

Substantive Justice and Forced Displacement: An Analysis of the Case of Venezuelan Refugees in Colombia

Justicia Sustantiva y Desplazamiento Forzado: Análisis del Caso de los Refugiados Venezolanos en Colombia

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ABSTRACT

This paper examines the challenge posed by the forced displacement of Venezuelan citizens into Colombia from the perspective of substantive justice. It asserts that for substantive justice to be achieved, refugees' rights must be formally recognised and effectively implemented, ensuring equitable access to services, opportunities for integration, and protection against discrimination. Based on data from international organisations, academic studies, and direct testimonies, the study evaluates how Colombia has addressed these migratory flows and to what extent the system has enabled refugees to exercise their rights effectively. The findings show that although reception policies have been deployed, significant gaps remain in socio-economic inclusion,

access to formal employment, and the guarantee of protection. The paper concludes with recommendations to strengthen substantive justice by shifting from mere legality to real equity for displaced populations.

Keywords *forced displacement, Venezuelan refugees, substantive justice, Colombia, migrant integration*

RESUMEN

El presente artículo analiza el desafío que plantea el desplazamiento forzado de ciudadanos venezolanos hacia Colombia desde la perspectiva de la justicia sustantiva. Se sostiene que, para que haya justicia sustantiva, es necesario que los derechos de los refugiados se reconozcan formalmente y se implementen de manera efectiva, garantizando acceso equitativo a servicios, oportunidades de integración y protección contra discriminación. Tomando como base datos de organismos internacionales, estudios académicos y testimonios directos, se evalúa cómo Colombia ha afrontado estos flujos migratorios y en qué medida el sistema ha permitido que los refugiados ejerzan sus derechos de manera efectiva. Los resultados indican que, aunque se han desplegado políticas de acogida, persisten importantes brechas en la inclusión socioeconómica, el acceso al trabajo formal y la garantía de protección. Se concluye con recomendaciones para fortalecer la justicia sustantiva, mediante políticas que consideren la transición de la mera legalidad a una equidad real para las poblaciones desplazadas.

Palabras clave *desplazamiento forzado; refugiados venezolanos; justicia sustantiva; Colombia; integración migratoria*

A. Introduction

Over the past decade, Venezuela has undergone one of the most severe socio-economic and political crises in the Western Hemisphere, resulting in a massive forced displacement of its population. The collapse of public services, hyperinflation, insecurity, and widespread human rights violations have compelled millions of Venezuelans to flee their homes in search of safety, basic goods, and opportunities for survival. As of 2024–2025, around 7.7 million Venezuelans have left the country, making this movement the largest displacement crisis in modern Latin American history and one of the most significant globally outside contexts of armed conflict.

Colombia, which shares a nearly 2,200-kilometer border with Venezuela, has emerged as the principal receiving country for this

exodus. According to recent estimates, roughly 3 million Venezuelan refugees and migrants reside in Colombia, far exceeding the numbers in any other South American nation. Colombia's geographical proximity, historical ties, and social interconnections with Venezuela have positioned it uniquely at the forefront of responding to the crisis. This dual identity—as a neighboring country and the primary host state—has both facilitated humanitarian response efforts and amplified policy challenges.

In response to the unprecedented influx, Colombia has adopted policy frameworks that have been internationally regarded as relatively open and progressive. A prominent example is the *Estatuto Temporal de Protección para Migrantes Venezolanos* (Temporary Protection Statute, or TPS), instituted in 2021, which allows Venezuelans present in the country to regularize their status, access employment, education, healthcare, and other state services for up to ten years. This innovative mechanism diverges from traditional asylum systems by offering broad legal recognition without requiring formal refugee status (Poveda-Clavijo & Mena, 2024).

Despite these advances, there is a growing concern among scholars and practitioners regarding whether Colombia's legal frameworks are effective in promoting substantive justice—understood as the realization of rights in practice, including dignity, equality, and non-discriminatory access to social and economic opportunities. The distinction between formal legal protection and actual justice outcomes is central to this analysis. While Colombia's regulatory approach aligns with international norms and regional instruments such as the Cartagena Declaration on Refugees, juridical recognition does not automatically ensure the material fulfillment of social, economic, and civil rights (Cartagena Declaration, 1984).

Substantive justice in the context of forced displacement requires that legal entitlements translate into meaningful participation in social life, equitable access to labor markets, protection from discrimination, and the ability to live with dignity and agency. Yet evidence indicates that Venezuelan refugees in Colombia continue to confront structural and systemic obstacles, including labor market marginalization, poverty, barriers to public services, and xenophobic attitudes that undermine their rights and social inclusion (Mejía-Mantilla et al., 2024; Poveda-Clavijo & Mena, 2024).

For instance, a socio-economic analysis reveals that while Venezuelans in Colombia participate in the labor force, they are disproportionately employed in lower-quality jobs and often receive lower wages than Colombian nationals due to challenges in accreditation of foreign qualifications and systemic inequalities in

hiring practices (Mejía-Mantilla et al., 2024). Furthermore, Venezuelan refugees face higher poverty rates compared to the host population, reflecting both structural disadvantages and limitations in social protection coverage (Mejía-Mantilla et al., 2024). These disparities highlight that formal inclusion mechanisms, while crucial, may not be sufficient to ensure equitable outcomes in practice.

In addition to economic exclusion, accessing justice itself remains uneven. Research on institutional responses, such as Bogotá's Casas de Justicia, indicates that despite their role in addressing immediate legal needs, structural conflicts and deeper vulnerabilities impacting migrants—such as xenophobia, marginalization, and violence—often persist beyond the scope of these services, thereby reinforcing patterns of social exclusion (Alfonso-Camelo, 2023).

Thus, the core problem this paper addresses is that formal legal protection does not necessarily translate into substantive justice for Venezuelan refugees in Colombia. Although Colombia is often cited for its humanitarian openness in policy design, existing literature points to a need for more critical scrutiny of how these policies function in practice and whether they achieve deeper goals of equality, dignity, and non-discrimination. This paper is guided by the following research questions:

- 1) How do Colombia's refugee and migration frameworks reflect principles of substantive justice?

