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**"The principle of equality and non-discrimination in Human Rights: The case  
of Venezuelan migrants in Ecuador"**

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## DEDICATION

I dedicate this work to God, for giving me clarity, wisdom and understanding to be able to  
conclude my career.

To my parents Dario and Gladys, for giving me their support and advice to make me a better  
person, for their love, sacrifice, effort and for believing in me at all times and never doubting my  
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## ABSTRACT

The principle of equality and non-discrimination is contemplated in the Declaration of Human Rights of 1948; it establishes that no person may be the subject of discrimination based on race, religion, nationality or other characteristics. On the other hand, Venezuelan migration to neighboring Latin American and Caribbean countries has had an impact on internal relations, and the social situation of the receiving countries. The general objective of the research work was to identify the actions to be taken by the Ecuadorian State to improve the guarantee of the principle of equality and non-discrimination in relation to the Human Rights of Venezuelan immigrants in Ecuador. The study had a qualitative approach; with techniques of bibliographic review and an interview directed to six Venezuelan migrants in Cuenca. The main results were that despite the supranational mandate of the principle of equality and non-discrimination expressed in the Declaration of Human Rights, situations of discriminatory treatment of Venezuelan migrants still persist in Ecuador, both by government officials and by employers. The study concluded that proposals can be presented for the care of Venezuelan migrants, through the creation of an office that coordinates cases of legalization of migrants and healthcare, which can be financed by international organizations focused on migration issues.

**Keywords:** principle of equality, non-discrimination, migration, human rights, Venezuelans.

## INTRODUCTION

Venezuelan migration to Ecuador has been a controversial issue that has drawn the attention of the entire society. This is due to the different perspectives and points of view that people have on this issue, related to employment, security and culture shock. Today, human mobility is a very important issue, not only in Ecuador, but globally, since displacement of people occurs for political, socio economic and security reasons. With this, I would like to direct the focus towards the analysis of the guarantee of the principle of equality and non-discrimination in our country towards Venezuelan migrants in Ecuador, as an essential part of Human Rights.

During my experience as a student in the career of International Studies, I have been able to observe and analyze how the issue of migration has been increasing over the years, especially the human mobility of Venezuelans to Ecuador. Venezuelan migration has been a highly debated issue in recent years, being a phenomenon discussed at the international level originated from the strong political and economic crisis in the country. Human mobility is generally due to various reasons such as the economic, social, and political problems of the country of origin, which in the case of Venezuelans; multiple factors have caused them to leave the country in search of a better future.

Among the main reasons for the exodus of Venezuelans is the precariousness of social services such as quality education, health and housing while, in economic terms, the lack of production and economic factors have produced hyperinflation, which has decreased family income affecting livelihoods. However, the progressiveness of Ecuadorian immigration laws has



not improved the situation of Venezuelans, which has distorted the true purpose of the law, making it impossible for Venezuelan migrants to practice their rights. Based on this, I consider it important to publicize and analyze the case of Venezuelan migrants in Ecuador, in order to have a better idea of how the migration situation is in Ecuador and the fulfillment of guarantees related to human rights.

The deterioration of the social and economic system in Venezuela, from 2012 to the present, has resulted in the loss of purchasing power of individuals and families, food and medicine shortages, precarious public services, high crime rates and insecurity; all of this forced the departure of a considerable number of Venezuelans between 2015 and 2019, of which in 2017, 227,810 migrants from Venezuela entered Ecuador (Legarda Sevilla & Folleco Chalá, 2019).

This situation has not been fully accepted in the receiving countries, with regrettable experiences of discrimination being observed. According to the study by Condori et al. (2020), in countries such as Colombia, Ecuador and Peru, xenophobic and discriminatory acts towards Venezuelans have been presented; the authors state that Venezuelan migrants have had obstacles to access employment, medical care, education, and even acquiring consumer goods.

Human Rights (HR) are basic rights, naturally inherent in the nature and existence of human beings as equals. Thus, human rights must be respected, protected, fulfilled, defended and promoted for the sake of human dignity (Itasari, 2020). According to Camacho Monge (2016), the Universal Declaration of Human Rights presented and accepted at the United Nations

conference in 1948, establishes a series of rights inherent to the person, from his human character just for the mere fact of being human. According to Sikkink, Risse and Ropp (1999), the Universal Declaration of Human Rights contains thirty articles detailing various rights, from the right to life, the right to work and the right to rest and leisure.

On the other hand, according to Nguindip (2017), the principle of equality and non-discrimination guarantees that those who are in equal conditions are treated with equality before the law. A violation of the principle of non-discrimination occurs if:

- a) Similar cases are treated differently;
- b) A difference in treatment does not have an objective and reasonable justification; or
- c) If there is no proportionality between the aim pursued and the means used.

Also, due to the characteristics of Venezuelan migration, practically the majority of these people can qualify as refugees. In this regard, it is necessary to mention that the 1951 Convention continues to be the basis of international refugee law and its definition constitutes the main reason for establishing a person's refugee status (Nguindip, 2017).

Discriminatory attitudes threaten dignity and fundamental freedoms, violating two fundamental principles of human rights: justice and equality; the violation of equality in the treatment of individuals or groups, regardless of their specific characteristics, is considered discrimination (Levantezi et al., 2020). According to Sikkink (2017), in current debates on migration and refugees, many activists point to an ideal that is not embodied in the Refugee Convention; they advocate a radical re-conceptualization and redesign of the rules and

institutions of citizenship that are not well defined, but that would imply a dramatic change in the current state system as we know it.

According to Serrano-Cayamcela (2018), “Ecuador has moved in its migration policy from a restrictive and selective securitization approach (sic) towards a human development perspective of human mobility” (p. 146); with this, the author refers to the fact that human rights have been incorporated into migration policy in the country, based on the paradigm of neo-constitutionalism.

In Ecuador, the Human Mobility Law and its respective regulations were recently updated in 2017, which has shown a significant effort to put into practice the defense and corresponding promotion of the protection of the human rights of each migrant (Morales Castillo, 2018). However, these efforts could be insufficient, given that it is necessary to harmonize the human rights of migrants with legal regulations related to work, access to health and education services, and among others (Inter-Parliamentary Union, 2015).

In recent years, a trend of new law with a focus on universal citizenship has taken hold. In this regard, in the work of Ayala Méndez (2013), reference has been made to the close relationship between globalization and the flexibility of transit and migration requirements, emphasizing that universal citizenship is aimed at reinforcing the fundamental rights contained in the Declaration of Human Rights.

Under this framework, the following research question was made: What actions could be taken by the Ecuadorian State to improve the guarantee of the principle of equality and non-discrimination, in relation to the Human Rights of Venezuelan immigrants in Ecuador?

The study's general objective is to identify the actions to be carried out by the Ecuadorian State, to improve the guarantee of the principle of equality and non-discrimination in relation to the Human Rights of Venezuelan immigrants in Ecuador. For its fulfillment, the following specific objectives were established:

- a. Identify what are the human rights of people in a situation of human mobility.
- b. Compare how the principle of equality and non-discrimination is related to the human rights of people in situations of human mobility.
- c. Determine how the Venezuelan migratory flow 2016-2019 has evolved in Ecuador.
- d. Suggest possible actions to be taken by the Ecuadorian State, to improve the guarantee of said principle in relation to Venezuelan immigrants and refugees in Ecuador.

This study is descriptive with a qualitative approach. The main method is based on a field study, which required interviews from Venezuelan migrants to see if their rights were affected and on what specific issue. In addition, this project will apply the documentary research technique of secondary sources, for which a bibliographic review of valid sources such as books, scientific articles, and official publications is carried out; this includes the analysis of the corresponding theoretical framework of the subject, as well as the search and analysis of cases of Venezuelan migrants, human rights, the principle of equality and non-discrimination, and the

Venezuelan migratory crisis. Through this analysis, it was sought to understand and determine the case of Venezuelan migrants in Ecuador.

## **CHAPTER I**

### **The principle of equality and non-discrimination in the human rights of migrants and refugees**

#### **1.1. Definitions of the principle of equality and non-discrimination**

##### **1.1.1. The principle of equality**

Until the eighteenth century it was assumed that, by nature, human beings were unequal, that is, that there was a natural human hierarchy that made them different, exercising an unequal right among human beings, where the so-called natural order of things prevailed; but, this postulate collapsed with the advent of the idea of natural law and the emergence of thought based on an equality of natural order among all human beings (Deranty, 2017). Equality between human beings is a topic that seeks and discusses equality, which became visible during the French Revolution (Villavicencio Miranda, 2018).

For centuries, the principle of superiority of the powerful over the weaker dominated, either by political position, military or by possession, representing inequality or asymmetry in access to justice. Contrary to those proposed by Plato and Aristotle, the classic formula of justice according to which an action offers each individual what is due, was transformed and acquired a substantially egalitarian meaning among people over time; in such a way that, the revolutionary philosophical proposal stated that everyone deserved the same dignity and the same respect (DOXA, 2010).

During the French Revolution, equality, along with freedom and brotherhood, became the basis of the transcendental and philosophical reflections on autonomy and self-regulation, leading to the recognition of the same freedom for all rational beings as a single principle of human rights (Campani, 2014). Such ideas from the Enlightenment period stimulated and promoted the great social movements and many of the modern revolutions, which is why this thinking was incorporated into modern constitutions and human rights declarations.

The principle of equality is based on the assumption that “all people are holders of guarantees by the very fact of belonging to the human species, therefore, equality and non-discrimination make up almost an inseparable binomial with the dignity of the human being” (Palacios Sanabria, 2012, p. 79). Thus, the principle of equality as a right is justified from the universal attribution that everyone will always have, the same quality as moral agents (Villavicencio Miranda, 2018).

According to Villavicencio Miranda (2018), equality among human beings takes on at least two important forms: the first, of a formal nature, which is related to the prohibition of discriminatory treatment with which it is intended to ensure equal opportunities; while the second, called material, refers to the satisfaction of certain basic needs or the distribution of the necessary resources so that people can function as autonomous moral agents.

Regarding the principle of equality, it is necessary to consider two fundamental provisions of the declaration of human rights, which in article 2 establishes that:

Every person has all the rights and freedoms proclaimed in this Declaration, without any distinction of race, color, sex, language, religion, political opinion, national or social origin, economic position, birth, or any other condition. In addition, no distinction will be made based on the political, legal, or international condition of the country or territory on whose jurisdiction a person depends on, whether it is an independent country, or territory under fiduciary administration, not autonomous or subject to any other sovereignty limitation (ONU, 1948, p. 2).

