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## **Stuck In The Middle: The Case of Venezuelan Migrants**

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## Abstract

The violation of human rights implies a failure of the state-inhabitant relationship and the international governance system from which these rights emerge. Although the link between human trafficking and migration is widely accepted, there is still a gap in the research on the correlation between the isolationist attitudes adopted by States and the increase in human trafficking and exploitation networks. Therefore, studying the situation of Venezuelan displaced people is essential to understand the challenges and the need for transnational perspectives to address the complexities of migration processes and thus prevent the rise of human exploitation networks.

**Keywords:** Venezuela - Forced Migration - Human Trafficking - Human Rights - Transnational Governance

The post-world war II era gave rise to the emergence of a global governance system<sup>1</sup> and with it the idea that all human beings have fundamental rights - human rights - which are indivisible, interdependent, and interrelated.<sup>2</sup> They are inherent to our condition as human beings, universal, and therefore must be protected and respected by all States. The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, was the first document that guaranteed these rights. After that, several United Nations-sponsored

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<sup>1</sup> Deacon Bob, "The International and Global Dimensions of Social Policy", in *Global Social Policy and Governance* (London: Sage, 2007), 3-23.

<sup>2</sup> UN General Assembly, "Universal Declaration of Human Rights" (December 1948): 217 A (III).

international human rights treaties emerged,<sup>3</sup> which various governments ratified in the following years. The growing commitment, at least normative, from the States regarding human rights is quite notable considering that these types of instruments, unlike other international documents, are legally binding, and therefore limit the sovereignty of national governments.<sup>4</sup>

Despite the fact that the Universal Declaration of Human Rights abolished slavery, a study published in 2016 confirmed there are still an estimated of 40.3 million people under forms of modern slavery.<sup>5</sup> Albeit there is no normative consensus on its scope and content, the concept of modern slavery can include forced labor, sexual exploitation, and human trafficking, among others.

One of the fastest-growing forms of slavery is human trafficking. Unfortunately, due to its illegal nature and the mobility it entails, there are no reliable statistics on its extent. Its primary victims are people from developing countries affected by political or economic instability. These individuals are often reluctant to report their victimization or to cooperate with law enforcement, partly for fear of reprisals from their exploiters but also for fear of prosecution or imprisonment for breaking the law.<sup>6</sup> This context increases the difficulties in estimating the number of people under these forms of exploitation.

Migrants, especially those who fall under the category of "forced" migrants, are more likely to fall prey to human trafficking networks and be prone to torture and violence during the mobilization processes.<sup>7</sup> The demanding entry requirements, the lack of institutional protection, and the border mistreatment lead them to use irregular routes and associate with smugglers.

The absence or poor adoption of comprehensive approaches to the study of forced migration and human trafficking produces a re-victimization of migrants. As a result, migrants flee their homes due to massive violations of their rights to find themselves in similarly vulnerable situations in their host countries. For example, the criminalization of victims of human trafficking - given their irregular status - prevents them from reporting to local authorities for fear of prosecution. This is a consequence of States' failure both in adequately training their

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<sup>3</sup> See for example, the Refugee Convention (1951) and its Protocol (1967), The International Covenant on Civil and Political Rights (1966), The International Covenant on Economic, Social and Cultural Rights (1966), The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1987), the New York Declaration for Refugees and Migrants (2016), among others. At the regional level, American Declaration of the Rights and Duties of Man (1948), American Convention on Human Rights (1969), Inter-American Convention to Prevent and Punish Torture (1985), among others.

<sup>4</sup> For a detailed look on why governments commit to these kind of treaties and critics, see Finnemore and Sikkink 1998, Boli and Thomas 1999, Simmons 2009.

<sup>5</sup> Walk Free Foundation, "The Global Slavery Index 2018"

<sup>6</sup> Ngwe, Job E., and Elechi Oka O., Human Trafficking: *The modern day slavery of the 21st century*. African Journal of Criminology and Justice Studies, 2012.

<sup>7</sup> See for instance, United Nations Office on Drugs and Crime, "Global Report on Trafficking in Persons 2016", UNODC Website, accessed September 26, 2018, [https://www.unodc.org/documents/data-and-analysis/glotip/2016\\_Global\\_Report\\_on\\_Trafficking\\_in\\_Persons.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2016_Global_Report_on_Trafficking_in_Persons.pdf)

security forces in distinguishing potential refugees and trafficking victims from regular migrants, as well as offering relevant information and legal assistance to vulnerable populations.

Studying the situation of Venezuelan displaced people becomes then essential to understand the challenge and the need to strengthen human rights protection mechanisms at regional and global levels and the impact that the lack of them has on modern forms of slavery. Venezuela's growing economic, social, and political crisis<sup>8</sup> has produced an unprecedented exodus in the region. According to the United Nations High Commissioner for Refugees (UNHCR), there are currently more than 7.13 million Venezuelan refugees and migrants worldwide, of which more than one million are asylum seekers and 211,000 refugees.<sup>9</sup> In addition, an estimated 174,000 Venezuelans are living in slavery, the highest number in the American region.<sup>10</sup>

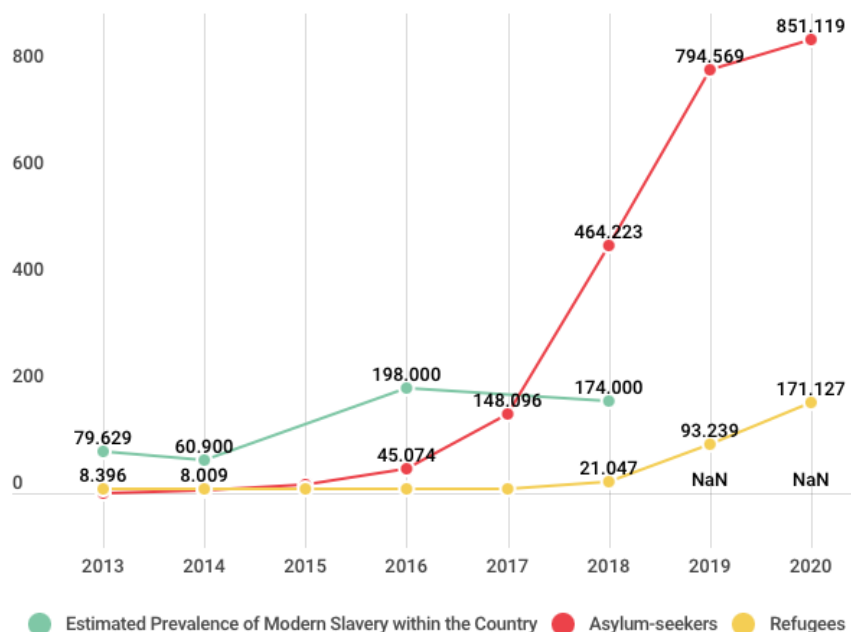


Figure 1. Source: own elaboration based on UNCHR and The Global Slavery Index<sup>11</sup>

Understanding the context from which human trafficking networks emerge could help make prevention policies more robust and reduce the number of people in modern forms of

<sup>8</sup> For more information on the Venezuelan crisis please refer to the "Venezuela: an overview" section.

