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# **SITUATION OF VENEZUELANANS WHO HAVE RETURNED AND ARE TRYING TO RETURN TO THEIR COUNTRY IN THE CONTEXT OF COVID-19**

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OFFICE TO ADDRESS THE CRISIS OF VENEZUELAN MIGRANTS  
AND REFUGEES OF THE OAS GENERAL SECRETARIAT

# SITUATION OF VENEZUELAN WHO HAVE RETURNED AND ARE TRYING TO RETURN TO THEIR COUNTRY IN THE CONTEXT OF COVID-19

OAS General Secretariat



Office to Address the Crisis of Venezuelan Migrants  
and Refugees of the OAS General Secretariat  
([venezuela\\_migrantes@oas.org](mailto:venezuela_migrantes@oas.org))

[María Fernanda López](#)  
[Luisa Marín](#)  
[Ernesto Romero](#)  
[David Smolansky](#)

Contributors:

[Valery Fierro](#)  
[Valentina Vethencourt](#)

Cover photograph:

[María Elisa Ramírez](#)

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The absence of a democratic system, systematic human rights violations, food shortages, precarious health systems, the electricity crisis, widespread violence and economic collapse are some of the main causes that have led to more than 5.200.000 Venezuelans<sup>1</sup>, (including pregnant women, children, adolescents, people with disabilities and the elderly) being forced to flee their country since 2015.

The Venezuelan migration crisis has generated enormous challenges for transit and receiving countries which, with the support of the international community and civil society organizations, have made every effort to guarantee the free enjoyment and exercise of the human rights of Venezuelan migrants and refugees, observing *jus cogens* and working to ensure the full dignity and non-discrimination of this population, which is in a situation of manifest weakness.

The difficulties for Venezuelan migrants and refugees have increased significantly since March 2020 when, in the context of the spread of COVID-19, the states of the region decreed measures for its prevention and contingency. It is important to emphasize that economic informality is one of the main characteristics of the migrant and refugee population in the region, with a higher rate of those who participate and live in the informal economy, than those who are part of the formal economy<sup>2</sup>. In this sense, their sources of income have been substantially affected, causing thousands of Venezuelan migrant and refugee families to be evicted, leaving them without a place to live and to spend their confinement. In addition, due to their irregular status, they generally do not have access to the health system. Multiple testimonies from Venezuelan people have made clear the precarious situation in which this group of migrants who are now trying to return to Venezuela find themselves: *"Because of the situation, as we were in quarantine, we did not have the money to pay for lodging and we decided to return"*<sup>3</sup>. In the same way, a Venezuelan woman who was in Colombia explained: *"I had to pay rent and she didn't give me anything to pay rent or to eat because I didn't have*

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<sup>1</sup> Organization of American States OAS, Press Release: "[OAS General Secretariat Launches Report on Situation of Venezuelan Migrants and Refugees in Chile](#)", May 29, 2020

<sup>2</sup> The Washington Post, Press Release: "[Maduro Government Must Stop Stigmatizing COVID-19 Returnees](#)", April 22, 2020.

<sup>3</sup> Testimony of a returned Venezuelan migrant in San Cristóbal, Venezuela Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 7:30 pm, August 4, 2020.

*anything to eat because I was selling on the street and nobody could be on the street anymore and they didn't let you work and I had to come here because of that*"<sup>4</sup>.

In this way, thousands of Venezuelan people have undertaken to return to their country, in exercise of their rights established in the Universal Declaration of Human Rights, specifically in Article 13, paragraph 2: *"Everyone has the right to leave any country, including his own, and to return to his country"*. It is imperative that Venezuelans who seek to return to their country of origin be allowed to do so freely, and that all impediments imposed by the illegitimate government of Nicolás Maduro cease immediately and that Venezuelan borders be opened to guarantee the free exercise of such a fundamental human right.

