



IN SEARCH OF SAFETY

PERU TURNS ITS BACK ON PEOPLE FLEEING VENEZUELA

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Cover photo: Venezuelans denied entry to Peru, are left stranded at Peru's Binational Border Centre (CEBAF) at the border with Ecuador. November 2019.

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CONTENTS

| | |
|---|-----------|
| 1. EXECUTIVE SUMMARY | 5 |
| 2. METHODOLOGY | 7 |
| 3. VENEZUELA'S HUMAN RIGHTS CRISIS | 8 |
| BACKGROUND TO THE HUMAN RIGHTS CRISIS AND HUMANITARIAN EMERGENCY IN VENEZUELA | 8 |
| MASSIVE HUMAN RIGHTS VIOLATIONS IN VENEZUELA | 9 |
| 4. VENEZUELANS ARE ENTITLED TO INTERNATIONAL PROTECTION | 12 |
| 5. HOW PERU IS CLOSING ITS DOORS TO VENEZUELANS | 15 |
| THE ELIMINATION OF THE TEMPORARY STAY PERMIT (PTP) | 15 |
| PERU IMPOSES A PASSPORT REQUIREMENT | 16 |
| A HUMANITARIAN VISA ONLY IN NAME | 17 |
| ELIMINATION OF HUMANITARIAN EXCEPTIONS | 17 |
| CHANGES TO ASYLUM PROCEDURES | 18 |
| 6. "I ARRIVED IN PERU TO THIS GIANT WALL": UNLAWFUL RESTRICTIONS ON ACCESS TO INTERNATIONAL PROTECTION | 21 |
| THE REALITY OF HUMANITARIAN VISAS | 22 |
| THE REALITY OF HUMANITARIAN EXCEPTIONS | 22 |
| THE REALITY OF THE ASYLUM SYSTEM | 23 |
| OTHER REJECTIONS AT THE BORDER | 25 |
| CONDITIONS AT THE BORDER | 25 |
| 7. INTERNATIONAL, REGIONAL AND DOMESTIC OBLIGATIONS | 26 |
| VIOLATIONS OF THE RIGHT TO SEEK ASYLUM | 26 |
| VIOLATIONS OF THE OBLIGATION OF NON-REFOULEMENT | 27 |
| 8. CONCLUSION AND RECOMMENDATIONS | 28 |

GLOSSARY

| WORD | DESCRIPTION |
|--------------------------|--|
| CEPR | Special Commission for Refugees (Comisión Especial para los Refugiados) |
| COMPLEMENTARY PROTECTION | Is a generic term used to denote a practice amongst states to provide protection from return to individuals who do not qualify as refugees under the scope of 1951 Refugee Convention but who would be at risk of serious harm if returned to their country. Such forms of protection are intended to complement international protection. Given the existence of an expanded definition of refugee in Latin America, there should be no need for states to resort to complementary forms of protection |
| INTERNATIONAL PROTECTION | International protection is an obligation under international refugee law and arises when a person is outside their own country and unable to return home because of the risks they would face. It refers to all activities aimed at obtaining the full respect for the rights of the individual in accordance with international human rights, humanitarian and refugee law. It encompasses the protection given to people who fall under the classical refugee definition in the Refugee Convention and under the expanded refugee definition under the Cartagena Declaration and includes complementary forms of protection |
| IACHR | Inter-American Commission on Human Rights |
| IACtHR | Inter-American Court of Human Rights |
| IOM | International Organization for Migration |
| MERCOSUR | Is an economic and political bloc made up of Argentina, Brazil, Paraguay, Uruguay (and previously Venezuela) |
| OHCHR | Office of the United Nations High Commissioner for Human Rights |
| <i>NON-REFOULEMENT</i> | The principle of <i>non-refoulement</i> is binding on all states and prohibits them from sending anyone in any manner whatsoever to a place where they would be at real risk of serious human rights violations |
| REFUGEE | A person outside his or her country of origin, who has a well-founded fear of persecution if returned there (1951 Convention definition) & Persons who have fled their country because their lives, security or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order (Cartagena Declaration expanded definition) |
| UNHCR | United Nations High Commissioner for Refugees, the UN Refugee Agency |

1. EXECUTIVE SUMMARY

“Look, I was a different man then”.

Alberto, father of two children, showing Amnesty International his passport photo in CEBAF Ecuador on 6 November 2019. He was a shadow of the man in the photo, which depicted a larger, stronger man. His photo was a stark reminder of the severe hardship that Venezuelans have been forced to endure in recent years.

Alberto,* a 44-year old machine operator from Venezuela, left his country as he could no longer afford to feed his family. He was determined to start a safe new life for himself and his wife and two children. He obtained a humanitarian visa at the Peruvian consulate in Caracas and in October 2019 began the overland journey to Peru. He first travelled through neighbouring Colombia before reaching the Ecuadorian border. However, the Ecuadorian official refused to stamp his passport and told him to enter the country irregularly. He followed these instructions, reaching the Peruvian border in early November 2019. But despite having a valid humanitarian visa in his passport, the Peruvian officials refused him entry, on the basis that he did not have Ecuadorian exit and entry stamps. Stranded at the Ecuador-Peru border, unable to enter either country and separated from his family, Alberto began to cry when he described how he had accumulated debt and left his wife and children behind in Venezuela on the understanding that he could then bring them to live with him in Peru. He had followed the procedures and obtained the necessary permit but was nonetheless denied entry.

This report exposes the serious and rapid deterioration in Peru's treatment of Venezuelan refugees. Initially displaying admirable generosity to Venezuelans seeking protection, it is now outright denying people their right to seek protection and engaging in a deliberate policy of turning away asylum-seeking women, men and children from Venezuela.

Venezuela is in the grip of a humanitarian emergency and a major human rights crisis, which began in 2014, and from which over 4.8 million people had fled by December 2019. Against a backdrop of widespread social protests, the authorities have engaged in serious human rights violations, including arbitrary detentions, torture and other ill treatment, extrajudicial executions, abusive use of force, enforced disappearances and violations of the rights to health and food.

Years into the crisis, Venezuelans are struggling to survive, and millions are unable to meet even their minimum needs for food, water and health care. The country has undergone a profound social, economic and institutional collapse. Rampant hyperinflation and economic contraction have rendered people's salaries effectively worthless. By April 2019, the minimum wage was estimated at 7 USD per month; an amount that only covered 4.7% of the basic food basket. Income poverty levels have been further compounded by soaring unemployment rates, which are projected to reach 48% in 2020.

The majority of Venezuelans fleeing the country are refugees and entitled to international protection, either under the international 1951 *Refugee Convention* or the regional 1984 *Cartagena Declaration*. The latter instrument aims to respond to group-based risks, and its expanded definition of refugee has been incorporated into domestic law in many countries, including Peru. Colombia is the country hosting the largest number of Venezuelans, at 1.6 million. Peru, however, has the largest population of Venezuelan

* To protect the Venezuelans interviewed for this research, only aliases are used.

asylum-seekers (at 377,047), while other countries also host large numbers of Venezuelans: Chile (371,163), Ecuador (385,042), Brazil (224,102) and Argentina (180,267).

Peru, hosting the largest number of Venezuelan asylum-seekers globally and home to over 800,000 Venezuelans in total, is deserving of recognition. Nevertheless, this past generosity does not mean Peru can flout its present and future international obligations.

Despite only being in existence since June 2019, Peru's so-called humanitarian visa, as Alberto's experience demonstrates, has already proved to be an unviable form of protection: firmly shutting an alternative channel to protection for Venezuelans desperately in need of it. Using the pretext of the lack of entry and departure stamps from Ecuador as a justification to deny entry to Venezuelans who have the humanitarian visa, or who meet the humanitarian exceptions due to the vulnerabilities they face, is a display of cruel disregard for the human rights of Venezuelan refugees.

Changes to the asylum procedures at the Peru-Ecuador border, which were never formally communicated, appear to amount to a deliberate policy of rejection of new arrivals from Venezuela. The ad-hoc and inconsistent form of decision-making during the asylum proceedings cast serious doubts about the *fairness* and *effectiveness* of these procedures. These irregular practices coupled with Peru's narrow interpretation of international protection are in violation of its domestic, regional and international human rights obligations to provide access to a fair and efficient asylum procedures to those seeking international protection.

Peru's policy of increased denial of access to territory, by way of rejecting asylum claims and turning away humanitarian visa holders, is placing Venezuelans seeking safety at serious risk. Venezuelans rejected at Peru's border are left in legal limbo: unable to return to Ecuador or enter Peru. The result has been to force Venezuelans to resort to more perilous journeys and survival mechanisms, and to enter and live in Peru without regular status. Irregular entry condemns Venezuelans to live on the margin of society, exposing them to increased risk of exploitation and abuse, while excluding them from the formal labour market and access to services; in further violation of their human rights.

Peru's new policies at the border raise serious *refoulement* concerns. Denying Venezuelans arriving at the border access to international protection - whether via asylum procedures or complementary protection mechanisms - could put Venezuelans rejected at the border at risk of *refoulement*.

Amnesty International urges the Peruvian authorities to ensure rigorous respect for their international and regional obligations towards Venezuelans seeking safety. The government must urgently apply the 1984 Cartagena Declaration definition of refugee and should do this through *prima facie* or group-based recognition, given the significant numbers of Venezuelans seeking asylum in the country. The government should also request adequate financial and technical support from the international community, which in turn should significantly increase its assistance and develop mechanisms to share responsibility for Venezuelan refugees.

Peru is by no means the only country in the region seeking to limit entry of Venezuelans in search of safety. Between June and August 2019, Chile and Ecuador also imposed similarly restrictive measures, limiting access to their territory and to regular status. Representing a principal corridor of movement for Venezuelans, Chile, Ecuador and Peru should refrain from erecting barriers and instead should prioritize responsible regional coordination, informed by a genuine commitment to upholding international protection obligations as well as the principle of responsibility sharing.

2. METHODOLOGY

This report is based on extensive desk and field research conducted between October and December 2019. Field research took place in November in Peru and was carried out in Lima, Tumbes and Tacna.

During the visit, Amnesty International carried out 58 interviews. Researchers interviewed 35 Venezuelans: 17 men and 18 women, the majority of whom were travelling with children or other family members, in the Binational Centre for Border Attention (*Centro Binacional de Atención Frontera*, CEBAF) Peru and CEBAF Ecuador, as well as 6 Venezuelans, 4 women and 2 men, in temporary lodgings in Tumbes. Amnesty International corroborated people's testimonies by examining documentary evidence including identity cards and passports, visas, asylum claim decisions and medical reports. To protect Venezuelans interviewed during the research only aliases have been used.

The research delegation held meetings with local civil society groups, academics, the UN High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) while in Peru. The researchers also met with the Coordinator for the Special Commission for Refugees (CEPR) while visiting Tumbes. In Tacna, the research delegation met with officials from Peru's National Superintendency of Migration and from the Investigation Police of Chile (PDI). In Lima, researchers met with the Executive Secretary of the CEPR and did a tour of the San Isidro office of the CEPR, where they spoke to staff and Venezuelans queuing outside. Furthermore, Amnesty International researchers met with the Ombudsman's Office and the Foreigners Division of the National Police of Peru as well as officials from the National Superintendency of Migration and from the Ministry of Interior.


Amnesty International researchers also consulted UN and Inter-American Commission on Human Rights (IACHR) reports and guidelines; international and regional NGO reports, national legislation and other government documents, analytical reports by academics, as well as national, regional and international media reports.