<sup>9</sup> UNHCR, "Venezuela situation", UNHCR Website, February 18, 2023, <https://www.unhcr.org/venezuela-emergency.html>

<sup>10</sup> Walk Free Foundation, "GSI 2018"

<sup>11</sup> UNHCR, "Refugee Data Finder", UNHCR website, June 20, 2021, <https://www.unhcr.org/refugee-statistics/download/?url=5nJVd1> and Walk Free Foundation, "GSI 2018"

slavery. In consequence, this research will first address contemporary forms of slavery and their relation to migration. It will then proceed to the analysis of the situation in Venezuela. Finally, it will address the Latin American regional attitudes towards this context and the outcomes of such attitudes.

This article argues that the inability of States to continue their cooperation efforts, combined with the diversification of the international arena, encourages the failure of the measures taken and, consequently, the growth of human exploitation networks. The research goes in line with those studies that propose methodological transnationalism<sup>12</sup> for the analysis of social problems. Placing human trafficking and forced migration within this broader context of world politics opens up a vast potential research agenda.<sup>13</sup>

The analysis was carried out through a qualitative content analysis approach using the Grounded Theory coding system as inspiration to process the collected data. First, official reports from the Organization of American States (OAS), the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Labor Organization (ILO), and the Economic Commission for Latin America and the Caribbean (ECLAC) were compiled and analyzed. These are available on their respective web pages. Secondly, the analysis was complemented with the reports made by different NGOs and platforms,<sup>14</sup> and the study of journalistic articles that could provide more context to the research object. In addition, the International treaties in force in the region were examined concerning the abolition of new forms of slavery, human rights, and the rights of migrants as asylum seekers.

## **Modern Slavery and Migration**

The Slavery Convention understand slavery as “*the state or condition of an individual over which the attributes of property rights or some of them are exercised.*”<sup>15</sup> Although slavery was abolished in its traditional form, 1.9 out of every 1,000 people in the Americas still live under some form of modern slavery, with Venezuela, Haiti, the Dominican Republic, and Cuba having the highest rate in the region.

While there is a global understanding that modern forms of slavery exist, there is no consensus on the concept’s scope. The lack of clarity on the notion in international law has a negative impact on the different actors’ ability to make joint efforts. Usually, modern slavery is identified as human trafficking (across borders and within a country), forced labour, debt

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<sup>12</sup> Alexandra Kaasch and Kerstin Martens, eds. *Actors and Agency in Global Social Governance* (Oxford: Oxford University Press, 2015)

<sup>13</sup> See for instance, Chimni 2000, Castles 2003, Dean 2007, Faist 2009, Betts 2013.

<sup>14</sup> Such as ENCOVI (Encuesta Nacional de Condiciones de Vida), Observatorio Venezolano de Migración, Walk Free Foundation, The Regional Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V).

<sup>15</sup> UN -OHCHR, “Slavery Convention” (September 1926): art.1

bondage, forced or servile marriage, or the sale and exploitation of children. Essentially, it refers to a situation of exploitation from which a person cannot refuse or leave because of threats, violence, coercion, abuse of power, or deception.<sup>16</sup> According to international law, human trafficking involves “*the recruitment, transportation, transfer, reception or reception of people, resorting to the threat or use of force or other forms of coercion, abduction, fraud, to deception, abuse of power or a situation of vulnerability or the granting or receipt of payments or benefits to obtain the consent of a person who has authority over another, for the purpose of exploitation*”<sup>17</sup>.

Some scholars, and International Organizations (IOs) such as the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations Office on Drugs and Crime (UNODC), argue that human trafficking is not a modern form of slavery but rather the cause/origin that gives access to them.<sup>18</sup> International reports from various United Nations (UN) agencies indeed confirm that the vast majority of trafficking victims end up in sexual exploitation or forced labor networks, as well as in debt bondage.<sup>19</sup> The impact of some migration processes on the increase of human trafficking and other forms of exploitation is recognized in several reports.<sup>20</sup>

Organizations such as the Human Rights Watch have documented cases of Venezuelans being deceptively recruited by criminal groups who offer them false job opportunities to exploit them later as drug traffickers. Women and girls are forced to engage in sex work during their journey from Venezuela to Colombia, while many others have been victims of sexual assault while crossing the border between these two countries. In addition, the Inter-American Commission on Human Rights (IACHR) has recorded that in several States, irregular migration is criminalized, and therefore, Venezuelans are detained in jails. According to various journalistic portals<sup>21 22</sup> since 2016, 75% of the victims of trafficking attended and registered by the Colombian authorities are of Venezuelan nationality, 83% being women.

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<sup>16</sup> Walk Free Foundation, GSI 2018

<sup>17</sup> UN General Assembly, “The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children” (November 2000):art.3

<sup>18</sup> See for instance, UNODC, “Global Report 2016”, accessed September 26, 2018.

<sup>19</sup> Ngwe, Job E., and Elechi Oka O., Human Trafficking: *The modern day slavery of the 21st century*. African Journal of Criminology and Justice Studies, 2012.

<sup>20</sup> See for example The Walk Free Foundation index reports.

