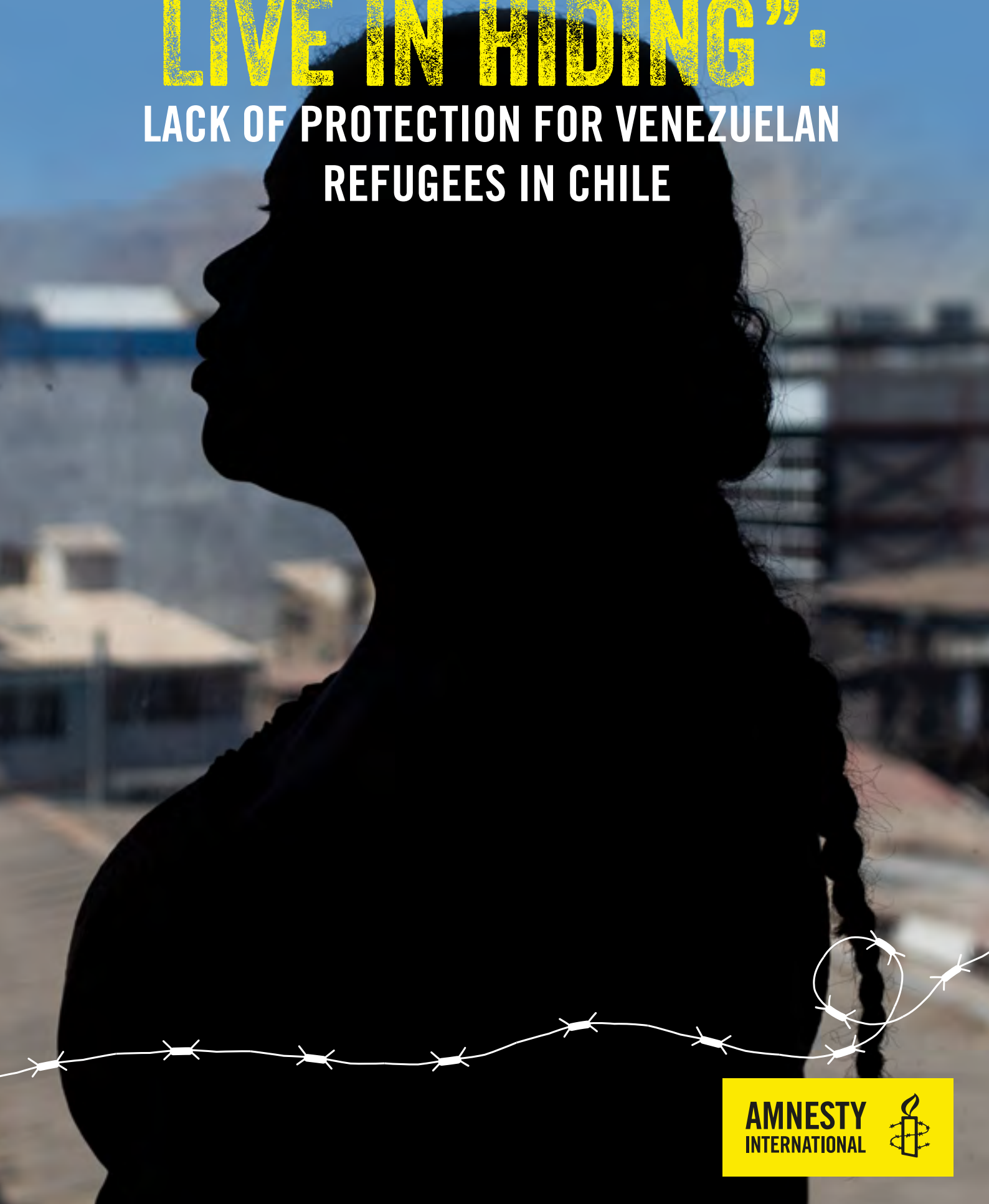


“NO ONE WANTS TO LIVE IN HIDING”:

LACK OF PROTECTION FOR VENEZUELAN
REFUGEES IN CHILE



AMNESTY
INTERNATIONAL



ÍNDEX

04

**“NOBODY WANTS TO LIVE IN HIDING”:
LACK OF PROTECTION FOR VENEZUELAN
REFUGEES IN CHILE**

05

**CONDEMNED TO ENTER
VIA IRREGULAR BORDER CROSSINGS**

08

**UNPROTECTED AT THE BORDER:
SUMMARY AND UNLAWFUL REJECTIONS AND EXPULSIONS**

11

**SELF-REPORTING: CAUGHT BETWEEN THE RISK
OF EXPULSION AND THE IMPOSSIBILITY OF REGULARIZATION**

13

**UNABLE TO
APPLY FOR ASYLUM**

15

**NO REGULARIZATION,
NO RIGHTS**

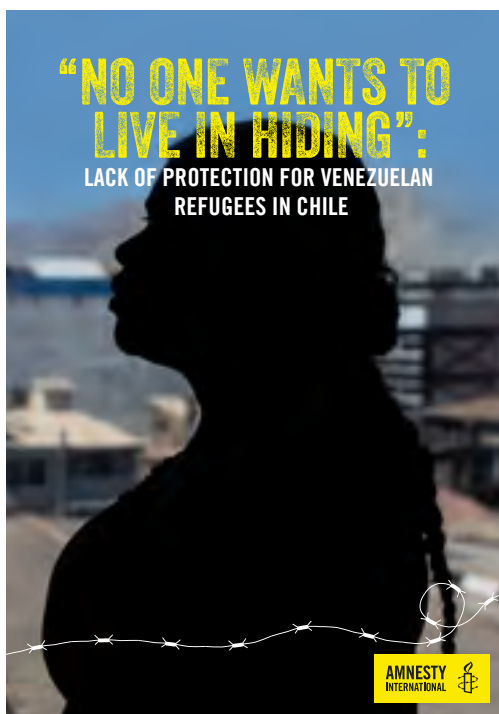
16

**CONCLUSION
AND RECOMMENDATIONS**

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“NO ONE WANTS TO LIVE IN HIDING”: LACK OF PROTECTION FOR VENEZUELAN REFUGEES IN CHILE

This document is based on the experiences of 12 Venezuelan women interviewed by Amnesty International between November and December 2022. The research included field work carried out in the cities of Arica, Iquique and Santiago between August and December 2022. Interviews were conducted with 23 representatives of civil society organizations, four international organizations and nine government entities, as well as requests for access to public information and analysis of available legislation and documentation. Amnesty International thanks all those who participated in or collaborated with this research. In order to protect the safety of those involved in the research, the report uses pseudonyms.

-- Venezuelan refugees --

Amnesty International believes that Venezuelans who have left their country because of massive human rights violations are in need of international protection and are refugees according to the definition of refugee in the Cartagena Declaration, which has been incorporated into Chilean legislation on the protection of refugees.¹ Therefore, this document refers to refugees, regardless of their current migration status in the country.