In this sense, several countries in the region have responded quickly to this crisis and have coordinated efforts to guarantee the return of Venezuelan migrants and refugees to their country, as is the case in Colombia, where a humanitarian corridor was opened in March 2020 to allow the return of Venezuelans, through which 27,000 people passed<sup>5</sup>. Likewise, by April 2020, three more humanitarian corridors were opened. To date, there have been approximately 105,000 returns from Colombia and 6,000 from Brazil, according to official figures<sup>6</sup>.

The intermittent and arbitrary closure of the Colombian-Venezuelan border by the illegitimate regime<sup>7</sup>, has aggravated the situation of vulnerability of people waiting to return to their country, configuring the systematization of violations of their human rights. The restrictions that the illegitimate government has imposed to limit the entry of Venezuelans have caused thousands of people to have to cross irregular paths and borders, putting their lives at risk because of the difficult geographical conditions and the areas where criminal gangs and illegal groups live<sup>8</sup>. In this sense, the intermittent closure of borders with Colombia will cause an increase in the number of people seeking to enter through these irregular roads, increasing

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<sup>4</sup> Testimony of a returned Venezuelan migrant in Miranda, Venezuela Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 5:26 pm, July 24, 2020.

<sup>5</sup> El Tiempo, [The Uncertain Venezuelan Return](#), May 28, 2020.

<sup>6</sup> El Nuevo Siglo, Press Release: ["Muñoz: 75.000 Venezuelans have returned to their country"](#), June 18, 2020.

<sup>7</sup> Migration Colombia, Press Release: ["As of tomorrow, Venezuela restricts the entry of its nationals through the Simon Bolivar International Bridge"](#), August 20, 2020.

<sup>8</sup> Human Rights Watch HRW, Report: ["The Guerrillas are the Police". Social Control and Serious Abuses by Armed Groups in the Colombian Department of Arauca and the Venezuelan State of Apure](#), January 22, 2020.

the risk to which this population is exposed. This is how a Venezuelan stranded in Panama described it, who explained that: *"There are families who want to leave through the Darien jungle, 7 days walking in a jungle full of armed groups. Here there was a case of two elderly people who tried to leave and did not arrive alive, they were killed and in fact left two children, this is horrible. This is just for the person who lives it"*<sup>9</sup>.

In addition, a humanitarian corridor was created between Colombia and Ecuador, through the International Bridge of Rumichaca<sup>10</sup>, so that migrants and refugees who were moving from countries such as Bolivia, Peru and Ecuador would have the opportunity to return. The States of the region are making multiple efforts to guarantee the conditions of migrants and refugees within their territories, in accordance with Resolution No. 01/2020 of the Inter-American Commission on Human Rights (IACHR) on the Pandemic and Human Rights in the Americas. It is important that, as an international community, we continue to explore different ways to guarantee the security of Venezuelans who are seeking to return to Venezuela and in this way, repair and prevent the violations caused by an illegitimate regime that seeks to oppress a people that was already in a situation of manifest vulnerability. This is how a Venezuelan woman who was stranded in the Dominican Republic expressed it: *"We are in a vulnerable situation, but there are people who are worse off, there are people who have stayed in the streets, people who have said they are going to jump into the water, older people"*<sup>11</sup>.

With regard to people stranded at airports and in different countries around the world, this Working Group highlights the commendable work done by the States of the region that, since the beginning of the restrictive measures on mobility, preventive isolation, quarantines, airport and border closures, to contain the spread of COVID-19, have worked together to ensure the protection of these people and that, in a coordinated manner and with the relevant security measures, have allowed the repatriation of their nationals<sup>12</sup>. Despite the adversities, States have preserved their duties and the rights of those who seek to return to their countries,

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<sup>9</sup> Testimony of a Venezuelan migrant stranded in Panama City, Panama Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 2:30 pm, August 6, 2020.

<sup>10</sup> Migration Colombia, Press Release: "[Migration Colombia establishes protocol for land return along the Colombian-Ecuadorian border](#)", June 23, 2020.

