

BRIEF
Jesuit Refugee Service



**REGIONAL CONTEXT REPORT ON THE
HUMAN RIGHTS SITUATION OF
VENEZUELAN AND CENTRAL AMERICAN MIGRANTS AND REFUGEES**

• 2020 •

BRIEF - REGIONAL CONTEXT REPORT ON THE HUMAN RIGHTS SITUATION OF VENEZUELAN AND CENTRAL AMERICAN MIGRANTS AND REFUGEES



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PROLEGO- MENON

The present report is a regional analysis on the human rights situation of forced migrants, refugees and returnees in Venezuela, Colombia, Ecuador and Mexico, countries where the Jesuit Refugee Service is present. The report takes into account the following categories: regularization, health, livelihoods and social integration.

The report is structured in six segments as follows: first, migrant and refugee human rights situation before the covid-19 pandemic; second, their situation during the pandemic; third, State measures to face this crisis; fourth, JRS care and response to migrants, refugees and host communities during the pandemic; fifth, risks and protection gaps in the region and, sixth, conclusions and recommendations for States and agents of change, in order to strengthen protection systems, well-being and inclusion of the target population.

This report was prepared jointly with the advocacy area of the JRS LAC regional office, the advocacy coordinators of the national offices, directors and work teams. It is based on their experience working with forced displaced people and refugees and it aims at making visible the human rights situation of this population and to advocate for the reestablishment of just relations and comprehensive protection in the region.



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REGIONAL CONTEXT

Latin America and the Caribbean continues to be the world's most unequal region. Although during the last two decades the Gini coefficient on income inequality has decreased in most of the countries of the region, it is again increasing in several countries, reflecting setbacks in equality. Those with the highest levels of inequality, mainly caused by inadequate government policies, have deep economic and social gaps that increase political instability and distrust of institutions. This situation slows down economic and social progress, increases poverty and, thus, it reflects in the weak systems of social protection and human rights.

Forced migration is a powerful symbol of global inequality; thousands of people are forced to flee their countries due to armed conflicts, natural disasters, massive violation of human rights, inequality between countries and search for better opportunities, among others (UN, 2020). The inequality and conditions of vulnerability of the forced migrant and refugee population in the region have worsened as a result of the humanitarian crisis beset by the covid-19 pandemic. This represents prevailing challenges in order to advance towards social and political inclusion, and the reduction of inequality. This will depend on an adequate and articulated governance of migration, based on a human rights protection approach.

The Venezuelan exodus is the largest in recent history of the region, and one of the largest displacement crises in the world after the complex situation in Syria. In addition to this, hundreds of thousands of people in Central America continue to flee their countries forced by violence, violation of human rights and deterioration of security conditions in their homeland. **The figures of forced displacement in the region have quadrupled in the last decade, and the humanitarian crisis has worsened by the pandemic.** Venezuelan and Central American forced migrants and refugees, have been doubly affected.

Forced displaced people, migrants and refugees face innumerable risks and protection gaps, some of which are not having regular immigration status, nor having the documents required to carry out regularization procedures, and the lack of knowledge about the procedures needed to request international protection. On the other hand, people have lost their sources of income which have left them without money to pay their rents; this situation has increased evictions, food and nutritional insecurity, deterioration of living conditions, difficulties in acquiring medicines and biosecurity elements and barriers to receiving health care, among others.

People have also been experiencing unsafe returns with high risks of human trafficking, migrant smuggling, exploitation, disappearances and arrests. All this situation has repercussions on people's mental health and emotional stability, especially in subjects of special protection such as children, women, sick people, the elderly, LGTBI and indigenous communities.

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Risks and protection gaps for migrants, refugees and returnees in the context of the COVID-19 pandemic

The analysis of risks and protection gaps is based on the analysis of the guarantee, protection and violation of the human rights of migrants and refugees, since, according to the framework of international human rights law, humanitarian law and the rights of refugees it is the competence of the States to be guarantors in the protection of rights. Below you will find an analysis of protection gaps of Venezuelan citizens in Venezuela, and in the case of Colombia, Ecuador and Mexico, an analysis of protection gaps of forced migrants and refugees.