Carmen is a journalist; in Venezuela, she worked on one of the major newspapers in her region. In 2018, she fled her home due to a lack of food and medicine for her son, as well as threats from Bolivarian National Guard officials because of her work as a freelance reporter.² “I fled along [informal] trails with my family,³ as if I were a criminal, hiding money in my clothes so the National Guard wouldn’t take it from me... that was my lowest point, after having worked all my life.”⁴

Carmen’s story is not unique. As of February 2023, 7,177,885 others like her had fled Venezuela due to the complex humanitarian emergency and the massive human rights violations in the country. Of these, 6,033,396 are refugees in Latin America and the Caribbean.⁵

Amnesty International has documented how Venezuelans face multiple obstacles and human rights violations when trying to enter Chile and seek the international protection to which they are entitled under Chilean and international law.

¹Law No. 20.430 of 15 April 2010 sets out provisions relating to refugee protection.

²Harassment of the press in Venezuela has been widely documented. See, for example, Amnesty International, Amnesty International Report 2021/22: The State of the World’s Human Rights, “Venezuela”, 26 March 2022. www.amnesty.org/en/location/americas/south-america/venezuela/report-venezuela/; Human Rights Watch (HRW), “Venezuela: Attacks Against Freedom of Expression Must Cease Immediately”, 14 January 2021, www.hrw.org/news/2021/01/14/venezuela-attacks-against-freedom-expression-must-cess-immediately; Inter-American Press Association (IAPA), “Venezuela: Periodismo bajo arresto, Informe del Instituto Prensa y Sociedad Venezuela sobre la violencia contra la prensa”, 3 May 2017, www.sipiapa.org/notas/1211430-venezuela-periodismo-arresto

³“Trochas” are informal or clandestine routes on the Colombia-Venezuela border which are usually patrolled by criminal groups and where migrants are often the targets of fraud and robbery by criminal gangs.

⁴Carmen, a Venezuelan woman in Santiago, interviewed by Amnesty International on 28 November 2022.

⁵Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), Refugees and Migrants from Venezuela, 27 February 2023, www.r4v.info/en/refugeeandmigrants

CONDEMNED TO ENTER VIA IRREGULAR BORDER CROSSINGS

The human rights violations that resulted in Venezuelans leaving their country are closely linked to how they make the journey and the abuses to which they are exposed along the way.⁶ The precarious conditions in which women leave Venezuela force most of them to travel across the continent by bus and on foot, sometimes settling in several places for certain periods of time before reaching their final destination.

Omaira and Rosa are women survivors of gender-based violence who arrived in Chile in July and September 2022, respectively. Neither managed to find protection in Ecuador and Colombia, the first countries they fled to after leaving Venezuela.

Omaira was studying medicine and was forced to flee Venezuela with her family because of persecution related to her brother's refusal to serve in the armed forces. She recalled how, in 2016, "[my Ecuadorian partner] really exploited my situation and I began to experience violence. I became depressed because I didn't want to have another child, I wasn't ready yet. When I wanted to leave, [my partner and his family] began to threaten me, they wanted to take [my baby] away from me by force because [they said that] I had no voice or vote in Ecuador, I was just a foreigner."⁷

Rosa, who went to Colombia after fleeing Venezuela, experienced a similar situation. She said that she did not feel safe in that country because she experienced physical and sexual violence from her partner. She went to the Colombian authorities to seek help, but the two complaints she filed with the Prosecutor's Office did not lead to any protection or support measures: "I went to the Prosecutor's Office with a visible scar and nothing happened. So I had to put up with it there. Sometimes I would go to his sister's room and wait there for it to pass."⁸

Amnesty International has documented how Venezuelan refugee women in the region like Omaira and Rosa face multiple forms of violence because countries such as Colombia, Ecuador and Peru fail to guarantee their rights by not providing them with information and effective access to protection and justice mechanisms.⁹ Faced with this lack of protection, many decide to continue their journey to Chile. However, for Venezuelan refugee women, it is in practice impossible to meet the necessary requirements to reach Chilean territory regularly.



⁶United Nations High Commissioner for Human Rights, Human Rights in the Bolivarian Republic of Venezuela (A/HRC/41/18), 9 October 2019, www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session41/list-reports

⁷Omaira, a Venezuelan woman in Calama, interviewed online by Amnesty International on 28 November 2022.

⁸Rosa, a Venezuelan woman in Iquique, interviewed by Amnesty International on 1 December 2022.

⁹Amnesty International: Americas: Unprotected: Gender-based Violence Against Venezuelan Refugee Women in Colombia and Peru, 12 July 2022, <https://www.amnesty.org/en/documents/amr01/5675/2022/en/> and Amnesty International: Unprotected in Ecuador: Venezuelan Refugee Women Survivors of Gender-Based Violence, 17 November 2022, <https://www.amnesty.org/en/documents/amr28/6137/2022/en/>

Carmen said she always wanted to leave Venezuela and migrate in a regular and safe way. Despite her regular status in Peru, she faced discrimination and had a lot of difficulties obtaining a stable job, so, in June 2019, she decided to go to Chile with her family. She was ready to leave when she learned that in June 2019 the Chilean government had imposed a visa requirement for entering Chile.¹⁰ “We were left with nothing. We had sold everything. I started sleeping on a small double mattress with my husband and my son.” In the absence of accessible information, Carmen continued to look for options and finally found a visa that she could apply for from Peru: the democratic responsibility visa (visa de responsabilidad democrática).¹¹

In April 2018, the then Chilean president, Sebastián Piñera, had announced that this visa was being created for Venezuelans who wanted to enter Chile regularly. According to his government, this visa would promote “safe, orderly and regular migration, responding to the present situation and the needs of the country, but without ever losing sight of the rights and protection of migrants.”¹² However, this visa is actually very difficult to obtain, since it can only be requested and granted at the Chilean Consulate in Caracas or in other countries in the region provided the person has regular migration status. They are also required to present passports and other official government documents, such as criminal records,¹³ which most Venezuelans in the region cannot access. Omaira and Rosa, for example, could not apply for this visa without returning to Venezuela, where their lives would be in danger.

Carmen, who had regular migration status in Peru, was able to apply for that visa. The Chilean Consulate in Peru took more than eight months to process this visa application, despite its humanitarian nature. In February 2020, the Consulate granted them a visa, valid for three months, to enter Chile. Once again, Carmen planned a journey that she did not make, this time due to border closures because of the Covid-19 pandemic. Months later, when the border was opened in November 2020,¹⁴ her visa had already expired. She applied for the visa again, but it was rejected without any explanation.¹⁵ Carmen says that her



situation became untenable: “I started selling water at traffic lights on the streets of Lima. I plunged into a depression. I didn’t even recognize myself. I wanted to commit suicide, I felt like my head was going to explode.”¹⁶

¹⁰Diario El Mercurio, “Mecanismo pretende ordenar la masiva llegada de personas de ese país: Gobierno exigirá a partir de hoy visa consular a venezolanos, tal como lo hizo con haitianos”, 22 June 2019, <https://digital.elmercurio.com/2019/06/22/CNB3KDRS7/light?gt=050001>

¹¹Carmen, a Venezuelan woman in Santiago, interviewed by Amnesty International on 28 November 2022.