<sup>11</sup> Testimony of Venezuelan migrant stranded in Bávaro, Dominican Republic, Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 9:08 am, August 6, 2020.

<sup>12</sup> Ministry of Foreign Affairs of Chile, Press release: "[Regional cooperation between Mexico, Chile, Ecuador, Peru and Uruguay for the reciprocal repatriation of their respective nationals](#)", July 4, 2020.

through the scheduling of humanitarian and repatriation flights<sup>13</sup>. Nevertheless, the panorama is getting worse every day for those Venezuelans who are stranded, whose situation is of total uncertainty, without favorable pronouncements and without hope of being able to return, as the testimony of a Venezuelan stranded in Panama relates: *"We are going hungry, we no longer have anything to do, I can't find a way to get them to donate medicine. We have gone to the airport, we do not have any pronouncements, there are many of us left with tickets bought in different airlines, with tickets in hand"*<sup>14</sup>.

While the conditions of vulnerability of these people, who have nowhere to spend their time in isolation, have no food and suffer from a shortage of medicine, the illegitimate government has allowed at least 5 fuel tankers to enter and approximately 20 flights to land, all from Iran<sup>15</sup>, 16 of which have landed at Las Piedras airport, located on the Paraguaná Peninsula in the north of Falcon state, belonging to Mahan Air<sup>16</sup>. In its observations, this Working Group highlights its concern about the situation between the illegitimate government and Iran, which is the epicenter of COVID-19 in the Middle East<sup>17</sup>. Additionally, it points out that the actions promoted by the illegitimate regime regarding the opening of borders with Iran, evidence the will of the latter to perpetuate fraudulent actions and strengthen its political interests to the detriment of the conditions of the migrant and refugee population, being a clear sign of its intention to continue openly transgressing the human rights of Venezuelan nationals, denying their legitimate right to return and preventing the scheduling of humanitarian and repatriation flights.

For its part, anticipating the difficulties of the pandemic, the Inter-American Commission on Human Rights (IACHR) in its Resolution No. 01/2020, Article 61, has called upon the States of the region to

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<sup>13</sup> Ministry of Foreign Affairs of Colombia, Press Release: "[Foreign Ministry announces twelve new humanitarian flights to repatriate Colombians in the first half of August](#)", July 23, 2020.

<sup>14</sup> Testimony of a Venezuelan migrant stranded in Panama City, Panama Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 10:00 am, August 6, 2020.

<sup>15</sup> BBC, Press Release: "[Ships from Iran: the first of the Iranian ships sent with gasoline arrives in Venezuelan waters](#)", May 24, 2020; El Tiempo, Press Release: "[Tension in Venezuela due to landing of Iranian plane in pandemic](#)", April 23, 2020.

<sup>16</sup> Cocuyo Effect, Press Release: "[Two Iranian Planes Landed in Falcon During Quarantine?](#)", April 27, 2020. Bloomberg, Press Release: "[Venezuela Turns to Iran for Fuel Supplies and Workers](#)", April 23, 2020.

<sup>17</sup> BBC, Nota de prensa: "Coronavirus: Irán encubre las muertes reveladas por la fuga de datos", 3 de agosto de 2020.

*“Implement measures to prevent and combat xenophobia and the stigmatization of people in a situation of human mobility within the framework of the pandemic, promoting awareness actions through campaigns and other communication tools and developing protocols and specific procedures for protection and care aimed at migrant and refugee children and adolescents, in particular, providing specific assistance mechanisms to those who are separated or unaccompanied.”*

In spite of this, the actions and pronouncements of the illegitimate regime of Nicolás Maduro clearly violate the principles of international law and the human rights enshrined therein, and have led to a series of actions that suppress the dignity of Venezuelan people who have decided to return to their country<sup>18</sup>, leaving in evidence, once again, its dictatorial, illegitimate and criminal character, which feeds on oppression, manipulation and incitement to hatred.

The illegitimate government of Nicolas Maduro has deployed multiple actions to stigmatize, discriminate and criminalize the people who return, violating the right to honor, recognition of human dignity and respect for their private life, family, and home<sup>19</sup>.

