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Protecting the Human Rights of Venezuelan Migrants and Refugees in the United States

By: Luis David Escorcía Pimienta¹

Introduction

The Venezuelan migration crisis is the largest mass displacement of people in recent times.² Since late 2015, over seven and a half million Venezuelans have left their country.³ Among the countries that have received the most migrants are Colombia, Peru, Brazil, Chile, and the United States (U.S.). For Venezuelan migrants, the idea of heading to the U.S. in search of better living conditions for themselves and their families is becoming increasingly available. The human corridor created in the Darién Gap, located on the border between Colombia and Panama, and the human trafficking networks operating there have resulted in an estimated 545,000 Venezuelan migrants coming to the U.S.⁴

This post will analyze the United States' response to the increasing arrival of Venezuelan migrants. It will then compare this response to Colombia's and suggest ways the U.S. response could be improved to better protect these migrants' human rights.

The United States' Response

On September 20, 2023, the U.S. Citizenship and Immigration Services (USCIS) redesignated Venezuela as eligible for temporary protected status (TPS).⁵ TPS allows Venezuelan nationals in the U.S. to apply to temporarily remain in the country and obtain employment authorization; it also prevents them from being removed from the U.S.⁶ Although this measure enables migrants to stay and work in the U.S., it also generates uncertainty. The protection depends on the country being designated for TPS, which could change. Additionally, TPS grants protection for a short time and does not lead to lawful permanent resident status. Thus, TPS does not account for those who wish to stay long term.

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² Betilde Muñoz-Pogossian & Alexandra Winkler, *The Persistence of the Venezuelan Migrant and Refugee Crisis*, CTR. FOR STRATEGIC & INT'L STUD. (Nov. 27, 2023), <https://www.csis.org/analysis/persistence-venezuelan-migrant-and-refugee-crisis#:~:text=The%20outflow%20of%20refugees%20and,Ukrainians%20outside%20of%20their%20countries>.

³ *Refugees and Migrants from Venezuela*, THE INTERAGENCY COORDINATION PLATFORM FOR REFUGEES AND MIGRANTS (R4V) (Nov. 30, 2023), <https://www.r4v.info/en/refugeeandmigrants>.

⁴ *Id.*

⁵ *Temporary Protected Status Designated Country: Venezuela*, U.S. CITIZENSHIP AND IMMIGR. SERVS. [USCIS] (last updated Nov. 17, 2023), <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela>. This status was extended to September 10, 2025.

⁶ *Temporary Protected Status*, USCIS (last updated Dec. 13, 2023), <https://www.uscis.gov/humanitarian/temporary-protected-status#:~:text=Once%20granted%20TPS%2C%20an%20individual,give%20any%20other%20immigration%20status>.

In October of 2023, the Biden administration began resuming deportation flights of Venezuelan nationals.⁷ The first flight took place on October 18, 2023, with 127 people sent back to Venezuela because they had illegally entered the U.S.⁸ However, this action disregards the principle of non-refoulement. Under international human rights law, this principle prevents individuals from being returned to a country where they would face torture, cruelty, or inhuman treatment.⁹ Sending Venezuelan nationals back puts these individuals in danger.

What the U.S. could learn from Colombia's Response

The U.S. should adopt policies that adequately address this migratory phenomenon and truly guarantee the protection of migrants' human rights, similar to what other countries in the region have done. For example, Colombia, the country with the largest influx of Venezuelan migrants, adopted a policy called *Estatuto Temporal de Protección para Migrantes Venezolanos (ETPV)*.¹⁰ This policy granted Venezuelan nationals a special permit to lawfully remain in the country and work for up to 10 years.¹¹ ETPV also provides for long-term integration of Venezuelan migrants if they desire to stay or, if they wish, return to Venezuela when their human rights are no longer at risk. Through ETPV, Colombia also guarantees migrants access to basic social services, including education and healthcare.¹²

This policy has granted lawful status to almost two million migrants,¹³ provided access to fundamental rights, allowed Venezuelan nationals to continue their immigration process, and facilitated these migrants' contribution to Colombia's long-term economic development.

Conclusion

It is essential for the U.S. to implement actions and strategies that create or expand policies which guarantee the protection of Venezuelan nationals' human rights. Doing so would demonstrate its commitment to international law that is intended to protect migrants and refugees.

⁷ *United States to Resume Removals of Venezuelans Who Do Not Have a Legal Basis to Remain in the United States to Venezuela*, DEP'T HOMELAND SEC. (Oct. 5, 2023), <https://www.dhs.gov/news/2023/10/05/us-resume-removals-venezuelans-who-do-not-have-legal-basis-remain>.

⁸ Eileen Sullivan & Frances Robles, *First Venezuelans Sent Back Under New U.S. Policy Arrive in Caracas*, N.Y. TIMES (Oct. 18, 2023), <https://www.nytimes.com/2023/10/18/world/americas/venezuelans-deportations-migrants.html>.

⁹ Inter-Am. Comm'n H.R. Res. 04/19, *Inter-American Principles on the Human Rights of All Migrants, Refugees, Stateless Persons and Victims of Human Trafficking*, at 6 (Dec. 7, 2019).

¹⁰ Por medio del cual se adopta el Estatuto Temporal de Protección para Migrantes Venezolanos Bajo Régimen de Protección Temporal y se dictan otras disposiciones en materia migratoria [By Which the Temporary Statute of Protection for Venezuelan Migrants Under the Temporary Protection Regime is Adopted and Other Provisions on Immigration Matters are Issued] (Mar. 1, 2021), <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=159606>.

¹¹ Paula Rossiasco & Patricia de Narváez, *Adapting Public Policies in Response to an Unprecedented Influx of Refugees and Migrants: Colombia Case Study of Migration from Venezuela*, at 8, background paper to the World Dev. Rep. 2023: Migrants, Refugees, and Soc'ys, WORLD BANK GROUP [WBG] (Apr. 2023).

¹² *Id.*

¹³ Laura Maria Rojas Morales, *Colombia's ten-year Temporary Protection Status for Venezuelan migrants and refugees*, PATHFINDERS: INEQUALITY SOLUTIONS (July 18, 2023), <https://www.sdg16.plus/policies/temporary-protection-status-for-venezuelan-migrants-colombia/#policy-reference-20>.