INTERNATIONAL PROTECTION IN LATIN AMERICA:

40th Anniversary of the Cartagena Declaration on Refugees

REPORT

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ICVA
A GLOBAL NGO NETWORK
FOR PRINCIPLED AND EFFECTIVE
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Presentation of the Latin American Network on Refugee Law and Integration (Red LAREF)

The Latin American Network on Refugee Law and Integration is made up of representatives of academia from Latin America with vast experience, activity and expertise in the field of protection of asylum-seekers, refugees, forcibly displaced and stateless persons.

The Network emerged through regional academic exchanges occurring since 2014, mainly through the Latin American Conferences on Refugees and International Protection organized by the Hungarian Helsinki Committee and the United Nations High Commissioner for Refugees (UNHCR). In total, eight Conferences have been held, both in person (in Quito, Brasilia, Buenos Aires, Bogota, Lima and Santiago de Chile) and virtually where academic and jurisprudential advances, research, studies, findings and constructive criticism on international protection have been exchanged. As a result of the VII Conference, the book "Forced Displacement and International Protection in Latin America on the 70th Anniversary of the Adoption of the Convention Relating to the Status of Refugees" was published.[1]

The joint work of the members of the Network has contributed to the realization of academic events (courses, seminars, conferences) as well as to the production of various studies and work such as Administrative and Judicial Resources in asylum procedures in Latin America [2] the Study on the Statutes of International Protection in Latin America[3] and the Teaching Guide for the Development of an Introductory Course on International Refugee Law.[4]

In 2019, the Network submitted a pledge towards the 1st Global Refugee Forum (GRF). The Santiago Charter was drafted in October 2019 by the Network and presents commitments under the following four areas:

- Addressing the immediate needs of persons of concern;
- Conducting and disseminating comprehensive and multidisciplinary studies on situations of forced displacement in the Americas;
- Strengthening national capacities in international protection and access to the rights of persons of concern to provide adequate responses; and
- Facilitating the admission of persons of concern to higher education in host countries.

Every year, the Network reports to UNHCR's Global Compact on Refugees (GCR) Coordination Team on the status of pledge implementation.[5]

Recently, the Network was formally constituted, with the approval of its Bylaws, the formation of its first Steering Committee.

As a continuation of this work of the Network, last September a new meeting was held, this time under the auspices of ICVA with a view to develop a consultative process in 2024, prior to the commemorative event for the 40th Anniversary of the adoption of the Cartagena Declaration on Refugees. This meeting took place in the city of Bogota, Colombia, and was attended by 18 members of the Network, representing 8 different Latin American countries, including the main recipient countries of displaced populations in the region, such as Mexico, Colombia, Chile and Ecuador.

Executive Summary

The Latin American Academic Network on the Law and Integration of Refugees was established in 2014 and is comprised of representatives of Latin American professors, researchers and lawyers with vast knowledge, activity and experience in the field of refugee protection, asylum seekers, refugees, internally displaced and stateless persons, especially through legal clinics, NGOs and working directly with national and local governments within our region.

Our annual meetings have been held since the establishment of the Network, 10 years ago, and in September 2023 we met in Bogotá with the objective of specifically discuss the progress and challenges of the application of the Cartagena Declaration within the framework of its 40 years of existence.

Therefore, and given the complexities of the migratory movements in the Americas since the adoption of the Brazil Plan of Action, we would like to contribute in this public hearing with specific recommendations.

In general terms, we recommend:

That States:

1. Raise awareness and qualify officials involved in immigration control to identify people with international protection needs and other specific needs.

2. Implement alternative mechanisms to immigration detention.

3. Establish protocols and differentiated protection measures in the case of migrant children and adolescents, in which the best interest prevails.

4. Ensure access to refugee status determination procedure in all cases that require it.

5. Guarantee access to the procedure also for people who enter the country through humanitarian visas, so that they can obtain a legal status according to their situation.

6. Establish or strengthen public and free legal defense programs that ensure compliance with obligations regarding access to asylum procedures.

7. Activate existing public policies for the foreign population residing in the country, incorporating them into existing programs and plans or, eventually, creating new ones in order to guarantee their rights and protection.

8. Adopt an intersectional perspective to prevent, mitigate and combat discriminatory speeches and actions against migrant minorities, such as non-white persons, women and the LGBTQIAPN+ population.

9. Establish laws and regulations to recognize and document people displaced by disasters so that they have priority access to social and humanitarian assistance based on good practices already established in the region through national and subnational laws that recognize them as internally displaced persons or as migrants with humanitarian visas or even as refugees.

That Academia:

10. Support States in the development of protocols and guides for the identification of people in need of international protection.

11. Promote strategic litigation and the consequent establishment of local jurisprudence.

12. Raise awareness of the Cartagena principles and their interpretation in the region.

13. Collaborate with national authorities in the preparation of documents for the interpretation of the terms of the expanded definition of refugee, in order to ensure correct, fair and homogeneous application.

14. Conduct scientific research on migratory movements motivated by disasters in order to support public policies and national legislation.

That international Organizations:

15. Increase presence and monitoring in border areas in order to ensure compliance by States with correct identification and the guarantee of non-refoulement of people in need of protection.

16. Monitor compliance with international treaties and domestic laws on forced displacement due to disasters, as well as the effectiveness of access to rights of the population affected by disasters.

Introduction: Towards a Regional Plan of Action for international protection

In the early 1980s, internal conflicts in El Salvador, Guatemala and Nicaragua displaced thousands of people from their places of origin. Growing concern for the stability, security and situation of refugees led to the adoption of a document that would eventually become one of the main legal sources of regional law: the Cartagena Declaration on Refugees. Despite being a non-binding document, the Cartagena Declaration is undoubtedly one of the most important instruments of international refugee law. Although its contribution goes beyond the so-called expanded definition, it is precisely the introduction of a more comprehensive concept of the term refugee that has made it more widely recognized.

Every ten years, to commemorate the adoption of the Cartagena Declaration, the countries of Latin America and the Caribbean adopted new Declarations and, since 2004, also drew up Plans of Action, following consultative processes, which constituted roadmaps for strengthening protection in the following years. Mexico's 2004 Plan of Action and Brazil's 2014 Plan of Action served to reaffirm commitments, establish concrete protection programs and involve other actors, such as civil society and academia.

In the years since the adoption in 2014 of the Brazil Declaration and Plan of Action (PAB in Spanish), Latin America there have been significant changes related to the regional dynamics of forced displacement. The worsening of violence in Central America and Mexico, the deterioration of the institutional, social and humanitarian situation in Haiti and, most particularly, the massive displacement of Venezuelans, have presented the region with immense challenges.

Since the mid-2010s the region has witnessed disjointed responses to displaced persons among States, and even within States themselves at different times: some supportive and open-minded, others increasingly restrictive; some within established normative frameworks, while others innovative and creative.

On the other hand, some programs are more limited in scale and impact, such as voluntary repatriation programs or solidarity-based resettlement Moreover, some of the issues that led the discussions during the 2014 consultative process prior to the adoption of the BAP remain a challenge, especially in a context of large-scale mixed movements: improving the quality of asylum systems, secure borders, local integration.

The purpose of the consultation was to reflect on these challenges, highlighting good practices and outlining the gaps identified, in order to propose actions for the future. It also sought to prepare a document, which reflects upon the commemoration of the adoption of the Cartagena Declaration on Refugees (hereinafter referred to as the Cartagena Declaration) and makes recommendations for its implementation in the region.

The consultation addressed four main thematic areas: protection and assistance in mixed movements; regularization and access to rights; integration in host societies; and disaster displacement and protection. Within each thematic area, several thematic sessions were held. In total, one introductory conference and nine thematic discussion sessions were held.

Methodology

The consultation began with a keynote session by Gábor Gyulai from the Hungarian Helsinki Committee on the significance of the Cartagena Declaration in the context of expanding protection. This session sought to frame the event in a historical context regarding the scope and limitations of the international protection regime in today's world.

The remainder of the sessions followed a workshop format to encourage participation, interactivity, exchange and discussion. Each session had a coordinator who provided an introduction to the topic, and participants were given the opportunity to present different situations, make observations and comments, and thus generate a discussion enriched by a diversity of views and perspectives.

The participants were asked to prepare, for each country, an information sheet containing their most relevant observations, as well as references to relevant academic literature, recently adopted regulations, statistical information and any other information they considered relevant.

After the event, the coordinators of each session's roundtable, based on the presentations made, the transcription of the discussions, and the country sheets, prepared the report of each of the roundtables that gave rise to this document.

The Cartagena Declaration in the context of an expanding field of international protection

In order to assess the contribution of the Cartagena Declaration for the region as well as globally, it is important to understand the historical evolution of asylum and the international refugee protection regime.

Asylum has its roots in the protection given by a State to a person outside of their country of origin who cannot return to his or her country where they may face serious harm. This concept was originally discretionary and lacked an international framework, with the exception of Latin America which has had it since the end of the 19th century. The Latin American system of diplomatic and territorial asylum is a set of regional norms, mostly prior to the adoption of international instruments on refugee protection: International Criminal Law Treaty (Montevideo, 1889); Convention on Asylum (Havana, 1928); Convention on Political Asylum (Montevideo, 1933); Treaty on Political Asylum and Refuge (Montevideo, 1939); International Criminal Law Treaty (Montevideo, 1940); Convention on Territorial Asylum (Caracas, 1954); Convention on Diplomatic Asylum (Caracas, 1954); and Convention on Diplomatic Asylum (Caracas, 1954).

During the period between World War I and World War II, protecting refugees was identified as a task for the international community. Thus, specific international instruments arose to address situations and demarcated national groups. The commonality of these experiences was the lack of state protection for those whom the international community decides to protect. These experiences set out certain standards of treatment, the recognition of a legal status, the granting of identity and travel documents. However, there was no recognition of a universal definition, the activation of protection mechanisms was reactive (not proactive) and their nature was exclusive.

With the adoption of the 1951 Convention Relating to the Status of Refugees, a universal definition of refugees was established, marking a milestone in international protection. This

statute is universal, binding and widely ratified by States[1]. It establishes fundamental standards to ensure the safety and rights of refugees, thus creating a solid international legal structure to address cross-border forced displacement crises.

