UNHCR
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Haut Commissariat des Nations Unies pour les réfugiés

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Universal Periodic Review: *Fourth Cycle, 48th Session*

PLURINATIONAL STATE OF BOLIVIA

I. BACKGROUND INFORMATION

Bolivia has ratified the *1951 Convention relating to the Status of Refugees* in 1982 and its *1967 Protocol* in the same year (hereinafter jointly referred to as the *1951 Convention*). Bolivia has also ratified the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness* (the *1954 Convention* and the *1961 Convention* respectively) in 1983.

The domestic legal framework dealing with refugees is set out in Refugee Law No. 251 (2006), which establishes a National Refugee Commission (CONARE) in charge of adjudicating asylum claims and finding durable solutions for refugees. Also, the Law enshrines important provisions, ranging from those related to the refugee status determination (RSD) procedure to those referring to the search for durable solutions, such as local integration and access to fundamental rights (documentation, employment, health care and education). Additionally, the Refugee Law is further complemented by Supreme Decree No. 1.440 which regulates its implementation. The refugee legal framework is complemented by Immigration Law No. 370 that incorporates safeguards regarding the protection of asylum-seekers and the prevention of refoulement at borders. According to the implementing regulations of Refugee Law No. 251, applications by stateless persons will be processed, on a provisional basis, in accordance with the procedure established for refugee determination. However, Bolivia still lacks a domestic law for the protection of stateless persons.

Although these legal standards have been in place, since 2018 the efficiency and effectiveness of Bolivia's asylum system has been declining. Frequent changes of CONARE members and staff of its Executive Secretariat, and restrictive practices carried out by migration officers and asylum authorities, have resulted in practical deterrents for persons who may consider requesting asylum and a shrinking protection space.

According to UNHCR statistics, as of December 2023 Bolivia hosted a total of 1,133 refugees and 77 asylum seekers awaiting a decision at the first instance of the RSD procedure. Most recognized refugees originate from Peru (527) and Venezuela (240). Most asylum seekers with pending decisions originate from Colombia (36) and Ukraine (10).

Special attention must be paid to the impact of the Venezuela situation that is affecting neighbouring countries but also Bolivia and other countries beyond. The number of asylum applications submitted by Venezuelans in Bolivia significantly increased over the period 2018-2020. 870 new applications by Venezuelans were registered in 2019 and 841 new applications were registered during 2020. However, there was a dramatic reduction in asylum applications received by CONARE since 2021, due to the restrictive criteria adopted by national authorities to admit new asylum applications. In 2021, a total of 50 asylum applications were registered by CONARE (21 of Venezuelan nationals). In 2022, 38 applications were registered (none of which were Venezuelan nationals), and in 2023, 25 asylum applications (4 of them from Venezuelan nationals).

Racism and xenophobia in the public discourse, although already present in the country in previous years, has become increasingly prominent recently. The media tends to place undue and exaggerated focus on the participation of foreigners in criminal offenses without any context of the overall magnitude of the issue. This has fuelled a sense of xenophobia towards migrants and refugees in the host community, sentiments which have been further perpetuated by statements of some authorities. This trend continues, despite public statements from the Government which have confirmed that the participation of foreigners in crime is very low.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

UNHCR commends Bolivia for supporting the Global Refugee Forum in December 2023, which facilitated the announcement of concrete pledges and contributions, and considered opportunities, challenges, and ways in which burden- and responsibility-sharing in support of the objectives of the Global Compact on Refugees can be enhanced. UNHCR encourages the Government of Bolivia to design and issue concrete pledges in the framework of the Global Refugee Forum pledging process and in view of the High-Level Officials Meeting that will be held in 2025 as a follow up to the GRF 2023. The pledges will serve as a manifestation of the political will of the State to work on asylum issues and the Human Rights multilateral agenda.

UNHCR also commends Bolivia for the enactment of Regulation No. 1/2022 by the Bolivian Ministry of Education, which includes migrant children and adolescents under the category of "*vulnerable population*" facilitating their enrolment in the formal education system throughout the school year. UNHCR also welcomed the enactment of Regulation No. 148/2020 by the Directorate of Migration (*Dirección General de Migración,* or "DIGEMIG" for its acronym in Spanish), which regulates facilities for access to the Bolivian territory and the issuance of temporary residence permits for Venezuelan families with children. Although there is a very limited duration of this measure and the associated residence permits (for 60 days and unrenewable), it should be recognized as a good practice to facilitate regularization of Venezuelans families in Bolivia.

UNHCR also commends Bolivia for the enactment of Regulation 1172/2023 of the Ministry of Education, which allows the enrolment of children and adolescents in the regular formal education system through an adjustment to the Single Student Registry (RUDE), allowing parents, guardians and/or representatives to register foreign children and adolescents (regardless of their legal status or documentation) in the education system with an affidavit.