Along these lines, Nicolas Maduro accused those who enter through trails of being “bioterrorists”<sup>20</sup>, just as the Strategic Operational Command of the Bolivarian National Armed Forces, through its official Twitter account, on July 12 urged the population to anonymously denounce those who had entered through trails, cataloguing them once again as “bioterrorists”<sup>21</sup>.

Venezuelan people who have sought to return to their country of origin, have been catalogued as “biological weapons” by diverse public officials, among them the Secretary of Government of the Zulia State, Lisandro Cabello<sup>22</sup>, who also established that those who return to Venezuela

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<sup>18</sup> Justice and Peace Center CEPAZ, Press Release: “[Returnees are persecuted and stigmatized in times of pandemic](#)”, May 22, 2020

<sup>19</sup> Organization of American States (OAS), American Convention on Human Rights “Pact of San José de Costa Rica”, Article 11, 22 November 1969.

<sup>20</sup> Vanguardia, Press Release: “[Maduro Points to Returned Venezuelans as Guilty of COVID-19 Rebound](#)”, July 14, 2020.

<sup>21</sup> Official Account of the Strategic Operational Command of the Bolivarian National Armed Forces, <https://twitter.com/Libertad020/status/1282314951286284290>, July 12, 2020.

<sup>22</sup> RCN Radio, Press Release: “[Those caught entering Venezuela in an irregular manner will be jailed](#)”, May 23, 2020.

must spend the quarantine inside cells, providing them with treatment equivalent to that of persons deprived of liberty with the fundamental difference that those who return to Venezuela do so in exercise of their legitimate and full right to return to their native country, which in no way represents the commission of any crime. For his part, Freddy Bernal, political leader in Táchira, appointed by the illegitimate regime, established that the houses would be marked to indicate those who allegedly crossed the “controls” provided<sup>23</sup>. These pronouncements threaten the right to life, privacy and domicile of Venezuelans, instead of providing them with the protection that the laws guarantee<sup>24</sup>. The IACHR has categorically rejected the accusations and actions of the illegitimate government of Nicolas Maduro towards the returnees<sup>25</sup>, since the use of such language increases their conditions of vulnerability and poses a series of obstacles to the full exercise of their rights.

Similarly, the Inter-American Commission on Human Rights (IACHR) through Resolution No. 01/2020 on the Pandemic and Human Rights in the Americas, Article 60, called on States:

*“60. To guarantee the right of return and return migration to the States and territories of origin or nationality, through actions of cooperation, exchange of information and logistical support among the corresponding States, with attention to the required health protocols and considering in a particular way the right of stateless persons to return to their countries of habitual residence, and guaranteeing the principle of respect for family unity.”*

The illegitimate government has deprived people who seek to return to their country of the right to return and free transit<sup>26</sup>, prohibiting their entry and preventing Venezuelans who manage to cross the borders from circulating freely within the national territory to return to their states of residence.

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<sup>23</sup> NTN24, Press release: "[Bernal threatened to mark the houses of those who evade epidemiological controls](#)", May 22, 2020.

<sup>24</sup> UN: General Assembly, Universal Declaration of Human Rights, Article 12, 10 December 1948, 217 A (III).

<sup>25</sup> Inter-American Commission on Human Rights IACHR, Press release: "[IACHR calls on States to guarantee the rights of Venezuelans who return to Venezuela in the face of the COVID-19 pandemic](#)", May 16, 2020.

<sup>26</sup> UN: General Assembly, Universal Declaration of Human Rights, Article 13, December 10, 1948, 217 A (III). Organization of American States (OAS), American Convention on Human Rights "Pact of San José de Costa Rica", Article 22 Number 5, November 22, 1969.