In Ecuador, the law is based on the principle of equality. Under the Constitution of the Republic of Ecuador (2008), in article 11, numeral 2; citizens have the right to be treated equally as addressed in the constitution which will be explained in-depth below:

All people are equal and will enjoy the same rights, duties, and opportunities. No one may be discriminated against for reasons of ethnicity, place of birth, age, sex, gender identity, cultural identity, marital status, language, religion, ideology, political affiliation, judicial past, socio-economic status, immigration status, sexual orientation, health status, carrying HIV, disability, physical difference; nor by any other distinction, personal or collective, temporary or permanent, whose purpose or result is to impair or nullify the recognition, enjoyment or exercise of rights. The law will sanction all forms of discrimination (Constitution of the Republic of Ecuador, 2008).

The principle of equality is not based on people being equal to each other, since each person expresses uniqueness, but rather, based on the diversity that human beings as individuals should receive fair and equal treatment. In this sense, Restrepo (1999, cited by Villegas Arenas



& Toro Gaviria, 2010) indicates that the principle of equality among human beings, regardless of their ethnic origin, does not in any way imply perfect equality, but rather rests on the ethical judgment that in certain social, legal and formal aspects people are very similar and that, consequently, they should receive equal treatment. Also, it can be assumed that the principle of equality is a principle of law from the moment it is applied to all human beings.

### **1.1.2. The principle of non-discrimination**

The principle of non-discrimination has been the subject of multiple discussions at the legislative level, leading to its incorporation into laws and other regulations, to reduce unfair differentiations as much as possible (Aguilar, 2020). The principle of non-discrimination is conceived as the guarantee of equal treatment between people, regardless of whether or not they belong to the same community, region, or country, as well as their race, language, religion (IIHR, 2009). Consequently, the principle of non-discrimination can be seen as a direct consequence of the fundamental principle of equality.

According to Diebold (2010), the principle of non-discrimination constitutes a cornerstone in different fields of international economic law, in particular international trade in goods and services, as well as intellectual property and investment protection. It is a principle that establishes justice in relationships, transactions, and access to rights, as well as the fulfillment of duties without barriers.

Access to employment is one of the essential factors of non-discrimination. At the 100th session of the International Labor Conference (ILO), held in 2011 in the city of Geneva,

Switzerland, the promotion of non-discrimination was discussed, through a better design and application of legislation, gender equity, equal pay between men and women, reconciliation of work and family responsibilities, equality concerning race and ethnicity, protection of migrant workers, equal opportunities for people with disabilities and non-discrimination by age (ILO, 2011).

On the other hand, stigma has negative consequences by disturbing social interactions, limiting social networks, compromising the quality of life, and generating unemployment, perpetuating the cycle of social and economic exclusion, loss of individual status, and discrimination. Thus, stigmatization increases the vulnerability of individuals and groups, directly damaging the health and social representation of those it affects. Its implications are of direct interest for bioethics, considering the inequality that turns into exclusion and results from the relationships between cultural processes and power structures. Therefore, analyzing stigma requires understanding its social and political aspects (Levantezi et al., 2020).

Seco Martínez (2017) affirms that the idea of equality, in the way it has been understood in modern societies, has two faces or dimensions, the legal-formal dimension, and the material dimension. The legal-formal dimension is summarized in the principle of equality of all subjects before the law, which is why it is the one that has had the greatest relevance in current normative systems and is placed first as a subjective right of all human beings concerning the State. However, it is believed that the formal dimension of equality can reduce the problem of the effectiveness of rights. On the other hand, the material dimension responds to the historical need

for people to exist without differences in access to justice, goods, and means to live, that is, with the material conditions of possibility.

According to Moskal and North (2017), equity concerns appear frequently in policy texts. For example, the 2030 Agenda for Sustainable Development included intergenerational equity and justice among the main terms and values, and in particular in reference to social diversity: "equity and justice are also necessary for the diverse groups of the current generation "(p. 107).

On the other hand, according to Sosa Salazar et al. (2019), the principles only play an important role in interpretation at times when the direct and exclusive application of legal norms provides a solution to a certain legal problem. Therefore, the difference between norms and principles establishes various problems in their interpretation; thus, the direct and precise nature of the rules leads to preferring them when facing conflicts with the principles. However, a relatively reasonable interpretation of the rules can lead to situations completely incompatible with the principles related to it, even if they are not considered as illicit or illegal.

## **1.2. Definition and characteristics of human mobility**

Since immemorial times, human beings have always found themselves on the move and this has been an important means of economic and social development; and while human mobility is not a new phenomenon, there still isn't a systematic understanding of the diversity of the underlying reasons (Kuhnt, 2019).

In a globalized world, we face a continuous growth in the movement of people, goods, materials, and information; thus, these movements, analytically called mobilities, actively intersect with environmental, political, economic and social change processes. For example, some mobilities such as hazardous waste are inherently harmful to the environment, while other mobilities such as migration are triggered by the impacts of environmental change, social and economic change, among others (Boas et al., 2018).

Lee (1996, cited by Malamassam, 2016), analyzed the motivations and decisions that people consider when they migrate. In a theory of migration, he pointed out that four aspects influence the decision to migrate, namely, factors associated with the areas of origin, factors associated with the destination area, obstacles involved, and personal factors. The theory showed that the same sets of factors associated with the areas of origin and destination could operate differently in different people; because different people experience different obstacles and personal problems. Therefore, these four aspects work together to differentiate those who decide to migrate from those who do not. Furthermore, migration is seen as a response by the individual, the family, and the community to bridge the gap between their life aspirations and the limited facilities in their areas of origin.

Migration can be seen from its favorable dimension in boosting productivity, innovation, and economic entrepreneurship. According to Macková and Kysučan (2016), through migration, new continents were populated and the current political, ethnic and cultural map of the world was created. Likewise, according to Molina and Granda (2016), migration refers to the movement of one or more people across administrative and political borders, whose objective is

to settle temporarily or permanently in a place different from their place of origin. For his part, Klaus J. Bade (2003, cited by Macková & Kysučan, 2016), states that migrations as social processes are - if we ignore flights (escapes) and forced migrations - a response to more or less complex economic, environmental, social and cultural conditions of human existence.

In the Declaration of Inter-American Principles on Human Rights, which seeks the protection of migrants, stateless persons, refugees, and victims of human trafficking, published by the Inter-American Commission on Human Rights (IACHR), migrants are defined as:

Any person who is outside the social, emotional, or political territory to which he or she belongs. For these principles, a migrant person is someone who is outside their national territory, regardless of their immigration status, their intention, and their temporality. It also includes stateless migrants and victims of human trafficking as defined by national laws and relevant international conventions (CIDH, 2019, p. 3).

Migration has also contributed to the significant growth and enrichment of ancient classical culture, for example from this historical territory, the evolving Greek culture spread through great waves of migration known as the "Great Greek Colonization". As a consequence of the rapid economic growth of Greek municipalities since the beginning of the Archaic period of Greek history and the related population growth, the free population of these municipalities had to seek new settlements (Macková & Kysučan, 2016).

In reality, migration played up to three roles: first, it was a natural demographic outlet that could prevent possible social unrest; second, it enabled the Greeks to obtain valuable

resources from agricultural land, timber, and minerals; and third, it supported the exchange of civilizations (Macková & Kysučan, 2016).

According to Pincay, Cañarte, Pincay, and Durán (2018), “the mobility of people through international borders goes back to the creation of the borders themselves, and the vulnerability of those foreigners is not a recent problem” (p. 581). In this sense, it can be considered that mobility and migration are intrinsic human characteristics; since it is considered that the human being has always kept moving, discovering, or seeking better perspectives in other lands.

On the other hand, except for the perverse totalitarian systems of Nazism and Communism, all of modern civilization is characterized by the growth of a wide variety of human freedoms. Paradoxically, one of the most natural freedoms, freedom of movement, is significantly restricted as never before and a phenomenon as obvious as the migration of people or groups of people that have become an unmanageable threat (Macková & Kysučan, 2016).

A very important aspect of mobility is the economy and the search for better livelihoods. In this regard, Delgado Wise (2018) emphasizes that the configuration and expansion of global networks of monopoly capital, as a restructuring strategy led by large multinationals, which, through outsourcing operations and subcontracting chains, extend part of their production processes, commercial, financial and services to the Global South in search of abundant and cheap labor through global labor arbitration. The massive nature of migration associated with the contradictory and disorderly dynamics of uneven development has broadened the traditional notion of forced migration.

According to Schewel (2019), migration studies suffer from a mobility bias. The accusation may seem strange, given that mobility is the very subject that the field seeks to understand. The author says that migration can refer to many forms of spatial mobility; some of the early research on migration examined internal migration, while contemporary scholars focus primarily on international migration. On the other hand, Sheller (2018) indicates that the field of mobility studies began with discussions about "automobility" as the dominant system, but it even included research on the combined movements of people, objects, and information in all their complex relational dynamics in many places and on many scales.

Mobility research has several key characteristics that distinguish it from other approaches in social sciences. First, it analyzes phenomena from the point of view of movement; secondly, it uses the term mobility instead of the singular term mobility, because its goal is to not only understand people, but also how images, communications, and objects are in motion and how these actual and potential movements organize and structure social life (Boas et al., 2018).

In Salazar's study (2019), the author affirms that the concepts of migration and mobility clearly intersect, but they are not synonymous; although migration by definition implies mobility, and migration studies have favored the study of other aspects of the migration process. For Sheller (2018), when analyzing the problem of mobility injustice, he affirms that it begins with our bodies and how some bodies can move more easily through space than others, due to mobility restrictions related to mobility, gender, race, class, ethnicity, sexuality, and physical abilities.

Regarding the social implications, mobility itself has become an important factor of social stratification. Many people automatically link “voluntary” geographic mobility to some kind of symbolic “escalation”, be it economic (in terms of resources), social (in terms of status), or cultural (in terms of cosmopolitan disposition). In other words, mobility is used as an indicator of the variable access and accumulation of various types of “symbolic capital” (Salazar, 2019). Although migrants are seen as both economic and cultural threats, the cultural threat is the most powerful factor in the creation of anti-immigrant attitudes (Moskal and North, 2017).

Mobility, as a concept metaphor, captures the common impression that our world of life is changing, with people, cultures, objects, capital, businesses, services, diseases, media, images, information, and ideas circulating the planet. Mobility is a controversial ideological construct that involves much more than a mere movement; but is socially embedded, manifested in meta-cultural discourses and imaginaries (Salazar, 2019).

An important factor in the analysis of migration is the demographic configuration of the population group that moves from one country to another. In many countries, young people dominate migration flows and are known as the most mobile age group. In Indonesia, a recent census by the Indonesian Bureau of Statistics reported that around 30 percent of the migrant population in the country belongs to a 15-24 year old population group; the youth movement causes an imbalance in the distribution of the population between the regions of this country, particularly between urban and rural areas (Malamassam, 2016).



The choices of destination by young migrants are influenced by their future expectations and plans. Sweeney Research (2009, cited by Malamassam, 2016), reports that the choice of young migrants in destination areas largely depends on their expectations about education and employment opportunities in those places; the familiarity of migrants with the destination areas, as well as the presence of family or friends, are factors that influence the choice of destination.

