

# Looking Forward: Mobility and International Cooperation on Migration in South America in a Time of Transition

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## Executive Summary

Shared approaches to managing mobility have a long history in South America. Since at least the early 19<sup>th</sup> century, countries have sought to create easy pathways for movement around the region, though many of these schemes were short-lived in practice, and existed at a time when migration flows were more limited in scale and scope. The arrival of more than 5 million Venezuelans beginning in 2015 changed this landscape, as few countries in South America had robust institutions in place to manage large-scale migration and refugee admission. Systems had to be created rapidly and many creative—albeit temporary and ad hoc—measures were developed, largely unilaterally, although countries have learned from each other and adapted their policies accordingly.

In the past five years, countries have also made efforts to reactivate regional processes and forums to harmonize responses to these flows—including through existing regional trade agreements like Mercosur and the 2018 Quito Process. Yet despite efforts on paper to develop collective responses to migration management, in practice, countries have largely continued to pursue their own policy approaches—using regional forums to share and exchange experiences, but not for actual decision-making. While both Mercosur and

the Andean Pact have made statements about the importance of regional cooperation in making decisions on migration and borders, in reality, most decisions have been made by individual governments based on their own criteria. And these decisions have been primarily in the direction of restricting mobility across borders.

The arrival of COVID-19 in South America has only served to accentuate this trend, creating a “crisis within a crisis.” South America has been hit disproportionately hard by the pandemic, accounting for 87 percent of all COVID-19 cases in Latin American and the Caribbean, and has experienced a precipitous drop in employment. In this context, the implementation of the Global Compact on Safe, Orderly, and Regular Migration (GCM), which most countries adopted in 2018, has stalled. On one hand, the Compact’s objectives are largely aligned with the migration policies that already existed, and the historically open approach to mobility within the region. The narrative about generating “safe, orderly, and regular migration” has become a generally accepted framing when talking about migration in the region—which is in itself an achievement. However, incorporating the normative ideas of cooperation around migration into actual practice faces multiple barriers, including that the COVID-19 crisis has accentuated the trend toward greater unilateral decision-making.

While some analysts focus on the relative lack of success of the Quito Process or the GCM in spurring collective action around Venezuelan flows, there is a bright light of cooperation that has remain relatively underappreciated. The

2018 Regional Platform for Venezuelan Refugees and Migrants has drawn together 41 international stakeholders (including agencies like UNHCR and IOM, and development banks like the Inter-American Development Bank and the World Bank) to play an outsize role in not only mobilizing resources and assembling information, but also in socializing and encouraging policy innovation. Perhaps even more than the Quito Process or the South American Conference on Migration, which remain important official spaces of dialogue, the practical efforts of development actors at a time of large-scale forced migration, may actually help countries think through their policy options, shape cooperation and joint decision-making, and bring examples from outside the region that can serve as a basis for future cooperation.

## 1 Introduction

The COVID-19 pandemic arrived in South America in the middle of a historical moment of intense intra-regional mobility. In the past five years, more than five million Venezuelans have been forced to migrate, mostly to destinations in South America that had not previously had robust institutional and legal structures in place to manage new arrivals. Moreover, approaches to migration varied tremendously across the region. Some countries have rights-based migration systems, while others still have restrictive or contradictory legislation from the last century that has yet to be updated and is sometimes left over from authoritarian governments. The region had also developed its own set of mobility arrangements among neighboring countries and within certain subregions—including the Southern Common Market (Mercosur) in the Southern Cone and Brazil, the Andean Pact from Venezuela to Peru, and

the short-lived Union of South American Nations (Unasur), which all allowed some form of mobility among signatories, often (but not always) then included in national laws.<sup>1</sup>

Despite these uneven legal arrangements, the governments in the region have shown a degree of surprising openness to sudden migration flows, often trying—at least initially—to find legal pathways to recognize the status of those who have arrived, especially Venezuelans. Many of these measures have been temporary and tenuous, such as short-term regularization programs in Colombia, Ecuador, and Peru, while others have been linked to rights-based legislation that already existed, such as the use of labor mobility agreements to receive Venezuelan migrants in Argentina and Uruguay or to grant *prima facie* recognition of refugee status to Venezuelans in Brazil.<sup>2</sup>

However, in all of these societies, high levels of social inequality, economic precariousness, and informality in the labor market, and vastly different degrees of access to rights and basic services, have complicated the integration of recent migrants significantly. Even when governments seek to extend legal status or specific rights on paper—such as access to education, healthcare, or work—migrants' ability to access these rights in practice is often mediated by these inequalities. Migrants face real barriers to enrolling in school, getting attention at hospitals, or entering the labor market even when governments try to mitigate these. While most governments have made attempts to overcome some of these shortcomings, these fixes are generally ad hoc and temporary.

