-X3ZQ] (discussing progress on the Compact's objectives and commitments).

<sup>90</sup> See VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1.

<sup>91</sup> See *id.*

<sup>92</sup> *Id.*

<sup>93</sup> Colombia's total population is 52,098,462. See *Colombia Population (LIVE)*, WORLDOMETER, <https://www.worldometers.info/world-population/colombia-population/> [https://perma.cc/7ZBL-RHK] (July 16, 2023).

<sup>94</sup> VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1.

<sup>95</sup> See *id.*; see *infra* notes 102–106, 230–31 and accompanying text for a discussion of the Cartagena Declaration and its implementation by Latin American nations.

<sup>96</sup> See *infra* notes 180181 and accompanying text; VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1, 2.

<sup>97</sup> See *infra* notes 363–67 and accompanying text.

have escalated as a result.<sup>98</sup> One important explanation is that the Latin American region, joined most recently as well by Caribbean and other nations in the Americas, has been preparing for at least four decades precisely for this monumental test case of massive forced displacement to multiple nations in the region that, at least until now, has not been dominated by flight to the United States.<sup>99</sup> In fact, in 1984, motivated by the terrible plight of Central American refugees fleeing largely to the United States,<sup>100</sup> ten Latin American nations<sup>101</sup> came together in Cartagena, Colombia, to adopt a new legal and strategic framework strengthening protections for and durable solutions to the refugee crisis in the region.<sup>102</sup> The result was the adoption of the Cartagena Declaration on Refugees, a non-binding legal document that, *inter alia*, expanded who should qualify for refugee protections.<sup>103</sup> This expanded definition, which today is adopted as part of the domestic legal norms in more than half of the Latin American nations,<sup>104</sup> resolves the exclusion of the overwhelming number of forcibly displaced Venezuelans left out of UNHCR's refugee mandate.<sup>105</sup> Notably, the Cartagena Declaration marked the beginning of an ongoing regional forum, the only region in the world to do so, during which countries in Latin America and

<sup>98</sup> See *infra* Parts IV.A, IV.C.4 and accompanying text (discussing xenophobia and other social tensions associated with Venezuelan migrants in Colombia).

<sup>99</sup> See VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1–2.

<sup>100</sup> See José H. Fischel de Andrade, *The 1984 Cartagena Declaration: A Critical Review of Some Aspects of Its Emergence and Relevance*, 38 REFUGEE SURV. Q. 341, 341, 342, 345–48 (2019); Susan Gzesh, *Central Americans and Asylum Policy in the Reagan Era*, MIGRATION POL'Y INST. (Apr. 1, 2006) <https://www.migrationpolicy.org/article/central-americans-and-asylum-policy-reagan-era> [https://perma.cc/J25U-VF4L].

<sup>101</sup> These nations were: Belize, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, and Venezuela. U.N. High Comm'r for Refugees, Summary Conclusions on the Interpretation of the Extended Refugee Definition in the 1984 Cartagena Declaration, ¶ 1 & n.2 (July 7, 2014), <https://www.unhcr.org/sites/default/files/legacy-pdf/53bd4d0c9.pdf> [https://perma.cc/QK3C-ZDRG] [hereinafter Summary Conclusions].

<sup>102</sup> *Id.* ¶ 1–2; see also *Cartagena+30*, UNHCR, <https://cartagena30.acnur.org/en/> [https://perma.cc/29HT-WEVW].

<sup>103</sup> See Summary Conclusions, *supra* note 101, ¶¶ 2, 6, 8.

<sup>104</sup> Among the nations with domestic legislation codifying the Cartagena Declaration are: Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay. See JUAN IGNACIO MONDELLI, LA FUERZA VINCULANTE DE LA DEFINICIÓN REGIONAL DE LA DECLARACIÓN DE CARTAGENA SOBRE REFUGIADOS (1984), at 10, 21–38 (Dec. 2018), <https://www.refworld.org.es/pdfid/5d03d0b54.pdf> [https://perma.cc/5FFV-2BUQ].

<sup>105</sup> The May 2019 UNHCR Guidance document on the Venezuelan crisis stipulates that nearly all Venezuelans would be protected under the Cartagena Declaration's definition, which it said is recognized in 15 countries. See GUIDANCE NOTE ON INTERNATIONAL PROTECTION CONSIDERATIONS FOR VENEZUELAN—UPDATE I, *supra* note 25, ¶ 5 & n.4 (listing Argentina, Belize, Bolivia, Brazil, Chile, Colombia, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay).

now the Caribbean convene every decade to coordinate and cooperate on regional responses to refugees.<sup>106</sup> At the last convening in 2014, for example, twenty-eight countries and three territories of Latin America and the Caribbean adopted by acclamation the Brazil Declaration and Plan of Action.<sup>107</sup> Consisting of eight chapters, the Brazil Plan of Action grounded itself in principles of regional collaboration, with important international collaboration, aimed to facilitate the integration of refugees in the region through mechanisms that included labor mobility, voluntary repatriation programs, and strengthening of asylum systems.<sup>108</sup>

This backdrop has facilitated similar regional convenings in the last five years with a focus on the Venezuelan refugee crisis. In September 2018, twelve Latin American countries and Guyana<sup>109</sup> held a regional meeting hosted by Ecuador to develop coordinated responses to the institutional challenges generated in Latin America and the Caribbean by the massive flows of refugees and migrants from Venezuela.<sup>110</sup> The central objective of what became known as the Quito Process<sup>111</sup> was “to articulate measures at the regional level in order to strengthen the regularization, assistance, reception and integration of refugees and migrants into host communities.”<sup>112</sup> In addition to its members, the Quito Process was subsequently joined by the Group of Friends, comprised of the European Union, the Inter-American Development Bank, Canada, the United States, and seven other European nations, to provide technical assistance and financing to assist with implementation of the members’ agreed

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<sup>106</sup> Three successor declarations were made: the 1994 San José Declaration, the 2004 Mexico Declaration, and the 2014 Brazil Declaration (with twenty-eight countries and three territories of Latin America and the Caribbean). See MONDELLI, *supra* note 104, at 52–55; Gilberto M. A. Rodrigues, *South America and the Cartagena Regime: A Comprehensive Approach to Forced Migration Responses*, ASILE (Nov. 10, 2020), <https://www.asileproject.eu/south-america-and-the-cartagena-regime/> [https://perma.cc/Y8L4-JQNG].

<sup>107</sup> *The Brazil Declaration*, UNHCR, <https://unhcr.org/about-unhcr/where-we-work/americas/brazil-declaration> [https://perma.cc/UZ9D-E8R2]. See generally REG'L REFUGEE INSTRUMENTS & RELATED, BRAZIL DECLARATION AND PLAN OF ACTION, <https://www.refworld.org/docid/5487065b4.html> [https://perma.cc/CF2X-K553].

<sup>108</sup> REG'L REFUGEE INSTRUMENTS & RELATED, *supra* note 107, at 9, 11–12, 13.

<sup>109</sup> The Latin American countries are Argentina, Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Panama, Paraguay, Peru, the Dominican Republic, and Uruguay. See *Members*, PROCESO DE QUITO, <https://www.procesodequito.org/en/member-states> [https://perma.cc/8SQ3-RVZ4].

<sup>110</sup> Maricel Drazer, *El Proceso de Quito Encara la Crisis Migratoria Venezolana*, DESTACADOS (Sept. 13, 2022), <https://www.dw.com/es/el-proceso-de-quito-hace-frente-a-la-crisis-migratoria-venezolana/a-63094709> [https://perma.cc/55RW-6TWD].

<sup>111</sup> See *What We Do?*, PROCESO DE QUITO, <https://www.procesodequito.org/en/what-we-do> [https://perma.cc/P7VA-4WH5].

<sup>112</sup> Drazer, *supra* note 110 (translation by author).

actions.<sup>113</sup> “With funding from member countries and the collaboration of the United Nations and the Group of Friends, the Quito Process meets periodically in different venues.”<sup>114</sup> Since its inception, the Quito Process has yielded eight distinct chapters that form part of what became known as the Quito Declaration,<sup>115</sup> that spell out the priorities and commitments of the member states that respond to the shifting needs of Venezuelans in the region.<sup>116</sup>

In general, the Quito Declaration is premised on the regularization, protection, and integration of Venezuelans in the region and the opening of humanitarian aid mechanisms, coordination, legal reforms, and financing to guarantee these commitments.<sup>117</sup> At the conclusion of its first convening, through the adoption of the first chapter of the Quito Declaration,<sup>118</sup> eleven Latin American nations<sup>119</sup> committed to consider mechanisms they deemed appropriate, in accordance with their international and domestic legal norms,<sup>120</sup> to regularize the status of Venezuelan migrants, including by strengthening procedures for seeking refugee status.<sup>121</sup> To facilitate regularization, Chapter One encouraged Venezuela to provide documentation to its nationals, and urged the signatory nations to

<sup>113</sup> *Members*, *supra* note 109. The European countries are: The United Kingdom, Italy, Switzerland, the Netherlands, France, Spain, and Germany. Drazer, *supra* note 110; *see Members*, *supra* note 109.

<sup>114</sup> Drazer, *supra* note 110 (translation by author).

<sup>115</sup> *See Declarations*, PROCESO DE QUITO, <https://www.procesodequito.org/en/declarations> [<https://perma.cc/KQ73-PBEZ>].

<sup>116</sup> *See What We Do?*, *supra* note 111.

<sup>117</sup> *See id.*

<sup>118</sup> The Quito Declaration is officially called Declaration on Human Mobility of Venezuelan Citizens in the Region. *See* PROCESO DE QUITO, DECLARACIÓN DE QUITO SOBRE MOVILIDAD HUMANA DE CIUDADANOS VENEZOLANOS EN LA REGIÓN (2018), <https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2021-02/Quito%20Declaration.pdf> [<https://perma.cc/8F3V-KMAH>].

<sup>119</sup> The Declaration was signed by delegates from: Argentina, Brazil, Ecuador, Costa Rica, Colombia, Chile, México, Panamá, Paraguay, Perú, and Uruguay. *Id.* Bolivia abstained, following directions from the president, and the representative from the Dominican Republic was absent due to a health problem. *Id.*; *see* Diego Acosta, Cécile Blouin & Luisa Feline Freier, *La Emigración Venezolana: Respuestas Latinoamericanas*, in FUNDACIÓN CAROLINA: DOCUMENTOS DE TRABAJO 23–24 (2019); Cosme Batallas Lara, *Del Grupo de Lima al Proceso de Quito: Análisis de las Políticas Públicas Implementadas en el Marco del Multilateralismo Sudamericano, como Muestra de Solidaridad y Cooperación Frente a la Crisis Migratoria Venezolana*, 26 LEX 415, 429 (2020); Sandra Weiss *¿Solidaridad sin fronteras?*, NUEVA SOCIEDAD (Sept. 2018), <https://nuso.org/articulo/solidaridad-sin-fronteras-> [<https://perma.cc/JV4T-35FK>].

<sup>120</sup> *See* PROCESO DE QUITO, *supra* note 118, ¶ 2. While much of the Quito Declaration recognizes that nations’ obligations are to be guided by their resources, policy judgements, and domestic legislation, it does call on nation states to conform their respective legislation to align to international standards that recognize migrants’ fundamental human rights. *Id.* ¶ 11.

<sup>121</sup> *Id.* ¶ 2.

apply flexible norms to documentation requirements.<sup>122</sup> Additionally, it encouraged the signatory nations to provide, within their possible means, access to public education, work opportunities, and public health services, in addition to guaranteeing access to justice.<sup>123</sup> Importantly, Chapter One emphasized the need for technical and substantial financial assistance from other nations and from international institutions, given the scale of Venezuelan migration in the region.<sup>124</sup> In particular, Chapter One called on the United Nations and, in particular, the International Organization on Migration (IOM), to assist the region with demographic data that could allow the individual nations to assess the humanitarian needs of Venezuelans arriving in their territory.<sup>125</sup> It also called on the United Nations and the Organization of American States to assist with efforts to combat human trafficking,<sup>126</sup> as well as for coordinated regional efforts to counter xenophobia, intolerance, and discrimination.<sup>127</sup> Aside from the urgent humanitarian considerations pertaining to migrants, Chapter One also included a few provisions aimed at redressing the humanitarian root causes of displacement in Venezuela,<sup>128</sup> in addition to calling for building long-term sustainability to address the Venezuelan migration crisis through the framework of regional economic collaboration.<sup>129</sup>

To date, the Quito Process remains committed to its original goals of regularizing, protecting, and integrating Venezuelans in the region.<sup>130</sup> The second Chapter of the Quito Declaration adopts an Action Plan with a focus on growing its members, gathering data, fundraising, and adopting domestic legal and institutional reforms toward regularization.<sup>131</sup> As well, Eduardo Stein, former Vice President of Guatemala, was elected as a Special Joint

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<sup>122</sup> *Id.* ¶¶ 5–6.

<sup>123</sup> *Id.* ¶ 9.

<sup>124</sup> *Id.* ¶¶ 3–4.

<sup>125</sup> *Id.* ¶ 7.

<sup>126</sup> *Id.* ¶ 8.

<sup>127</sup> *Id.* ¶ 12.

<sup>128</sup> In fact, the Quito Declaration contemplates engaging with Venezuela to ensure coordinated efforts to ameliorate the humanitarian crisis in the country. *See id.* ¶¶ 13–14.

<sup>129</sup> *See id.* ¶¶ 13–14, 16. Specifically, the Quito Declaration mentions the Andean Community (CAN) and the Southern Common Market (MERCOSUR) as mechanisms to link the management of Venezuelan migration to regional economic integration. *Id.* ¶ 16.

<sup>130</sup> *See Members, supra* note 109.

<sup>131</sup> PROCESO DE QUITO, PLAN DE ACCIÓN DEL PROCESO DE QUITO SOBRE LA MOVILIDAD HUMANA DE NACIONALES VENEZOLANOS EN LA REGIÓN (2018), [https://www.procesodequito.org/sites/g/files/tmzbdl466/files/2020-11/quito\\_ii.pdf](https://www.procesodequito.org/sites/g/files/tmzbdl466/files/2020-11/quito_ii.pdf) [https://perma.cc/93S9-FCFK]. Fewer nations adhered to this document as follows: Argentina, Chile, Colombia, Costa Rica, Ecuador, Paraguay, Peru, and Uruguay. *Id.*

Representative of UNHCR and IOM on the Situation of Venezuelan Migrants and Refugees, and tasked, *inter alia*, to dialogue with Venezuela on the situation of its forcibly displaced nationals.<sup>132</sup> Chapter Three of the Quito Declaration welcomes the participation of Venezuela, in addition to the United Nations International Children's Emergency Fund (UNICEF) and the World Food Program in the implementation of the Quito Declaration.<sup>133</sup> Chapter Four was largely a republication of the original Quito Declaration; however, this time with Venezuela as a new member state signatory.<sup>134</sup> Joined by Guyana for the first time, Chapter Five of the Quito Declaration reiterates key principles and commitments in the Quito Declaration while making concrete recommendations that include inter-regional sharing of migratory information related to Venezuelans, the need for greater coordination among the temporary reception centers for Venezuelans, and the creation of an immigrant identification card to facilitate processing and humanitarian assistance for Venezuelans.<sup>135</sup> Chapter Six orients its recommendations on certain vulnerable communities, encouraging nations to collaborate with the Joint United Nations Programme on HIV and AIDS (UNAIDS) to collect data on HIV occurrences among the Venezuelan population, adopt mechanisms to promote family unification, and develop regional cooperation mechanisms to strengthen the treatment of migrant children and adolescents.<sup>136</sup> This document also mentions for the first time the need to facilitate a voluntary return process for Venezuelans, while simultaneously urging nation states to conduct studies on the effectiveness of policies aimed to promote the education and labor integration of Venezuelans in the region.<sup>137</sup> With

<sup>132</sup> See *id.* at ¶ 2.

<sup>133</sup> PROCESO DE QUITO, DECLARACIÓN CONJUNTA DE LA III RENUIÓN TÉCNICA INTERNACIONAL SOBRE MOVILIDAD HUMANA DE CIUDADANOS VENEZOLANOS EN LA REGIÓN ¶¶ 8–9 (2019), [https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2020-11/Declaracio%CC%81n%20Quito%20III%20Venezolanos\\_9Abr2019.pdf](https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2020-11/Declaracio%CC%81n%20Quito%20III%20Venezolanos_9Abr2019.pdf) [https://perma.cc/9ABD-CFGR].