Despite its importance, the 1951 Convention had geographical, temporal and conceptual limitations. The first two were resolved with the adoption of the 1967 Protocol. However, the conceptual limitation persists to this day. Today, the conceptual challenge lies in the precise definition of who is considered a refugee. The dynamics of forced displacement have evolved and become more complex. Situations such as environmental disasters and generalized violence raise questions as to whether these people fit the classic refugee definition[2].

It is true that the Convention has been adapted to accommodate other forms of persecution, for example, and has been flexible enough to cover a greater number of persons in need of protection, including the particular situation of women in certain contexts, victims of gender-based violence, victims of the crime of human trafficking, children and adolescents who flee because their age-specific rights have been violated, and persons with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC), among others.

Over the years, the dynamics of displacement led to the adoption of extensions that could be termed "collectivist" in that they seek to extend the framework of protection collectively to those fleeing external aggression or serious disturbances of public order (as set out in the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (art. 1(2)),[3] or by generalized violence, internal strife, foreign aggression, massive violation of human rights or other circumstances seriously disturbing public order, as concluded in the Cartagena Declaration (art. III (3)).

Towards the end of the twentieth century, the concept such as temporary protection arose to provide protection to refugees who were not granted refugee status. According to UNHCR, this is "protection of a provisional nature (...) to groups of persons without carrying out individual refugee status determination procedures, when their protection needs are expected to be of short duration[4]". Experience, however, indicates that such provisional protection is clearly dependent on a political decision and that it is extended over time, losing its provisional and temporary nature.

Another concept that has arisen in parallel is that of complementary protection. It is a murky concept, with no international definition, which is used as a catch-all to denote various actions taken by States for certain groups or in certain situations.

In summary, the framework of protection regimes includes a core constituted by the refugee status arising from the 1951 Convention but, in turn, like concentric rings, other regimes exist such as extended refugee status arising from the OAU Convention or the Cartagena Declaration, temporary protection regimes, and complementary protection.

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[1] Globally, it is widely ratified but there are certain regions such as Asia where signage remains low. There are also many States withdrawing (South Africa) and others raising reservations to it.
[2] https://www.unhcr.org/media/unhcr-note-climate-change-international-refugee-law-and-unhcrs-mandate-dec-2023
[3] Available: https://www.refworld.org/legal/agreements/oau/1969/en/13572
[4] UNHCR, The Ten-Point Plan in Action. Glossary. https://www.acnur.org/es-es/sites/es-es/files/legacy-pdf/5c59cfe44.pdf

However, other international protections exist beyond the refugee concept.

International law includes obligations of *non-refoulement* for States in certain situations. Sometimes these obligations are absolute when they are based on a risk (of death, torture, forced disappearance, for example). On other occasions, these obligations are not absolute even when they are based on a risk (intrusions into private life, for example). But there are obligations based primarily on a specific situation of vulnerability, as for example in the case of unaccompanied children or stateless persons.

In short, refugee status arising from the 1951 convention and its 1967 protocol is still valid and relevant, its protection has been extended yet it is still insufficient.

In this context, what impact has Cartagena had at a global scale? The Cartagena Declaration is of fundamental global relevance, as it marked a turning point in the perception and protection of refugees. This historic Declaration revealed that the 1951 definition was insufficient to address the complexities of forced displacement. By recognizing that persecuting agents can be non-state actors and by broadening the refugee definition to include other vulnerable groups, Cartagena established a broader and more humane standard of international protection. At one point, it also marked the victory of "soft law": a non-binding regional instrument that manages to become customary and contribute to the evolution of international law.

However, despite the progress provided by the Cartagena Declaration, significant challenges persist in international protection, as follows:

- Inconsistent application by States;
- Limitations of refugee definitions;
- Changing drivers of forced displacement dynamics, including climate crises and new conflicts; and
- Lack of willingness and cooperation among States.

This event will therefore seek to address these and other protection challenges in the region.

Subject Area: Protection and Assistance in Mixed Movements

Challenges regarding admission to the territory and identification of persons in need of international protection

Article 22 of the American Convention on Human Rights[5] enshrines the right of every person to seek asylum (No.7) and the right not to be expelled or returned to another country where his or her life or freedom would be at risk (No.8). The effective exercise of these rights requires host States to be able to identify, upon arrival, those who are in need of international protection. This facilitates admission of these persons to territory in order to refer them to the appropriate institutions, so that these, in turn, activate the mechanisms of accompaniment, care and recognition of rights that are most appropriate for each case.

This duty of States becomes particularly relevant in the context of large-scale and mixed movements, where it is essential to distinguish between the different profiles of people moving from one country to another, as each of them has different needs that must be addressed and met in a differentiated manner.

To this end, UNHCR promotes the use of "screening and referral" mechanisms "as a non-binding process that precedes any formal status determination procedure, and whose objective is to identify needs and differentiate between categories of persons traveling as part of mixed movements, as soon as possible after arrival in the host State. (...) "It is important to emphasize that identification and referral processes are typically interim, subject to subsequent reassessment, and should not include a substantive determination of refugee protection needs or other legal status issues." [6]

UNHCR has listed some of the core elements of these mechanisms: "providing information to new arrivals, collecting information through questionnaires and informal interviews, establishing a preliminary profile for each person, and advising and referring people to authorities, services or procedures that best meet their needs and manage their cases.".[7]

The implementation of identification and referral mechanisms poses different challenges to States. Their difficulty may be determined both by the complexity of the circumstances in which the flows of people seeking to enter the country occur and by the lack of available resources. [8] These factors could mean that, for example, there are not adequate facilities or trained and sufficient personnel at a given entry point to meet the needs of many people who, in addition, are affected by adverse weather conditions or by violence or other violations they may have had to face along the way.

Although the identification and referral processes may be carried out by State officials working at borders or ports of entry, who have responsibility to establish the first contact with persons arriving in the country, in other cases they may be handed over to experts from international or non-governmental organizations under agreements entered especially for this purpose. [9]

[5] Organization of American States (OAS), American Convention on Human Rights, "Pact of San Jose", Costa Rica, 22 November 1969, https://www.refworld.org/legal/agreements/oas/1969/en/20081 [accessed 24 July 2024]

In the first case, the implementation of these mechanisms may be hindered by the lack of regulations giving them specific powers for their deployment, or of protocols detailing the way in which officials should guide their actions.

The roundtable then addressed the existence of these identification and referral mechanisms and their effectiveness in the region.

At a general level, many legislations in the region pertaining to the entry of persons into the national territory focus mainly on satisfying migration control objectives, such as compliance with documentary requirements for entry into the country. Although in many cases there are regulations that allow the entry of foreigners for humanitarian reasons or that apply the principle of non-punishment for irregular entry to those seeking international protection, an internal security approach persists at the border that prevents the reception of possible special or protection requirements and, instead, hastens to punish violations of migration regulations, without considering the possibility of violating, for example, the principle of *non-refoulement*.

In Chile, for example, Articles 26 and 27 of Law No. 20,430[6], on refugee protection, recognize the right of access to the territory of persons seeking asylum in order to submit their claims. However, in practice, if foreigners do not have travel documents (passport or identity card in the case of countries with which there is an agreement), or a consular visa, they are prevented from entering the territory. In these cases, when entry is made through international means of transportation, the transportation company is the one that, by virtue of Chilean regulations, prevents them from boarding. In turn, there are no rules, institutions or mechanisms of any kind that allow the identification by State agents of persons in need of international protection.

Similarly, Costa Rica follows the entry guidelines for foreigners as established in the General Law on Migration and Aliens. If the entry does not comply with these guidelines, deportation is carried out. Due to the large number of migrants entering the country, those in need of international protection become difficult to identify and therefore to apply an expeditious procedure to their request for refugee status, thus being trapped in the state bureaucracy.

In Brazil, on the other hand, there is a securitized view, a veiled posture of criminalization of migrants or asylum seekers at border control, which is particularly evident at airports. However, there are certain exceptions, such as children and adolescents, whether accompanied or unaccompanied.[10] Protocols for the care of this population are a priority and activate a network of care institutions made up of public bodies, civil society and international organizations. Similarly, Brazil has protocols to identify and protect other vulnerable people such as women and victims of the crime of human trafficking.[11]

In Mexico, there are no real procedures to identify persons in need of international protection at the border. Basically, identification is done in shelters.

On the other hand, it is also possible to see that States invest scarce or insufficient resources in developing adequate reception capacities for people who arrive in their territories in a vulnerable condition and who may require access to international protection procedures, since such

[6] Republic of Chile, Law 20.430, Establishes Provisions on Protection of Refugees. Disp: https://www.bcn.cl/leychile/navegar?idNorma=1012435

objectives are not a priority for them. Often the investment of these resources is late, with the result that many people do not receive adequate reception to meet their protection needs.

In particular, a review of national experiences shows that, in Argentina, for example, the transfer of migration control from a security force (National Gendarmerie or Naval Prefecture) to civilian agents (from the National Directorate of Migration) has served to foster a more open vision of protection issues. However, the high turnover of officials and the changes in the dynamics of mobility make it necessary to continuously sensitize and train migration agents regarding the detection and assistance of persons in need of international protection.

In Ecuador, for its part, an interesting process was developed to strengthen the capacity to care for people in need of international protection. However, the high turnover of officials in the different public institutions is also a significant problem. For the last two years, the security situation faced by the country has also affected the admission of people into the territory. The main areas of entry into the country are under a state of exception. This means the participation and/or presence of the Armed Forces and not only the National Police .[12] Identification training is crucial in this context.

Awareness-raising and training should be part of a more comprehensive set of migration and asylum policy measures. In Colombia, there are rulings of the Constitutional Court that indicate that admission to the territory should consider the institutional capacity (in terms of budget, operational scope, human talent, territorial presence, technical capacity in the application of rights-based approaches) of the entities responsible for border control. [13] However, arbitrariness in migration control actions are common and burdensome, the sanctioning regime in migration matters is applied without warning differential intervention criteria that allow giving prevalence to the guidelines of the comprehensive migration policy defined by the Framework Law 2136 of 2021,[14] such as family unity.