This includes an assessment of legal norms, policy implementation, and alignment with international human rights standards.

- 2) What are the legal and social implications for Venezuelan refugees within these frameworks?

This examines empirical outcomes in areas such as labor market integration, access to justice, social protection, and lived experiences of inclusion or exclusion.

The analytical premise is that while Colombia's policy architecture represents an important regional model of refugee response, a substantive justice lens is necessary to understand the gaps between formal entitlements and lived realities. Drawing on both normative theory and empirical evidence, this study seeks to bridge legal analysis with socio-economic and rights-based perspectives.

The structure of the paper is as follows: After this introduction, Section 2 reviews the historical and current context of the Venezuelan displacement crisis and Colombia's policy responses. Section 3 develops the theoretical framework of substantive justice within forced displacement. Section 4 analyzes Colombia's legal, institutional, and policy mechanisms in light of substantive justice principles. Section 5 explores empirical evidence on the experiences of Venezuelan refugees

in Colombia. Section 6 concludes with reflections on policy implications and recommendations for strengthening justice outcomes for displaced populations.

This paper contends that achieving substantive justice for Venezuelan refugees in Colombia requires moving beyond legal recognition alone, towards holistic, context-sensitive approaches that confront systemic inequities and promote genuine inclusion in social, economic, and political life.

B. Conceptual and Theoretical Framework

This section develops the conceptual and theoretical foundations that guide the analysis of Colombian refugee and migration policies toward Venezuelan displaced populations. It situates the study within broader debates on justice in jurisprudence and political philosophy, distinguishes between formal and substantive conceptions of justice, and explains why substantive justice offers a particularly appropriate analytical lens for assessing forced displacement policies in the Global South. By integrating normative theory with international refugee and human rights law, this framework provides the basis for evaluating whether legal protection regimes translate into lived equality and human dignity.

1. Substantive Justice versus Formal Justice

The distinction between formal justice and substantive justice has long occupied a central place in jurisprudence and political theory. Formal justice generally refers to the consistent and impartial application of legal rules, emphasizing procedural correctness, equality before the law, and adherence to established norms (Dworkin, 1977). From this perspective, justice is achieved when laws are applied uniformly and legal processes are followed correctly, regardless of the social outcomes they produce.

However, critics argue that formal justice alone is insufficient to address structural inequalities and systemic disadvantages. Substantive justice, by contrast, focuses on the outcomes of legal and political arrangements and asks whether they actually promote fairness, equality, and human dignity in practice (Sen, 2009). This approach is particularly concerned with how social, economic, and political contexts shape individuals' real opportunities to exercise their rights.

John Rawls' theory of justice as fairness represents a foundational contribution to substantive conceptions of justice. Rawls (1971) argues that just institutions are those that would be chosen behind a "veil of ignorance," ensuring equal basic liberties and arranging social and economic inequalities so that they benefit the least advantaged

members of society. While Rawls' framework has been influential in shaping human rights and welfare-oriented legal systems, it has also been critiqued for its institutional focus and limited engagement with real-world injustices experienced by marginalized groups.

Amartya Sen advances this critique by shifting attention from ideal institutional arrangements to actual realizations of justice. In *The Idea of Justice*, Sen (2009) emphasizes the importance of capabilities—what individuals are genuinely able to be and do—rather than merely the formal allocation of rights. From this perspective, justice requires evaluating whether people have substantive freedoms to pursue lives they have reason to value. This approach is especially relevant in refugee contexts, where legal status may exist without corresponding access to livelihoods, healthcare, or social participation.

Ronald Dworkin contributes another dimension by emphasizing equality of concern and respect as the moral foundation of law (Dworkin, 1981). For Dworkin, justice is not satisfied by neutral rule application alone; rather, legal systems must treat individuals as equals by accounting for differences in circumstances that affect their ability to benefit from legal rights. This insight is particularly pertinent for displaced populations, whose vulnerabilities often render formally equal treatment substantively unequal.

Nancy Fraser further expands the concept of justice by integrating redistribution, recognition, and representation. Fraser (2009) argues that injustice arises not only from economic maldistribution but also from cultural misrecognition and political exclusion. Justice, therefore, requires addressing material inequalities, combating stigmatization and discrimination, and ensuring meaningful participation in decision-making processes. Her framework is especially useful for analyzing refugee situations, where displaced persons often experience economic marginalization, social stigma, and political invisibility simultaneously.

Together, these theorists demonstrate that justice cannot be reduced to legal formality. Instead, justice must be evaluated in terms of its capacity to address structural inequalities and to ensure that rights are meaningfully enjoyed. This distinction forms the conceptual foundation for examining refugee protection regimes beyond their formal legal architecture.

a. Substantive Justice in Refugee Contexts

Applying substantive justice to refugee contexts requires moving beyond a narrow focus on legal status and asylum recognition. While refugee law traditionally centers on status determination and protection against refoulement, scholars increasingly emphasize that

legal recognition alone does not guarantee dignity or equality (Hathaway, 2005; Betts, 2013).

The 1951 Convention Relating to the Status of Refugees establishes core protections for refugees, including access to employment, education, housing, and social security (UNHCR, 1951). However, the realization of these rights is contingent on domestic implementation and broader socio-economic conditions. In practice, refugees may possess formal rights while remaining excluded from labor markets, public services, and political life, resulting in what has been described as “legal inclusion with social exclusion” (Kymlicka, 2015; Rasyid, et al, 2022).

In Latin America, the Cartagena Declaration on Refugees (1984) significantly expanded the refugee definition to include persons fleeing generalized violence, massive human rights violations, and other circumstances that seriously disturb public order. This regional instrument reflects a normative commitment to humanitarian protection and solidarity. Yet, as with the 1951 Convention, the Cartagena framework primarily addresses eligibility and protection from return, leaving questions of long-term integration and social justice largely to domestic policy.

A substantive justice approach insists that refugee protection must be assessed in terms of access to rights, participation, and human dignity. Access to rights entails not only legal entitlement but also practical ability to exercise those rights—such as the capacity to obtain formal employment, secure adequate housing, and receive healthcare without discrimination. Participation refers to refugees’ ability to engage meaningfully in social, economic, and, where possible, political life within host societies. Human dignity, as a foundational principle of international human rights law, demands that refugees are treated not merely as beneficiaries of humanitarian assistance but as rights-bearing individuals with agency (Benhabib, 2004).