The findings of this research were shared with the President of the Council of Ministers, the Minister of Foreign Affairs, the Minister of Interior and the National Superintendent of Migration in a letter dated 17



January 2020. Amnesty International requested a meeting with these authorities to discuss the findings and give them the opportunity to respond. As the time the report was finalised, no response has been received from any authority.

Amnesty International would like to thank all the Venezuelan refugees who shared their testimonies as well as civil society organizations, humanitarian agencies and authorities with whom the organization met.

 ↑ *Amnesty International interviewing a Venezuelan couple at CEBAF Peru in November 2019*
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3. VENEZUELA'S HUMAN RIGHTS CRISIS

Since 2014 Venezuelans have fled in large numbers in search of safety and a dignified future abroad. By December 2019, an estimated 4.8 million people had fled the country¹ and UNHCR believes that this figure will reach 5.5 million in 2020.² Colombia, hosting 1.6 million Venezuelans, is the largest recipient country. It is followed by Peru (863,613), Chile (371,163), Ecuador (385,042), Brazil (224,102) and Argentina (180,267), with many other countries in the region hosting smaller yet significant numbers of Venezuelans relative to their populations.³ Five countries in the Caribbean are hosting approximately 100,000 Venezuelans among them: Aruba, Curacao, the Dominican Republic, Guyana and Trinidad and Tobago.⁴ These figures however are likely to be an underestimate, as most official data does not include those people who have entered countries irregularly. Venezuelans have also sought safety further afield, including in Costa Rica, Panama, Mexico, the United States and Spain.⁵

The global response to the Venezuelan situation has been muted. With 80% of Venezuelan refugees⁶ having remained within Latin America and the Caribbean, the international community to date has left the region to shoulder responsibility for their protection. With regard to financial assistance for host countries in the region, by the end of 2019, 48% of the funding requirements for the 2019 Regional Refugee and Migrant Response Plan remained unmet.⁷

BACKGROUND TO THE HUMAN RIGHTS CRISIS AND HUMANITARIAN EMERGENCY IN VENEZUELA

When President Maduro succeeded Hugo Chavez on his death in 2013, the economy was already facing problems.⁸ A drop in global oil prices and the reduction in oil production in 2014, drove up prices and inflation. These factors combined with several public policies pursued by the government led to a serious and complex economic crisis. Venezuelans began to protest government policies in 2014, followed by mass demonstrations in 2017 and again in 2019. These protests were met with repression by various branches of

¹ R4V, Plataforma de Coordinación para Refugiados y Migrantes de Venezolanos, *Respuesta a los Venezolanos*, <https://r4v.info/en/situations/platform>

² Coordination Platform for Refugees and Migrants from Venezuela, RMRP 2020, *Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela* (January-December 2020), 13 November 2019, data2.unhcr.org/es/documents/download/72254

³ R4V, Plataforma de Coordinación para Refugiados y Migrantes de Venezolanos, *Respuesta a los Venezolanos*, <https://r4v.info/en/situations/platform>

⁴ Coordination Platform for Refugees and Migrants from Venezuela, RMRP 2020, *Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela* (January-December 2020), 13 November 2019, data2.unhcr.org/es/documents/download/72254

⁵ R4V, Plataforma de Coordinación para Refugiados y Migrantes de Venezolanos, *Respuesta a los Venezolanos*, <https://r4v.info/en/situations/platform>

⁶ Amnesty International considers the majority of those fleeing Venezuela to be refugees. According to international refugee law a person becomes a refugee as soon as they meet the definition of refugee; not when their refugee status is formally declared. See UNHCR, *Handbook on Procedures and Criteria for Determining Refugee Status and Guidelines on International Protection*, Reissued, Geneva, February 2019, <https://www.refworld.org/docid/5cb474b27.html> para 28, p.17

⁷ Financial Tracking Services, *Regional Refugee and Migrant Response Plan (for Refugees and Migrants from Venezuela)*, Response Plan/Appeal Snapshot for 2019, <https://fts.unocha.org/appeals/726/summary>

⁸ Amnesty International, "Urgent Measures: Venezuelans in need of international protection", 3 September 2018, AMR 01/9019/2018, <https://www.amnesty.org/download/Documents/AMR0190192018ENGLISH.PDF>

state security forces. The political and institutional crisis deepened in the first months of 2019, resulting in heightened tensions between the Executive under Nicolás Maduro and the Legislature headed by Juan Guaidó.⁹

MASSIVE HUMAN RIGHTS VIOLATIONS IN VENEZUELA

Amnesty International has documented a wide range of serious human rights violations in Venezuela since 2014, against a backdrop of social protests caused by the human rights crisis, including arbitrary detentions, torture and other ill treatment, extrajudicial executions, abusive use of force, enforced disappearances and violations of the rights to health and food.¹⁰

In recent years, Venezuela has undergone a profound social, economic and institutional collapse. Rampant hyperinflation¹¹ and economic contraction have rendered people's salaries effectively worthless. In 2018, 94% of Venezuelans had insufficient income to pay for the basic food basket.¹² By April 2019, the minimum wage was estimated at 7 USD per month; an amount that only covered 4.7% of the basic food basket.¹³ Income poverty levels have been further compounded by soaring unemployment rates which are projected to reach 48% in 2020.¹⁴

Years into the crisis, Venezuelans are struggling to survive, and millions are unable to meet even their minimum needs for food, water and health care.¹⁵ According to a representative university survey, 80% of the population are food-insecure and two-thirds of Venezuelans surveyed had lost weight in 2017¹⁶: more than half the population have reported a loss in weight of 11kgs and eight out of 10 Venezuelans report to have reduced their calorie intake.¹⁷

The United Nations High Commissioner for Human Rights (OHCHR) has described the situation of the right to healthcare as dire.¹⁸ The health system is close to total collapse, with many hospitals facing serious shortages of water and electricity, without which they cannot effectively operate. In this context, which is further compounded by the lack of medicines, supplies and medical equipment¹⁹ as well as severe shortages in doctors²⁰, specialists and nurses, patients are at increased risk of death due to infections that they acquire in hospital.²¹ The lack of medical supplies is so critical, that patients are requested to bring their

⁹ Amnesty International, *Hunger for justice: Crimes Against Humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.13

¹⁰ Amnesty International, *The UN Human Rights Council should launch a formal investigation into the unprecedented human rights crisis in Venezuela at HRC42*, August 2019, AMR 53/0898/2019

¹¹ In June 2019 the OAS Working Group on Venezuela reported that inflation was at 10,000,000%, see: Grupo de Trabajo de la OEA, *Informe del Grupo de Trabajo de la Organización de los Estados Americanos para abordar la crisis de migrantes y refugiados venezolanos en la región*, June 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/OEA-informe-migrantes-venezolanos-espanol_0.pdf, p.7

¹² Grupo de Trabajo de la OEA, *Informe del Grupo de Trabajo de la Organización de los Estados Americanos para abordar la crisis de migrantes y refugiados venezolanos en la región*, June 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/OEA-informe-migrantes-venezolanos-espanol_0.pdf, p.37

¹³ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.3

¹⁴ Grupo de Trabajo de la OEA, *Informe del Grupo de Trabajo de la Organización de los Estados Americanos para abordar la crisis de migrantes y refugiados venezolanos en la región*, June 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/OEA-informe-migrantes-venezolanos-espanol_0.pdf, p.37

¹⁵ UNOCHA, United Nations Under-Secretary -General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock, *Statement on the Humanitarian Situation*, 06 November 2019, <https://www.humanitarianresponse.info/en/operations/venezuela/document/statement-humanitarian-situation-venezuela>, p.1

¹⁶ Human Rights Watch (HRW), *Venezuela's Humanitarian Emergency, Large-scale UN Response Needed to Address Health and Food Crises*, 04 April 2019, <https://www.hrw.org/report/2019/04/04/venezuelas-humanitarian-emergency/large-scale-un-response-needed-address-health>, p.5

¹⁷ Grupo de Trabajo de la OEA, *Informe del Grupo de Trabajo de la Organización de los Estados Americanos para abordar la crisis de migrantes y refugiados venezolanos en la región*, June 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/OEA-informe-migrantes-venezolanos-espanol_0.pdf, p.27

¹⁸ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.4

¹⁹ According to a report by The National Hospital Survey for 2016 carried out by the Network of Physicians for Health, there was a 76% shortage in medicines and an 81% shortage in surgical equipment in 86 hospitals across 38 cities. See: Panaromas, Scholarly Platform, "Venezuelans Dying of a Failing Health Care System", 10 October 2019, <https://www.panoramas.pitt.edu/news-and-politics/venezuelans-dying-failing-health-care-system>

²⁰ At least 55% of doctors reportedly abandoned the country between 2012 and 2017. For further information see: *The Guardian*, "Venezuela Crisis takes deadly toll on buckling health system", 06 January 2019, <https://www.theguardian.com/world/2019/jan/06/venezuela-health-system-crisis-nicolas-maduro>

²¹ UNOCHA, United Nations Under-Secretary -General for Humanitarian Affairs and Emergency Relief Coordinator, Mark Lowcock, *Statement on the Humanitarian Situation*, 06 November 2019, <https://www.humanitarianresponse.info/en/operations/venezuela/document/statement-humanitarian-situation-venezuela>, p.1; *The Guardian*,

own supplies including water, gloves and syringes to the hospital.²² According to reports, there are shortages of 60 to 100% of essential drugs in four of Venezuela's major cities, including Caracas.²³

Health indicators have drastically deteriorated. Vaccine-preventable diseases, such as measles and diphtheria, have made a resurgence, while infant mortality and maternal mortality increased by 30% and 65% respectively just in one year in 2016.²⁴ Contraceptives are largely inaccessible in many parts of Venezuela, resulting in an increase in unwanted and adolescent pregnancies.²⁵ Due to the appalling conditions in hospitals, thousands of pregnant women are fleeing the country as they are afraid of the risks of giving birth in Venezuela, including dying in labour and pregnancy-related complications resulting in miscarriage.²⁶ Malaria infection rates are at emergency levels, with Venezuela now accounting for 50% of all cases in Latin America.²⁷ Patients suffering from chronic illnesses such as cancer, kidney failure and diabetes are unable to access the medications that they need regularly.²⁸ In 2018, approximately nine out of 10 Venezuelans living with HIV and registered with the government, were not receiving antiretroviral treatment.²⁹

Extrajudicial executions by the security forces, primarily the Bolivarian National Police through its Special Actions Force (*Fuerza de Acciones Especiales*, FAES), continue to be a common practice in Venezuela.³⁰ Between 21 and 25 January 2019, Amnesty International documented that at least 11 young men were extrajudicially executed.³¹ According to official figures there were 1,569 killings resulting from security operations between January and May 2019, while the Venezuelan Observatory of Violence (*Observatorio Venezolano de Violencia*, OVV) quoted figures as high as 2,124 for the same period. While in 2018, the government registered 5,287 of such killings in comparison to 7,523 killings reported by the OVV. The OHCHR stated in its report that many of these killings may constitute extrajudicial executions.³²

In Venezuela, social protest has become the main and most visible way through which people can respond and channel their discontent. The ongoing and massive violations of human rights have provoked several cycles of organized mass demonstrations interspersed with spontaneous protests.³³

Since 2014, protests have increased in number and intensity, alongside the deepening political, economic and social crisis gripping the country.³⁴ Arbitrary detentions are part of the policy of repression implemented by Nicolas Maduro's government³⁵, to intimidate or repress political opposition, whether real or perceived. Between January 2014 and May 2019, according to the NGO Foro Penal Venezolano at least 15,045

"Venezuela Crisis takes deadly toll on buckling health system", 06 January 2019,

<https://www.theguardian.com/world/2019/jan/06/venezuela-health-system-crisis-nicolas-maduro>

²² UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.4; *The Guardian*, "Venezuela Crisis takes deadly toll on buckling health system", 06 January 2019, <https://www.theguardian.com/world/2019/jan/06/venezuela-health-system-crisis-nicolas-maduro>

²³ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.4

²⁴ HRW, *Venezuela's Humanitarian Emergency, Large-scale UN Response Needed to Address Health and Food Crises*, 04 April 2019, <https://www.hrw.org/report/2019/04/04/venezuelas-humanitarian-emergency/large-scale-un-response-needed-address-health>, p.4

²⁵ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.4

²⁶ Amnesty International, *Exodus of Pregnant Women*, <http://www.amnistiaonline.org/SalidadeEmergencia/Default/Exodo/>

²⁷ International Committee of the Red Cross (ICRC), "Venezuela: Making access to health care a priority", 18 September 2019, <https://www.icrc.org/en/document/venezuela-making-access-health-care-priority>

²⁸ Grupo de Trabajo de la OEA, *Informe del Grupo de Trabajo de la Organización de los Estados Americanos para abordar la crisis de migrantes y refugiados venezolanos en la región*, June 2019, https://reliefweb.int/sites/reliefweb.int/files/resources/OEA-informe-migrantes-venezolanos-espanol_0.pdf, p.23

²⁹ HRW, *Venezuela's Humanitarian Emergency, Large-scale UN Response Needed to Address Health and Food Crises*, 04 April 2019, <https://www.hrw.org/report/2019/04/04/venezuelas-humanitarian-emergency/large-scale-un-response-needed-address-health>, p.4

³⁰ Amnesty International, *This is no way to live: Extrajudicial executions and the right to life in Venezuela*, 2018, AMR 53/8975/2018, <https://www.amnesty.org/en/documents/amr53/8975/2018/en/>

³¹ Amnesty International, *Hunger for justice: Crimes Against Humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.4

³² UN Human Rights Council, *Report of the OHCHR on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.10

³³ Amnesty International, *Hunger for justice: Crimes against humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.4

³⁴ UN Human Rights Council, *Report of the OHCHR on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.8

³⁵ Amnesty International, *Hunger for justice: Crimes Against Humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.33



individuals were detained for political motives.³⁶ During protests in January 2019, more than 900 people were detained in five days, 770 of them in a single day. Amnesty International considers that these detentions may constitute crimes against humanity, given the widespread and systematic manner in which they were carried out and how they targeted a specific part of the population.³⁷

People arbitrarily detained have often been subjected to torture and other ill-treatment, and violations of their due process rights. There have been frequent reports of enforced disappearances whereby the authorities confirmed that individuals had been detained, but families and lawyers were unable to discover their fate or whereabouts.³⁸ According to OHCHR, in most cases detainees were subjected to one or more forms of torture or cruel, inhuman or degrading treatment or punishment, such as the application of electric shocks, suffocation with plastic bags, near drowning or sexual violence, among others.³⁹

In the context of protests, military and police forces continue to use excessive and, in some cases, intentionally lethal force against demonstrators. In January 2019, at least 24 people died in events surrounding protests. At least 21 died at the hands of public security officials and armed civilians acting with their acquiescence.⁴⁰

Based on its research in early 2019 as well as on research in previous years, Amnesty International has concluded that the selective extrajudicial executions, arbitrary detentions, and deaths and injuries caused by the excessive use of force by Nicolás Maduro's government are part of a systematic and widespread policy of repression in place since at least 2017 and that crimes against humanity may have been committed in Venezuela.⁴¹



  Rosa left Venezuela after being detained for publicly condemning the death of her 16-year-old son at the hands of public security forces. She has bone cancer but wasn't receiving treatment. She feared requesting asylum or a visa in case Venezuelan authorities found out and could put her family in Venezuela at risk. © Daniel Martínez-Quintanilla | Amnesty International

³⁶ By May 2019, 793 individuals remained arbitrarily detained; 1,437 had been released unconditionally and 8,598 had been released conditionally but were still facing lengthy criminal proceedings. See: UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.8

³⁷ Amnesty International, *Hunger for justice: Crimes Against Humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.4

³⁸ Amnesty International, "Grave attacks against members of the opposition in the National Assembly, 7 January 2020", <https://www.amnesty.org/en/latest/news/2020/01/venezuela-graves-ataques-contra-oposicion-asamblea-nacional/>

³⁹ UN Human Rights Council, *Report of the United Nations High Commissioner for Human Rights on the situation of Human Rights in the Bolivarian Republic of Venezuela*, (A/HRC/41/18), Advance unedited version, 05 July 2019, <https://reliefweb.int/report/venezuela-bolivarian-republic/report-united-nations-high-commissioner-human-rights-situation>, p.9

⁴⁰ Amnesty International, *Hunger for justice: Crimes against humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.27

⁴¹ Amnesty International, *Hunger for justice: Crimes against humanity in Venezuela*, 2019, AMR 53/0222/2019, <https://www.amnesty.org/download/Documents/AMR5302222019ENGLISH.PDF>, p.48

4. VENEZUELANAS ARE ENTITLED TO INTERNATIONAL PROTECTION

Based on the evidence above detailing the serious human rights violations in Venezuela, it is undeniable that the majority of Venezuelans fleeing the country are refugees and are entitled to international protection. The majority of Venezuelans fleeing their country fall within the scope of the 1984 Cartagena Declaration on Refugees⁴² (the Cartagena Declaration), while some also fall under the refugee definition of the 1951 Refugee Convention⁴³. UNHCR and IACHR both consider the majority of people fleeing Venezuela to be refugees and in need of international protection, according to the criteria contained in the expanded refugee definition in the Cartagena Declaration.⁴⁴

In Latin America, the Cartagena Declaration has supported the emergence of a regional protection regime, which extends protection beyond the circumstances that were envisaged in the 1951 Refugee Convention⁴⁵. The Cartagena Declaration's definition of a refugee includes individuals

“who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order” (Conclusion 3).

⁴²The 1984 Cartagena Declaration on Refugees came into being after 10 countries in Latin America came together to discuss the international protection of refugees in the context of specific regional challenges; in particular, the large refugee movements in Central America provoked by the civil wars in El Salvador, Guatemala and Honduras in the 1980s. Although a non-binding agreement, it has subsequently been translated into domestic legislation in 16 countries in the region. It was considered ground-breaking for its expansion of the definition of refugee. The San Jose Declaration (1994), the Mexico Plan of Action (2004) and Brazil Declaration and Plan of Action (2014) have further contributed to the development of the policy and practice of international protection that was envisaged in the 1984 Cartagena Declaration on refugees. See: UNHCR, *Declaración de Cartagena sobre los Refugiados, Cartagena de Indias Colombia*, 22 November 1984, <https://www.unhcr.org/uk/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html>, p.36; MPI, *Protecting the Forcibly Displaced: Latin America's Revolving Refugee and Asylum Framework*, 14 January 2016, <https://www.migrationpolicy.org/article/protecting-forcibly-displaced-latin-america-evolving-refugee-and-asylum-framework>

⁴³ UNHCR, Article 1, Convention and Protocol Relating to the Status of the Refugees, December 2010, <https://www.unhcr.org/uk/3b66c2aa10>, p.14

⁴⁴ UNHCR, *Guidance Note on International Protection Considerations for Venezuelans – Update 1*, May 2019, <https://data2.unhcr.org/en/documents/download/698883>, p.1; IACHR, *Resolution 2/18, Forced Migration of Venezuelans*, 02 March 2018, <https://www.oas.org/en/iachr/decisions/pdf/Resolution-2-18-en.pdf>, p.3

⁴⁵ UNHCR, Expert Roundtable, *Interpretation of the Extended Refugee Definition contained in the 1984 Cartagena Declaration on Refugees*, 15-16 October 2013, <https://www.unhcr.org/uk/protection/expert/53bd4d0c9/summary-conclusions-interpretation-extended-refugee-definition-1984-cartagena.html>, p.3

The extended refugee definition has been endorsed in law by 16 countries in the region, including Peru.⁴⁶ Article 3b of Peru's Refugee Law [Law No. 27891], although it omits the concept of "generalized violence", includes the other situational events contemplated in the Cartagena Declaration in its refugee definition.⁴⁷

The Cartagena Declaration above all aims to respond to group-based risks, which are collective in nature, affecting groups of people or even the population at large. The focus on indiscriminate threats or risks, inherent in the Cartagena Declaration, requires states to adopt a consistent approach to people fleeing the same country.⁴⁸ Due to the collective nature of the threats and risks in Venezuela and with a view to supporting asylum systems in the region, UNHCR has encouraged countries to adopt group-based, or *prima facie*, refugee status determination for Venezuelans.⁴⁹

WHAT ARE MASSIVE VIOLATIONS OF HUMAN RIGHTS?

The Inter-American Court of Human Rights (IACtHR) interprets the term "massive" as relating in part to the scale or magnitude of the violations reported and to situations where the impacts of violations go beyond the actual victim, effecting entire segments of the population or even society as a whole. With respect to cases of individuals whose lives, safety or freedom have been threatened by "massive violations of human rights", experts consider that, while pronouncements by the IACHR or the IACtHR are not pre-requisites to qualify a situation as one of *massive violations of human rights*, the existence of such pronouncements or of precautionary or provisional protection measures would be a strong indication that such a situation exists.⁵⁰ In 2016, the IACHR awarded 45 precautionary measures related to the situation in Venezuela, more than the total awarded in the period between 2002 and 2015. In 2019, it awarded 19.⁵¹

Statements of international human rights bodies or courts can also be used to reinforce evidence of the existence of a situation of "massive human rights violations".⁵² In February 2018 for example, the International Criminal Court (ICC) Prosecutor announced the opening of a preliminary examination into the situation in Venezuela to ascertain if a full investigation is warranted.⁵³ Following on from this, in September 2018 six members of the Lima Group (Argentina, Canada, Colombia, Chile, Paraguay and Peru), requested the ICC Prosecutor to investigate the potential crimes against humanity in Venezuela since 2014.⁵⁴ Through a resolution tabled by some Latin American states at the UN Human Rights Council, in September 2019 the Council established a Fact-Finding Mission to investigate grave human rights violations in Venezuela since 2014.⁵⁵

⁴⁶ UNHCR, Regional Legal Unit of the Bureau of the Americas, Table 1: *Regional Definition of Refugee (Cartagena), Latin American countries that have incorporated it into their national legislation*, <https://www.refworld.org/es/cgi-bin/texis/vtx/rwmain/openssl.pdf.pdf?reldoc=y&docid=5a01fc3a4>

⁴⁷ Peru has incorporated four of the five situational events into its domestic legislation, [See chapter II, Article 3], "...a person who has been forced to flee their country of nationality or normal residence as a result of the massive violations of human rights, foreign aggression, internal conflict, foreign occupation or domination or for other circumstances that have seriously disturbed public order. Peru has omitted the situational event of "generalized violence" from its definition. See Chapter II, article 3, Ley del Refugiado, Ley No. 27891, ConCORDANCIAS: D.S. N° 119-2003-RE (Reglamento), 05 July 1985, https://www.migraciones.gob.pe/documentos/normalegal_8.pdf, p.2

⁴⁸ UNHCR, Expert Roundtable, *Interpretation of the Extended Refugee Definition contained in the 1984 Cartagena Declaration on Refugees*, 15-16 October 2013, <https://www.unhcr.org/uk/protection/expert/53bd4d0c9/summary-conclusions-interpretation-extended-refugee-definition-1984-cartagena.html>, p.3: according to UNHCR, the "threat" element contained in the Cartagena Declaration is understood to require a lower threshold of proof and the evaluation of the objective circumstances in the country, rather than individual circumstances, should take primary consideration.

