

Group recognition of Venezuelans in Brazil: an adequate new model?

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Brazil has used group recognition to grant refugee status to over 45,700 Venezuelans. The practices and technologies involved may well represent a landmark in refugee protection but there remain concerns over limitations and inattention to vulnerabilities.

Brazil has offered two legal pathways for displaced Venezuelans who have entered the country since 2015. The first avenue entails residency permits and the second is through refugee status.

Regularisation of Venezuelans' legal status through the provision of residency permits is based on Brazil's federal regulations for nationals of border-sharing countries, mirroring the MERCOSUR residency agreement which allows nationals from member States to live in other countries of the South American regional trade bloc. Brazil applies the border-sharing residency permit for countries that are not MERCOSUR members or which – like Venezuela – did not accept the residency agreement element of MERCOSUR membership.¹ The residency permit that applies for Venezuelans is

initially valid for two years, after which it can be renewed. If renewal is approved (contingent on proof of livelihood and lack of a criminal record), the residency permit can become valid indefinitely. With this residency permit Venezuelans have instant documentation and may travel back and forth to Venezuela if they so wish.

Venezuelans fleeing to Brazil can also access refugee status. Based on Law 9474/97, the same rules and refugee status determination (RSD) procedure are followed for Venezuelans as for refugees of other nationalities. Asylum claims are assessed by the National Committee for Refugees (Comitê Nacional para os Refugiados, CONARE). Applying for refugee status also grants documentation which is renewable for as long as the RSD process lasts – or is indefinite

November 2020

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if refugee status is granted. However, unlike for those with residency permits, if someone applying for or with refugee status returns to the country they fled from they might be regarded as forfeiting refugee protection.

It is up to Venezuelans to weigh up their options and choose between the two legal avenues. However, they often have to make this choice shortly after arrival in Brazil (mostly in the border state of Roraima) and this can lead to making hurried and not fully informed decisions.

Group recognition as refugees

In June 2019 CONARE recognised the existence of gross and generalised violations of human rights in Venezuela, thus allowing for the application of the regional Latin American concept of refugee.² This, in turn, led to the application (for the first time since Brazil's Refugee Law of 1997 came into force) of group recognition of refugee status. Group recognition – also known as *prima facie* recognition – means that if an asylum seeker belongs to the group being recognised, his/her request is simply subsumed into the general recognition of all members in that particular group. In Brazil, however, group recognition is being determined by using technology that allows for more detailed assessment.

According to CONARE,³ a business intelligence tool has been used to collect asylum seekers' fingerprints and then to map asylum claims. The technology has compared the information on Venezuelan asylum claims with over one million migratory movements, thousands of records of Venezuelans who are already resident in the country, and 350,000 claims relating to migration with the Ministry



More than 1,000 Venezuelan refugees and migrants sleep in tents in Boa Vista's bus station, Brazil.

of Justice (under which umbrella CONARE resides). To identify eligible individuals, the tool also – according to CONARE – searched for cases of persons who were over 18 years old, nationals of Venezuela, without a residency permit in Brazil, had not left Brazil, and were not subjected to exclusion clauses.

This RSD procedure was first undertaken in December 2019 when it led to the recognition of 21,000 Venezuelans as refugees, was repeated in January 2020 with 17,000 further recognitions, and was then used again in August 2020 with over 7,700 additional recognitions. With over 45,700 Venezuelans recognised in this way, they are by far the largest group of refugees in Brazil, and the country now has the highest number of recognised Venezuelan refugees in Latin America.

Questions and concerns

Questions have been raised, however, regarding the technology used in the process, with civil society and those in academia requesting information on whether any telematics⁴ equipment has been used. Information has also been sought on the filtering criteria being used – such as, for instance, whether there are prioritising

criteria in play within the group recognition filters, including criteria for vulnerabilities, or if the date of arrival in Brazil is taken into consideration (as the longer the wait, the greater the accumulated vulnerabilities might be). So far, there has been no further clarification by the government on this RSD procedure, which in turn raises issues of transparency. In terms of personal privacy, no explanation has been given as to whether the asylum seekers' personal information is being used (or may be used) for anything other than RSD.

In April 2020, CONARE recognised 772 children from Venezuela as refugees but the process and the criteria used were not divulged, except for the fact that the CONARE meeting was held online due to the COVID-19 pandemic and that the children were all relatives of Venezuelans already recognised as refugees in Brazil. It is unclear if this was another instance of group recognition (which would mean a change in the filters CONARE had said they were using, as there had been an 'over 18 years' requirement) or if the relatives of the children were among the 38,000 previously recognised using the business intelligence tool. It is also not clear if the children were merely recognised as an extension of refugee status for a family member (as permitted by Law 9474/97) or if new and independent processes were created and new claims assessed.

Although, as CONARE claims, the group recognition practice has shortened the RSD process by two years, there were over 193,000 claims (of which close to 54% were made by Venezuelans) yet to be examined as of May 2020⁵ and there is still no indication if the group recognition process (and the use of the same business intelligence tool and/or the same criteria) will be the standard from now on for Venezuelans. It is also relevant to observe that it took Brazil over four years (through a succession of politically diverse governments) from the beginning of the influx of a total of 500,000 Venezuelans into Brazil to apply not only group recognition but also the regional concept of refugee to this displacement context. Moreover, regarding the criteria used, it is telling that – according

to what has been divulged – specific vulnerabilities such as gender, disability, social characteristics or other enhanced need of international protection seem not to have been taken into consideration. Another concern relates to indigenous people from Venezuela requesting refugee status in Brazil. There is no information as to their inclusion or potential eligibility for inclusion in the group recognition; this potentially reflects a lack of consideration of one of the most vulnerable populations in the Venezuelan displacement flow.

These issues create a lack of clarity over whether this process can really be considered group recognition – or whether instead it might actually be considered a mass or 'en bloc' determination of individual RSD decisions. If it is indeed group recognition, this is a landmark in terms of Brazil's widely-praised history of refugee protection⁶ and may also lead to greater protection for displaced Venezuelans. In either case, greater transparency about how this technology is applied and a comprehensive commitment to protection are required for the model to be considered adequate.

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1. For more details on the legal status of Venezuelans in Brazil see, for instance, Jubilit L L and Jarochinski Silva J C (2018) 'Venezuelans in Brazil: Challenges of Protection', *E-International Relations* [bit.ly/E-IR-Jubilit-JSilva-2018](https://doi.org/10.1080/15402009.2018.1511111)
2. See Jubilit L L, Vera-Espinoza M and Mezzanotti G (2019) 'The Cartagena Declaration at 35 and Refugee Protection in Latin America', *E-International Relations* [bit.ly/EIR-Cartagena-2019](https://doi.org/10.1080/15402009.2019.1611111) and Blouin C, Berganza I and Feline Freier L (2020) 'The spirit of Cartagena? Applying the extended refugee definition to Venezuelans in Latin America', *Forced Migration Review* issue 63 www.fmreview.org/cities/blouin-berganza-freier
3. bit.ly/CONARE-recognising-Venezuelans (Portuguese only)
4. Merging telecommunications and informatics.
5. Delfim R B (August 2020) 'Mais 7,7 mil Venezuelanos são reconhecidos como refugiados pelo Brasil', *MigraMundo* bit.ly/MigraMundo-Delphim-2020
6. UNHCR (6 December 2019) 'UNHCR welcomes Brazil's decision to recognize thousands of Venezuelans as refugees' bit.ly/UNHCR-06122019-Brazil