Empirical research consistently demonstrates that gaps between legal protection and lived experience are particularly pronounced in the Global South, where host states face resource constraints and structural inequalities (Betts & Collier, 2017). Refugees in such contexts often remain in protracted situations characterized by informality, precarious livelihoods, and limited access to justice. A substantive justice framework allows scholars to interrogate these outcomes critically, rather than assuming that compliance with international norms equates to justice.

b. Integration with Human Rights Principles and International Protection Norms

Substantive justice is closely aligned with international human rights principles, particularly those emphasizing equality, non-discrimination, and the indivisibility of rights. International human rights law recognizes that civil and political rights cannot be meaningfully enjoyed without economic, social, and cultural rights (UN General Assembly, 1966). This holistic understanding of rights supports a substantive approach to refugee protection.

The principle of non-discrimination, enshrined in both refugee law and human rights treaties, is especially relevant. Formal equality—treating refugees and citizens identically under the law—may fail to account for refugees’ specific vulnerabilities. Substantive equality, by contrast, permits differential treatment where necessary to achieve equitable outcomes (Fredman, 2016). This principle underpins policies aimed at facilitating refugee integration through targeted social programs, legal regularization, and labor market access.

Moreover, the evolving interpretation of international protection norms increasingly emphasizes durable solutions, including local integration, rather than temporary humanitarian assistance alone (UNHCR, 2019). Substantive justice provides a normative basis for evaluating whether host states are creating conditions that allow refugees to rebuild their lives with autonomy and security.

c. Normative Basis for Analysis: Substantive Justice and the Global South

Substantive justice is a particularly useful analytical lens for assessing forced displacement policies in the Global South. Most of the world’s refugees are hosted by low- and middle-income countries, where legal systems coexist with deep socio-economic inequalities and limited institutional capacity (Betts et al., 2017). In such contexts, formal legal compliance with international norms may coexist with persistent injustice in practice.

A purely formal analysis risks overstating policy success by focusing on legislative innovation while neglecting implementation gaps and structural barriers. Substantive justice, by contrast, foregrounds outcomes and lived experiences, allowing for a more nuanced evaluation of policy effectiveness. It also aligns with critical Global South scholarship that challenges Eurocentric assumptions embedded in international legal frameworks (Chimni, 2004). By applying substantive justice to the Colombian case, this study situates refugee protection within broader debates about social inclusion, inequality, and state responsibility. It enables an assessment of whether

progressive legal frameworks genuinely enhance refugees' capabilities, dignity, and participation, or whether they reproduce new forms of marginalization under the guise of humanitarian governance.

2. Forced Displacement and Colombia's Legal Response

This section examines the Venezuelan forced displacement crisis within its regional context and analyzes Colombia's legal, institutional, and administrative response. It situates Colombia's policies within broader Latin American trends, outlines the legal architecture governing Venezuelan migration, and critically assesses the institutional mechanisms responsible for implementation. The analysis highlights both the innovative features of Colombia's response and the structural challenges that complicate the realization of substantive justice for displaced Venezuelans.

a. Regional Overview: Venezuelan Displacement in Latin America (2015–2024)

The forced displacement of Venezuelans represents a distinctive phenomenon in global migration governance. Unlike many contemporary refugee crises driven primarily by armed conflict, the Venezuelan exodus has been propelled by a convergence of political repression, economic collapse, institutional erosion, and widespread violations of economic and social rights (Freier & Parent, 2019). From 2015 onward, the pace of out-migration accelerated dramatically as hyperinflation, food insecurity, and healthcare system breakdown rendered everyday life increasingly untenable.

By 2024, more than 80 percent of displaced Venezuelans were hosted within Latin America and the Caribbean, underscoring the regionalized nature of the crisis (UNHCR & IOM, 2023). Initial movements were often circular and informal, particularly across the Colombian–Venezuelan border, but gradually evolved into more permanent displacement as conditions in Venezuela deteriorated. This transformation placed sustained pressure on regional asylum systems that were historically underdeveloped and not designed to manage displacement on such a scale (García Arias & Sánchez, 2020).

Regional responses to Venezuelan displacement have varied significantly. Peru, for instance, initially adopted an open-door policy through the *Permiso Temporal de Permanencia* (PTP), which allowed Venezuelans to regularize their status and access basic services. However, from 2019 onward, Peru introduced stricter entry requirements, including passport and visa mandates, reflecting growing political resistance and concerns about labor market competition (Freier & Castillo Jara, 2021).

Ecuador followed a similar trajectory, initially allowing Venezuelans to enter freely and later imposing visa requirements while offering limited regularization programs. These measures were often implemented inconsistently, resulting in legal uncertainty and heightened vulnerability for migrants and refugees (Acosta & Freier, 2018). Brazil, by contrast, adopted a rights-based approach grounded in its 2017 Migration Law and formally recognized many Venezuelans as refugees under the expanded Cartagena definition. While Brazil's legal framework has been praised for its alignment with international standards, integration outcomes have been uneven due to regional disparities and limited local capacity (Jubilut & Madureira, 2020).

Against this regional backdrop, Colombia's response stands out for both its scale and its relative openness. Hosting the largest Venezuelan population in the region, Colombia moved from ad hoc humanitarian measures to a more comprehensive legal framework aimed at long-term inclusion. However, this leadership role also magnified structural challenges related to institutional capacity, territorial inequality, and social cohesion.

b. Colombian Policy Framework

1) The Statute of Temporary Protection for Venezuelan Migrants (ETPV, 2021)

Colombia's most significant policy innovation in response to Venezuelan displacement is the Estatuto Temporal de Protección para Migrantes Venezolanos (ETPV), adopted in 2021. The ETPV established a temporary protection regime allowing eligible Venezuelan migrants to regularize their status for up to ten years, with access to formal employment, healthcare, education, and social services (Poveda-Clavijo & Mena, 2024).

