

**A Qualitative Approach to Refugee Law and International
Migrant Legislation:**
The Life Stories of Venezuelan Emigrants

by

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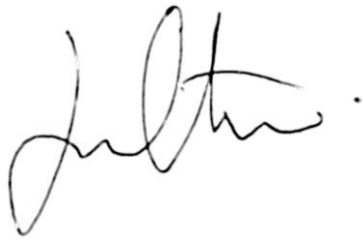
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DECLARATION FORM

The work I have submitted is my own effort. I certify that all the material in the Dissertation that is not my own work, has been identified and acknowledged. No materials are included for which a degree has been previously conferred upon me.

A handwritten signature in black ink, appearing to read 'Lis Cristina Santamaría García', with a period at the end.

Signed: Lis Cristina Santamaría García

Date: May 26, 2016.

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ABSTRACT

This research studies the Venezuelan emigrants' case in order to contest refugee law and international migrant legislation. Fragments-of-life-stories & semi-structured interviews were used as bottom-up approach, and document research including NGO reports was conducted from a top-down perspective, aiming to provide a cohesive, comprehensive and coherent image of what it means to be a Venezuelan emigrant in the last eighteen years.

Using a top-down approach for document research desk-study; made possible to overview Venezuela's country situation within the institutional framework of NGOs; while by utilizing fragment-of-life-stories and semi-structured interviews, thematic axes were interpreted from the subjective experiences of the interviewees. These two approaches resulted in complementary results to understand the case.

As part of the work ethic, the study was centered into the voice of two ignored populations, such as it is with the local NGOs in a country where 90% of the public media is government controlled; and emigrants testimonies, who are seldom considered when it comes to the drafting and approval of international migrant legislation.

The results obtained question several practices and approaches traditionally assumed in refugee law and international migrant legislation, moreover considering the specific context conditions and the subjective experiences reflected upon.

Keywords: Refugee Law, Refugee, Migrant, Emigrant, International Migrant Legislation, Venezuela, Case Study, Life Stories, Qualitative Research.

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ACRONYMS

CADIVI	Comisión de Administración de Divisas. –Foreign Exchange Administrative Commission
CODEVIDA	Coalición de Organizaciones por el Derecho a la Salud y la Vida –Right to Health and Life Organizations Coalition
CONATEL	Comisión Nacional de Telecomunicaciones de la República Bolivariana de Venezuela –Telecommunications National Commission
ENCOVI	Encuesta sobre Condiciones de Vida – Living Conditions Survey
European Agenda	European Agenda of Migration
European Convention	The European Convention for the Protection of Human Rights and Fundamental Freedoms
EU	European Union
FPV	Foro Penal Venezolano –Venezuela Penal Forum
Geneva Convention	1951 Convention Relating to the Status of Refugees
HR	Human Rights
HRW	Human Rights Watch
DIDP	Developmental -Induced Displaced Person
IDP	Internally Displaced Person
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
LGBTI	Lesbian, Gay, Bisexual, Transsexual, Intersexual
Migrant Workers Convention	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

NGO	Non-Governmental Organization
OVV	Observatorio Venezolano de Violencia –Venezuelan Violence Observatory
PDVSA	Petróleos de Venezuela Sociedad Anónima –Venezuela’s Major state-owned oil company
Protocol	1967 Protocol Relating to the Status of Refugees
PROVEA	Programa Venezolano de Educación Acción en Derechos Humanos Venezuelan Human Rights Program for Education-Action
RCTV	Radio Caracas Tele Vision
SEBIN	Servicio Nacional de Inteligencia Bolivariana –National Service of Bolivarian Intelligence
SHAEF	Supreme Quarters Allied Expeditionary Force
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNDP	United Nations Development Program
UNHCR	United Nations High Commissioner for Refugees
VoIP	Voice over Internet Protocol
WWII	World War II

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CHAPTER 1: INTRODUCTION

On July 28th 1951, the Convention Relating to the Status of Refugees (the Geneva Convention) was signed by the recently formed United Nations (UN), entering into force on April 22nd 1954 as a direct effort to follow up on the millions displaced in Europe after World War II (WWII). It was not until December 16th of 1967, however, that the Protocol Relating to the Status of Refugees (the Protocol), attached to the General Assembly Resolution 2198, was put forward in order to amend the geographical and temporary limitations of the previous Convention, modification which invested it with the universal character that UN documents and international legislation treaties aim for.

Refugees were since identified as a special type of people in need of international protection, fleeing persecution in their home countries for reasons of race, religion, nationality, membership of a particular social group and/or political opinion (UN Convention, 1951).

Common sense would loosely denote refugees as a subgroup belonging to the wider category of migrants (Feller, 2005), but the different array of authors and practitioners in the field would not easily agree with this perception.

Professionals in the area seem to conflict between ideas in which associating refugees with migrants threatens with stripping the former from the international special protections reserved only for them (Feller, 2005); and the comments on international treaties biases in regards to nation-state centric legislation (Marfleet, 2013), tendency to frame research and focus it onto public policies instead of empirical observations (Turton, 2005), the importance of novel actors to the human rights arena due to the new global order (Nýkanen, 2012) and the political forces and interests behind the making and interpretation of treaties.

Authors from different disciplines have also either reaffirmed on the notion of universality through positivist law in international legislation by narrowing down the possible interpretations of the refugee concept in accordance to legislative procedures (Storey, 2014), or pleaded for inclusion of new perspectives to widen the understanding regarding implementation of refugee and other forced migrants legislation. Some examples encompass incorporating the role of migration in history (Marfleet, 2013) and the anthropological perspective on refugee issues (Malkki, 1995), to name a few.

Additionally, professionals like Hataway (2014) have contested the monopoly on the ascribing refugee status mostly under Civil and Political Rights' violations, while bypassing the undermining of Economic, Social and Cultural Rights, in spite universal claims of indivisibility and non-hierarchy between rights.

In this regard, the aim of this study is to practically assess international refugee and migration legislation considering the case study of Venezuela, by using traditional methodology within the field of social sciences; and to inform through the results, the main issues correspondent to the mentioned debate. For this purpose, the research tools considered are the fragments-of-life-stories of Venezuelan emigrants and complementary interviews in conjunction with document research to construct a cohesive picture of the Venezuelan context.

Within the 1960s, Venezuela was traditionally perceived as country welcoming immigrants, with an immigrant population rate of 15% in a total of 10 million people. During the next 45 years the overall Venezuelan population increased to over 31 million persons in 2015¹, but during the last seventeen years the country has experienced a massive Diaspora resulting in an approximate of ten percent of its citizens fleeing the country (Páez, 2015).

Páez (2015) posits as principal reasons of this emigration flux the rampant violence in which desolates the country, with Caracas, the capital city, as the most dangerous city in the world and other six cities within the 50 more dangerous; and the scarcity and food shortages, were 72.3% of the population lost around seven or more kilos of weight last year, while a third of the country's citizens has only access to two meals a day²; as main propellers for Venezuelans to leave their country. For Páez (2015)³ these reasons are the result of the political system under which the country is currently ruled.

This study will be rooted into the Venezuelan emigrants' fragments-of-life-stories in order to question, through the subjective experiences of these persons, the institutional conceptions associated with refugee and migrants' legislation that today seem to emerge as the new frontier for this population to enjoy fully their Human Rights.