In this context, most of the Venezuelan flow continues to enter through irregular border crossings, preventing the correct identification of those in need of international protection. The fact that those who do not enter regularly as of May 2022 will not have access to Temporary Protection Status makes a large part of the population extremely vulnerable, while at the same time it pushes people who may not require protection into the asylum system as the only way to regularize their immigration status, unnecessarily congesting both the authorities and the legal and humanitarian assistance that accompanies the process.

It is important to mention that many people who move from one country to another do not self-identify with any particular group, let alone with those who may need international protection. It is therefore desirable that those who must implement identification and referral mechanisms act proactively and have adequate tools to deal with cases of persons who require guidance and referral to protection procedures, even if they themselves do not expressly request it.

Finally, it should be noted that UNHCR has developed a practical document that may be useful for States wishing to implement these identification and referral mechanisms, the 10-Point Action Plan.[15]

Recommendations:

To the academy

- Support States in the development of protocols and guidelines for the identification of persons in need of international protection.

To the States

- Raise awareness and train officials involved in migration control to identify persons in need of international protection and other specific needs.
- Develop action protocols for border officials to ensure access to territories for the purpose of requesting international protection, even when people lack the necessary documentation and visas, or when there are border closures due to security or health issues.

To the international organizations:

- Increase presence and monitoring in border areas in order to ensure compliance by States with proper identification and the guarantee of non-refoulement of persons in need of protection.

The reception and role of States, international organizations and civil society organizations

With regard to the role played by States in the Latin American region in implementing the Cartagena Declaration, the consultation made it clear that in this region, geopolitical factors are determining factors in migration management and international protection. A clear example is the case of Mexico, whose domestic legislation includes the classic definition [16] of a refugee as set forth in the 1951 Convention and its 1967 protocol, as well as the regional definition [17] set forth in the Cartagena Declaration of 1984.

However, civil society organizations and some universities in this country have pointed out that the resolutions issued by the Mexican Commission for Refugee Assistance (COMAR in Spanish) which recognizes the exercise of the right to asylum or the granting of international protection, in the case of the regional definition indicated in section II of Article 13 of the LRPCAP[7] -for its acronym in Spanish- (generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order), the cause is applied in a discriminatory and illegal manner, making this an exclusive and partial protection mechanism, which is used only in the case of the right to asylum and the granting of international protection, massive violation of human rights or other circumstances that have seriously disturbed public order) the grounds are applied in a discriminatory and illegal manner, turning this into an exclusive and partial protection mechanism, which is used only in a select group of cases with a poorly formulated argument, in which, for unknown reasons, COMAR has considered that they should be the only beneficiaries of such protection [18].

[7] Republic of Chile, Law 20.430, Establishes Provisions on Protection of Refugees. Disp: https://www.bcn.cl/leychile/navegar?idNorma=1012435

In the case of Brazil, the application of the Cartagena definition is also problematic. It was noted that, in the case of the Haitian diaspora in the second decade of the 21st century, the position of the UNHCR Country Representative at the time influenced the Brazilian government's decision not to apply this definition to this migratory diaspora. On the other hand, with respect to the position taken with the Venezuelan diaspora, the Brazilian state did not have a position of providing a lasting solution, since the migration agents only granted temporary migratory residence, denying refugee status to this population. If there is no political will, the expanded Cartagena definition cannot be applied.

In the Colombian case, the response to the Venezuelan flow generated work networks that made it possible, with limited resources, to monitor and coordinate many of the humanitarian operators' work on the ground. The Interagency Coordination Platform for Refugees and Migrants (R4V) [19] is perhaps the most solid organization that managed to coordinate the efforts of all humanitarian operators by articulating a response plan, which in any case is overwhelmed by both the limited resources available given the magnitude of the Venezuelan flow and the massive presence of migrants in the Darien Province of Panama.

Regarding the Argentine case, it was noted that UNHCR and IOM established reception offices in the north of the country (in the provinces of Salta and Jujuy). Greater involvement of civil society, UNHCR partner agencies and other public bodies was suggested.

Meanwhile in Costa Rica, it was noted that it has a migration policy that emphasizes "orderly migration" as established by the General Law on Migration and Aliens, calling for the regularization of as many people as possible or for them to continue their journey. Likewise, the presence of the local offices of international organizations has the task of seeking to regularize the migratory status of the foreign population while providing accompaniment in humanitarian programs to the refugee population. And as in other states in the region, in many cases, civil society organizations (CSOs)become the main support network for the foreign population, providing advice on immigration procedures or implementing humanitarian programs for the refugee population or those with a focus on vulnerability.

On the other hand, with respect to the role being played by international organizations, we can point out that in the countries where the Latin American Academic Network on the

Law and Integration of Refugees (LAREF) - for its acronym in Spanish- has a presence through its academic members, it can be observed that one of UNHCR's main activities in the region is capacity building for the actors (governments and civil society) that provide humanitarian assistance to persons subject to international protection.

An example of this is the Mexican case, through UNHCR's involvement with public and private universities, as well as with civil society organizations, the aim is to strengthen the capacities of both in the legal assistance of the population subject to international protection. This is achieved through the establishment of University Legal Clinics and in the shelters that provide humanitarian assistance. The specific case of the Autonomous University of San Luis Potosi, located in that same State, and the non-governmental organization Dignity and Justice on the Road A.C. "FM4 Paso Libre" located in the State of Jalisco, who jointly and with financial support from UNHCR, carried out the establishment of legal assistance spaces for this population in both states of the Mexican Republic, was mentioned. It was commented in this

forum that the CSO's in the country (shelters, houses, dining halls and centers of humanitarian attention) are in fact the ones that support the attention to the people seeking international protection, even when they have tried to co-opt or suffocate them by some local governments in Mexico.

In the Venezuelan case, the importance of public and intergovernmental actors working together to generate mixed responses for local integration and reintegration, as well as for development in situations where refugees face the same challenges as the local population, was pointed out. In addition to the importance of strengthening CSOs (funding and capacity building) that carry out humanitarian action towards this population.

The session concluded by pointing out that the breadth and generosity of the Cartagena principles have allowed states to have some freedom in their implementation, which can lead to varied and, in some cases, restrictive interpretations.

Recommendations:

To the States

- Develop tools for the identification of specific protection needs and protocols for the care of this population.
- Implement alternative mechanisms to immigration detention.
- Guarantee the non-detention of migrant children and adolescents.
- Establish protocols and differentiated protection measures for migrant children and adolescents, in which the best interest of the child is paramount.

To the academy

- Encourage collaborative work between civil society organizations and academic spaces in a horizontal manner, always avoiding academic extractivism.
- Promote strategic litigation and the consequent generation of local jurisprudence.
- Active promotion and awareness of the Cartagena principles and their interpretation in the region.

Access to asylum procedures: current challenges

Implicit in the right to seek asylum is the right to access a fair and efficient procedure to determine on an individual basis the international protection needs of the asylum seeker. Refusal to allow access to asylum procedures is contrary to international obligations. Increasingly, however, at the global level, this access is becoming more and more limited.

The session addressed the challenges identified at the regional level in terms of access to refugee status determination procedures. Although applications for refugee status have increased exponentially in the region over the last ten years, this increase has not been matched by an increase in the mobility of persons in need of international protection. In part, the low number of applications may be related to the difficulties people encounter in accessing procedures. Particularly in the last five years, barriers to accessing asylum procedures have become evident in many of the main countries receiving displaced people from different countries in the region. Some are legal (or attempt to be so, as there are several draft

regulations in the various countries along these lines), but in other cases, they are state practices that are not crystallized in regulations.

With regard to legal barriers, some of the countries in the region impose short deadlines for formalizing a request for international protection upon entry into the territory. These deadlines vary between 5 working days (El Salvador), 15 days (Dominican Republic), 30 days (Mexico and Peru), or 90 days (Bolivia and Ecuador). In Mexico, for example, the identification of persons requiring international protection is not carried out efficiently. There is a 30-day deadline for people to submit their applications, but this period usually elapses without people becoming aware of this right.

In other countries, there are attempts to legally restrict access in cases where the authorities consider that the requests are manifestly unfounded (Chile).

*Irregular access to the territory of a Stat*e is becoming in some countries a restriction to access the procedure. In Argentina, for example, during the pandemic, there were cases in which, in response to a request for refugee status, the authorities initiated administrative sanctioning procedures for irregular entry rather than an asylum procedure, even though the persons concerned expressed their willingness to initiate such a procedure. In Chile, persons who enter irregularly must make a "voluntary declaration for clandestine entry" to the Investigative Police as a prerequisite for entering the procedure. At present, clandestine entry does not constitute a criminal offense in Chile.

The requirement of identity documentation or documentation proving filial ties for the presentation of an asylum application is a concern in many countries. This is particularly worrying in the case of Venezuelan children who lack documentation until they are 9 years old, and there are no mechanisms to overcome this situation (or the mechanisms are slow and inefficient).

However, beyond the legal barriers, state practices are of particular concern. Some have to do with the eminently practical aspect of access: the existence of an electronic system of appointments to formalize through complex forms and without any instances of assistance for those who are limited in doing so (Colombia); when appointments to formalize are scarce, the existence of a "business" of selling appointments by unscrupulous people who take advantage of the vulnerability of the population seeking protection (Costa Rica); the obligation to go to the asylum authority's offices exclusively in the country's capital (Costa Rica); long-term summons to formalize the request (Argentina), or the imposition of migratory detentions in which it is very difficult to express the will to seek protection (Mexico). In other cases, the practical barriers are related to a prior analysis of eligibility based on the content of the applications: the implementation of pre-admissibility interviews for the asylum procedure in which, on the basis of a brief interview and without due guarantees, the person is informally told that his or her case is not a case for international protection (Chile).

At the same time, there are more subtle mechanisms that dissuade people from formalizing a request for international protection. The existence of *migratory alternatives* that are weaker in terms of protection, but quicker to access (such as residency for The Southern Common Market (MERCOSUR) -for its acronym in Spanish- nationals in Argentina, or the Temporary Protection Permit in Colombia) and which, on occasions, provide access to greater rights than those

offered to applicants (such as the right to work formally, or to enter and leave the territory, as in Colombia) are an example of this. On the other hand, the enormous delays in the resolution of requests dissuade people from attempting to regularize their legal status through asylum. In the case of Argentina, for example, statistics show that very few petitions are resolved in relation to those that are initiated and those that are pending.