Migration analysis can be based on three levels. The macro-level refers to factors that are common to all potential migrants in a particular country, such as the socio-economic and political context or migration governance and policies of countries, regions, or other entities of origin and destination. The meso-level encompasses sub-national or local factors, including networks or cultural reasons. Individual and family characteristics of potential migrants, such as gender, age, educational level, and social status, as well as behavioral factors, like risk aversion, are part of the micro-level (Kuhnt, 2019).

Socio-economic status is also a major factor in destination areas for migrants (Malamassam, 2016). In this regard, Herbst et al. (2017), states that the economic theory assumes that human capital affects growth by influencing labor productivity and by determining the economy's ability to innovate; this is related to the migration of professionals; since numerous empirical research studies have confirmed the positive effect of the stock of human capital and its quality on growth rates at both national and regional levels. Changes in migration policies, whether in the country or region of origin, transit, or destination, are likely to influence migration (Kuhnt, 2019).

The identification and analysis of the reasons that lead people to go beyond their borders or their places of origin, where they live their daily lives, constitutes an essential element in the appropriate attention to their respective condition as migrants; given that, it can be assured that the consideration and due attention to this aspect must begin before people can decide to venture in the search for what appears to be an illusion. This means that attention to the phenomenon represented by migration or the international mobilization of people should allow the creation of a context of appropriate public policies framed in Human Rights, from the expelling States and, consequently, in the countries of transit and destination (Uribe Arzate & Olvera García, 2019).

Migrants are often rejected by those who fear 'newcomers', showing the impact of their presence on the cultural dimensions and attitudes of people in host societies, given the growth observed in the volume of displaced people and refugees in recent years due to political problems like; Instability, criminal violence, persecution, natural disasters, environmental degradation linked to climate change, poverty and inequality (Canelón Silva & Almansa Martínez, 2018). On the other hand, it is necessary to consider the range of migration displacement; According to the International Organization for Migration (IOM) (2017), the majority of international migrants remain in their region of origin (Canelón Silva & Almansa Martínez, 2018).

### **1.3. Relationship between the principle of equality and Human Rights**

Human Rights are fundamental rights; they have the characteristic of being naturally inherent to the nature of the human being (Itasari, 2020). The intention of the Declaration of Human Rights is its universal applicability, in every one of the spheres of life, for which they

must be respected, protected, complied with, defended, and promoted for the sake of human dignity (Itasari, 2020).

According to Gutiérrez and Arango (2019), in a broad sense, human rights are understood as the group of ethical demands and values that are adopted in countries or societies over time and that, today, are manifested through legal norms, both nationally and internationally. These norms demand certain obligations and duties from the State, so that, by assuming human dignity as a preponderant value, the powers of justice over people are directly recognized; these obligations of the State are precisely those that give importance to the study of human rights and their relationship with it. According to Itasari (2020), the implementation of respect, compliance, protection, application, and promotion of human rights is an obligation and responsibility of the State, especially of the government, in charge of executing or enforcing laws.

The Universal Declaration of Human Rights (UDHR) describes basic rights, as classified first generation rights. Adopted by the United Nations in 1948, the UDHR begins by affirming, in Article 1, that all people have the right to freedom, are considered equal in dignity, and in the set of social rights that provide protection. Meanwhile, in Article 7, the document clearly registers the concern for discrimination by establishing that all human beings are equal before the law and have access to rights without differentiation among them, as well as to be protected by the law. Everyone is entitled to equal protection against any discrimination in violation of this Declaration and any incitement to such discrimination (Levantezi et al., 2020, p. 19).

Another document that addresses non-discrimination is the Universal Declaration on the Human Genome and Human Rights, adopted at the 1997 Unesco General Conference. In its Article 6, the document states that:

No one shall be subjected to discrimination based on genetic characteristics that are intended to infringe or have the effect of infringing human rights, fundamental freedoms, and human dignity. The passage warns against the risk of stigmatization resulting from genetic studies suggesting the inherent inferiority of certain groups (Levantezi et al., 2020, p. 20).

Access to human rights by displaced persons or refugees, who have a special migratory status as they try to escape from certain dangers in their countries of origin, is becoming increasingly important. Refugees are people who have fled war, violence, conflict, or persecution and have crossed an international border to find safety in another country (Cruz-Mera & Tusev, 2019). According to the study by Moskal and North (2017), although education is a basic human right, recent research shows that refugee children are five times more likely to be out of school than the global average; only 50% of refugee children have access to primary education, while the global average is over 90%. The gap widens for adolescent refugees, of whom only 22% have the opportunity to attend secondary school, compared to a global average of 84%. At the higher education level, less than 1% of refugees attend university, compared to 34% globally.

Gender equality and women's empowerment feature prominently in the 2030 Agenda for Sustainable Development and the Sustainable Development Goals (SDGs). Concerning migration issues, target number 10.7 aims at facilitating the orderly, safe, regular and responsible

migration and mobility of people, including through the implementation of coherently planned and well-managed migration policies and regulations by authorities. Empowerment, in particular, is a difficult concept to define, contextualize and measure, including for the purpose of assessing the impact of migration. According to the UN, women's empowerment has five components: women's sense of self-worth; their right to have and decide choices; their right to have access to opportunities and resources; their right to have the power to control their own lives, both inside and outside the home; and their ability to influence the direction of social change to create a fairer social and economic order, nationally and internationally (Platonova & Gény, 2017).

On the other hand, the living conditions of women before migration and the nature of the migration process have a considerable impact on the prospects of migrant women in the country of destination. Other experiences in the new place may alleviate or reinforce existing vulnerabilities and impact positively or negatively on the individual, household, and community as a result of migration. In the context of Caribbean migration, migrant women often face new layers of discrimination in the country of destination, especially as they continue to integrate into the labor market with low-paying jobs that entail harsh working conditions and where jobs are often tied to the specific employer (*ibíd.*).

There are multiple factors that contribute to disqualification and many of these are related to social norms. For example, when both spouses have jobs, it is common for migration decisions to be made to meet the professional needs of male partners. In other cases, female-dominated occupations tend to be given lower priority in admission systems than male-dominated

occupations, and this can result in many qualified women being admitted as spouses rather than with an employment contract (Platonova & Gény, 2017).

According to UNHCR (2017, cited by Cruz-Mera & Tusev, 2019), there are three types of migrants: refugees, displaced persons, and asylum seekers. Refugees are those who, due to life-threatening persecution such as war, have been forced to cross borders to seek refuge in a host country. Displaced persons are those who have had to flee their homes for reasons similar to those of refugees, but seek refuge in the same country, in safer areas; and asylum seekers are those who have applied for refugee status in a country other than their own, but have not yet received a definitive response.

According to the United Nations (2018), the human rights of millions of migrants around the world are not sufficiently protected or are at risk of abuse. This is especially for migrants who do not have the legal right to remain in the countries in which they reside and who may be subject to forced returns or otherwise encouraged or coerced to return voluntarily.

Although human mobility does not appear to be established as a specific objective or goal in the 2030 Development Goals, transversally it can be seen as an explicit field with collective themes in which political action is inscribed, namely: The protection of Human Rights over other cultural or nationality factors (Canelón Silva & Almansa Martínez, 2018).

The failure to safeguard migrants' rights in the context of return has been shown to give rise to several serious human rights concerns. In the absence of systematic monitoring and

reporting, it is difficult to know the extent of potential abuses; however, reports indicate that migrants are at increased risk of being returned to places where they may suffer torture, abuse, cruel punishment, humiliation, or inhumane treatment (ill-treatment) in violation of the principle of non-refoulement (United Nations, 2018).

## CHAPTER II

### **Venezuelan migration in Ecuador: a historical perspective**

Globally over the last decades, the total number of international migrants has grown substantially; while in 2000 it was estimated that 173 million people were living outside their country of origin, but in 2017 this figure increased to 258 million. However, it is considered that this increase has been proportional to the general demographic growth. On the other hand, the percentage of migrants in accordance with the world population has shown little increase and remains very low, since it is estimated that in 2000 the proportion was 2.8% and in 2017 it was 3.4%, therefore, the permanence of people in the country of origin remains the usual (OXFAM, 2019).

Ecuador has not been a country characterized for being a recipient of immigration; on the contrary, it has gone through different stages of departure of its citizens to countries such as the United States, Spain and even Venezuela. However, with the improvement of economic and social conditions after the dollarization in 2000, Ecuador has served as a refuge for migrants from different parts of the world, including people from Canada, the United States, Cuba, Colombia and Venezuela (Esparragoso, 2012). According to Díaz and Perales (2020b), migration to Ecuador has occurred with lower balances upon departure, which is why even citizens consider that there are a greater number of opportunities in other countries.

Venezuela, on the other hand, has had a migratory history contrary to that of Ecuador. The oil-producing country has frequently been a recipient of migrants from different latitudes of



the planet, including countries in Europe, Asia and Latin America, due to the effects of the oil production business. However, the socio-political crisis of the last 20 years has led to the departure of a considerable number of Venezuelans, who, despite their educational background, do not feel safe in their territory, and the prospects for a better future are slim.

The outflow of Venezuelans to neighboring countries in the region has brought with it both positive and negative aspects. According to a study carried out in Peru, a significant number of these migrants are trained in different areas and are capable of performing different economic activities. It was also observed that the participation of Venezuelans in formal and informal economic activities has contributed with about US\$ 600 million to the growth of the Peruvian GDP, which has represented 0.3% of GDP in 2019; this has had a favorable impact on the economy by creating greater dynamism, thus maintaining a favorable economic growth for the country (OXFAM, 2019).

The different records and studies carried out in the countries of destination of Venezuelans, has been observed with interest that they have excellent technical and professional training, as well as handling foreign languages such as English and various skills for work that contribute to quality, increasing competitiveness, and contributing to innovation in different industries and services (OXFAM, 2019). In a study conducted in Peru by Mendoza and Miranda (2019), it was found that 92.2% of Venezuelan professionals reported having a degree obtained in higher education; however, the majority of those who have a degree have not been able to obtain the respective homologation, basically for economic reasons (40%), for not knowing the registration procedure (33%) or because they did not bring their diplomas (20%).

## 2.1. Historical perspective of the Venezuelan migratory crisis

As mentioned before, Venezuela was characterized as a migrant-receiving nation, but as a result of various political, economic and social circumstances, the migratory character of Venezuela has been reversed, and it is now a migrant-producing country (Marín-Pérez & Méndez-Cabrita, 2019).

It is important to take into consideration that in the 19th century, after the war of independence and the establishment of the republic, Venezuela opened its doors to international migration in order to fill the void left by the struggle against the Spanish, which resulted in thousands of lost lives and disabled people. The new republic of Venezuela was founded with the contribution of migrants who arrived from various countries, whose arrival is distributed in five well-defined moments since then (Páez B & Phélan C, 2018):

- First moment: Frustrated Immigration (1824-1936).