On June 9, in arbitrary disregard of international norms and the recommendations of the IACHR, Nicolas Maduro announced new restrictions on return, which would imply a reduction of 80% in the number of people returned, allowing only 400 people a day to enter<sup>27</sup>, preventing the right to return to their homeland of the thousands of people who remain at the border. Given the lack of guarantees that Venezuelan nationals face in order to return to their country, some have been forced to enter through irregular border crossings, crossing paths, a situation that represents an imminent risk to people's integrity, emphasizing once again that these are areas in which different armed groups exercise territorial control<sup>28</sup>. This is what a Venezuelan returning from Colombia told us: *"We were going with money to buy in warehouses, the police in Aratoca did not allow Venezuelans to come near and they fined the businessmen, they fined the hotels that let them in and helped the Venezuelans, where we asked for water they threw muddy water at us, in places they shot us out, the ambulances did not help the Venezuelans, they left them stranded. We walked for 16 days, on the way they robbed us, gangs grabbed small groups of Venezuelans and stole them, if they did not kill us"*<sup>29</sup>.

On the other hand, a group of 72 people who returned to Venezuela through the Guajira border, in the state of Zulia, and who had been in a shelter for more than 46 days, started, on August 10, 2020, a hunger strike as a measure of pressure to demand the Venezuelan authorities to move them to their home cities within Venezuela. Among them are children and elderly adults<sup>30</sup>.

Likewise, on August 12, 2020, a group of Venezuelans stranded in the Dominican Republic, representing more than 220 Venezuelans, presented themselves for the sixth time before the embassy of the illegitimate regime requesting the necessary permits for a repatriation flight that would allow them to return to Venezuela. Unfortunately, despite their constant diligence, they continue in a state of uncertainty due to the lack of response from the illegitimate government.

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<sup>27</sup> El Pais, Press release: "[Maduro restricts the return of Venezuelan migrants and changes his speech with open arms](#)", June 9, 2020.

<sup>28</sup> La FM, Press release: "[Armed groups would be charging for the passage through the trails between Colombia and Venezuela](#)", October 26, 2019.

<sup>29</sup> Testimony of a returned Venezuelan migrant in San Cristóbal, Venezuela Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 2:40 pm, August 6, 2020.

<sup>30</sup> Radio Fe y Alegria, Press release: "[Returned migrants begin hunger strike in the Guajira](#)", August 10, 2020.

Venezuelans who manage to cross the border face multiple human rights violations. Criminalization is the main factor of concern, since they are subjected to arbitrary deprivation of their liberty, as well as to discrimination, cruel, inhuman, and degrading treatment<sup>31</sup>, where their right to life and to physical, psychological, and moral integrity are systematically transgressed<sup>32</sup>. In the words of a Venezuelan returning from Colombia: *"I am from San Cristóbal, Tachira state, Guasimo Municipality. They promised us that they would give us 15 days of quarantine and we have already been there for 11 days and they have not taken us out and now they are telling us that we are going to last 15 more days in San Cristobal"*<sup>33</sup>.

The Inter-American Commission on Human Rights (IACHR) through Resolution No. 01/2020 on the Pandemic and Human Rights in the Americas, Article 58, requires States:

*"58. To avoid the use of migratory detention strategies and other measures that increase the risks of contamination and spread of the disease generated by the COVID-19 and the vulnerability of persons in situations of human mobility such as deportations or collective expulsions, or any form of refoulement that is executed without due coordination and verification of the corresponding health conditions, guaranteeing the conditions so that these persons and their families can safeguard their right to health without any discrimination. In this regard, mechanisms should be rapidly implemented to provide for the release of persons currently held in detention centers".*

Despite the regulations of international law and the recommendations of the IACHR, the regime of Nicolás Maduro has employed dilatory measures, demanding prolonged detentions that subject Venezuelans to precarious health situations and increase the possibilities of contagion. A clear example of this can be found in the testimony of a Venezuelan woman

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<sup>31</sup> UN: General Assembly, Universal Declaration of Human Rights, Articles 3, 5, 7 and 9, 10 December 1948, 217 A (III).