<sup>21</sup> Unidad de Investigación de Venezuela, “Aumentan casos de migrantes venezolanos víctimas de trata en Colombia”, *Insight Crime*, October 24, 2018, <https://es.insightcrime.org/noticias/noticias-del-dia/aumentan-casos-de-migrantes-venezolanos-victimas-de-trata-en-colombia/>

<sup>22</sup> Redacción Bogotá, “Venezolanos, los más afectados por trata de personas en Bogotá”, *El Espectador*, July 30, 2018, <https://www.elespectador.com/noticias/bogota/venezolanos-los-mas-afectados-por-trata-de-personas-en-bogota/>

Migrants and asylum seekers are particularly vulnerable to abuse and exploitation at different stages of their journeys, including at their destination. Restrictive immigration policies lead migrants to adopt risky methods to enter countries, especially those who fall into the category of forced migrants. As a result, they are forced to resort to smugglers to facilitate their entry as the only means of fleeing persecution, conflict, and violence. Often the smugglers do not comply and end up subjecting them to some form of exploitation.

Forced migrants, unlike "regular" migrants, flee their homes because the conditions of their existence are no longer guaranteed. In this context, these individuals feel that their living conditions are not "normal", their home is no longer safe ground and their life and integrity are threatened. Hence, they seek asylum in other territories. This process implies a break or at least a collapse in the nation-state-inhabitant relationship.<sup>23</sup>

The person who crosses a border and enters another State - which has assumed international obligations - in search of asylum produces a situation in which that State must act as a substitute guarantor of his or her rights. The problem that consequently arises is that the refugee regime only protects a small group of people, a necessary condition being that they are fleeing selective persecution. The regime does not contemplate special protection for those asylum seekers fleeing from significant deprivation of human rights. Therefore, the principle of *non-refoulement*<sup>24</sup> may not apply to this type of asylum seekers, and States could require them to exit the country.

Even in the destination country, migrants may fall into trafficking networks due to discrimination, restrictions on services, lack of employment, or limited access to humanitarian assistance. As a result, trafficking networks operate in such a way that they prey on refugees in places where they should be safe, such as camps, shelters, or other settlements.

The COVID-19 pandemic exacerbated the challenges. Border closures, the application of quarantines, and the suspension of asylum applications further rendered vulnerable populations invisible. Such policies have not only proven ineffective, as demonstrated by the extent of the spread of the virus, but have also encouraged the use of irregular transit routes, the need to seek work outside the formal sector, and the inability of vulnerable populations to seek help from State agents.

### *Survival Migration*

The causes, consequences, and political responses to the categories of forced migration are closely related to world politics. The concept of forced migration implies the unwillingness or incapacity of the country of origin to guarantee the protection of its citizens and, consequently,

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<sup>23</sup> Haddad Emma, "The Refugee: The Individual between Sovereigns", *Cambridge: Cambridge University Press*, (2010) <https://www.tandfonline.com/doi/abs/10.1080/1360082032000104532>

<sup>24</sup> Principle that governs in the international arena by which States cannot return asylum seekers to countries where they could be persecuted.

the need for international protection.<sup>25</sup> However, it leaves open the possibility that there is not a lack of will on the part of the State of origin to guarantee fundamental rights, but rather a possible inability.

The existing literature on forced migration and refugees explains the conditions under which States contribute to the protection of refugees. The most general practice is the giving of asylum<sup>26</sup>, which refers to the obligation of States to protect asylum seekers who arrive on their territory. This practice is firmly institutionalized in the international arena and has a mandatory character. There is also another practice, not that institutionalized and typical of strong regional alliances such as the European Union, which is the distribution of burden. Burden sharing necessarily implies supranational negotiation, in which States contribute to the protection of refugees in the territories of other States. This cooperation is not mandatory, but it has nevertheless worked for the European alliance to deal with the thousands of asylum seekers who reach European shores through the Mediterranean since 2008.

The category of "refugee" only exists in a system of inter-state cooperation. The difficulty of reaching a consensus to expand its scope has several reasons, and different organizations have been debating this issue for quite some time. In that regard, James Hathaway<sup>27</sup> offers an interesting argument to defend the limitation of the meaning.

The author argues that States are becoming more reluctant to provide asylum and warns that any attempt to expand the category could risk the status quo and undermine the protection for all. Hathaway's argument is accurate: states are increasingly reluctant to take in refugees. The reasons for this increasing reluctance are mainly the necessary allocation of economic resources to foreigners instead of national citizens and societal resistance to immigration rooted in xenophobia. However, mentioning the States' reluctance does not imply disregarding a situation that exists and needs to be addressed in some manner at the international level.

The evidence shows that there are more and more groups of individuals in different parts of the world, such as the Venezuelan migrants of the last decade, who suffer such deprivations of human rights that it becomes a risk to their lives to remain in their country of nationality. Therefore, these individuals need to be recognized by the international arena as an existing group with their own specific rights.

Following this line of argument, Alexander Betts<sup>28</sup> introduces a new concept recognizing the reluctance to increase the scope of the current one and the necessity to fill the gap between the asylum seeker who falls into the category of refugee and the migrant who migrates for

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<sup>25</sup> Emma Haddad, *The Refugee in International Society: Between Sovereigns* (Cambridge: Cambridge University Press, 2008)

<sup>26</sup> Guy Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (Oxford: Oxford University Press, 2007)

<sup>27</sup> James C Hathaway, "Is Refugee Status Really Elitist? An Answer to the Ethical Challenge", in *Europe and Refugees: A Challenge*, eds. Jean-Yves Carlier and Dirk Vanheule (The Hague: Kluwer Law International, 1997), 79-88.

<sup>28</sup> Alexander Betts, *Survival Migration. Failed Governance and the Crisis of Displacement* (Ithaca; London: Cornell University Press, 2013)



economic purposes. He defines this kind of migration as *survival migration* and describes it as "persons who are outside their country of origin due to an existential threat for which they do not have access to an internal remedy or resolution."

### Venezuela: An overview

Until the 1970s, Venezuela had a long-established tradition of being a host country for migrants in the region; it welcomed people from Southern Europe, Latin America, and the Caribbean. It was attractive for its job opportunities and economic prosperity due to the sharp increase in oil revenues. Nonetheless, after the collapse of oil prices in the 1980s and the steep recession that it unleashed, the situation changed. The rise to power of President Hugo Chávez (1999-2013) and the so-called Bolivarian Revolution heightened this variation of migration patterns.