The stated objectives of the ETPV include reducing irregular migration, improving access to rights and services, enhancing state oversight, and facilitating socio-economic integration. Unlike traditional asylum procedures, the ETPV does not require applicants to demonstrate individualized persecution. Instead, it recognizes the structural nature of the Venezuelan crisis and adopts a pragmatic approach to mass displacement (Selee & Bolter, 2020).

From a formal justice perspective, the ETPV represents a significant expansion of legal protection. It aligns with Colombia's humanitarian discourse and its commitment to regional solidarity. However, critics note that the temporary nature of the status and its framing outside the refugee regime may limit long-term security and political inclusion, particularly regarding pathways to permanent residence or citizenship (Poveda-Clavijo & Mena, 2024).

2) *Domestic Law, Constitutional Provisions, and International Obligations*

Colombia's migration response is shaped by a complex interaction between domestic law, constitutional principles, and international obligations. The 1991 Colombian Constitution enshrines human dignity, equality, and the primacy of international human rights treaties as foundational principles. Constitutional jurisprudence has repeatedly affirmed that non-nationals are entitled to fundamental rights, regardless of migration status, particularly where human dignity is at stake (Uprimny & Sánchez, 2019).

At the international level, Colombia is a party to the 1951 Refugee Convention and its 1967 Protocol, as well as key human rights treaties including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Regionally, Colombia is a signatory to the Cartagena Declaration on Refugees (1984), which expands the refugee definition and emphasizes humanitarian protection in situations of mass displacement.

The ETPV can be understood as an attempt to reconcile these obligations with domestic political and institutional constraints. By offering broad legal regularization without formally expanding refugee status, Colombia sought to balance humanitarian protection with administrative feasibility. However, this hybrid approach also creates legal ambiguities, particularly regarding the durability of protection and the extent of enforceable rights (García Arias & Sánchez, 2020).

c. Institutional and Administrative Mechanisms

The implementation of Colombia's migration policies relies on a multi-layered institutional architecture. Migration Colombia plays a central role in registration, documentation, and status regularization under the ETPV. Its responsibilities include biometric data collection, issuance of Temporary Protection Permits, and coordination with other state agencies.

The Ministry of Foreign Affairs oversees broader migration policy and international coordination, including engagement with regional mechanisms and donor states. Meanwhile, sectoral ministries—such as health, education, and labor—are responsible for translating legal status into access to services.

International organizations have been instrumental in supporting Colombia's response. The United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) operate jointly through the *Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V)*. These actors

provide technical assistance, funding, and operational support, particularly in border regions and underserved municipalities (UNHCR & IOM, 2023).

While this collaborative governance model has enabled large-scale registration and service delivery, it also underscores Colombia's dependence on international assistance. Scholars caution that reliance on external funding may limit the sustainability of integration policies and shift accountability away from the state (Betts, 2013).

d. Critical Challenges in Implementation

Despite its progressive legal framework, Colombia's response faces significant challenges that undermine substantive justice outcomes. Bureaucratic barriers remain a major obstacle. The registration process under the ETPV requires digital access, documentation, and administrative literacy that many Venezuelans lack, particularly those in informal settlements or rural areas. Delays in permit issuance have restricted access to employment and public services, reinforcing informality (Mejía-Mantilla et al., 2024).

Uneven access to documentation is compounded by territorial inequality. Local governments vary widely in capacity and political willingness to implement national policies. Border regions and peripheral municipalities often lack the resources needed to integrate migrants effectively, resulting in disparities in service provision (García Arias & Sánchez, 2020).

Finally, local governance challenges—including xenophobia, labor market competition, and strained public services—have shaped implementation outcomes. While national policy discourse emphasizes solidarity, local resistance has sometimes translated into exclusionary practices, particularly in housing and employment (Freier & Parent, 2019). These challenges reveal a persistent gap between formal legal protection and lived realities. From a substantive justice perspective, they highlight the need to evaluate not only policy design but also administrative practices and socio-political contexts.

C. Methodology

This study adopts a qualitative, socio-legal, and normative policy analysis to examine whether Colombia's legal and institutional response to Venezuelan forced displacement promotes substantive justice. Given the *Journal of Refugee Studies*' openness to both empirical and conceptual scholarship, this methodology is designed to bridge legal analysis with social justice theory, allowing for a critical evaluation of law not only as a formal system of rules but also as a social practice with material consequences for displaced populations.

Rather than measuring policy effectiveness through quantitative indicators alone, this research prioritizes an interpretive approach that interrogates the relationship between legal norms, institutional practices, and lived realities. This is particularly appropriate in the context of forced displacement, where formal compliance with international standards often coexists with persistent inequalities in access to rights and resources (Hathaway, 2005; Sen, 2009).

1. Analytical Approach

The study employs a qualitative socio-legal approach, drawing on the tradition that views law as embedded within social, political, and economic contexts rather than as an autonomous system (Cotterrell, 2018). Socio-legal analysis enables an examination of how legal frameworks—such as migration statutes and constitutional provisions—are interpreted, implemented, and experienced in practice. This approach is particularly relevant for refugee and migration studies, where gaps between law-on-the-books and law-in-action are well documented (Merry, 2006).

In addition, the study incorporates normative policy analysis, using substantive justice as an evaluative framework. Normative analysis is concerned not only with how policies function, but with whether they *ought* to be considered just, fair, and consistent with human dignity (Fraser, 2009). This allows the research to move beyond descriptive accounts of Colombia's migration response and to assess it against ethical and legal principles derived from political philosophy and international human rights law.

The analysis is qualitative and interpretive rather than positivist. It does not seek to establish causal relationships or statistical generalizations, but instead aims to provide a theoretically informed, context-sensitive assessment of policy outcomes and their justice implications.

2. Case Study Rationale

Colombia is selected as a single, in-depth case study due to its significance as both an exemplary and contested model of regional refugee management. Hosting the largest population of Venezuelan refugees and migrants in Latin America, Colombia has been widely praised for its innovative legal response, particularly the adoption of the Statute of Temporary Protection for Venezuelan Migrants (ETPV) in 2021 (Poveda-Clavijo & Mena, 2024).