UNHCR further appreciates Bolivia's involvement in the regional process of the 40th Anniversary of the Cartagena Declaration on Refugees and hopefully in the adoption of a new 10-year Declaration and a renewed regional Plan of Action on Protection next December 2024. UNHCR welcomes Bolivia's participation in the 3 Thematic Consultations and encourages the Bolivian authorities to move forward with the adoption of concreate measures to include its Conclusions in the domestic agenda, with a view to strengthening the protection of refugees and stateless persons.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 3rd cycle UPR recommendations.

Issue 1: Access to the territory and to asylum

Linked to 3rd cycle UPR recommendation no. 115.238 "Strengthen capacity - building processes of public force personnel and other officials linked to migration issues in order to

avoid violations of the human rights of people on the move (Ecuador)"

UNHCR wishes to note that since 2018 the humanitarian space in Bolivia has been shrinking and the standards of the asylum system have been in decline due to administrative policy changes introduced in RSD procedures that are not aligned with national legislation or the international standards or which pose practical obstacle to meeting these standards.

At the time of writing, the possibility of applying for asylum at land borders or at airports is largely available in practice in Bolivia. In 2018, CONARE shut down the reception of asylum applications in Santa Cruz de la Sierra, the city that hosts a large number of the asylum-seekers and Venezuelan nationals and their families living in Bolivia. Since then, RSD procedures have taken place exclusively in the Executive Secretariat premises in La Paz. This measure has been detrimental to most of the population residing in Santa Cruz and in other main locations (Cochabamba, Oruro, Potosí), as many persons in need of international protection cannot afford to travel to La Paz to complete the asylum procedure due to the economic costs involved.

Also, from 2018 to 2020, CONARE experienced serious delays in the processing of individual cases, due to the discontinuation of ordinary meetings of the body. Since 2021, the number of asylum applications admitted by CONARE has been substantially reduced, a situation that can be noted when analysing the figures officially provided to UNHCR. As noted above, there were 870 applications by Venezuelans were registered in 2019, 841 in 2020, 21 in 2021, none in 2022, and 4 in 2023.

In addition to practical barriers to submit asylum applications, there are two fundamental factors that have also led to the low number of asylum seekers and recognized refugees in Bolivia. On the one hand, UNHCR has received anecdotal reports from NGOs and individual asylum seekers that indicate that CONARE's Executive Secretariat may be implementing informal pre-admissibility practices or filtering of asylum applications based on unclear criterion and without possibility of administrative recourses. It should be noted that the Refugee Law N° 251 does not provide for any pre-admissibility mechanism and it is only CONARE at its Executive Level who should decide following a regular procedure if a person meets the refugee definition under Article 15 (I) of the refugee law. On the other hand, since 2021, CONARE has not applied the extended/regional Cartagena definition incorporated into Law No. 251 (I, b). This institutional decision excludes most of the persons in need of international protection currently in Bolivia from the possibility of obtaining refugee status.

According to the information and individual cases assessed by UNHCR partners in Bolivia, during 2021 and 2022 these restrictive practices have affected Venezuelans, Colombians, Ethiopians, Eritreans, Palestinians and stateless persons when attempting to submit their asylum claims before the authorities. Only some of these individual cases received legal representation provided by the Ombudsperson's Office of Bolivia when advocating for their rights.

Recommendations:
As raised by UN treaty body mechanisms, UNHCR recommends that the Government of the Plurinational State of Bolivia:

(a) Ensure the full and effective implementation of the provisions of and the safeguards provided for in the Refugee Protection Act and its implementing decree, in particular by providing unfettered access to the asylum system';[1]
(b) Make certain that all requests for international protection made anywhere in its territory, including at land borders and airports, are received, registered and promptly referred to the processing authorities, ensuring that the procedure and ensuing decisions are consistent with national law and applicable treaties, including the *1951*

[1] See, CERD/C/BOL/CO/21-24, par. 50 a

Convention relating to the Status of Refugees and its *1967 Protocol*;[2]

(c) Strengthen the capacity of the National Commission for Refugees, including by increasing the number of staff who process refugee applications, and consider accepting applications submitted in cities other than La Paz;[3]

(d) Strengthen the in-service training of asylum and border officials pursuant to the judgment of the Inter-American Court of Human Rights in 2013[4] and ensure that the refugee definition contained in national law and in the Cartagena Declaration on Refugees is applied in practice;[5]

(e) Ensure that the principle of non-refoulement is respected, that individuals in need of international protection are identified and that, where appropriate, foreign nationals are informed of the asylum procedure on arrival in the State party and receive legal aid;[6] and,