¹²CNN en Español, “Chile da nuevas opciones de residencia a venezolanos y haitianos”, 17 April 2018, <https://cnnespanol.cnn.com/2018/04/17/chile-residencia-visa-venezolanos-haitianos-ley-migratoria/>

¹³Requirements such as a passport (current or expired) and criminal record documentation issued by the country of origin and officially stamped by Venezuelan officials, are impossible for most Venezuelans to obtain. The Inter-American Commission on Human Rights (IACHR) has expressed concern regarding the “many difficulties and hurdles faced by Venezuelans to obtain or renew passports, as well as to be issued documents including ID cards, birth certificates, certificates of live birth and records of past criminal activity, and to apostille documents.” IACHR, “IACHR Observes Persistent Human Rights Issues in Venezuela”, 5 April 2019, https://www.oas.org/en/iachr/media_center/PReleases/2019/091.asp

¹⁴National Tourism Service (Sernatur), “Chile anuncia reapertura gradual y segura de sus fronteras a partir del 23 de noviembre”, 13 November 2020, <https://www.sernatur.cl/chile-anuncia-reapertura-gradual-y-segura-de-sus-fronteras-a-partir-del-23-de-noviembre/>

¹⁵Amnesty International requested information about the number of democratic accountability visas received and granted by Chile in recent years. No reply had been received at the time this research was completed.

¹⁶Carmen, a Venezuelan woman in Santiago, interviewed by Amnesty International on 28 November 2022.

Finding herself unable to obtain a visa through a regular route, Carmen and her family felt they had no option but to take an irregular route to reach Chile.

Venezuelan people travel long distances by bus and on foot, often with their young children.¹⁷ The closure of land borders, the imposition of visa requirements and the difficulty of obtaining consular visas are factors that push people to cross borders irregularly. To reach the Chilean border, they have no choice but to travel long distances on foot, a physically strenuous journey, during which they are exposed to a hostile climatic conditions, such as the driest desert on the planet, and are at high risk of abuse, including robberies, fraud and sexual violence, at the hands of the criminal groups that dominate those territories.¹⁸

Colchane, on the Bolivian border in the Tarapacá Region, is the entry point to Chile for many Venezuelans.¹⁹ This route, which is 3,700m above sea level, is very dangerous because of the geography and climate and accounts for 60% of migrant deaths on the northern border.²⁰ Nine of the 12 women interviewed by Amnesty International entered the country via this unauthorized route and all said that this journey, which involves crossing the desert from Bolivia, is terrifying.

Carmen remembers walking for almost nine hours straight with her eight-year-old son, her four-year-old daughter and her husband, guided by so-called “Coyotes”²¹ (people smugglers) whom she had to pay to cross the border: “My body was giving up on me, I thought ‘I’m going to die here’, I was breathless. It was completely dark and above me was the most beautiful sky I’ve seen in my life. I’d never seen so



many stars. Those stars were what saved us because they were reflected in the puddles and my son would say to me: ‘Mom, [don’t tread] there’. I saw a several people who didn’t make it the whole way.”²²

Rosa also crossed the desert with her three-year-old daughter and five-year-old son. Having spent several weeks on the streets during her journey from Colombia, her health had deteriorated significantly and she felt he could not breathe in the high altitude of the desert. Seeing she was having difficulty walking, one of the Coyotes abducted her daughter for several hours. Rosa describes the hours during which she was separated from her daughter as the most desperate time of her life. In addition, Rosa was a victim of sexual violence by Coyotes, both of these traumatic episodes are still affecting her mental health.²³

¹⁷This was the experience of Carmen, a Venezuelan woman in Santiago (interviewed by Amnesty International on 28 November 2022); Omaira, a Venezuelan woman in Calama (interviewed by Amnesty International on 28 November 2022); Rosa, a Venezuelan woman in Iquique (interviewed by Amnesty International on 1 December 2022); and Diana, Venezuelan woman in Santiago (interviewed by Amnesty International on 28 November 2022).

¹⁸National civil society organization representative, interviewed by Amnesty International on 30 November 2022.

¹⁹Jesuit Refugee Service (Servicio Jesuita al Migrante (SJM) Chile), “Cruzar la frontera en medio del desierto: Las historias de migrantes que perdieron la vida intentando llegar a Chile”, 20 May 2022, <https://sjmchile.org/2022/05/20/cruzar-la-frontera-en-medio-del-desierto-las-historias-de-migrantes-que-perdieron-la-vida-intentando-llegar-a-chile/>

²⁰Emol, “Colchane acumula el 60% de las muertes de migrantes irregulares en frontera norte”, 19 December 2022, www.emol.com/noticias/Nacional/2022/12/19/1081424/colchane-aumento-muertes-migrantes-frontera.html

²¹“Coyotes” is a term used for people who help migrants cross borders and territories irregularly in exchange for money.

²²Carmen, a Venezuelan woman in Santiago, interviewed by Amnesty International on 28 November 2022.

²³Rosa, Venezuelan woman in Iquique, interviewed by Amnesty International on 1 December 2022.

UNPROTECTED AT THE BORDER: SUMMARY AND UNLAWFUL REJECTIONS AND EXPULSIONS

Law 20,430 on refugee protection, adopted in 2010, recognizes the right of foreign nationals to apply for asylum in Chile. In addition, it contains provisions aimed at protecting asylum seekers,²⁴ such as the principles of non-refoulement, no penalty for clandestine entry or staying in the country irregularly, confidentiality, non-discrimination, the right to family reunification and more favourable treatment,²⁵ without prejudice²⁶ and administrative assistance.²⁷

ASYLUM IN CHILE

In accordance with Chile's commitments as a state party to the 1951 Convention relating to the Status of Refugees and as a signatory of the 1984 Cartagena Declaration, Law 20,430 establishes that people in one of the following situations have the right to be recognized as refugees:

1. Those who owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, are outside the country of their nationality and are unable or, owing to such fear, unwilling to avail themselves of the protection of that country.
2. Those who have fled the country of their nationality or habitual residence because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.²⁸

Individuals can apply for recognition of their refugee status to the National Migration Service (Servicio Nacional de Migraciones, SERMIG) or to the migration authority at a border post, where they must be informed of the process.

Amnesty International believes that the vast majority of Venezuelans in Chile fall within the scope of the Cartagena Declaration and some also fall within the definition of refugee in the 1951 Convention relating to the Status of Refugees. The organization has called on governments in the region to apply the definition of a refugee set out in the Cartagena Declaration and to do so through prima facie or group-based recognition, given the large number of Venezuelans seeking refuge in the region. Due to the collective nature of the threats and risks in Venezuela, and with a view to supporting asylum systems in the region, UNHCR has also urged governments to adopt group-based, or prima facie, determination of refugee status in the case of Venezuelans.²⁹

²⁴Law 20,430 on refugee protection (2010) Arts 4-1, www.bcn.cl/leychile/navegar?idNorma=1012435 (Spanish only).

²⁵Efforts shall be made to afford asylum seekers and refugees the most favourable treatment possible and in no case inferior to that generally accorded to foreign nationals in the same circumstances (Arts 3 and 11 of Law 20.430).

²⁶Nothing in this Act shall be construed as infringing on any other right, freedom or benefit accorded to refugees (Art. 12 of Law 20.430).

²⁷The competent authorities shall assist refugees by providing them with information on their rights and obligations in obtaining documents, certificates or accreditation of their marital status, qualifications and other administrative proceedings. They will also assist in enabling the transfer of their assets, to or from the country, in accordance with the general regulations (Art. 15 of Law 20.430).

²⁸Law 20,430, Art. 2 (2010) www.bcn.cl/leychile/navegar?idNorma=1012435 (Spanish only).