¹ According to the World Bank website: <http://data.worldbank.org/indicator/SP.POP.TOTL>

² http://www.huffingtonpost.ca/2017/02/24/venezuela-food-shortages_n_14987124.html

³ The Voice of the Venezuelan Diaspora (2015)

1.1 Research Question

I will build on the subjective experiences of Venezuelan emigrants, understood under a psychological and narrative framework, to re-interpreted and reflect upon conceptualization, policies and procedures of implementation regarding Refugees and Migrants Human Rights legislation.

The question I will answer through this study will be:

1. What do the experiences of Venezuelan emigrants contest regarding Refugee and Migrant international legislation policies and implementation?

- Do the current Human Rights categories “Refugee” and “Migrant” fully reflect/provide a space for Venezuelans emigrants of the recent Diaspora to enjoy Human Rights in its entirety?
- What lessons are to be learned from this particular case?

1.2 Outline

In order to address the research question I would first review the methodology and methods I use in Chapter 2, informing how the paradigm of choice impacted the collection and use given to the information discussed. In Chapter 3 I develop the debate on migration and refugee conceptualization, while overviewing the most important treaties in the last 70 years of refugee law and migrant international legislation. I discuss my findings in Chapter 4, where these are organized according to thematical axes resulting from the fragments-of-life-stories, whereas in Chapter 5 I present the conclusions and recommendations for this work. The last two Chapters are destined to the Reference list and the Appendices.

CHAPTER 2: METHODOLOGY

The methodology used in this study corresponds to the qualitative approach, framed within the paradigm of constructivism, where reality is co-constructed between the researcher and the individuals involved in the research. The methods selected have a tradition of usage within the social sciences, while having been progressively incorporated into human rights research.

This type of methods were selected in order to fulfill the requirements of the research question while opening new paths of inquiry and shed light on conflicts of human rights implementation, by problematizing the field in ways that challenge the predominance of positivist law (Landman, 2009) .

Ultimately, the objective of this research is to question refugee and migrant legislation under the experiences of Venezuelan emigrants, by portraying the meaning that entangle these experiences with the country situation in contrast to human rights legal assumptions and theory.

In the chapter, I discuss the methods employed to collect information regarding Venezuelan experiences, the procedures of data collection and the type of analysis conducted. In particular, the Voice Over Internet Protocol Skype was pivotal to conduct the fragments-of-life-story and semi-structured interviews, since the historians were located in several countries of the world; internet in this sense was indispensable as a general tool into accessing applications of independent press, blogs and other types of sources from Venezuela, where state control has dominance over 90% of the media. The chapter is finished with a comment on the ethical considerations and limitations of the study.

2.1 Case study

Case studies constitute one of the prevalent methodologies of research now employed by human rights professionals and scholars as well, due to its flexible approach allowing researchers to investigate more abstract questions through specific cases, and encouraging them to gather evidence from multiple sources and several collection techniques, building up for triangulation and verification of data (Reed and Pandskocimaite, 2012).

The current murky country situation in Venezuela placed it as an appropriate case study in order to question the nation-state framework where human rights legislation, policy,

research and advocacy are rather conceptualized. The investigation was conducted making use of document review, fragments-of-life-stories and semi-structured interviews.

In addition, the use of case study has the advantage of producing detailed analyses of complex understudied issues, while giving voice to obscured stakeholders, as well as to be particularly useful to develop within sensitive political and cultural circumstances (Reed and Pandkocimaite, 2012).

This flexibility allowed me to employ the case study methodology in order to systematically collect and voice out how ordinary persons, Venezuelan emigrants, are affected by the construction of international legislation processes which are informed by political agendas.

In this study, document review was used a top-down approach with the aim of providing context and history to the Venezuelan case, which is now characterized by a strong censorship in the country's media.

On the other hand, fragments-of-life-story were used to assess from the bottom-up, the particular and shared experiences of Venezuelan emigrants regarding the situations which drove them to leave their country of origin, Venezuela, and the perception they have on the country of "reception"; while semi-structured interviews were developed as a complementary device to widen information provided by the fragments-of-life-stories, and to explore interesting details and particularities of the fragment-of-life-stories.

2.2 Document Review: Desk Study

Document review under the technique of desk study implies the revision on the part of the researcher of a wide array of bibliographical sources to find out hard facts and indicators about a particular country, by triangulating different sources and types of information (UNPD, 2004; Reed and Pandkocimaite, 2012).

Through the use of this diverse type of sources and indicators, I was able to reconstruct a more honest and consistent picture of the country situation in Venezuela, in spite of the censorship impose to the great majority of the media.

By consulting independent reports from journalists, bloggers, NGOs and websites it was possible for me to contrast not only independent specific data with official reports, , but also to put forward hypothesis on missing data, and to add onto interpretation and contextualization of the Venezuelan emigrants experiences, obtained through the fragments-of-life-stories and the semi-structured interviews.

2.3 Fragments-of-life-story

A life-story (including the dash) is a type of bibliographic document narrated by the same person who the bibliography is about on her own initiative or under the request of another person, with a physically and actually present interlocutor. An important part of this approach is the assumption that the life-story is the product of the two persons involved, a social act in itself, possible due to the relationship between the historian, which is the person whose life is in the story and tells her story, and the co-historian, the interlocutor (Moreno, 2002).

When the narration is restricted only to a part, an episode or period of life of a person, the appropriate term is “fragment-of-life-story”. Particular kinds of fragments-of-life-story are delimited by aspects, activities or subjects of the life of the person that narrates the fragment (Moreno, 2002).

In this study, 24 fragments-of-life-stories were developed in order to gain insight on the particular and common experiences of Venezuelan emigrants. Additionally, current trend in research emphasizes the life-story as the actual object of research and not only an instrument for something else, in order to take advantage of all the heuristic potential of the life-story being understood as a praxis of life where the relationships of that praxis are internalized and personalized (Moreno, 2002).

In this study, analysis was given to fragments-of-life-stories not only by collecting facts and experiences reported, but also by how they were constructed, listening to them carefully and finding patterns within the narratives that amounted to guiding-marks. These guiding-marks conform to thematical axes which structure the narrative from a cultural point of view, providing me with clues as to the quality of these experiences, lived and understood by a particular person within her cultural framework of reference.

This approach was developed by Moreno and the research team of the Centre for Popular Research (CIP)⁴ in Venezuela, with further implications for general research that extend well beyond the scope of this study.

The participants of this study were selected through convenience and snowball sampling, where new respondents were suggested to the researcher by previous respondents. Snowball sampling is particularly useful to find out new respondents where populations tend to be concealed (Atkinson and Flint, 2001).

⁴ Original in spanish: Centro de Investigaciones Populares.

This is the case of the Venezuelan legal or illegal emigrants I was searching for, which tended to be distrustful when required to provide personal information. In general, previous respondents “recommended me” to new respondents, and after consent, they provided me with the contact details of new respondents, which I would reach through email or a whatsapp message⁵, depending on the respondent’s preferred social network.

Fragments-of-life stories were then developed face to face or through a Voice over Internet Protocols (VoIP), mainly Skype or Whatssap, and encouraged after the overall introduction, ethical guidelines and general instructions. The next indication, replicated here in English⁶, was originally made in Spanish as follows:

-Can you please tell me the story from the first moment you started thinking about leaving Venezuela until the present moment? What reasons or things motivated you and what was important for you to take into consideration? What do you think were the milestones of this migration process?