<sup>32</sup> Organization of American States (OAS), American Convention on Human Rights "Pact of San José de Costa Rica", Articles 5 and 7, 22 November 1969.

<sup>33</sup> Testimony of a returned Venezuelan migrant in San Cristóbal, Venezuela Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 6:46 pm, July 24, 2020.

returning from Ecuador who explained: *"We arrived to the Colombian border and then we go to the passenger terminal, there we spent 6 days lying on the ground, eating what little we carried, because in the canteen where food was bought they only accepted dollars, no cards. They also gave us only one meal a day, then we went to a shelter and then we went to have the health exams that they were going to do, at the end we arrived to Barquisimeto, we were delayed in the whole trip almost a month"*<sup>34</sup>.

In relation to the above, last July 28, Freddy Bernal, who since the beginning of the returns had pointed out unconstitutional measures that would violate the Human Rights of the returnees, announced the detention of more than 180 persons who have entered Venezuela through trails, for the alleged commission of "crimes"; 110 of the persons captured, would be taken to the Public Ministry. Likewise, a group of 40 persons who entered through non-regular roads were captured, of which 13 have been processed and sentenced to serve between 6 to 10 years in prison<sup>35</sup>.

It is important to emphasize that all migrants are in a situation of manifest vulnerability<sup>36</sup>, due to their mobility situation. This condition has been seriously exacerbated by the returns and the inhumane treatment that the regime has provided to those who return to their country. Likewise, the importance of strengthening international cooperation mechanisms is highlighted, calling for the containment of the violations suffered by persons returned to Venezuela, since the illegitimate regime of Nicolás Maduro, through all the human rights violations against returnees, has deployed a strategy that strengthens its social control, wherein it is not only a matter of stigmatization, but also of the criminalization of persons of Venezuelan origin who return, in exercise of their rights, to their country.

Public officials of the illegitimate government, including Nicolás Maduro, must be investigated for crimes against humanity and all their measures must be declared null and void due to their unconstitutionality.

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<sup>34</sup> Testimony of a returned Venezuelan migrant in Barquisimeto, Venezuela Virtual interview conducted by the OAS Working Group on the Crisis of Venezuelan Migrants and Refugees, 10:30 am, August 7, 2020.

<sup>35</sup> Runrunes, Press release: ["Bernal says 110 'trocheros' have been referred to the MP"](#), 28 July 2020.

<sup>36</sup> Inter-American Court of Human Rights, Advisory Opinion OC-18/03, September 17, 2003.

Finally, the Venezuelan legal system establishes, unequivocally, that the State and all organs of the Public Power must respect and guarantee, without any discrimination, the enjoyment and exercise of human rights, in accordance with the National Constitution, the Human Rights Treaties and the law (CRBV Article 19). The Constitution of the Bolivarian Republic of Venezuela goes further, and in its Article 21, No. 2, it especially protects those persons who find themselves in circumstances of "manifest weakness".

This is why, in accordance with Articles 19, 21, 25, 29, and 30 of the Constitution of the Bolivarian Republic of Venezuela, the Universal Declaration of Human Rights, the Inter-American Convention on Human Rights, and IACHR Resolution 01/2020, it is requested:

- 1) That discrimination, stigmatization, and criminalization of returned Venezuelans cease, guaranteeing their free entry into Venezuelan territory and their free movement within the national territory;
- 2) That all administrative acts that have been issued in violation of the Constitution, international treaties and the human rights guaranteed therein be declared null and void;
- 3) That all public officials who have ordered and executed such acts be subject to investigation for crimes against humanity;
- 4) That the victims of these human rights violations be compensated, and policies of inclusion be established to reverse the damage caused by the criminal acts of the Nicolás Maduro regime;
- 5) That the international community help make visible the situation in which stranded Venezuelans find themselves and condemn the unconstitutional and illegal response of the illegitimate regime of Nicolás Maduro;
- 6) That the international community unite to help explore different humanitarian avenues for the protection of Venezuelans who are trying to exercise their right to return to their country.



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