In February 2021, a crisis erupted in the protection and management of people entering Chile through Colchane, a village whose population of 300 swelled to 1,800 with the new arrivals. In response, the Chilean authorities carried out mass expulsions, mostly of Venezuelans, which were widely criticized by international and human rights organizations.³⁰

In addition, that same year, Chile also revised its immigration legislation,³¹ with the aim of making it easier for the authorities to promptly remove and return foreign nationals who tried to enter the country avoiding immigration controls.³² Amnesty International is concerned that the provisions of the new Migration and Foreigners Act may result in the violation of several rights, including the right to seek asylum and be protected from being returned to a place where one's life and rights may be at risk (non-

refoulement), the right to due process and the right to an effective judicial remedy.³³ The Inter-American Court of Human Rights has established that states may not issue administrative or judicial sanctions that result in the expulsion or deportation of foreign nationals without respecting certain minimum guarantees,³⁴ including carrying out individual assessments of their international protection needs.

Organizations interviewed in the north of the country said that the authorities continue to return foreign nationals at the border. Amnesty International requested information from the authorities on the number of returns at the border carried out up to December 2022, disaggregated by place, gender and the nationality of the person returned. However, no response had been received the time this research was completed.

²⁹UNHCR, Guidance Note on International Protection Considerations for Venezuelans - Update I, May 2019, <https://www.refworld.org/docid/5cd1950f4.html> p. 1.

³⁰UN, "Comité de la ONU preocupado por las expulsiones colectivas de migrantes en Chile", 20 April 2021, <https://news.un.org/en/story/2021/04/1491082>; "Chile: Arbitrary and collective expulsion of migrants must stop - UN experts", 19 May 2021, <https://www.ohchr.org/en/press-releases/2021/05/chile-arbitrary-and-collective-expulsion-migrants-must-stop-un-experts>; and "Agencias de la ONU en Chile expresan preocupación sobre proceso de expulsiones", 8 June de 2021, www.acnur.org/noticias/press/2021/6/60bf95fe4/agencias-de-la-onu-en-chile-expresan-preocupacion-sobre-proceso-de-expulsiones.html See also Amnesty International Report 2021/22, "Chile", 29 March 2022 www.amnesty.org/es/location/americas/south-america/chile/report-chile/ and Amnesty International Chile, "Amnistía Internacional Chile repudia la nueva oleada de detenciones y expulsiones ilegales en contra de personas migrantes", 27 April 2021, www.amnistia.cl/noticia/detenciones-y-expulsiones-ilegales-en-contra-personas-migrantes/

³¹The Migration and Aliens Act was enacted in April 2021 and entered into force in February 2022, when the corresponding regulation was published.

³²Law 21,325, Migration and Foreigners Law (2021) Art. 131, www.bcn.cl/leychile/navegar?idNorma=1158549 (Spanish only).

³³While Article 131 provides that individuals may appeal against an expulsion order, this provision cannot be applied in practice since this remedy does not suspend the expulsion order and requires individuals to be outside the country in order to initiate it. Similarly, the wording of the exceptions to Article 131 is also inadequate and is not consistent with international law as it does not incorporate the prohibition of the return of people in need of international protection. On the contrary, it only covers people who present indications of being victims of human trafficking, kidnapping or any other crime that puts their lives at risk, leaving out others with protection needs who have not been victims of a crime, for example.

³⁴Inter-American Court of Human Rights, Case of the Pacheco Tineo family v. Bolivia, Case 12.474, 25 November 2013, https://www.corteidh.or.cr/docs/casos/articulos/seriec_272_ing.pdf

Repeated legislative initiatives put forward since the second half of 2022 by the legislative and executive branches to criminalize irregular entry into the country or expedite the expulsion of foreign nationals are also of concern.³⁵

By carrying out expulsions that do not comply with the minimum guarantees, the Chilean authorities are in breach of their international obligations to guarantee the principle of non-refoulement, established in Chilean and international law.³⁶

Law 20,430 on refugee protection establishes that in addition to the SERMIG, foreign nationals can request asylum from the immigration authorities at authorized border crossings, who will provide the necessary information about the procedure.³⁷

However, Amnesty International received reports that Chilean officials are refusing Venezuelans entry at the border without first offering them information about refugee recognition processes in Chile and without giving them the option of requesting international protection at the border crossing.³⁸ According to civil society organizations, “people are not given the form to request asylum and are subject to a pre-admissibility [practice] -- we don’t know what internal regulation provides for this -- so that in practice people are denied access to the process.”³⁹

According to the information received, pre-admissibility refers to a practice carried out by public officials whereby people seeking asylum are asked for their reasons for requesting recognition of their refugee status, to determine the basis for initiating the process, without analysing the asylum application, as required by due process standards. This often results in a purely verbal refusal by the authorities, without giving a properly substantiated and reasoned written basis for the decision that would enable asylum seekers to appeal against it.

This practice, implemented despite the fact that it is not provided for in Chilean law, has been criticized on many occasions, including by the National Human Rights Institute (Instituto Nacional de Derechos Humanos, INDH) and the Comptroller General of the Republic.⁴⁰ Despite this, in January 2023 the government proposed institutionalizing this measure in the north of the country.⁴¹

³⁵See bills put forward by the Chamber of Deputies: Bulletin 15261-25; Bulletin 15294-06; Bulletin 15453-06; Bulletin 15482-06; Bulletin 15489-06; Bulletin 15503-06; and the bill initiated by the government, pending before the Senate, Bulletin 15409-06. See “Qué significa la tramitación de 8 proyectos de ley en el congreso para modificar la ley de migración?”, 28 November 2022 www.infomigra.org/que-significa-la-tramitacion-de-8-proyectos-de-le-y-en-el-congreso-para-modificar-la-le-y-de-migracion/

³⁶American Convention on Human Rights, Art. 22.7 (1978), <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm> See also, IACHR, Due Process in Procedures for the Determination of Refugee Status and Statelessness and the Granting of Complementary Protection (OAS/Ser.L/V/II) Doc. 255, 5 August 2020, <https://www.oas.org/en/iachr/reports/pdfs/dueprocess-en.pdf>



³⁷Law 20,430, Art. 26. www.bcn.cl/leychile/navegar?idNorma=1012435&idParte=0&idVersion= (Spanish only).

³⁸Another source consulted by Amnesty International also noted that authorities at the northern border have repeatedly indicated that the number of people seeking asylum at the border is zero. Humanitarian worker interviewed on 9 January 2023. Amnesty International asked SERMIG for the number of applications for informal protection at Chilean border crossings, broken down by border crossing, year and the nationality of the applicant. However, no response had been received by the time this research was completed.

³⁹Civil society organization representative in Iquique, interviewed by Amnesty International on 6 January 2023, and humanitarian worker in Iquique, interviewed on 9 January 2023. This was also corroborated by a member of the Chilean Academy, an expert on migration and refugee issues.