A total of 24 fragments-of-life-stories were conducted in Spanish, as it is the native language of the interviewees and interviewer, and recorded, with one being dismissed after specific problems with the audio of recording.

The criteria to determine how many life-stories are sufficient for an specific research is that of “saturation”, which is to say, the notion of multiplying the life-stories until any more novelties can’t be found in the signifiers upon which the life-stories are built upon and within (Moreno, 2002). Additionally to signifiers, the analyzed fragments-of-life-stories were classified according to a matrix of demographic factors in order to spot possible patterns and balance the limitations of snowball sampling.

2.4 Semi-structured Interviews

Interviews constitute oral conversations between two persons and they generally take place either face to face, through telephone, or in more recent times, through VoIPs such as Skype (Reed and Pandskocimaite, 2012). Semi-structured interviews are usually composed of predetermined questions but within a flexible order, and they allow for the interviewer to adapt regarding what seems most appropriate during the interview: wording can be changed, probes can be given and some questions can be omitted depending on the responses of the

⁵ The original template for emails and whatsapp messages and the English translation can be consulted on Annex 1

⁶ The complete instructions, indications and semi-structured interview guide is portrayed in Spanish and translated to English in Annex 2

interviewees. They are also characterized by the intention of the researcher on gathering open and deep responses, by not providing restrictions on the responses other than the subject area (Robson, 2002).

The semi-structured interviews were developed in the same session of the fragments-of-life-story in order to deepen and explore the information collected from the fragment-of-life-story. The typical session consisted of an introduction, where the purposes of the study and brief background of the researcher were communicated, the ethical guidelines were commented with the interviewee and formal consent was verbally requested in order to continue, following with questions on the demographic data of the interviewee, instructions for the fragment-of-life-story and finalizing with appropriate questions from the interview guide.

Only one informal-group interview was performed, as a matter of chance, when the spouse of one of the interviewees arrived to the site and they both got progressively involved into answering the questions. The information obtained was used as another extra source but it was not analyzed under the same premises of the other fragments-of-life-stories and semi-structured interviews, due to it providing qualitatively different data (Arksey, 1996).

The analysis of the rest of the interviews was developed by selectively transcribing the relevant passages and information stated, and correlating it with the fragments-of-life-stories.

2.5 Ethical Considerations

The methods employed for this study were chosen under the notion of allowing new voices, the voices of ordinary people, to take the center stage regarding human right's legislation, implementation and advocacy. Fragments-of-life-stories and interviews were selected in order to characterized the subjective experiences of Venezuelan emigrants in terms of their cultural background, and document research to provide context from an bigger perspective.

During the first minutes of the interview anonymity and confidentiality were ensured, while verbal consent and permission to record were requested and obtained in all the cases, by the researcher. Participants were given the right to interrupt, terminate or request the deletion of their fragment-of-life-story and/or interview.

Because most of the interviews took place on Skype, the physical locations were those selected by the interviewees. For those who were interviewed face to face, locations were negotiated between interviewee and interviewer, keeping in mind that it was a safe

environment where it was possible to ensure confidentiality. A summary of this research results was offered to the participants who wished to know the overall outcome, and it will be delivered after the universities evaluation and grading assessment.

2.6 Limitations of the Study

According to Landman (2009) one of the disadvantages in the use of case studies is their tendency to be too focused on the particularities of the context under investigation sometimes turning into a very long description of facts. Attention was given to the proper use of a diverse methodology that allowed for different kinds of information input and analysis, in order to produce a sounding critique grounded in the triangulation of the evidence gathered.

Additionally, snowball sampling has been proven to produce bias in the sampling collection, due to social structure similarities between the referees and the new respondents referred to the researcher (Atkinson and Flint, 2001). An attempt has been made to shed light into possible demographic patterns by matching the population's data within a matrix of demographic factors.

Limitations were also encountered when in search of Venezuelan illegal emigrants, since due to the specific contingencies of this population's situation, they tend to hide their legal situation and remain concealed.

CHAPTER 3: LITERATURE REVIEW

“The term human rights, with its immense symbolic capital, has been co-opted to a large number of relatively independent discourses, practices, institutions and campaigns. As a result no global ‘theory’ of rights exists or can be created. Different theoretical perspectives and disciplinary approaches are therefore necessary.”

Costas Douzinhos. The Paradoxes of human rights.

It is no easy task to make sense of the print left in history by major displacements, in history. Marfleet (2013) suggest one of the reasons is because even though migrations have transformed societies by building up legacies that extend over long-life periods of time, this area of study has lacked a sense of historical perspective that is seldom reflected on contemporary analyses.

The cumulative evidence, however, seems to put forward the systematic character of mass displacements as a part of the current global “order”, endorsing the need of understanding today’s movements and institutional actor’s responses, such as the emergence of new migration and refugee policies, in relation to those of the past (Marfleet, 2007).

Different factors influenced history’s blind-spot in regards to the field of migration and refugee studies, but one with a distinctive character for the purposes of this study is the nationalist bias in modern historical research, product of the nation-state centered agendas (Marfleet, 2013). Within that perspective, the focus of history is placed mainly in the citizens of the state and in the state itself as the protagonists of historical action, conducing to a pervasive methodological nationalism which conceptually displaces migrants as in a dysfunctional relation with the state and the national culture (Marfleet, 2013).

Turton (2003) also identified and criticized a bias in research within the field of refugee studies and mass displacements, fostered by the categories and concepts of policy making, which historically have responded to the interests and objectives of nations and governments, but not necessarily to empirical observation and scientific investigation.

One lasting consequence of this point of view is fostering policy based research, promoting interests of national institutions while unreflectively avoiding the historical and colonial processes shaping the occurrence of mass migration (Black, 2001; cited in Marfleet, 2013).

Marfleet (2007) questioned the idea of refugee crises occurring only as contingent to present conflicts; reflecting on additional globalized factors, such as global developments, colonial forces and external interventions and linking these situations directly to the past between countries. This is followed by criticism of policy implementation according to misguided, ahistorical and apolitical interpretations; favoring national practices.

As a consequence, the academic evolution in the refugee studies field focused upon issues of immediacy, legal status, integration and assimilation, welfare, etc. motivated by imminent arrivals. However, more recently efforts seemed to have diverted into policy agendas aiming to decrease migration “upon regulation, containment and exclusion” (Marfleet, 2007, p. 138).

Paradoxes are part of the migration and refugee concepts. Important contrast is defined between the common sense idea of forced mass displacements and refugees being notions present since “always”; as opposed to opinions supporting their emergence with the Geneva Convention from 1951 by establishing the formal legal category of “refugees”.

The later position is endorsed by authors like Malkki (1995) who located the present configuration of “the refugee” concept within the post-World War II era in Europe, while also emphasized the used of standardized and globalized techniques to deal with the mass displacements of the time in the institutional, the settling, the administrative and the legal domains of refugee camps.

According to Marfleet (2007) however, these assumptions should be read carefully; they have the potential on misleading because they both disconnect from historical precedents, either by assuming very vague temporal notions, or by circumscribing a social process only to the Geneva Convention. For this author, forced migrations and refugees were initially connected to the notion of sanctuary, present in many cultures and religions, while later on they acquired a more distinctive character by the advent of the nation-state system in the 15th century, as a distinct group, defined by authorities’ effort to provide a national identity and allocate cultural markers.