In Brazil, with the border closure decrees during the COVID-19 pandemic, the processing of asylum applications was suspended, and a large number are still pending analysis. In addition, the authorities seem to be more concerned with resolving cases on formal issues (lack of impetus on the part of the applicant) than on the merits of the request. In Argentina, of the total number of cases resolved in 2022, 51% correspond to cases in which the person withdrew their request and 34% to the file due to lack of activity on the part of the applicant. Similarly, of the 41,297 applications resolved in Brazil during 2022, 85% (35,099) correspond to extinction or archiving of the process.[20] In Brazil, the number of cases resolved in 2022 was 41,297. [20]

Finally, the very *low recognition rates* discourage people from applying for refugee status. For example, between 2018 and 2022, in Argentina, only 840 applications were favorably resolved out of the 10,515 that were filed in the period [21]; in Chile, between 2010 and 2022, out of a total of 26,985 applications, only 714 have been accepted, which is equivalent to only 3%.[22]

In the case of Chile, the role played by the judiciary up to this year stands out, recognizing the situations denounced through legal actions and issuing rulings that seek to remedy those state practices that prevent entry to the procedure. Particularly important have been the rulings that make visible the practice of officials who refuse to hand out the form for entry to the procedure (because they consider that the case is not a refugee application) or with respect to the requirement of additional procedures (such as the voluntary complaint for clandestine entry). The key to the above has been to have a specialized defense that acts under a strategic litigation approach and an independent judiciary. This is seen as a good practice and a model that can be replicated in other countries in the region.

Participants warned of the lack of political will to strengthen national asylum systems. In most countries in the region, asylum systems are overburdened, under-resourced and the capacity to process applications is clearly limited. Instead of building strong institutions, authorities choose to establish mechanisms that limit access to the systems. In the case of Colombia, for example, access to asylum procedures is completely stalled by the lack of administrative capacity of the asylum authority (the Ministry of Foreign Affairs) to handle the volume of applications and, within the procedure itself, there is also no capacity to activate differentiated routes and procedures to quickly identify and respond to the situation of those in need of protection. Similarly, in Mexico, the capacity of the Mexican Commission for Refugee Assistance (COMAR) is very limited, to which should be added the budgetary restrictions that have had the purpose of weakening it.

It also operates as a de facto barrier because the authorities believe that many of the current flows do not actually correspond to asylum seekers, but that they see in this procedure only a possibility to regularize their legal status in a given country.

Recommendations:

To the States

- Ensure access to the refugee status determination procedure in all cases that so require, including those that are presumed to be manifestly unfounded, and establishing differentiated processing channels that allow for the rapid identification and resolution of both those cases and, most especially, of cases that are considered manifestly well-founded.
- Guarantee access to the procedure also for persons entering the country through humanitarian visas, so that they can obtain a legal status in accordance with their situation.
- Establish or strengthen, where they already exist, public and free legal defence programs to ensure compliance with obligations regarding access to asylum procedures.

To the Academy

- To contribute to the legal discussion regarding access to the procedure for determining international protection needs in cases where manifestly unfounded applications are presumed to be involved.

To Academia and International Organizations

- Collaborate with asylum authorities to ensure efficient, quality procedures for rapid triage of cases in order to process applications through differentiated channels and ensure rapid identification and resolution.

Subject Area: Regularization and Access to Rights

Recognition of refugee status, complementary protection and migratory statutes: complementarity or supplanting?

The 1951 Convention Relating to the Status of Refugees was originally adopted to protect European refugees from World War II, but since the 1967 Protocol, its scope was broadened to include persons fleeing other situations. Even so, many people in need of international protection fell outside the boundaries of the refugee definition. In some regions, such as Africa and Latin America, expanded definitions of the term refugee have been adopted. In the latter, the definition proposed by the Cartagena Declaration has been incorporated - in some cases with nuances - into the national legislation of most countries. Despite these extensions, there are people who are not considered refugees according to the classic and expanded definitions, but who risk having their fundamental human rights violated if they return to their countries. To address these situations, States have adopted complementary protection mechanisms since the early 2000s, which prevent the refoulement of certain categories of persons while granting them certain rights. However, the application of these instruments is inconsistent, creating legal uncertainty. In turn, they have adopted various mechanisms based on migration regulations and have even created ad hoc mechanisms to respond to the situation of certain groups of people. Some of these have been presented as complementary protection mechanisms.

In various documents, UNHCR has stated that, for an extended stay permit to be considered as complementary protection, it must have certain characteristics that include protection against refoulement and access to a series of rights. Complementary protection should not be seen as a migration category but as an alternative protection mechanism.[23] For its part, the Inter-American Court of Human Rights holds that complementary protection is a form of international protection received by any foreigner based on international human rights obligations and, in particular, the principle of non-refoulement. [24] The Inter-American Court of Human Rights has held that complementary protection is a form of international protection received by any foreigner based on international human rights obligations and, in particular, the principle of *non-refoulement*.

In this context, the roundtable addressed the different ways currently applied to regularize the legal status of refugees in the region (migratory statutes, refugee status, complementary protection, temporary protection), asking whether they are protection mechanisms, whether they are applied in a complementary manner, or whether the granting of migratory statutes is increasingly supplanting the granting of international protection.

A review of national experiences identified that States have increasingly opted to regularize the situation of people who could well be considered refugees, through migratory statutes that are sometimes misnamed complementary protection mechanisms.

Mexico, for its part, is a pioneer in legislating the concept of complementary protection. Its legislation provides for the granting of this figure to any foreigner who is at risk of being returned to the territory of another country where his life is in danger or where there are reasonable grounds to believe that he would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment or punishment, and who, nevertheless, is not eligible for

recognition as a refugee. The granting of complementary protection will be conditional upon the beneficiary not updating the grounds for refusal applicable to refugee recognition. Although it is true that the figure exists, its application in Mexico is scarce, since it has a subsidiary character, and its true richness could lie in the fact of strengthening, by means of complementarity, the institution of refuge.

In the case of Brazil, for example, its domestic legislation contains a *definition of refugee that considers a refugee to be a person who is forced to leave his or her country of origin due to a serious and widespread violation of human rights.* However, starting in 2010, a large number of Haitian migrants arrived in the country and filed asylum applications. This presented the challenge of identifying and developing appropriate protection strategies, in line with the legislation in force at the time. Two options were then put forward: the first consisted of granting refugee status based on the situation of serious and widespread violation of human rights; the second, adopted by the Brazilian government in 2012, involved the creation of an ad hoc protection instrument, i.e., specific to Haitian migrants. The so-called *humanitarian visas* were considered a form of protection complementary to asylum. However, these visas did not meet all the requirements to be considered as complementary protection and were revocable at any time.[25]

In 2017, Brazil replaced its Alien Statute with a new Migration Law (Law no. 13,445/17), which incorporated the granting of humanitarian visas. Unlike the Aliens Statute, this law defined the concept of "humanitarian reception" as a specific form of migratory regularization. The law establishes that this type of residence authorization may be granted by the state to any person "stateless or to a national of any country in a situation of serious or imminent institutional instability, armed conflict, catastrophe of great magnitude, environmental disaster or serious violation of human rights or international humanitarian law, or in other cases, as established in the regulations", regardless of nationality, sex, race, religion, etc. However, regulations and ordinances of the executive branch often limit protection to certain nationalities”

.[26] The granting of humanitarian visa follows government policy as the law states that a presidential decree is necessary to recognize the humanitarian emergency that will enable the visa for humanitarian reception.

More recently, Brazil has dealt with Venezuelan displacement by providing different responses: initially it applied the Agreement on Residence for nationals of MERCOSUR member states, Bolivia and Chile (hereinafter Residence Agreement) to regularize their situation. However, following Venezuela's suspension from the regional bloc, the rights associated with this agreement became inactive. Subsequently, the Brazilian National Committee for Refugees (CONARE) decided the application of the expanded definition of refugee for Venezuelan citizens in 2019, thus recognizing more than 50 thousand people as refugees.

Ultimately, the Brazilian State presented ad hoc protection mechanisms, such as humanitarian visas, as a form of complementary protection. However, these mechanisms did not meet the characteristics to be considered a form of international protection.

In the case of Argentina, there is no complementary protection as such in the national legislation, but there is in the immigration regulations a figure that allows access to residence and rights. Residence for *humanitarian reasons* [27] contemplates the situation of persons who,

in need of international protection, but not being refugees, are protected by the principle of *non-refoulement* or with respect to whom it is presumed that, if forced to return to their country of origin, they would be subject to violations of human rights recognized in international instruments, among other assumptions. Likewise, this figure has been and is rightly used to facilitate entry into the country (for example, of Syrians and Ukrainian [28]); however, instead of being used for the person to enter the country and request protection, it is granted directly as a visa that allows entry and residence for two years. Although people do not have a legal impediment to apply for international protection as refugees (General Law for the Recognition and Protection of Refugees No. 26,165), in fact, they do not do so. The humanitarian visa has supplanted refugee status in cases where it is clearly appropriate to grant it.

For its part, in Chile, the institution of *complementary protection,* created through Article 10 of Law No. 21,325, on migration and aliens, is not adequately regulated since it operates as a subsidiary mechanism and not complementary to the procedure for recognition of refugee status. Moreover, in practice, it is not applied because the authority argues the lack of regulatory regulation for its implementation, since the Migration Policy that, according to the law, must give operativity to its norms, has not yet been published. Law No. 21.325 contemplates the existence of humanitarian visas for cases of unaccompanied children, pregnant women, victims of trafficking, smuggling and gender-based or domestic violence. However, these are *permits that have requirements that are difficult to comply with* and are therefore not accessible to many people.

Colombia implemented the *Temporary Statute of Protection for Venezuelan Migrants*, as a legal mechanism for *temporary protection* [29] which is valid for 10 years but is highly dependent on the discretion of the national government. At the same time, new migrants do not have access to it. In this sense, the Temporary Statute of Protection for Venezuelan Migrants (ETPMV) -for its acronym in Spanish- functions as a migratory category and not as a mechanism for international protection, while at the same time it discourages the effective compliance of the State with the obligations derived from the refugee regime.[30]

In the case of Costa Rica, complementary protection categories have also been created (in 2021) or more recently the *Temporary Special Category* (2023) in order to provide a way out for people who are not considered refugees. However, these are migratory mechanisms and not legal statutes of international protection that provide protection against refoulement.