⁴⁰National Human Rights Institute, “INDH logra que 150 personas puedan formalizar sus solicitudes de refugio”, 20 June 2019. www.indh.cl/indh-logra-que-150-personas-puedan-formalizar-sus-solicitudes-de-refugio/ and La Tercera, “No procede”: Contraloría cuestiona trabas impuestas por Interior para solicitar refugio en Chile, 23 November 2021, www.latercera.com/la-tercera-pm/noticia/no-procede-contraloria-cuestiona-trabas-impuestas-por-interior-para-solicitar-refugio-en-chile/S6YDPXBOBREYBGFCVAUHBLSKFE/

SELF-REPORTING: CAUGHT BETWEEN THE RISK OF EXPULSION AND THE IMPOSSIBILITY OF REGULARIZATION

Carmen, Rosa and Omaira, like thousands of Venezuelan refugees who have managed to enter Chile, have also been unable to regularize their migration status once in Chilean territory. Amnesty International notes with concern the punitive nature of the Chilean state's response to people who enter the country in need of international protection.

An example of this is the use of the voluntary declaration of clandestine entry, better known as self-reporting. Chilean authorities require people who have entered Chile through unauthorized routes to make this declaration in order to access a process for determining refugee status.

According to the Investigative Police (Policía de Investigaciones, PDI), this procedure is "aimed at those foreign nationals who have entered Chile clandestinely, so that they can be reported to the administrative authority."⁴² The process is free and carried out online and those who have entered Chile with minors must provide information about them.⁴³

Chilean authorities claim that making the voluntary declaration of clandestine entry is not a requirement to access initial reception centres.⁴⁴ Despite this, Amnesty International received statements from representatives of civil society organizations who allege that, before accessing the initial reception centre in Colchane, the first inside Chile, people must go through the PDI, where the Chilean authorities ask them to self-report.⁴⁵ After that, foreign nationals are transferred to a second centre on the outskirts of Iquique, Lobitos, where they receive more extensive humanitarian assistance.

⁴¹ Infomigra, "Conoce las 3 medidas propuestas por el gobierno para el control migratorio en frontera", 23 January 2023. www.infomigra.org/conoce-las-3-medidas-propuestas-por-el-gobierno-para-el-control-migratorio-en-frontera/

⁴² "dirigido a aquellos extranjeros que han ingresado clandestinamente a Chile, a fin de ser denunciados a la autoridad administrativa", Investigative Police (Policía de Investigaciones, PDI), Declaración voluntaria de ingreso clandestino, undated. <https://pdichile.cl/tr%C3%A1mites-online/denuncia-por-ingreso-clandestino> Procedure in accordance with the provisions of Arts 127 (1) or 128 (1), in connection with Art. 32 (3) of the Migration and Aliens Act.

⁴³ PDI, Declaración voluntaria de ingreso clandestino, undated, <https://pdichile.cl/tr%C3%A1mites-online/denuncia-por-ingreso-clandestino>

⁴⁴ Representative of the Presidential Delegate in Iquique, interviewed by Amnesty International on 1 December 2022.

⁴⁵ Humanitarian worker in Iquique, interviewed by Amnesty International on 6 January 2023. Representative of international organization in Iquique, interviewed on 9 January 2023.

⁴⁶ El País, "Colchones y juguetes de venezolanos sin techo, quemados tras

HUMANITARIAN ASSISTANCE IN TARAPACÁ: COLCHANE AND LOBITOS INITIAL RECEPTION CENTRES

Following the humanitarian crisis in Colchane resulting from the increase in the number of people arriving, as well as violent incidents and xenophobia targeting Venezuelans in Iquique in 2021,⁴⁶ the government announced the adoption of humanitarian measures aimed at people on the move, including the setting up of initial reception centres for children, adolescents and their families in Colchane and Iquique.⁴⁷

The Iquique humanitarian centre is located 22km from the city, in front of Lobitos Beach. Ever since it opened in February 2022, there have been strong criticisms about problems with the functioning of the centre that put the rights of the people housed there at risk. For example, one of the organizations' concerns is that the government of Sebastián Piñera directly hired a private events organization company to manage the centre, which has no experience of the specific needs of running such a centre.⁴⁸ Originally, the centre was intended to be a night shelter, but this proved impractical to implement because of its distance from the city and the lack of transport to and from Iquique. In addition, in the first few days, the foreign nationals staying there had no access to basic supplies of drinking water or food.⁴⁹

una marcha contra la inmigración en Chile", 26 September 2021, www.elpais.com/internacional/2021-09-26/colchones-y-juguetes-de-venezolanos-sin-techo-quemados-tras-una-marcha-contra-la-inmigracion-en-chile.html and BBC News Mundo, "Iquique: 'Nos sentimos humillados, tratados como animales': venezolanos afectados por la protesta que terminó con la quema de pertenencias de migrantes en Chile", 29 September 2021, www.bbc.com/mundo/noticias-america-latina-58732902

⁴⁷ IACHR, "IACHR Condemns Violent, Xenophobic Acts against Venezuelan Migrants in Iquique, Chile", 5 October 2021, https://www.oas.org/en/iachr/jsForm?File=/en/iachr/media_center/preleases/2021/263.asp

⁴⁸ Representative of civil society organization in Iquique, interviewed by Amnesty International on 2 December 2022. Representative of civil society organization in Iquique, interviewed by Amnesty International on 1 December 2022. See also, Resumen, "Playa Lobitos de Iquique: el campamento humanitario que puso el Gobierno para migrantes y que administra una productora de eventos", 11 April 2022, <https://resumen.cl/articulos/playa-lobitos-de-iquique-el-campamento-humanitario-que-puso-el-gobierno-para-migrantes-y-que-administra-una-productora-de-eventos>

⁴⁹ Resumen, "Playa Lobitos de Iquique: el campamento humanitario que puso el Gobierno para migrantes y que administra una productora de eventos", 11 April 2022. <https://resumen.cl/articulos/playa-lobitos-de-iquique-el-campamento-humanitario-que-puso-el-gobierno-para-migrantes-y-que-administra-una-productora-de-evento-s>

⁵⁰ Tarapacá Regional Presidential Delegate, interviewed by Amnesty International on 6 December 2022.

⁵¹ Representative of a state entity in Iquique, interviewed by Amnesty International on 2 December 2022.

Under the administration of President Gabriel Boric, the running of the centre was transferred to the office of the regional presidential delegate in September 2022. This led to several changes in the administration of humanitarian assistance. Today, the centre can house up to 300 people and has tents, chemical toilets and showers. Food is provided by the National School Aid and Scholarships Board (Junta Nacional de Auxilio Escolar y Becas, JUNAEB).⁵⁰

However, significant challenges remain. The operation of the centre is dependent on projects by international organizations and civil society. The situation in December 2022 was that, UNHCR visited the centre several times a week to provide legal advice, the Jesuit Migrant Service (Servicio Jesuita al Migrante, SJM) provided medicines, World Vision International (World Vision International, WVI) helped with education programmes for children, and the Vicariate provided financial assistance to buy bus tickets for people to meet relatives in Chile or to cover a month's rent.⁵¹

The women interviewed by Amnesty International embarked on the process of self-reporting in the hope of regularizing their migration status in the future. However, in practice this is not what happens to those who enter Chile through an unauthorized route.

Firstly, Amnesty International has received reports that the authorities have failed to process voluntary declarations of clandestine entry. "There are people who have self-reported up to four times and have not had an answer. The government asked people who had self-reported and who had not received a response by 12 October 2022, to self-report again."⁵² This is what happened to Carmen, who self-reported herself and her family on two occasions, in March and November 2022, without receiving an answer.⁵³ Amnesty International asked the PDI for the number of voluntary declarations of clandestine entry received and processed in recent years, however by the time this research was completed, no response had been received.