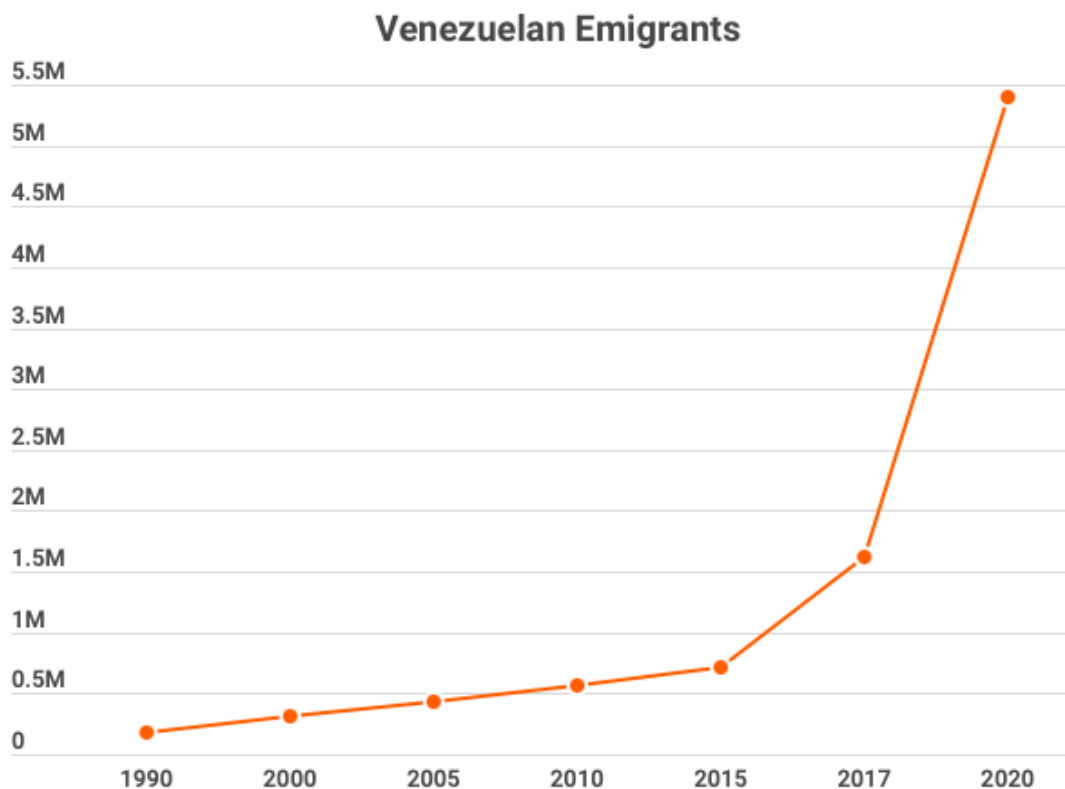


Figure II. Source: own elaboration based on statistics from Migration Data Portal and IOM<sup>29</sup>

<sup>29</sup>Migration Data Portal, "The bigger picture, Data Migration statistics by countries.. Venezuela (Bolivarian Republic of) 1990-2020", Migration Data Portal website, June 15, 2021, [https://migrationdataportal.org/data?cm49=862&focus=profile&i=stock\\_abs\\_&t=1990](https://migrationdataportal.org/data?cm49=862&focus=profile&i=stock_abs_&t=1990) and International Organization for Migration (IOM), "Tendencias Migratorias Nacionales en América del Sur - República Bolivariana de Venezuela". Informes Migratorios (February 2018)

Within the first stage of the Bolivarian Revolution (1998-2014), some Venezuelans started to emigrate due to ideological disparities with the project. These qualified and high-educated migrants belonged to the middle and upper classes. They had the financial resources to face relocation costs and housing at the beginning of their stay. They were well received by host countries such as the United States, Canada, Europe, and Australia. Although the number of government dissidents in this migration wave was large, Chávez's presidency was generally well accepted by the region and the state itself.

After Chávez's death in 2013, and the worsening of living conditions, the Venezuelan migration wave intensified. The decay of the socio-economic situation, the shortages of food and basic supplies, the interruption of public services such as water and energy, the increase in insecurity and violence, and the political persecution led to a second flow of emigrants. This exodus, which continues to this day, is characterized by precarious relocation conditions, new and longer migration routes, the use of various types of transportation, and a distinctive difference in socioeconomic characteristics from those of the previous wave. The composition of these migration flows is much more heterogeneous in terms of both economic resources and educational levels.

Since 2017, the economic, social, and political context of the Venezuelan state has significantly worsened. The perception of corruption grew<sup>30</sup>, the price of the basic food basket increased to the point that a family requires approximately nine minimum wages to buy it<sup>31</sup>, and access to essential services became more unstable.<sup>32</sup> Deaths of children in medical centers and hospitals have increased due to national blackouts and a lack of medicines to treat preventable diseases. A total of 1,557 deaths have been reported caused by shortages of medicines and supplies, and 79 deaths of patients due to power outages. This situation, added to the exodus of health professionals, represents a real threat to people's integrity.<sup>33</sup>

Various reports indicate that Venezuela suffers from a structural context of persecution of dissent, characterized by the militarization of public security and the excessive use of force to repress civil demonstrations and protests. For example, during the first six months of 2019, 10,477 protests were registered, in which at least 47 people died, all from gunshot wounds. The responsibility for most of the deaths was attributed to state security agents.<sup>34</sup> According to the

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<sup>30</sup>Transparency International in its corruption perception index ranked Venezuela as 168 out of 180 countries Transparency International, "Corruption Perceptions Index 2019", (2020). [https://images.transparencycdn.org/images/2019\\_CPI\\_Report\\_EN\\_200331\\_141425.pdf](https://images.transparencycdn.org/images/2019_CPI_Report_EN_200331_141425.pdf)

<sup>31</sup> ENCOVI, "Encuesta Nacional De Condiciones De Vida", (2018) <https://www.proyectoencovi.com/encovi-2018-encuesta-nacional-de-condiciones-de-vida-copy>

<sup>32</sup> OAS - IACHR, "Chapter IV. B - Special Report: Venezuela", *2019 Annual Report*. <http://www.oas.org/en/iachr/docs/annual/2019/TOC.asp>

<sup>33</sup> ENH - Encuesta Nacional de Hospitales, "Balance Final 2019 - Parte I" (December 2019). [https://2479be6a-2e67-48df-9858-103ea763ef46.filesusr.com/ugd/0f3ae5\\_bb11695325ef4dde8026e9cd5409298d.pdf](https://2479be6a-2e67-48df-9858-103ea763ef46.filesusr.com/ugd/0f3ae5_bb11695325ef4dde8026e9cd5409298d.pdf)

<sup>34</sup> Venezuelan Observatory of Social Conflict, "Conflictividad social en Venezuela 2019", *Informe Anual*, (2020) <https://www.observatoriodeconflictos.org.ve/oc/wp-content/uploads/2020/01/INFORMEANUAL-OVCS2019-1.pdf>

NGO "Foro Penal", 8,899 people have been criminally investigated and prosecuted for political reasons and deprived of their freedoms without legal support or valid justification.