The Global Compact on Safe, Orderly, and Regular Migration (GCM) arrived at a moment when South America was in theory searching

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<sup>1</sup> Diego Acosta, *The National versus the Foreigner in South America: 200 Years of Migration and Citizenship Law*, Cambridge, UK: Cambridge University Press, 2018.

<sup>2</sup> Selee, Andrew, Bolter, Jessica, Muñoz-Pogossian, Betilde and Hazán, Miryam "Creatividad dentro de la crisis: opciones legales para inmigrantes venezolanos en

América Latina", Estados Unidos: Migration Policy Institute, 2019; Selee Andrew and Bolter Jessica, "Bienvenidas asimétricas: Respuestas de América Latina y el Caribe a la migración venezolana y nicaragüense", Estados Unidos: Migration Policy Institute, 2020.

for common solutions, as mass migration from Venezuela began to dominate domestic debate in most countries. All of the countries in South America, except Chile, are signatories of the Compact, and the region was, in some ways, a model of international cooperation around migration with its interlocking agreements on mobility. But in reality, these agreements had started to fray by the time of the Compact, as political differences among countries and mass migration flows from Venezuela undermined the political space for broad agreements. Instead, an ad hoc effort, the Quito Process, which sought to develop common standards among countries that were the largest recipients of Venezuelan migrants and refugees, became a primary locus of discussion on migration.<sup>3</sup> The Quito Process has played a role in maintaining a degree of openness to Venezuelan migrants and refugees among the participating countries, but it is primarily a forum for discussion and socializing ideas rather than decision-making.

The arrival of COVID-19 in the context of historically large flows created a “crisis within a crisis.” Countries were only beginning to learn how to govern large-scale migration, often finding creative ways to adjust,<sup>4</sup> when they suddenly were facing a massive health crisis with enormous economic and social impacts. The Quito Process itself has faded from view a bit as countries have become far more focused on their domestic priorities in the middle of these overlapping crises. Despite this, the national measures to incorporate migrants and refugees—sometimes tenuous, ad hoc, and uneven, but very real—have held even in this new context. But there are powerful political winds blowing against greater openness in several countries as these

multiple crises come together, though they have yet to influence policy decisions decisively.

## 2 Governing Migration in South America: Trends and Challenges

Few countries in South America had robust institutions for managing migration and refugee admission until the past five years. Migration flows had been relatively limited and easily manageable in most countries, mostly consisting of flows from neighboring nations. Indeed, most countries in the region had significant out-migration of their own nationals to North America and Europe and so were far more focused on maintaining a relationship with their diaspora abroad. Nonetheless, in the early 2000s, many countries updated their migration legislation, including Argentina, Uruguay, Venezuela, Bolivia, Ecuador, and Peru. This new legislation tended to be quite liberal and allow migrants significant rights.<sup>5</sup> Other countries, like Colombia, Chile, and Paraguay, still have legislation left over from earlier periods, including authoritarian regimes in the cases of Chile and Paraguay. All of these countries have ongoing discussions on how to update their legislation.

The construction of migration legislation, policies, and decisions in recent years has often been mediated through formal institutions (described below) but has also occurred through *informal* channels that connect policymakers among the different countries and promote regional learning.

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<sup>3</sup> The Quito Process was initiated in 2018 to promote communication and coordination between countries receiving Venezuelan refugees and migrants in Latin America and the Caribbean. Its 13 Member States are: Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guyana, Mexico, Panama, Paraguay, Peru, and Uruguay.  
<https://www.iom.int/quito-process>

<sup>4</sup> Gandini, Luciana, Prieto, Victoria and Lozano, Fernando, *Crisis y migración de población venezolana. Entre la desprotección y la seguridad jurídica en Latinoamérica*. México: Universidad Nacional Autónoma de México, 2019.

<sup>5</sup> David James Cantor, Feline Freier, and Jean-Pierre Gaudi, *A Liberal Tide? Immigration and Asylum Law and Policy in Latin America*, London: University of London, 2015.