At the same time, Colombia's response has generated debate regarding the durability of protection, the exclusion of Venezuelans from formal refugee status, and persistent inequalities in access to

socioeconomic rights. This combination of normative ambition and practical contestation makes Colombia a particularly suitable case for examining the limits of formal legal protection and the added value of a substantive justice framework.

From a methodological perspective, a single-case study allows for analytical depth rather than breadth. It enables close engagement with legal texts, policy implementation, and contextual factors that would be difficult to capture in a large comparative study. While the findings are not intended to be universally generalizable, they offer theoretically transferable insights relevant to other Global South contexts experiencing large-scale displacement (George & Bennett, 2005).

3. Data Sources

The study relies primarily on document-based qualitative analysis, drawing from both primary and secondary sources.

a) Primary Legal and Policy Documents

Primary sources include official Colombian legal and policy instruments governing Venezuelan migration and refugee protection. These include:

- 1) The Statute of Temporary Protection for Venezuelan Migrants (ETPV) and related implementing decrees;
- 2) Relevant provisions of Colombia's 1991 Constitution, particularly those concerning human dignity, equality, and the incorporation of international human rights law;
- 3) Decisions of the Colombian Constitutional Court addressing the rights of migrants and refugees;
- 4) Policy guidelines and official communications issued by Migration Colombia and the Ministry of Foreign Affairs.

These documents are analyzed to identify the normative commitments of the Colombian state and the formal rights afforded to Venezuelan refugees and migrants.

b) Secondary Sources

Secondary sources consist of peer-reviewed academic articles, scholarly books, NGO and international organization reports, and policy analyses produced by institutions such as UNHCR, IOM, and regional research centers. These materials provide empirical insights into implementation outcomes, institutional practices, and the socio-economic conditions experienced by Venezuelan refugees. In addition, selected media analyses are used cautiously to contextualize public discourse and political debates surrounding migration in Colombia, particularly where they illuminate local governance challenges or societal attitudes.

- c) **Optional Qualitative Materials**
Where applicable, the study draws on existing key informant interviews and qualitative findings reported in prior research. While the study does not conduct original interviews, it may incorporate discourse analysis of official statements and policy narratives to examine how humanitarianism, temporariness, and integration are framed in state discourse (Fairclough, 2013).

4. Analytical Criteria: Justice-Based Indicators

The analysis applies a set of justice-based indicators derived from the substantive justice framework developed in Section 2. These indicators function as evaluative criteria rather than measurable variables and include:

- a) **Equality and Substantive Non-Discrimination**
Whether legal and policy frameworks account for refugees' specific vulnerabilities and enable equitable outcomes, rather than merely formal equality before the law (Fredman, 2016).
- b) **Human Dignity**
The extent to which policies respect refugees as rights-bearing individuals with agency, rather than treating them solely as objects of humanitarian assistance (Benhabib, 2004).
- c) **Access to Socioeconomic Rights**
Practical access to employment, healthcare, education, and social protection, including the removal of administrative and structural barriers.
- d) **Legal Security and Stability**
The durability and predictability of legal status, including pathways to long-term residence and protection against arbitrariness.

These indicators guide the interpretation of legal texts and policy outcomes, enabling a structured and transparent normative assessment.

5. Limitations

This study has several limitations. *First*, its focus on Colombia means that it does not provide a systematic comparative analysis with other host countries in the region. While regional references are included for context, the findings are grounded in a single-case study design. *Second*, the analysis relies primarily on publicly available documents and secondary sources. As a result, it cannot fully capture informal practices or unreported experiences of refugees that might emerge through extensive fieldwork. *Third*, the normative nature of substantive justice analysis involves a degree of interpretive judgment. While this is a recognized feature of justice-oriented scholarship,

efforts have been made to ensure transparency and theoretical grounding in applying evaluative criteria. Despite these limitations, the methodology is well suited to the study's aims and contributes a theoretically informed, policy-relevant perspective to debates on refugee protection and justice in the Global South.

D. Findings and Analysis

This section presents the core findings of the study and analyzes Colombia's response to Venezuelan forced displacement through the lens of substantive justice. Drawing on legal texts, policy documents, empirical studies, and institutional reports, the analysis evaluates how Colombia's Temporary Protection Statute (ETPV) has been operationalized in practice, the extent to which it facilitates access to rights, and the degree to which it promotes dignity, equality, and non-discrimination. The section also examines social dynamics at the community level, institutional accountability, and comparative insights from neighboring states.

1. Legal and Policy Outcomes: Operationalizing Protection and Inclusion

a. The ETPV as a Legal Innovation

The Statute of Temporary Protection for Venezuelan Migrants (ETPV) represents a significant departure from conventional asylum-based responses to mass displacement. Rather than relying primarily on individualized refugee status determination, the ETPV establishes a group-based regularization mechanism that recognizes the structural drivers of Venezuelan displacement (Poveda-Clavijo & Mena, 2024). From a formal legal perspective, the ETPV expands protection by granting eligible Venezuelans lawful stay, access to formal employment, and eligibility for public services.

In terms of formal justice, the ETPV performs relatively well. It reduces irregularity, improves state oversight, and aligns with Colombia's constitutional commitment to human dignity and equality before the law (Uprimny & Sánchez, 2019). The large number of Venezuelans registered under the scheme indicates its administrative reach and legal inclusiveness.

However, when assessed through a substantive justice lens, the ETPV's outcomes are more ambivalent. The statute's temporary nature—limited to a ten-year period—creates uncertainty regarding long-term security and belonging. Scholars argue that temporariness may institutionalize precarity by postponing durable solutions and limiting political inclusion, even as it expands access to socioeconomic

rights in the short to medium term (Betts & Collier, 2017; Poveda-Clavijo & Mena, 2024).

b. Access to Healthcare

Healthcare access is one of the clearest areas where the ETPV has produced partial substantive gains. Legal regularization under the ETPV allows Venezuelans to enroll in Colombia's public health system, which represents a significant improvement compared to irregular status (Mejía-Mantilla et al., 2024). Studies indicate that regularized migrants are more likely to seek preventive care and less reliant on emergency services.