<sup>134</sup> Compare PROCESO DE QUITO, *supra* note 118, with PROCESO DE QUITO, DECLARACIÓN CONJUNTA DE LA IV REUNIÓN TÉCNICA INTERNACIONAL SOBRE MOVILIDAD HUMANA DE NACIONALES VENEZOLANOS (2019), [https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2021-09/quito\\_iv.pdf](https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2021-09/quito_iv.pdf) [https://perma.cc/D7PR-QEMY].

<sup>135</sup> See PROCESO DE QUITO, DECLARACIÓN CONJUNTA DE LA V REUNIÓN TÉCNICA INTERNACIONAL SOBRE MOVILIDAD HUMANA DE CIUDADANOS VENEZOLANOS EN LA REGIÓN ¶¶ 1–4, 7(a)–(c) (2019), <https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2020-11/Declaracio%CC%81n Quito VF 15-11-2019.pdf> [https://perma.cc/8757-XHHB].

<sup>136</sup> PROCESO DE QUITO, JOINT DECLARATION OF THE VI INTERNATIONAL TECHNICAL MEETING ON HUMAN MOBILITY OF VENEZUELAN CITIZENS IN THE REGION ¶¶ 6(a)–(c), 6(j) (2020), [https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2020-11/PPT CHILE DECLARACION DE SANTIAGO\\_ENGLISH.pdf](https://www.procesodequito.org/sites/g/files/tmzbd1466/files/2020-11/PPT CHILE DECLARACION DE SANTIAGO_ENGLISH.pdf) [https://perma.cc/7C69-5T6A].

<sup>137</sup> *Id.* ¶ 6(e)–(f).

the Dominican Republic joining as a member, Chapter Seven not only reiterates prior commitments but also addresses the urgent need for inclusive health practices, including, in the context of HIV and COVID-19, access to vaccinations.<sup>138</sup> While persisting on the importance of strategies that promote socioeconomic integration, the document also emphasizes the need to bring a gender lens to address the particular needs, including gender-based violence, directed at migrant girls, adolescents, and adult women.<sup>139</sup> The eighth chapter reiterates each of the commitments in the prior documents and expresses concern over the likely invisibility of Venezuelans forcibly displaced, despite their massive numbers and needs.<sup>140</sup> Altogether, the Quito Process has prioritized nine areas of focus to address the urgent needs of Venezuelan migrants and which require greater coordination and resources: (1) Asylum; (2) Guidance Centers; (3) COVID-19; (4) Education; (5) Socio-economic Integration; (6) Protection of Children and Adolescents; (7) Family Reunification; (8) Human Trafficking; and (9) HIV-AIDS.<sup>141</sup>

Throughout the Quito process, member states have reiterated their need for substantial technical and funding assistance to implement the vision of the Quito Declaration.<sup>142</sup> This type of assistance has been forthcoming, although certainly not at the necessary levels the situation requires. In April 2018, for example, the U.N. Secretary-General instructed IOM and UNHCR “to lead and coordinate the regional response to the situation of refugees and migrants from Venezuela.”<sup>143</sup> This directive led to the creation of the Inter-Agency Coordination Platform for Refugee and Migrants from Venezuela (R4V), which “has acted as an inclusive and accountable forum that steers and monitors the operational response[s]” of seventeen

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<sup>138</sup> PROCESO DE QUITO, JOINT DECLARATION OF THE VII INTERNATIONAL TECHNICAL MEETING ON HUMAN MOBILITY OF VENEZUELAN CITIZENS IN THE REGION ¶¶ 2, 5 (2021), <https://www.procesodequito.org/sites/g/files/tmzbdl466/files/2021-05/DECLARACION%20CONJUNTA%20DE%20LA%20VII%20REUNION%20CAP%20LIMA.%20ENGLISH.pdf> [https://perma.cc/A9WQ-RF6F].

<sup>139</sup> *Id.* at ¶ 8(o).

<sup>140</sup> PROCESO DE QUITO, JOINT STATEMENT OF THE VIII INTERNATIONAL TECHNICAL MEETING ON HUMAN MOBILITY OF VENEZUELAN CITIZENS IN THE REGION ¶ 1–3 (2022), <https://www.procesodequito.org/sites/g/files/tmzbdl466/files/2022-07/Declaraci%C3%B3n%20de%20Brasilia%20firmada%20en%20ingl%C3%A9s.pdf> [https://perma.cc/S3EB-2FV6].

<sup>141</sup> *Areas of Work*, PROCESO DE QUITO, <https://www.procesodequito.org/en/areas-work> [https://perma.cc/KL5X-W4Y3].

<sup>142</sup> See, e.g., PROCESO DE QUITO, *supra* note 138, ¶ 12.

<sup>143</sup> *Platform R4V*, INT'L ORG. MIGRATION: OFF. OF THE SPECIAL ENVOY FOR THE REG'L RESPONSE TO THE VENEZ. SITUATION, <https://respuestavenezolanos.iom.int/en/platform-r4v> [https://perma.cc/U2EN-RKJ7].

countries of Latin America and the Caribbean to Venezuelan migrants in the region under the Regional Migrant and Refugee Response Plan (RMRP).<sup>144</sup> R4V functions as an “intra-regional and field-driven strategic planning process” that builds “on continuous consultations with host governments, refugee- and migrant-led organizations and the donor community.”<sup>145</sup> R4V serves to “complement and support the leadership of host governments” by bringing together the “particular skills, expertise and resources” of multiple actors, including U.N. agencies, international and national Non-Governmental Organizations (NGOs), and civil society.<sup>146</sup> Since its adoption in 2019, “the RMRP has served to channel . . . 2.07 billion [dollars] to more than 200 . . . partners, to . . . impact the lives of refugees and migrants from Venezuela across the region, as well as affected host communities.”<sup>147</sup> R4V has helped secure donations from key partners, such as the European Union, and from individual nations, such as Canada, to support host nations of Venezuelan migrants in Latin America.<sup>148</sup> The largest donor by far toward these efforts has been the United States, which, since 2017, has provided more than \$2.8 billion to help address development, economic, health, and humanitarian needs resulting from the Venezuelan regional crisis.<sup>149</sup> Much of this money has been channeled through the R4V process with U.N. entities as implementers, largely to cover urgent humanitarian needs.<sup>150</sup> As well, a good portion has been allocated to the economic recovery of Latin American nations to promote the labor

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<sup>144</sup> R4V, RMRP 2023-2024: REGIONAL REFUGEE AND MIGRANT RESPONSE PLAN 16, 27 (Nov. 30, 2022), <https://www.r4v.info/en/rmrp2023-2024> [<https://perma.cc/4W5R-RVWD>] (translation by author).

<sup>145</sup> *Id.* at 16 (translation by author).

<sup>146</sup> *Id.* at 16–17 (translation by author).

<sup>147</sup> *Id.* at 26 (translation by author).

<sup>148</sup> See, e.g., Directorate-General for European Civ. Prot. & Humanitarian Aid Operations (ECHO), *Venezuelan Crisis: Commission Releases €75 million in Humanitarian Funding During the 2023 International Solidarity Conference*, EUR. COMM’N (Mar. 17, 2023), [https://civil-protection-humanitarian-aid.ec.europa.eu/news-stories/news/venezuelan-crisis-commission-releases-eu75-million-humanitarian-funding-during-2023-international-2023-03-17\\_en](https://civil-protection-humanitarian-aid.ec.europa.eu/news-stories/news/venezuelan-crisis-commission-releases-eu75-million-humanitarian-funding-during-2023-international-2023-03-17_en) [<https://perma.cc/W3M6-6VRW>] (announcing also Canada’s pledge of another 58.55 million Canadian dollars in addition to the aid provided by the European Commission).

<sup>149</sup> Compare *id.* (stating that the European Union allocated €400 million in aid for the Venezuelan migrant crisis since 2016 and Canada has contributed \$58.55 million CAD), with USAID, VENEZUELA REGIONAL CRISIS—COMPLEX EMERGENCY 2 (Mar. 17, 2023), [https://www.usaid.gov/sites/default/files/2023-03/2023-03-17\\_USG\\_Venezuela\\_Regional\\_Crisis\\_Fact\\_Sheet\\_2.pdf](https://www.usaid.gov/sites/default/files/2023-03/2023-03-17_USG_Venezuela_Regional_Crisis_Fact_Sheet_2.pdf) [<https://perma.cc/G3BV-7MCG>]

(showing the United States has contributed \$2.8 billion in donations for humanitarian aid since 2017).

<sup>150</sup> See USAID, *supra* note 149, at 2–5.

and social integration of Venezuelan immigrants in their territories.<sup>151</sup>

More recently, in June 2022, within the framework of the ninth Summit of the Americas in Los Angeles, the twenty countries that endorsed the Los Angeles Declaration on Migration and Protection committed to “strengthen national, regional, and hemispheric efforts to create the conditions for safe, orderly, humane, and regular migration,” as well as “strengthen [the necessary] frameworks for international protection and cooperation.”<sup>152</sup> Notably, this was the first time that the United States and Canada, alongside other Caribbean nations, which have been absent from the Cartagena Declaration or the Quito Process, have signed on to a declaration such as the Los Angeles Declaration.<sup>153</sup> Simultaneously, the White House released a Fact Sheet detailing some of its commitments and foreign partner deliverables that supported U.S. commitment behind the principles articulated in the Los Angeles Declaration.<sup>154</sup> Most relevant to the regional response to the Venezuelan Crisis, the Fact Sheet highlights Colombia’s achievement of having granted regularization through temporary protection to 1.2 million Venezuelans and its commitment to increase that number to 1.5 million by August 2022.<sup>155</sup> It also mentions Costa Rica’s and Ecuador’s plans to renew or create similar temporary protection plans for certain Venezuelans in their territories.<sup>156</sup> The Fact Sheet additionally mentions the United States’ and Canada’s commitments

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<sup>151</sup> See *id.* at 4 (noting \$93 million for “USAID/BHA funding in Colombia for economic recovery and livelihoods between FY 2019 and FY 2022”).

<sup>152</sup> *Los Angeles Declaration on Migration and Protection*, WHITE HOUSE (June 10, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/> [<https://perma.cc/U5YX-54SP>].

<sup>153</sup> Compare *Members*, *supra* note 109 (listing current member nations of the Quito Process), and *Summary Conclusions*, *supra* note 101, at 1 n.2 (listing original signatory nations of the Cartagena Declaration), with *Los Angeles Declaration on Migration and Protection*, *supra* note 152 (declaring signatory nations). Signatories that have been part of the Quito Process and/or the Cartagena Declaration include Argentina, Belize, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. *Members*, *supra* note 109; *Summary Conclusions*, *supra* note 101, at 1 n.2. Newcomers include Barbados, Canada, Haiti, Jamaica, and the United States. *Los Angeles Declaration on Migration and Protection*, *supra* note 152.

<sup>154</sup> See *Fact Sheet: The Los Angeles Declaration on Migration and Protection U.S. Government and Foreign Partner Deliverables*, WHITE HOUSE (June 10, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/fact-sheet-the-los-angeles-declaration-on-migration-and-protection-u-s-government-and-foreign-partner-deliverables/> [<https://perma.cc/9TEM-RMMJ>].

<sup>155</sup> See *id.*

<sup>156</sup> *Id.*

to provide funding to support the socio-economic integration and humanitarian aid for Venezuelan migrants in the region.<sup>157</sup>

Undoubtedly, all these coordinated efforts have translated into measurable gains for Venezuelan migrants and refugees. In R4V's most recent publication, Eduardo Stein concluded that “[t]he region is giving very important signs toward the inclusion of migrants and refugees from Venezuela” and mentions both the “regularization schemes” and “local integration” plans that have come about due to the “sustained engagement and work of all partners.”<sup>158</sup> Despite Stein’s optimism, the challenges are enormous. R4V projects that Venezuelans’ forced displacement in the region will grow and that integration challenges will likely mean that more Venezuelans will not stay in the region.<sup>159</sup> Among some of the most important challenges has been Venezuelan access to basic health and social services, which is not contemplated by law for most, except in the case of emergency services.<sup>160</sup> Almost all countries in Latin America and the Caribbean allowed Venezuelan children to enroll in school; still, many schools were already overburdened with little ability to absorb more school-aged children.<sup>161</sup> The investment from international donors to create migrant-specific programs to address social service needs has been enormously helpful, but coverage has been understandably patchy.<sup>162</sup> Indeed, one of the challenges with adequate coverage has been limited resources for refugee services that are competing not only with national priorities but also with shifting international priorities.<sup>163</sup> For example, the UNHCR has struggled to fundraise the money it needs to carry out the

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<sup>157</sup> *Id.* (with the U.S. announcing an additional \$25 million to help with implementation of regularization programs in the hemisphere and another \$314 million to support integration).

<sup>158</sup> R4V, *supra* note 144, at 7 (translation by author).

<sup>159</sup> *Id.* at 16.

<sup>160</sup> See *Venezuelan Humanitarian Crisis is Now a Regional Emergency, New Analysis Finds*, JOHN HOPKINS: BLOOMBERG SCH. PUB. HEALTH (Mar. 25, 2019), <https://publichealth.jhu.edu/0219/venezuelan-humanitarian-crisis-is-now-a-regional-emergency-new-analysis-finds> [https://perma.cc/6S59-GG2W].

<sup>161</sup> ANDREW SELEE & JESSICA BOLTER, MIGRATION POL’Y INST., AN UNEVEN WELCOME: LATIN AMERICAN AND CARIBBEAN RESPONSES TO VENEZUELAN AND NICARAGUAN MIGRATION 2, 32 (2020).

<sup>162</sup> See *id.* at 56. South America also has a variety of donor-driven food and medical programs, local government initiatives in areas with large migrant populations, non-governmental organizations and national governments, all trying to support the needs of migrants on too small a scale. See R4V, *supra* note 144, at 16–17, 53, 56; Acosta et al., *supra* note 119, at 23.

<sup>163</sup> See UNHCR’s *Unprecedented US\$700m Funding Gap Spells Catastrophe for Millions*, UNHCR (Oct. 25, 2022), <https://www.unrefugees.org/news/unhcr-s-unprecedented-us-700m-funding-gap-spells-catastrophe-for-millions> [https://perma.cc/LC9A-GT7H].

humanitarian aid in the region.<sup>164</sup> As of March 2023, it had only fundraised 7% of the \$392.01 million requested for the Venezuelan situation.<sup>165</sup>

Similarly, many of the host nations of Venezuelan migrants and refugees in the region simply lacked institutional preparedness to accommodate so many Venezuelans so quickly, even with good laws and good intentions.<sup>166</sup> The regularization procedures in place in many of these countries turned out to be poorly adapted to mass migration.<sup>167</sup> Asylum figures, for example, are extremely low for Venezuelans.<sup>168</sup> Only 55,000 Venezuelans received asylum in South America's top six host nations, where more than 600,000 asylum claims are still pending.<sup>169</sup> Regularization for Venezuelan migrants in South America has turned out to be a patchwork of different qualification regulations and bureaucratic procedures that have worked slowly and for very few.<sup>170</sup> Special regularization processes are currently the dominant way in which Venezuelans get the national identification documents necessary to have the right to live, ensure decent housing, and work in the formal sector in South American countries.<sup>171</sup> Year after year, as these processes became overburdened, more Venezuelans lived in South America in an irregular situation, highly concentrated in precarious and informal jobs.<sup>172</sup> Many national permit processes had selective eligibility requirements and short deadlines, requiring frequent renewals.<sup>173</sup>

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<sup>164</sup> See, e.g., Dany Bahar & Meagan Dooley, *Venezuela Refugee Crisis to Become the Largest and Most Underfunded in Modern History*, BROOKINGS (Dec. 9, 2019), <https://www.brookings.edu/articles/venezuela-refugee-crisis-to-become-the-largest-and-most-underfunded-in-modern-history/> [https://perma.cc/8QF9-3MEU]; VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1.

<sup>165</sup> VENEZUELA SITUATION: FACT SHEET, *supra* note 4, at 1.

<sup>166</sup> See *Over 4 Million Venezuelan Refugees and Migrants Struggle to Meet Basic Needs Across the Americas*, UNHCR (Sept. 12, 2023), <https://www.unhcr.org/news/press-releases/over-4-million-venezuelan-refugees-and-migrants-struggle-meet-basic-needs> [https://perma.cc/FQ8P-LE4V].