## A. Formal Governance Processes and Institutions

The countries of South America have had a number of experiences with regional cooperation on migration, with different degrees of success. The South American Conference on Migration, twenty years old, is perhaps the most respected consultative body in the region. It has created institutionalized mechanisms of dialogue and agreement based on the exchange of information in an informal, open, and non-binding environment. In addition, the regional trade agreements, Mercosur and the Andean Community, also have side agreements on labor mobility which permit the members of affiliated countries to enter without visas and to obtain work visas under simplified requirements. Only Argentina and Uruguay allow nationals of all Mercosur countries in South America, including “associated” countries, and Venezuela, which has been suspended since 2017, to have access to residence visas that include permission to work, but other countries have specific allowances. The Andean Community still allows nationals of Colombia, Ecuador, Peru, and Bolivia to move with relative ease across their shared borders, but no longer includes Venezuela, which was once a member but withdrew in 2006.

UNASUR was a short-lived attempt to unite the disparate countries of South America in a trade and mobility pact that would include the entire continent, and Ecuador, in particular, adopted visas with few requirements for

nationals of other member states, but the effort largely collapsed after left-of-center governments in several crucial countries that were promoting UNASUR, mostly notably Brazil, left office. Indeed, as Diego Acosta has shown, the search for integration, including in terms of mobility,<sup>6</sup> has a long history in South America, as countries have often sought to create easy pathways for movement around the region, since at least the early nineteenth century, though these have often been short-lived in practice.

There have been other important mechanisms too. The 1984 Cartagena Declaration, signed by 14 Latin American countries, mostly in South America, created a broader regional understanding of refugee status, including recognizing those fleeing generalized violence and the breakdown of order as refugees.<sup>7</sup> The Follow-Up Process of the Cartagena Declaration continues to meet every few years to reaffirm and reassess these commitments. However, Brazil remains the only country in South America that has chosen to apply the expanded definition of refugee to displaced Venezuelans.<sup>8</sup>

The latest mechanism pursued by countries in the region is the Quito Process, first convened in November 2018 in Quito, Ecuador with the participation of eleven countries (now thirteen in total), most of them in South America, with the objective of coordinating efforts to deal with Venezuelan forced migration.<sup>9</sup> The process, which has met six times to date, initially played a role in maintaining a degree of openness among the countries of the region, as well as sharing practices among the participating

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<sup>6</sup> Acosta, *The National Versus the Foreigner in South America*.

<sup>7</sup> Of the more than 5 million displaced Venezuelans, only 806,416 had applied for asylum in Latin America and the Caribbean as of October 5, 2020.

<https://r4v.info/es/situations/platform>

<sup>8</sup> In November 2019 Colombia announced that such an application was being considered, but in January 2020 implemented new migratory regularization measures instead. Cécile Blouin, Isabel Berganza and Luisa Feline Freier, “The spirit of Cartagena? Applying the extended

refugee definition to Venezuelans in Latin America,” *Forced Migration Review*, Vol 63, February 2020.

<sup>9</sup> The thirteen members are Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guyana, Mexico, Panama, Paraguay, Peru, and Uruguay. For more information, see International Organization on Migration, “The Quito Process,” available at <https://www.iom.int/quito-process>.

governments, but it has become less effective as a coordinating mechanism as countries have pursued their own separate migration policies, some of them far more restrictive than others.

Perhaps the most influential and under-appreciated coordination effort in recent years has been the 2018 Regional Platform for Venezuelan Refugees and Migrants, created to support the protection, assistance, and integration needs of Venezuelan migrants and refugees in Latin America and the Caribbean. Led by the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), with the participation of 41 members—17 UN agencies, 15 NGOs, five donor agencies, two international financial institutions, and the Red Cross Movement—<sup>10</sup> the platform generates information, facilitates communication, and also mobilizes resources to strengthen and complement national and regional responses. Among other things, the Platform has become an indispensable reference point on statistical information and analysis, but through its role in dispensing hundreds of millions of dollars in resources raised through international cooperation efforts, it also plays a vital role in shaping policy decisions and direct assistance in countries throughout the region.