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Protection gaps in Venezuela

Legal framework, effectiveness and nature of the State

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Adequate standard of living of the individual, families, vulnerable groups and minorities:

● Health care system

It is active but precarious. Its infrastructure lacks the appropriate conditions to meet the demands because there is a lack of planning, investment and updating of services. They cannot face the resurgence of controlled diseases such as tuberculosis; the growth of chronic diseases such as diabetes type 1 and 2 nor the pandemics, such as covid-19. **Therefore, the Venezuelan State is not a guarantor of the right to an adequate standard of living or the right to health of its citizens.**

● Food security

Venezuela experiences acute problems of production, importation and distribution of food because there is a structural problem in the productive apparatus, economic control policies and lack of free market for public and private sectors. This situation has serious repercussions on the life quality of people which reflects in an increase of chronic (30%) and acute (23.9%) malnutrition, especially in children and pregnant women (50%). Hunger is a violation of human dignity.

30%
Chronic

23,9%
Acute

50%
Children and pregnant women

● Work and income

Venezuelans lack just and favorable work conditions, remuneration does not provide fair wages and there is a progressive loss of purchasing power. **Unions and federate associations of workers find it difficult to exercise their rights in the defense of the workers.** 61,3% of the population in Venezuela have lost their livelihoods. There is a violation of the right to work.

“ There is a violation of the right to work ”

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of the population in Venezuela have lost their livelihoods

● Right to Education

As with the health system, education lacks the appropriate human and physical infrastructure. Public institutions at all levels, primary, secondary, university, technical and trade education, have precarious physical infrastructure (95% of basic schools have deteriorated infrastructure) and **teachers have weak pedagogical capacities.** There is a violation of the right to education.

“ There is a violation of the right to education ”

95%
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● Access to public services

In the field of protection gaps, the reality of the matrix of public services, telecommunications, media, and entertainment, places Venezuelans and residents in Venezuela in a situation of tangible vulnerability. **There is lack of basic public services. This translates into a decline in basic living conditions and a trend towards the impoverishment of the population.** There are pressing concerns about the deficit of services, and adaptation of needs to this situation, as well as a change in routines and household habits.

Protection gaps in Colombia and Ecuador



● An unfavorable protection environment

Although the national regulations of Colombia and Ecuador have ratified the refugee status both in the 1951 Convention, as well as in international and regional conventions and treaties for the protection of human rights and in the Cartagena Declaration, in practice, **the guarantee and protection of rights for forced migrants and refugees is not effective.** Colombia does not have a comprehensive immigration public policy for the protection of rights, and the bill that is being approved by the Congress of the Republic lacks the inclusion of international standards on the Human Rights of Refugees. In Ecuador, the executive has proposed a reform to the Human Mobility Law, which would open the door to mass deportations of migrants without due process, while backtracking advances in the protection of rights, weakening the system of asylum and refuge.

● Registration and determination of refugee

Neither Colombia nor Ecuador have accepted the recommendations issued by UNHCR in its “Guidance Note on International Protection Considerations for Venezuelans”, dated May 21, 2019. UNHCR reiterates its call to States receiving Venezuelans to allow access to their territory and highlights the critical importance of ensuring access to asylum procedures or to group-based protection arrangements with adequate safeguards, such as the first-stage recognition of refugee status.

“ **Neither Colombia nor Ecuador have accepted the recommendations issued by UNHCR in its “Guidance Note on International Protection Considerations for Venezuelans”** ”

● Individual documentation and marital

Colombia has advanced in taking temporary measures such as issuing special residence permits and Ecuador in issuing humanitarian visas. However, these documents do not have broad coverage, nor do they effectively guarantee the protection of civil, political, economic, social and cultural rights, nor do they solve the difficulties of access to employment, housing, health, and education. There have been adulterations to these documents in Colombia.

● Security against violence and exploitation

Despite the humanitarian and international protection needs of Venezuelans in the border areas, **access to the territory is discouraged through militarization and migration controls by the GEM Special Migration Group.** Venezuelan migrants do not receive information nor guidance about their rights to receive international protection and many are forced to return to their country without due process exposing migrants to take informal crossings. This situation exposes people to the risks of human trafficking, migrant smuggling, exploitation, forced recruitment of minors, especially of women and girls, and disappearances. Binational indigenous communities and the LGBTBI population are also subjects of special vulnerability.