<sup>167</sup> See *id.*

<sup>168</sup> See *Number of Asylum and Refugee Status Applications from Venezuelan Citizens in Selected Countries in Latin America and the Caribbean in 2021*, STATISTA (July 21, 2023), <https://www.statista.com/statistics/991931/latin-american-countries-asylum-refugee-status-venezuelans/> [https://perma.cc/99U2-BGBU].

<sup>169</sup> See *id.*; see also *Leading Countries of Destination of Venezuelan Emigrants in 2020*, STATISTA (Nov. 15, 2023), <https://www.statista.com/statistics/824384/leading-countries-destination-venezuelan-migrants/> [https://perma.cc/G2ZD-MS33].

<sup>170</sup> See CAREF & CELS, LABERINTOS DE PAPEL: DESIGUALDAD Y REGULARIZACIÓN MIGRATORIA EN AMÉRICA DEL SUR 43 (Oct. 21, 2020), [https://www.cels.org.ar/web/wp-content/uploads/2020/10/CELS\\_Migrantes\\_digital\\_Final-1.pdf](https://www.cels.org.ar/web/wp-content/uploads/2020/10/CELS_Migrantes_digital_Final-1.pdf) [https://perma.cc/QE6X-QG7Q].

<sup>171</sup> See *id.* at 11–12.

<sup>172</sup> See *id.* at 27.

<sup>173</sup> *Id.* at 51.

Many Venezuelan migrants did not have the knowledge, time, or even the qualifying documents to apply.<sup>174</sup> In fact, by the end of 2018, three of the top six South-American-receiving countries were backtracking on inclusion policies for Venezuelan migrants.<sup>175</sup> By all accounts, restrictions in these countries led to more Venezuelans crossing irregularly at more dangerous unofficial borders to avoid being turned away, making more migration in the region “irregular.”<sup>176</sup> We take up the ongoing challenges of Venezuelan integration in the region in Part IV of this paper by considering both the gains and challenges of Venezuelan social and economic integration by relying on Colombia as a case study.

#### IV. COLOMBIA EM/BRACES [FOR] MILLIONS OF VENEZUELAN

The influx of millions of Venezuelans into Colombian territory descended just as Colombians signed a historic peace agreement in 2016 to end more than fifty years of violent civil conflict.<sup>177</sup> Venezuelans began to flee to Colombia at least since 2000, with the election of Hugo Chavez as president.<sup>178</sup> The relatively small migration of mostly political dissidents, businesspeople, and professionals escalated rapidly, especially since 2014 when the economic crisis deeply impacted Venezuela.<sup>179</sup> With this most recent wave of migration, Colombia began to experience a phenomenon never experienced before in its history: the immigration of millions of people in need of international protection, humanitarian attention, housing, healthcare, and food.<sup>180</sup> As a reminder, in less than a decade, with 2.5 million Venezuelans in its territory, Colombia has

<sup>174</sup> See *id.* at 51–52.

<sup>175</sup> See *id.* at 13, 53–55, 71–72.

<sup>176</sup> See Acosta et al., *supra* note 119, at 24; INT'L CRISIS GRP., HARD TIMES IN A SAFE HAVEN: PROTECTING VENEZUELAN MIGRANTS IN COLOMBIA 5 (Aug. 9, 2022), [https://icg-prod.s3.amazonaws.com/094-protecting-venezuelans-in-colombia\\_0.pdf](https://icg-prod.s3.amazonaws.com/094-protecting-venezuelans-in-colombia_0.pdf) [<https://perma.cc/RBR8-JMU9>].

<sup>177</sup> See Claire Klobucista & Danielle Renwick, *Colombia's Civil Conflict*, COUNCIL ON FOREIGN RELS. (Jan. 11, 2017, 7:00 AM), <https://www.cfr.org/backgrounder/colombias-civil-conflict> [<https://perma.cc/PME8-44F3>]; *En Cinco Olas, Así ha Sido la Histórica Migración de Venezolanos*, SEMANA (Feb. 10, 2018), <https://www.semana.com/nacion/articulo/crisis-en-venezuela-migracion-historica-de-venezolanos-a-colombia/556758/> [<https://perma.cc/2WXT-2C8T>].

<sup>178</sup> *En Cinco Olas, Así ha Sido la Histórica Migración de Venezolanos*, *supra* note 177.

<sup>179</sup> *Id.* Between 2014 and 2019, Venezuelan migration grew from around 100,000 to 2.1 million. See JUAN DANIEL OVIEDO ARANGO, *PERFIL DEMOGRÁFICO, LABORAL, Y EDUCATIVO DE LA MIGRACIÓN VENEZOLANA, 2014-2021: UN PANORAMA USANDO LA GRAN ENCUESTA INTEGRADA DE HOGARES* 13 (Dec. 17, 2021), <https://www.dane.gov.co/files/investigaciones/notas-estadisticas/dic-2021-nota-estadistica-perfil-demografico-laboral-poblacion-venezolana-en-colombia-2014-2021-presentacion.pdf> [<https://perma.cc/SJF5-KEL3>].

<sup>180</sup> See *En Cinco Olas, Así ha Sido la Histórica Migración de Venezolanos*, *supra* note 177.

been transformed from a nation of few immigrants to third place in the world for hosting the most refugees in September 2023.<sup>181</sup>

A few studies have attempted to capture the shifting demographics and needs of Venezuelan migrants in this most recent wave, including those fleeing to Colombia. ENCOVI's data shows, for example, that since 2017, Venezuelan forced migration has increasingly become older and male.<sup>182</sup> And while they show a diverse range of educational attainment and socioeconomic status, over time, they are migrating with less formal education.<sup>183</sup> A 2022 study of Venezuelans in Colombia similarly found that a slightly higher percentage (50.4%) were male and many were older (fewer than a third below the age of twenty-five) than in past waves, with a higher percentage of women (9.4% compared to 7.9%) being fifty-five or older.<sup>184</sup> Additionally, the majority, (over 52%) had only a high school education, with 10.3% of women and 6.2% of men having completed college or graduate studies.<sup>185</sup> That majority, male or female, travel as a family unit, although females do so at a higher rate than males, 76.7% to 60% respectively.<sup>186</sup> In terms of the reasons for flight, both ENCOVI and DANE find that many forced migrants cite multiple factors,<sup>187</sup> although Venezuelans overwhelmingly

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<sup>181</sup> See SEBASTIÁN BITAR, UNDP, MIGRATION IN COLOMBIA AND PUBLIC POLICY RESPONSES 3, 7 (2022); *Welcome to UNHCR's Refugee Population Statistics Database*, UNHCR, <https://www.unhcr.org/refugee-statistics/> [https://perma.cc/4RLM-NKUC] (Oct. 24, 2023). As of September 2023, Turkey, which hosts 3.6 million refugees, holds the number one position in this rank, while the Islamic Republic of Iran holds the number two position, with 3.4 million refugees. *Welcome to UNHCR's Refugee Population Statistics Database*, *supra*. Germany follows Colombia closely at 2.1 million refugees. *Id.*

<sup>182</sup> In 2017, for example, the data shows 95 to every 100 females but 126 and 116 males to 100 females in 2021 and 2022, respectively. CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022, *supra* note 60, at 26. As well, from 2017 to 2021, the majority of migrants were between the ages of fifteen to twenty-nine (ranging from 57% to 48% of the total); however, in 2022, they were overtaken 44% to 42% by persons aged thirty to forty-nine. *Id.* In fact, this older group went up steadily from 29% in 2017, with only a slight decrease in 2021 from 41% in 2020 to 38%. *Id.*

<sup>183</sup> For example, in 2017, 8% of Venezuelan migrants only had a primary education or lower; by 2022, that number was 21%. *Id.* at 28. Economic attainment has remained diverse over time. *See id.* Around a third of Venezuelan migrants since 2017 are the richest Venezuelans (30 to 35%); however, between 28% and 31% also come from the poorest sectors of Venezuelan society. *Id.* The highest proportion of the poorest sector (around 15%) migrated from 2019 to 2020; that number dropped to 9% in 2022. *Id.*

<sup>184</sup> DANE, POBLACIÓN MIGRANTE VENEZOLANA EN COLOMBIA, UN PANORAMA CON ENFOQUE DE GÉNERO 10 (2d ed., 2022), [https://www.dane.gov.co/files/investigaciones/notas-estadisticas/ago-Nota\\_Estadistica\\_Poblacion\\_Migrante\\_SegundaEdicion.pdf](https://www.dane.gov.co/files/investigaciones/notas-estadisticas/ago-Nota_Estadistica_Poblacion_Migrante_SegundaEdicion.pdf) [https://perma.cc/8TFP-9UJS] (data based on 2021 figures of around 2.2 million Venezuelans in Colombia).

<sup>185</sup> *Id.* at 11.

<sup>186</sup> *Id.*

<sup>187</sup> These factors include economic reasons, insecurity, family unification, political reasons, health, COVID, and work or study opportunities. CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2021, *supra* note 53, at 33; DANE, *supra* note 184, at 12.

include economic reasons as a factor.<sup>188</sup> For Venezuelans in Colombia, the second highest reason cited is insecurity, and that figure is higher for men as compared to women, 23% to 16.1% respectively.<sup>189</sup> Health grounds represent the fourth most common reason for leaving cited by women, but only the fifth most common reason for men (9.9% cited by women; 5.8% cited by men).<sup>190</sup> Venezuelans in Colombia are dispersed throughout the territory, although nearly a quarter of the 2.4 million have settled in the capital of Bogotá.<sup>191</sup>

As is explained in this section, when Venezuelans arrived, Colombia already had a comprehensive system of legal norms that would have made most Venezuelans eligible for refugee protections on the one hand.<sup>192</sup> On the other hand, the country lacked the institutional infrastructure and capacity to implement any of these norms in any meaningful way.<sup>193</sup> As well, the scope and scale of Venezuelan migration flowing into Colombia overwhelmed the nation and caused, almost immediately, a social uproar of increased xenophobia.<sup>194</sup> Venezuelans were blamed for increased crime, negative impacts on Colombian workers, and the spread of COVID-19.<sup>195</sup> Moreover, given Colombia's monumental task of post-conflict nation-building, including addressing its own, among the world's largest internally displaced population,<sup>196</sup> one might have expected a much more restrictive stance<sup>197</sup> rather than the relatively open

<sup>188</sup> For ENCOVI in 2022, the figure is 75%. CONDICIONES DE VIDA DE LOS VENEZOLANOS: ENCOVI 2022, *supra* note 60, at 27. For DANE, that figure is 91.7% for men and 91.1% for women who flee to Colombia. DANE, *supra* note 184, at 12.

<sup>189</sup> DANE, *supra* note 184, at 12. With some variation among them, women and men coincide in the most common types of violence they experienced in Venezuela: theft or robbery as number one (36% men; 44% women); extortion as number two (40.1% men; 34.7% women); and abuse of power by Venezuelan public officials as number three (24.8% men; 16.8% women). *Id.* at 16. Women tend to experience physical violence at higher rates than men, at 10.8% as compared to 8.5%. *Id.*

<sup>190</sup> *Id.* at 12.

<sup>191</sup> Press Release, DANE, Encuesta Pulso de Migración (Apr. 12, 2022) <https://www.dane.gov.co/files/investigaciones/boletines/pulso-migracion/comunicado-pulso-migracion-ene22-feb22.pdf> [<https://perma.cc/K7FJ-HTTL>].

<sup>192</sup> See *infra* Part IV.A.

<sup>193</sup> See *infra* Part IV.B.

<sup>194</sup> See John Otis, *Large Venezuelan Migration Sparks Xenophobic Backlash in Colombia*, NPR (Dec. 29, 2020, 10:02 AM), <https://www.npr.org/2020/12/29/949548865/large-venezuelan-migration-sparks-xenophobic-backlash-in-colombia> [<https://perma.cc/ML5N-VXNL>].

<sup>195</sup> See *id.*

<sup>196</sup> See *The Last Refuge: Urban Displacement in Colombia*, INTERNAL DISPLACEMENT MONITORING CTR., <https://story.internal-displacement.org/colombia-urban/index.html> [<https://perma.cc/R6FE-36HG>] ("Colombia is, after Syria, the country with the highest number of internally displaced people . . . in the world: 5.6 million.").

<sup>197</sup> See Jhoandry Suárez, *Es cuestionable afirmación de Duque de que las Fronteras con Venezuela ya Están Abiertas*, COLOM. CHECK (June 30, 2022),

welcome that Venezuelans have received in Colombia. Commentators have offered varied reasons for Colombia's open reception of Venezuelans,<sup>198</sup> including not only Colombia's animosity toward President Maduro<sup>199</sup> and sympathy for Venezuelans' plight<sup>200</sup> but also encouragement (arguably pressure) from the international community to keep Venezuelan migration in the region.<sup>201</sup> Also, at a time when Colombia was seeking to grow its economy and strengthen its democracy, several economic studies argued and convinced policymakers that the labor integration of Venezuelans would ultimately help the Colombian economy.<sup>202</sup> In reality, Colombia has

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<https://colombiacheck.com/chequeos/es-cuestionable-afirmacion-de-duque-de-que-las-fronteras-con-venezuela-ya-estan-abiertas> [https://perma.cc/25QM-T2WQ]. The border with Venezuela remained mostly closed during the presidency of Mr. Ivan Duque (2018-2022) with some exceptions for pedestrians. *See id.* This allowed hundreds of thousands of Venezuelan pedestrians to cross into Colombian territory. *See id.*; *see also* Dylan Baddour, *Colombia's Radical Plan to Welcome Millions of Venezuelan Migrants*, ATLANTIC (Jan. 30, 2019), <https://www.theatlantic.com/international/archive/2019/01/colombia-welcomes-millions-venezuelans-maduro-guaido/581647/> [https://perma.cc/4MCV-YBTZ].

<sup>198</sup> *See, e.g.*, Marco Arena, Emilio Fernandez Corugedo, Jaime Guajardo & Juan Francisco Ypez, *Venezuela's Migrants Bring Economic Opportunity to Latin America*, INT'L MONETARY FUND (Dec. 7, 2022), <https://www.imf.org/en/News/Articles/2022/12/06/cf-venezuelas-migrants-bring-economic-opportunity-to-latin-america> [https://perma.cc/YYJ3-KP8Z] (describing how Colombia benefits economically from the migration of Venezuelans); Vanessa Buschschlütter, *We Gave Venezuelan Migrants a Licence to Dream*, BBC NEWS (May 17, 2021), <https://www.bbc.com/news/world-latin-america-57070813> [https://perma.cc/AUB5-37GL] (reporting that "Venezuelans will contribute to Colombia's productivity rather than be a burden").

<sup>199</sup> *See* Wes Tomaselli, *Ivan Duque is Colombia's Youngest President-Elect Ever. Now He Has to Fix the Divided Country*, TIME MAG. (July 19, 2018, 6:25 AM), <https://time.com/5342766/ivan-duque-colombia/> [https://perma.cc/J33D-Y54N]. President Ivan Duque, who hailed from the right in Colombia, used his anti-communism stance to support Venezuelans, while simultaneously pushing policies within Colombia aimed to distinguish Colombia from the Venezuelan path. *See id.*

<sup>200</sup> *See, e.g.*, Janetsky, *supra* note 8.

<sup>201</sup> *See* Press Release, UNHCR & IOM, UNHCR and IOM Welcome Colombia's Decision to Regularize Venezuelan Refugees and Migrants (Feb. 8, 2021), <https://www.unhcr.org/news/unhcr-and-iom-welcome-colombias-decision-regularize-venezuelan-refugees-and-migrants> [https://perma.cc/JW9E-BE8J]. One of the most recent agreements between Colombia and the United States related to integration opportunities in Colombia for Venezuelan migrants while creating remote mechanisms to apply for a legal stay in the United States as a way to reduce Venezuelan migration flows to the United States. *See* Press Release, Cancillería (Colom.), Declaración Trilateral Conjunta de Colombia, Estados Unidos y Panamá (Apr. 11, 2023), <https://www.cancilleria.gov.co/newsroom/news/declaracion-trilateral-conjunta-colombia-estados-unidos-paisana> [https://perma.cc/E2VW-XNZ3]; *see also* Press Release, U.S. Dep't of State, Off. of the Spokesperson, U.S.-Colombia Joint Commitment to Address the Hemispheric Challenge of Irregular Migration (June 4, 2023), <https://www.state.gov/u-s-colombia-joint-commitment-to-address-the-hemispheric-challenge-of-irregular-migration/> [https://perma.cc/9V3P-7QEG].