Nonetheless, barriers persist. Administrative delays in permit issuance, lack of information, and uneven local capacity have limited effective access, particularly in border regions and smaller municipalities (García Arias & Sánchez, 2020). From a substantive justice perspective, the existence of a legal entitlement does not fully translate into equitable healthcare outcomes, highlighting the gap between formal inclusion and lived experience.

c. Employment and Labor Market Inclusion

Access to formal employment is central to substantive justice, as it underpins autonomy, dignity, and social participation. The ETPV explicitly grants work authorization, addressing one of the most significant vulnerabilities associated with irregular migration. Empirical evidence suggests that regularization increases labor force participation in the formal economy (Mejía-Mantilla et al., 2024).

However, Venezuelan migrants continue to experience labor market stratification. They are disproportionately concentrated in low-wage, precarious sectors, often below their skill levels, due to credential recognition barriers, discrimination, and limited enforcement of labor rights (Freier & Parent, 2019). This outcome reflects what Fraser (2009) describes as a combination of maldistribution and misrecognition: even when legally permitted to work, migrants face structural constraints that undermine substantive equality.

d. Education and Legal Recognition

In the education sector, Colombia has formally guaranteed access to primary and secondary schooling for Venezuelan children regardless of migration status, consistent with constitutional jurisprudence emphasizing the best interests of the child (Uprimny & Sánchez, 2019). The ETPV further facilitates enrollment by reducing documentation barriers.

Despite these advances, challenges remain at the tertiary level, where tuition costs, documentation requirements, and limited scholarships restrict access. Legal recognition under the ETPV thus improves educational inclusion, but substantive equality in educational outcomes remains uneven.

2. Evidence of Substantive Justice: Dignity and Equality in Practice

a. Enhancing Dignity through Legal Visibility

One of the most significant substantive justice gains associated with the ETPV is the restoration of legal visibility. Legal recognition reduces fear of detention and deportation and enables interaction with state institutions on a more equal footing. This aligns with Dworkin's (1981) principle of equal concern and respect, as migrants are acknowledged as rights-bearing individuals rather than irregular subjects.

Qualitative studies suggest that regularization enhances migrants' sense of dignity and self-worth, particularly by enabling lawful employment and access to services (Poveda-Clavijo & Mena, 2024). In this sense, the ETPV advances justice as recognition (Fraser, 2009).

b. Persistent Inequalities and Structural Injustice

At the same time, substantive justice is undermined by persistent inequalities rooted in socioeconomic structures and social attitudes. Venezuelan migrants experience higher poverty rates than Colombian nationals, even after regularization (Mejía-Mantilla et al., 2024). These disparities indicate that legal inclusion alone cannot offset broader patterns of inequality.

Moreover, the exclusion of most Venezuelans from formal refugee status limits access to certain protections and symbolic recognition associated with international refugee law. While pragmatic, this choice raises normative concerns regarding equality and long-term security, particularly for those unable to transition to permanent residence (Hathaway, 2005).

3. Social Dynamics: Integration, Xenophobia, and Community-Level Effects

a. Integration Challenges

Integration is a multidimensional process involving economic participation, social interaction, and a sense of belonging. While Colombia's policy discourse emphasizes integration, empirical evidence

suggests that outcomes vary significantly across regions and social groups (Freier & Parent, 2019).

Urban centers with stronger institutional capacity have generally been more successful in facilitating access to services, while border areas and peripheral regions face resource constraints. These territorial inequalities undermine substantive justice by producing uneven protection outcomes.

b. Xenophobia and Social Cohesion

Xenophobia has emerged as a significant challenge to substantive justice. Public opinion studies and media analyses indicate that economic stress and competition for services have fueled negative attitudes toward Venezuelan migrants in some communities (González Balyk, 2023). Discrimination in housing and employment reinforces social exclusion, limiting the effectiveness of legal inclusion measures.

From a justice-as-recognition perspective, xenophobia constitutes a form of cultural injustice that cannot be remedied through legal status alone (Fraser, 2009). Addressing these dynamics requires broader social policies aimed at fostering cohesion and combating stigmatization.

4. Institutional Accountability and Governance

a. Transparency and Consistency

Institutional accountability is central to substantive justice, as inconsistent or opaque implementation can negate formal rights. While Migration Colombia has made significant efforts to process registrations, delays and communication gaps have created uncertainty for beneficiaries (Mejía-Mantilla et al., 2024). The decentralized nature of service provision has resulted in inconsistent application of national policies at the local level. This fragmentation undermines equality, as access to rights becomes contingent on geographic location rather than legal entitlement.

b. Coordination with International Actors

International organizations, particularly UNHCR and IOM, play a crucial role in supporting Colombia's response. While this partnership enhances capacity, it also raises concerns about sustainability and state accountability (Betts, 2013). Reliance on external funding may limit long-term policy planning and obscure responsibility for integration outcomes.

5. Comparative Insights: Colombia and Restrictive Regional Models

Compared to more restrictive approaches adopted by neighboring states such as Peru and Ecuador, Colombia's response is markedly more inclusive. Visa requirements and enforcement-oriented policies in those countries have increased irregularity and vulnerability, undermining both formal and substantive justice (Freier & Castillo Jara, 2021).

However, Colombia's relative openness should not obscure its limitations. The comparison highlights that while Colombia advances further toward substantive justice than restrictive models, it has not fully resolved the tension between humanitarian inclusion and durable equality.

6. Synthesis of Findings

Overall, the findings indicate that Colombia's legal response to Venezuelan displacement represents a necessary but incomplete realization of substantive justice. The ETPV significantly improves legal recognition and access to rights, enhancing dignity and reducing vulnerability. Yet persistent inequalities, social exclusion, and institutional limitations constrain its transformative potential. From a substantive justice perspective, Colombia's framework succeeds in expanding formal inclusion and partial recognition but falls short of ensuring equal outcomes and long-term security. These findings underscore the importance of moving beyond legal innovation toward sustained social and institutional reform.

E. Discussion

This section deepens the analysis by situating the findings within broader legal and jurisprudential debates on substantive justice, refugee protection, and migration governance. It interrogates the normative implications of Colombia's response to Venezuelan displacement, focusing on the status of refugees as rights-holders, the translation of legal norms into equitable social outcomes, and the structural constraints imposed by sovereignty, political economy, and governance realities. By embedding the Colombian case within international and constitutional legal discourse, the discussion highlights the added value of a substantive justice framework for evaluating forced displacement policies.