In addition, one of the main problems in the area of deprivation of liberty is the use of police detention centers -whose nature is transitory- as permanent housing spaces. As a result, several police cells have exceeded their capacity by 400%. Furthermore, the Venezuelan Prisons Observatory<sup>35</sup> indicates that more than 60% of the prison population depends on food and water provided by relatives or acquaintances.

One of the most critical areas of human rights violations is found in the prison system, which is characterized by the absence of a gender perspective. Women's facilities are annexed buildings to men's prisons, and as a result, women often suffer violence or sexual harassment perpetrated by guards and other inmates. This context can clearly be defined as a form of slavery since women are constantly subjected to the sexual use of their bodies without consent. According to the Office of the High Commissioner for Human Rights (OHCHR), "*There does not have to be any financial gain in sexual slavery; it is merely the imposition of absolute control or power of one person over another. It is the sexual exploitation of individuals through the use or threat of force*".<sup>36</sup>

Since 2002, the OAS, through the IACHR, has mentioned the need to attend to the Venezuelan human rights situation and included it on the list of countries with the most concerning human rights conditions in the Americas.<sup>37</sup> It has increasingly intensified its surveillance efforts in the country, achieving in 2019 the implementation of a specific follow-up Mechanism for Venezuela (MESEVE) to reinforce procedures and act more effectively.<sup>38</sup>

The Commission has repeatedly requested the Venezuelan government's consent to address the situation in situ and has not yet received a response. The solid political alliance between Venezuela and the Russian Federation is likely to influence the country's behavior in not responding to international pressures. Still, the government continues to belong to other transnational organizations, revealing an inability of the IOs to exert effective pressures that can recover or establish a situation of non-violation of human rights. This would also imply that it is necessary to problematize the situation from a transnational governance perspective.

### *Response to Venezuelan displacement*

In the last ten years, a sevenfold increase in Venezuelan emigrants has been observed. According to IOM, in 2019, there were 4,769,498 Venezuelan emigrants. It is followed in second

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<sup>35</sup> Venezuelan Observatory of Prisons, "Informe 2019", (2019), <https://oveprisiones.com/informes/>

<sup>36</sup> OHCHR, "Abolishing Slavery and its Contemporary Forms. 2002" OCHCHR Publications, June 03, 2021, <https://www.ohchr.org/Documents/Publications/slaveryen.pdf>

<sup>37</sup> OAS - IACHR, "Chapter IV. B - Special Report: Venezuela"

<sup>38</sup> OAS - IACHR, "Establishes Special Follow-Up Mechanism for Venezuela (MESEVE)", *OAS Website*, October 21, 2019, [https://www.oas.org/en/iachr/media\\_center/PReleases/2019/267.asp](https://www.oas.org/en/iachr/media_center/PReleases/2019/267.asp)

place by Colombia with 2,869,032 and Brazil with 1,745,339. These numbers give a pretty good overview of the social situation within Venezuelan territory.

Due to the increasing number of asylum seekers from Venezuela, the region's States established diverse mechanisms to receive and guarantee the rights of Venezuelan citizens. For example, the *Regional Response Plan for Refugees and Migrants from Venezuela* (RMRP), coordinated by UNHCR and IOM, was launched in 2019 to strengthen the work of national governments through the collaboration of multisectoral actors and international financing. Framed in the United Nations Global Compact,<sup>39</sup> it assesses the needs of host countries and helps articulate response strategies in areas such as direct emergency assistance, protection, socio-economic/cultural integration, and capacity building.

Since 2019, the region has also been receiving international financing to face the Venezuelan crisis. The Inter-American Development Bank (IDB) approved non-reimbursable resources for \$ 100 million to help countries that receive migrants.<sup>40</sup> In 2020, the international community pledged to contribute \$ 2.79 billion to assist host countries and mobilize resources to address the crisis exacerbated by COVID-19.<sup>41</sup> However, of the \$1.79 billion that RV4 estimates is needed, less than half has actually been funded. The same organization estimates that 1.46 million people are in need due to human trafficking or smuggling, but only 3,344 have received assistance thanks to this funding.<sup>42</sup>

Despite the efforts, a region without experience in receiving this amount of migrants and refugees, a tendency to constant economic crises, and a weak regional alliance, have caused thousands of Venezuelans not to reach regularity and basic security within the host countries. This context makes them especially vulnerable and susceptible to trafficking, labor and sexual exploitation, violence, and discrimination.<sup>43</sup>

### **Regional behavior: Setting up the problem from a transnational perspective**

The Cartagena Declaration on Refugees (1984) establishes a definition of Refugee that goes beyond the persecution and also considers as such people who “... *have fled their countries because their lives, security and freedom have been threatened by generalized violence, foreign*

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<sup>39</sup> UN. *Global Compact for Safe, Orderly and Regular Migration and Global Compact on Refugees*, 2018

<sup>40</sup> IDB, “IDB approves grant funds for countries receiving migrants in Latin America and Caribbean”, IDB Website, June 12, 2021 <https://www.iadb.org/es/noticias/bid-aprueba-recursos-no-reembolsables-para-ayudar-los-paises-que-reciben-migrantes>

<sup>41</sup> UN- UNHCR, “International Conference of Donors for Venezuelan Refugees”, UNHCR Website, May 28, 2020, <https://eacnur.org/es/actualidad/noticias/emergencias/conferencia-donantes-refugiados-venezolanos>

<sup>42</sup> R4V, “Funding update - RMRP 2021”, R4V website, June 13, 2021, <https://www.r4v.info/es/financiamiento>

<sup>43</sup> UN - UNHRC, “Refugees and migrants from Venezuela top 4 million: UNHCR and IOM”, *UNHRC Website*, June 7, 2019, <https://www.unhcr.org/news/press/2019/6/5cfa2a4a4/refugees-migrants-venezuela-top-4-million-unhcr-iom.html>

*aggression, internal conflicts, the massive violation of human rights or other circumstances that have seriously disturbed public order ...*".<sup>44</sup> Although this Declaration was created within Central America, its wide acceptance in the continent is such that many countries in the region have included its understanding in their internal legislation.