Individuals whose self-reports are processed usually receive an expulsion order issued by the PDI.

Faced with this situation, they can file an appeal for protection with the judiciary, to request that the expulsion order be revoked, setting out factors that evidence their roots in Chile.⁵⁴ This could subsequently enable them to apply to the Under-Secretary of the Interior for regularization.

However, civil society organizations that support Venezuelans in this process report that they do not know of any cases of adults who have obtained a positive or negative response from the Under-Secretary of the Interior to this request.⁵² This means that, in practice, foreign nationals who have entered Chile via an unauthorized route remain in limbo; they are not expelled from the country, but they cannot obtain regular status either.

For those who entered via an unauthorized route, the procedure for applying for international protection is fraught with obstacles and risks: self-reporting carries the risk of expulsion, while the appeal for protection seems to be ineffective in overturning the expulsion order and regularizing people's situation in the country. Amnesty International believes that the Chilean authorities are not guaranteeing access to a fair and effective procedure for international protection. Moreover, the self-reporting requirement for people who enter the country irregularly not only functions as a barrier to the international protection procedure, but in practice constitutes criminalization and a form of discrimination against refugees for their way they enter the country, in violation of the Geneva Convention relating to the Status of Refugees.⁵⁵ Finally, self-reporting carries the possibility of being punished with expulsion, which puts refugees at risk of being returned to Venezuela.

Yolanda's case illustrates how those self-reporting run the risk of expulsion. When she arrived in Arica with her family in December 2019 and went to an organization to request assistance, she was advised to report herself as a "foreign offender" ("extranjera infractora"). A year after she self-reported, she received a letter of expulsion from the PDI. "I was scared, I said, oh my God, they're going to kick me out, but when I went to the police station they explained that I only had to go and sign a paper every 15 days," Yolanda said.⁵⁶ After going to sign several times, on a Friday in April 2021, Yolanda was arrested along with all the other people in the police station in Arica.

⁵²Representative of civil society organization in Santiago, interviewed by Amnesty International on 27 October 2022.

⁵³Carmen, Venezuelan woman in Santiago, interviewed by Amnesty International on 28 November 2022.

⁵⁴Amnesty International asked the judiciary for the number of requests for protection received asking for an expulsion order to be overturned, as well as the number of positive and negative responses issued. However, no response had been received by the time this research was completed.

⁵⁵Art. 31 of the Geneva Convention relating to the Status of Refugees prohibits punishing refugees for irregular entry into a country, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>

⁵⁶Yolanda, a Venezuelan woman in Arica, interviewed by Amnesty International on 30 November 2022.

UNABLE TO APPLY FOR ASYLUM

Yolanda was detained for about 24 hours at the Arica police station, during which time she was denied access to legal representation and verbally abused by police officers. She said she was thinking about her children left alone in the house while she was detained. She was already thinking about how she could return to Chile to see her children if she was expelled. In the end, she was released after civil society organizations and the INDH filed an appeal for protection, which was decided in her favour, after being alerted to her case by her partner.⁵⁷

This is an example of the risks involved in self-reporting. In Yolanda's case, she managed to stop the process for her expulsion, but this was not the case for other Venezuelans whose expulsion procedure did not respect due process guarantees. For example, in the context of the expulsions that occurred in 2021, the INDH reported that, in one case, the police had deceived several Venezuelan nationals to get them to sign the expulsion orders by telling them that they were registration documents.⁵⁸ It is estimated that 500 people were expelled in 2021 without an examination of the risks they would face if expelled and in violation of the principle of non-refoulement.⁵⁹

International human rights law recognizes the right of every person, regardless of their migration status, to non-refoulement when their life, integrity and/or freedom are at risk. It is essential that the Chilean state provide alternatives so that Venezuelans in need of international protection can access a fair and effective international protection procedure promptly.

Carmen expressed her desire to stay in Chile on a regularized basis: "I hope that at some point there will be an opportunity to have a legal status, I want to do things right and give my remaining years to Chile... I only ask that they give me that opportunity. If they said to me 'I'm going to give you a work permit and you can earn your regularization,' I work hard, as I've always worked to contribute to this society."⁶⁰ Civil society organizations agree: "Most people want to be regularized, no one wants to live in hiding."⁶¹

The shortcomings of Chile's policy regarding people on the move are also reflected in the lack of access to refugee determination procedures for people seeking international protection. All the women interviewed by Amnesty International were aware of the self-reporting process and had made a voluntary declaration of clandestine entry. However, only one of them knew about the possibility of seeking refuge in Chile.

Under the Refugee Law, the competent authorities have an obligation to provide information about this process.⁶² Failing to do so, violates the principle of administrative assistance and the rights of people in need of international protection.

Omaira, the only woman interviewed by Amnesty International who knew about the possibility of seeking asylum, found out through a civil society organization she was going to for advice on her migration status.

"The lawyer asked for [a slot] to tell my story, and Migration gave me a date to go, but they never helped me. I went [to Antofagasta from Calama] and they didn't even read my documents. The official was a bit brusque and if she wanted to, she was helpful, and if she didn't then it was just 'no'. When it was my turn, I told her that the lawyer had told them about me and she said: 'ah, you're the domestic violence case, we can't help you here'. I wanted to show her my papers and she said 'no, we can't help you with this'. Obviously I left crying because I was so worried."⁶³ Omaira has never been able to submit a formal asylum application and many others like her end up not being registered or going through that process, and therefore they become invisible because of arbitrary and informal rejections by the system of which there are no written records, making it difficult to access the appeals processes. This is a violation of the right to due process, recognized both in the Chilean Constitution and in international instruments such as the American Convention on Human Rights.⁶⁴ Omaira was also not referred to any support services as a survivor of gender-based violence, leaving her without protection.

⁵⁷ Yolanda, a Venezuelan woman in Arica, interviewed by Amnesty International on 30 November 2022.

⁵⁸ Amnesty International Report 2021/22, "Chile", 29 March 2022, <https://www.amnesty.org/en/location/americas/south-america/chile/report-chile/>

⁵⁹ Amnesty International Report 2021/22, "Chile", 29 March 2022, <https://www.amnesty.org/en/location/americas/south-america/chile/report-chile/> and Human Rights Watch, "Chile: Rulings Uphold Rights of Deported Venezuelans", 28 July 2021, <https://www.hrw.org/news/2021/07/28/chile-rulings-uphold-rights-deported-venezuelans>

⁶⁰ Carmen, Venezuelan woman in Santiago, interviewed by Amnesty International on 28 November 2022.

⁶¹ Representative of civil society organization in Santiago, interviewed by Amnesty International on 27 October 2022.