<sup>202</sup> *See* Arena et al., *supra* note 198; *see also* Andrew Selee & Jessica Bolter, *Could Venezuela's Loss Be Latin America's Gain?*, FOREIGN POL'Y MAG. (Feb. 7, 2020, 6:48 AM), <https://foreignpolicy.com/2020/02/07/could-venezuelas-loss-be-latin-americas-gain/> [https://perma.cc/683Z-BEXG] (describing how Colombia's economy could be bolstered by

not been able to exercise control over its border with Venezuela.<sup>203</sup> This vast area extends for more than 2,219 kilometers and includes deserts, mountains, and jungles that have served historically for smuggling of goods and assets, transportation of drugs, retreat areas for illegal armed groups, and human trafficking linked to the Venezuelan migration.<sup>204</sup> In this context, an open-door policy for Venezuelan migrants could be characterized as a practical resignation rather than a voluntary choice. Regardless of the motivation, Colombia today stands as an example, even a beacon of hope, for how to treat refugees and forcibly displaced migrants.<sup>205</sup> While few Venezuelans (approximately 1,200) have been granted permanent refugee status,<sup>206</sup> Colombia has granted temporary regularization permits to approximately one million Venezuelans for ten years with the option for permanent stay.<sup>207</sup> This section of the paper explains how this program is working in Colombia and whether it has promoted the social-economic integration of Venezuelans, and what impact it has had on the Colombian economy.

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Venezuelan migration but not without international help); Carlos Felipe Jaramillo, *Un Future de Oportunidades para Colombia y sus Migrantes*, BANCO MUNDIAL: BLOGS (Nov. 24, 2021), <https://blogs.worldbank.org/es/latinamerica/un-futuro-de-oportunidades-para-colombia-y-sus-migrantes> [<https://perma.cc/BK2N-D3FX>].

<sup>203</sup> See INT'L CRISIS GRP., DISORDER ON THE BORDER: KEEPING THE PEACE BETWEEN COLOMBIA AND VENEZUELA: LATIN AMERICA REPORT N°84, at 1 (2020), <https://icg-prod.s3.amazonaws.com/084-disorder-on-the%20border.pdf> [<https://perma.cc/M84T-227Q>].

<sup>204</sup> See *id.* at 1, 6.

<sup>205</sup> See John Otis, 'A Huge Opportunity': Venezuelan Migrants Welcome Colombia's New Open-Door Policy, NPR (Feb. 26, 2021, 4:15 PM), <https://www.npr.org/2021/02/26/971776007/a-huge-opportunity-venezuelan-migrants-welcome-colombias-new-open-door-policy> [<https://perma.cc/TE97-JCUE>] (describing how Colombia's open-door policy "has won praise from the Biden Administration[...] . . . Pope Francis," and the U.N. Refugee Agency).

<sup>206</sup> See Paula Rossiasco & Patricia de Narváez, *Adapting Public Policies in Response to an Unprecedented Influx of Refugees and Migrants: Colombia Case Study of Migration from Venezuela*, WORLD BANK GRP., Apr. 2023, at 2, <https://thedocs.worldbank.org/en/doc/7277e925bdcaa64d6355c42c897721299-0050062023/original/WDR-Colombia-Case-Study-FORMATTED.pdf> [<https://perma.cc/A9US-MH5P>] (reporting that Colombia has recognized only 1,224 Venezuelans as permanent refugees as of 2022); see also Política Integral Migratoria (PIM) del Estado Colombiano, UNITED NATIONS NETWORK ON MIGRATION, <https://migrationnetwork.un.org/es/practice/politica-integral-migratoria-pim-del-estado-colombiano#> [<https://perma.cc/WSB8-TBZA>].

<sup>207</sup> Rachel Treisman, *Colombia Offers Temporary Legal Status to Nearly 1 Million Venezuelan Migrants*, NPR (Feb. 9, 2021, 1:11 PM), <https://www.npr.org/2021/02/09/965853031/colombia-offers-temporary-legal-status-to-nearly-1-million-venezuelan-migrants> [<https://perma.cc/XB7H-3QNV>]; see also Venezuelan Refugee Status Statistics, R4V, <https://www.r4v.info/es/solicitudes-refugiados> [<https://perma.cc/89MY-3U93>].

### A. Colombia's Immigration Legal Regime

Colombia never had a strong history of immigration beyond its conquest and colonial past with the Spanish Crown (1499-1822).<sup>208</sup> In recent times, Colombia's state of permanent internal conflict since the 1950s meant that Colombia was not a host country for migrant communities, much less for people in need of international protection.<sup>209</sup> On the contrary, hundreds of thousands of Colombians affected by Colombia's armed conflict and economic and social crises settled abroad, especially in neighboring countries such as Venezuela, Ecuador, and Panama.<sup>210</sup> Another enormous number of people migrated to the United States and Europe.<sup>211</sup>

Despite this, Colombia has a refined legal system that contemplates the use of international tools and standards to afford protections to refugees. Colombia has actively taken part in the development of international protections on refugees at the regional and global levels since the beginning of the 20th century. In 1928, Colombia signed and adopted the Havana Convention on the Right of Asylum,<sup>212</sup> which set up the rules for granting the right to asylum.<sup>213</sup> Subsequently, in 1933 and 1936 respectively, Colombia signed and ratified the Montevideo Convention on Political Asylum.<sup>214</sup> At the global level, the consequences of World War II marked a milestone in the development of international instruments on the protection of

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<sup>208</sup> See Dayra Carvajal, *As Colombia Emerges from Decades of War, Migration Challenges Mount*, MIGRATION POL'Y INST. (Apr. 13, 2017), <https://www.migrationpolicy.org/article/colombia-emerges-decades-war-migration-challenges-mount> [https://perma.cc/J3GC-GPFV].

<sup>209</sup> See *id.*

<sup>210</sup> See *Colombian Refugees: No Solutions in Sight*, U.S. CONF. OF CATH. BISHOPS, <https://www.usccb.org/issues-and-action/human-life-and-dignity/migrants-refugees-and-travelers/columbianrefugees> [https://perma.cc/VS4A-84D2]. As for 2022, Venezuela hosted 30,226 refugees and asylum seekers, Ecuador 61,124 and Panama 2,486. See *Refugee Data Finder*, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=U6h8Ra> [https://perma.cc/YDX4-DRT2]; *Refugee Data Finder*, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=sw8EKS> [https://perma.cc/X5F3-G374]; *Refugee Data Finder*, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=8bEOcf> [https://perma.cc/P7U5-8RB5].

<sup>211</sup> As for 2022, the United States hosted 71,803 and Europe 52,983 Colombians. See *Refugee Data Finder*, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=0u0Dbh> [https://perma.cc/8AMC-2FU2]; *Refugee Data Finder*, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=5n4BAQ> [https://perma.cc/UCD9-ATFT]; see also Carvajal, *supra* note 208.

<sup>212</sup> Convention on Asylum, Feb. 20, 1928, 132 L.N.T.S. 323.

<sup>213</sup> See *id.* at 325.

<sup>214</sup> Organization of American States, Convention on Political Asylum, Dec. 26, 1933, O.A.S.T.S. No. 34, [https://www.oas.org/en/sla/dil/inter\\_american\\_treaties\\_A-37\\_political\\_asylum.asp](https://www.oas.org/en/sla/dil/inter_american_treaties_A-37_political_asylum.asp) [https://perma.cc/Q3XQ-SXCV].

populations affected by armed conflict.<sup>215</sup> Thus, in 1951, the United Nations adopted the Convention Relating to the Status of Refugees,<sup>216</sup> supplemented by the Protocol of 1967,<sup>217</sup> which broadened its scope by removing the Convention's temporal and geographic restrictions and turned it into the most important instrument worldwide on international protection.<sup>218</sup> Colombia signed and ratified these instruments between 1951 and 1980.<sup>219</sup>

Post-World War II, Latin America, with Colombia's participation, continued to develop regional instruments for international protection within the framework of the Inter-American Human Rights System. In 1954, in Caracas, Venezuela, the Convention on Territorial Asylum<sup>220</sup> was developed and then signed by Colombia.<sup>221</sup> Also at Caracas in 1954, the Convention on Diplomatic Asylum was adopted.<sup>222</sup> Under this Convention, States undertook to protect refugees and politically persecuted persons when present in legations, warships, military camps or planes, or diplomatic residences, among others.<sup>223</sup> All these regional normative developments were never contradictory to the 1951 Convention since they were based on the recognition of the existence of conditions in which people needed to be protected in foreign territory.<sup>224</sup> What differed was the impetus for their adoption. The 1951 Convention was the result of a post-war situation and, therefore, based its existence on the lack of protection generated by international armed

<sup>215</sup> See *The 1967 Protocol: Factsheet*, UNSW KALDOR CTR. FOR INT'L REFUGEE L., [https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-factsheet/2023-09-Factsheet\\_1967\\_Protocol\\_Jun2023\\_1.pdf](https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-factsheet/2023-09-Factsheet_1967_Protocol_Jun2023_1.pdf) [https://perma.cc/CV3F-DL58] (June, 2023).

<sup>216</sup> Convention Relating to the Status of Refugees, *supra* note 85.

<sup>217</sup> Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

<sup>218</sup> See UNHCR, THE 1951 CONVENTION RELATING TO THE STATUS OF REFUGEES AND ITS 1967 PROTOCOL 1, 4 (2011).

<sup>219</sup> See *Status of Treaties: Convention Relating to the Status of Refugees*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/pages/ViewDetailsII.aspx?src=IND&mtdsg\\_no=V-2&chapter=5&Temp=mtdsg2&clang=\\_en](https://treaties.un.org/pages/ViewDetailsII.aspx?src=IND&mtdsg_no=V-2&chapter=5&Temp=mtdsg2&clang=_en) [https://perma.cc/G5SG-P5XX] (listing Colombia as a country who acceded to the 1951 Convention); *Status of Treaties: Protocol Relating to the Status of Refugees*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=V-5&chapter=5](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=V-5&chapter=5) [https://perma.cc/244S-5NPX] (listing Colombia as a country who acceded to the 1967 Protocol).

<sup>220</sup> Organization of American States, Convention on Territorial Asylum, Mar. 28, 1954, O.A.S.T.S. No. 19, <https://www.oas.org/juridico/english/treaties/a-47.html> [https://perma.cc/27RN-47KK].

<sup>221</sup> *Id.*

<sup>222</sup> Organization of American States, Convention on Diplomatic Asylum, Mar. 28, 1954, O.A.S.T.S. No. 18, [https://www.oas.org/en/sla/dil/inter\\_american\\_treaties\\_A-46\\_diplomatic\\_asylum.asp](https://www.oas.org/en/sla/dil/inter_american_treaties_A-46_diplomatic_asylum.asp) [https://perma.cc/AWN3-XMK8].

<sup>223</sup> See *id.* art. I.

<sup>224</sup> See Handbook, *supra* note 35, ¶¶ 20–21, at 15, ¶¶ 88, 90, at 25; Convention on Territorial Asylum, *supra* note 220, art. II; Convention on Diplomatic Asylum, *supra* note 222, art. I.

conflicts.<sup>225</sup> The regional instruments in Latin America arose, instead, from the need to protect people from authoritarian regimes that used state force, including criminal laws, to politically persecute opponents.<sup>226</sup>

Between 1960 and 1980, Latin America experienced a period of social upheaval led by revolutionary groups inspired by the socialist and communist ideas of the Soviet Union (Marxism and Leninism) or by the communist regime of Mao Tse-tung in China (Maoism).<sup>227</sup> Guerrilla movements in El Salvador, Guatemala, and Nicaragua in Central America and guerrillas in Argentina, Bolivia, Chile, Peru, Uruguay, and Colombia unleashed wars against the State throughout this period.<sup>228</sup> At the same time, social movements made up of workers, students, artists, and political leaders continued to suffer political persecution and were systematically associated with armed groups and subjected to military actions and serious human rights violations, including forced internal displacement and exile.<sup>229</sup> Thus, in 1984, ten Latin American states, including Colombia,<sup>230</sup> met in Cartagena and drafted the Cartagena Declaration, which, in addition to taking into account the elements of the 1951 Convention and the 1967 Protocol, also treated as refugees those “persons who have fled their country because their lives, safety or freedom have

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<sup>225</sup> See UNHCR, *supra* note 218, at 1.

<sup>226</sup> See The Institution of Asylum and Its Recognition as a Human Right in the Inter-American Protection System (Interpretation and Scope of Articles 5, 22(7) and 22(8), in Relation to Article 1(1) of the American Convention on Human Rights), Advisory Opinion OC-25/18, Inter-Am. Ct. H.R. (ser. A) No. 25, ¶¶ 79–80 (May 30, 2018).

<sup>227</sup> See David S. Palmer & Thomas A. Marks, *Guerrilla Insurgencies in Latin America*, OXFORD BIBLIOGRAPHIES: POL. STUD., <https://www.oxfordbibliographies.com/display/document/obo-9780199756223/obo-9780199756223-0026.xml> [https://web.archive.org/web/20231231080551/https://www.oxfordbibliographies.com/display/document/obo-9780199756223/obo-9780199756223-0026.xml] (Nov. 29, 2011); Matthew D. Rothwell, *The Chinese Revolution and Latin America: The Impact of Global Communist Networks on Latin American Social Movements and Guerrilla Groups*, WORLD HIST. CONNECTED (2010), <https://worldhistoryconnected.press.uillinois.edu/7.3/rothwell.html> [https://perma.cc/3Q2V-WQ6L].

<sup>228</sup> *Id.*

<sup>229</sup> See MICHAEL REED-HURTADO, UNHCR, THE CARTAGENA DECLARATION ON REFUGEES AND THE PROTECTION OF PEOPLE FLEEING ARMED CONFLICT AND OTHER SITUATIONS OF VIOLENCE IN LATIN AMERICA 6–7 (2013).

<sup>230</sup> Guatemala, Belize, Honduras, El Salvador, Nicaragua and Costa Rica from Central America and Mexico, Panama, Colombia and Venezuela from the Contadora Group. See Cartagena Declaration on Refugees, AMERA Int'l, <https://amerainternational.org/cartagena-declaration-on-refugees/#:~:text=The%20Declaration%20was%20signed%20by,state%20practices%20of%2014%20countries>. [https://perma.cc/BWY9-4679]; Esther Wilson, *The U.S. and the Contadora Effort for Central American Peace*, HERITAGE FOUND. (Aug. 6, 1984), <https://www.heritage.org/americas/report/the-us-and-the-contadora-effort-central-american-peace> [https://perma.cc/AT2R-6N9Y].

been threatened by generalized violence, foreign aggression, internal conflicts, massive violation[s] of human rights or other circumstances which have seriously disturbed public order.”<sup>231</sup>

In addition to the international legal standards applicable to Colombia, the design of the Colombian migration regulatory system includes a variety of legal dispositions related to the international protection of refugees. The Colombian government included in a single law (Decree 1067 of 2015), within the framework of foreign affairs, all matters of consular and migration management, as well as the international refugee protection system.<sup>232</sup> For persons in need of international protection, the Colombian legal system also has legal provisions and procedures for them to apply for refugee status in Colombia.<sup>233</sup> In accordance with its international obligations, Colombia has a broad definition of who is considered a refugee.<sup>234</sup> In this regard, Colombian law adopted the identical definition contained in the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol; it has also broadened the concept by including, also in identical form, the definition of the Cartagena Declaration (1984),<sup>235</sup> stating that a refugee is anybody:

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<sup>231</sup> Cartagena Declaration on Refugees, *supra* note 33, art. III(3).

