

Labyrinths of Documents: Inequality and Migratory Regularization in South America

The everyday life of migrants across South America shows that irregular migration deepens social and economic inequality. Certain rights are only attainable through regularized migratory status. Formal, registered work; renting a home or business; accessing social security, the health system, and education, among other social services, is rarely possible for those that do not possess “papers.” Regularization is often especially difficult for marginalized populations who lack the resources to overcome bureaucratic and administrative hurdles.

Argentina, Brazil, Chile, Colombia, Ecuador, Peru, and Uruguay have adopted important standards and practices that have promoted and facilitated the regularization, inclusion, and protection of the migrant populations in their respective countries. A crucial action at the regional level has been the 2002 Agreement on Residency for Nationals of the States of MERCOSUR and Associated States (*Acuerdo sobre residencia para nacionales de los Estados Parte del Mercosur y Asociados* in Spanish), which established the criteria of nationality as a requirement for entry and in order to stay. National identification documents from countries of origin are recognized as valid documentation for entry and applications (and obtainment) of temporary residence with permission to work without requirements such as pre-arranged job offers or demonstration of familial ties.

Ordinary Procedures and *Ad Hoc* or Exceptional Procedures

In the last two decades, South American countries have modified their immigration laws, recognizing the right to migration and requiring that states promote regularization. However, the exponential increase in Venezuelan migration in the last five years has stressed the standards and practices of migration and asylum systems, and the countries of the region have implemented diverse and differing policies in reaction. Brazil, Argentina, and Uruguay have incorporated Venezuelans into their general regularization policies, anchored in the regional logic of MERCOSUR and implemented through ordinary procedures of a permanent nature. In contrast, Colombia, Ecuador, Chile, and Peru have prioritized exceptional regularization regimes for Venezuelans, rooted in humanitarian motives and temporary in nature, with less institutional and normative support.

- For Venezuelans, Colombia implemented temporary regularization programs based on Special Stay Permits (*Permisos Especiales de Permanencia, PEP* in Spanish), with reduced time period of implementation and with requirements for valid passports and proof of regular income. These characteristics required successive renewals of PEPs in the absence of other routes for regularization.
- Ecuador, whose regulations already established a UNASUR visa that was comparatively simple to access, instituted a new regularization program for humanitarian reasons that also requires passports and a regular income. At the same time, they added a visa requirement for Venezuelans to enter the country.

- Peru, whose migratory regulations also implemented rules for regularization, established an extraordinary mechanism for the Venezuelan population: the Temporary License of Stay (*Permiso Temporal de Permanencia*, *PTP* in Spanish). The PTP does not award a foreign-national identification card, essential for one's daily life and exercise of rights. In 2019, they also began to require passports and visas for entry into the country.
- Chile established an expensive “visa of democratic responsibility” for Venezuelans wishing to enter the country. With that, they joined countries that have deviated from the historical tradition in the region of facilitating migrant entry and not making special requirements for nationals of other South American countries.

Argentina and Brazil have implemented special regularization programs for migrants from countries outside of MERCOSUR who are not privy to regional standards. Through exceptions and simplifications of some requirements, these programs, directed towards Haitian, Senegalese, Dominican, and Korean migrants, opened a path to temporary regularization for the tens of thousands of migrants in both countries.

Together, these experiences show that regularization (whether general or nation-specific) remains delicate if *ad hoc* procedures become the rule, changing constantly and being implemented for only short periods of time. Their reach is also limited if they do not allow for alternative requirements for applications, such as identification documents in place of passports, or reasonable proof of residency in place of proof of income. These special methods can have a positive impact on the short term, as they reduce time, cost, and requirements. However, due to their characteristics, they do not generate durable solutions, and they require cyclical repetition.

Exclusion and Discrimination in Regularization Procedures

In various countries the widespread use of normative frameworks linked to regional integration, as well as the adaptation of policies based on individual nationalities has provided an effective response for the regularization of migrants from the region. That said, not everyone fits into these categories, and those who do not are forced to appeal to other frameworks that are more difficult to obtain and are distanced from the social, economic, and demographic realities of the migrants residing in the country.

- The residency categories linked to **work** entail registered, formal work, and exclude a large portion of workers in the informal economy, which generates jobs and mobilizes significant sums of money in the countries of Latin America. Argentina and Brazil, for example, require formal connections (work contracts and job offers) for regularization through this criterion.
- The regulations linked to **family unity** additionally result in exclusion if their application is restricted to formal ties and direct relatives, leaving behind those more distantly related, such as grandparents, grandchildren, aunts and uncles, nieces and nephews. These relatives are often in charge of child rearing and taking care of members of the family in large families.

The elevated cost of fees to process licenses of entry or residency is an added difficulty for migrants, especially those who work informally or inconsistently. Only Brazil and Argentina have mechanisms for the exemption of fees for all the stages of the procedure. On top of the difficulties associated with these costs is the challenge of accessing regularization processes, including where they are granted, at what times, how to present documentation, and what language they are available in. These questions can create administrative obstacles that disincentivize regularization. As such, the holes and failings in regularization policies end up producing irregular migration.

Migration as a Problem of Security

In recent years, the states of the region have promoted narratives and measures that have fomented the perception that migration is a problem of security and public order.

- In Brazil, the humanitarian response to Venezuelan migrants is militarized and the Federal Police continue to be responsible for migratory procedures.
- During 2019, amid massive social protests, Colombia and Chile expelled migrants, alleging reasons of national security.
- In 2018, Chile arbitrarily expelled individuals who applied for a “process of extraordinary regularization of residency” but did not complete all the requirements for the process.
- In 2017, Argentina established a procedure for the summary expulsion of migrants with irregular incomes or a previous criminal record.
- Peru and Ecuador, as well, carried out massive summary expulsions of migrants with previous criminal records.

The connection between migration, irregular migration, and crime allows for policies based in the persecution and expulsion of migrants and the erosion of inclusive migratory policies.

For the Regional Agenda

A migration policy oriented around inclusion, protection, and non-discrimination must fortify ordinary and permanent procedures for regularization, accessible, on a basis of equality, to all migrants. This should include non-discriminatory requirements, affordable fees, and be accessible. The mechanisms for extraordinary regularization must solely be implemented in extraordinary or emergency situations, and contain access--without impediment--towards ordinary procedures and durable solutions for migrants.

In the context of the COVID-19 pandemic, this demand is even more urgent and requires a coordinated and regional response. The migratory condition imposes structural barriers that create obstacles to access to health services and social security, and as a result worsen the situation for migrants and their families. Even further, the pandemic has caused restrictions on the ability to enter and leave territories. In the face of all of this, organizations and movements working on migrant rights and migration policy across the region are growing louder in insisting

on #RegularizationNow (#RegularizaciónYa in Spanish) for the immediate, permanent, and unrestricted regularization of Venezuelan migrants.

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