

Asylum under pressure in Peru: the impact of the Venezuelan crisis and COVID-19

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The continuing crisis in Venezuela has generated a significant increase in applications for asylum in neighbouring Peru. This has exceeded the government's capacity to respond adequately and in a timely manner – difficulties that are exacerbated by the COVID-19 pandemic.

At the beginning of the Venezuelan migration crisis, Peru was one of the few States that implemented policies to facilitate legal entry and stay. With the introduction in 2018 of the Temporary Residency Permit (Permiso Temporal de Permanencia, PTP), thousands of Venezuelans were allowed to regularise their immigration status. This permit offered a

complementary form of protection and helped to streamline the legal migration process.

However, with the rapid increase in arrivals – 482,571 asylum claims lodged in 2019, compared with 192,000 in 2018 and 34,167 in 2017 – and with the structural problems being experienced in Peru, the general feeling of solidarity with Venezuelans

soon turned to rejection. A 2019 analysis by Oxfam found that around 70% of people in Peru, Ecuador and Colombia would support stricter migration control, while 64.3% of Peruvians believe that migrants “take much more than they put in”.¹

This growing rejection of the Venezuelan population was echoed by the government through the implementation of a series of measures designed to curb their entry into the country. The measures adopted were: a) calling a halt to issuing Temporary Residency Permits; b) introducing the requirement for a passport to anyone entering Peru; and c) introducing a tightly controlled humanitarian visa. Access to this visa is very limited, since it requires applicants to present documents that are difficult to obtain under current conditions – such as a notarised record of any criminal convictions or a passport itself. These barriers led to a sudden increase in requests for asylum since for many refugees this became the only way of entering Peru in a regular manner.

Difficulties in the RSD procedure

Peru’s General Refugee Law – Law 27891 – provides for a rapid recognition process, which should take just 60 days. This comprises presentation of an application for asylum; an interview; evaluation by the government’s Special Commission for Refugees (Comisión Especial para los Refugiados, CEPR); and then approval or rejection of the request for asylum.

Presentation of an asylum claim was initially sufficient to enter Peru. However, more stages and criteria have been established, aimed at limiting the entry of Venezuelan migrants. One of these is the pre-screening undertaken at Peru’s border with Ecuador. According to Peruvian officials, once the request for asylum has been submitted, applicants are interviewed by CEPR personnel at the border. Their files are then sent via WhatsApp² to the CEPR office in Lima, where the decision is taken on whether or not to allow the applicant to enter the country to continue the recognition procedure. This prior evaluation takes 30 to 70 days, during which

time the applicant must wait at the border – without any access to basic services.

The RSD procedure has become an effective barrier to the entry of Venezuelan migrants to Peru. Between June and December 2019, only 13% of asylum seekers were allowed entry into the country. This leaves the remaining 87% in a vulnerable state, unable to enter Peru and, in most cases, unable to legally return to Ecuador since re-entry to Ecuador – without documentation – after more than 48 hours is not allowed. Creating this type of bureaucratic barrier is incompatible with international human rights law and international refugee law. Under both legal frameworks, all immigration procedures must comply with guarantees of due process; by using an ad hoc mechanism, there is no way to ensure that the prior evaluation complies with international legal standards, since there is no procedure to appeal the decision to allow or deny entry to the country. Furthermore, prior evaluation ignores the international principle of *non-refoulement* whereby an asylum seeker cannot be rejected at the border or expelled from a State without adequate analysis of their request for asylum. Along the same lines, UNHCR established in its Conclusion No. 8 that States must allow asylum seekers to remain in the territory throughout the determination procedure. It is clear to us that this prior evaluation process, which lacks clear standards and takes up to 70 days, during which time the applicant is denied entry to the State and to the services it offers, is openly contrary to this principle.

After passing the prior evaluation, applicants face a further long wait for assessment. Because of the numbers involved and CEPR’s lack of resources, the 60-day assessment period may actually last up to a couple of years (according to anonymous CEPR employees, in mid-2019 CEPR’s plans included interviews scheduled to take place in 2021 – that is, two years hence).

The slowdown in the RSD procedure also has an extremely negative impact on access to basic services for survival. As part of the RSD procedure, applicants are entitled to receive a refugee applicant card (Carnet de Solicitante de Refugio), which allows them to work and

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access public services in the interim period. However, since the card can only be obtained after going through the official interview with CEPR in Lima, most applicants cannot get one.