<sup>232</sup> See L. 1067, mayo 26, 2015, DIARIO OFICIAL [D.O.] No. 49.523 (Colom.) art. II. Decree 6045 of 2017 developed the procedure and the particular rules for visas contained in the Decree 1067 of 2015. See L. 6045, agosto 2, 2017, DIARIO OFICIAL [D.O.] No. 50.313 (Colom.) arts. 4, 11, 42, 90, 91, 92. Under current regulations, there are three types of visas in Colombia: i) type V (visitor), ii) type M (migrant), and iii) type R (resident). *Id.* art. 7. Depending on the type of visa, the person may remain in the territory for a certain period, engage in certain activities, and apply for other visas, or for naturalization processes. *See id.* arts. 10, 16, 66. In that sense, the type V visa is requested for all those persons who are nationals of countries that are not exempted from the visa requirement to enter Colombia for transit, tourism, leisure, or medical and cultural activities and that, in general, do not have a vocation of permanence. *See id.* arts. 10, 15. This visa is valid for thirty days to one year. *Id.* art. 12. Type M visas are granted to those who wish to settle in Colombia for extended periods of time but do not meet the requirements for permanent residence. *Id.* art. 16. Among these are persons recognized as refugees, foreign workers, investors, spouses of Colombian nationals, parents of Colombians by adoption, or students. *Id.* art. 17. The validity of this visa is 3 years. *Id.* art. 18. Finally, the R type visa is granted to those persons who want to settle permanently in Colombia and who meet the requirements to be considered residents. *See id.* art. 21. This visa is valid indefinitely. *Id.* art. 22. This category includes parents of Colombian nationals by birth, Colombians who renounced their nationality, capital investors in Colombia and persons who have lived permanently in Colombia for two to five years under a type M visa. *Id.* art. 21. Holders of this visa can access Colombian nationality after having completed a period of permanent residence between two and five years. L. 2332, septiembre 25, 2023, DIARIO OFICIAL [D.O.] No. 52.529 (Colom.) art. 9.

<sup>233</sup> See L. 1067 art. 2.2.3.1.2.1.

<sup>234</sup> See *id.* art. 2.2.3.1.1.1.

<sup>235</sup> Compare text accompanying note 236, *with* Convention Relating to the Status of Refugees, *supra* note 85, at 152, Protocol Relating to the Status of Refugees, *supra* note 217, at 268, and Cartagena Declaration on Refugees, *supra* note 33, art. III(3).

A. That due to well-grounded fears of being persecuted for motives of race, religion, nationality, belonging to a certain social group or political opinions, is outside the country of their nationality and cannot, or due to said fears, does not want to embrace the protection of such country; or who, lacking nationality and finding themselves, as a result of these events, outside of the country where they previously had their habitual residence, is unable to, or due to such fears, does not want to return to it. or

B. That they have been forced to leave their country because their life, security, or freedom has been threatened by generalized violence, foreign aggression, internal conflict, massive violations of human rights, or other circumstances that have seriously disturbed the public order.<sup>236</sup>

Colombia has also codified the principle of *non-refoulement* by recognizing that a refugee is also a person whose life and integrity would be at risk if deported to his or her country of origin:

That there are well-founded reasons to believe that [he or she] would be in danger of being submitted to torture or other cruel, inhumane or degrading treatment or punishment in the event that expulsion, return or extradition proceeds to the country of [his or her] nationality or, in the case that [he or she] lacks nationality, to the country of habitual residence.<sup>237</sup>

Finally, Colombia also has regional agreements that allow human mobility within a framework of regional integration mechanisms such as the Andean Community of Nations<sup>238</sup> or the agreements with countries that are part of MERCOSUR.<sup>239</sup> None of these agreements, however, include Venezuela.<sup>240</sup>

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<sup>236</sup> L. 1067 art. 2.2.3.1.1.1. (translation by author).

<sup>237</sup> *Id.* arts. 2.2.2.3.1.1.1(c), 2.2.3.1.6.20 (translation by author).

<sup>238</sup> The Andean Community of Nations is a regional integration agreement between Colombia, Ecuador, Peru, and Bolivia aimed at facilitating trading of goods and assets, transportation, and migration and human mobility policies. *See Quiénes Somos*, COMUNIDAD ANDINA, <https://www.comunidadandina.org/quienessomos/paises-miembros/bolivia> [https://perma.cc/47Q2-Q2V4].

<sup>239</sup> MERCOSUR “is a regional integration process” aimed at creating “a common space that generates business and investment opportunities through the competitive integration of national economies into the international market.” *MERCOSUR in Brief*, MERCOSUR, <https://www.mercosur.int/en/about-mercosur/mercosur-in-brief/> [https://perma.cc/YN8X-MKKK]. Within its operation, State Parties and Associate States generate migration policies to facilitate human mobility within the region. *See id.*; *see also MERCOSUR Countries*, MERCOSUR, <https://www.mercosur.int/en/about-mercosur/mercosur-countries/> [https://perma.cc/LM5Y-5FRB].

<sup>240</sup> *See Quiénes Somos*, *supra* note 238; *MERCOSUR in Brief*, *supra* note 239. Venezuela is suspended as a MERCOSUR State Party. *MERCOSUR in Brief*, *supra* note 239.

*B. Colombia's Complementary Systems of Protection for Venezuelans*

Given Colombia's historical inexperience with immigration, and despite its strong substantive framework of immigration protection, it has made limited use, and, thus, has not adequately developed, its regulatory capacity, especially related to refugee protections. Colombia has an Advisory Commission for the Determination of Refugee Status that evaluates all applications in the country, an administrative procedure that is used to give access to the refugee status determination that includes interviews and clearances and allows for their stay in the national territory while their status determination request is being decided.<sup>241</sup> However, the system is "cumbersome" and does not function well.<sup>242</sup> According to UNHCR data, Colombia has granted asylum status to a mere 1,425 persons, most of them Venezuelan (1,362) since the Venezuelan crisis intensified (2017 to 2022).<sup>243</sup> These numbers are at odds with the tens of thousands of Venezuelans who have filed for asylum. UNHCR data shows that, during this same period, 46,480 Venezuelans applied for asylum in Colombia.<sup>244</sup> Of these, 74 were rejected, but 23,016 were otherwise closed.<sup>245</sup> The data does not reveal why these cases were closed; it could indicate that the applicant abandoned the case to seek other protections instead.<sup>246</sup> It could also signal an inability to follow the administrative steps needed to continue the case.<sup>247</sup> Regardless of the reasons, it is important to note that the number of Venezuelans applying for permanent refugee status accounts for less than 2% of Venezuelans who have arrived in Colombia during this same period.<sup>248</sup> One important explanation for this is the vulnerability status of most Venezuelans in Colombia. Most are disqualified from applying because they lack the

<sup>241</sup> See L. 1067 arts. 2.2.3.1.2.2, 2.2.3.1.2.4, 2.2.3.1.3.2.

<sup>242</sup> See CTR. FOR GENDER & REFUGEE STUD., FAR FROM SAFETY: DANGERS AND LIMITS TO PROTECTION FOR ASYLUM SEEKERS TRANSITING THROUGH LATIN AMERICA 15–16 (2023).

<sup>243</sup> Refugee Data Finder, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=J8XYy1> [<https://perma.cc/85XK-T6PV>]; Refugee Data Finder, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=Kc6r7h> [<https://perma.cc/877Y-D92Y>] [hereinafter *Refugee Statistics*]; see Van Praag, *supra* note 1.

<sup>244</sup> Refugee Data Finder, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=0omJ9J> [<https://perma.cc/LNF6-NTAF>].

<sup>245</sup> Refugee Statistics, *supra* note 243.

<sup>246</sup> See *id.*; Van Praag, *supra* note 1.

<sup>247</sup> See CTR. FOR GENDER & REFUGEE STUD., *supra* note 242, at 16.

<sup>248</sup> Compare Refugee Data Finder, *supra* note 244 (46,480 Venezuelan nationals applied for asylum in Colombia between 2017 and 2022), with *supra* text accompanying note 92 (2.5 million Venezuelans in Colombia).

documentation to cross the border in a regular manner: get a stamp on their passport, apply for a visa and, in the case of refugee status, become recognized as such.<sup>249</sup> Moreover, Venezuelans may be discouraged from applying because asylum applications take an indeterminate amount of time to be processed and, while the application is pending, it does not allow refugees “to work or access basic services.”<sup>250</sup>

Given the inaccessibility of asylum to most Venezuelans, the Colombian government opted to create an alternative legal regime to process Venezuelans arriving in the country. On July 25, 2017, then-President Juan Manuel Santos’s administration<sup>251</sup> announced a permit as an alternative for the Venezuelan population to regularize their migratory situation to allow them to “exercise any legal activity or legal occupation in the country, including those that are developed by virtue of an employment relationship or labor contract.”<sup>252</sup> In any case, the permit was not considered a travel document and, therefore, passports continued to be a requirement to enter and leave the country.<sup>253</sup> The PEP (Permiso Especial de Permanencia), as it became known, would be valid for ninety days, extendable up to two years.<sup>254</sup> On March 21, 2018, the government created a Registry, the RAMV (Registro Administrativo de Migrantes Venezolanos) under Decree 542 of 2018, as a census mechanism to understand the needs of the Venezuelan migrant population in Colombia.<sup>255</sup> The

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<sup>249</sup> See Van Praag, *supra* note 1. Even when Decree 1067 of 2015 states that, when lacking identification documents, the responsibility of determining the adequate identification relies on the Colombian government, *see L. 1067, mayo 26, 2015, DIARIO OFICIAL [D.O.] No. 49.523* (Colom.) art. 2.2.3.1.6.2, the chances of doing so are low because Colombia and Venezuela until recently have lacked diplomatic or cooperation relationships that can facilitate exchanging information about citizenship. *See Mie Hoejris Dahl, Stronger Colombian-Venezuelan Ties Fail to Ease Migrant Hardships, NEW HUMANITARIAN* (June 15, 2023), <https://www.thenewhumanitarian.org/news-feature/2023/06/15/colombia-venezuela-ties-fail-migrant-hardships> [<https://perma.cc/R3K2-T5C8>].

<sup>250</sup> CTR. FOR GENDER & REFUGEE STUD., *supra* note 242, at 16. Under Decree 1067 of 2015, the Government of Colombia is not obligated to solve asylum claims within a certain period of time. *See L. 1067. art. 2.2.3.1.6.9.* As such, the length of the process falls prey to the discretion of asylum officers. *See id.* Moreover, the permanence clearance issued to the asylum seeker under article 2.2.3.1.4.1 does not serve as an identification document; it only allows its recipient to remain in Colombia and avoid a possible expulsion while the asylum process develops.

<sup>251</sup> *Juan Manuel Santos*, DIALOGUE, <https://www.thedialogue.org/experts/juan-manuel-santos/> [<https://perma.cc/4DXT-7AZM>].

<sup>252</sup> *See L. 5797, julio 27, 2017, DIARIO OFICIAL [D.O.] No. 50.307* (Colom.) art. 3 (translation by author).

<sup>253</sup> COLOMBIA: *New Special Stay Permit for Venezuelan Nationals*, NEWLAND CHASE (Aug. 2, 2017), <https://newlandchase.com/colombia-new-special-stay-permit-for-venezuelan-nationals/> [<https://perma.cc/Y9KL-PADQ>].

<sup>254</sup> *Id.*; L. 5797 art. 3.

<sup>255</sup> *See L. 542, marzo 21, 2018, DIARIO OFICIAL [D.O.]* (Colom.) arts. 1, 2.

government decided that persons included in this Registry could access the PEP.<sup>256</sup> The deadline to obtain this permit was initially ninety days but through several governmental decrees, its term was extended until December 21, 2018.<sup>257</sup> Through a series of subsequent regulations, the national government systematically extended the deadlines to access the PEP or its renewal until April 27, 2021.<sup>258</sup> Simultaneously, the national government created two other special permanence permits. On July 3, 2019, with Resolution 3548 of 2019, it created the Special Complementary Permanence Permit, aimed at those persons who had been denied recognition of their refugee status.<sup>259</sup> On January 28, 2020, the national government created the Special Permit to Stay for the Promotion of Formalization, aimed at the regularization of Venezuelans who had a formal job offer.<sup>260</sup>

Then, on March 1, 2021, the Colombian government created the Temporary Statute of Protection for Venezuelan Migrants (ETPV), which contemplates the Temporary Protection Permit (PPT) as a broader measure than the existing PEPs.<sup>261</sup> Thus, the regulation defined the ETPV as a legal mechanism of protection and temporary regularization with a validity of ten years for those persons who already had a PEP, those with a migration clearance obtained in the framework of a refugee status application process, those who had entered Colombia irregularly before January 31, 2021, or those who after that date entered through an official cross-border point and stamped their passport.<sup>262</sup> Thus, in addition to allowing the realization of any legal activity in the country, as provided by the PEP,<sup>263</sup> the holders of the PPT and even those with PEP may accumulate the necessary time to apply for a type R visa that allows them to live permanently in Colombia, and eventually access Colombian nationality.<sup>264</sup> After holding a PPT in Colombia for ten years, recipients will have accrued enough time to be eligible to apply

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<sup>256</sup> L. 6370, agosto 1, 2018, DIARIO OFICIAL [D.O.] (Colom.) art. 1.

<sup>257</sup> L. 5797 art. 1; L. 10064, diciembre 3, 2018, DIARIO OFICIAL [D.O.] No. 50.796 (Colom.) art. 1; *see* JORGE A. ALVAREZ, MARCO ARENA, ALAIN BROUSSEAU, HAMID FARUQEE, EMILIO WILLIAM FERNANDEZ CORUGEDO, JAIME GUAJARDO, GERARDO PERAZA & JUAN YEPEZ, REGIONAL SPILLOVERS FROM THE VENEZUELAN CRISIS: MIGRATION FLOWS AND THEIR IMPACT ON LATIN AMERICA AND THE CARIBBEAN 40 (2022).

<sup>258</sup> *See, e.g.*, L. 3789, diciembre 18, 2020, DIARIO OFICIAL [D.O.] No. 51.535 (Colom.) art. 1, ¶ 1.

<sup>259</sup> *See* L. 3548, julio 3, 2019, DIARIO OFICIAL [D.O.] No. 51.005 (Colom.) art. 1.

<sup>260</sup> *See* L. 117, enero 28, 2020, DIARIO OFICIAL [D.O.] (Colom.) arts. 2.2.6.8.3.1, 2.2.6.8.3.2.

<sup>261</sup> *See* L. 216, marzo 1, 2021, DIARIO OFICIAL [D.O.] No. 51.603 (Colom.) arts. 1, 2.

<sup>262</sup> *Id.* arts. 1, 3, 4.

<sup>263</sup> L. 6370, agosto 1, 2018, DIARIO OFICIAL [D.O.] (Colom.) art. 2.

<sup>264</sup> *See* L. 216 art. 4; L. 2332, septiembre 25, 2023, DIARIO OFICIAL [D.O.] No. 52.529 (Colom.) art. 9.

for a residence visa.<sup>265</sup> The process to access the PPT is designed in phases. The first is through registration in the Single Registry of Venezuelan Migrants, in which applicants must supply personal data regarding their demographics and identity.<sup>266</sup> The second phase is a biometric registration,<sup>267</sup> and the third phase is the delivery of the PPT document, if approved.<sup>268</sup> In any case, migrants must provide proof that they meet the requirements, and it is entirely at the discretion of the immigration authority to grant or deny the PPT.<sup>269</sup> Once issued, the PPT automatically grants work authorization to recipients and does not require additional administrative hoops.<sup>270</sup>

Although the PPT is a complementary protection tool, in practice, it may contradict the refugee mechanism as an international protection mechanism since it does not offer permanent protections, at least not for the first decade.<sup>271</sup> On the one hand, the PPT's simpler and more efficient procedural designs allow applicants and holders to work and access a series of services.<sup>272</sup> On the other hand, the PPT forces applicants to choose between seeking PPT or asylum/refugee protections. Article 13 of the regulation creating the PPT states that “[t]he issuance of the Temporary Protection Permit [referred to] in this article is not equivalent to the recognition of refugee status[,] nor does it imply the granting of asylum.”<sup>273</sup> The regulation indicates that refugee measures cannot coexist with the PPT and obliges the migrant to opt for one or the other.<sup>274</sup>

In addition to the PPT, Colombia, through the national government and local governments, has developed migration public policy actions

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<sup>265</sup> See Diana M. Tovar Rojas, *PPT: Colombia's Ace in the Hole*, UNIV. OF S.F.: MASTER IN MIGRATION STUD. (Feb. 13, 2021), <https://www.usfmasterinmigrationstudies.org/blog/ppt-colombias-ace-in-the-hole> [https://perma.cc/G4U6-2NXZ].