⁴⁹ UNHCR, *Guidance Note on International Protection Considerations for Venezuelans – Update 1*, May 2019, <https://data2.unhcr.org/en/documents/download/69883>, p.1

⁵⁰ UNHCR, Expert Roundtable, *Interpretation of the Extended Refugee Definition contained in the 1984 Cartagena Declaration on Refugees*, 15-16 October 2013, <https://www.unhcr.org/uk/protection/expert/53bd4d0c9/summary-conclusions-interpretation-extended-refugee-definition-1984-cartagena.html>, p.6

⁵¹ "Precautionary measures" are a mechanism that allow the IACHR to request states to adopt precautionary measures to "prevent irreparable harm" against individuals or groups of people "in serious and urgent situations". In 2017 it awarded 10 precautionary measures followed by 6 in 2018, see: OAS, IACHR Precautionary Measures, <http://www.oas.org/en/iachr/decisions/precautionary.asp>; In October 2019, the IACHR announced the establishment of a Special Monitoring Mechanism for Venezuela (MESEVE) with the objective of strengthening the Commission's response to the grave human rights crisis in the country. OEA, "CIDH instala el Mecanismo Especial de Seguimiento para Venezuela (MESEVE)", 21 October 2019, <https://www.oas.org/es/cidh/prensa/comunicados/2019/267.asp>

⁵² UNHCR, Expert Roundtable, *Interpretation of the Extended Refugee Definition contained in the 1984 Cartagena Declaration on Refugees*, 15-16 October 2013, <https://www.unhcr.org/uk/protection/expert/53bd4d0c9/summary-conclusions-interpretation-extended-refugee-definition-1984-cartagena.html>, p.7

⁵³ ICC, "Statement of the Prosecutor of the International Criminal Court, Fatou Bensouda, on opening Preliminary Examinations into the situations in the Philippines and in Venezuela", 08 February 2018, <https://www.icc-cpi.int/Pages/item.aspx?name=180208-otp-stat>

⁵⁴ Referral from a group of six States Parties pursuant to article 14(1) of the Rome Statute regarding the situation in Venezuela, 27 September 2019, https://www.icc-cpi.int/RelatedRecords/CR2018_04589.PDF

⁵⁵ Amnesty International, "Human Rights Council addresses unprecedented human rights crisis and sends a strong message of support to the people in Venezuela", 27 September 2019, <https://www.amnesty.org/en/latest/news/2018/09/human-rights-council-sends-strong-support-message-to-venezuelan-people/>

These factors combined, both the evidence of grave and massive violations of human rights as well as well as statements and actions by international human rights bodies and governments in the region, amongst them Peru, leave no doubt that the prevailing crisis in Venezuela is one that invokes the protection obligations inherent in the Cartagena Declaration. Yet, despite the widespread endorsement of the Cartagena Declaration in the region, Peru, along with many of its neighbours, are refusing to apply it in practice to people fleeing Venezuela.⁵⁶



  A Venezuelan family sheltering from the sun in CEBAF Peru. Venezuelans reaching Peru are forced to wait for extended periods of time in inadequate conditions at the border where, during summer, temperatures can reach 30°C. © Daniel Martínez-Quintanilla | Amnesty International

⁵⁶ Brazil and Mexico are the only countries in the region who have applied the Cartagena refugee definition to people fleeing Venezuela. In December 2019, Brazil recognized 21,000 Venezuelan refugees on a prima facie basis and through the interpretation of the situation in Venezuela as one of “serious and generalized human rights violations” as per the Cartagena Declaration. See: UNHCR, “UNHCR Welcomes Brazil’s decision to recognize thousands of Venezuelans as refugees”, 06 December 2019, <https://www.unhcr.org/uk/news/briefing/2019/12/5dea19f34/unhcr-welcomes-brazils-decision-recognize-thousands-venezuelans-refugees.html>

5. HOW PERU IS CLOSING ITS DOORS TO VENEZUELAN

Consistent with its condemnation of the human rights crisis in Venezuela, Peru initially displayed generosity in welcoming hundreds of thousands of people fleeing Venezuela.⁵⁷ By late October 2019, there were 863,613 Venezuelans in the country, of whom 549,606 had residency or another form of regular status. As of 30 June 2019, 377,047 Venezuelans had requested asylum⁵⁸; making Peru the largest host country of Venezuelan asylum-seekers in the world. However, with only 1,000 Venezuelans having had their refugee status recognized to date⁵⁹, Peru's asylum system is showing signs of serious strain.

Prior to 2019, Venezuelans could enter Peru without a visa: those with passports could apply for a temporary stay permit (*Permiso temporal de permanencia*, PTP) and those without documentation had the option of applying for asylum.⁶⁰ However, Peru's commitment towards fleeing Venezuelans began to waver in 2018, rendering access to the country increasingly difficult for those seeking safety.

THE ELIMINATION OF THE TEMPORARY STAY PERMIT (PTP)

In 2017, Peru created a temporary stay permit (the PTP), a relatively accessible permit for Venezuelans, which provided one-year regular migration status and the possibility to work and study. This option was initially only open to Venezuelans who had entered the country regularly before April 2017.⁶¹ The government subsequently extended the eligibility timeframe several times, but in August 2018, it announced that only those who had entered Peru by the end of October 2018 would be eligible for the permit. Those who had entered before the cut-off date had until the end of December 2018 to apply.⁶²

⁵⁷ On several occasions Peru has condemned the human rights situation in Venezuela as part of the Lima Group. See: OEA, Declaración de Lima, 8 August 2017, <https://www.peruoea.org/declaracion-de-lima/>; Ministerio de Relaciones Exteriores, Declaración del Grupo de Lima, 15 September 2018, <https://www.gob.pe/institucion/rree/noticias/19021-declaracion-del-grupo-de-lima> and 23 September 2019, <https://www.gob.pe/institucion/rree/noticias/51277-declaracion-del-grupo-de-lima>; Infobae, "Peru denuncia a Venezuela ante la ONU y Ecuador pidió asumir la crisis humanitaria", 6 July 2018, <https://www.infobae.com/america/venezuela/2018/07/06/peru-denuncia-a-venezuela-ante-la-onu-y-ecuador-pidio-asumir-la-crisis-humanitaria/>; and a referral of the situation in Venezuela to the International Criminal Court, 27 September 2018, https://www.icc-cpi.int/RelatedRecords/CR2018_04589.PDF

⁵⁸ R4V, Plataforma de Coordinación para Refugiados y Migrantes de Venezolanos, *Respuesta a los Venezolanos*, Peru, <https://r4v.info/en/situations/platform> <https://r4v.info/es/situations/platform/location/7416>

⁵⁹ UNHCR, Factsheet Peru, June 2019, <https://www.acnur.org/5d046a174.pdf>

⁶⁰ MPI, *Creativity Amid Crisis: Legal Pathways for Venezuelan Migrants in Latin America*, <https://www.migrationpolicy.org/research/legal-pathways-venezuelan-migrants-latin-america>, p.7

⁶¹ Chapter II, Article 6, Lineamientos para el otorgamiento del permiso temporal de permanencia para las personas extranjeras, madres o padres de hijo/as de nacionalidad peruana, menores de edad e hijos/as mayores de edad con discapacidad permanente, Diario Oficial del Bicentenario, *El Peruano*, Normas Legales, 3 January 2017, <https://busquedas.elperuano.pe/download/full/7nLc-ew9qj3Bp0XqNzDrXT>, p.7

⁶² *El Peruano*, Normas Legales, Decreto Supremo No 091-2018-IN, Modifican Lineamientos para el otorgamiento del Permiso Temporal de Permanencia para las personas de nacionalidad venezolana, aprobados por Decreto Supremo No 091-2018-IN, 19 August 2018, <https://www.migraciones.gob.pe/wp-content/uploads/2018/08/1682426-2.pdf>; UNHCR, Fact Sheet: Registration Activities Peru, November 2018, <https://data2.unhcr.org/en/documents/download/66965>

Venezuelans who acquired a PTP were entitled to apply for permanent residency upon its expiration.⁶³ As of September 2019, 416,839 Venezuelans had accessed the PTP, and 69,356 had pending applications.⁶⁴

PERU IMPOSES A PASSPORT REQUIREMENT

Since 2018, Peru has introduced a series of measures, often justified on the grounds of national security, which have resulted in restricting the entry of people fleeing Venezuela. From 25 August 2018, Peru began to require Venezuelans wishing to enter to present a passport at the border.⁶⁵ Acquiring a passport is impossible for the majority of Venezuelans, as obtaining it presents numerous challenges in a country close to collapse. Venezuelans have complained about having to queue for weeks to enter the passport issuing office (*Servicio Administrativo Identificación Migración y Extranjería SAIME*) in Caracas as well as about the high costs it can entail - often due to corruption, a poorly functioning website and abusive officials.⁶⁶ The Peruvian government used Venezuela's suspension from MERCOSUR in August 2017 as a justification for withdrawing the right of Venezuelans to travel in MERCOSUR member states without a passport.⁶⁷ Alongside the introduction of the passport requirement, the government did however apply "humanitarian exceptions" for Venezuelans fulfilling specific criteria; such as children, older people, pregnant women, people with chronic health conditions and asylum seekers.⁶⁸ In other words, between August 2018 and June 2019, Venezuelan asylum-seekers, as well as other Venezuelans not intending to seek asylum but complying with one of the other "humanitarian exceptions" criteria, were still allowed to enter Peru without a passport.



↑ Young Venezuelan boy denied entry to Peru in September 2018, when the Peruvian government first imposed a passport requirement for entry. © Nataniel Furgang / Amnesty International

⁶³ Article 1, Superintendencia Nacional de Migraciones, Resolución 0000-43, 30 January 2018, <https://www.migraciones.gob.pe/Normativa%20Interna/Resoluciones%20de%20Superintendencia/RS043-2018.pdf>, p.1

⁶⁴ R4V, GTRM, Sub-grupo de trabajo, Manejo de Información, Reunión 5 November 2019. Copy of presentation on file.