Migration from European countries was encouraged for the construction of the so-called agricultural colonies. At that time, 26,090 immigrants arrived in the country, of whom 20,000 came from Spain, 2,764 from Italy and 1,806 from France (Páez B & Phélan C, 2018).

- Second moment: The Transition (1936-1945).

During this period, new migration and naturalization laws were formulated to promote migration from Europe once again. A particular event at this time was the arrival of Jewish migrants fleeing from the Nazis in World War II. There was also the arrival of Spanish republicans seeking refuge at the end of the civil war (Páez B & Phélan C, 2018).

- Third moment: Open Doors (1945-1958).

Institutional strengthening in the area of migration was developed. 78% of the total migrant population were southern Europeans, as well as North Americans and Colombians. Among those originating from Spain, 33% came from the Canary Islands and another 33% from Galicia (Páez B & Phélan C, 2018).

- Fourth moment: Beginning of Democracy (1958-1970).

There was a relative contraction of immigration and a selective immigration policy was implemented, which meant the closing of the previous open-door policy. During this period, 15% of the total population in Venezuela were immigrants, primarily from Spain, Portugal, Italy, Lebanon and Syria (Páez B & Phélan C, 2018).

- Fifth moment: Associated with the "oil boom" (1970-1983).

The policy of full employment and the opening of large investments in various infrastructure works were applied. Internationally, it coincides with moments of South American dictatorships; therefore, immigration is predominantly from Argentina, Ecuador, Colombia, Peru, Chile and Cuba. The return of European migrants and the emigration of highly qualified Venezuelans to the United States began (Páez B & Phélan C, 2018).

Peñafilel Chang (2020) developed a study in which he explains the migratory development of Venezuela from 1945 to the present, more as a receiving country than as an issuing country. The following is a summary of the periods defined by the author, with which he seeks to describe the circumstances and motivations.

### **2.1.1. Period 1945 – 1970**

During this period, Venezuela was a recipient of immigrants from Europe who arrived fleeing from war conflicts such as World War II, as well as for social, political and economic reasons (Morales and Navarro, 2008). During these years, despite the dictatorial political regime that lasted until 1958, Venezuela, unlike other Latin American countries, was a country with an absence of conflicts, economic stability and a modernization process in which immigrants played a very important role.

### **2.1.2. Period 1970 – 1980**

In the early seventies, the stage of Latin American immigration to Venezuela began, where the main reasons were related to the level of qualification, and economic activity that they developed. An example of this were the Colombians, the main groups of immigrants to Venezuela, who arrived in search of better living conditions, after the economic contraction suffered in Colombia as a result of the drop in coffee prices (Peñañiel Chang, 2020).

On the other hand, during this period, Latin America in general was under dictatorial regimes such as Bolivia, Argentina, Uruguay and Chile, which forced people to emigrate for political reasons. In all cases, whether Colombians or other Latin American immigrants, the choice of Venezuela as a destination was due to the stability and economic strength of the time, as a result of the success that oil had provided after having achieved good margins in world markets. Meanwhile, the migratory flow of Venezuelans abroad during this period is considered temporary, an example of this is, the people who left the country to study in other parts of the

world, and when they finished their university specialties, in most cases they returned with the purpose of joining the productive sector, developing academic and research groups, and innovating in different areas of the country. There were also migrations of people from politicized sectors of society in search of exile and security.

### **2.1.3. Period 1980 – 2000**

It was until 1983 that Venezuela maintained a panorama of social and economic stability. During that same year the country entered in crisis, as a result of the commitments acquired during the oil bonanza season, which resulted in a large foreign debt. These events caused an economic downturn that ended in the well-known "Black Friday" event, which was a turning point in the Venezuelan migratory situation for the next twenty years; it is during this time that the migratory pattern in Venezuela changed (Peñafile Chang, 2020).

The deterioration of production and public services, together with unemployment and corruption scandals, affected the behavior of the population, which began to show signs of Venezuelan emigration. During this period, Venezuela went from being a receiver to a progressive emitter of population. Throughout these years of crisis, thousands of Venezuelans made the decision to seek a better way of life by emigrating, which included young people who were about to finish university and professional studies, and at the same time immigrants who had arrived years ago, began to return to their countries of origin (Peñafile Chang, 2020).

According to García Arias and Restrepo Pineda (2019), during the 1980s and 1990s Venezuela underwent a transcendental change in its migration patterns. The severe crisis in

which the country was submerged not only had discouraging effects on migratory movements from abroad, but also contributed to triggering processes of the return of foreigners living in South American countries, and the emigration of Venezuelans, who also reacted to the situation of economic decline, social decomposition and institutional deterioration. However, it is during the last decade that this dynamic seemed to have increased, in its economic, social or political retention. The Venezuelan nation did not have the experience of international emigration, which implied leaving the place of origin for a prolonged or indefinite period of time (Peñañiel Chang, 2020).

#### **2.1.4. Period 2000 – 2010**

The beginning of the 21st century in Venezuela started with deficiencies and emigration of all kinds, among them: engineers, scientists, technicians, academics, health professionals, businessmen and sportsmen. This period is considered the turning point or critical stage, which serves to explain the reasons, and evolution of the Venezuelan migratory process, which will have a considerable growth with respect to the previous stage (Peñañiel Chang, 2020).

With the seizure of power in Venezuela by Hugo Chávez Frías in 1999, the Bolivarian Revolution was established, and a new constitution was promoted, which led to the implementation of the so-called 21st century socialism (Requena & Caputo, 2016). With this, the foundations were laid for the increase of the Venezuelan migratory process, since emigration was a process that occurred very sporadically, given that Venezuelans assumed that their future was not compromised, to which it is added that the governmental commitment of the president generated in middle and upper class citizens a feeling of threat to their security, personal

integrity and their economic interests, so they chose to flee to another country (García Arias & Restrepo Pineda, 2019).

This period is characterized by the crisis of governance, and policies that are perceived negatively by the population, making a growing process of emigration difficult. Since then, violations of people's rights were already taken into place, particularly in the public sector opposed to the ruling party, and extending to other sectors of the population.

Several moments characterize this stage: the first is related to the presidential election of former military officer Hugo Chávez, who, with his political project, caused a scenario of social and economic uncertainty, insecurity, lack of job opportunities and purchasing power. Also, it must be taken into account that one of the characteristics of this first mandate was the contempt towards the so-called rich sectors, the middle class, and the professional and intellectual class of Venezuela. University professionals, among them scientists, began to be seen by the regime of Chávez as privileged, with little concern for the country and for their compatriots; this argument was decisive for many Venezuelans in their decision to leave the country (Peñañiel Chang, 2020).

Barely three years into his term, Hugo Chávez's popularity was declining significantly, due to the fall in economic production, the deterioration of public services and the unprecedented increase in crime and insecurity (Casas & Carter, 2017). During this period, the highest point of uncertainty together with the generalized crisis of governance was reflected in April 2002, when a strike was called by the oil company *Petróleos de Venezuela S.A. (PDVSA)*, a strategic company that aimed to sustain the country's economy; created a strike that was joined by

political, business, health and religious organizations, which continued until the resignation and subsequent return to power of Commander Hugo Chávez.

After these demonstrations and the apparent stabilization in power of President Hugo Chávez, his government policies were characterized by a radicalization of the political model, which, following his reelection in 2006, was consolidated under the name of Socialism of the XXI Century. During his second term, reforms were carried out such as the expropriation of companies, monetary reconversion, and cessation of concessions of national television channels, nationalization of telephone, water and electricity companies, and the modification of the National Constitution by referendum, in which the right to indefinite reelection was instituted. All of this occurred while oil revenues, with the price of a barrel at \$100 dollars, somehow diminished the effects of the crisis (Peñañiel Chang, 2020).

#### **2.1.5. Period 2010 – 2019**

In this period, political events play a preponderant role dragging along with them social and economic aspects at the moment of making the decision to emigrate. The reelection of Hugo Chavez as president in 2012, who was in a recovery process against cancer and his health condition decisive, was uncertain for the political future of Venezuela, until the announcement of his death in March 2013 (Salazar-Calderón, 2015).

The rise of Nicolás Maduro, after having won a widely questioned election, produces political events that have been accumulating from previous stages and are forcing some people to leave the country. During 2014, following a call by the opposition, created a series of protests



against the government's inability to implement policies to improve the living conditions of the population, in a country with high rates of unemployment, inflation, poverty, criminality and violence (Pismataro & Gehring, 2018).

These events increase the decision of Venezuelans to emigrate, since the government of Nicolás Maduro represents the deepening of the same political model of 1999. People were also highly vulnerable due to the constant persecution by the State, which led to an increase in asylum requests and exile cases (Torres Urbano, 2016).

During 2015, the parliamentary elections for deputies were held, and for many Venezuelans this political event represented a decisive aspect of whether or not to emigrate from the country. Despite having a counterweight to certain official decisions, in December of the same year, the ruling party managed to counteract the legislative activities by dismissing deputies and preventing the different laws generated from the debates, which, far from advancing, added tension to the political situation in Venezuela (Peñafiel Chang, 2020).

From 2016 to the present, the increasing crisis is beginning to change the way Venezuelans make the decision to emigrate. Various problems affecting Venezuelans can be summarized in increased personal insecurity, lack of housing, food shortages, unemployment, business closures, increased restrictions, political persecution, and closing of social media (Peñafiel Chang, 2020).

The main decision to emigrate continues to be to improve the quality of life, but now the new emigrants seek minimum living conditions such as food and medical care, which are already

scarce in Venezuela due to the high costs that have become inaccessible to the sector of the population with lower economic capacity. In this period, unlike the previous ones, emigrating is no longer focused on how one is going to be incorporated into the possible destination country, but rather, the objective is to leave Venezuela, and that is why the border countries of the region have become imminent destinations (Peñafiel Chang, 2020).

After the death of Hugo Chávez, Nicolás Maduro took power and the socioeconomic situation of the country worsened, presenting one of the biggest migratory crises in Venezuela, which increased the departure of Venezuelans to Colombia, Ecuador, and Peru as main destinations. Also thousands of Colombians who had settled in the neighboring country in search of better opportunities, returned to their country (Ruiz Méndez, 2018).

## **2.2. Venezuelan migratory crisis and its relationship with the Ecuadorian State**

The deepening of the political, social, economic and humanitarian crisis that Venezuela has experienced in recent years and, consequently, its collateral effects that affect the countries of the South American region, are expressed in terms of the exponential increase in the flow of migration through irregular channels, as well as the deterioration of border security and the expansion of transnational crime, making it a factor of regional instability.

The change in the Venezuelan migratory pattern occurs under very special national and international conditions. This migratory event occurred in years with high economic income from oil production, and the income received during the last 20 years exceeding by more than six times the national income of the 40 years of democracy between 1958 and 1998. In other words,

the exodus of Venezuelans occurred during the years of the greatest oil bonanza (Páez B & Phélan C, 2018).