<sup>266</sup> See L. 971, abril 28, 2021, DIARIO OFICIAL [D.O.] No. 51.660 (Colom.) arts. 7, 8, 9; *see also* *Temporary Protection Status in Colombia, a Journey to Regularisation*, UNHCR (July 18, 2022), <https://www.acnur.org/noticias/temporary-protection-status-colombia-journey-regularisation> [https://perma.cc/4XP3-KTWL].

<sup>267</sup> *Temporary Protection Status in Colombia, a Journey to Regularisation*, *supra* note 266.

<sup>268</sup> *Id.*; L. 971 art. 17.

<sup>269</sup> *See id.* art. 6.

<sup>270</sup> See INSTITUTO COLOMBIANO DE BIENESTAR FAMILIAR, ESTATUTO DE PROTECCIÓN TEMPORAL PARA MIGRANTES VENEZOLANOS, [https://www.icbf.gov.co/sites/default/files/resumen\\_estatuto\\_temporal\\_proteccion\\_etpv.pdf](https://www.icbf.gov.co/sites/default/files/resumen_estatuto_temporal_proteccion_etpv.pdf) [https://perma.cc/762K-P5M3].

<sup>271</sup> *See id.*

<sup>272</sup> *See id.*

<sup>273</sup> L. 216, marzo 1, 2021, DIARIO OFICIAL [D.O.] No. 51.603 (Colom.) art. 13 (translation by author).

<sup>274</sup> *See id.* arts. 13, 14.

through the creation of working groups.<sup>275</sup> These working groups have developed migration action plans with a human rights and gender focus.<sup>276</sup> Furthermore, international cooperation, mainly from USAID, has funded the creation of Intégrate Centers, which coordinate and offer wrap-around services for the migrant population, facilitating access to public services and the guarantee of rights.<sup>277</sup> Cities such as Bogotá have adapted their institutional solutions and created a migratory institutional organization to give a prompt and inclusive response to the migrant population with a differential and intersectional approach, recognizing the differences, impacts, and needs of children, adolescents, youth, women, and the LGBTQ+ population.<sup>278</sup> Recently, the capital of the country obtained an award for its superior performance and work at the Ministry of Health for ensuring and supplying the best healthcare to the migrant population.<sup>279</sup> Although there is still much work to be done, as explored in the next section, Colombian institutions, with the support of international cooperation, have shown that they can be an example for other countries in the region.

<sup>275</sup> See GOBIERNO DE COLOMBIA, WELCOME, INTEGRATE AND GROW: COLOMBIA'S POLICIES REGARDING MIGRATION FROM VENEZUELA 116 (Patricia de Narváez Cano, Andrés Felipe Segura Arnaiz & Fernando Cárdenas eds., Bill Frederick, Patricia Beltrán, Felipe Saiz & Juana Cristina Resek trans., 2020).

<sup>276</sup> See *id.* at 168–71.

<sup>277</sup> See Molly Burns, Juan Anibal Sosa Iglesias & Juan Barco, *Learning from Colombia's Inclusive Approach to Migration*, CHEMONICS BLOG (Oct. 20, 2022), <https://chemonics.com/blog/learning-from-colombias-inclusive-approach-to-migration/> [<https://perma.cc/QV4G-SPJE>]. Mayors' offices agreed to create these working groups to coordinate with other institutional actors the response to Venezuelans in their regions. See *id.*; see also *Championing Migrants' Integration in Colombia*, CHEMONICS, <https://chemonics.com/projects/championing-migrants-integration-in-colombia/> [<https://perma.cc/2XNL-U6K5>].

<sup>278</sup> See Colombia, HIAS, <https://hias.org/where/colombia/> [<https://perma.cc/A2C6-TFDV>]; Secretaría de Salud Obtiene Premio 'Caminando Hacia la Justicia 2022' por la Garantía del Derecho a Salud en la Población Migrante, SALUDATA (Sept. 13, 2022), <https://saludata.saludcapital.gov.co/osb/index.php/2022/09/13/secretaria-de-salud-obtiene-premio-caminando-hacia-la-justicia-2022-por-la-garantia-del-derecho-a-salud-en-la-poblacion-migrante/> [<https://perma.cc/4TLE-FTG9>] [hereinafter *Secretaría de Salud*]. Conectando Caminos por los Derechos, an American Bar Association Rule of Law Initiative in Colombia spearheaded by two of the co-authors, helped Bogotá build its migration public policy. See CONECTANDO CAMINOS POR LOS DERECHOS, BARRERAS DEL PROCESO DE REGULARIZACIÓN MIGRATORIA Y ACCESO A LOS PERMISOS DE PROTECCIÓN TEMPORAL (PPT) 5, 6 (2023); *Empowering Indigenous Women in Colombia: A Journey of Renewal and Collective Resistance*, ABA (Aug. 24, 2023), [https://www.americanbar.org/advocacy/rule\\_of\\_law/blog/roli-colombia-empowering-indigenous-women-0823/](https://www.americanbar.org/advocacy/rule_of_law/blog/roli-colombia-empowering-indigenous-women-0823/) [<https://perma.cc/8QC3-W7H5>]; *Lessons Learned and Ways Forward for the Economics and Politics of Refugee Integration*, U.C. DAVIS: GLOB. MIGRATION CTR., <https://globalmigration.ucdavis.edu/events/lessons-learned-and-ways-forward-economics-and-politics-refugee-integration> [<https://perma.cc/B4RS-GK33>]. According to the authors, it is expected to have this policy approved and issued in the beginning of 2024.

<sup>279</sup> See *Secretaría de Salud*, *supra* note 278.

*C. Assessing Colombia's PPT: Protection and Integration*

Colombia is not the first nor the only host country that has adopted temporary protection mechanisms in response to the arrival of mass displacements of people. Other Latin American nations also did so in response to Venezuelan arrivals in their territory.<sup>280</sup> As well, several of the other major host countries around the world, including

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<sup>280</sup> See *supra* text accompanying note 156.

Turkey,<sup>281</sup> Germany,<sup>282</sup> Pakistan,<sup>283</sup> and Poland,<sup>284</sup> have adopted temporary protection mechanisms in response to the displacement of

<sup>281</sup> Turkey is facing a mass influx of migrants and refugees because of the crisis in Syria, which has long occupied the top spot as the largest displacement crisis in the world. *Syria Refugee Crisis Explained*, USA FOR UNHCR (Mar. 14, 2023), <https://www.unrefugees.org/news/syria-refugee-crisis-explained/> [<https://perma.cc/F436-JP3Q>]; see *Welcome to UNHCR's Refugee Population Statistics Database*, *supra* note 181. Turkey alone hosts 3.6 million Syrian refugees—more than all the E.U. countries combined. *Syria Refugee Crisis — Globally, in Europe and in Cyprus*, UNHCR (Mar. 18, 2021), <https://www.unhcr.org/cy/2021/03/18/syria-refugee-crisis-globally-in-europe-and-in-cyprus-meet-some-syrian-refugees-in-cyprus/> [<https://perma.cc/B483-4MM3>]; see also *Syria Emergency*, UNHCR, [<https://perma.cc/3HQZ-Y8LG>] (Aug. 2023). “Syrian nationals, as well as stateless persons and refugees from Syria,” who fled to Turkey due to the conflict in Syria after April 28, 2011, qualify for temporary protection in Turkey. *Temporary Protection in Türkiye*, UNHCR, <https://help.unhcr.org/turkiye/information-for-syrians/temporary-protection-in-turkey/> [<https://perma.cc/A5W8-KZRU>]. Beneficiaries of temporary protection are given the right to reside in Turkey for an indefinite period, protection against refoulement, and access to health services, education, social security, social assistance, psychological support, vocational training programs, Turkish language courses, and a work permit. *Id.*; *Education*, UNHCR, <https://help.unhcr.org/turkiye/information-for-syrians/education/> [<https://perma.cc/R9Z9-PY85>]; *Livelihoods and Economic Inclusion Programmes*, UNHCR, <https://help.unhcr.org/turkiye/information-for-syrians/livelihoods/> [<https://perma.cc/XLJ8-TPBP>].

<sup>282</sup> Germany has opened its borders to various refugee groups. See *Refugee Data Finder*, UNHCR, <https://www.unhcr.org/refugee-statistics/download/?url=VCU5fo> [<https://perma.cc/AW6U-RPQT>]. Germany offers temporary protection for Ukrainians through the E.U. Temporary Protection Directive and close to one million Ukrainians have registered for temporary protection in Germany. See *Ukraine Refugee Situation*, OPERATIONAL DATA PORTAL, <https://data.unhcr.org/en/situations/ukraine> [<https://perma.cc/2ZCV-UYCP>]; UNHCR, THE IMPLEMENTATION OF THE TEMPORARY PROTECTION DIRECTIVE: SIX MONTHS ON 8 (2022). Germany also offers a form of subsidiary protection to migrants who cannot automatically be defined as refugees under the U.N. Convention, but who are “generally at risk of harm in their [home] countries,” such as Syrians. Ben Knight, *Syrian Refugees Not Entitled to ‘Full Asylum’*, DEUTSCHE WELLE (Nov. 24, 2016), <https://www.dw.com/en/german-court-rules-syrian-refugees-not-entitled-to-full-asylum-status/a-36511284> [<https://perma.cc/6VA5-S244>]; Miriam Berger, *Syrians Given Temporary Refuge in Germany Fear Being Set Up to Fail*, NEW HUMANITARIAN (Feb. 6, 2018), <https://deeply.thenewhumanitarian.org/refugees/articles/2018/02/06/syrians-given-temporary-refuge-in-germany-fear-being-set-up-to-fail> [<https://perma.cc/4AQP-M5X3>]. Although not technically labeled temporary protection, this form of subsidiary protection is similar in that it permits displaced Syrians to stay in Germany for one year and can be renewed annually. See Knight, *supra*; Berger, *supra*.

<sup>283</sup> Pakistan is the fifth largest host country according to UNHCR, hosting 1.4 million refugees, almost all from Afghanistan. *Welcome to UNHCR's Refugee Population Statistics Database*, *supra* note 181; INT'L ORG. FOR MIGRATION, PAKISTAN: MIGRATION SNAPSHOT 12 (2019). Pakistan has been providing refuge to Afghans for over 40 years. *Country Profiles: Pakistan*, INTEGRAL HUM. DEV., <https://migrants-refugees.va/country-profile/pakistan/> [<https://perma.cc/T8SM-WVZW>]. In the past, Pakistan was somewhat generous towards Afghan refugees. “Until 2006, Afghan refugees in Pakistan did not need . . . [any] legal documents” to stay in the country. EUR. UNION AGENCY FOR ASYLUM, PAKISTAN—SITUATION OF AFGHAN REFUGEES 21 (2022). In 2006-2007, the Pakistani government and UNHCR started issuing Proof of Registration (PoR) cards, a document which registered many Afghans as refugees and provided for “temporary legal stay and freedom of movement.” *Id.* at 21, 49. Another form of temporary relief that was available to Afghans were Afghan Citizen Cards (ACC), “issued to Afghan citizens who did not hold PoR cards regardless of when they had

Syrians, Ukrainians, and Afghans.<sup>285</sup> Colombia's PPT is distinctive from other comparable programs in meaningful ways, that when

arrived in Pakistan." *Id.* at 59, 60. As of January 2022, there are approximately 3 million Afghans living in Pakistan, about 1.4 million with PoR cards, 840,000 with ACC cards, and an estimated 775,000 remain undocumented. *Id.* at 22. Recently however, Pakistan appears to have grown tired of hosting refugees. In April 2021, it was announced that "Afghans who have never held a PoR card . . . cannot be issued [one]," with the exception of "newly born children of PoR cardholders under the age of five." *Id.* at 51. As for new arrivals, PoR and ACC cards are no longer available, and only short-term transit visas have been granted. *See id.* at 51, 61; Zofeen T. Ebrahim, *In Pakistan, Afghan Refugees Face Hardship and a Frosty Reception*, CONTEXT (Apr. 19, 2022), [https://www.context.news/socioeconomic-inclusion/in-pakistan-afghan-refugees-face-hardship-and-a-frosty-reception?utm\\_source=news-trust&utm\\_medium=redirect&utm\\_campaign=context&utm\\_content=article](https://www.context.news/socioeconomic-inclusion/in-pakistan-afghan-refugees-face-hardship-and-a-frosty-reception?utm_source=news-trust&utm_medium=redirect&utm_campaign=context&utm_content=article) [https://perma.cc/WT77J-LWEB] [hereinafter *Afghan Refugees Face Hardship*]. "About 250,000 Afghans have arrived in Pakistan since the Taliban seized power in August 2021." Zofeen T. Ebrahim, *Pakistan Sends Back Hundreds of Afghan Refugees to Face Taliban Repression*, GUARDIAN (Jan. 10, 2023), <https://www.theguardian.com/global-development/2023/jan/10/pakistan-sends-back-hundreds-of-afghan-refugees-to-face-taliban-repression#> [https://perma.cc/9ZK6-YKLG]. There are "no government program[s] to support [the] new refugees with registration, food, shelter and other basic necessities." *Afghan Refugees Face Hardship, supra*.

<sup>284</sup> Many Ukrainians have fled to neighboring Poland. *Ukraine Refugee Situation, supra* note 282. Although not yet ranked by UNHCR as a top host country, the mass influx of refugees from Ukraine has Poland's numbers equivalent to Pakistan and Uganda, as more than 1.5 million Ukrainians have registered for temporary protection in Poland. *See id.; Welcome to UNHCR's Refugee Population Statistics Database, supra* note 181. *Compare Ukraine Refugee Situation, supra* note 282, with *Pakistan*, UNHCR, <https://www.unhcr.org/us/countries/pakistan> [https://perma.cc/W7AK-MV9U] (noting that "Pakistan hosts more than 1.4 million registered Afghans"), and *Uganda*, UNHCR, <https://www.unhcr.org/us/countries/uganda> [https://perma.cc/642Y-79GQ] (noting that "Uganda hosts over 1.5 million refugees and asylum-seekers"). Poland, like Germany, as part of the EU, benefits from the systems and resources provided by the EU. *See The European Union, EU, https://european-union.europa.eu/easy-read\_en* [https://perma.cc/32GJ-FK58]. The E.U. adopted the Temporary Protection Directive following the conflicts in former Yugoslavia in 2001, but it had never been triggered until the Russian invasion of Ukraine in February 2022. *Temporary Protection, EUR. COMM'N: MIGRATION & HOME AFFS.*, [https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection\\_en](https://home-affairs.ec.europa.eu/policies/migration-and-asylum/common-european-asylum-system/temporary-protection_en) [https://perma.cc/8ZGG-PW9N].

<sup>285</sup> *See supra* notes 281–84. Uganda is the largest refugee hosting country in Africa, hosting around 1.5 million refugees, most from South Sudan, as well as the Democratic Congo, Burundi, and Somalia. *Uganda, supra* note 284; Sulaiman Momodu, *Uganda Stands Out in Refugees Hospitality*, 32 AFR. RENEWAL 18, 18 (2019). It is worth mentioning that while Uganda does not have temporary protection mechanisms in place, it has instead opted for an open-door policy towards refugees, which has been described as "the most generous in the world." *See Momodu, supra*, at 19. The policy is based on traditional African hospitality and adheres to a broad definition of refugee, granting asylum to anyone fleeing war, persecution, or insecurity. *See id.* at 19. However, in recent years, the burden on Ugandan society due to the massive refugee influx has increased and put pressure on host communities. *See Tessa Coggio, Can Uganda's Breakthrough Refugee-Hosting Model Be Sustained?, MIGRATION POL'Y INST.* (Oct. 31, 2018), <https://www.migrationpolicy.org/article/can-ugandas-breakthrough-refugee-hosting-model-be-sustained> [https://perma.cc/DG4Y-2U65]. Schools are collapsing, medicine is running short, and water is scarce. *Funding Gaps Threaten Critical Aid for Refugees in Uganda, Says CARE and 25 Other Ngos*, CARE (June 28, 2018), <https://www.care.org/news-and-stories/press-releases/funding-gaps-threaten-critical-aid-for-refugees-in-uganda-says-care-and-25-other-ngos#> [https://perma.cc/V3MQ-76SM]; *see also* Coggio, *supra*. These mounting issues raise

added together, create a solid framework of legal protections that have helped many Venezuelans integrate into Colombia's economic and social fabric.<sup>286</sup> These include, for example, flexibility in access and procedural norms to obtain the benefit of the length of stay of ten years<sup>287</sup> and the option to seek permanent legalization,<sup>288</sup> as well as access to jobs<sup>289</sup> and social services.<sup>290</sup> Still, challenges remain.