In conclusion, the experiences of the region show that the humanitarian statutes and temporary protection categories adopted have tended to supplant the granting of protection through asylum systems and that a detailed analysis of these mechanisms shows that they are not international protection mechanisms. While some States regulate complementary protection per se, their application is inconsistent. Confusion and lack of clarity in terminology lead to inconsistent interpretations and arbitrary decisions by the authorities in charge of evaluating protection requests, while a significant number of people are left out of the benefits granted by these mechanisms.

Even so, the roundtable noted that in recent years the States have implemented innovative measures and, although disparate, interesting mechanisms have been developed to respond to the problem of forced displacement for different reasons. Thus, for example, in Argentina

various regimes have been enacted for the regularization of the migratory status of displaced persons of certain nationalities [31], making the requirements for granting residency more flexible. Among them, it is worth mentioning the "Program of Assistance to Venezuelan Migrants" [32] which relaxed the documentary requirements for access to the Settlement by nationality provided for by the MERCOSUR Residence Agreement, and the Special Regularization Regime for Venezuelan Migrant Children and Adolescents.[33]

Recommendations:

To the Academia

- To prepare a legal document on complementary protection, refugee status and migratory status in order to clarify concepts, develop interpretations and contribute to the definition of procedures for granting such protection.
- Contribute to the discussion regarding the interpretation of the concepts of persecution, in order to seek the consideration of new agents of persecution by States, in particular gangs and maras, paramilitary groups, urban militias, other criminal groups, and perpetrators of sexual or gender-based violence
- Collaborate with national authorities in the preparation of documents for the interpretation of the terms of the expanded refugee definition, in order to ensure its correct, fair and Equal application.
- Ensure compliance with national regulations regarding the application of the expanded refugee definition.

To Academia and International Organizations

- Collaborate with asylum authorities in training regarding the identification of complementary protection needs.

To the States

- Guarantee the co-existence and complementarity of mechanisms for the regularization of legal status through migration regulations, the protection of refugees and complementary protection, ensuring that there is always the option of requesting international protection, even when the person meets the conditions for obtaining a legal migration status, or even when he/she has one.
- Strengthen mechanisms for the regularization of legal status through all possible channels, including the possibility of providing residence authorizations for humanitarian reasons.
- Strengthen humanitarian visa mechanisms, understood not as a means to control and/or restrict entry, but on the contrary, as a means of facilitating rapid and agile entry to safe territories of persons in need of international protection.

Progress and setbacks in the access to rights of the displaced population in the region: work, health, education.

The protection of refugees begins with guaranteeing their admission to a country of asylum, guaranteeing access to a procedure for determining their protection needs and ensuring respect for their fundamental rights. However, even with the particularities of each national context, and although some progress has been made, there are still gaps and challenges in access to these rights.

The session addressed in particular national experiences in relation to access to rights, specifically work, health and education for refugees.

In Ecuador and Costa Rica, one of the main problems lies in the non-compliance with the international obligations of the States through infra-constitutional regulations or through daily discriminatory practices. This is the case in Costa Rica through a series of presidential decrees, and in Ecuador through proposed regulatory reforms.

In the case of Brazil, the situation is similar, evidencing a situation of formal equality in terms of access to the exercise of rights. The challenge in this regard is with society in general, since there are still acts of discrimination in the country that threaten material equality.

This is repeated in Argentina since access to rights (work, health, education) on equal terms with nationals is guaranteed by the National Constitution and by the Migration and Refugee Protection Laws. However, the greatest difficulty in access to rights lies in access to documentation, since although most of the population meets some of the criteria set forth in the Migration Law, they fail to comply with some of the formal requirements for the favorable resolution of the procedure. The lack of legal residence permits and, on occasion, the short period of residence in the country limit, for example, access to social protection plans and programs. This was particularly evident during the pandemic as the newly arrived population could not meet the minimum residence time requirement for access to Emergency Family Income and other similar schemes. Access to rental housing and the validation of titles are two other persistent problems.

In Chile, on the other hand, asylum seekers and refugees, having a residence visa, have access to social rights in the same way as Chileans, with certain exceptions. For example, foreigners who have not been legally resident in Chile for two years cannot access certain social benefits that involve direct transfers of resources by the State, or persons who do not have a permanent residence permit or who have not completed secondary education in Chile cannot access free education).

Likewise, in Costa Rica there has been an increase in the number of Venezuelan people entering the country. For the past couple of years, this has represented an additional challenge for the asylum system and for the country's social and economic infrastructure. The setback is linked to the non-recognition of the refugee applicant card as a suitable identification document for access to health, education and banking services. The main argument used for not accepting it is that it is not a Migratory Identity Document for Foreigners (DIMEX in Spanish). And, additionally, there have been cases in which the refugee applicant is recommended to change to another migratory category. More recently, there has been a limitation to the right to

work of refugee applicants due to the excessive requirements that are currently requested to apply for a work permit, including having employment insurance beforehand without being authorized to work.

This large influx of people also affects the provision of services in Chile. In terms of labor, given that a high number of Venezuelan people have entered Chile through unauthorized crossings in recent years, and that after 2018 no regularization mechanisms have been implemented for these people, they generally remain in the labor market informality, with their labor rights violated. .

For its part, Ecuador is immersed in a current political context characterized by several important challenges including insecurity, drug trafficking and a strategic geographic position that contributes to an increase in insecurity rates due to organized crime. Due to the country's current context, it has not been possible to measure the access to rights of the displaced population. There is no accurate data because it has not been possible to carry out the national census due to insecurity issues. The national insecurity situation affects the exercise of rights, especially in areas where there are higher rates of violence (border provinces or provinces with access to river or maritime networks).

The discussion showed that a similar phenomenon could occur in Mexico: local integration processes are affected by the country's own macro-criminality. Although there are strategies in place, they have not been entirely favorable.

However, there are some interesting data on the situation of the migrant population.

Ecuador has once again consolidated its position as a highly receptive country in terms of the number of people in need of international protection. . For example, UNHCR (2023)[8] indicated that 583,453 people forced to flee who have been taken in by Ecuador (285% in the number of people registered since 2019), which means that of the 18 million people living in Ecuador, 3.2 percent correspond to refugees and migrants. Of these, 84 percent are Venezuelan people. In terms of education, in 2023, of the foreign children in the educational system, 69.63% are Venezuelan and 12.34% are Colombian. This high presence and access to education has been affected since 2022. This year, 46,132 foreign children left the education system (29,897 are Venezuelan). And these numbers seem to repeat in 2023 at the beginning of the school year in the Costa regime (March 2023), 4,387 Venezuelan children left the classrooms.

Despite this, some progress has been made in terms of the exercise of migrants' rights in the countries analyzed. For example, in Costa Rica, the main advances are aimed at the humanitarian programs that international or civil society institutions provide to the migrant population, especially from the point of view of health (for example, agreements with the Costa Rican Social Security Fund (CCSS) -for its acronym in Spanish- to guarantee insurance or advice on insurance methods). Another positive element is that, in Chile, in terms of health, persons in an irregular migratory situation have access to primary, emergency and pregnancy care, and in terms of education, to preschool, elementary and secondary education, thanks to

[8] UNHCR, National Trends. Forced displacement to Ecuador, 2023: https://www.acnur.org/sites/default/files/2023-07/14041.pdf

administrative regulations issued more than five years ago. Today, these rights have been enshrined at the legal level by Law No. 21,325[9], in force since 2022.

This panorama shows the persistence of difficulties in access to regular status and, consequently, to work, education and health for those who had to leave their countries in search of protection.

Recommendation:

- Strengthen the mechanisms for people to access naturalization.

Experiences with resettlement and complementary pathways for admission

Traditionally, refugee resettlement was conceived as a durable solution for refugees, envisaged for exceptional situations in which it was not possible for the first country of asylum to guarantee protection. The Global Compact on Refugees [34] notes that resettlement, moreover, is a mechanism for burden and responsibility sharing among States. However, globally, the resettlement needs of the population far exceed the places offered through resettlement programs. Complementary pathways are additional to resettlement, offering admission channels which are safe and legal and facilitate refugees' access to and legal stay in third countries where their international protection needs are met.

The session addressed the regional experiences of resettlement and complementary pathways that have taken place over the past decades with a view to highlighting their weaknesses and strengths.

At the beginning of the 21st century, there were small resettlement experiences in Latin America, with very mixed results. Ecuador, in particular, was one of the countries from which people left for resettlement to other regions, particularly to North America, but to a lesser extent also to the South.

In Argentina, the experience of resettling refugees, particularly Colombians, has been extremely difficult. Although there has been an enormous will for the Program to go ahead, the management itself involves a lot of coordination that has not been easy to achieve and the will of all the parties that could potentially be part of the resettlement: UNHCR, receiving countries, internal coordination within the government itself, civil society organizations. Resettlement involves mobilizing a large number of resources that South American countries lack.

This led the State to design different programs, based on complementary pathways for admission to the territory and private or community sponsorship for initial support and local integration. The so-called Syria Program [35] was a pioneer in this regard. It consisted of a complementary pathway for entry to the territory through a humanitarian visa, together with a community sponsorship scheme. Sponsors (or "callers" in the context of the Program) are private agents (they can be individuals, groups or organizations) who commit to support a refugee person or family, assuming economic responsibility and offering support in integration, for a predefined period. This commitment takes place within a framework established by the

[9] Republic of Chile, Migration and Alien Law No. 21.325, April 20, 2021: https://www.bcn.cl/leychile/navegar?idNorma=1158549

government, with agreed terms on financial contribution, time frame and responsibilities. Although the support to the population is the responsibility of the private sector, the most relevant lesson learned from the experience is the importance of having a coordinating body for all actions from the State. Unfortunately, since the pandemic, although the Program has not been repealed, there have been no new entries [10].

This situation is reiterated in Brazil, where resettlement policies have been suspended even before the pandemic.