To have a better idea of the volume of Venezuelans who have migrated to neighboring countries in the Latin American region, a table with official figures on the total number of Venezuelans legally residing in the country is presented below:

*Table 1. Distribution of the Venezuelan migrant population in Latin American countries, 2019*

<b>Country</b>	<b>Data date</b>	<b>Venezuelan population</b>	<b>%</b>
Colombia	1/31/2021	1,742,927	37.65%
Peru	8/31/2020	1,043,460	22.54%
Chile	6/30/2019	472,827	10.21%
Ecuador	3/5/2021	443,705	9.58%
Brazil	10/31/2020	261,441	5.65%
Argentina	2/24/2021	222,658	4.81%
Panama	12/31/2020	121,601	2.63%
Dominican Republic	6/30/2019	114,500	2.47%
Mexico	10/7/2020	101,648	2.20%
Costa Rica	12/31/2019	29,820	0.64%
Trinidad and Tobago	12/31/2020	24,169	0.52%
Uruguay	12/1/2020	19,155	0.41%
Curacao	12/31/2020	17,000	0.37%
Guyana	11/11/2019	11,881	0.26%
Paraguay	12/31/2020	2,531	0.05%
<b>Total</b>		<b>4,629,323</b>	<b>100.00%</b>

Notes:

Source: R4V(2021; <https://r4v.info/es/situations/platform>)

\* Update carried out by the Ministry of Government (2020)

According to the statistics presented in Table 1, there are approximately 4,356,521 Venezuelan migrants in Latin America, of which 443,705 (9.58%) are in Ecuador, the country with the fourth largest Venezuelan population in the region. Colombia is the main receiving country of Venezuelan migrants due to its territorial proximity; it is estimated that 1,742,927

Venezuelans are in Colombian territory, representing 37.65% of the total in the region. In second place is Peru with 1,043,460 Venezuelans (22.54%), followed by Chile with 472,827 (10.21%). Thus, it is estimated that 80% of Venezuelans who have migrated to Latin American countries are in Colombia, Peru, Chile and Ecuador.

According to the research conducted by Ramírez (2020), the author states that "It should be noted that Ecuador is mainly a transit country for this migration since, the entire Venezuelan population that entered Ecuador in the last decade, only 16% decided to stay" (p. 7). Currently, of the estimated 443,705 in the country, 202,489 have residence and regular stay permits granted, representing 45.6%.

The figures presented demonstrate the existence of the current migratory crisis that affects both Venezuelans who left their country in search of better living conditions, as well as the receiving countries, demanding public services for their health and education, also involving great efforts in terms of migration management and internal security.

Although human rights establish that migrants (just because they are migrants) do not lose their respective rights as citizens, therefore the states subscribed to the Declaration of Human Rights have the obligation to guarantee that migrants have access to universal and inalienable services such as: health, education, quality of life, and work with benefits of the law, among others (Díaz de Perales & Perales, 2020b).

During the last five years (2016-2021), the Ecuadorian government has implemented a series of measures and regulations in order to contain the migration of Venezuelans to the country, increasing the number and difficulty of requirements, preventing their entry into Ecuador. In this sense, Burbano, Zaldívar and Vera (2019), refer that the Ministry of Foreign Affairs and Human Mobility has incurred in violations of Human Rights, and international conventions through the imposition of rules to prevent the entry of Venezuelan migrants to Ecuador, among which stand out: The application for a passport instead of the identity card of the country of origin, the presentation of "lawful means of livelihood" and the registration of personal insurance (private or IESS). These requirements are not demanded to migrants from other countries of origin such as Colombia or Peru.

### **2.3. Vulnerability of Venezuelan migrants in Ecuador**

#### **2.3.1. Labor**

In relation to the economic aspect, the vulnerability of Venezuelan migrants is observed, since most of them have low salaries and live on what they can earn in their daily work, sometimes displacing the Ecuadorian population from informal jobs, and in popular markets with the proliferation of street sales. This situation, coupled with the crisis in the Ecuadorian economy, puts Venezuelan migrants even more in a position of rejection by Ecuadorians (Díaz de Perales & Perales, 2020a).

According to Flores-Díaz and Crocker-Sagastume (2020), the situation of informal migrant workers is complex and inconvenient for them, since, in addition to their migratory

status, which may be illegal in most cases, are not adequately protected by laws, and legal regulations to defend them from occupational accidents or other threats.

Another situation that can be highlighted is the exploitation of employers with respect to migrant workers, since they hire them at lower wages than those established, taking advantage of their income status to pay them a remuneration that is not in accordance with the work performed or without payment of social security (Díaz de Perales & Perales, 2020a).

Venezuelan migrant workers who carry out street vending in the city of Quito are exposed to the following occupational risks: physical risks due to exposure of ultraviolet rays and noise from cars; mechanical risks related to being run over; chemical risks due to polluting emissions in the atmosphere caused by car fumes (black carbon PM<sub>2.5</sub>); biological risks due to the exposure of their food to bacteria, parasites and fungi that live in street environments and can enter the human body using the different entry routes within their reach; ergonomic caused by standing postures for long working days and by lifting weights (Flores-Díaz & Crocker-Sagastume, 2020).

### **2.3.2. Xenophobia**

A new development in the South American region, particularly in Ecuador, has been the development of xenophobic attitudes towards Venezuelan migrants, who have been harassed by xenophobic attacks sponsored by the media and by political sectors of Ecuadorian society, in violation of the law on human mobility and the law of communication, among others, and at the same time the constitution of the republic itself (Díaz de Perales & Perales, 2020a).

#### **2.4. Impact of Venezuelan migrants and refugees in Ecuador**

According to the OXFAM report (2019), by 2019 it was estimated that, more than 4.4 million Venezuelans had left their country, as a result of a prolonged and acute economic, political and social crisis; of these, about 2.8 million migrated to other countries in Latin America and the Caribbean, especially Colombia, Peru and Ecuador.

On the other hand, according to data from the National Secretariat of Communication, as of August 2018, 641,353 Venezuelans had entered Ecuador; while 18% of them (115,690) remained with the intention of living in the country (Burbano Alarcón et al., 2019).

The beginning of the massive migration of Venezuelans to Ecuador coincides with the emergence of the country's economic crisis, which is primarily the result of the sustained fall in oil prices in the international market, which forced the government to apply policies to reduce social spending; in addition, there is an increase in spending caused by the arrival, transit and settlement of Venezuelan migrants in the national territory (Díaz de Perales & Perales, 2020a).

Informal activities are carried out in the main and most populated cities such as Guayaquil in the Coast Region, as well as Cuenca and Quito in the Inter-Andean Region. In the latter, as the Ecuadorian capital, there are numerous Venezuelan citizens in the streets who have joined the street sales market, finding large blocks with stalls selling footwear, clothing, natural beverages and phone accessories (Flores-Díaz & Crocker-Sagastume, 2020).

On the other hand, there has been an increase in criminal acts involving Venezuelan migrants in some areas of Ecuador that previously reported a low incidence of crime; this has been associated with the illegal entry of Venezuelans with irregular behaviors, who are in the minority, and who are in search of easy money; unfortunately, the visibility of this group is what provides a bad image of Venezuelan migrants, the vast majority of whom have moved to Ecuador in search of better opportunities and quality of life, which they seek to achieve through their own efforts and productive work (Díaz de Perales & Perales, 2020a).

Likewise, the increase of Venezuelan migrants in Ecuador has led to an increase in the demand for health services that were already deficient, a budget allocation for humanitarian aid, and the reformulation of Ecuador's migration policy, due to the number of citizens arriving in this country, a situation that contradicts the constitutional mandate related to the rights of migrants (Díaz de Perales & Perales, 2020a).

According to data from the 2019 OXFAM survey, the overwhelming perception that public social services, particularly health and, in some ways, education are being overwhelmed (OXFAM, 2019).

On the other hand, there are also positive contributions of Venezuelan migration in Ecuador. A considerable percentage of Venezuelan migrants are trained at the technical and professional level, and have a variety of complementary skills. According to the ILO Andean Countries study (2020), due to the Venezuelan educational system, prior to the era of the Bolivarian Revolution, a culture of formal educational preparation was developed in Venezuela,



so that migration presents an abundance of professionals with a good level of training, including doctors, dentists, teachers and engineers. It has also been found that Venezuelans have diversified the typical flavors of the cuisine and contributed significantly in some areas, such as the formation of Salsa orchestras (OXFAM, 2019).

## CHAPTER III

### **Actions to be carried out to improve the guarantee of rights of Venezuelan migrants in Ecuador**

#### **3.1. Action 1: Promoting global citizenship and free mobility at the international level**

In the context of the era of globalization in which the world is immersed, many of the categories and conceptions related to the concept of the national State are in crisis and, as a result, new categories emerge that respond to this interconnection that is experienced daily through flights, international trade, crossing of land borders, Internet-based telecommunications, among other activities (Ayala Méndez, 2013).

Thus, along with globalization, the growth of information technologies and the development of communication networks, have made cities the main players in the global economy and communications, so that the concentration and convergence of various fields in cities show a rapid movement of the world towards the further development of metropolises and their conversion into global cities and, finally, to world cities (Goodarzi, 2016).

In this context, the change in the configuration of social, economic, and human mobility relations produces a change in the relationship between people and geographic spaces, such as cities. Therefore, a set of cultures and needs are transferred to urban centers, modifying the perception of citizenship.

The term "citizenship" comes from the Latin word *civis*, meaning the position of the individual in *civitas*, the city (Guia, 2016). According to Giraldo-Zuluaga (2015), the notion of citizenship has changed and evolved throughout history, showing the changing relationship between individuals and power, extending and adding new contours and nuances. This evolution is mainly due to the political, economic and social transformations faced by the nation-state. On the other hand, globalization is closely related to integration, like markets, economies, regions, countries, customs, etc., and constitutes a process that takes place worldwide, allowing and imposing diverse relationships among human beings (Parada Barrera, 2009).

Giraldo-Zuluaga (2015), refers that "citizenship, then, is conceived -in our times- mainly as a status (position or condition) in which access to basic resources for the exercise of rights and duties is requested, defined and made possible" (p. 79). In Thomas Marshall's view (1950, cited by Guia, 2016), the citizen should benefit from the ability to exercise full social, economic, and cultural rights, including a plurality of privileges; with this, Marshall sought to ensure that this liberal concept of citizenship could be challenged and discussed.

In this context, citizenship, in the framework of globalization and increasing human mobility, is emerging as a topic of broad discussion in societies and their governments, since cross-border mobility implies risks and threats that must be controlled. Migrants demand different services, just like the citizens of a country, such as health, education, food, housing, and among others of universal nature. Therefore, regularization and legality are directly related to the rights that can be acquired as a citizen.