### 1. Access to Protection

In Colombia, the PPT has successfully reduced the number of Venezuelan migrants in irregular status. When comparing figures from January 2021 to February 2022, the number of irregular migrants has been reduced by 70%.<sup>291</sup> As of August 2023, there were 2,875,743 Venezuelans residing permanently in Colombia, with

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questions about whether a more temporary model, like that of Colombia, would alleviate some of the burdens that Uganda is facing by attracting less refugees and encouraging refugees to eventually return to their home countries if and when possible. *See Coggio, supra.*

<sup>286</sup> *See* INT'L RESCUE COMM., A STEP FORWARD: LESSONS FROM COLOMBIA'S TEMPORARY PROTECTION STATUS FOR VENEZUELAN 2 (2023).

<sup>287</sup> *See* Rojas, *supra* note 265. In contrast, Germany's grant of temporary protections for Syrians, for example, is for one year, although it may be renewed annually. Knight, *supra* note 282; Berger, *supra* note 282. In Pakistan, the ACC allowed Afghans to stay in the country for six months, essentially solely to obtain an Afghan passport and then potentially a Pakistani visa. *See* EUR. UNION AGENCY FOR ASYLUM, *supra* note 283, at 60.

<sup>288</sup> *See* Rojas, *supra* note 265. Although temporary protection grants the right to stay in Turkey indefinitely, it does not grant the right to transition to a long-term residence permit, nor will its duration be taken into account when determining if one qualifies for a residence permit, and it does not entitle holders to apply for citizenship. *See* *Temporary Protection in Türkiye*, *supra* note 281; L. 6458, 2013, T.C. RESMÎ GAZETE [THE OFFICIAL GAZETTE OF THE REPUBLIC OF TÜRKİYE] No. 28615 (Turk.) arts. 19, 25.

<sup>289</sup> *See* Rojas, *supra* note 265. In contrast, Turkey's temporary protection system is quite restrictive. There are heavy obligations associated with temporary protection that subject Syrians to considerable limitations on their freedom of movement and thus, restricts their ability to find meaningful legal employment. *See* Kayahan Cantekin, *Turkey: Istanbul Governorate to Enforce Movement Restrictions on Syrians Under Temporary Protection*, LIBR. OF CONG. (Aug. 4, 2019), <https://www.loc.gov/item/global-legal-monitor/2019-08-14/turkey-istanbul-governorate-to-enforce-movement-restrictions-on-syrians-under-temporary-protection/> [https://perma.cc/J923-PPUW]. The work permit system itself is flawed in that it requires employers to submit the application on behalf of the Syrian employee, as well as cover the costs, making employers reluctant to hire Syrians. *See* IZZA LEGHTAS, REFUGEES INT'L, INSECURE FUTURE: DEPORTATIONS AND LACK OF LEGAL WORK FOR REFUGEES IN TURKEY 4 (2019). Once issued, "work permits are valid for only one year, after which they must be renewed." *Id.* at 13. Furthermore, there are quotas in place requiring that Syrians under temporary protection not "represent more than 10 percent of the workforce." *Id.*

<sup>290</sup> *See* Rojas, *supra* note 265. Germany's temporary protections also "provide[] . . . the same right to work and [the same] benefits as refugees, including money for accommodation, medical treatment and food." Berger, *supra* note 282. In contrast, Pakistan's PoR provides "no rights other than protection from refoulement." EUR. UNION AGENCY FOR ASYLUM, *supra* note 283, at 20.

<sup>291</sup> OBSERVATORIO DE VENEZUELA, UNIVERSIDAD DEL ROSARIO, EL RETO DE LA INTEGRACIÓN: DESAFÍOS Y OPORTUNIDADES DE LA GESTIÓN MIGRATORIA EN COLOMBIA 2022-2026, at 15 (2022).

1,890,185 having already received their PPT and 416,625 in the process or awaiting a determination.<sup>292</sup> Further, 2,306,810 possess another type of regular status other than PPT, and 503,682 are still in irregular status and have not started the PPT registration process.<sup>293</sup>

Even though the vast majority of Venezuelans present in Colombia have at least begun the registration process, there are continuing barriers that prevent everyone, especially the most vulnerable, from registering. One of the most cited reasons for not yet applying for PPT is a lack of information about the process, followed by insufficient time or poor internet access.<sup>294</sup> Remote rural areas are particularly affected by these barriers, where internet access may be sparse and migration offices located in larger cities are too far away or expensive to reach.<sup>295</sup>

Lack of internet access or ability to use technology and the Internet impedes the ability to complete step one of the process, pre-registration, as it is a completely virtual process.<sup>296</sup> Furthermore, the virtual component of the process has presented technical difficulties at times. For example, in 2021, the webpage used to register for PPT collapsed, which resulted in the loss of information from 600,000 applicants.<sup>297</sup> Those affected may be unaware that their information was deleted and, as a result, are still awaiting a response, continuing to live in irregular status in the meantime.<sup>298</sup>

Misinformation has substantially impeded registration and integration. In a study that surveyed 1,200 Venezuelan migrants who have applied for PPT, 36.33% said they had never actually received any information from an outside source about PPT, but instead figured it out themselves.<sup>299</sup> Thirty-seven percent of those

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<sup>292</sup> *Cifras Clave*, R4V, <https://www.r4v.info/es/colombia> [<https://perma.cc/8786-52Y9>].

<sup>293</sup> *Id.*

<sup>294</sup> GIFMM & R4V, EVALUACIÓN CONJUNTA DE NECESIDADES PARA POBLACIÓN CON VOCACIÓN DE PERMANENCIA Y COLOMBIANOS RETORNADOS 15 (2022), [https://www.r4v.info/sites/default/files/2023-02/2022\\_JNA\\_VOCACI%C3%93N%20DE%20PERMANENCIA\\_VF\\_0.pdf](https://www.r4v.info/sites/default/files/2023-02/2022_JNA_VOCACI%C3%93N%20DE%20PERMANENCIA_VF_0.pdf) [<https://perma.cc/9C99-UNRH>].

<sup>295</sup> INT'L CRISIS GRP., *supra* note 176, at 7, 29.

<sup>296</sup> See CENTRO DE ESTUDIOS EN MIGRACIÓN, ESTATUTO TEMPORAL DE PROTECCIÓN PARA MIGRANTES VENEZOLANOS: REFLEXIONES DE UNA POLÍTICA DE REGULARIZACIÓN MIGRATORIA 37 (2021).

<sup>297</sup> María Clara Robayo, *Baches en el Proceso de Regularización e Integración de los Migrantes*, EL ESPECTADOR (Mar. 15, 2023, 11:00 AM), <https://www.elespectador.com/mundo/america/baches-en-el-proceso-de-regularizacion-e-integracion-de-los-migrantes/> [<https://perma.cc/64WB-YBLJ>].

<sup>298</sup> *See id.*

<sup>299</sup> USAID, OIM & ASOCIACIÓN SALTO ÁNGEL, *Análisis de Brechas y Necesidades de la Población Migrante Sobre el ETPV* 5, 9 (2020),

who did receive information about PPT received it by word of mouth, which carries an inherent risk of misinformation.<sup>300</sup> As a consequence of misinformation, only a little over 50% knew what rights and services are provided by PPT.<sup>301</sup> Further, 65.84% had incorrect information about the phases of PPT, and only 37.67% had completed the whole process, meaning that more than half had not finished because they did not know there was another step in the process.<sup>302</sup> Compounding this issue is that Colombians also often have misconceptions about PPT and the rights it confers, leading to confusion and increased xenophobia.<sup>303</sup>

Legal clinics of universities in Colombia working with migrant populations point out that the bulk of their legal services and strategic litigation priorities have been aimed at attempting to remedy the multiple difficulties and barriers that the migrant population has had in accessing the PPT.<sup>304</sup> With goals of handling an anticipated 1.7 million applicants, PPT experienced glitches and system flaws that led to holdups, issues of due process, and administrative inefficiencies.<sup>305</sup> In addition, applicants have had to perform more than one biometric registration, which, in turn, generates several application histories for the same person and, ultimately, errors when the PPT is finally granted.<sup>306</sup> Additionally, other cases were identified in which “some members of migrant families, especially [children], adolescents and adults who were registered with their family groups, have not received the PPT, while the rest of their family group have.”<sup>307</sup>

## 2. Labor Market

PPT has allowed Venezuelan migrants to access formal work in numbers that would have been impossible prior to its announcement. The number of contributors to social security can help us estimate how many Venezuelan migrants are employed in formal work.<sup>308</sup> For those with PPT, there was a monthly average of 5,064 contributors

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[https://drive.google.com/file/d/1MfKfTG5Xr9vt2J6Ry\\_p4HA03UqoQKtA4/view](https://drive.google.com/file/d/1MfKfTG5Xr9vt2J6Ry_p4HA03UqoQKtA4/view)  
 [https://perma.cc/7HYS-WTA9].

<sup>300</sup> *Id.* at 10.

<sup>301</sup> *Id.* at 13.

<sup>302</sup> *See id.* at 14, 21.

<sup>303</sup> *See INT'L RESCUE COMM., supra* note 286, at 9.

<sup>304</sup> *See CONECTANDO CAMINOS POR LOS DERECHOS* *supra* note 278, at 5, 18.

<sup>305</sup> *INT'L RESCUE COMM., supra* note 286, at 7.

<sup>306</sup> *See L. 971 art. 36; INT'L RESCUE COMM., supra* note 286, at 8.

<sup>307</sup> *CONECTANDO CAMINOS POR LOS DERECHOS, supra* note 278, at 27 (translation by author).

<sup>308</sup> DANE, *REPORTE ESTADÍSTICO DE MIGRACIÓN N° 1*, at 31 (2022).

in January 2022, which jumped to 14,180 in February 2022, indicating significant increases in the number of Venezuelans employed formally as a result of ETPV.<sup>309</sup> Surveys also show that over 50% of migrants believe that their economic situation will improve in the next twelve months, presumably thanks to greater opportunities as a result of integration.<sup>310</sup>

Despite these advances, a survey conducted between January and February 2022 reflected that 85% of respondents have had difficulty holding a paid job, the main reasons being the “lack of opportunities[,] lack of documentation, and limited or irregular job opportunities.”<sup>311</sup> This is partially because many employers do not recognize PPT documents and are still hesitant to hire Venezuelans.<sup>312</sup> Additionally, “predatory employers . . . exploit their vulnerable status through informal arrangements.”<sup>313</sup> Informal work still remains a great challenge to integration.<sup>314</sup> Surveys also show that the vast majority of migrants work on food delivery apps, and because of the lack of “regulation of these digital platforms . . . , migrants do not have social security” or other protections.<sup>315</sup> Contributing to this situation is the difficulty that Venezuelan migrants face in finding a job in their profession. “[Ninety-three percent] of migrants who have a Venezuelan professional degree do not have it validated,” and “only [two] out of [ten] [employed Venezuelans] work in an area related to their profession.”<sup>316</sup> Requirements to validate degrees have been relaxed since the PPT’s initial announcement, and “[b]y March 2022, about 22,000 Venezuelans in Colombia had completed the first steps.”<sup>317</sup>

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<sup>309</sup> See *id.* at 32.

<sup>310</sup> See e.g., DANE, ENCUESTA PULSO DE MIGRACIÓN: RONDA NO. 4: MARZO-ABRIL 2022, at 4 (2022), <https://www.dane.gov.co/files/investigaciones/boletines/pulso-migracion/comunicado-pulso-migracion-mar22-abr22.pdf> [https://perma.cc/2YPZ-5G4Y].

<sup>311</sup> CONPES, ESTRATEGIA PARA LA INTEGRACIÓN DE LA POBLACIÓN MIGRANTE VENEZOLANA COMO FACTOR DE DESARROLLO PARA EL PAÍS 67 (2022) (translation by author), <https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4100.pdf> [<https://web.archive.org/web/20240105172537/https://colaboracion.dnp.gov.co/CDT/Conpes/Econ%C3%B3micos/4100.pdf>].

<sup>312</sup> INT’L CRISIS GRP., *supra* note 176, at 28; RACHEL SCHMIDTKE, REFUGEES INT’L, LLENAR EL VACÍO: APOYO HUMANITARIO Y VÍAS ALTERNATIVAS PARA LOS MIGRANTES EN LA PERIFERIA DE COLOMBIA 14–15 (2022).

<sup>313</sup> INT’L CRISIS GRP., *supra* note 176, at 28.

<sup>314</sup> SCHMIDTKE, *supra* note 312, at 15.

<sup>315</sup> Camilo Álvarez, *Migrantes Venezolanos en Colombia Enfrentan Dificultades para Acceder al Mercado Laboral*, VOZ DE AMÉRICA (Nov. 10, 2022), <https://www.vozdeamerica.com/a/migrantes-venezolanos-colombia-mercado-laboral/6828979.html> [https://perma.cc/7YXN-8YHX] (translation by author).

<sup>316</sup> CONPES, *supra* note 311, at 68 (translation by author).

<sup>317</sup> INT’L CRISIS GRP., *supra* note 176, at 29; see CONPES, *supra* note 310, at 24, 68.

However, lack of documentation, information about the process, and resources are reported to prevent validation.<sup>318</sup>

Colombia as a whole is “fac[ing] growing economic uncertainty, including high levels of informal labor and the highest levels of inflation in more than two decades.”<sup>319</sup> Inflation in Colombia reached 9.67% in July 2022, and the unemployment rate was at 11.3%.<sup>320</sup> Sixty percent of Colombians work in informal jobs.<sup>321</sup> Although these more prominent economic factors may play a role in migrant’s continuing financial insecurity, in comparison to the Colombian population, Venezuelans still have a smaller monthly income despite working longer hours and showing higher rates of unemployment.<sup>322</sup> Further, 52% of Venezuelan migrants in Colombia make less than minimum wage, and 19% are unemployed.<sup>323</sup>

The effect of this lack of opportunity can be seen in continuing migration outside of Colombia. In April 2022, 31% of the 13,425 persons who crossed the Darien gap were Venezuelan.<sup>324</sup> Even though they could have accessed PPT, they did not express a desire to stay in Colombia due to the lack of job opportunities and low salaries.<sup>325</sup> Even though obtaining PPT allows theoretical access to the formal labor market, there are apparently still large gaps in its ability to ensure opportunities to enter the formal market and prosper.

### 3. Health and Education

PPT has allowed Venezuelan migrants to access healthcare services besides just emergency care. As a result, in 2021 alone, there was a 31.4% increase in the amount of foreign nationals affiliated with the healthcare system.<sup>326</sup> The number of migrants affiliated with the healthcare system increased from 306,601 at the end of 2020 to 867,360 in July of 2022.<sup>327</sup> Despite this growth, a large percentage of the regularized population still hasn’t registered for state health

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<sup>318</sup> CONPES, *supra* note 311, at 68.

<sup>319</sup> SCHMIDTKE, *supra* note 312, at 5 (translation by author).

<sup>320</sup> GIFMM & R4V, *supra* note 294, at 6, 7.

<sup>321</sup> *Id.* at 7.

<sup>322</sup> CONPES, *supra* note 311, at 63, 64.

<sup>323</sup> R4V, *supra* note 144, at 137.

<sup>324</sup> SCHMIDTKE, *supra* note 312, at 5.

<sup>325</sup> *Id.*

<sup>326</sup> DANE, *supra* note 308, at 29.