⁶⁵ Resolución de la Superintendencia No. 000270-2018, 24 August 2018, https://www.migraciones.gob.pe/wp-content/uploads/2018/08/RESOLUCION_DE_SUPERINTENDENCIA-000270-2018-MIGRACIONES.pdf, p.1

⁶⁶ *BBC*, "Por qué es tan difícil conseguir un pasaporte para salir de Venezuela", 29 August 2018, <https://www.bbc.com/mundo/noticias-america-latina-45292923>

⁶⁷ Resolución de la Superintendencia No. 000270-2018, 24 August 2018, https://www.migraciones.gob.pe/wp-content/uploads/2018/08/RESOLUCION_DE_SUPERINTENDENCIA-000270-2018-MIGRACIONES.pdf, p.2

⁶⁸ Poder Judicial del Perú, Corte Superior De Justicia de Lima, Quinto Juzgado Penal para Procesos con Reos Libres, 05 October 2018, <https://issuu.com/bizusaperu/docs/exp.06488-2018-0-1801-jr-pe-05/2>

A HUMANITARIAN VISA ONLY IN NAME

On 15 June 2019, in another attempt to restrict access to its territory, Peru announced that Venezuelans would require a humanitarian visa to enter the country.⁶⁹ With the presentation of a passport and certified criminal records, the humanitarian visa could be obtained at a Peruvian consulate in Venezuela or specific consulates in Colombia or Ecuador.⁷⁰ However, the requirement to present criminal records prior to entering the country⁷¹ combined with the complications of obtaining a passport, makes the humanitarian visa an obstacle to regular entry, rather than a pathway to protection.⁷² This restriction on access to protection imposed by the Peruvian government, coincided with an increase in arrivals of Venezuelans in situations of heightened vulnerability, including families, pregnant women, children, people with disabilities and people with medical conditions⁷³. In a survey carried out by IOM and UNICEF in Tumbes in July 2019, only 35% of Venezuelans in the CEBAF had a passport.⁷⁴



Venezuelan toddler forced to sleep outdoors at CEBAF Peru during the day.
© Daniel Martínez-Quintanilla | Amnesty International

ELIMINATION OF HUMANITARIAN EXCEPTIONS

At first, existing “humanitarian exceptions” continued to apply⁷⁵ but shortly after the introduction of the humanitarian visa, these exceptions were narrowed by a so called “re-interpretation”⁷⁶, effectively instructing officials at the border to apply a more limited interpretation of the vulnerability criteria outlined in the

⁶⁹ Resolución de la Superintendencia No. 000177-2019, 12 June 2019, <https://www.migraciones.gob.pe/Normativa%20Interna/Resoluciones%20de%20Superintendencia/RS177-2019.pdf>, p.2; In June 2019; the National Coordinator for Human Rights, the Human Rights Centre of the Universidad Católica Andrés Bello in Caracas and the Episcopal Commission on Social Action (CEAS) presented a *habeas corpus* against the government, seeking to overturn the humanitarian visa requirement imposed on Venezuelans. After being declared inadmissible in two instances, they have filed a constitutional appeal before Peru’s Constitutional Tribunal.

⁷⁰ Gobierno de Perú, Plataforma Digital Única del Estado Perú, Obtener Visa para Ingresar al Perú, 15 November 2019, <https://www.gob.pe/1063-obtener-visa-para-ingresar-al-peru-visa-humanitaria-para-ciudadanos-venezolanos>; *RPP*, “Martín Vizcarra: Desde el 15 de junio solo podrán ingresar al Perú venezolanos con pasaporte y visado”, 06 June 2019, <https://rpp.pe/politica/gobierno/martin-vizcarra-desde-el-15-de-julio-solo-podran-ingresar-al-peru-venezolanos-con-pasaporte-y-visado-noticia-1201385>

⁷¹ This is in contrast to the PTP requirements, whereby Venezuelans could have Interpol certify their criminal records once inside the country. See: <https://www.migraciones.gob.pe/index.php/ptp-venezolanos-3/>

⁷² Centro de Investigación, Universidad del Pacífico, Propuesta de la Política Pública, *Los impactos adversos de las visas humanitarias*, November 2019, http://sisisemail.up.edu.pe/sisisemail/_data/2019/19350/CIUP-PPP-No2.pdf, p.1

⁷³ Centro de Investigación, Universidad del Pacífico, 2 Propuesta de Política Pública, *Los impactos adversos de las visas humanitarias*, November 2019, http://sisisemail.up.edu.pe/sisisemail/_data/2019/19350/CIUP-PPP-No2.pdf, p.2; UNHCR, “UNHCR scales up response as record number of Venezuelans arrive in Peru”, 15 June 2019, <https://www.unhcr.org/uk/news/press/2019/6/5d05310d4/unhcr-scales-response-record-number-venezuelans-arrive-peru.html>

⁷⁴ IOM and UNICEF, *Monitoreo de Flujo de Población Venezolana en el Perú*, DTM Reporte 6, September 2019, https://migration.iom.int/system/tdf/reports/DTM_R6_VF.pdf?file=1&type=node&id=6670, p.12

⁷⁵ With the introduction of the passport requirement in August 2018, the government was applying humanitarian exceptions provided for in the Resolución de la Superintendencia No. 000270-2018, 24 August 2018, https://www.migraciones.gob.pe/wp-content/uploads/2018/08/RESOLUCION_DE_SUPERINTENDENCIA-000270-2018-MIGRACIONES.pdf, p.2

⁷⁶ In this instance, the Ministry of Foreign Affairs issued an internal note instructing the National Superintendency of Migration to establish the humanitarian visa with humanitarian exceptions. It issued further internal notes communicating to the National Superintendency of Migration how these humanitarian exceptions were to be applied. On the basis of this, the National Superintendency of Migration issued the Resolución 000177-2019 Resolución de la Superintendencia No. 000177-2019, 12 June 2019, <https://www.migraciones.gob.pe/Normativa%20Interna/Resoluciones%20de%20Superintendencia/RS177-2019.pdf>. In consultation with humanitarian actors, in order to produce guidelines for Migration Officials on how to apply the exceptions, it also carried out a “re-interpretation” of the humanitarian exceptions based on the internal notes received. The guidelines for the humanitarian exceptions were never published, however Amnesty International has a copy of these guidelines on file.

exceptions.⁷⁷ However, the introduction of Ecuador’s humanitarian visa in late August 2019, effectively nullified the “humanitarian exceptions” as regardless of whether a Venezuelan had obtained a humanitarian visa for Peru, or fulfilled the “humanitarian exceptions” criteria, they would now be obliged to also demonstrate that they had obtained the humanitarian visa for Ecuador, prior to transiting Ecuador and reaching Peru’s border.

Authorities from the National Superintendency of Migration and the Ministry of the Interior confirmed to Amnesty International that, according to a “presidential order”⁷⁸, neither Venezuelans with a humanitarian visa, nor those eligible to enter under humanitarian exceptions were to be allowed to enter without entry and departure stamps from Ecuador.⁷⁹ In practice, the authorities told Amnesty International that humanitarian exceptions are now only being applied in very limited cases: to those travelling with the humanitarian visa, but who have been unable to obtain stamps from Ecuador they will apply the humanitarian exception if they meet one of the vulnerability criteria.⁸⁰

CHANGES TO ASYLUM PROCEDURES

Only a matter of days after the introduction of the humanitarian visa requirement, Peru took steps to restrict its asylum procedures on 22 June 2019,⁸¹ as despite the increased restrictions, Venezuelans were continuing to enter via asylum procedures. Prior to these changes, Venezuelans could register their intention to seek asylum at the border, before entering and continuing their asylum procedures in the office of the Special Commission for Refugees (*Comisión Especial para los Refugiados*, CEPR) in Lima or in one of the decentralized offices of the Ministry of Foreign Affairs around the country.⁸²

Since late June 2019 however, Venezuelans are no longer permitted to enter the country to request asylum, rather they are required to remain at the border while they claim asylum and carry out their eligibility interviews⁸³. After being interviewed by CEPR staff in CEBAF Peru, their files are sent by WhatsApp to the CEPR in Lima where officials carry out an assessment of the claim and prepare the resolution, which is communicated to the asylum-seeker via CEBAF Peru.⁸⁴ Venezuelans seeking asylum are forbidden to enter Peru while their claims are pending, forcing them to wait at the border, in inadequate conditions, for extended periods of time.⁸⁵ A positive decision allows the few Venezuelans who receive it, to enter Peru where they can continue their asylum procedures.⁸⁶ According to data shared by the government, only 13% of asylum claims presented at the Peru-Ecuador border between June and December 2019 had been admitted and allowed to continue asylum procedures.⁸⁷ The high rejection rate clearly reflects an alarming policy shift towards Venezuelans, who, prior to June, had been permitted to register as asylum-seekers and remain in the country while their claims were adjudicated.

Furthermore, inconsistencies between migration and asylum procedures, mean that the regular status and protection that asylum infers under the auspices of the Ministry of Foreign Affairs, is not recognized by migration authorities.⁸⁸ Migration authorities register Venezuelan asylum-seekers entering through the border as tourists, a migratory status that only permits them to remain in the country for 180 days. Once this expires, Venezuelan asylum-seekers are considered as “irregular migrants” by migration authorities and are

⁷⁷ Meetings with humanitarian actors in Lima, 4 November 2019 and Tumbes, 5 November; Copy of Guidelines on Humanitarian Exceptions on file at Amnesty International.

⁷⁸ “Presidential orders” are political decisions taken by the President, which are then expected to be implemented by the competent authorities.

⁷⁹ Since August 2019, it is obligatory to pass through border control in Ecuador for Venezuelans who wish to enter Peru. See: *The Conversation*, “Así es como Perú cerró sus puertas a los migrantes Venezolanos”, 28 November 2019, <https://theconversation.com/asi-es-como-peru-cerro-sus-puertas-a-los-migrantes-venezolanos-127975>. However, without a visa for Ecuador, Venezuelans cannot pass through the Ecuadorian border control.

⁸⁰ Interview with the National Superintendency of Migration, Lima, 14 November 2019

⁸¹ Interview with the Executive Secretary of the CERP, Lima, 11 November 2019

⁸² UNHCR, *Guía de información para refugiados y solicitantes de la condición de refugiado en Perú*, https://www.acnur.org/fileadmin/Documentos/RefugiadosAmericas/Peru/Guia_para_refugiados_y_solicitantes_de_la_condicion_de_refugiado_en_Peru_2017.pdf

⁸³ Interview with the Executive Secretary of the CERP, Lima, 11 November 2019

⁸⁴ Interview with the CEPR Coordinator in CEBAF Peru, 6 November 2019; Interview with the Executive Secretary of CEPR, Lima, 11 November 2019

⁸⁵ Interview with Venezuelans in CEBAF Peru and CEBAF Ecuador on 5 and 6 of November

⁸⁶ Interview with the CEPR Coordinator in CEBAF Peru, 6 November 2019; Interview with the Executive Secretary of CEPR, Lima, 11 November 2019

⁸⁷ Of 1,018 claims recorded, 142 were “admitted to the procedures”; 526 were denied, 288 are still being processed and 62 have been archived. Letter No. 0-2-B/968 from the Ministry of Foreign Affairs to Amnesty International in response to a “Freedom of Information Request”, 27 December 2019, on file at Amnesty International.

⁸⁸ Interview with the National Superintendency of Migration, Lima, 14 November 2019; Interview with the CEPR Coordinator in CEBAF Peru, 6 November 2019

vulnerable to arrest and deportation.⁸⁹ Moreover, for Venezuelans claiming asylum either at the border or once inside Peru, they must approach a CEPR office to renew their status every 60 days, until their claim is adjudicated.⁹⁰

Neither the revised asylum procedures to be applied at the border nor the changes that these entail in practice, were ever officially communicated, resulting in confusion amongst humanitarian actors and Venezuelans themselves. The Office of the Ombudsman has expressed concern about these procedures⁹¹, while UNHCR has described them as accelerated procedures.⁹²

The combination of new restrictions, which appear to form part of a broader and deliberate policy to block access to international protection; a policy emanating from the highest levels of the Peruvian government, are forcing an increasing number of Venezuelans to enter and remain in the country irregularly. The exact figures of Venezuelans in an irregular situation are difficult to estimate, however, humanitarian agencies estimate that approximately 200-300 Venezuelans are entering via the Ecuador-Peru border per day.⁹³ Irregular entry and stay exposes Venezuelans to increased risks of trafficking, different forms of abuse and exploitation, violence - including sexual and gender-based violence, and discrimination⁹⁴. Similarly, irregular status excludes Venezuelans from essential services and limits their ability to seek formal employment. Government reports of a 90% reduction in the numbers of Venezuelans entering the country since July⁹⁵, are misleading as they are not reflective of the numbers of Venezuelans who continue to enter but are forced to do so irregularly. Moreover, these figures should be analysed taking into account the restrictions imposed by Ecuador at a similar time, which have further blocked the movement of Venezuelans through the region.