In Chile, the last resettlement experience was developed in 2017 also with the Syrian population. [36] Since then, there have been no such experiences. However, the so-called Visa of Democratic Responsibility for Venezuelan people can be mentioned as a complementary pathway. However, this was scarcely granted and later turned into a family reunification visa that was difficult to access due to the number of requirements that began to be demanded for its granting. Ecuador has been and continues to be a source country for resettlement cases. According to UNHCR, from 2020 to August 31, 2023, 481 persons have been resettled out of 821 proposed resettlements.[37] In the case of Ecuador, the number of resettlement cases is estimated to have increased to 481 persons.

In conclusion, there are structural conditions in the States of the region (economic, social, political) that condition the development of resettlement programs or complementary admission channels. The experience with the Southern Cone countries shows that the difficulties of access to the labor market, inflation, low wages, etc. have been crucial in the success or failure of the programs, even in the return of people to the first country of asylum or even to the country of origin, as has happened with Syrian citizens in Argentina.

Similarly in Mexico, for example, due to the situation of violence in the country, resettlement is not viable. People are exposed to the insecurity and violence in the country. The reality of being a frontier country increases the complexity of the situation.

It should be emphasized that resettlement is neither a right of individuals nor a legal obligation of States, but rather emergency measures and humanitarian practices that are implemented in specific situations to protect displaced persons in circumstances of extreme vulnerability.

[10] https://globalcompactrefugees.org/good-practices/sustainable-resettlement-and-complementary-pathways-initiative-crisp#:~:text=the%20first%20GRF-,Sustainable%20Resettlement%20and%20Complementary%20Pathways%20Initiative%20(CRISP),programmes%20and%20advance.

Recommendations:

To the States

- Keep their resettlement programs open and strengthen them in order to provide protection to persons in particular circumstances (urgent protection problems, medical problems).
- Take advantage of the capacities and opportunities of resettlement countries when selecting refugees for resettlement, in order to provide a solution in terms of protection and facilitate the integration process (e.g., in the case of a person with medical needs, take into consideration the possibility for the resettlement country to provide appropriate treatment).
- Explore complementary avenues of admission (for work, study, humanitarian reasons) and support the development of community sponsorship mechanisms.

To International Organizations:

- Support resettlement and complementary pathways programs technically and financially.
- Share best practices from other contexts regarding resettlement, complementary admission pathways and community sponsorship.

To Academia

- To conduct studies related to the local integration of refugees in general, and arrivals under resettlement or complementary programs, in particular, in order to provide inputs for the strengthening of public policies.

Subject Area: Integration in Host Societies

National and local governments

The challenges of integration are socio-economic integration, socio-cultural integration and political and legal integration. Immigration is not capricious; it tends to reflect historical migration patterns, family connections and migration networks; therefore, it is manageable with public policies that are adapted to the conditions of each country. Migratory flows must be managed and thus transform migratory phenomena into areas of opportunity and benefit for the host countries.

An analysis of the situation in the region shows that there is a natural misunderstanding of the nature of refugee status. Although there are good intentions, they are often not accompanied by measures that meet the specific needs of refugees. Access to various services requires, for example, certain security arrangements that are not always observed. The same could be said of measures to ensure their safety and that of their families. It is essential to address the administrative problems that arise from the fact that refugees usually lack documentation in different areas of life and limit access to rights. And the task of facilitating this process falls to both national and local governments.

The roundtable participants highlighted a number of internal relocation experiences and others in which local governments played a prominent role, albeit with mixed results. The case of Mexico is particularly relevant. There, UNHCR designed a local integration relocation program, so that refugees could be relocated to industrial zones, where there would be a greater possibility of finding a job. It was implemented in 2016 and extended to 11 cities across the country. It mainly included: 1. transportation and financial support. 2. accommodation for a maximum period of seven days. 3. one-time economic support to cover basic needs during the first month in the new place of residence. Although the intentions of the program were good, its outcome was not as desired.

In Brazil, Operation Welcome seeks to involve the local governments of those cities where people are placed. However, their support for the program is extremely uneven: while some local governments have been cooperative, others have not. Hence, a major challenge to integration remains. In addition to linguistic and cultural barriers, access to services and rights is limited by immigration status. The existence of a migration policy (provided for in Article 3 of the Migration Law) did not advance until 2023 with the creation of a Working Group [38] made up of various sectors of society working in this area.

In Chile, despite being one of the main receiving countries, there are no public policies at the national or local level for the integration of refugees or asylum seekers in host societies.

In Colombia, the presence of more than two million Venezuelans in the country has generated specific public policies on education, health and access to labor rights. At the local level, the authorities have not only had to articulate these policies and budgets, but have also had to generate, on many occasions, concrete targeting actions that go beyond the mere obligations derived from a unitary but decentralized State such as Colombia is today.

The perception on the part of local authorities that the issue is the responsibility of the central government is also evident in Costa Rica. There, the State seeks the integration of the foreign population through their migratory regularization and the resources for integration programs for the foreign population are limited to this objective. Local governments see the migratory issue as a matter for the central government to solve and, therefore, hardly implement actions from their own territory, with the exception of the bordering cantons or those with a high number of foreign populations, and as long as their budgets allow them to do so.

In general terms, refugees should enjoy the same rights as other foreigners with legal residence in any country; however, by virtue of the conditions they present upon leaving their country of origin, they should receive the greatest possible facilities for access to the rights and guarantees enshrined in the legal systems, based on the pro persona principle.

Among the rights that refugees must necessarily enjoy, the following stand out: broad and equal access to health services; access to educational services and, where appropriate, to have their studies recognized by applying policies that make it possible to remedy the lack of common documents; freedom to work, without requiring employment permits that limit this fundamental right; obtaining immigration documents that allow them to remain in the country and access all their rights; the principle of family reunification; and cultural adaptation, if their origin is clearly different from that of the host country.

In return, individuals have a duty to respect laws and regulations, as well as measures taken to maintain public order.

Recommendations:

To the States

- Activate existing public policies for the foreign population residing in the country, incorporating them into existing programs and plans or, eventually, creating new ones in order to guarantee their rights and protection.

Discrimination and xenophobia

Discrimination refers to unfavorable treatment, prejudice, disadvantage or harassment suffered by a person or a group of persons. It is always "justified" by a personal characteristic or "prohibited matter". Direct discrimination occurs if a person, group of persons or State, on the basis of one of the grounds to be protected, subjects someone to less favorable treatment than that which should be accorded to another person(s) whose relevant circumstances are the same. Indirect discrimination includes covert manifestations of discrimination. It occurs when a rule or practice that, on the face of it, is neutral and not directed at a specific protected group, in practice has a detrimental effect on the person to be protected against discrimination, and which cannot be justified.

The four main causes of discrimination against refugees tend to be gender, ethnicity, religion and their own migratory status. Cultural reasons also play a role, such as the widespread belief that irregular migrants have no rights. The precarious legal status of irregular migrants makes them particularly vulnerable to labor coercion.

In the case of refugees, although they may already be in a regular migratory situation, this does not guarantee their equal access to employment. Victims may be faced with the difficult dilemma of accepting highly exploitative working conditions in a desperate situation. Migration is often both a cause and a consequence of discrimination and becomes a banner of right-wing political groupings, with the choice of scapegoats to justify prejudices that already exist in certain societies, such as machismo, racism and anti-Semitism. Although in general migration is a banner of the right, in the specific case of Brazil it is important to point out that anti-Semitism is very present, even in the "academic" media.

Some countries such as Brazil, Costa Rica and Colombia have very clear examples of intersectional discrimination, related to factors such as race, nationality, gender identity and sexual orientation.

Thus, for example, there is persistent discrimination or xenophobia towards the migrant population on the part of the Costa Rican population, especially if the recurrent presence of foreigners in the streets is perceived. In many cases this discrimination is accompanied by biases related to an association between the condition of foreigner and criminal. Likewise, intersectionality plays a role whereby discrimination increases if the foreigner is also a woman, indigenous, Afro-descendant or from the LGBTIQ sector. It is also selective discrimination, in that foreigners are discriminated against according to their skin color. This association between migration and crime is also present in Chile, where there are government discourses that feed the relationship between foreigners and crime, which also affects asylum seekers and refugees, generating racism and xenophobia. In Colombia, and the case of Venezuela, there is a growing phenomenon of xenophobia, mainly from vulnerable sectors that consider foreigners as competition in terms of access to social benefits and entry into the labor market.

It is clear that the existence of laws prohibiting and punishing racism, anti-Semitism, and discrimination based on gender and sexuality is a step forward for societies, but as in all cases of criminal legislation, it does not prevent discriminatory situations from continuing to occur.

The norms are very clear for most of the countries analyzed. In Ecuador, for example, discrimination and hate crimes are typified in articles 176 and 177 of the Integral Penal Code with an explicit mention of migratory status as a reason for punishable discrimination. The National Constitution, for its part, refers to the action for protection (amparo action) against acts of private individuals and discriminatory acts.

In Brazil, the Ellwanger Case [39] was a paradigmatic habeas corpus decided by the Federal Supreme Court that dealt with discrimination against Jewish people and years ago served as a reference for other cases in the country, because - as it could not be otherwise - the court recognized that anti-Semitism is a type of racism.

Examples of good practices adopted by the current Brazilian government are the "Program of Care and Acceleration of Refuge Policies for People of African Descent" and the implementation of the Moïse Kabagambe Observatory - Observatory of Violence against Refugees, which aim to protect people and give visibility to the intersectional aspect between race and migration. Brazilian legislation, moreover, punishes any form of discrimination, whether based on sexual orientation, skin color, religion, among other aspects, with sentences of up to 2 years in prison.

The criminalization of these acts represents an important step towards the protection of rights and equality for all people in society.

In Argentina, the National Institute against Discrimination, Xenophobia and Racism (INADI) - a government agency whose function is to act as the first instance of denunciation and guidance for victims of discrimination - has worked together with the International Organization for Migration in the framework of the IOM's global campaign *Soy Migrante* (I am Migrant). This joint action seeks to raise public awareness of the positive contribution of migrants in the country, promoting respect for the human rights of migrants and helping to break down negative perceptions about migration. Within this framework, in September 2023, they launched an audiovisual production composed of thirteen short films that narrate the life stories of migrants from Haiti, Spain, Honduras, Paraguay, Guinea Bissau, Russia, Peru, Guatemala, Colombia, Italy, Bolivia and Cuba who reside in Argentina today.