Paradoxical as it may seem, the forces of mass displacement were employed as tools to establish socio/cultural and territorial borders that helped shape the nation-state contemporary model of socio-political order, which consolidated during the 17th and 18th centuries (Marfleet, 2013). The author reminded that most of these states were the result of radical struggles and revolutions involving conflict over power relations, associated with internal displacements and cross-border movements of migrants imprinting their mark on larger socio-political arrangements.

The pattern in Europe towards migration slowly developed into new forms of authority and surveillance for culturally diverse groups of people, by systematically recording population and territory as fixed entities of the national project, were mobile people represented a problem for the sedentary model (Marfleet, 2013). Furthermore, the nation-state centered policy also influenced the introduction of the refugee term in the 20th century, as an especial category of migrants looking for protection (Marfleet, 2007).

The introduction of the refugee concept into the international law agenda was granted by the Geneva Convention during the last years of World War II and the immediate postwar timeframe (Malkki, 1995). These asylum seekers in search of protection, were not perceived in the beginning as an international humanitarian problem, moreover, displaced people in Europe were mostly conceived as a military problem under the Refugees and Displaced Persons Branch of the Supreme Headquarters Allied Expeditionary Force or SHAEF (Malkki, 1995).

Malkki (1995) affirmed the former disposition characterized the type of logistics employed, by blue-printing basic configurations of refugee camps from military camps in order to facilitate administrative and bureaucratic processes. According to her, the structure of the camps served as devices of power which spatially concentrated displaced persons, segregating them in terms of nationalities, and redistributing the camp population to undergo hygienic programs, quarantine processes and/or to be repatriated or resettled.

The camps disposition made it feasible to accumulate the documentation of the inhabitants, in addition to employ tasks of control and discipline, such as restriction of movement, communication and black-marketing (Malkki, 1995).

These historical processes contributed to the growing of the “postwar refugee as a knowable, nameable figure and object of social-scientific knowledge” (Malkki 1995, p.498) which acquired notoriety as a humanitarian issue after the signing of the before mention Geneva Convention and the establishment of United Nations High Commissioner for Refugees (UNHCR). The legal structured developed after the postwar years, however, tended to relay on premises implicit to the sovereign nation-states, in spite of international rights regulations containing the premises superseding national order (Malkki, 1995).

3.1 The International Legislative Framework

3.1.1 Universal Documents

The international legislative framework comprises documents such as charters, conventions, treaties, resolutions, etc., in order to provide regulatory structure for nations to abide. Theoretically, it should be compulsory for ratifying countries to develop means which guarantee rightful implementation of international legislation. In practice, however, it has turned out to be more complex.

This study will critically review some of the most influent international legislation and normative framework which have geographic relevance for the purpose of this study, starting with universal documents, and proceeding to regional treaties.

The first relevant universal document is the Universal Declaration of Human Rights (UDHR), adopted by the UN in December 10th of 1948, which proclaims in article two absolute inclusion and enjoyment of Human Rights (HR) to the Peoples of the world, and in articles six and seven the rights of recognition and equality before the law. Article 13 (1) declares freedom of movement within each person's own country and (2) within other countries as well; while article 14 (1) affirms the right of asylum. Furthermore, articles 22 and 25 of the UDHR address the importance of realizing social, cultural and economic rights in order to ensure adequate standards of living and dignity for everyone.

As a byproduct of different political visions, such as the diverse standards held for rights, in addition to the power dynamics taking place between states at the time the UDHR was adopted; the UN proclaimed in December 16th of 1966 two fundamental treaties for international legislation, each one encompassing different political agendas in regards to rights: the International Covenant on Civil and Political Rights (ICCPR), which entered into force on March 23rd of 1976; and the International Covenant on Economic, Social and Cultural Rights, which entered into force on January 3rd of 1976 (ICESCR).

The ICCPR provides to ratifying states, in article four, the possibility to derogate on several of the included Human Rights obligations, whenever a state finds itself in a situation of state-emergency. The exemptions to derogation can be found in paragraph two of the same article, naming: the right of life (6), the protection against torture (7) and slavery (8-1, 8-2), or imprisonment due to inability to fulfill a contract (11), the prohibition to conduct retroactive trials under new law changes (15), the right of equality and recognition before the law (16), and the right and protections to freedom of thought, conscience and religion (18). Additionally, the ICCPR includes the option for aliens to appeal decisions of expulsion, article that is replicated in other regional treaties.

The ICCPR, however, doesn't provide a strong and specific legislative framework for refugee protection, asylum seekers and migrants. In this sense, one of the more important omissions is comprised by the unmentioned principle of non-refoulement, the exemption to its derogation, and the endangering to life its violation represents.

On its part, the ICESCR also affirms its non-discriminative universal access, independently of national or social origin (article 2-2). Exceptions are made within the case of developing countries, where rights to non-nationals are to be ensured only to the extent of the economic resources of the specific country.

In article 11 of ICESCR it is recognized the right to adequate standards of living, including: feeding, clothing and housing, while article 13 affirms the right to the "highest attainable standard" of physical and mental health. In contrast to the ICCPR, ICESCR doesn't have a derogation principle; but its efficiency is understood under the notion of rights' attainability to the highest possible standards.

Directly consistent with article 14 of the UDHR, was created on July 28th 1951 the Convention Relating to the Status of Refugees, entering into force on April 22nd 1954, and the Protocol Relating to the Status of Refugees (the Protocol) attached to the General Assembly Resolution 2198 of December 16th 1967, as it was mentioned earlier.

The Geneva Convention, pivotal for refugee protection and legislation, defines in article one, section A, numeral two, the term "refugee" as a person who:

"As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national."

For Marfleet (2007) this definition identified refugees and ascribe them to a specific time and place that segregated who were and who were not refugees. In 1967, though, the Protocol was introduced principally to remove the Geneva Convention limitations of time and space: "fleeing events that occurred before 1st of January 1951 within Europe", hence providing it with universal coverage.

An Asylum Seeker is then defined as a person waiting for an official response after applying for refugee status, while Internally Displaced Persons constitute the group of people facing persecution and moving within the borders of their own country (Zetter, 2007).

In the introductory note by the Office UNHCR made on 2010 to the Geneva Convention, the character as a rights-base instrument underpinned by fundamental principles such as non-refoulement, no- penalization and non-discrimination, was reiterated.

The Geneva Convention affirms on article 33 the non-derogative principle of non-refoulement/prohibition of return that protects refugees from being expelled to territories where their lives or freedoms are endangered on account of their race, religion, nationality, membership of a particular social group or political opinion.

Incidentally, the Geneva Convention also proclaims the non-penalization due to illegal entry or stay of asylum seekers, recognizing the necessity in some cases, of breaking immigration's law in order to request asylum. In general, this Convention stands for the basic minimum standards in the treatment and welfare of refugees, including granting access to courts, primary education, the right to work, and the provision for documentation.

In contrast, authors like Feller (2006, cited from Nykanen, 2012) observed several of the weaknesses compromising the correct implementation of the Geneva Convention as: the absence of a right to enter the territory of the contracting state, a right to a residence permit, the right to remain within the territory of a particular state or even the mechanisms and standards for assessing the qualification of a given individual to be considered refugee.