<sup>327</sup> CONPES, *supra* note 311, at 39; BITÁCORA MIGRATORIA, OBSERVATORIO DE VENEZUELA, REPORTE DE JULIO 2022, at 3 (2022).

insurance.<sup>328</sup> There are still large gaps in the knowledge of the migrant community about their ability to access services.<sup>329</sup> Geographically, there are heightened difficulties in healthcare access in rural areas, where there are not enough doctors to serve the number of people in need.<sup>330</sup>

As for education, there were 559,605 children enrolled in the education system in April 2022.<sup>331</sup> However, this is still only 48% of migrant children.<sup>332</sup> In addition, 67.2% of those students are enrolled with a different type of document besides a PPT, showing that either they have not yet registered, are still waiting for the PPT, or possibly have not updated their school about what type of documentation they have.<sup>333</sup> Reasons given for not attending school include the cost, followed by a lack of documentation, and then “the need to work to support the family.”<sup>334</sup> Another issue mentioned was that there was not enough room in the schools, highlighting general issues with education access in Colombia that require solutions beyond ETPV.<sup>335</sup>

#### 4. Xenophobia

The mere existence of PPT may have exacerbated xenophobic sentiments in Colombia. Fifty-nine percent of Colombians disagree with the government for passing PPT, and sixty-one percent have an unfavorable opinion of Venezuelan migrants.<sup>336</sup> Misinformation has created mistaken beliefs that PPT accords more rights than it does, such as the right to vote, which has increased resistance.<sup>337</sup> The resistance towards social acceptance of Venezuelan migrants is a barrier, not only to integration into host communities, but also to access to services and the labor market.<sup>338</sup> “[T]he discrimination that occurs from some entities [and employers] affects the access of migrants to services such as health and education” as well as the ability to be hired, as many report facing discrimination based on national origin or migration status when applying for a job.<sup>339</sup>

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<sup>328</sup> See CONPES, *supra* note 311, at 40.

<sup>329</sup> *See id.*

<sup>330</sup> *See id.* at 50; GIFMM & R4V, *supra* note 294, at 7.

<sup>331</sup> CONPES, *supra* note 311, at 46.

<sup>332</sup> *See R4V, supra* note 144, at 137.

<sup>333</sup> CONPES, *supra* note 311, at 46.

<sup>334</sup> GIFMM & R4V, *supra* note 294, at 40–42 (translation by author).

<sup>335</sup> *Id.*

<sup>336</sup> OBSERVATORIO DE VENEZUELA, *supra* note 291, at 39.

<sup>337</sup> *See CONPES, supra* note 311, at 77.

<sup>338</sup> *Id.* at 74.

<sup>339</sup> *Una Conversación Pendiente: Migración Venezolana y Elecciones en Colombia*, FUNDACIÓN IDEAS PARA LA PAZ (June 16, 2022), <https://ideaspaz.org/publicaciones/investigaciones->

Security is one of the biggest concerns for the host population, who often associate “increase[s] in crime rates or new forms of crime with the arrival of migratory flows.”<sup>340</sup> This belief is unfounded, as it has been shown that there is no significant relationship between Venezuelan migration and increased insecurity in the country.<sup>341</sup> In fact, “reports show that Venezuelans commit less crimes than the local population.”<sup>342</sup> Still, the instrumentalization of Venezuelan migrants by these armed groups has been confirmed and, “[u]nfortunately, the victimization of the migrant population has been growing rapidly in recent years,” which may explain the association between crime and Venezuelan migration.<sup>343</sup> Another concern arising from Colombians is the effect that Venezuelan migrants have on the job market. Studies, however, demonstrate “that the regularization of migrants has insignificant effects on the working conditions of the Colombian population.”<sup>344</sup> Combating these misconceptions is essential to the effective guarantee of Venezuelans’ rights under ETPV.

PPT has had excellent results in terms of registration numbers, however, a host of challenges in terms of greater integration remain.<sup>345</sup> The effect of PPT is already showing positive results regarding access to jobs and financial security, health, and education.<sup>346</sup> Regardless of this progress, the average incidence of poverty for Venezuelans is 61.3%, compared to 33.3% for the Colombian population.<sup>347</sup> Venezuelan migrants face many economic disadvantages: “[82%] of households live in inadequate . . . housing conditions, 51[%] eat two meals a day or less, [and] 92[%] have insufficient . . . access to water.”<sup>348</sup> There has been significant progress in terms of access and expansion of services thanks to ETPV;

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analisis/2022-06/analisis-una-conversacion-pendiente-migracion-venezolana-y-elecciones-en-colombia [https://perma.cc/ALQ3-4MYH] [hereinafter *Una Conversación Pendiente*] (translation by author); DANE, *supra* note 308, at 56.

<sup>340</sup> OBSERVATORIO DE VENEZUELA, *supra* note 291, at 39 (translation by author).

<sup>341</sup> CONPES, *supra* note 311, at 58.

<sup>342</sup> SCHMIDTKE, *supra* note 312, at 6 (translation by author); see *Una Conversación Pendiente*, *supra* note 338.

<sup>343</sup> See CONPES, *supra* note 311, at 51; Ronal Rodríguez, *Un Año del ETPV: El Método Colombiano de Recepción Migratoria*, EL ESPECTADOR (Feb. 7, 2022), <https://www.elespectador.com/mundo/america/un-ano-del-etpv-el-metodo-colombiano-de-recepcion-migratoria/> [https://perma.cc/3XC5-7SSN] (translation by author); OBSERVATORIO DE VENEZUELA, *supra* note 291, at 39.

<sup>344</sup> *Una Conversación Pendiente*, *supra* note 339 (translation by author).

<sup>345</sup> See Rodríguez, *supra* note 343.

<sup>346</sup> *See id.*

<sup>347</sup> CONPES, *supra* note 311, at 49.

<sup>348</sup> R4V, *supra* note 144, at 137.

however, services that exist are not always sufficient to help the population in need.<sup>349</sup> Lack of information also impedes access to necessary services, as shown by the fact that around 52% have not received information in the past year regarding how to access education, formal work, regularization, and healthcare, among others.<sup>350</sup> It is, therefore, not surprising that the majority of Venezuelans still experience hardship in finding a job, obtaining legal documents, and gaining access to health services.<sup>351</sup>

## V. CONCLUSION

As described in this Article, Latin America, particularly South America, has shown solidarity with the Venezuelan migrant population through joint mechanisms and responses to guarantee migrant and refugee rights.<sup>352</sup> This should be celebrated and studied as a model for other comparable regions, especially those facing similar scales of mass displacement. Colombia, in particular, stands as a beacon of hope for its adoption of temporary protection measures for Venezuelans designed to achieve the socio-economic integration of millions of Venezuelans in the country.<sup>353</sup>

Still, a lot more work remains to be done. At the regional level, apart from Colombia, a more comprehensive response continues to be needed from neighboring countries, which, throughout the Venezuelan migration crisis, have imposed strict entry requirements that most Venezuelans cannot meet.<sup>354</sup> The financing of aid to the Venezuelan migrant population in the region continues to be a great challenge, as it has been limited, given the needs and limitations of neighboring countries, despite the meetings of donors and the commitments arranged.<sup>355</sup> In fact, “only a fraction of international assistance devoted to other major crises has been [dedicated]

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<sup>349</sup> See *id.*; CONPES, *supra* note 311, at 39.

<sup>350</sup> See JOINT DATA CTR. ON FORCED DISPLACEMENT, BARRIERS TO THE INTEGRATION OF VENEZUELAN MIGRANTS AND REFUGEES IN COLOMBIA: POLICY LESSONS FROM THE MIGRATION PULSE SURVEY 12 fig.10 (2023).

<sup>351</sup> See CONPES, *supra* note 311, at 67.

<sup>352</sup> See *supra* Part III.

<sup>353</sup> See *supra* Part IV.B, IV.C.

<sup>354</sup> See Anastasia Moloney, *Is South America Closing Its ‘Open Door’ on Venezuelans?*, REUTERS (Aug. 8, 2019, 12:37 PM), <https://www.reuters.com/article/us-venezuela-migration-analysis/is-south-america-closing-its-open-door-on-venezuelans-idUSKCN1UY27D> [https://perma.cc/Y2QX-U5YW].

<sup>355</sup> See Cynthia J. Arnson, *The Venezuelan Refugee Crisis Is Not Just a Regional Problem*, FOREIGN AFFS. (July 26, 2019), <https://www.foreignaffairs.com/articles/venezuela/2019-07-26/venezuelan-refugee-crisis-not-just-regional-problem> [https://perma.cc/U668-QJEZ].

to . . . [helping] Venezuelan[s].”<sup>356</sup> “It’s sad to see we have two crises with roughly the same number of refugees impacted, and the response for Ukraine has been so overwhelmingly positive . . . while in Venezuela, there is real donor fatigue,” said Rachel Schmidtke, a Latin America expert who works for the advocacy group Refugees International.<sup>357</sup> “Although people aren’t fleeing war [in Venezuela], they are fleeing a dictatorship and a country that was in economic freefall for many years.”<sup>358</sup>

Moreover, important questions still remain on how the integration of Venezuelans is impacting broader Colombian society, as it is hard to separate the continuing effects of the pandemic on the economy and migration.<sup>359</sup> The longer Venezuelans remain in Colombia, the more their viability for socio-economic integration will be intimately intertwined with Colombians’ own well-being as Venezuelans will be increasingly scrutinized for their impact on Colombia’s economy.<sup>360</sup> In this regard, a few preliminary studies show some mixed results. For example, one study found that Venezuelan migration has increased wages in Colombia while simultaneously increasing the share of workers in the informal sector.<sup>361</sup> Another study found that, in general, Venezuelan migration, especially those with higher levels of education, tended to increase Colombia’s labor productivity.<sup>362</sup> Yet another projection sees Colombian unemployment rising at least two points, to as high as 11% due to increases in labor supply due to Venezuelan migration.<sup>363</sup> This same projection calculated substantial additional costs (as high as 0.04% of Colombia’s GDP) in health costs to an already burdened public health system.<sup>364</sup> The

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<sup>356</sup> *Id.*

<sup>357</sup> Robbie Gramer, *Venezuela’s Forgotten Refugee Crisis Rivals Ukraine’s*, FOREIGN POL’Y (Sept. 1, 2022, 4:48 PM), <https://foreignpolicy.com/2022/09/01/venezuela-refugee-crisis-rivals-ukraine-humanitarian-response/> [<https://perma.cc/8YZS-WB56>].

<sup>358</sup> *Id.*

<sup>359</sup> See ALVAREZ ET AL., *supra* note 257, at 1, 4–5; *Post-Pandemic World Economy Still Feeling COVID-19’s Sting*, UN NEWS (May 16, 2023), <https://news.un.org/en/story/2023/05/1136727> [<https://perma.cc/CE4E-XRKN>].

<sup>360</sup> See Arnson, *supra* note 355.

<sup>361</sup> MARÍA PAULA THERÁN LOZANO, IMPACTO DE LA MIGRACIÓN VENEZOLANA EN EL MERCADO LABORAL COLOMBIANO 17, 19 (2023) (<sup>2023</sup>) <https://repositorio.uniandes.edu.co/server/api/core/bitstreams/534587c6-cc24-4d38-9d61-902d3c801e7e/content> [<https://perma.cc/5KPU-T8QA>].

<sup>362</sup> Olga María Mutis O., Camilo José Ríos I., Laura María Montaño G. & Vanessa Monroy R., *Crisis u Oportunidad: Impacto de la Migración Venezolana en la Productividad Colombiana*, 89 DESARROLLO Y SOCIEDAD 13, 43 (2021).

<sup>363</sup> Sergio Clavijo, *Inmigración Venezolana y sus Impactos Socioeconómicos*, LA REPÚBLICA (Apr. 4, 2018), <https://www.larepublica.co/analisis/sergio-clavijo-500041/inmigracion-venezolana-y-sus-impactos-socioeconomicos-2708594> [<https://perma.cc/KM6X-DH6N>].

<sup>364</sup> *Id.*

World Bank produced a 2018 report that includes a comprehensive analysis of the socio-economic impacts of Venezuelan migration to Colombia.<sup>365</sup> Highlighted in this report are the institutional shocks that Venezuelan migration caused to Colombia's public institutions.<sup>366</sup> Economically, the World Bank found that in the short term, Venezuelan migration does appear to have increased the rates of extreme poverty in Colombia due to increases in unemployment as well as in employment in the informal sector.<sup>367</sup> A more recent report by the Inter-American Development Bank (IDB) of 2020 provides more favorable conclusions about the economic impacts of Venezuelans in Colombia.<sup>368</sup> The IDB found that while "higher fiscal spending to address immigration negatively impacts the government's budget in the short term," these are "offset by higher output, consumption, and employment level, increasing the government's revenues mainly through indirect tax collection."<sup>369</sup> It also found that

[t]he effect on the labor market is different for unskilled workers—whose higher supply generates a negative effect on wages and an increase in the unemployment rate—and skilled workers, who benefit from higher wages and lower unemployment. These changes in the labor market affect the government's revenue, resulting, in the long term, in positive fiscal dividends of migration.<sup>370</sup>

Another important consideration bearing on the success of Colombia's response to Venezuelan migration will be the successful voluntary return home of many, if not most, Venezuelans. With the opening of the border and the restoration of commercial and diplomatic relations between Colombia and Venezuela,<sup>371</sup> the

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<sup>365</sup> GRUPO BANCO MUNDIAL, MIGRACIÓN DESDE VENEZUELA A COLOMBIA: IMPACTOS Y ESTRATEGIA DE RESPUESTA EN EL CORTO Y MEDIANO PLAZO 13 (2018), <https://openknowledge.worldbank.org/server/api/core/bitstreams/7a93f6ed-f16e-5a64-8eb2-d1b6f038ee87/content> [https://perma.cc/H85K-N4A4].

<sup>366</sup> See *id.* at 74–80.

<sup>367</sup> See *id.* at 81.

<sup>368</sup> See OSCAR M. VALENCIA, MATILDE ANGARITA, JUAN SANTAELLA & MARCELA DE CASTRO, DO IMMIGRANTS BRING FISCAL DIVIDENDS? THE CASE OF VENEZUELAN IMMIGRATION IN COLOMBIA, INTER-AM. DEV. BANK 29–30 (Dec. 2020).

<sup>369</sup> *Id.* at 1.

<sup>370</sup> *Id.*

<sup>371</sup> News Wires, *Venezuela and Colombia Restore Diplomatic Ties After Three Years*, FRANCE 24 (Aug. 29, 2022, 2:32 AM), <https://www.france24.com/en/americas/20220829-venezuela-and-colombia-restore-diplomatic-ties-after-3-years> [https://perma.cc/AJ4M-XV7L] (citing Colombian Ambassador, Armando Benedetti's, statement "[r]elations with Venezuela should never have been severed. We are brothers and an imaginary line cannot separate us"); see Stefano Pozzebon, *Colombia and Venezuela Reestablish Diplomatic Relations*, CNN, <https://www.cnn.com/2022/08/29/americas/colombia-and-venezuela-reestablish-diplomatic->

possibility of the return of the migrant population to their country has increased.<sup>372</sup> Nonetheless, several academic and civil society sectors show that, on the contrary, many Venezuelans are considering migrating to Colombia,<sup>373</sup> and there will not likely be a massive return to the neighboring country.<sup>374</sup> The structural causes for which people from Venezuela were forced to migrate remain in force.<sup>375</sup>

The political, institutional, social, and economic crisis will not change overnight. A transition process of years will be required for institutions in Venezuela to be restored, the economy to grow, and an entire generation to learn to live without violence, with access to work and a living wage, food, education, and to regain confidence in institutions. Let's hope that until this happens, Colombia's response to Venezuelans will not only remain as open but become a success story that other nations can heed when confronting a similar mass influx of forced displaced peoples.

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relations-intl-latam/index.html [https://perma.cc/W27N-W4FN] (Aug. 29, 2022, 7:13 PM); *Colombia, Venezuela Restore Full Diplomatic Relations*, AL JAZEERA (Aug. 29, 2022), https://www.aljazeera.com/news/2022/8/29/venezuela-colombia-restore-full-diplomatic-ties [https://perma.cc/3Y69-25JR] (reporting that the normalization process will include the full re-opening of the border between the two countries that has been closed since 2015, and intentions to restore military relations).

<sup>372</sup> See INT'L CRISIS GRP., *supra* note 176, at 2.

<sup>373</sup> See DANIELY VICARI & SIMON TOMASI, RETURNING TO VENEZUELA: DRIVERS, EXPECTATIONS, AND INTENTIONS 8 (2022), https://www.r4v.info/sites/default/files/2022-12/Returning\_to\_Venezuela\_ENG.pdf [https://perma.cc/Y642-N7M8].

<sup>374</sup> Silivina Acosta, *Venezuela Diaspora: Changing Demographics, Remittances, and Return Migration Patterns*, CTR. MIGRATION STUD. (Dec. 6, 2022), https://cmsny.org/venezuelan-diaspora-migrants-acosta-120622/ [https://perma.cc/V6TH-K3FW]; see also Dahl, *supra* note 249 (reporting that 62% of Venezuelan migrants want to stay in Colombia).

<sup>375</sup> Dahl, *supra* note 249.