## ***B. Informal Processes and Regional Learning***

Facing the sudden flow of forced migrants and refugees from Venezuela, some countries in the region used existing regional mobility agreements to address the needs of Venezuelan arrivals. The governments of Argentina and Uruguay, in particular, agreed to recognize Venezuelans as nationals of a Mercosur signatory country (even though Venezuela was suspended from Mercosur) so that they could provide them with automatic

Mercosur visas that would allow them to stay legally and work. Other countries, starting with Peru, then Colombia, and finally Ecuador, implemented major regularization programs for Venezuelans who were in the country without legal status. The specific criteria of these programs varied enormously from country to country, but over time more than one million Venezuelan nationals have gained temporary legal status with the right to work in all three countries under these programs. Governments learned from the experiences in each of the other countries to inform their own regularization processes.<sup>11</sup> Peru has recently announced a new round of regularization, with more restrictive conditions than before, and Colombia has launched a regularization based on work, for those Venezuelans who have employment in the formal sector, and seems poised to do a similar program for students in secondary education.

For a time, all of the countries in the region tried to keep their borders open to new arrivals, a commitment made during the early Quito Process meetings. But those commitments ultimately broke down with the governments of Ecuador, Peru, and Chile adding significant visa requirements for arriving Venezuelans, much to the chagrin of Colombian policymakers who worried about new Venezuelan flows becoming bottled up in Colombia.

Brazil has been the one country that has effectively used its asylum system to grant almost *prima facie* recognition to Venezuelan migrants who arrive in that country, based on the criteria of the Cartagena Declaration. The Brazilian government does still make case-by-case determinations, but since mid-2019 has decided to approve almost all Venezuelan applicants for asylum based on the broad criteria for refugee status contained in the Cartagena Declaration, which is also part of Brazilian asylum law. Most other countries have opted not to use their asylum systems to

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<sup>10</sup> More information available on the webpage of the Platform, available at [www.r4v.info](http://www.r4v.info).

<sup>11</sup> Gandini et al., *Crisis y migración de población venezolana*; Selee and Bolter, *An Uneven Welcome*.

process Venezuelans arriving in their countries in favor of the other mechanisms described above.

Finally, there is now a period of intra-regional learning around ways of integrating migrants and refugees, which is taking place within the context of the institutional arrangements described above, as well as national processes of decision-making. Argentina and Peru, for example, have tried to speed up processes for credential recognition for migrants and refugees in their health systems, so as to take advantage of the large number of foreign-born doctors and nurses who can help out during a pandemic. Almost all countries that have received large migration flows are currently discussing strategies to recognize foreign credentials for professionals in ways that are more agile than exist in current processes.

### 3 Migration Policy in an Era of Covid-19

South America has been hit particularly hard by the pandemic. It accounts for 87 percent of all cases of COVID-19 in Latin America,<sup>12</sup> with the region becoming the third largest region in terms of confirmed cases after the United States and Europe. It is also one of the regions of the world with the largest loss of employment, with almost 13 percent of the workforce unemployed, up from 8.1 percent in 2019.<sup>13</sup> Chile, Brazil, Colombia, Peru, and Ecuador have been among the countries most affected.

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<sup>12</sup> IOM, Confirmed COVID-19 Cases in South America Represent 87 Per Cent of the Total in Latin America - IOM Launches Urgent Appeal, 2020. <https://www.iom.int/news/confirmed-covid-19-cases-south-america-represent-87-cent-total-latin-america-iom-launches>

<sup>13</sup> ILO, Panorama Laboral en tiempos de la COVID-19 Impactos en el Mercado de trabajo y los ingresos en América Latina y el Caribe. 2020. [https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms\\_749659.pdf](https://www.ilo.org/wcmsp5/groups/public/---americas/---ro-lima/documents/publication/wcms_749659.pdf)

Both Mercosur and the Andean Pact, which oversee the two large mobility agreements in the region, have made statements about the importance of regional cooperation in making decisions on migration and borders. However, in reality, most decisions have been made by individual governments based on their own criteria, and they have been primarily in the direction of restricting mobility across borders.

Migrants and refugees have been among the most affected by these restrictions.<sup>14</sup> For migrants, this unprecedented period of restricted border mobility has generated two contradictory but interrelated processes: return and forced immobility.<sup>15</sup> The economic downturn has exacerbated already precarious living conditions for many migrants and refugees and forced them to return, in many cases by foot, towards their countries of origin or towards third countries where they may have relatives or friends. The most dramatic case, of course, is that of the Venezuelans who have returned from Colombia, Ecuador, Peru, and Chile to Venezuela, perhaps one or two percent of all those who had left, as they have lost their jobs in the informal sector during the pandemic. These journeys have been difficult and made more so by the restrictions the Venezuelan government imposed on how many nationals it would take back each day. There have also been processes of return of Peruvians and Bolivians from Chile or Paraguayans from Brazil, who often encounter problems in reaching their country of origin.