⁸⁹ CEPR at CEBAF Peru and officials from the National Superintendency of Migration and the Ministry of Interior in Lima told Amnesty International that asylum-seekers were being registered by Migration authorities as tourists before entering the country. However, they also noted that there was a period of time where this was not happening and therefore, immediately upon entry these Venezuelans would be considered as irregular by the migration authorities (as opposed to after 60 days in the case of the asylum-seekers who were registered as tourists on entry).

⁹⁰ UNHCR, *Guía de información para refugiados y solicitantes de la condición de refugiado en Perú*, https://www.acnur.org/fileadmin/Documentos/RefugiadosAmericas/Peru/Guia_para_refugiados_y_solicitantes_de_la_condicion_de_refugiado_en_Peru_2017.pdf

⁹¹ Letter N° 097-2019-DP/ADHPD from the Ombudsman's Office to the National Superintendency of Migration, 15 August 2019, copy on file at Amnesty International

⁹² UNHCR, *Protection Monitoring Venezuela Situation, Update #1*, January – June 2019, <https://www.refworld.org/es/pdfid/5d321e9d4.pdf>

⁹³ Interview IOM Tumbes, 5 November 2019

⁹⁴ Coordination Platform for Refugees and Migrants from Venezuela, RMRP 2020, *Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela* (January-December 2020), 13 November 2019, data2.unhcr.org/es/documents/download/72254, p.29

⁹⁵ *El Comercio*, "Migración venezolana al Perú se redujo en más del 90% en julio", 14 August 2019 <https://elcomercio.pe/peru/venezolanos-peru-migracion-refugiados-venezuela-peru-90-julio-noticia-ecpm-664639-noticia/?ref=ecr>

SYNCHRONIZED RESTRICTIONS IN CHILE, ECUADOR AND PERU

Peru is not alone in demonstrating a concerning shift in its policy towards Venezuelans seeking safety in its territory. The route through Colombia, Ecuador, Peru and Chile represents one of the main corridors of movement of Venezuelans in the region. Unsurprisingly, the practice of increasing restrictions on access to territory in one country, has an immediate knock-on effect on its neighbours.

Days after the introduction of the humanitarian visa in Peru on 22 June 2019, Chile introduced a new Consular Tourist Visa for Venezuelans, available only in its consulates. Prior to this, Venezuelans could enter the country as tourists without a visa, if they could prove that they had enough funds to support them during their stay.⁹⁶ This visa alongside the existing “Democratic Responsibility Visa” introduced in 2017⁹⁷, enforce similarly onerous procedures on Venezuelans, limiting access to its territory and regular status for those seeking safety.⁹⁸ Following suit on 26 August 2019, Ecuador introduced a humanitarian visa specifically for Venezuelans, also to be obtained in a consulate prior to arrival and requiring an application fee.⁹⁹ Previously, Venezuelans could enter the country with an identity card and remain in the country for 180 days.¹⁰⁰

While the respective governments have credited these measures with the dramatic drop in the entry of Venezuelans¹⁰¹, in practice these measures have only served to force Venezuelans to enter these countries irregularly using clandestine routes, unnecessarily exposing them to exploitation, abuse, human trafficking and smuggling and limiting their access to public services and documentation.¹⁰²



A Venezuelan refugee shows her stamps in her passport. Before arriving to Peru, Venezuelans must first transverse Colombia and Ecuador. In order to enter Peru with a humanitarian visa, Venezuelans must now prove that they have also obtained a visa for Ecuador.
© Daniel Martínez-Quintanilla / Amnesty International

⁹⁶ UNHCR, *Protection Monitoring Venezuela Situation, Update #1*, January – June 2019, <https://www.refworld.org/es/pdfid/5d321e9d4.pdf>

⁹⁷ Ministerio de Relaciones Exteriores – Gobierno de Chile, “Información sobre visa de responsabilidad democrática”, 24 June 2019, <https://chile.gob.cl/chile/blog/venezuela/informacion-sobre-visa-de-responsabilidad-democratica>

⁹⁸ Coordination Platform for Refugees and Migrants from Venezuela, RMRP 2020, *Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela* (January-December 2020), 13 November 2019, data2.unhcr.org/es/documents/download/72254, p.60

⁹⁹ Ministerio de Relaciones Exteriores y Movilidad Humana, “Ecuador inicia proceso de emisión de visa humanitaria para ciudadanos venezolanos”, 21 August 2019, <https://www.cancilleria.gob.ec/ecuador-inicia-proceso-de-emision-de-visa-humanitaria-para-ciudadanos-venezolanos/>

¹⁰⁰ DW, “Migrantes Venezolanos entran masivamente a Ecuador antes de la entrada en vigencia de visa”, 25 August 2019, <https://www.dw.com/es/migrantes-venezolanos-entran-masivamente-a-ecuador-antes-de-entrada-en-vigencia-de-visa/a-50160552>

¹⁰¹ El Desconcierto, “Ingreso de Venezolanos a Chile se reduce en un 80% entre mayo y agosto”, 12 September 2019, <https://www.eldesconcierto.cl/2019/09/12/ingreso-de-venezolanos-a-chile-se-reduce-en-un-80-entre-mayo-y-agosto/>; The Conversation, “Así es como Perú cerró sus puertas a los migrantes Venezolanos”, 28 November 2019, <https://theconversation.com/asi-es-como-peru-cerro-sus-puertas-a-los-migrantes-venezolanos-127975>; Expreso, “La migración venezolana piso el freno desde septiembre”, 26 December 2019, <https://www.expreso.ec/actualidad/migracion-venezolana-piso-freno-septiembre-2124.html>

¹⁰² Coordination Platform for Refugees and Migrants from Venezuela, RMRP 2020, *Regional Refugee and Migrant Response Plan for Refugees and Migrants from Venezuela* (January-December 2020), 13 November 2019, data2.unhcr.org/es/documents/download/72254

6. “I ARRIVED IN PERU TO THIS GIANT WALL”: UNLAWFUL RESTRICTIONS ON ACCESS TO INTERNATIONAL PROTECTION

During its visit to the Peruvian border control post of Binational Border Centre (*Centro Binacional de Atención en Frontera*, CEBAF) in Tumbes, Amnesty International encountered practices that are inconsistent with international human rights and refugee law, and which seriously undermine access to international protection, including complementary forms of protection. Irregularities in the asylum procedures and in the application of the humanitarian visa, reported by both asylum-seekers and border officials themselves, appear to amount to a deliberate attempt by the Peruvian government to deny access to Peruvian territory to Venezuelans in search of international protection.

When asked about what options Venezuelans who are denied refugee status or other forms of protection have, the Special Commission for Refugees (*Comisión Especial para Refugiados*, CEPR) in Lima told Amnesty International that once these people were rejected they were no longer their responsibility, but rather that of Peru’s migration authorities. At the same time, CEPR officials acknowledged that it would be difficult for Venezuelans to return to Ecuador, as Ecuador only allows people to remain out of the country for 48 hours before losing their regular migration status.¹⁰³

Rejection of asylum cases at the border and denial of access to Peruvian territory to people in need of international protection do continue to engage Peru’s international responsibilities with respect to asylum. The effective closure of the Peru-Ecuador border and the denial of access to international protection, leaves Venezuelans seeking safety in a state of legal limbo – neither able to enter Peru regularly or eligible to return to Ecuador.

¹⁰³ Interview with CEPR, Lima, 11 November 2019

THE REALITY OF HUMANITARIAN VISAS

Of the 35 Venezuelans the researchers spoke to in both CEBAF Peru and Ecuador, only four people had obtained a humanitarian visa before reaching the Peruvian border. Nonetheless, three of these Venezuelans with humanitarian visas had been denied entry to Peru. Three Venezuelan men explained that they had been refused entry to Peru despite having obtained the humanitarian visa, because they did not have entry and departure stamps from Ecuador. They reported that they had been advised by the CEPR to return to Colombia and to fly directly from Bogota to Lima to avoid transiting through Ecuador.¹⁰⁴ One of the men, Alberto, had left Venezuela as he could no longer afford to feed his family. He recounted how when he arrived at Rumichaca – the border crossing between Ecuador and Colombia - the Ecuadorian border official refused to stamp his passport and instructed him to bypass the border control and to enter irregularly.¹⁰⁵ Denial of entry by Peruvian border officials has left Alberto and the other two men in legal limbo, where they cannot enter Peru or return to Ecuador regularly. Despite going to considerable effort to obtain the humanitarian visa and following what they believed to be the visa requirements, they were not permitted to enter Peru. Stranded at the border, Alberto started to cry when he described how he had accumulated debt to travel to Peru and had left his wife and children behind in Venezuela on the understanding that they would later be reunited in Peru. On showing Amnesty International his passport, Alberto said “look, I was a different man then”. Alberto was a shadow of the man displayed in his passport photo, which depicted a larger, stronger man. His photo was a stark reminder of the severe hardship that Venezuelans have been forced to endure for years.¹⁰⁶

THE REALITY OF HUMANITARIAN EXCEPTIONS

Amnesty International encountered several cases of individuals at the border, including people over the age of 60, children seeking to reunite with a parent or parents, and people with serious medical conditions; who ought to have been eligible for entry to Peru even without a humanitarian visa in accordance with the humanitarian exceptions. These people however, had either been denied entry or were redirected by migration officials to the CEPR at the border and advised to seek asylum.¹⁰⁷

The refusal to acknowledge these cases as humanitarian exceptions is consistent with reports received by Amnesty International from humanitarian actors and authorities themselves.

Belinda, for example, said she had been in Peru since 2018 when she had applied for and received a PTP. In October 2019, her two sons aged 11 and 17 arrived at the border. Under the humanitarian exceptions, Belinda’s sons should have been allowed to enter the country and be reunited with their mother. Nonetheless, she said her children were denied family reunification, as the boys did not have stamps showing their entry and departure from Ecuador and because they only had a photo of their father’s permission to travel.¹⁰⁸



↑ *Belinda travelled to CEBAF Peru from Lima to reunite with her two children who were underage. She has a PTP, but her children were denied entry because they did not have entry and exit stamps from Ecuador. © Daniel Martínez-Quintanilla | Amnesty International*

¹⁰⁴ Interviews with Venezuelan refugees, CEBAF Peru, 5 and 6 November 2019

¹⁰⁵ Interview with Venezuelan refugee, CEBAF Peru, 6 November 2019

¹⁰⁶ Interviews with Venezuelan refugees, CEBAF Peru, 5 and 6 November 2019

¹⁰⁷ Interviews with Venezuelan refugees, CEBAF Peru, 5 and 6 November 2019

¹⁰⁸ Interview with Venezuelan refugee, CEBAF Peru, 5 November 2019

THE REALITY OF THE ASYLUM SYSTEM

Since the government introduced the humanitarian visa in June 2019, which due to the onerous documentation requirements is out of reach for the majority of Venezuelans, the only other means available for Venezuelans to enter Peru regularly is to claim asylum at the border. Those who arrive without a humanitarian visa are instructed by the migration officials at the border to approach the CEPR and to request asylum.