Migrants from Venezuela easily fall into this category of refugees considering the crisis in the country. UN organizations such as UNHCR recommended that the region apply this understanding of the concept to this population. Yet, it is striking that these organizations do not use this broader meaning on a global scale.

Even with this regulatory framework, the region was not and is not prepared to face the most significant displacement in the history of Latin America and the challenges it entails. The main challenge for the region has been to respond to a situation that does not seem to have a solution in the short term while facing its own pre-existing crises and weaknesses. Along with the increase in the migratory flow, the resistance of public opinion and the emergence of discrimination and xenophobia towards Venezuelan migrants and refugees also grew. Consequently, many countries in the region modified their entry requirements and tightened the measures.

The countries with borders closest to Venezuela -Colombia, Ecuador, Brazil, Peru, and Chile- have naturally received the highest flow of migrants in the first instance, followed by Central America and the Caribbean, and last by the Southern Cone - Argentina, Uruguay, Paraguay, and Bolivia-. At first, they maintained an open-door policy stance, and the border countries, along with some others, implemented specific policies for Venezuelan refugees and migrants. However, despite their efforts to maintain this hospitality and open-door policy, the worsening of the Venezuelan crisis and the depletion of resources resulting from the overloading of institutional and financial capacities led to a change in attitude towards restrictive measures.

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<sup>44</sup> Cartagena Declaration on Refugees, (Cartagena, Colombia: 1984): Conclusion III, Third.

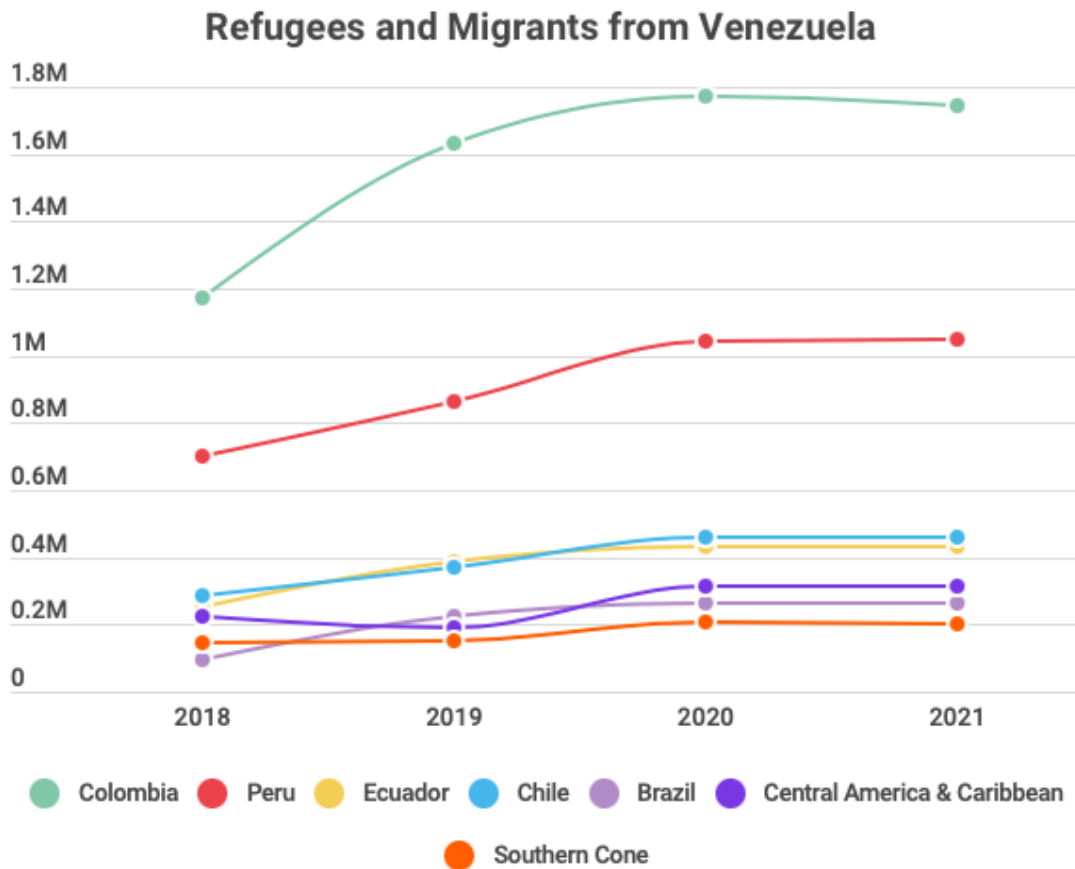


Figure III. Source: own elaboration based on statistics from R4V<sup>45</sup>

#### Government initiatives and measures

The major host countries developed special ad hoc entry and residence permits for Venezuelans. Unfortunately, the lack of agreements in supranational organizations to establish a single criterion for the processing of permits, the constant modifications of the requirements, and the inability to adapt them to the conditions of Venezuelans have aggravated the state of affairs.

<sup>45</sup>R4V, “Refugiados y migrantes de Venezuela”, R4V website, June 13, 2021, <https://www.r4v.info/es/refugiadosymigrantes>

Entrance permit	Colombia	Perú	Ecuador	Chile	Brazil	Central America & Caribbean	Southern Cone
Short stay	X	X	X	X	X	X	
Transit	X						
Permanence	X	X	X	X	X		X
<b>Requirements</b>							
passport/ valid passport	X	X	X	X		X	X
no criminal record	X	X	X	X			X
processing cost		X	X	X		X	X
covid test						X	X
others	regular income	humanitarian visa				financial solvency	•regular income •residence address

Figure IV. Source: Own elaboration

*Colombia*, the leading host country, was the first to adopt special permits to allow Venezuelans to access goods and services (TMF) and enter the territory to cross to another destination (PIP TT). Both *Peru* and Colombia have implemented temporary residence permits to regularize the situation of Venezuelans (although the last one only until 2018). However, these permits required a formal job offer endorsed by the employer, in the case of Colombia, and a valid passport and humanitarian visa<sup>46</sup> in the case of Peru.