Sometimes, the term universalism describes a socio-political idea that is directly related to social policy objectives. Reference can be made to the Sustainable Development Goals (SDGs), which explicitly refer to this universality in the field of social policies, for example, with the goal of achieving universal health coverage by 2030, which should be embraced by UN member countries (Budowski & Künzler, 2020).

In recent years, a current of new law focusing on universal citizenship has gained strength. In this regard, the work of Ayala Méndez (2013) makes reference to the close relationship between globalization and the flexibilization of transit and migration requirements, emphasizing that universal citizenship is aimed at strengthening the fundamental rights contained in the Declaration of Human Rights.

As an example of cross-border citizenship, the progress of European citizenship can be mentioned. According to Guia (2016), the notion of European Union citizenship complements that of national citizenship; however, European citizenship, provided for in the 1992 Maastricht Treaty, only exists to the extent that the individual is a citizen in one of the European Union member states. According to research by Guia (2016), European citizenship provides for:

- a. freedom of movement and the right of residence in any member state (ibid.);
- b. the right to vote in elections in the member state of residence (provided that the election is a European or municipal election in the state) (ibid.);
- c. the right to benefit from the diplomatic protection of any Member State other than the one to which he/she belongs (if there is representation in the State where the citizen is located) (ibid.); and

- d. the right to lodge a complaint with the European Ombudsman and to petition the European Parliament (ibid.).

All of this is part of the principle of universal citizenship, promoted by the European Union. According to Vera et al. (2019), the term universal citizenship is not particularly new, given that it is possible to situate it within the constructivist and guarantor principle of human rights that has been infused in the Kantian cosmopolitan model regarding Universal Hospitality and the Cosmopolitan State. In this sense, Kant's (1998) perspective establishes two types of citizens, the active ones who enjoy freedom and representativeness due to their condition of owners, while the passive ones lack property, so they do not have political vocation.

The concept of world citizen acquired its meaning within the context of humanity, feelings, emotions, needs, and common instincts that have a global perspective. This concept is considered a tool that should make the government more accountable and not necessarily the denial of national interests and sovereignty (Goodarzi, 2016).

With respect to social services such as health care and education, equality of access is also related to the geographic distribution of facilities, the budget for the sustainability of the service, and the capacity to serve a given population size. Unlike education, where access is generally an obligation and a legal or constitutional right, health care services must be accessible to those who need them. Therefore, universal acceptance does not mean the same thing in the fields of health care, education and transfers, depending on the country concerned. Generally,

legal rights or institutional practice are described as universal when they include the vast majority of the population (Budowski & Künzler, 2020).

According to Myers (2016), global citizenship education refers to a range of educational practices focused on the knowledge, understanding, skills, values and attitudes that students need, to participate fully in a globalized society and economy, and to ensure a fairer, safer and sustainable world. However, in many cases, access to educational services is limited due to lack of documentation, budgetary constraints, lack of educational spaces, and availability in classrooms. Because of this, migrant children and adolescents may find their schooling interrupted and threatened.

Drerup (2019), points out that global citizenship, as an educational endeavor, comprises the dimensions: moral, political, legal, cultural, economic, spiritual and environmental; global citizenship encompasses moral and legal universalism, educational universalism, political universalism and epistemological universalism.

A global solution for citizenship should be understood as a framework between various institutional sectors for interpreting the world and, therefore, does not replace other ways of knowing and interpreting the world (Myers, 2016). However, the integration of state policies for the provision of institutional services involves a great governmental and financial effort, given that the transit of citizens from other countries produces an impact on public services, such as the case of the high rate of Venezuelan migrants to Ecuador, which has increased the use of health, education, security and migration services, among others.

It is feasible, therefore, to think of functional differentiation to establish the limits of global citizenship. According to Halfmann (1998), the concept of functional differentiation is used to reformulate citizenship as a factor of inclusion in the political system, and also to describe the effects of the segmentation of the political system by the nation-state on the evolution of citizenship. The author adds that, in modern society, which is functionally differentiated in nature, inclusion is system-specific but not all-encompassing, since inclusion in the political system is offered through two types of roles: the secular role of the voter and the professional role of the politician.

This implies that citizenship can be differentiated according to its proprietary nature by birthright or naturalization, as well as by the political and institutional will of the State, which requires its specification in legal regulations. In this sense, the association between the needs of a global citizenship, in accordance with inclusive proposals such as those set forth in the SDGs - for example- and the national interests of a country becomes complex, where the existence of threats due to the high volume of migrants or the attractiveness for the extraction of goods, drug trafficking, human trafficking and other crimes affecting national security can be interpreted.

Citizenship, influenced by globalization, has led cities to increasingly collaborate with other cities across complex citizen needs in order to promote individual citizenship. As major cities within a country are introduced to the global city and world city level, become more effective in trends that shape the needs of citizens and cities through the creation of urban

networks, known as sisters, witnessing a wide range of influence in the city and consequently in the country (Goodarzi, 2016).

The universalism of inclusion in the political system owes its specific characteristics to the role played by the sovereign territorial state and, later, the nation-state in the emergence of modern society; thus, the revolutionary concept of citizenship implied both: equality of citizens in the political sphere, and inclusive universalism for all free individuals in the 'etat civil' or civil state (Halfmann, 1998).

Vera-Viteri et al. (2019), emphasizes that the most relevant contribution of the concept of Universal Citizenship is that it consists in that all people should enjoy equal rights and duties in any part or territory of the world. Therefore, the proposal of global citizenship seeks to extend political rights to foreigners, trying to put both nationals and migrants on an equal footing, thus respecting their decision and right to organized human mobility and to freely and voluntarily choose the place to live, progressively ending their status as foreigners.

Based on past information stated, there may be variations in the approach to universal citizenship, for example, in Ecuador or countries in the South American region. This implies a legislative challenge, although the solution may also pose flexibility in the rights acquired as a universal citizen in a State to which one has no belonging or ownership. Political participation and the enjoyment of citizenship rights, therefore, constitute the focus of contrast in the promotion of global citizenship, since the most important issue in the discussion would be to



establish the limits of political participation and how public services can be financed for the inclusion of global citizens, reducing their social impact.

### **3.2. Action 2: Strengthen the protection of the rights of the population in a situation of human mobility**

Human Rights encompass all the essential needs of the human being, who is projected as a person, so that these rights include the entire individual by the mere fact of being so (Cornelio Landero, 2015). After the Universal Declaration of Human Rights, the extension and expansion of the international system in this matter produced the development of different legal instruments, as well as institutional mechanisms and bodies to ensure compliance, observation, interpretation, and attention of cases of violations or individual communications (Suárez Molina et al., 2020).

In this regard, Ecuador sought at the international level the signing of bilateral and multilateral agreements in order to establish a humanitarian policy to protect migrants; one of these agreements was signed by the Bolivarian Republic of Venezuela in 2010, with the so-called 'Migratory Statute'; as an important element of this agreement, its preamble establishes a series of principles with a rights-based approach, such as: "there are no illegal human beings, no criminalization and penalization of irregular migration, unrestricted respect for the human rights of migrants and free mobility" (Ramirez, 2020, p. 6).

The 2008 Constitution establishes all citizen guarantees and civil liberties, as well as the different protections enjoyed before the State. The Magna Carta is humanist, since it establishes

equal treatment for all people within Ecuador, whether citizens or foreigners, and the latter regardless of their migratory status, social class, race or ethnicity, among others.

According to the research work of Vera-Viteri et al.(2019), Ecuador has emerged as one of the main references for the non-criminalization of migration in the region, including the discussion on the concept of universal citizenship, proposed as a guiding policy and with constitutional hierarchy to treat and address human mobility, as well as in the declaration of the Latin American and Caribbean region as a zone of peace. Ecuador is also considered to have one of the most humanitarian legislations for the treatment of migrants, making it one of the most important recipients of refugees in Latin America.

However, the restrictions for the granting of citizenship through modifications of the regulations and full respect for the rights of migrants is determined by the economic possibilities of the applicant, given that the value of the temporary residence visa varies between USD 200 and USD 400, adding the value of the application for USD 50.

Ramírez states that “[the] South American citizenship is the legal condition of progressive access to rights, duties and obligations by UNASUR citizens. It is an expansion, not a substitute, of national citizenships” (2016, p. 80). In this sense, the generation of rights for the global citizen, is based on the elaboration of supranational legal norms that allow homogenizing, respecting, and monitoring the fulfillment of human rights.

Different international organizations have been concerned about monitoring the human rights of migrants in the countries and borders of the world, since vulnerability is one of the social and political phenomena that they seek to combat, given the existence of impunity and violations of rights that persist today (Cornelio Landero, 2015). This shows the interest in the protection of migrants, from institutional perspectives of countries and organizations that are formed to fight against the violation of human rights of migrants.

In Latin America there have been countless examples of human rights violations; reference can be made to the abuses and violations received by Central American immigrants bound for the United States and passing through the southern border of Mexico, in which International Law has not been able to directly influence to eradicate human rights violations (Cornelio Landero, 2015). In this context, there is a clear need for inclusive policies aimed at respecting the human rights of migrants, who need access to sources of employment and public services such as health and education.

One of the main motivations of migrants is the search for sources of employment or income that allow them to improve living conditions for themselves and their families, which is why the right to work is established as one of the main rights for people in mobility. In this regard, Camargo and Córdova (2018), refer that the codification of migrant labor in Ecuador is necessary, given that they consider that the current Labor Code does not specifically contemplate the right to work for foreigners. The authors mention that migrants are victims of informal contracts in which, due to their need for work, they are paid less than the Unified Basic Wage, and are not duly registered with the Ecuadorian Social Security Institute (IESS).

Based on precious information stated, Venezuelan migrants can be considered a population group at risk and vulnerable in Ecuador, so institutional policies should be promoted to facilitate the regularization of all people in human mobility, of which it is estimated that 55% are in an irregular migratory situation within the country. This increases the possibility of social exclusion and, consequently, ineffective enforcement and respect for human rights, increased personal abuse and mistreatment, as well as an increase in xenophobia.

### **3.2.1. Contradictions related to universal citizenship**

In Latin America, especially in South America, progress has been made towards the development of universal citizenship through alliances such as UNASUR and MERCOSUR; however, the legal regulations of the member countries are not entirely harmonized, which generates conflicts between regulations, confusion and inequalities (Álvarez Velasco, 2020). In this regard, the lack of coordination between countries to adjust their legal norms to guarantee universal citizenship to South Americans, for example, stands out, although it could be extended to other nationalities.

Alvarez Velasco (2020), refers that the political discourse in Ecuador managed to distort the impression that foreigners had or managed to have of the country; It was described as "the country of universal citizenship", which implied the non-requirement of a visa to enter Ecuadorian territory, facilitating the legality of immigrants, while at the same time it meant the possibility of taking refuge in a country without risk to enter. However, this discourse held during the presidency of Rafael Correa during 2007-2017 was dissonant with the still in force

Immigration Law of 1971, which allowed the executive branch to decide whether or not an immigrant could enter Ecuadorian territory, even if he or she complied with the requirements established in the Law.