With the exception of one family whose asylum claim had been accepted, all Venezuelans interviewed by Amnesty International at the border had either had their asylum claim rejected or were still awaiting a response regarding their asylum claim. Venezuelans in CEBAF Peru said they had been waiting for periods of between 30 and 70 days for the resolution of their claims, in inadequate conditions (see *Conditions at the border*).¹⁰⁹

CRITERIA FOR REFUGEE STATUS DETERMINATION

With regard to Venezuelans seeking asylum at Peru's border, a CEPR official in CEBAF told Amnesty International "if they do not have a real fear of persecution they will not be allowed to enter".¹¹⁰ Negative asylum decisions, communicated in writing by the CEPR and reviewed by Amnesty International, were explained on the grounds of applicants not demonstrating "a well-founded fear of persecution" or that their fear of persecution implied in their application was not found to be credible or supported by sufficient evidence. Those interviewed by Amnesty International reported that, during their asylum interviews, they were commonly asked if they were fleeing persecution and if they had family members with a regular migration status in Peru. From the accounts of Venezuelans, other factors that would be indicative of a situation of "massive violations of human rights or other circumstances which have seriously disturbed public order" - were not taken into consideration in their asylum interview, despite their relevance to the Cartagena Declaration definition of a refugee.¹¹¹ With regards to the procedures being applied, a CEPR official also informed Amnesty International that CEPR officials were not applying a standard questionnaire when carrying out the eligibility interviews with would-be refugees and that each officer "had their own style".¹¹²

APPEALS AGAINST NEGATIVE FIRST DECISIONS

Of the claims Amnesty International is aware of, in some cases there appear to have been irregular practices in the decision-making process, often when a decision had been taken or explained on the basis of considerations other than the risk of human rights violations upon return.

The existence of a family network already in Peru appeared to be a primary factor in whether appeals of negative asylum decisions would be considered. Venezuelans who spoke to Amnesty International said that they were advised by CEPR officials to include any information on family members who could support them in Peru and evidence of their regular status in their "*reconsideración*" (appeal).¹¹³ A CEPR official told Amnesty International that Venezuelans who could prove that they had family members with regular migratory status in Peru (for example a PTP or a foreigner's card) and therefore would be in a position to support them financially, would be permitted to enter the country.¹¹⁴

Carla, whose husband is already in Peru, had been in CEBAF for 45 days and said that her asylum claim had been rejected. She was travelling with her three children, her 62-year-old mother and nephew. She left Venezuela because she could not get the medical treatment she needed for health complications that she got after having had meningitis. When she filed her asylum claim, she said that she was advised by CEPR officials to tell her husband to come to the border to take her children from her. Her claim was rejected, but she was told by CEPR officials when submitting her "*reconsideración*" that her case would be considered if she sent her grandmother and nephew back to Venezuela, as her nephew did not have his birth certificate. She said that she was forced to send her mother and nephew back from the border and they had since made their way to Colombia. CEPR told her that they were waiting for a report to confirm that her grandmother had left Tumbes before considering her appeal.¹¹⁵

¹⁰⁹ Interviews with Venezuelan refugees, CEBAF Peru and CEBAF Ecuador, 5 and 6 November 2019

¹¹⁰ Interview with CEPR Coordinator, CEBAF Peru, 6 November 2019

¹¹¹ Interviews with Venezuelan refugees, CEBAF Peru and CEBAF Ecuador, 5 and 6 November 2019

¹¹² Interview with CERP Coordinator, CEBAF Peru, 6 November 2019

¹¹³ Interviews with Venezuelan refugees, CEBAF Peru and CEBAF Ecuador, 5 and 6 November 2019

¹¹⁴ Interview with CERP Coordinator, CEBAF Peru, 6 November 2019

¹¹⁵ Interview with Venezuelan refugees, CEBAF Peru, 5 November 2019

The majority of Venezuelans interviewed by Amnesty International were still in the process of the first stage of appealing their negative asylum decisions and were either preparing or had submitted their case to the CEPR for reconsideration.¹¹⁶ If their appeal is rejected in the first instance by the CEPR, the only recourse for Venezuelans trapped at the border is to submit a second appeal before the Appeals Commission for Refugees (*Comisión Revisora para Asuntos de Refugiados*).¹¹⁷ In order to do this, they must travel to a Peruvian consulate in a neighbouring country: a requirement that is impossible for most to meet.

Brian said he had already been in Tumbes for 70 days, seeking to enter Peru. At night he was sleeping under a wooden bench out in the open, surrounded by flies, as men are not permitted to sleep in the temporary dormitories at CEBAF. He filed an asylum claim as he said that he was the victim of threats in Venezuela. When Amnesty International spoke to him, he explained that his asylum claim and first appeal had already been rejected, but that he did not have the money to return to Ecuador to present a second appeal in the Peruvian consulate. Brian has a son living in Peru who had found him work. He said “I am trying to do things correctly, but it is not possible here. I want to enter legally, but they won’t let me”.¹¹⁸

OTHER APPARENT IRREGULARITIES

Amongst other inconsistencies noted during the visit to CEBAF Peru, were the apparent application of admissibility procedures¹¹⁹ in certain individuals’ cases, verbal rejections of asylum claims as well as inappropriate statements made by officials.

Carlos, already waiting in CEBAF for 68 days, described how he fled Venezuela after deserting the Bolivarian National Guard.¹²⁰ He arrived at CEBAF Peru on 30 August and requested asylum. He was asked for more evidence of having been a member of the Bolivarian National Guard, but eight days later he said he was told that his asylum claim had been denied. He subsequently requested a formal asylum decision from CEPR in writing on three occasions but said he had not received any response. Without a formal asylum decision, he has been left with no means to appeal it.¹²¹

Deisy, a woman who fled Venezuela as she said her home had been burnt down and her husband had received threats, had been waiting 50 days for a response regarding her family’s asylum claim. She said that she had been told by a CEPR official that her case would be complicated given the size of her family; she was travelling with her husband, five children and her granddaughter who had been born in Ecuador.¹²²

David had arrived at the Peru-Ecuador border on 24 October 2019. Before fleeing Venezuela, he had worked in administration for the government. He told Amnesty International that he feared reprisals if he returned there, as President Maduro had made statements denouncing those who fled as “traitors”. When he approached CEPR to request asylum, he said that they told him “President [Vizcarra] does not want more Venezuelans [in Peru]”.

Some Venezuelans told Amnesty International that their asylum interview had lasted only 5 minutes and they were told that their “claim would not be considered”, or that it would only be received if they returned with more information regarding their family members in Peru.¹²³

Erika, who arrived at CEBAF Peru in mid-October, had fled Venezuela after her partner Víctor says he suffered a serious attack, which he suspects was linked to his work as an anti-government activist on social media. Víctor was travelling with a humanitarian visa for Peru, whereas Erika was only travelling with her ID card and a *Tarjeta Andina*.¹²⁴ After a five-minute interview, she said that she was told by CEPR that they would not process her claim as she was not in a “vulnerable situation”.

¹¹⁶ Interviews with Venezuelan refugees, CEBAF Peru and CEBAF Ecuador, 5 and 6 November 2019

¹¹⁷ Interview with CERP Coordinator, CEBAF Peru, 6 November 2019

¹¹⁸ Interview with Venezuelan refugee, CEBAF Peru, 5 November 2019

¹¹⁹ Some states introduce an admissibility phase to their asylum procedures to determine whether an asylum seeker should be given access to the substantive asylum procedures. Such procedures should be defined in national law and conform to international human rights and refugee law, including the prohibition of *refoulement*. See: UNHCR, *A Guide to International Refugee Protection and Building State Asylum Systems*, Handbook for Parliamentarians No. 27, 2017, <https://www.unhcr.org/3d4aba564.pdf>, p.163

¹²⁰ The Bolivarian National Guard is one of 4 components of the National Armed Forces of Venezuela

¹²¹ Interview with Venezuelan refugee, CEBAF Peru, 6 November 2019

¹²² Interview Venezuelan refugee, CEBAF Peru, 6 November 2019

¹²³ Interview Venezuelan refugee, CEBAF Peru and CEBAF Ecuador, 5 and 6 November 2019

¹²⁴ An “Andean Card” is a migration control card for citizens of member states of MERCOSUR or of the Andean Community of Nations (Comunidad de Naciones Andinas CAN). However, Venezuela is no longer a member of MERCOSUR, so this card is no longer accepted by other countries

OTHER REJECTIONS AT THE BORDER

Other Venezuelans who were seeking to return to Peru or to transit through the country to reach Chile, their final destination, said that they had also been rejected at the border.

Eric had been in Peru with a PTP for 18 months. He left Peru in September to return to Venezuela to visit his father, who was dying. After two months outside of Peru he attempted to re-enter. He went to the migration officials at the border, but in the absence of stamps from Ecuador, he said he was refused entry. According to Eric, the police in CEBAF Peru told him that his temporary permit had been blocked. Eric has an 18-year old son who is waiting for him in Lima.¹²⁵

Yolanda, travelling alone with her three sons, was on route to Chile to be reunited with her husband. She fled Venezuela as she could no longer find enough food for her boys. Her husband has a work visa in Chile where he has been for two years. She said she approached the migration officials to request permission to transit through Peru but was turned away as she did not have entry and departure stamps from Ecuador. Although she only wished to transit through Peru, she was left with no alternative but to request asylum. She had already been waiting 1 month for a decision on her claim.¹²⁶


CONDITIONS AT THE BORDER

Amnesty International noted with concern the conditions in which Venezuelans were forced to wait for long periods of time at CEBAF Peru and Ecuador. Venezuelans seeking to enter Peru said they had been waiting on average between 30 and 70 days in CEBAF, where daytime temperatures can reach up to 28°C in November.

In CEBAF Peru and Ecuador, there are few places where people can shelter from the sun. Families sit under makeshift shelters during the day to shield their children from the sun. At night, temporary pre-fab dormitories have been erected by UNHCR, where children, pregnant women, older people, and people with medical issues certified by a local doctor or chronic disease can sleep on mattresses.¹²⁷ Venezuelan men however reported that they are not allowed sleep in the dormitories but must sleep outside.¹²⁸

Venezuelans in general complained of the poor conditions that they had been subjected to since arriving at the border, although they reported that the conditions had somewhat improved in the previous 15 days with three meals a day now being distributed by UNHCR partner organizations, and the shower facilities having been opened. Prior to this, adults had only been receiving one cold meal a day, whereas children received food three times per day although sometimes this only consisted of crackers and cereal, and people were not permitted to use the shower facilities at the centre but instead had to walk to CEBAF Ecuador.¹²⁹



 ↑ Venezuelans seeking to enter Peru are forced to wait in inadequate conditions, with insufficient access to washing facilities, food and shelter. Amnesty International spoke to Venezuelans who had been stranded for up to 70 days at CEBAF Peru as they had been denied into Peru. © Daniel Martínez-Quintanilla | Amnesty International

¹²⁵ Interview with Venezuelan refugee, CEBAF Ecuador, 6 November 2019

¹²⁶ Interview Venezuelan refugee, CEBAF Peru, 5 November 2019

¹²⁷ Interview UNHCR Tumbes, by phone, 5 December 2019

¹²⁸ Interview with Venezuelan refugees, CEBAF Peru, 5 November 2019; Interview, UNHCR Tumbes, by phone, 5 December 2019

¹²⁹ Interview Venezuelan refugee, CEBAF Peru, 5 November 2019

7. INTERNATIONAL, REGIONAL AND DOMESTIC OBLIGATIONS

The majority of people fleeing Venezuela are refugees because their circumstances meet the refugee definition in the Cartagena Declaration or in the 1951 Refugee Convention or both and are so regardless of whether a government wishes to formally recognize their status or not.

Peru's policy of increasingly denying entry to Venezuelans seeking safety at Peru's border is incompatible with the right to seek asylum and with principle of *non-refoulement*. Rejecting Venezuelans at the border and leaving them with no option but to return to Ecuador, where it is unlikely that they will be able to acquire regular migration status, increases their risk of chain or indirect *refoulement*.