In other cases, those who had hoped to leave their countries (especially Venezuela) have

<sup>14</sup> Bengochea, Julieta, et al, "COVID-19 y Población migrante y refugiada. Análisis de las respuestas político-institucionales en ciudades receptoras de seis países en América Latina". En *Inmigrando: Fortalecer ciudades destino*, editado por F. Vera y V. Adler, Vol. 2. Buenos Aires: BID, 2020- en prensa.

<sup>15</sup> Vera, Marcia, Zapata, Gisela and Gandini, Luciana, "Mobility in immobility: Latin American migrants trapped amid COVID-19". Open democracy, 2020. <https://www.opendemocracy.net/en/democraci-aabierta/mobility-immobility-latin-american-migrants-trapped-amid-covid-19/>

found themselves unable to leave because of mobility restrictions in other countries, or they have become stranded in transit countries on their way to their intended destination. Others, who had succeeded in obtaining legal status in countries of the region, have fallen into irregular status as migration offices have closed and it has become hard to renew visas and residency permits.

In many countries, migrants and refugees have also lost jobs and, far from home, have had to depend on very thin social networks to survive. Some governments have mitigated these effects by including migrants in their local assistance and stimulus programs, as in the case of Brazil, Uruguay, Colombia, Chile, Peru, and Ecuador. However, in most countries, this only applies to migrants who are legally registered, which leaves out the majority who remain in irregular status. And in a few cases, support programs have been based on formal employment, which few recent migrants have in practice. Other efforts like prohibiting evictions from housing during the crisis have often helped migrants, but they are sometimes applied unevenly.

## 4 Towards a Safe, Orderly, and Regular Migration: Challenges and Opportunities

The normative and policy transformations taking place in the region have to do with the role that South American countries have increasingly played as host societies for large-scale forced migrations. Historically, the countries have had an open position on migration, with rights-based laws and policies, although these have been challenged more recently by political pressures during this period of large-scale inflows. The Global Compact on Migration was accepted by most countries without much problem, since it fit into the generally open policies that already

existed, and the repeated attempts to create mobility regimes within the region. Today, most countries use the narrative about generating “safe, orderly, and regular migration” as a matter of course, which reflects the discursive compatibility between the GCM and the existing discussions in the region. However, there are enormous challenges to incorporate the normative ideas of cooperation around migration into actual practice, and these challenges have only been accentuated by COVID-19, which has led to greater unilateral decision-making.

Among the pending challenges are how to restart mobility across borders in a way that takes into account the different challenges that countries in the region continue to face with COVID-19. There are also challenges to maintaining coordinated visa policies that benefit subregions that are deeply integrated economically, as with Mercosur and the Andean Pact, and finding common ways to promote the integration of migrants and refugees, including legal status and access to the labor market. The pandemic has only made these challenges more difficult.

The relative lack of recent experience of most countries in the region with large-scale migration—until the past five years—is both an opportunity and a barrier. On one hand, it means that South America remains a region marked by experimentation around mobility and migration, with a history of promoting humanitarian protection, intra-regional mobility, and coordinated border policies. This era of experimentation has produced efforts to receive, legalize, and incorporate migrants and refugees in innovative ways that remain a template for future action. On the other hand, the weakness of migration institutions and existing policies in many countries make it hard to move forward on key areas of policy harmonization, and it makes existing policies vulnerable to sudden changes in political opinion.

Agencies like UNHCR and IOM play an outsized role, through the Platform, in socializing and

encouraging policy innovation in this environment, as do the development banks, including the Inter-American Development Bank and the World Bank, and international cooperation institutions. Perhaps even more than the Quito Process or the South American Conference on Migration, which remain important official spaces of dialogue, the practical efforts of development actors at a time of large-scale forced migration, may actually help countries think through their policy options, shape cooperation and joint decision-making, and bring examples from outside the region that can serve as a basis for future cooperation. All of these institutional frameworks play a role in consolidating the commitment of the GCM, in some degree at least, within regional discussions and national decision-making processes. The great challenge is passing from specific and exceptional responses to sudden migration inflows to longer-term policies about inclusion and social cohesion in diverse societies that include immigrant populations. In the context of the current pandemic, this task is only further increased, as governments will have to find ways of cooperating to reopen borders and set new parameters for mobility in a post-COVID era. In both cases, this will require moving from ad hoc to long-term solutions.



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