1. Refugees as Rights-Holders in Law: Recognition, Legal Subjectivity, and Agency

At the core of substantive justice lies the question of legal subjectivity: whether displaced persons are treated as autonomous rights-holders or as objects of discretionary humanitarian governance. International refugee law, grounded in the 1951 Refugee Convention, conceptualizes refugees as bearers of enforceable rights, not merely recipients of charity (Hathaway, 2005). This rights-based orientation is reinforced by international human rights law, which recognizes that fundamental rights attach to all persons by virtue of their humanity, irrespective of nationality or migration status (UN General Assembly, 1966).

Colombia's ETPV partially aligns with this paradigm by granting Venezuelan migrants legal status, access to employment, and eligibility for public services. From a constitutional perspective, this approach reflects Colombia's jurisprudence on human dignity as a foundational legal principle, which the Constitutional Court has repeatedly interpreted as extending to non-citizens (Uprimny & Sánchez, 2019). In this sense, the ETPV advances what Dworkin (1981) terms *equal concern and respect*, recognizing migrants as legal persons entitled to state protection.

Yet, substantive justice requires more than legal recognition; it requires security, permanence, and equal standing within the legal order. The temporary and exceptional nature of the ETPV limits the extent to which Venezuelans are constituted as full rights-holders. Temporary protection regimes, while pragmatic, have been critiqued in refugee law scholarship for institutionalizing precarity and normalizing reduced rights under the guise of emergency governance (Gammeltoft-Hansen & Tan, 2017).

This legal ambivalence situates Venezuelans in a liminal space between inclusion and exclusion—legally present, yet politically marginal. As Benhabib (2004) argues, such conditional inclusion reflects the unresolved tension between universal human rights and territorially bounded political membership. From a substantive justice perspective, the lack of clear pathways to permanent residence or naturalization undermines refugees' legal agency and long-term equality.

2. From Normative Commitments to Social Outcomes: The Limits of Legal Formalism

The findings underscore a recurring theme in socio-legal scholarship: the gap between law on the books and law in action (Merry, 2006). Colombia's legal framework exhibits strong normative alignment

with international and constitutional principles, yet its social outcomes remain uneven.

Formal equality before the law—treating refugees and citizens identically—has proven insufficient to achieve equitable results. This reflects the distinction between formal equality and substantive equality, a principle increasingly recognized in constitutional and human rights jurisprudence (Fredman, 2016). Substantive equality permits differential treatment where necessary to address structural disadvantage and achieve genuinely equal outcomes.

From a Rawlsian perspective, just institutions must be evaluated by their effects on the least advantaged (Rawls, 1971). While the ETPV reduces irregularity and improves access to services, Venezuelan refugees continue to experience disproportionate poverty, labor precarity, and social exclusion. These outcomes suggest that Colombia's migration governance has not fully internalized distributive justice considerations within its legal architecture.

Moreover, Fraser's (2009) tripartite framework of redistribution, recognition, and representation illuminates the multidimensional nature of injustice in refugee contexts. Colombia's policies partially address recognition through legal status and documentation, but they insufficiently confront maldistribution in labor markets and underrepresentation in political and institutional decision-making. Legal inclusion without structural transformation thus risks becoming symbolic rather than emancipatory.

3. Sovereignty, Temporariness, and the Legal Management of Displacement

The Colombian case exemplifies the sovereignty–human rights dilemma at the heart of international migration law. While states retain sovereign authority over admission and membership, they are simultaneously bound by international obligations to protect refugees and uphold human rights.

Temporary protection regimes such as the ETPV can be understood as sovereign compromise mechanisms—tools that allow states to comply with humanitarian norms while preserving discretion and control (Betts, 2013). By avoiding mass refugee status determination, Colombia reduces administrative burdens and mitigates domestic political backlash. However, this strategy also limits refugees' access to the full spectrum of rights associated with refugee status under international law (Hathaway, 2005; Syahrin, 2021; Astariyani, et al, 2023).

From a legal-theoretical standpoint, this reflects what Agamben (1998) describes as the governance of *exception*, where extraordinary

measures become normalized in response to perceived crises. Although Colombia's approach is far more protective than exclusionary, its reliance on temporariness raises normative concerns regarding legal certainty and equality before the law.

Substantive justice challenges this paradigm by insisting that sovereignty cannot justify persistent inequality or indefinite temporariness. While recognizing legitimate state interests, a justice-oriented legal framework demands that protection regimes evolve toward durable solutions that restore full legal and social membership.

4. Justice, Governance, and Contextual Constraints

Justice is not implemented in abstraction; it is mediated through institutional capacity, political economy, and social relations. The Colombian experience illustrates how governance structures shape the realization of legal norms.

Decentralized implementation has produced uneven access to rights across territories, undermining the constitutional principle of equality. In socio-legal terms, this reflects fragmented legality, where national norms are filtered through local institutional realities (Santos, 2002). Such fragmentation disproportionately affects refugees, whose access to justice is already constrained by information gaps and social marginalization.

Social dynamics further complicate justice outcomes. Xenophobia and stigmatization function as informal regulatory mechanisms that restrict refugees' access to housing, employment, and social networks. As Fraser (2009) argues, cultural injustice cannot be remedied solely through legal status; it requires active recognition and inclusion policies. These findings reinforce Sen's (2009) argument that justice must be assessed comparatively and contextually. Colombia's response may be just relative to more restrictive regional models, yet still unjust when evaluated against normative standards of equality and dignity.

5. Broader Implications for Regional Policy

The Colombian case offers several lessons for regional refugee governance in Latin America and the Global South. *First*, large-scale regularization mechanisms can function as effective alternatives to overburdened asylum systems, expanding protection in contexts of mass displacement. *Second*, however, temporariness should not substitute for durability. Without clear legal pathways to permanence, protection regimes risk reproducing structural vulnerability.