Recommendations:

- Adopt an intersectional perspective [40] to prevent, mitigate and combat discriminatory discourses and actions against migrating minorities, such as non-white people, women and the LGBTQIA+ population, groups that are notably discriminated against in Latin American countries.

Subject Area: Disaster Displacement and Protection

Regulatory developments in the field of protection of victims of natural disasters

The roundtable addressed the protection of disaster victims through the current regulatory frameworks on internal and international displacement for environmental reasons, highlighting the evolution that has taken place in recent years.

Firstly, it was pointed out that, on the one hand, persons affected by disasters are subject to the domestic legislation of the State as internally displaced persons or as victims without mobility. On the other hand, persons who are international migrants motivated by slow-onset or fast-onset disasters are subject to international human rights treaties, as a rule, but also to the domestic legislation of transit and destination States.

In the global and Latin American perspective, disaster-affected persons are directly and indirectly included in legislation on (i) civil defense, (ii) disaster risk reduction, (iii) climate change, (iv) human rights, (v) internal displacement, (vi) international migration and/or (vii) shelter.

As worldwide, the main legal challenges in relation to persons affected by disasters are (i) their legal recognition as victims of disasters in need of immediate and long-term protection and also (ii) the recognition of a migratory category in cases of international migration for environmental reasons, whether this migration is exclusively for environmental reasons or of mixed causes, related or not to climate change.

Although the Cartagena Declaration suggests international protection in situations of “massive violation of human rights”, what is noticeable in Latin American migratory movements is that the environmental issue is only one of a set of factors that produce mobility; and even when the Declaration also expresses the need for protection in “other circumstances that have seriously disturbed public order”, as observed in the practical cases in the region, especially in the last 10 years, since the adoption of the Brazil Plan of Action, people who are displaced by disasters, including the adverse effects of climate change, are excluded from the expanded definition of the term refugee proposed by the Cartagena Declaration in the countries of the region, with few exceptions.

As a result of the increase in the incidence of disasters and the number of people affected as internally displaced persons and international migrants throughout Latin America, many countries have adopted regulations related to the protection of people displaced by disasters or by the effects of climate change in recent years. Among those, the following stand out:

- Countries that recognize disaster victims under their migration regulations: Argentina (2010), Bolivia (2013), Brazil (2017), Ecuador (2017), El Salvador (2019), Guatemala (2017) and Peru (2017);
- Countries that recognize disaster victims under their refugee regulations: Cuba (2012);
- Countries that recognize disaster victims under their disaster risk reduction regulations: Colombia (2012), Costa Rica (1999), Chile (2017) and Guatemala (2016);
- Countries that recognize disaster victims under their civil defense regulations: Brazil (2010) and Guatemala (2013);

- Countries that recognize victims of disasters under their climate change regulations: Mexico (2018) and Peru (2018); and
- Countries that recognize disaster victims under their internal displacement regulations: Colombia (2022) and Mexico (Chiapas, 2012; Guerrero, 2014; Zacatecas, 2022).

In the case of Argentina, several measures stand out. On the one hand, in 2017, a provision of the migration authorities allowed the granting of temporary residence to nationals coming from the Republic of Haiti. Based on this experience, in 2022, the Government announced at the round tables of the International Migration Review Forum (IMRF) organized by the United Nations General Assembly in New York, a humanitarian visa program for those affected by socio-natural disasters in Mexico, Central America and the Caribbean with a community sponsorship system.

This program provides 3-year residency to displaced persons with a multi-stakeholder approach involving the International Organization for Migration (IOM), UNHCR, the International Committee of the Red Cross (ICRC), and the sponsorship of civil society organizations for their social integration. Its objective is to provide complementary international protection, planned relocation and durable solutions to nationals and residents of Mexico, Central America or the Caribbean displaced by sudden onset socio-natural disasters. All of this is based on the provisions of the migration regulations in force since 2003.

In Brazil, according to Law No. 13,445/2017 in force, disaster victims may obtain a humanitarian visa to enter and stay in the territory. However, its application is dependent on a normative recognition of the humanitarian emergency generating international migration in the country of origin. This normative condition prevents, in practice, that persons affected by disasters and who do not come from the regions individually recognized as generating humanitarian attention for the humanitarian visa, are not recognized or protected or documented.

In Colombia, there have been regulatory advances in relation to internally displaced persons. In January 2023, the National Unit for Disaster Risk Management (UNGRD) issued Resolution 087 of 2023, which adopts the creation of the Transitory Relocation Assistance (ART) as a humanitarian economic support aimed at meeting the need for temporary housing for households affected by imminent risk or partial/total destruction of housing according to a technical report issued by a representative of the territorial entity (mayors) or a copy of the administrative act that decrees the public calamity. The regulation does not refer to the exclusion of foreigners in the access to ART, however, it requires registration in an application provided by the UNGRD, of which the documentation required for registration purposes is unknown.

In Ecuador, Article 58 of the Organic Law on Human Mobility refers to protection for humanitarian reasons. Such protection may be granted to a person who “without complying with the requirements established in this Law for access to a migratory status, demonstrates the existence of exceptional humanitarian reasons for being a victim of natural or environmental disasters”. In such cases, the person may have access to a humanitarian visa for a period of up to two years. After this time, if the reasons for which the humanitarian visa was requested persist, it may be extended until the reasons that gave rise to the granting of the visa cease to

exist, without prejudice that at any time and prior to the fulfillment of the requirements provided in this Law, the person may access another migratory condition".

In Mexico, normative developments regarding disaster victims are mainly related to the incorporation of the Guiding Principles on Internal Displacement (1998) at the subnational level in the departments of Chiapas, Guerrero and Zacatecas, which establish documentation for internally displaced persons for the purpose of social assistance and provide for the establishment of public policies for the care of internally displaced persons in the context of disasters.

Finally, at the South American subregional level, we should not lose sight of the Regional Guidelines on Protection and Assistance for Persons Displaced across Borders and Migrants in Countries Affected by Natural Disasters, prepared by the South American Conference on Migration.

The participants concluded that, despite the existence of normative advances that provide for the protection of victims, the practical application of such measures shows that the percentage of people benefiting from them is very low and that the issue requires greater attention from Latin American States in the perspective of internal and international human mobility.

[1] Arenas-Hidalgo, Nuria (comp.), *Desplazamiento forzado y protección internacional en América latina en el 70 aniversario de la adopción de la Convención sobre el estatuto de los refugiados*. VIII Conferencia Latinoamericana Sobre las Personas Refugiadas y la Protección Internacional de la Red Académica Latinoamericana Sobre Derecho e Integración de las Personas Refugiadas (RED LAREF), Servicio de Publicaciones Universidad de Huelva, Huelva, 2023, disponible en: https://www.uhu.es/publicaciones/?q=libros&code=1313 [Acceso 27/12/2023]

[2] Comité Helsinki Húngaro, *Recursos Administrativos y Judiciales en procedimientos de asilo en América Latina,* Budapest, 2021, disponible en: https://helsinki.hu/wp-content/uploads/Recursos-administrativos-y-judiciales-Latinoam%C3%A9rica_4v.pdf [Acceso 27/12/2023]

[3] Comité Helsinki Húngaro, *Estudio sobre los Estatutos de protección internacional en América Latina*, Budapest, 2022, disponible en: https://www.refworld.org.es/topic,57f5047260,,624ddfa24,0,,,.html [Acceso 27/12/2023]

[4] Comité Helsinki Húngaro, *Guía Docente para la Elaboración de un Curso de Introducción al Derecho Internacional de las Personas Refugiadas*, Budapest, 2022, disponible en: https://www.academia.edu/76860605/RELATE_guia_docente_en_espanol?f_ri=2714637 [Acceso 27/12/2023]

[5] Para más información, véase la Nota de prensa: *Network of Academic institutions ramp up support for refugees in Latin America,* del 7 de abril de 2021, publicada en el sitio web del Global Compact for Refugees, disponible en: https://globalcompactrefugees.org/news-stories/network-academic-institutions-ramp-support-refugees-latin-america [Acceso 27/12/2023]

[6] ACNUR, *La Protección de los Refugiados y la Migración Mixta: El Plan de los 10 Puntos en Acción*, p. 114.

[7] ACNUR, *Idem*., p. 114

[8] ACNUR, *Idem*., p. 115.

[9] ACNUR, *Idem*., p. 115.

[10] Resolución Conjunta CONANDA/CONARE/Cnig. Establece procedimientos de identificación preliminar, atención y protección para niños y adolescentes desacompañados o separados, y otorga otras disposiciones. Disponible en: https://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/19245715/do1-2017-08-18-resolucao-conjunta-n-1-de-9-de-agosto-de-2017-19245542.

[11] Brasil, Ley 13.444 de 2016. Dispone sobre la prevención y represión del tráfico interno e internacional de personas y sobre medidas de atención a las víctimas. Disponible en: https://www.planalto.gov.br/ccivil_03/_ato2015-2018/2016/lei/l13344.htm.

[12] CC, Dictamen No. 1-23-EE/23; CC, Dictamen No. 2-23-EE; CC, Dictamen No. 3-23-EE/23; CC, Dictamen No. 5-23-EE/23. Disponibles en: https://www.primicias.ec/noticias/en-exclusiva/esmeraldas-violencia-latinoamerica-ecuador/; https://gk.city/2023/01/23/como-esta-esmeraldas-visperas-elecciones/ [Acceso 27/12/2023]

[13] Colombia, Corte Constitucional, Sentencia SU397-21, Derecho al debido proceso de ciudadanos extranjeros en los procedimientos administrativos de carácter sancionatorio que se inicien en su contra. Disponible en: https://www.corteconstitucional.gov.co/relatoria/2021/SU397-21.htm [Acceso 27/12/2023]

[14] Colombia, Ley 2136 de 2021 por medio de la cual se establecen las definiciones, principios y lineamientos para la reglamentación y orientación de la Política Integral Migratoria del Estado Colombiano – PIM, y se dictan otras disposiciones. Disponible en: https://www.cancilleria.gov.co/sites/default/files/Normograma/docs/ley_2136_2021.htm [Acceso 27/12/2023]

[15] Véase: https://www.acnur.org/es-es/que-hacemos/asilo-y-migracion/el-plan-de-accion-de-los-10-puntos

[16] Fracción I, artículo 13 de la Ley sobre Refugiados, Asilo Político y Protección Complementaria (LRAPPC).