The impact of COVID-19

Difficulties in accessing basic services have been dangerously exacerbated by COVID-19. As of March 2020, 60% of people interviewed by UNHCR in Peru reported difficulties in meeting their basic needs, and since May the Working Group on Refugee and Migration (Grupo de Trabajo sobre Refugio y Migración, GTRM) – in charge of implementing the R4V Coordination Platform for Refugees and Migrants from Venezuela in Peru – has continually reported an increased risk of eviction, food insecurity and economic vulnerability among refugees.³

To combat the spread of COVID-19, the Peruvian government shut down most economic activities in the country. To compensate people for the impact of these restrictions, the government established measures to ensure continuity of salaries and employment contracts, and introduced emergency payments for families living in poverty. However, the first measure only benefits those people who are formally employed, while the second only benefits those who are registered in particular government records regarding income. Eighty-eight per cent of asylum applicants do not have an employment contract, precisely because they cannot access the identity documents necessary to secure formal employment. Thus, in practice, the shutting down of economic activities meant eliminating any income generation for refugees and asylum seekers, without them having the possibility of accessing employment-related support payments.

Meanwhile, to access emergency payments, a family must be registered in SISFOH.⁴ Registration is a bureaucratic and laborious process, which requires having a National Identity Document or Immigration Card, as well as going through a home inspection. The vast majority of refugee families are not registered with SISFOH, either because they have not been able to

access the registration process or because they do not have the necessary documentation. In March 2020, UNHCR protection monitoring showed that fewer than 1% of migrants had their own home – which evidently makes the house inspection process an impossibility in the vast majority of cases.

The Peruvian government ordered that anyone with symptoms or a confirmed case of COVID-19 should have access to medical care regardless of their nationality, immigration status or documentation status. However, it appears that some hospitals have required that patients present a National Identity Document in order to access care.

Opportunities for improvement

With the support of the UN and the private sector, by late May 2020 the government had distributed food to 5,000 refugee and migrant families.⁵ In parallel, through the GTRM US\$2.5 million has been distributed to more than 53,000 refugees and migrants in Peru, with a total distribution of \$5.7 million planned.⁶ However, these short-term relief measures do not solve the systemic problem faced by asylum seekers in Peru: an improvised and inefficient response system that does not ensure access to minimum guarantees.

Firstly, Peru needs to invest in a fast and efficient mechanism for issuing documentation to recognise asylum seekers as such. Refugee applicant cards should be provided the moment the applicant enters the country, rather than being conditional on the official CEPR interview.

Secondly, the State must guarantee that the RSD process complies with Peruvian regulations and international standards, and that no ad hoc measures are introduced.

Thirdly, faced with the pressures on the country's asylum system, it would be ideal – although potentially politically costly – if the government could apply group-based or *prima facie* recognition for asylum seekers from Venezuela. Both UNHCR, on repeated occasions, and the Inter-American Court of Human Rights, in their Advisory Opinion 21, have endorsed this possibility. Doing so would speed up

the integration of refugees into society, with CEPR assessing claims relating to different situations. During this process, people with the required documentation would be able to access employment and the public services that they currently lack.

Fourthly, and finally, in the face of the current pandemic, the State should establish protection measures that include refugees and asylum seekers. A constructive move would be to issue a specific system of relief payments to be delivered by public institutions, rather than leaving NGOs to shoulder the burden of providing assistance. This could also provide an opportunity for the State to compile an up-to-date, accurate record of its refugee population. These measures cannot be adopted overnight but it is time to initiate effective action to end Venezuelans' long wait for recognition and for access to their rights.

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1. Oxfam International (2019) *Yes, but not here: Perceptions of xenophobia and discrimination towards Venezuelan migrants in Colombia, Ecuador and Peru* www.oxfam.org/en/research/yes-not-here
2. We have been unable to access information regarding data security protocols in this process.
3. R4V Coordination Platform for Refugees and Migrants from Venezuela bit.ly/3dIFhLS
4. Sistema de Focalización de Hogares (Household Targeting System)
5. UN Information Centre – Peru (April 2020) 'Perú y la ONU se alían para ayudar a los refugiados y migrantes venezolanos afectados por el coronavirus' (Spanish only) bit.ly/3jPxUFb
6. GTRM/R4V (2020) 'Repuesta COVID-19' (to 26 June 2020) (Spanish only) bit.ly/2Z6pAsv