VIOLATIONS OF THE RIGHT TO SEEK ASYLUM

The right to seek and enjoy asylum, codified in regional¹³⁰ and international human rights and refugee law,¹³¹ is enshrined in Peru's domestic legislation.¹³² UNHCR considers that the right to fair and efficient asylum procedures is a fundamental aspect of the inclusive application of the 1951 Refugee Convention and as representing a critical component of a state's *non-refoulement* obligations.¹³³

On different occasions UNHCR and the IACHR have called on governments in the region to preserve access to territory and asylum for people fleeing Venezuela, including strengthening asylum procedures that allow for the identification of people in need of international protection, and to ensure access to group-based protection determinations where asylum systems are overwhelmed.¹³⁴ Furthermore, they have urged governments to maintain flexible and accessible entry policies, in recognition of the fact that for many Venezuelans it is impossible to comply with current entry requirements.¹³⁵ Governments must also refrain from penalizing irregular entry or presence to a country.¹³⁶

¹³⁰ The 1969 American Convention on Human Rights, Article 22(7); The 1984 Cartagena Declaration on Refugees

¹³¹ The 1951 Refugee Convention and the 1967 Protocol; Universal Declaration of Human Rights, Article 14, <https://www.un.org/en/universal-declaration-human-rights/>

¹³² Ley de Refugiado No 27891, https://www.migraciones.gob.pe/documentos/normalegal_8.pdf

¹³³ UNHCR, Global Consultations on International Protection, *Fair and Efficient Asylum Procedures*, 31 May 2001, <https://www.refworld.org/docid/3b36f2fca.html>, p.2

¹³⁴ UNHCR, *Guidance Note on International Protection Considerations for Venezuelans – Update 1*, May 2019; <https://reliefweb.int/sites/reliefweb.int/files/resources/5a9ff3cc4.pdf>, p.1; IACHR, *Resolution 2/18 Forced Migration of Venezuelans*, March 2018, <https://www.oas.org/en/iachr/decisions/pdf/Resolution-2-18-en.pdf>, p.3;

¹³⁵ UNHCR, *Guidance Note on International Protection Considerations for Venezuelans – Update 1*, May 2019; <https://reliefweb.int/sites/reliefweb.int/files/resources/5a9ff3cc4.pdf>, p.2; IACHR, *Resolution 2/18 Forced Migration of Venezuelans*, March 2018, <https://www.oas.org/en/iachr/decisions/pdf/Resolution-2-18-en.pdf>, p.4;

¹³⁶ The 1951 Convention relating to the Status of Refugees, Article 31

Moreover, in situations of large-scale arrivals, states must provide for the full protection of asylum-seekers and ensure their basic standards of treatment pending durable solutions.¹³⁷

VIOLATIONS OF THE OBLIGATION OF NON-REFOULEMENT

The binding principle of *non-refoulement*¹³⁸ prohibits states from removing or returning any person, by any means whatsoever, to a place where they would be at real risk of persecution or other serious human rights violations. The prohibition of *refoulement* applies to different forms of state conduct, including but not limited to expulsion, deportation and rejection or non-admission at the border.¹³⁹ Furthermore, a state's *non-refoulement* obligations apply to all individuals, whether they have sought or are entitled to asylum.¹⁴⁰ Interamerican human rights law¹⁴¹, further extends states' *non-refoulement* duties to encompass the situations contemplated in the Cartagena definition of a refugee.

The notion of "indirect *refoulement*", also known as "chain *refoulement*", refers to the obligations on states not to remove a person to a third country from where they would be at risk of being returned to serious human rights violations.¹⁴² Forcing people back to a country where their access to protection or another form of legal status is not guaranteed, also constitutes a form of indirect *refoulement*, as the ineffectiveness of a country's asylum system¹⁴³ in turn determines the risk of *refoulement* to the country of origin.



Diminishing welcome: since Peru introduced restrictions in June 2019, Venezuelans have faced increased barriers to accessing Peruvian territory and protection. © Daniel Martínez-Quintanilla | Amnesty International

¹³⁷ UNHCR, *Protection of Asylum-Seekers in Situations of Large-Scale Influx*, (No. 22 (XXXII), 1981,

<https://www.unhcr.org/uk/excom/exconc/3ae68c6e10/protection-asylum-seekers-situations-large-scale-influx.html>

¹³⁸ The international principle of *non-refoulement* is enshrined in international refugee and human rights law and has become a rule of customary law. See for instance: The 1951 Convention relating to the Status of Refugees and 1967 Protocol relating to the Status of Refugees, Article 33; The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 3; The American Convention on Human Rights, Article 22 (8); The Cartagena Declaration on Refugees, Section III, Conclusion 5

¹³⁹ UN General Assembly, *Note on International Protection*, <https://www.refworld.org/docid/3bb1c6cc4.html>, p.5; UNHCR, *Advisory Opinion on the Extra-Territorial application of Non-Refoulement obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Optional Protocol* <https://www.refworld.org/docid/45f17a1a4.html>, p.3

¹⁴⁰ UNHCR, *Legal considerations on state responsibilities for persons seeking international protection in transit areas or "international" zones at airports*, <https://www.refworld.org/pdfid/5c4730a44.pdf>, p.2

¹⁴¹ IACtHR, *Advisory Opinion OC-21/14, Rights and Guarantees of Children in the Context of Migration and/or in need of International Protection*, http://www.corteidh.or.cr/docs/opiniones/resumen_seriea_21_eng.pdf, p.9; UNHCR y CEJIL, *Ficha Técnica sobre el Derecho a la no devolución y no expulsión*, <https://www.cejil.org/sites/default/files/ficha3.pdf>, p.7

¹⁴² Amnesty International, *Q&A- why are returns of refugees from Lebanon to Syria premature*, 2019, MDE 18/0481/2019, <https://www.amnesty.org/download/Documents/MDE1804812019ENGLISH.pdf>, p.2

¹⁴³ International Journal of Refugee Law, *UNHCR and Preventing Indirect Refoulement in Europe*, Vol 27, No. 3, 457-480, 13 July 2015, <https://academic.oup.com/ijrl/article/27/3/457/2362512>, p.469

8. CONCLUSION AND RECOMMENDATIONS

Venezuelans continue to leave their country in their thousands; forced to flee massive violations of human rights, in the context of the dire economic situation and political crisis in their country.

Peru, hosting the largest number of Venezuelan asylum-seekers globally and home to over 800,000 Venezuelans in total, is deserving of recognition. Nevertheless, Peru's ongoing insistence of denying international protection according to the expanded definition enshrined in the Cartagena Declaration and despite recommendations to the contrary made by UNHCR and IACHR, is in violation of its human rights obligations and gravely undermines the ability of Venezuelans to reach safety. Armed with a far-reaching international protection mandate enshrined in the Cartagena Declaration, Peru has instead chosen to resort to increasingly restrictive practices at its borders.

Despite only being in existence since June 2019, the so-called humanitarian visa, has proved to be an unviable form of complementary protection: firmly shutting an alternative channel to protection for Venezuelans desperately in need of it. Using the pretext of the lack of entry and departure stamps from Ecuador as a justification to deny entry to Venezuelans who have the humanitarian visa, or who meet the humanitarian exceptions due to the vulnerabilities they face, is a display of cruel disregard for the human rights of Venezuelan refugees.

Changes to the asylum procedures at the Peru-Ecuador border, which were never formally communicated, appear to amount to a deliberate policy of rejection of new arrivals from Venezuela. The ad-hoc and inconsistent form of decision-making during asylum proceedings at the border casts serious doubts about the *fairness* and *effectiveness* of these procedures. These irregular practices coupled with Peru's narrow interpretation of international protection are in violation of its domestic, regional and international human rights obligations to provide access to a fair and efficient asylum procedures to those seeking international protection.

Peru's policy of increased denial of access to its territory, by way of rejecting asylum claims and turning away humanitarian visa holders, is placing Venezuelans seeking safety at serious risk. Venezuelans rejected at Peru's border are left in legal limbo: unable to return to Ecuador or enter Peru. The result has been to force Venezuelans to resort to more perilous journeys and survival mechanisms, and to enter and live in Peru without regular status. Irregular entry condemns Venezuelans to live on the margin of society, exposing them to an increased risk of exploitation and abuse, while excluding them from the formal labour market and access to services; in further violation of their human rights.

Peru's new policies at the border raise serious *refoulement* concerns. Denying Venezuelans arriving at the border access to international protection - whether via asylum procedures or complementary protection mechanisms - could put Venezuelans rejected at the border at risk of *refoulement*.

Peru is by no means the only country in the region seeking to limit entry of Venezuelans in search of safety. Between June and August 2019, Chile and Ecuador also imposed similarly restrictive measures, limiting access to their territory and to regular status. Representing a principal corridor of movement for Venezuelans, Chile, Ecuador and Peru should refrain from erecting barriers and instead should prioritize responsible regional coordination informed by a genuine commitment to upholding international protection obligations and the principle of responsibility sharing.

THE GOVERNMENT OF PERU

- Apply the 1984 Cartagena Declaration definition of refugee through *prima facie* or collective recognition, to Venezuelans seeking international protection in Peru, in accordance with the Refugee Law No. 27891 (Article 3)
- Pursue rigorous steps to ensure protection of Venezuelans from *refoulement*
- Ensure any alternative legal protection mechanisms are consistent with international human rights and refugee law and are flexible and accessible to Venezuelans
- Facilitate family reunification for Venezuelans at the border with family members already inside Peru
- Develop a regularization scheme for Venezuelans in Peru with irregular status, which is inclusive of all Venezuelans, regardless of the date they entered the country or whether they entered irregularly
- Request adequate financial and technical support from the international community in order to strengthen the overall refugee response and in particular the asylum system and to ensure adequate and dignified conditions for Venezuelans waiting at the border

GOVERNMENTS IN THE REGION

- Apply the 1984 Cartagena Declaration definition of refugee to Venezuelans seeking international protection
- Pursue a protection-orientated regional coordination that respects the principle of responsibility-sharing in line with commitments articulated in the Quito Process
- Coordinate and develop flexible entry requirements for Venezuelans, including for those who wish to transit to a neighbouring country
- Peru, Ecuador and Chile: reverse recently imposed restrictive border policies that are blocking access to territory and international protection for the majority of Venezuelans

INTERNATIONAL COMMUNITY

- Significantly increase financial and technical assistance to Peru and other countries in the region hosting Venezuelan refugees
- Develop other responsibility-sharing mechanisms, including resettlement and alternative pathways to alleviate the pressure on Peru and other host countries in the region

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IN SEARCH OF SAFETY

PER TURNS ITS BACK ON PEOPLE FLEEING VENEZUELA

Serious human rights violations including arbitrary detention, torture, unlawful killings and violations of the right to health and food are widespread in Venezuela. Years into the crisis, Venezuelans are struggling to survive, and millions are unable to meet even their minimum needs for food, water and health care. By December 2019, an estimated 4.8 million people had fled Venezuela. Peru, hosting approximately 800,000 Venezuelans, initially generously welcomed those in search of protection. This report exposes the serious and rapid deterioration in Peru's treatment of Venezuelan refugees. The humanitarian visa, which has already proved to be an unviable path to protection, combined with recently introduced changes to asylum procedures at the border, have led to an increase in the rejection of Venezuelans arriving at Peru's northern border. Peru's neighbours, Chile and Ecuador, have introduced similarly restrictive policies with the purpose of limiting the entry of Venezuelans. Peru must urgently apply the Cartagena Declaration extended definition of refugee to people fleeing Venezuela. Given the significant numbers of Venezuelans seeking asylum, Peru should consider collective or *prima facie* recognition of Venezuelans. The international community must step up and provide adequate financial and technical support to Peru and other host countries in the region.