Relatedly, Storey (2014) criticizes the lack of definition to the term persecution, crucial to the aforementioned refugee definition and fundamental cornerstone to this concept, by concerning the fear of the persecuted and her relationship with the persecutor. Implications to these weaknesses will be discussed in the sections below.

Another Universal legislation that advances the rights of migrants is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Migrant Workers Convention), adopted by General Assembly resolution 45/158 in December 18th 1990, which defines the term migrant worker broadly as "a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national" (article two, numeral one), and then continues to revise several types of migrant workers, excluding those persons to whom the Geneva Convention applies.

An interest point of discussion revolves around the contrast between both definitions: while the term refugee is centered in the idea of persecution, where subjective, social and contextual components are to be present, and the negative relationship with the state of origin

or residence is pivotal; the concept of a “migrant worker” is very well reduced to the type of relationship a person holds with the state of employment.

Already in 1995 Malkki, in her article questioning the pertinent object of study for an anthropology focused on “refugee studies”, criticized the cemented presumption of refugees as within the political tradition of migrants, while the rest were perceived as the economic facet of the migration phenomenon. Hataway (2014) also contested the tendency of states to be more willing of granting refugee status when in presence of basic civil rights or physical security claims than of those threats rooted in socio-economic well-being.

It also shows the inadequacy of using terms like “economic refugees”, as Grahl-Madsen suggested in 1983, wrongly implying that certain types of refugees should not receive the same protections because their reasons for leaving their country are related to socio-economic status. As it possible to notice, even if some of conflicts underpinning refugee international legislation are more publicized than others, many of them are long dated.

In this study, the articles of the Migrant Workers Convention presented will be those which character posit more relevant aspects to the Venezuelan case study, focus of this research. Among these is possible to find:

- article number 41 establishing the right of migrant workers to participate in public affairs of their state of origin;
- article 42 which advocates the creation of institutions and procedures monitoring special needs, aspirations and obligations of migrant workers and their families, in both the country of origin and the country of employment;
- article 44, which incorporates the notion for the states of employment to grant equal treatment to migrant workers’ partners (44-2) and families (44-2) under humanitarian grounds;
- article 47, which specifically deals with the idea of funds within the employment state and the country origin;
- article 56, advocating for states of employment into taking humanitarian considerations when deciding upon a migrant’s worker and/or his or her family expulsion from its territory;
- article 68, which encompasses the notions of eliminating illegal or clandestine movements and employment of migrants in an illegal situation by the means of (68-a) non-dissemination of misleading information and
- article 69 (2) in regards to considerations made on the part of state parties for the regularization of a migrant worker in an irregular situation;

3.1.2 Regional Documents

In addition to the universal legal framework developed in the before-mentioned documents, regional legislative treaties have been put in place in order to regulate and accommodate migration flows. Universal and regional documents don't always complement like pieces of a puzzle and not few are the cases where they override each other and conflict.

The European Convention for the Protection of Human Rights and Fundamental Freedoms, the EU Qualification Directive from 2004, The EU Procedural Directive from 2005 and the European Agenda on Migration from 2015 are four of the most relevant European treaties, elaborated in different periods of time, with different political agendas, in order to promote standardization of migration regulations implemented by the national states of the European community. These documents define the minimum level of guarantees below which national standards should not go (Nykänen, 2012).

The European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention) was signed at Rome on November 4th 1950, previous to the consolidation of the European Union (EU), and it has been amended by several protocols from the time it was signed.

Initially, the ratifying countries engaged in this document as separate nations kept an important degree of independence in terms of their particular migration policies.

From a general perspective, the European Convention assumed a rather conservative stance towards migrants and refugees and the protections taken in their favor, while additionally allowing the ratifying states to restrict the alien's involvement in political activities (article 16); however, Protocol number 4 amendment to the European Convention, signed in Strasbourg on September 16th of 1963, reaffirmed, in article number 4, the prohibition of collective expulsion of aliens. Protocol number seven to the European Convention, signed in Strasbourg November 22nd of 1984, presented greater advance in favor of migrants and refugees by granting minimum "procedural safeguards relating to the expulsion of aliens" (article 1-1) understanding the possibility for aliens to legally defend themselves, be represented in court and appeal the decision of expulsion by states. The states, on the other hand, kept the right to expulse aliens due to reasons of public order and/or national security (numeral 2 of the same article).

At the end of the 20th century, the conformation of the EU brought along the requirement for new regulations within states, inter-states and above states in the European Community.

Recognizing the need to provide an abiding normative within the nation member states in the area of asylum, the EU Qualification Directive was proclaimed on April 29th of 2004, and the EU Procedural Directive, on December 1st of 2005. The former provides a framework regarding the adoption of international refugee legislation, while the second is aimed to deepen and characterize the standard procedures for determination of the refugee status which nations should follow within the European Union.

The aim of EU Qualifications Directive was to assess a common understanding of how the elements of the refugee definition in the Geneva Convention should be interpreted, while establishing a minimum of benefits available for the qualifying persons (Nykanen, 2012). This document, however, also introduced in article 2-e the term “person eligible for subsidiary protection”, an ambivalent concept that is used to denominate people who have shown “substantial grounds for believing that the person is concerned, if returned to his/her country of origin (...) or would face a real risk of suffering harm” (p.5) but does not qualify for refugee status.

It also addressed one of the problems in the Geneva Convention by obliging the European Community member-states to grant refugee status and residence permit for those persons who qualified for asylum (Nykanen, 2012). However, in spite of the comprehensive efforts within the Qualification Directive, asylum claims still tend to vary from country to country in accordance to the discrepancies of the national practices.

The main purpose of the Procedural Directive (2005) was to “establish minimum standards on procedures in Member States for granting and withdrawing refugee status” (p.4). Although the Procedural Directive has been praised based on the development of some positive aspects for refugees, such as the right to receive interpreter services, personal interviews and appeal procedures; it has mostly been fiercely criticized because it has endangered some of the previously granted legal protections, being this the case of the wide scope of inadmissible applications and accelerated procedures, the very restrained safeguards in regards to appeal produces, and at the end, by failing to obtain a more harmonize procedural standards of the EU members bounded by it, giving an extensive margin of appreciation, exceptions and qualifications to the nations (Nykanen, 2012).

However, more recently, with the so-called “2015 Refugee Crisis”, there has been renewed interest towards the consolidation of a more solid and unified immigration policy converging in the European Agenda of Migration (the European Agenda), signed in Brussels on May 13th 2015.

During the year 2015, the large amount of migrants escaping from the Syrian conflict overflowed the immigration and asylum systems of the border countries receiving them, placing additional pressure onto the European Union to develop a new approach. The European Agenda has been designed to put together short-term goals, including programs and procedures of immediate action, and medium term goals aiming to set the legislative footprint for future migration flows in the European Community.

The interest in this study for the European Agenda lies not only into the exemplification and contextualization of European refugee international legislation, but also because the explicit and specific measures and standard procedures established in it, which may elicit HR concerns in terms of its questionable practices.

The immediate action of the European Agenda plan is constituted by four main strategies:

- (a) Saving lives at the sea, by tripling the budget for the Frontex joint operations Triton and Poseidon (all of them military operations);
- (b) Responding to high volumes of arrivals within the EU by relocating⁷ the high volumes of arrivals from the country of local reception to other EU members,
- (c) Using the EU's tools to help frontline member states, by coordinating together the migrants identification within the European Asylum Support Office, Frontex and Europol and,
- (d) Working in partnership with third countries to tackle migration upstream.