In *Ecuador*, until the country withdrew from the block in 2019, Venezuelans could stay in the country for two years with the possibility of work and access to health through the UNASUR Residence Visa. In 2019, Executive Decree No. 826 recognized the Venezuelan population as beneficiaries of the migratory amnesty. However, it required them to have entered the country legally and to have a valid visa, disregarding the situation of the most vulnerable immigrants and forcing them to remain in an irregular situation. As of March 2020, this is no longer valid, and a tourist visa is now required for entry.

In *Chile*, since 2018, Venezuelans can apply for a temporary residency visa called Democratic Responsibility visa, which allows them to live in the country for one year with the possibility of an extension. Until 2019, they could also enter the country without a visa, for recreational purposes, and without the possibility of working. However, through the implementation of the consular tourist visa, the government began to require them a letter of

<sup>46</sup> It is the document that allows the entry of Venezuelan citizens to Peruvian territory and grants humanitarian migratory status, through which they are enabled to reside and work. It can be obtained at the Consulates General of Peru in Venezuela, Colombia and Ecuador by Venezuelan nationals. Also can be processed at the border. Ministry of Labor and Employment Promotion, Peru, "Information booklet for Venezuelan citizens", accessed December 13, 2020 [https://cdn.www.gob.pe/uploads/document/file/357093/Cartilla\\_informativa\\_para\\_ciudadanos\\_venezolanos.pdf](https://cdn.www.gob.pe/uploads/document/file/357093/Cartilla_informativa_para_ciudadanos_venezolanos.pdf)



invitation and proof of economic solvency to enter. Due to the border closure as a result of the pandemic, permit processing was temporarily suspended in 2021.

In regards to *Brazil*, Venezuelan citizens arrive mainly through the northern border state of Roraima, facing challenges that are not present in other countries, such as the language barrier and the difficulty of traveling through the Amazon rainforest. Decree 126/2017 allowed them temporary residence for two years, and since 2018 migrants entering through Roraima and Amazonas received specific assistance through the Welcome Operation (*Operação Acolhida*).<sup>47</sup> In the same year, Decree No. 9,285 recognized the vulnerable situation of Venezuelan migrants in Roraima, and Provisional Measure 820 created subcommittees to attend precisely to this migratory flow.<sup>48</sup> However, as the Operation involved the militarization of the borders, the Venezuelan government closed its frontiers with the country and Colombia in response. In 2019 Brazil negotiated the withdrawal of border troops and, although the pandemic hampered the normal development of the operation, internal relocation continued.

In *Central America and the Caribbean*, access to asylum continues to be limited in all countries, mainly due to a lack of capacity and shortcomings in the regulatory framework. Some countries have introduced restrictions such as visa requirements or the temporary closure of their borders with Venezuela, which has led to an increase in irregular entry and the associated risks. In the first half of 2019, at least 80 people lost their lives at sea trying to reach the Caribbean.<sup>49</sup>

In Costa Rica, Mexico, and Panama, delays in processing migratory regularization and asylum applications have increased. The Costa Rican president tightened immigration measures and signed a decree, not yet in force, with a particular category for Venezuelans, Cubans, and Nicaraguans. Under this category, they would be able to work for 2 years as long as they renounce their refugee application. Panama has established entry limitations, arguing that the visa requirement has been made to restore democratic order in Venezuela. Trinidad and Tobago also implemented, in 2019, the necessity to apply for a visa with a valid passport.

The countries from the *Southern Cone*, contrary to the regional trend, have adopted less restrictive measures. Despite Venezuela's suspension in that forum, Argentina and Uruguay have offered Mercosur visas to Venezuelans.<sup>50</sup> In general terms, the national laws of the Southern Cone provide universal and free access to public health and education services - with greater

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<sup>47</sup> The operation was divided into three axes: border management, reception, and internalization through the relocation of migrants in other Brazilian States

<sup>48</sup> The Subcommittee for the Reception of Immigrants in a Vulnerable Situation of Venezuela, Federal Subcommittee on Health Actions for Immigrants and Federal Subcommittee on Reception, Identification and Evaluation. Ministry of justice and public security, Brazil. "Resolutions of the Federal Emergency Assistance Committee", accessed December 5, 2020. . <https://portaldeimigracao.mj.gov.br/pt/resolucoes-conare/resolucoes-do-comite-federal-de-assistencia-emergencial>

<sup>49</sup> R4V, "RMRP 2020", 131-144

<sup>50</sup> Andrew Selee, and Jessica Bolter, "Bienvenidas asimétricas. Respuestas de América Latina y el Caribe a la Migración venezolana y nicaragüense", *Migration Policy Institute* (Washington DC: 2020) <https://www.migrationpolicy.org/sites/default/files/publications/Venezuela-Nicaragua-Migration2020-ES-Final.pdf>



scope and coverage in Argentina and Uruguay - which presents significant advantages for the incoming migrants.<sup>51</sup> Unfortunately, some requirements constitute a barrier to the regularization and integration of Venezuelans, such as the need to have a stamp to enter, a residence address for visa processing, and the approval of both parents for children's residence permit in Uruguay.<sup>52</sup>

### Regional work

The region has been making its own multilateral efforts to address and strengthen the protection of refugees and displaced people in its territory. For example, in 2014, the Brazil Plan of Action introduced a joint roadmap to increase protection and promote sustainable solutions for refugees, displaced and stateless people. In 2017, Venezuela was suspended as a member of MERCOSUR since its members considered that the government breached the democratic order and its commitment to maintaining it. Days later, the decision was supported by the 12 American countries that joined the Lima Group, rejecting the violation of human rights and urging the country to restore democratic order.<sup>53</sup> Prior to this decision, several instances of discussion on the current state of democracy in the country were established. However, the Venezuelan government rejected these consultations.

As was previously stated in another section, international organizations had warned about the situation in Venezuela for at least seven years before MERCOSUR officially recognized the state of affairs in the country. This attitude reveals not only the existence of a problem within the borders of the State but also at the regional level. Nonetheless, specific efforts to regionally address the situation of Venezuelan mobility began with the Quito Process, which is defined as a regional consultative process on migration. To date, this Forum has had eight meetings in which commitments and actions were adopted in an articulated manner from a human rights perspective.