Her story is not unique. Amnesty International received reports from civil society organizations regarding arbitrary decisions rejecting Venezuelans who had approached SERMIG to register and process their applications for international protection on grounds such as nationality. As in the case of Omaira, these rejections are informal and are given verbally by officials who claim that “asylum does not apply to Venezuelan people”, or “as this person entered by an unauthorized route, an expulsion order has been issued and they cannot apply for asylum”.⁶⁵ There have even been instances where “the guard stationed at the office has prevented people entering the asylum section of the migration service.”⁶⁶

Amnesty International also found that SERMIG is refusing to process refugee applications when individuals have not self-reported, despite the fact that Law 20,340 does not make this a requirement for accessing the process for refugee status recognition. The Migration and Foreigners Act Regulations establishes that “foreigners who have entered the country irregularly or whose current residence is irregular and who wish to make a formal request for asylum, must present themselves to the corresponding migration authority within 10 days of the infraction, invoking a justified reason for it”, but makes no mention of the declaration of clandestine entry.⁶⁷ In addition, Amnesty International considers that the 10-day period referred to in the law is insufficient and that it should not be applied mechanically and that the authorities should analyse each individual’s particular circumstances.⁶⁸

Several courts in the country have implemented this criterion. In October 2022, the Santiago Court rejected an appeal for protection filed by the INDH in favour of a Venezuelan citizen and ruled that “any foreigner who has entered Chile irregularly, and who wants to make a formal request for asylum in the country, must, previously, present a self-report for this infraction before the PDI, the authority responsible for border control, a requirement that aims to emphasize an essential characteristic of the



legal institution of asylum, namely the urgency of the international protection that a State may grant.”⁶⁹ In December 2022, the Court of Antofagasta ruled against a Venezuelan person giving similar reasoning.⁷⁰ In other cases, the Supreme Court has recognized that self-reporting is not necessary in order to access procedures for the recognition of refugee status.⁷¹

justificada para ello”, Decree 296 approving Regulation of Law No. 21,325, on Migration and Foreigners, 12 February 2022, www.bcn.cl/leychile/navegar?idNorma=1172573

⁶⁸Article 31 of the Geneva Convention relating to the Status of Refugees states that asylum seekers shall not be penalized for failing to comply with immigration laws when they enter or remain irregularly, if they present themselves within a “reasonable period”. The European Court of Human Rights has ruled that Turkey’s short deadline for presenting oneself to the authorities and applying for asylum violated the European Convention on Human Rights, due to the mechanical and automatic application of this deadline (ECHR, Jabari v. Turkey - 40035/98 Judgment 11.7.2000 [Section IV]).

⁶⁹“todo extranjero que haya hecho ingreso clandestino a Chile, y que pretenda formalizar una solicitud de refugio en el país, debe, previamente, concurrir a realizar autodenuncia por esta infracción ante la PDI, autoridad competente en materia de control de fronteras, norma que tiene como objeto el hacer énfasis en la característica esencial de la institución jurídica del refugio, que es la urgencia en la protección internacional que pueda otorgar un Estado.” Diario Constitucional, “Extranjero que ingrese clandestinamente al país, tiene la obligación de autodenunciarse ante la PDI para formalizar la solicitud de reconocimiento de la condición de refugiado, resuelve la Corte de Santiago”, 5 October 2022, www.diarioconstitucional.cl/2022/10/05/extranjero-que-ingrese-clandestinamente-al-pais-tiene-la-obligacion-de-autodenunciarse-ante-la-pdi-para-formalizar-la-solicitud-de-reconocimiento-de-refugiado-resuelve-la-corte-de-sa/

⁷⁰Diario Constitucional, “Extranjero ingresó al país por paso no habilitado sin que se haya autodenunciado en la PDI por lo que no es posible dar curso y formalizar su condición de refugiado, resuelve la Corte de Antofagasta”, 5 December 2022, www.diarioconstitucional.cl/2022/12/05/extranjero-ingreso-al-pais-por-paso-no-habilitado-sin-que-se-haya-autodenunciado-en-la-pdi-por-lo-que-no-es-posible-dar-curso-y-formalizar-su-condicion-de-refugiado-resuelve-la-corte-de-antofagasta

⁷¹Supreme Court/Request for Protection/98603-2022, 12 October 2022, www.drive.google.com/file/d/1FnjzBr7OTGTyEoTx5fY-F9AMI-vMP8W/view (Spanish only).

⁶²Law 20,430, Art. 26, 2010. www.bcn.cl/leychile/navegar?idNorma=1012435 (Spanish only).

⁶³Omaira, a Venezuelan woman in Calama, interviewed by Amnesty International on 28 November 2022.

⁶⁴Constitution of the Republic of Chile, 1980, www.oas.org/dil/esp/constitucion_chile.pdf and the American Convention on Human Rights (1978) <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>

⁶⁵Civil society organization representative in Santiago, interviewed by Amnesty International on 29 November 2023.

⁶⁶Civil society organization representative in Santiago, interviewed by Amnesty International on 29 November 2023.

⁶⁷“los extranjeros que hubieren ingresado irregularmente al país o cuya residencia actual fuere irregular y deseen formalizar una solicitud de refugio, deberán presentarse ante la autoridad migratoria correspondiente, dentro de los 10 días siguientes de producida la infracción, alegando una razón



Amnesty International condemns this unlawful practice that violates human rights, unduly restricting access to asylum for people in need of international protection.

Another major barrier that people face when seeking refuge is the limited support services provided by SERMIG offices. In Iquique, Amnesty International was able to confirm that this institution is only open two days a week and remains closed the rest of the time. In addition, the legal assistance that people seeking international protection can access is extremely limited and, apart from the NHRI, which does not have the capacity to represent many cases, this falls to civil society organizations, whose presence is limited to cities such as Arica, Iquique and Santiago.⁷² That is, people in need of international protection have limited access to offices where they can seek asylum and cannot count on the legal assistance necessary to apply for international protection and complain when their rights are violated.

Amnesty International notes that demanding that people self-report, coupled with the lack of information on the right to seek asylum and the lack of public support services constitute grave obstacles that prevent Venezuelans being recognized as refugees.

In reality, people who have been recognized as refugees are the exception. In 2021, SERMIG

registered 3,867 formal asylum applications. Of these requests, 79% were from Venezuelans. That year, of the total applications received, only 19 were accepted, while 3,082 were rejected.⁷³

A representative of a civil society organization summarized what requesting asylum means for people: “They go and queue [at SERMIG], they are asked if they have self-reported, and if not, they are told that they cannot process them. If they say yes, they are told to send a letter to the Under-Secretary. They tell them they have nothing to lose by self-reporting, but in reality they do have a lot to lose.”⁷⁴

NO REGULARIZATION, NO RIGHTS

15

Chile is the fourth host country for Venezuelans in Latin America and the Caribbean, after Colombia, Peru and Ecuador, with an estimated 444,400 Venezuelans in its territory – a conservative figure that dates from December 2021.⁷⁵ Most Venezuelan refugees in the country have irregular migration status. Therefore, they lack an identity card with the national unique role number (RUN), which makes it difficult for them to access formal work and lease, and basic services. Although in theory there are certain rights, such as healthcare and education, for minors, who are still legally recognized even without a RUN, in practice the absence of this number results in a constant barrier. Elena, a Venezuelan community leader, says: “If you don’t have an RUT (Unique Tax Reference, Rol Único Tributario), there are gaps in access to basic minimum services and human rights.”⁷⁶

⁷² Representative of a civil society organization in Iquique, interviewed by Amnesty International on 6 January 2023.

⁷³SERMIG, Administrative records [consulted 8 February 2023], <https://serviciomigraciones.cl/estadisticasmigratorias/registrosadministrativos/> Amnesty International also asked SERMIG for the numbers of asylum applications received and rejected in recent years, including the statistics for 2022. The information had not been received by the time this research was completed.