Several measures have been coordinated in order to impede the influx of people through vessels in the sea, and returning them to their home countries before they step on new soil. This is not new to history, already described by Grahl-Madsen in 1983, when there was not a European Union common legislation framework, and rescuing people at the sea in need of international protection didn't involve granting refugee status; while people from distinct nationalities was returned, confined to camps, and/or denied work permissions.

The last component of the European Agenda was set to be informed by three specific procedures: (1) EU support to the countries assuming the direct impact of the refugee flow, (2) Setting up multipurpose centers in the countries of origin to direct migrants journey feasibility, while offering assisted voluntary returning options for irregular migrants and (3)

⁷ The main difference between relocation and resettlement is that while the last responds to the refugee's need for international protection, the former is a state procedure that responds to the need of the country of sharing the responsibility of refugee with other countries .

Considering migration as a branch of common security and defense policy, strengthening border management.

On the medium-term, the European Agenda endorse four pillars to supposedly improving migration managing, naming:

- (1) Reducing the incentives for irregular migration, addressing the root causes of irregular and forced displacement in third countries, stepping up EU Delegations in key countries, actively fighting smugglers and trafficking networks and turning the incentives to migrate to “high risk and low return”, while strengthening the return and deportation systems for irregular migrants.
- (2) Border management: saving lives and securing external borders.
- (3) A strong common asylum policy to fulfill Europe’s duty to protect, by a coherent implementation of the European Asylum System.
- (4) A new policy on legal migration: presenting a new Labor Mobility Package.

Another regional institution of particular importance to this research due to the allocation of many interviewees in countries of the American continent, the Organization of American States (OAS)⁸ developed international migration, displacement and asylum regulations, in several normative documents.

The founding document of the OAS, the OAS Charter was signed in the same year as the UDHR: 1948 in Bogotá, Colombia, but it doesn’t contemplate the right of asylum.

On March 23th 1954 the Convention on Territorial Asylum was signed in Caracas, Venezuela; again omitting an explicit definition to the refugee concept, but emphasizing state autonomy when determining territorial admission in articles 1 and 2.

Progress was made in the Cartagena Declaration on Refugees, adopted on November 22nd 1984 in Cartagena, Colombia, after an effort was made to incorporate the Geneva Convention and 1967 Protocol into regional legislation, and recommending the enlarging of the refugee definition to:

“who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.”

Additionally, UNHCR mediation between countries of origin and reception was promoted in repatriation cases, and attention was given to ensuring refugees economic, social and cultural rights; while relocation was banned against refugees will, the principle of non-

⁸ Signed on February 27th 1967

refoulement was ratified as a core pillar in refugee legislation and encouragement was given to NGOs working in the matter.

3.2 Theoretical Approach

The treaties discussed before constitute several of the most important documents in the last seventy (70) years of migration and refugee international legislation development. This normative structure has started to be questioned, among other things, as a result of the decline of power in the nation-state system. The current global order has brought forward additional actors into the international interplay, fostering what Nykänen (2012) has nominated as a process of fragmentation of power.

The process of fragmentation sheds light on legislation controversies and incongruities. For instance, authors like Turton (2003) signpost the similarities and contradictions entailed by the concepts of refugees, internally displaced persons (IDP) and development-induced displaced persons (DIDP) as categories created to serve diverse legal purposes, but sharing conceptual and empirical substance.

For this author, refugees constitute people who have left their own nation for reasons of persecution or violence, situation which has made them unable or unwilling to return to their country of origin; while development-induced displaced persons or forced resettlers have been displaced within the perimeters of their own country, generally due to developmental projects of their own government, which in turn only provides them with a minimum of resources to reestablish their lives (Turton, 2013).

In spite of the legislative and political differences existing regarding forcibly displacing within the boundaries of one's own country, such as in the case of forced resettlers, or into another nation territories, such as is the case with refugees, Turton makes use of Colson's study (1991; cf., Turton, 2003) to portray commonalities between the experiences of this uprooted populations.

Colson (1991; cf., Turton, 2003) emphasizes the shared psychological stress and increased level of distrust to authorities as a response to not be able of returning home resettlers, and by having to flee abruptly and unexpectedly. In addition, both populations also share their subjection to greater impoverishment situations, by losing not only their material goods, but the connections and the social networks which sustained their previous status and lifestyle.

Similarly, Bhui, K et al. (2003) commented on the association between specific traumatic situations such as food shortages and being lost in war circumstances with higher levels of psychiatric symptoms and cumulative trauma pre-migration as a risk factor for anxiety and depression states.

Interesting enough, both authors also share their caution with generalizations, though for different reasons: For Turton (2003) emphasizing the common needs and experiences of forced migrants runs the risk of considering them a homogenous, uniform and passive population of victims; while for Bhui, K et al. (2003) is due to possible cultural variations, degree of persecution and conditions in exile.

Similarly, Hataway (2014) makes a case for those fleeing from their home countries due to conditions of famine or starvation. In comparison to Turton (2003) he argues the Geneva Convention and Protocol were created in order to compensate for involuntary alienage and not for involuntary displacement as it is the case with IDPs. Those who run from conditions of starvation in their home countries have two challenges to address according to a classic approach to the refugee definition: the notion of “being persecuted” and the reasons of persecution mentioned in the Geneva Convention, something that would usually be subjectively decided by the state of reception (Hataway, 2014).

The problem with this classic approach is not only that very rarely persecutor states openly recognize their intentions, but also that it restricts the refugee status to those whose victimization occurred directly as a consequence of the conditions outlined in the Geneva Convention, leaving out those who resulted victimized as a lack of state protection even if it is within Convention grounds (Hataway, 2014). For example, even someone who is suffering from famine due to her membership in a specific social group, would not be granted refugee status because her victimhood would be interpreted as corresponding to a lack of state protection.

The author, however, argues international legislation has been moving forward into embracing similar cases and granting refugee status. Courts have been driven to consider decisions made by their counterparts in order to achieve a common understanding of Refugee law, looking to international law as a core point of reference and rooting within the notions of indivisibility and equality in human rights (Hataway, 2014). To this respect, violations to social and economic rights are starting to be considered as serious as violations to civil and political rights.

Hataway (2014) also mentions that denying famine-relief food in anti-governmental areas, stealing harvests to people considered “enemies” of the state as-well as discriminatory

access to food, are starting to be considered as persecution beyond the classical approach and under the notion of “being persecuted” and being victim of purposely and *discriminatory* withheld failure of state protection.

Theoretically, the discussion has extended to the terms included in the refugee definition of the Refugee Convention and Protocol. For instance, it has been argued that the legal definition of “refugee” contained in the Geneva Convention and Protocol is considered a universal concept, pragmatically able to extend through the UNHCR mandate, the resolutions of the UN General Assembly and the adoption of regional instruments (Malkki, 1995).

For Storey (2014) there are two main approaches to define the concept “persecution” within the refugee definition: (a) the HR approach stemming from positivistic law and (b) the circumstantial approach. He describes the circumstantial approach as the traditional perspective emulated by national governments pragmatic attitude towards the definition of persecution, where interpretation is mediated by the interpreters’ frame of reference (country legislation, etc.) fostered by the legal lack of a concept definition, such as in Malkki (2015).