Third, substantive justice requires policy coherence across sectors. Migration law alone cannot secure justice without integration

into labor regulation, social protection systems, and anti-discrimination frameworks. This aligns with emerging scholarship advocating for whole-of-government and whole-of-society approaches to refugee integration (Betts & Collier, 2017).

6. Implications for Global Justice Theory and Legal Scholarship

At a theoretical level, this study demonstrates the analytical strength of substantive justice as a legal evaluative framework. By integrating jurisprudential theory with refugee law and socio-legal analysis, substantive justice exposes the limitations of formal compliance and foregrounds lived inequality.

The findings contribute to global justice debates by challenging state-centric and formalist models of migration governance. They support calls for justice frameworks that account for structural inequality, recognition, and political membership beyond citizenship (Benhabib, 2004; Fraser, 2009; Permatasari, 2021; Utami, 2020; Hadi, et al, 2024; Muttaqin, 2024). Substantive justice thus emerges not only as an analytical tool but as a normative project—one that urges legal systems to move beyond minimal protection toward transformative inclusion.

7. Concluding Reflections

Colombia's response to Venezuelan forced displacement represents a significant normative advancement within regional refugee governance. Yet, when evaluated through a substantive justice lens, its limitations become apparent. Refugees are increasingly recognized as legal subjects, but their status as full rights-holders remains constrained by temporariness, structural inequality, and social exclusion. This case illustrates the enduring tension between humanitarian protection and sovereign governance and underscores the need for justice-oriented legal reforms that prioritize durability, equality, and dignity. Substantive justice provides a powerful framework for identifying these gaps and for reimagining refugee protection as a matter of legal and social transformation rather than mere crisis management.

F. Conclusion and Policy Recommendations

This article has examined Colombia's response to Venezuelan forced displacement through the lens of substantive justice, arguing that while Colombia has developed an ambitious and innovative legal framework, the realization of justice in practice remains uneven. By

integrating jurisprudential theory, international refugee law, and socio-legal analysis, the study demonstrates that formal legal protection, though necessary, is insufficient to secure equality, dignity, and meaningful inclusion for displaced populations. The conclusion synthesizes the main findings, reflects on the theoretical implications of substantive justice, and offers policy recommendations aimed at strengthening refugee protection in Colombia and the wider region.

1. Summary of Key Findings

The analysis reveals that Colombia's legal response—particularly through the Statute of Temporary Protection for Venezuelan Migrants (ETPV)—represents a significant normative advancement in regional refugee governance. The ETPV expands legal recognition, reduces irregularity, and facilitates access to employment, healthcare, and education. In doing so, it reflects constitutional commitments to human dignity and aligns with international and regional protection norms, including the Cartagena Declaration on Refugees.

However, when assessed through a substantive justice framework, the findings expose persistent gaps between formal inclusion and lived equality. Venezuelan refugees and migrants continue to experience structural disadvantages in labor markets, uneven access to public services, administrative delays in documentation, and social exclusion fueled by xenophobia. The temporary and exceptional nature of the ETPV further constrains long-term security and legal stability, positioning refugees as conditionally included rather than fully recognized members of the political community.

These outcomes underscore a central argument of the article: legal innovation does not automatically translate into substantive justice. Justice outcomes are shaped by institutional capacity, governance structures, social attitudes, and economic inequality, all of which mediate the effectiveness of legal frameworks.

2. Theoretical Reflection: Substantive Justice and Refugee Protection

This study contributes to refugee and migration scholarship by demonstrating the analytical and normative value of substantive justice as a framework for evaluating forced displacement policies. Drawing on the work of Rawls, Sen, Dworkin, and Fraser, substantive justice reframes refugee protection as a matter of equality, dignity, and real freedoms, rather than mere legal status or procedural compliance.

From this perspective, refugee protection is not satisfied by the existence of rights on paper but by the extent to which displaced

persons are able to exercise those rights meaningfully in their daily lives. Substantive justice thus bridges the gap between international legal norms and social outcomes, highlighting the limitations of formalist approaches to migration governance.

In the Colombian case, substantive justice exposes the tension between humanitarian inclusion and sovereign control, particularly as expressed through temporariness and conditionality. While such compromises may be politically pragmatic, they raise normative concerns regarding equality before the law and the durability of protection. By foregrounding these concerns, substantive justice offers a critical lens through which to assess not only Colombia's policies but broader global responses to displacement.

3. Policy Recommendations

Based on the findings and theoretical insights, the article proposes the following policy recommendations:

- a) **Embed Justice-Oriented Criteria in Migration Policymaking**
Refugee and migration policies should be explicitly guided by justice-based criteria, including substantive equality, human dignity, and non-discrimination. Policymakers should assess not only legal compliance but also the social and economic outcomes of protection regimes. Incorporating substantive justice into policy evaluation frameworks would help identify implementation gaps and prioritize the needs of the most vulnerable.
- b) **Improve Access to Documentation and Public Services**
Administrative barriers to documentation remain a significant obstacle to substantive justice. The Colombian government should streamline registration processes, expand outreach in marginalized regions, and reduce digital and bureaucratic barriers. Ensuring timely and universal access to documentation is essential for enabling refugees to exercise their rights effectively.
- c) **Promote Anti-Discrimination and Community Inclusion Programs**
Legal recognition must be accompanied by robust anti-discrimination measures and community-level inclusion initiatives. Public education campaigns, enforcement of labor and housing regulations, and support for local integration programs can help counter xenophobia and foster social cohesion. Justice as recognition requires addressing societal attitudes as well as legal norms.

d) Strengthen Regional Coordination under the Cartagena Declaration

Finally, Colombia's experience highlights the importance of regional cooperation in managing large-scale displacement. States in Latin America should strengthen coordination under the principles of the Cartagena Declaration, sharing responsibility and harmonizing protection standards. Regional mechanisms can help mitigate the uneven burdens placed on individual host states and promote more consistent justice outcomes.

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**Refugees are not just numbers.
They are human beings with rights,
dignity, and dreams.**

"Los refugiados no son solo cifras. Son seres humanos con derechos, dignidad y sueños."

"Els refugiats no són només xifres. Són éssers humans amb drets, dignitat i somnis."

António Guterres

The UN Secretary-General and former UN High Commissioner for Refugees

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