Thus, during the period 2007-2017, arbitrary acts were committed against migrants based on the 1971 law; persecutions against migrants and surveillance of migrants were recorded. However, under the government of Lenín Moreno between 2017 and 2021, there was an open neoliberal turn with the new mobility law, taking migration control to levels never seen before in Ecuador; with imbalances in the criteria for the allocation of visas, increasing the asymmetry of power and the vulnerability of the human rights of migrants (Álvarez Velasco, 2020).

Incidents associated with racist or discriminatory behavior by immigration officials against Haitian and Cuban migrants can be mentioned (Álvarez Velasco, 2020); which somehow legalizes the treatment of immigrants as second-class citizens, totally contrary to what is stated in the National Development Plan 2017-2021 *Toda una vida*, which describes Ecuador as a benchmark for human mobility and promoter of universal citizenship (Burbano Alarcón et al., 2019).

In this regard, according to Navarro (2013), citizenship "is understood as a political, social and legal recognition by which a person has rights and duties for belonging to a community or a territory" (p. 181). South American countries have a common history, from times when there were only indigenous territories, through Spanish colonization, independence and modern times, in which political life has been debated between democracies and dictatorships; therefore, it is

feasible to move towards universal citizenship in Latin American countries, but it is necessary that it is based on real purposes to guarantee citizens the rights that this implies.

For Navarro Hoyos (2013), it is essential to have the ability to exercise rights and duties within a framework of universal citizenship, which leads to being part of a community; in addition, it is considered that, in the 2008 Constitution of Ecuador, the concept of citizenship transcends the regional scope and accommodates Universal citizenship, as one of the guiding principles of the international relations of the Ecuadorian State with other countries.

Universalism has become a main idea of global social policy and global social security in particular. So all major international organizations subscribe to the idea of universalism, but some nationalist, authoritarian, and theocratic regimes have been questioning the idea, as well as some intellectuals in democratic societies who see universalism as a late colonial or patriarchal Western ideology (Leisering, 2020). Here, there is a contrast between liberals and nationalists, between positions in favor of globalization and those who fear and distrust it.

Discussions on concrete proposals for some form of universal social protection that have taken place in several developing countries provide further insights into public attitudes towards redistribution. An example of this is the basic income subsidy advocated by the European Basic Income Network, which would be a universal minimum income guarantee for all individuals in society, thus dispensing with complex and costly measures to establish eligibility (Kabeer, 2014).

The basic income subsidy would cover basic needs and would be financed through a progressive income tax system. Interestingly, the idea has generated greater interest in South Africa and Brazil: both have one of the most unequal income distributions in the world, but both are engaged in redefining their social contracts after prolonged periods of political struggle (Kabeer, 2014).

Everything mentioned before is part of a complex debate that exists in the American continent, due to the diversity of reasons why people migrate or are displaced. Because of this, many people seeking a better life through migration go through different countries, often under a plan and sometimes improvising; thus, it is possible that countries such as Ecuador serve as a bridge or link for migrants to reach other destinations, as in the case of migration by land from Venezuela to Peru or Chile.

Citizens from Haiti, Cuba, and some countries in Africa and the Middle East, have used Ecuador as an international bridge or transit country. “Migration in transit” is a category that is increasingly present in academic, media and political discourses. The United Nations Commission for Europe (UNECE) defines transit migration as migration to one country with the intention of seeking the possibility of migrating to another country as the final destination, while the International Organization for Migration (IOM) provides a definition in its Study of Transit Migration in Azerbaijan, which specifies that transit migrants are defined as foreigners who remain in the country for some period of time, while wishing to migrate permanently to another country, a temporary, short-term stay of a migrant on his or her way from a country of origin to a country of destination. Under this approach, the transit country can become the destination

country and vice versa, since the transit country category is part of a logic of externalization of the borders of the destination country (López Rivera & Wessel, 2017).

### **3.3. Action 3: Comprehensive plan for the attention and protection of rights in the context of the increased Venezuelan migratory flow in Ecuador**

According to Fasin (2016), Ecuador presents itself as a humanitarian government, understood as a manifestation of moral sentiments in policies, migratory in this case, which includes discourses and practices of government intervention. In them, suffering appears as a new lexicon that justifies welfare practices; also, they serve to initially position Venezuelan immigrants as victims who suffer the consequences of the bad government of Nicolás Maduro in Venezuela.

Although the set of norms, such as laws, decrees, agreements, regulations, and policies associated with the issue of migration are important tools in migration diplomacy, and important tools in their own right, it should be noted that the latter is used not only as an international policy tool, but also to adjust internal relations with the countries of origin (Ramírez, 2020).

In September 2018, the Ministry of Foreign Affairs and Human Mobility (MREMH) published the Comprehensive Plan for the Care and Protection of the Venezuelan Population in Human Mobility in Ecuador 2020-2021, which establishes the strategic lines of action to assist Venezuelan migrants. The objective of this instrument is to:

Generate strategic guidelines so that the Ecuadorian State, together with international organizations, civil society and other pertinent actors, carry out and continue executing



programs and actions in favor of Venezuelan migrants who enter, transit, stay, leave and return to Ecuador. These guidelines will be enforced with a human rights approach, and with a projection into the future, including the quantification of costs, financing needs and compliance evaluations (MREMH, 2018, p. 14).

The specific objectives contemplated to address the growing Venezuelan migration in Ecuador are as follows:

1. Detect in a comprehensive manner the problems faced by Venezuelan migrants in Ecuadorian territory.
2. To analyze the initiatives carried out by the Ecuadorian State to face the unusual flow of Venezuelan migrants that have entered the national territory.
3. Determine the critical points of Venezuelan migration and generate solutions that provide decent living conditions and respect for the human rights of this population group, on equal terms with the population living in Ecuadorian territory.
4. To interact with the various sectors involved in the problems faced by Venezuelan migrants in Ecuador.
5. To reflect the initiatives that are being promoted in favor of Venezuelan migrants in Ecuador.
6. To make a first evaluation of the actions proposed by the State regarding the migration of Venezuelan citizens to Ecuador.
7. To create a special office for Venezuelan migrants and refugees.

This would allow those who have difficulties with their documents to be regularized, always under national security guidelines so that the rights and security of Ecuadorian nationals

are not violated. Also, it is necessary to assign a health monitoring team to reduce risks and control factors associated with morbidity and mortality.

This public policy is framed within the Human Rights approach, whose principles are based on the spirit of the Constitution of the Republic of Ecuador of 2008. However, there are contradictions in the document since it exposes, on the one hand, the humanistic vision of the regulations while, on the other hand, it highlights the risk that the high migration of Venezuelans represents for national security.

The disposition of the State is necessary for the organization and control of the regularization of Venezuelan migrants, in order to promote the integral participation of this group in the social and economic life of the country; likewise, the respect for the human rights of the population in a situation of mobility provides the means of protection, and control of crimes such as human trafficking and migrant smuggling.

Health care for migrants should be a fundamental objective of the policies and strategies aimed at the migrant population. According to the study conducted by Burgos and Parvic (2011), "The migrant population constitutes a vulnerable group in terms of health, as there are a series of variables associated with the phenomenon of relocation and settlement that can alter the biopsychosocial balance" (p. 590).

One of the limitations that may be present in the implementation of this proposal is the financial factor, since it may be costly for the State, and may affect the budget allocated to other

areas and sectors of the country. However, different international organizations and foundations created in Ecuador can finance and provide technical support for the implementation of this proposal, such as the UNHCR, which is the UN Refugee Agency and the International Organization for Migration (IOM) with more than 150 affiliated agencies, who have launched a plan in 2021 for the care of displaced Venezuelans (UN, 2020).

In addition, a considerable number of Venezuelan migrants have university degrees, including medicine, dentistry and nursing, who can be employed directly for the development of the care proposal, avoiding the use of human resources already established in the country, which would reduce the impact on the public health system facilities.

#### **3.4. Perspectives of Venezuelan migrants in Ecuador**

Based on the interviews carried out by six Venezuelans residing in the city of Cuenca, it was possible to obtain different impressions and perspectives of migration. It is noted that the treatment of employers towards Venezuelans varies; which shows that there is unequal and discriminatory treatment in some workplaces, while the disadvantage of non-regularized Venezuelans is used to avoid notice of entry, payment of IESS and other labor obligations (L. Perdomo, personal communication, April 15, 2021).

There have been confusions and normative divergences related to the documentation required to carry out the regularization process. In the interviews, there was a case of a Venezuelan woman who had all her documents ready, but a new legal norm prevented her from carrying out the procedure, since she was required to present documentation proving that she had

legal means of livelihood, that is, that she had a job with which to guarantee her food and housing; but this was contradictory, since some employers require a visa to hire a Venezuelan citizen (S. Rodríguez, personal communication, April 17, 2021).

Another aspect to highlight is that the Venezuelan authorities responsible for issuing identity documents are delayed with the issuance of passports and passport extensions, which makes it difficult and impossible to regularize the status of Venezuelan migrants in Ecuador. In addition, the pandemic has impacted access to employment or the development of businesses in order to pay the fees and fines that are required in many cases (M. González, personal communication, April 18, 2021).

There are still cases of unequal treatment and discrimination based on the physical appearance or identity of foreigners. On some occasions, Venezuelan migrants have been intercepted by police officers because of their physical appearance, recognizable as foreigners, thus feeling a certain level of discrimination (J. Espinoza, personal communication, April 21, 2021).

In addition, unequal treatment is present in some work spaces; such as the case of an interviewee who was required to work on weekends with less pay than legally established for overtime work, being forced to accept these conditions, while other colleagues of Ecuadorian nationality were not required to work on Saturdays or Sundays (O. Higuera, personal communication, April 24, 2021). On the other hand, there has been notable discrimination by

employers when soliciting employees, as some have posted signs indicating that Venezuelans are not accepted for employment (C. Alvarado, personal communication, April 26, 2021).

### **3.4.1. Considerations based on the interviews**

Among the experiences of Venezuelans in Ecuador, those related to labor and the regularization of their situation in the country stand out. The following are listed below:

1. Changes in the legal regulations for the legalization of migrants in Ecuador, which make the process more difficult.
2. The requirement of "lawful means of livelihood" to grant the visa is seen as a different treatment towards Venezuelans, since for other nationalities -such as the United States- this documentation is not required, which shows a differentiating treatment towards the Venezuelan population that emigrates to Ecuador.
3. There have been situations of xenophobic and discriminatory treatment towards Venezuelan migrants.
4. Some employers take advantage of the situation of Venezuelan migrants and offer lower pay for work, while at the same time they do not register with the IESS.
5. Some landlords are explicitly rejecting Venezuelans from renting them housing. This is a clear discrimination based on nationality.