[17] Fracción I, artículo 13 de la LRAPPC.

[18] Sobre este punto El Programa de Derechos Humanos de la Universidad Iberoamericana, Ciudad de México, realizó un estudio en al año 2018 sobre "la Declaración de Cartagena en México: 34 años de distanciamiento entre la ley y la práctica, donde señala este argumento: https://programadh.ibero.mx/assets/documents/PDH-2018-DECLARACION-DE-CARTAGENA.pdf

[19] https://www.r4v.info/es/home

[20] Datos de Brasil, Refúgio em Numéros, 8 Ediçao (2023), disponible en: https://portaldeimigracao.mj.gov.br/images/Obmigra_2020/OBMIGRA_2023/Ref%C3%BAgio_em_N%C3%BAmeros/Refugio_em_Numeros_-_final.pdf [Acceso 27/12/2023]

[21] Datos de Argentina, Estadísticas CONARE 2018-2022, disponible en: https://www.argentina.gob.ar/sites/default/files/estadisticas_conare-2018-2022-rectificado_07-07.pdf [Acceso 27/12/2023]

[22] Ver Centro de Políticas Migratorias, "Ley sobre Protección de Refugiados en Chile. Nudos críticos, desafíos urgentes y alternativas hacia el futuro", Santiago 2023, pp. 11 y 18, disponible en https://www.politicasmigratorias.org/publicaciones [Acceso 27/12/2023]

[23] ACNUR/EXCOM, *Protección internacional mediante formas complementarias de protección*, EC/55/SC/CRP.16, 2005. Disponible en: https://www.acnur.org/fileadmin/Documentos/BDL/2006/4192.pdf [Acceso 27/12/2023]; ACNUR/EXCOM. *Formas complementarias de protección: su naturaleza y relación con el régimen de protección internacional*. EC/50/SC/crp.18, 9 de junio del 2000. Disponible en: https://www.acnur.org/fileadmin/Documentos/BDL/2006/4192.pdf [Acceso 27/12/2023].

[24] La Corte define la figura de la protección complementaria como la protección que la entidad autorizada en el país de acogida otorga al extranjero que no tiene regularidad migratoria y que no califica como refugiado bajo la definición tradicional o la ampliada, consistente, principalmente, en no devolverlo al territorio de otro país en donde su vida, libertad, seguridad o integridad se verían amenazadas. Corte IDH. *Opinión Consultiva No21/14. Derechos y*

garantías de niñas y niños en el contexto de la migración y/o en necesidad de protección internacional. Disponible en: https://www.corteidh.or.cr/docs/opiniones/ seriea_21_esp.pdf. [Acceso 27/12/2023]

[25] Véase Sartoretto, Laura M., "La Protección complementaria y el caso venezolano en América del Sur: ¿complementación a la protección internacional o debilitamiento del estatuto de persona refugiada?". En Arenas-Hidalgo, Nuria, *Desplazamiento forzado y protección internacional en América Latina en el 70 Aniversario de la adopción de la Convención de Ginebra sobre el Estatuto de los Refugiados.* Servicio de Publicaciones Universidad de Huelva, Huelva, 2023, pp. 195-218.

[26] Ordenanza Interministerial nº 29 del 25 abril 2022. Establece la concesión de visa temporal y la autorización de residencia, con el propósito de acogida humanitaria, **para nacionales haitianos** y apátridas afectados por una calamidad de gran magnitud o situación de desastre ambiental en la República de Haití. Disponible en: https://portaldeimigracao.mj.gov.br/images/portarias/PORTARIA_INTERMINISTERIAL_MJSP.MRE_Nº_29_DE_25_DE_ABRIL_DE_2022.pdf y Ordenanza Interministerial nº 42 del 22 de septiembre de 2023 Dispone sobre la concesión de visa temporal y autorización de residencia con fines de acogida humanitaria para **nacionales afganos**, apátridas y personas afectadas por la situación de grave o inminente inestabilidad institucional, grave violación de derechos humanos o de derecho internacional humanitario en Afganistán, en el contexto de los acontecimientos de agosto de 2021. Disponible en: https://www.gov.br/pf/pt-br/assuntos/imigracao/lei-de-migracao/PORTARIAINTERMINISTERIALMJSP.MREN42DE22DESETEMBRODE2023.pdf

[27] Ley de Migraciones Nº 25.871, Art. 23 m y Decreto 616/2010. Disponible en: https://www.migraciones.gov.ar/pdf_varios/campana_grafica/pdf/Libro_Ley_25.871.pdf [Acceso 27/12/2023]

[28] En el caso de los ucranianos, por ej., por una medida conjunta entre MRECIC y DNM (Disposición. 417/2022 de la Dirección Nacional de Migraciones sobre concesión de visado humanitario a nacionales de la República de Ucrania. 08/03/2022, B.O. No258590), se dispuso que se podrá conceder la residencia por razones humanitarias y con un plazo de permanencia autorizado de tres años a aquellos nacionales extranjeros ucranianos y sus familiares directos, independientemente de su nacionalidad, que al momento del dictado de la medida se encuentren fuera de la República Argentina.

[29] ACNUR, Directrices sobre protección temporal o acuerdos de estancia, 2014. Disponible en: https://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=59560f154 [Acceso 27/12/2023]

[30] Véase también Pedraza Camacho, Laura X., "El refugio y regularización migratoria mediante estatuto temporal de protección para población venezolana en Colombia: una aproximación comparativa en el funcionamiento paralelo de los dos sistemas". En Arenas-Hidalgo, Nuria, *Desplazamiento forzado y protección internacional en América Latina en el 70 Aniversario de la adopción de la Convención de Ginebra sobre el Estatuto de los Refugiados.* Servicio de Publicaciones Universidad de Huelva, Huelva, 2023, pp. 219-232.

[31] Destacan: a) el Régimen Especial de Regularización Migratoria para Extranjeros Nacionales de la República de Senegal (Disposición N° 940/2022 de la Dirección Nacional de Migraciones, sobre Régimen Especial de Regularización Migratoria para Extranjeros Nacionales de la República de Senegal. 20/05/2022 B.O. No 263179); y b) el Régimen Especial de Regularización Migratoria para Extranjeros Nacionales de Países Miembros de la Comunidad del Caribe (CARICOM) más República Dominicana y República de Cuba (Disposición 941/2022 de la Dirección Nacional de Migraciones sobre Régimen Especial de Regularización Migratoria para Extranjeros Nacionales de Países Miembros de la Comunidad del Caribe (Caricom) más República Dominicana y República de Cuba 24/05/2022 B.O. No 263180).

[32] Disposición 520/2019 de la Dirección Nacional de Migraciones sobre Programa de Asistencia a Migrantes Venezolanos. 31/01/2019. B.O. No201028.

[33] Disposición DNM Nº 1891/2001 sobre Régimen Especial de Regularización para Niños, Niñas y adolescentes migrantes venezolanos, 12/07/2021, B.O. Nº 246773. El Régimen Especial permitió la eximición de la presentación de un Documento de Identidad válido y vigente y/o la legalización de la Partida de Nacimiento, estableciendo que, para la tramitación de la residencia permanente, resulta un requisito obligatorio la presentación de la documentación que hubiera sido eximida. Es en este punto donde radica el desafío actual de brindar facilidades para el acceso al cambio de categoría de quienes aún no han podido reunir la documentación exigida.

[34] ONU, Asamblea General, Pacto Mundial sobre los Refugiados, adoptado en Nueva York, 2018. Disponible en: https://www.acnur.org/media/pacto-mundial-sobre-los-refugiados-cuadernillo-nota-introductoria-de-la-oficina-del-alto [Acceso 27/12/2023]

[35] Programa Especial de visado humanitario para extranjeros afectados por el conflicto de la República Arabe Siria, establecido por Disposición DNM Nº 3915/2014. Para más información, véase Figueroa, M.S.& Marcogliese, M.J., “Visas humanitarias. La experiencia del Programa Siria en Argentina”, en *Revista del Instituto Interamericano de Derechos Humanos nº 69 (2019)*. Disponible en: https://dspace.iidh-jurisprudencia.ac.cr/server/api/core/bitstreams/7dd23964-f96d-4bc4-8f53-975564858538/content[Acceso 27/12/2023]

[36] Véase Chile, Ministerio de Relaciones Exteriores, *Canciller y llegada de refugiados sirios a Chile: "Van a tener una vida mejor en nuestro país",* 12 de octubre de 2017, disponible en https://minrel.gob.cl/canciller-y-llegada-de-refugiados-sirios-a-chile-van-a-tener-una-vida/minrel_old/2017-10-12/154502.html [Acceso 27/12/2023]

[37] Información disponible en: https://data.unhcr.org/en/documents/details/103129 [Acceso 27/12/2023]

[38] Ordenanza SENAJUS nº 70 del 16 de febrero del 2023. Designa miembros del Grupo de Trabajo establecido por la Ordenanza Nº 290, de 23 de enero de 202, orientado al establecimiento de la Política Nacional de Migraciones, Refugio y Apatridia, así como a la revisión del Decreto Nº 9.199, de 20 de noviembre de 2017. Disponible en: https://www.gov.br/mj/pt-br/assuntos/noticias/mjsp-lanca-grupo-de-trabalho-de-politica-migratoria/portaria-senajus_mjsp-no-70-de-16-de-fevereiro-de-2023-portaria-senajus_mjsp-no-70-de-16-de-fevereiro-de-2023-dou-imprensa-nacional.pdf

[39] Para más información, véase el siguiente enlace: https://portal.stf.jus.br/processos/detalhe.asp?incidente=2052452

[40] "Cuando aseguramos a los negros que son iguales a los blancos cuando no lo son, secretamente volvemos a cometerles injusticia. Lo humillamos de manera amistosa utilizando un estándar de medición mediante el cual necesariamente se vuelve inferior bajo la presión de los sistemas – un estándar que, si se cumpliera, representaría una ganancia dudosa… El crisol de las razas fue un acuerdo del capitalismo industrial cerrado. La idea de ser incluido en él evoca más el martirio que la democracia." (ADORNO, Theodor. *Mínima Moralia: reflexões a partir da vida lesada.* Rio de Janeiro: Azougue, 2008, p. 99)

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