However, Storey (2014), considers this practice flawed, since the vacuum of a specific legal definition to the concept “persecution”, in addition to the restriction on accessing the International Court of Justice (ICJ) to “resolve disputes over interpretations to inter-state procedures” (p. 274), only yields power to individual parties into developing their own understanding and implications of the term.

Hence, this author advocates for a HR approach, stemming from a legal positivist perspective, mediated by Hataway’s theory of a four-fold hierarchy of HR, where the level of persecution in every individual case is defined by the occurrence and intensity in each of the following criteria (Storey, 2014):

- (i) non-derogable human rights as set out in the ICCPR;
 - (ii) derogable human rights as set out in the ICCPR;
 - (iii) (progressively implemented) economic, social and cultural rights set out in the ICESCR;
 - (iv) miscellaneous human rights found in the UDHR not codified in either of the covenants.
- (Hataway and Foster, 2003; cited in Storey, 2014)

For Storey (2014) this is a holistic and universal approach, based on positivistic law, later embedded within the EU Qualifications Directive of 2004; document considered by him to be fitted as an international refugee legislation blue-print.

In contrast, Nykänen (2012) emphasized the criticisms to the definition have continued, calling on its restrictions and narrowness, due to it setting aside an important degree of forced migration reality, even when applied from a comprehensive perspective; this

is interpreted by the author as related to the original of Geneva Convention strategic political use in attending the necessities of the drafting nations to redistribute the refugee “burden” from the front-line European countries after WWII.

Both, Storey (2014) and Nykänen (2012) question refugee international legislation definition, however, the first by considering the Geneva Convention and the 1967 Protocol to be loosely defined and unspecific, while Nykänen (2012) focuses on problems underpinning premises holding together international legislation, such as the political interests of nations and the nation-state preeminence vs. the emergence of non-state actors. To her (Nykänen, 2012) these problems do not exist only because how the law is structured and perceived, but also due to the lack of understanding and recognition of different persecution and war aspects, in addition to the political interests of nations.

On his reflection, Turton (2003) argues favoring the idea of an agency continuum as a methodological useful tool to organize particular situations migrants face, and differentiate them in terms of the gradient of choice they might have had in regards to their migration/forced migration situation in contrast to the simple use discrete migrant.

These seem parallel to Marfleet’s (2007) suggestion on paying attention to the oral narratives of refugees and migrants providing a wide array of different angles, while arguing that in the process of sanitization history does of mass displacements, testimonies challenging mainstream accounts and dominant state practices are often ignored.

Turton’s (2003) agency continuum has several flaws, however. Ethically, it could underestimate human agency stemming from choice, and the influence structural factors, such as race, gender and social class have too.

In this study, exploration will be given to the fragments-of-life-story, semi-structure interviews and document research in order to understand and provide a holistic perspective of the Venezuelan emigrants case and contrast it with traditional refugee law and migrant international legislation. The idea on the long run is to inform on larger policy debates, from the non-traditional perspective of constructivism as oppose to positivist law and nation-state normative.

CHAPTER 4: FINDINGS

On this chapter I focus on the interpretation of findings as reflected by the document research, the fragments-of-life-story and the semi-structured interviews, in order to provide a comprehensive picture of the Venezuelan case-study, and the aspects which contest current refugee and migrant international legislation.

The three main headlines correspond to the three thematic axes found in the fragments-of life-stories. These three factors show synergic and interrelated conditions influencing Venezuelan emigrants decision to leave or remain outside their country of origin, as opposed to the usual top-down approach in international and refugee legislation, which primarily and only detects a number of isolated elements, apolitically and a-historically, and their correspondence to traditional perspectives in HR violations.

The first headline, “the Progressive Deterioration of the Country” serves to provide a direct link to international legislation by compiling elements associated with HR. The elements described are developed within the particular Venezuelan context, showing first-hand the interrelation between Venezuelan emigrants’ experiences and the reports obtained by NGOs, independent media, etc., portraying concomitant conflicts related to civil and political and socio-economical rights as well.

The second and third headlines are not as easily relatable to international legislation, however, these factors signpost complexities to the Venezuelan emigrant’s situations that need to be addressed within a regulative framework, in order to prevent HR violations.

“The Degree of Legality and Illegality” describes the particular circumstances emigrants face to comply with legal procedures related to their country of origin, which seem to endure even after several years outside Venezuela. Usually, the solution many find in order to detach themselves from these elements, which consistently remain as factors of distress because they become obstacles to legality in the new country, is by accessing permanent residence: marrying a local citizen, complying with the requirements to obtain the nationality or residency, having a double nationality.

In addition, due to governmental control in regards to foreign exchange, there is no legal procedure for emigrants, without the intention of studying abroad, to change Venezuelan currency into other currencies; which make many turn to the black market in order to transform savings and assets into viable resources.

The third headline “the Importance of Networks” discusses the influence of social factors to emigrants’ decisions. Gender and LGBTI⁹ issues are also addressed under this headline, due to LGBTI’s interviewees’ emphasis in conflicting feelings towards self-identification with their nationality and feelings of second class citizenship, fostered by the lack of state protection to this population, that translates into “the little details of everyday homophobia” (interview 23, 05/04/2017).

In order to understand the country situation evolution, a timeline and summary on the regime’s political narrative are provided next, followed by the mentioned thematic axes, finishing with the main issues contesting refugee law and migrant international legislation.

4.1 Timeline

Although the current Venezuelan regime is presided by President Nicolás Maduro, who was elected under protest by his contender Henrique Capriles on 2013, after the death of former president Hugo Chávez; Maduro’s presidential period has been publicized by him and his followers as the continuation of Chavez’s legacy.

Chávez was elected president on December 1998 with a populist agenda and a new Constitution banner (Romero, 2013) and a campaign vowing for anti-corruption, anti-neoliberal and anti-political establishment (Chandra and Dinda, 2013).

Romero (2013) describes the process undergone by Chávez and now Maduro until 2013 as 4 phased: from 1999 to 2000, the new Constitution was made and Chávez was reelected from 2000 to 2006; from 2000 to 2004 Chávez implementation of the new model started, colliding with opposition sectors; crucial events to this period are the 2002 April people’s march to the executive palace and the subsequent coup against the president, the PDVSA¹⁰ –major national oil company- labor strike on December 2002 and the presidential referendum on 2004 (won again by Chávez). The third stage began on 2004 and has been characterized by the execution of a quasi-radical statist model that breaches with previously instated models and it is called “Twenty First Century Socialism”. The fourth stage started according to Romero (2013) in 2013 with Maduro assuming the presidential period for 2013-2019.

⁹ Lesbian, Gay, Bisexual, Transexual and Intersexual.

¹⁰ Original in spanish: Petróleos de Venezuela / Venezuela’s Oil Company.

4.2 Political Narrative

An important part of Venezuela's former president Chávez political narrative, continued by his successor Maduro, has been rooted in the idea of the United States (U.S) as a national enemy aiming to impede the development of the Bolivarian revolution, by exercising underground inferences and interferences to the executive mandate; this rhetoric and the continuation of election processes helped the regime to obtain international support from other countries who have been insistently passive in turn to the warnings made by national NGOs, reporting authoritarianism breaches and human rights violations carried on by the Venezuelan national government (Romero 2013).