(f) Adopt protocols for migration and border officials, to ensure that persons in need of international protection are identified at borders and referred to the asylum system, and improve the training provided to such officials on international refugee law, including the principle of non-refoulement.[7]

Issue 2: Migration Policy and human rights perspective

Linked to 3rd cycle UPR recommendation no. 115.237 "Implement a comprehensive and inclusive migratory policy, and develop statistical data from a human rights perspective (Senegal)"

UNHCR wishes to note that since 2019 DIGEMIG, together with the migration police (UPCOM) and INTERPOL, have intensified immigration control and enforcement operations relating to persons with irregular status residing in the country. NGOs have reported that some of these operations were not conducted in full respect of due process, and often were specifically targeting Venezuelan nationals. These practices have an impact on all foreigners who cannot meet the requirements necessary to regularize their status, including persons with international protection needs who cannot document their status.

Since 2019 UNHCR has received credible information through its local partners regarding immigration operations in which both migrants and refugees were "detected" by DIGEMIG. Some law enforcement operations were carried out in humanitarian shelters. In some cases, this resulted in expulsion towards the Peruvian border of Desaguadero. Since 2021, immigration operations carried out in border areas, urban centres, routes and interdepartmental limits (especially focused on Desaguadero and El Alto/La Paz) have been a regular approach in responding to increasing numbers of mixed movements of migrants and asylum seekers. According to the authorities, the operations are carried out with an aim to identify foreigners in an irregular situation.

Through information provided to UN agencies in response to a request for statistical data on Venezuelan nationals in Bolivia, DIGEMIG reported that in February, March and April 2022, 3,613 mandatory departures and 1,027 compulsory departures were applied throughout the country. Information gathered by international agencies, civil society organizations and DIGEMIG itself, have identified the following situations: (i) execution of collective expulsions; (ii) expulsions of families with children without any evidence of evaluation of the child or children's best interest; (iii) denial of the possibility of appealing sanctions; (iv) denial of the right to seek legal assistance; (v) lack of assessment of international protection needs or possibilities of resorting to the asylum system. While migration control remains a legitimate prerogative of States, if this is coupled with limited access to the asylum procedures the risk

[2] See, CMW/C/BOL/CO/3, par. 48 a
[3] See, CMW/C/BOL/CO/3, par. 48 b
[4] In the case Pacheco Tineo Family v. Plurinational State of Bolivia of 25 November 2013.
[5] See, CMW/C/BOL/CO/3, par. 48 c
[6] See, CMW/C/BOL/CO/3, par. 48 d
[7] See, CAT/C/BOL/CO/3, par. 25 a

of undue expulsion and refoulment may be acute.

Recommendations:
As raised by UN treaty body mechanisms, UNHCR recommends that the Government of the Plurinational State of Bolivia:

(a) Enforce the ban on collective and arbitrary expulsions, conducting an objective assessment of individual circumstances , taking into account any potential protection needs and fully respecting the principle of non-refoulement, including through conserving all alternatives to expulsion, including access to asylum, complementary protection, residence on humanitarian grounds or regularization on other grounds;[8]
(b) Ensure that migration inspections and expulsion and/or deportation proceedings are carried out in accordance with human rights standards, offering procedural safeguards that take into consideration the situation of asylum seekers and persons in need of international protection;[9]
(c) Ensure that no one may be expelled, returned or extradited to another State where there are substantial grounds for believing that he or she would run a personal and foreseeable risk of being subjected to torture;[10]
(d) Ensure identification and referral mechanisms between migration and asylum authorities, and develop a process for determining the best interests of unaccompanied or separated children;[11]
(e) Amend the Migration Act and its associated decrees and ministerial decisions to facilitate the regularization of Venezuelan children and their families;[12]
(f) Ensure that due process and child protection principles are observed at all times during immigration control and operations;[13] and,
(g) Ensure that the procedures for the identification and return of migrants in an irregular situation, in particular Venezuelan and Haitian nationals, are carried out in accordance with the legislation in force[14].

Issue 3: Inclusion and access to socio-economic rights for refugees and asylum seekers

Linked to 3rd cycle UPR recommendation no.115.192 "Strengthen the implementation of laws and plans for the prevention, care and punishment of violence against women, taking into consideration the special situations of risk of indigenous and Afro-Bolivian women, women with disabilities, migrant and refugee women and women deprived of their liberty (Ecuador)"

The regulatory refugee framework in Bolivia specifically includes provisions for the socioeconomic integration of refugees and other persons in need of international protection, guaranteeing the exercise of economic, social, and cultural rights. The Refugee Law No. 251 expressly recognizes the right to formal employment, access to health and education. In the same line, the Migration Law No. 370 guarantees migrants the right to health, sexual and reproductive rights, adequate habitat and housing, work and social security, among others.