The mechanisms for the protection of migrant children and adolescents are **weak and inefficient**, which exposes them to risks of sexual exploitation, begging, worst forms of child labor, recruitment of minors, and lack of protection for unaccompanied children, among others.

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Binational indigenous communities and the LGBTBI population are also subjects of special vulnerability

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● Basic needs and essential

Given the context of inequality that prevails in Colombia and Ecuador and the worsening of health conditions, as well as of economic complications, migrants and refugee population have limited access to basic needs and essential services. On the other hand, **situation exacerbates with the historical oblivion and weak State presence in the border areas, controlled by organized illegal armed groups and transnational organized crime.**

● Opportunities to achieve durable

During the pandemic, a large number of forced migrants and refugees without guarantees of social protection to employment, insurance and health, lost their sources of income, either because they were fired or had no way to ensure income through informal work. **People were unable to pay rents, there was an increase in evictions, they were unable to guarantee education for children and adolescents and there was no food and nutritional security.** People were forced to live on the streets without hygiene measures; In short, migrants were forced to return to Venezuela in unsafe conditions.

“ **In short, migrants were forced to return to Venezuela in unsafe conditions** ”

Protection gaps in México



● An unfavorable protection environment

The Mexican State does not guarantee favorable protection environments for people seeking refuge or complementary protection, in the border cities of the north and south of the country. The pandemic aggravated the environments of violence, poverty and labor exploitation that already existed prior to it, and **people who have been deprived of their liberty and await migratory processes inside migratory stations have no detention or biosecurity measures.**

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● Registration and determination of refugee

During the context of the pandemic, **the Mexican State has guaranteed access to the request for refugee status; however, the waiting time for resolutions has been longer than what is stipulated in current legislation.**

● Individual documentation and marital

Asylum seekers in Mexico receive a visitor's card for humanitarian reasons that should allow them access to the labor market, educational centers and health services. However, in the context of the pandemic, people do not have access to them.

● Security against violence and exploitation

The environment of violence, poverty and lack of formal employment that prevails in some cities of Mexico, plus the pandemic, impact on the security and access to formal employment of migrants, refugees and refugee applicants in Mexico. It pushes them into **precarious housing situations and employment** and places them in environments of greater vulnerability.

● Freedom of movement and access to legal resources

In the context of the pandemic, migrants, asylum seekers and refugees in Mexico, are susceptible to xenophobic practices that can lead to extortion, detention and deportation by security agents and migration agents in different cities. According to the National Institute of Migration **this situation is critical in the southern border and could become a threat to the country's public health.**

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● Basic needs and essential services

Migrants, asylum seekers and refugees in Mexico have **limited access to basic needs and essential services** given the context of inequality that prevails in the country and which has worsened with health situations and economic complications.

CONCLUSIONS



Although there have been advances in equality indices, Latin America and the Caribbean continue to be the world's most unequal region. The Covid 19 pandemic has worsened the social and economic inequalities. **The changes and transformations that are required to achieve greater equality, equity and protection of human rights, entail the strengthening of universal social protection, comprehensive health systems, as well as the guarantee and universal protection of human rights** without any discrimination, particularly those subjects of special protection, such as forcibly displaced persons, refugees, and stateless people.

Venezuela, Colombia, Mexico and Ecuador have signed and ratified several of the international human rights treaties and conventions, International Humanitarian Law and refugee law. However, in the case of Venezuela, there is a massive violation of human rights, deepened by the crisis of the political and economic system, which has caused the forced migration of approximately 19% of its citizens. Colombia is in the process of approval of a bill (036 of 2019), that is not in accordance with the International Human Rights standards of international protection; and Ecuador and Mexico have public policies on migration and refuge, which are recently at risk due to reforms proposed by the governments.

In the case of Ecuador reforms to the LOMH awaiting approval by the Legislative, and in Mexico the low budget granted to COMAR, which represent setbacks in human rights and guarantees of international protection.

Migrant women, unaccompanied girls, boys and adolescents, as well as people living with catastrophic illnesses, are groups with specific needs who face risks that require attention, coordination and effective response from the States. This includes protection and defense against all forms of discrimination; preventing and responding to abuse, violence and exploitation; the guarantee of immediate access to adequate services, and the comprehensive protection of migrant children and adolescents, taking into account the best interests of children.



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