Since the creation of its constitutions, the region has been distinguished by the strong presidentialism of its governments, which has made it difficult to maintain regional integration mechanisms. Governments are prone to adopt individual decisions influenced by the political tendencies of the parties in power. For example, in 2018, seven of the twelve governments that were part of UNASUR suspended their participation.<sup>54</sup> Although the organization was never able to achieve what it set out to do, it is worth mentioning that President Chávez and left-wing executives were the ones who promoted its creation. This may have influenced the exiting decision since the outgoing governments belonged to center-right ideological parties.

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<sup>51</sup> R4V, "RMRP 2020", 159-178

<sup>52</sup> Selee and Bolter, "Bienvenidas asimétricas"

<sup>53</sup> Ministry of Foreign Affairs, International Trade and Worship, Argentina, "Lima Declaration", accessed December 3, 2020 <https://cancilleria.gob.ar/en/news/releases/lima-declaration>

<sup>54</sup> Argentina, Brazil, Colombia, Chile, Paraguay and Peru. Ecuador joined in 2019 and Uruguay in 2020

This trend can also be seen in the measures adopted in response to the Venezuelan crisis. Based on a human rights perspective, the reception and welcoming actions of the first years have generally corresponded to left-wing governments. However, the increase in the number of displaced has coincided chiefly with right-wing governments in the region, which, concerned about security issues, adopted restrictive measures. Even when they have been the most vocal in condemning the Maduro regime, they have not undertaken significant cooperative actions to help the displaced.<sup>55</sup>

Although the region has made specific efforts to address the Venezuelan situation, the existing regional integration blocs (UNASUR, MERCOSUR, CAN, CELAC) have not taken the necessary or sufficient steps to reduce or modify the existing circumstances. Latin American countries prefer to discuss the Venezuelan mobilization through summits and forums of presidents instead of coordinating actions within existing regional organizations. Direct meetings between executives prevail, with hardly any participation of the legislative branch and typically with non-binding outcomes.<sup>56</sup>

These spaces are undoubtedly necessary, but the prominence of the Executive's will in the decision-making processes makes migration policy prone to ideology and political calculation. As a result, the legal security of migrants under international protection mechanisms is threatened.<sup>57</sup>

## **Final Remarks**

So far, this research has identified international and local actions to address the issue of Venezuelan migrants. These actions deserve to be recognized; however, further considerations need to be addressed.

Venezuelan migrants encounter significant obstacles in gaining access to official identification documents such as passports, identity cards, civil registration certificates, and criminal record certificates. This is a typical characteristic of asylum seekers fleeing their homes. Many do not have time to collect their belongings when fleeing or suffer robberies and losses on the transport routes. At the same time, they cannot trust their government to reissue these documents. In addition to the new restrictions, they face in entering other countries, they are exposed to criminal organizations.

The disparity found between international agreements and national policies reinforces human rights violations against Venezuelans, but now from the international community. The sudden and simultaneous changes that have taken place in several States in the region regarding

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<sup>55</sup> Freier L, Castillo Jara S, “El Presidencialismo y la “Securitización” de la Política Migratoria en América Latina: Un Análisis de las Reacciones Políticas frente al desplazamiento de Ciudadanos Venezolanos” *Internacia, Revista de Relaciones Internacionales* Nro.1, 2020

<sup>56</sup> Freier, C.Jara, “Presidencialismo y securitización”

<sup>57</sup> Freier, C.Jara, “Presidencialismo y securitización”

passport or visa requirements to access their territories demonstrate a desire to select and curb the entry of immigrants. It seems necessary to establish and improve accountability mechanisms for countries that have committed to respecting and guaranteeing human rights.

## **Conclusion**

Massive flows of immigrants are the result of political and social changes that affect and emerge from the entire international arena. When large flows of asylum seekers arise, there is a tendency to question the national scenario. But, at the same time, the structure and mechanisms of the international community and the role played by international institutions are not sufficiently criticized. When human rights are not guaranteed, it is not only a failure of the state-inhabitant relationship, but also of the system of global governance.

Although several organizations, as well as regional mechanisms, have developed topical strategies to restore rights to Venezuelan migrants, the lack of compliance with the commitments adopted internationally deserves concern. The contradictions between the international agreements, the tightening of requirements, and the delay in the response of host countries are not only observed at the Latin American level. However, the inability to establish a robust panel discussion to address the subject and agree on a minimum and general standard of treatment for displaced Venezuelans demonstrates the weakness of the regional cooperation agencies.

This research has identified common negative patterns in the development of policies. The policies adopted are necessary, but they have blatantly ignored the most vulnerable populations. Specifically, those fleeing the country without time to process permits, without money, or without possession of their documents. Denying entry to these individuals does not stop mobilization but instead encourages irregular movement and transit routes and the development of criminal networks. Furthermore, denying the possibility of regularization to those who entered the country illegally forces individuals to live in constant clandestinity.

As described above, the Venezuelan crisis has not resulted from an abrupt change but rather the reproduction of a growing pattern of behavior over a considerable period. The lack of cooperation between different institutions around the world and the inability to raise public awareness suggests that the efforts and commitment of the international community have come too late. The incapacity of Latin American States to continue cooperative efforts has resulted in the failure of the measures adopted. Consequently, it has led many Venezuelans to fail to achieve regularity and basic security during their travels or within the host countries.

The COVID-19 pandemic caused a setback in all efforts to improve the living conditions of Venezuelans. In particular, border closures, access restrictions, and the criminalization of the transit of migrants have put public policies aimed at this population on hold. It is necessary to raise the discussion at a global level on whether a global pandemic is a sufficient reason to breach international human rights treaties and put on hold attempts to reduce and end modern forms of slavery and human trafficking. Under our understanding of the law, a pandemic does not exempt States from their obligations.

It is worth mentioning that much of the work done in the country and outside has been carried out by non-governmental organizations (NGOs). They have done great work measuring and investigating the number of individuals subjected to modern forms of slavery, following up on the victims of trafficking, and redressing the processes of re-victimization by States. The international community should recognize their work and provide them with logistical and financial support to continue with it.

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