Among the positive aspects highlighted by Venezuelan migrants is that they, perceive greater personal security in Ecuador than in their country of origin. They say that, although one of the main reasons for migration is the precarious economic situation, where monthly income is below US\$5.00, a very important motivation was personal safety. The constant anxiety due to

the generalized violence in the country, the free circulation of criminal gangs and the increasing common delinquency drove many Venezuelans to leave their country. They say that it is a permanent exposure to criminal actions, which can lead to violence and even death, since the number of armed robberies, shootings and extortions has been increasing for a long time. On the contrary, in Ecuador they feel more at ease; the economic situation and dollarization serve as a basis for the stability of salaries, prices, access to quality services such as Internet and mobile phone, and the purchase of food and other goods.

The possibility of carrying out legal economic activities, registering with the Ecuadorian Social Security Institute (IESS) to pay social security and registering as micro-entrepreneurs with the Internal Revenue Service, generates the perception of economic freedom, which is necessary to develop businesses and not depend on working as employees. Whether as employees or as entrepreneurs, Venezuelan migrants feel peace of mind and security to generate income with which, in addition, they can send money to their relatives in Venezuela, either through official remittances or by exchange.

### **3.5. Perspectives of the current government**

For Ecuador, the year 2021 represents a moment of change and inflection, since the presidential elections were held and were favorable for the candidate Guillermo Lasso of the CREO party, which has a political stance contrary to 'correísmo' that governed during the last 15 years: with Rafael Correa between 2006 and 2017 and Lenín Moreno from 2017 to 2021; thus, Lasso assumed the presidency of the country on May 24, 2021.

The current president Lasso stated during his last month of electoral campaign that he would regularize the situation of Venezuelan migrants who were in some kind of migratory fault. The president indicates that it is a double standard to demand that other countries treat their fellow Ecuadorian well, while foreigners are mistreated in Ecuador. Due to this, he will offer a extensive regularization of Venezuelans in the nation (Euronews, 2021).

According to xxxxx, the regularization of migrants can generate certain advantages, both for the migrant and at the social level since, on one hand, people who regularize their situation in the destination country can access a greater number of services and rights, such as education, health and in many cases housing, while entrepreneurship and the development of new forms of enterprise promote local and national economic growth. On the contrary, in the work of Perera and Velázquez (2013), it is mentioned that one of the most important disadvantages of the regularization of migrants is that this process may encourage illegal immigration, which may give the image of rewarding those who do not comply with regular requirements, and may become a harmful habitual practice.

In this regard, the perspectives of the current government tend to be focused on non-discrimination, contributing to a greater social order and providing protection to Venezuelans, who have been displaced by the precarious economic, political and social situation in Venezuela. Accordingly, ECLAC emphasizes that "regularization is the most effective measure to end the extreme vulnerability of migrants in an irregular situation" (Stefoni, 2018, p. 19).

The new government of Ecuador has among its objectives, the dynamization of the productive apparatus; the creation of jobs, the reduction of precarious work and the inclusion of workers in the social security system with actions that are in line with the social order, which includes the regularization of immigrants.

According to Kossoudji (2016), non-regularized immigrants often do not work in the occupation for which they were trained for because they do not have the proper credentials, or cannot use the credentials they have in the new country. Therefore, it is necessary to have a comprehensive system of attention to migrants, which exercises an effective migratory control within the framework of equality and non-discrimination, allowing the participation of people in the promotion and development of the productive apparatus, leading to economic growth.



## CONCLUSIONS

The general objective of this study was to identify the actions to be taken by the Ecuadorian State, to improve the guarantee of the principle of equality and non-discrimination in relation to the human rights of Venezuelan immigrants in Ecuador. In order to accomplish this, a bibliographic review was carried out on the principle of equality and non-discrimination, as well as the discussion of regulations, documents of international organizations and different findings published by other researchers, which provided a clear idea of the current situation of migrants and displaced persons around the world.

Based on the review made, it can be concluded that the principle of equality and non-discrimination is a fundamental element of international human rights law. It promotes equal treatment of citizens, and prohibits discrimination on the grounds of race, color, sex, age, language, religion, political, national or social origin, property, birth, physical or mental disability, state of health, sexual and civil orientation, political, social or other status.

Ecuador has a progressive and protective Constitution, which recognizes the rights of citizens and migrants equally; however, there are disagreements between the legal norms related to migration.

Within the qualitative research that was applied through semi-structured interviews with six Venezuelan migrants residing in the city of Cuenca, in order to obtain their impressions about their migration to Ecuador, and also to determine their perspectives on the development of their daily activities in the country. These interviews resulted in the knowledge of some negative

experiences of unequal treatment by some authorities and employers, which contradicts the principle of equality and non-discrimination contemplated in the Declaration of Human Rights. On the other hand, Venezuelan migrants say that Ecuador has positive factors that contribute to the improvement of their quality of life, such as: dollarization, price stability, the possibility of entrepreneurship, access to education for children and access to health services.

There are still shortcomings in terms of compliance with human rights, particularly with respect to the principle of equality and non-discrimination, since discrimination against Venezuelan migrants and migrants of other nationalities continues to occur.

An important part of the proposal to attend to Venezuelan migrants is the creation of a special office to regularize the situation of those who have difficulties in presenting documentation, obtaining employment and health vulnerability. Its financing can be obtained through different mechanisms and international organizations that direct their efforts to assist migrants in vulnerable situations.

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## ANNEXES

### Annex 1. Interviews

- **Interview 1: Luis Perdomo**

**Q. When did you arrive in Ecuador?**

I arrived in Ecuador in 2016.

**Q. How was the experience of looking for a job and the treatment you received?**

At first it was difficult to get a job, since employers required me to have a visa, although the law did not prevent me from registering with the IESS. However, I was able to get some jobs in which I was paid less because, in view of their need to work, some employers took advantage of paying less for the same or greater amount of work, who in turn, did not register or pay social security.

**Q. What expectations do you have in Ecuador?**

I hope to be able to stay on a regular basis and develop professionally in Ecuador.

- **Interview 2: Susana Rodríguez.**

**Q. When did you arrive in Ecuador?**

I migrated from Venezuela to Ecuador in 2017, at which during that time some changes were made in the immigration legal regulations, which affected me.

**Q. How was the experience with the documentation?**

I had arrived with my documents in order to apply for the hearing immediately, however, the officials demanded that I present documentation proving that I had legal means of life. This

consisted of presenting the notice of entry, registration with social security or private insurance, as proof that I was earning some kind of income for subsistence in the country; but this was a bit contradictory, as some employers require a visa to hire.

- **Interview 3: María González.**

**Q. When did you arrive in Ecuador?**

My arrival was in December 2018; I was living in the city of Quito, and then in Guayaquil, until 2020 when I moved to the city of Cuenca with some relatives.

**Q. What was the job search experience like?**

At first it was difficult to get a job; however, due to my experience as a salesperson, I was able to manage to keep my job for the last year. During the period of the pandemic my passport expired, which has made it difficult to update the visa; when I updated my passport before the Venezuelan authorities, the response was late, so the extension came untimely.

Subsequently, upon requesting the renewal of the visa, I was subject to an inadmissibility report in the city of Azogues, since the time for the application had expired, which left me in a vulnerable situation, since I have to request before the migration office the issuance of a fine, which is equivalent to 2 basic salaries, that is, a payment of USD 800, plus the payment of the hearing, and its application for a total of \$450. Considering the economic crisis that Ecuador is going through due to the pandemic, it is extremely difficult to collect the amount requested for the fine, which does not facilitate the regularization of some migrants.

**Q. What can you highlight about your motivations to migrate and what are your expectations?**

Among the fundamental aspects of migration from Venezuela to Ecuador, I can mention the economic situation in which almost all the purchasing power of families has been lost, the impossibility of acquiring housing, food or transportation. Also, the crime situation has greatly influenced the decision to migrate, given that there are many weapons in circulation and a low level of police protection, greatly affecting citizen security. In Ecuador this is less common, so there is a greater sense of tranquility and one can be on the street in peace, but without lowering your guard.

- **Interview 4: José Luis Espinoza.**

**Q. When did you arrive in Ecuador?**

My arrival in Ecuador took place in 2017, after having suffered political and police persecution due to participation in the civic protests at the beginning of 2017, so the main motivation to migrate to Ecuador was the lack of social and citizen guarantees, in view of a little or no democratic state.

**Q. How was the experience when looking for a job and the treatment you received?**

In Ecuador, I have been fortunate to work in two companies in which I have received good treatment, and have been recognized in the same way as other workers of Ecuadorian nationality. However, on some occasions during my transit in the streets I have been subject to police checks due to my physical appearance, recognizable as a foreigner, thus feeling a certain level of discrimination.



- **Interview 5: Orianna H.**

**Q. When did you arrive in Ecuador?**

I arrived around mid-2016.

**Q. How was the experience looking for a job and with the documentation?**

I managed to have all my documents in order, and completed the application for the temporary visa in the normal way, quickly acquiring legality. However, I have been the victim of unequal treatment in one of the jobs, when I was required to work during weekends with lower pay than the corresponding overtime work, being practically forced to accept these conditions, while my Ecuadorian colleagues were not required to work on Saturdays or Sundays.

**Q. What were your motivations for migrating and what are your expectations?**

My main motivation for migrating to Ecuador was the lack of conditions to develop professionally, the difficulty to access food, a precarious health system, and the lack of future that is seen in the country. What, on the contrary, I perceive as possible in Ecuadorian lands.

- **Interview 6: Carlos Daniel A.**

**Q. When did you arrive in Ecuador?**

I arrived in Ecuador in January 2018, after living for a year in Colombia.

**Q. How was your process in the regularization of your immigration status?**

I arrived in the city of Cuenca, since I had the support of some friends who had lived in the country for a couple of years, which was fundamental to finding a place to sleep and looking for a job. However, the recent requirements to apply for the temporary visa constituted a great challenge, since I had to present legal means of livelihood to access legality, which was impossible because I could not present such proof, since I could not get a job and dedicated

myself to engage in informal activities, such as selling prepared foods, candy, and plastic bags. This had a negative impact on the regularization of the immigration status; however, I agreed to the pay for a private insurance, which allowed me to present it as a legal means of livelihood, even though such insurance did not provide me with real medical security.

**Q. How was the experience looking for a job?**

During the search for employment, I was the victim of contempt due to my nationality, even finding posters where employees were requested, but in which it was expressly stated that Venezuelans were not accepted. Despite this, it has been possible to find work, although employers fail to register with social security; with this I have been able to rent a house and maintain an acceptable level of income to live on.

**Q. What are your prospects?**

As a fundamental perspective, I have the possibility of carrying out different formal and informal economic activities, from which I can glimpse a better standard of living, quality of food and the provision of health services, which I consider accessible in Ecuador, since in Venezuela the cost of living is high with incomes that does not exceed USD 5.00 per month.