However, beyond the significant obstacles to access formal documentation for refugees, asylum seekers and others (which already restricts their effective access to rights and services), they report facing serious difficulties when accessing regular employment and basic public services because the lack of consistent and comprehensive public policies targeting this population and the xenophobic speech towards foreigners that frequently affects public institutions themselves.

[8] See, CMW/C/BOL/CO/3, par. 46 d
[9] See, CAT/C/BOL/CO/3, par. 25 c
[10] See, CAT/C/BOL/CO/3, par. 25 d
[11] See, CRC/C/BOL/CO/5-6, ar. 42 e
[12] See, CRC/C/BOL/CO/5-6, par. 42 f
[13] See, CRC/C/BOL/CO/5-6 par. 42 g
[14] See, CERD/C/BOL/CO/21-24, ar. 50 b

In terms of the right to health, the problem is not only the lack of documentation for refugees but also limitations established by the legal framework itself. Since 2021, the Ministry of Health accepts the possibility of registering foreigners in the SUS (the public and free health insurance) but only those who are considered under certain vulnerable situation such as pregnant and lactating women, people with disabilities, older adults, and children under 5 years of age. Thus, there are numerous asylum seekers and refugees who, even with status granted by CONARE and personal documentation issued by the Bolivian authorities, are not being registered in the SUS and can only have access to health care if they pay for private health insurance or if they are under formal employment (something unlikely even among Bolivian nationals).

Regarding the right to access public education, UNHCR and its partners have documented cases in which asylum-seeking and refugee children holding provisional documentation issued by CONARE are rejected from enrolment in educational institutions. These cases, although isolated, show the lack of knowledge that exists among public servants on asylum procedures, refugee rights, and provisional documentation granted to asylum seekers.

In terms of financial inclusion, banks do not open accounts for asylum-seekers holding provisional documentation. Only those who have been recognized as refugees and have a foreigner's identity card can open a bank account, which represents a major obstacle for those persons of concern who intend to work formally and/or establish their own business. Despite this, there is no regulation that facilitates the opening of bank accounts for asylum-seekers.

Recommendations:
As raised by UN treaty body mechanisms, UNHCR recommends that the Government of the Plurinational State of Bolivia:

(a) Apply comprehensive measures aimed at facilitating the social integration of migrants, asylum-seekers and refugees, in accordance with the Refugee Protection Act, in coordination with the National Commission for Refugees and other entities responsible for employment, health and education;[15]
(b) Ensure that public education officials receive training on the laws and procedures governing the right of all children and adolescents, including the children of migrants, refugees and asylum-seekers to be enrolled, and run awareness-raising campaigns to combat prejudices and social stigma[16].
(c) Ensure that all persons in its jurisdiction, irrespective of their migratory status, have access to the Unified Health System;[17] and,
(d) Ensure the integration of asylum seekers, migrants and refugees, including by providing humanitarian assistance and removing barriers to benefiting from social policies irrespective of migration status.[18]

Additional challenges

Issue 4: Birth registration and nationality

UNHCR and its local partners documented instances of practices that are delaying the registration of births of children born in Bolivia to foreign parents who lack valid identification documents and/or who are in an irregular situation. Unfortunately, these practices are exposing children of Bolivian nationality to difficulties to prove and/or to establish their nationality, increasing risks of statelessness in a context of mixed migratory movements taking place on a large scale in Bolivia.

[15] See, CERD/C/BOL/CO/21-24, par. 49 c
[16] See, CMW/C/BOL/CO/3, par. 56 b
[17] See, CMW/C/BOL/CO/3, par. 52 b
[18] See, E/C.12/BOL/CO/3, par. 23

Recommendations:
As raised by UN treaty body mechanisms, UNHCR recommends that the Government of the Plurinational State of Bolivia:

(a) Strengthen efforts to ensure universal birth registration and reduce risks of statelessness, including by adopting effective protocols to eliminate any barriers or administrative practices that prevent children born in the State party to foreign parents who are in an irregular migration situation and/or who are undocumented from being registered at birth;[19]

(b) Ensure that all children born in its territory, especially the children of migrants in an irregular situation and asylum-seekers, are registered at birth, issued personal identity documents and have a nationality, and seek to raise awareness among migrants and asylum-seekers of the importance of registering the births of their children.[20]

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[19] See, CAT/C/BOL/CO/3, par.50 and CRC/C/BOL/CO/5-6, par. 42 b
[20] See CMW/C/BOL/CO/3, par.54.