⁷⁴Representative of a civil society organization in Iquique, interviewed by Amnesty International on 6 January 2023.

⁷⁵Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), Refugees and Migrants from Venezuela, 27 February 2023, <https://www.r4v.info/en/refugeeandmigrants>

⁷⁶National civil society organization representatives, interviewed by Amnesty International in Santiago on 27 November 2022.

These gaps are even more entrenched in spaces where socioeconomic conditions are precarious and where the state has less presence, far from the capital, and this is where the Venezuelan population tends to settle because of the economic instability in which they live. An example of this is the Alto Hospicio settlement, near Iquique. In this area, historically abandoned by the state, there are no basic services, such as drinking water, or state institutions dealing health and education, impacting both Chilean and foreign families, who have to travel to Iquique to access these services and informal jobs, in which they are often exploited.⁷⁷

In terms of health, “staff are often not aware of the needs of migrants and, sometimes, do not provide care because people do not have a RUT”. Although Chilean legislation guarantees healthcare for everyone, regardless of their migration status, in practice a provisional RUN is required and there is ambiguity about which institution should grant this provisional RUN.⁷⁹ In addition, Amnesty International received allegations of discrimination by health institution personnel when it comes to providing migrants with a provisional health system number, requiring migrants to meet non-regulatory requirements, such as proof of self-reporting.⁸⁰

Without a RUN, Venezuelans cannot access basic services, bank accounts, tenancies, among other things.⁸¹ They remain in a precarious situation and are invisible to the Chilean state. The only support mechanism available to them is humanitarian assistance channelled through civil society organizations.

The situation of Venezuelan women survivors of gender-based violence who do not have regular migration status is particularly worrying. In several countries in the region, Amnesty International has documented how the lack of migration documentation makes it difficult for Venezuelan refugee women survivors of gender-based violence to access protection, support and justice services, due among other thing to the fear that approaching the authorities carries the risk of expulsion or criminalization.⁸² Amnesty International fears that in Chile the serious obstacles to accessing international protection or other forms of migration regularization described above could negatively impact the rights of these women, leaving them in a situation of greater risk of gender-based violence.

⁷⁷Representative of civil society organization in Alto Hospicio interviewed by Amnesty International on 2 December 2022.

⁷⁸Civil society organization representative in Santiago, interviewed by Amnesty International on 29 November 2022.

⁷⁹Civil society organization representative in Santiago, interviewed by Amnesty International on 29 November 2022.

⁸⁰Representative of civil society organization interviewed by Amnesty International, June 2022.

⁸¹Gladys, a Venezuelan woman in Santiago, interviewed by Amnesty International on 2 December 2022.

CONCLUSION AND RECOMMENDATIONS

Chile had failed to fulfil its obligation to protect people who have fled their country to protect their lives. On the contrary, for those people in need of international protection who manage to enter Chile, accessing refugee status or regularizing their migratory status is an obstacle course. Amnesty International has identified a series of measures, adopted or implemented by the Chilean authorities that, taken as a whole, effectively prevent people in need of protection, such as Venezuelans, from accessing regular migration status in Chile.

These measures include the imposition of entry visas with requirements that are difficult for Venezuelans to fulfil, rules that facilitate immediate returns and expulsions in violation of due process, as well as rejections at the border and the failure to provide information on the status of refugees, in addition to the unlawful requirement of self-reporting, as well as other arbitrary measures. In particular, Amnesty International believes that requiring people wishing to apply for asylum, including Venezuelans, to have self-reported irregular entry beforehand discriminates against and criminalizes them. Denying them the possibility of accessing the procedure to be recognized as refugees puts them at serious risk of return to places where their lives and rights are at risk.⁸³ These practices constitute serious breaches of Chile's international human rights obligations. However, far from addressing these issues, the authorities have sought to introduce amendments that reinforce or exacerbate these human rights violations.

Without options to regularize their migration status, Venezuelans in Chile are condemned to a situation of a total lack of protection, unable to access fundamental rights, which can exacerbate the risks for particularly vulnerable people, such as women who experience gender-based violence.

⁸²Amnesty International, *Unprotected: Gender-Based Violence*

Against Venezuelan Refugee Women in Colombia and Peru, 12 July 2022, (AMR01/5675/2022) <https://www.amnesty.org/en/documents/amr01/5675/2022/en/> and *Unprotected in Ecuador: Venezuelan refugee women and survivors of gender-based violence*, 17 November 2022, (AMR 28/6137/2022), <https://www.amnesty.org/en/wp-content/uploads/2022/11/AMR2861372022ENGLISH.pdf>

⁸³Amnesty International has also documented this situation in Ecuador and Peru. See, *Amnesty International: Ecuador: Unprotected in Ecuador: Venezuelan Refugee Women Survivors of Gender-Based Violence*, 17 November 2022, <https://www.amnesty.org/en/wp-content/uploads/2022/11/AMR2861372022ENGLISH.pdf> and *Seeking refuge: Peru turns its back on those fleeing Venezuela*, 4 February 2020, <https://www.amnesty.org/en/documents/amr46/1675/2020/en/>

In light of the situation detailed above, Amnesty International makes the following recommendations to the Chilean authorities:

■ Apply the definition of who is a refugee contained in the 1984 Cartagena Declaration by the prima facie or collective recognition of Venezuelans seeking international protection in Chile, in accordance with Law 20,430.

■ Ensure effective and non-discriminatory access for everyone in need of protection to the procedure for recognizing refugee status, in accordance with international human rights and refugee law. In particular:

- Ensure that the authorities, both at the border and in other parts of the country, comply with their obligation to inform foreign nationals of their right to seek asylum;
- Take steps to ensure that due process guarantees are respected at all stages of the procedure;
- Put an end to the practice whereby the authorities conduct an informal pre-admissibility review of asylum applications;
- Immediately cease the unlawful practice of requiring people in need of protection to self-report as a prerequisite for access to the refugee determination process;
- Refrain from adopting any regulation or measure that is contrary to the right of asylum and the principle of non-refoulement.

■ Ensure full respect for the principle of non-refoulement, including:

- Respect the prohibition of rejection at the border;
- Amend Law 21,325 on Migration and Foreigners, in order to bring it into line with current international standards on the prohibition of collective expulsions.

■ Eliminate the requirement to self-report, in order to bring Chilean legislation and the actions of the country's authorities into line with current international standards, in particular those relating to ensuring that foreign nationals are not criminalized for entering the country irregularly.

■ Implement training on the human rights of refugees and migrants for all officials of entities that deal with refugees and migrants, both at the border and in other parts of the country, and that



17

make decisions affecting their rights. It is essential that these training processes address, among other things, international standards on international protection and non-refoulement, due process and non-discrimination.

■ Refrain from adopting measures or using language that stigmatizes, vilifies, disparages or discriminates against migrants and refugees, in particular Venezuelans.

■ Ensure that the National Migration Service has sufficient staff and financial resources, including in border areas, to guarantee the continuity of support for refugees and migrants.

■ Ensure that Venezuelans have access to all basic services without discrimination, irrespective of their migration status and nationality.

**“NO ONE WANTS TO
LIVE IN HIDING”:**

**LACK OF PROTECTION FOR VENEZUELAN
REFUGEES IN CHILE**



**AMNESTY
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