Interestingly, the Bolivarian government has managed to, while publicly attacking the U.S. government through the media, sustain the exportation of around one daily million oil barrels to the same country (Romero, 2013). The control of oil revenues has been progressively assumed by the executive power, with the creation on 2006 of parallel discretionary executive funds, not considered within the national budget which requires the annual approval of the National Assembly¹¹, guaranteeing the centralization of state control by obliterating the politic and economic powers.

Additionally, since 2007 the Bolivarian government has intensified interventionism tactics and the statist agenda, by directly attacking and cornering the private sector through the Simón Bolívar Development Plan¹² (Romero, 2013).

4.3 The Progressive Deterioration of the Country

A core issue discussed in the fragments-of-life-stories and interviews collected was the progressive deterioration of the country, Venezuela, were most emigrants who left the country before 2013 did so because of a mix of personal, political and economic reasons; while interviewees who left afterward expressed much more intense feelings of immediacy and urgency, a need to flee and a sensation of relief after having done so.

¹¹ Venezuela's Legislative Power representation.

¹² Original in spanish "Plan de Desarrollo Simón Bolívar".

4.3.1 Civil and Political: *A repressive state: Violence, Torture and Impunity*

The more recent period, approximately from 2014 to 2017, is frequently described as a struggle with violence and delinquency, with most interviewees being multiple time victims of criminal violence, and with criminal violence being the number one reason of interviewees to leave the country and to not return. One of the interviewees reflected how the overall situation made her house vulnerable to be invaded by robbers, who trespass the property during the now frequent electricity cuts, and held a gun to her head and subjugated her family; while another interviewee commented how being victim of two armed thefts and directly witnessing the murder of a pregnant woman convinced her to carry on with her emigration plans, and not return to the country.

The Venezuelan Violence Observatory¹³ (OVV), a NGO which annually releases a report encompassing an estimation of the annual death count for victims of violence in Venezuela, revealed that for 2016 the cipher rounded 91.8 of violent deaths per 100.000 inhabitants, placing for the second time in a row Caracas as the most violent city in the world in 2016 with 130.35 deaths per 100.000 inhabitants, and another six Venezuelan cities in the top 50 of violent cities, excluding warzones and according to the Mexico's Citizens' Council for Public Security and Criminal Justice.

The annual death toll prognostic for Venezuela was of 28.479 deaths, 18.230 as homicides, 5.281 because of resistance to policy arrest and 4.968 still under investigation. The report also mentions the presence of four specific violent social processes in Venezuela: (1) delinquency acts have become more violent, as evidenced by big clashes with the police, kidnaps and shootings inside prisons and the increase of group homicides; (2) the military and police reaction has also been the increase of violence, with 80% of the cases for resisting authority resulting fatal; (3) there is an increase in delinquency related to "hunger" and (4) there is an increase in amateur delinquency, people that has an employment or a job which is insufficient to cover their expenses.

Additionally, less than a 10% of the population reported trusting the judicial system, due to its increased politicization. As a result, the numbers of lynchings and population displacements have increased (OVV, 2016).

¹³ Original in spanish: Observatorio Venezolano de Violencia.

On May 2017 the Universidad Católica Andrés Bello Human Rights Center and the NGO PROVEA¹⁴ released a report named “From that impunity came these tortures”¹⁵ addressing the Venezuelan authorities avoidance of the responsibility regarding the proven tortures committed by government officials during 2014 protests, and the production of false information, the reluctance to conduct proper investigations and the placement of bureaucratic obstacles to NGO researchers. Additionally, the report denounces the detention of victims in a place named “the tomb”, a subterranean bright-white prison in the Bolivarian National Intelligence Service¹⁶ (SEBIN) used for doubtful procedures of detention and torture, and the use of military courts to judge civilians (AI, 2017).

4.3.2 Pro-Government Paramilitary Groups

Paramilitary groups pro-government, currently referred to as “colectivos” by government propaganda, have existed since the beginning of Chávez regime, when they were known as “bolivarian circles”¹⁷ and described as communitarian groups which helped implementing government policies (HRW, 2014). Some of these groups have evolved within government’s ideology to be collaboratively armed by states authorities constituting repressing and oppressing groups for those who adverse the government (HRW, 2017 and Rosenberg, 2017). Reports have been made of colectivos attacking and injuring protesters during 2017 anti-government protests (NYT, 2017).

4.3.3 Communications and Media

Reporters Without Borders recently ranked Venezuela number 137 in their World Press Freedom Index for 2017, describing as a country were in order not to be silenced, journalist have to take sides. According to their website, the situation for reporters has increased in tensions especially since the onset of 2016 economic crises. However, already in 2007 under Chavez regime, the denial to Radio Caracas Tele Vision (RCTV), the remaining national television channel opposing governmental control; propelled a four month wave of

¹⁴ Original in Programa Venezolano de Educación-Acción en Derechos Humanos, Venezuelan HR Program for Education-Action.

¹⁵ Original in spanish: De aquella impunidad vienen estas torturas.

¹⁶ Original in spanish: Servicio Bolivariano de Inteligencia Nacional.

¹⁷ Original in spanish: Círculos Bolivarianos.

protests lead by the student movement, and impeded Chávez victory for the 2007 Constitutional Reform election.

Additionally, the printed media has been harassed through the reduction of foreign exchange to the acquisition of imported supplies such as ink and paper, with various daily journals changing their production to weekly journals (RWB, 2017).

On February 2017 CONATEL¹⁸, the Telecommunications National Commission, opened procedures of sanction and precautionary measures to CNN in Spanish, a cable channel television, denying its transmission on charges of news content constituting direct aggressions against peace and democratic stability in Venezuela (CONATEL, 2017). More recently, on April and May 2017, the Committee for the Protection of Journalists reported injured reporters as a consequence of direct attacks while covering public manifestations (CPJ, 2017).

4.3.4 Recent Civilians Protests

- 2014

On February 12th 2014 a march from the opposition sector was headed towards the center of Caracas encouraged by the student movement regarding the food and medicines shortages, the fall of purchasing power and the rampant violence and impunity. After this march, two protesters were murdered with shots to their heads, presumably by government supporters, propelling protests across 11 of the country states, which lasted and approximate of four months (Martínez, 2015). According to the local NGO Venezuela Penal Forum (FPV)¹⁹, 3408 arbitrary detentions were committed, 1923 received precautionary measures and 68 were still in jail at the end of 2014; additionally 43 people died during the protests (several were killed with shots to the head) 800 were injured and there was an approximate number of 110 tortured (Martínez, 2015).

- 2017

On March 30th 2017, Julio Borges, president of Venezuelan's National Assembly, guardian institution of the legislative power, denounced a coup attempt where the Justice Supreme Court, its judicial counterpart, proclaimed a decree usurping the National

¹⁸ Original in spanish: Comisión Nacional de Telecomunicaciones de la República Bolivariana de Venezuela.

¹⁹ Original in spanish: Foro Penal Venezolano

Assembly's attributions, after a year of the institution being led by a majority of opposition deputies selected on December 2015 (The guardian, 2017).

On April 9, just after Maduro banned Henrique Capriles from being a political candidate for the next 15 years protests exploded in the country. According to the local NGO FPV, who releases periodic reports on Venezuelan protests situation, at the end of April 2017 there was a total of 1668 detentions, from which 517 were released due to evidence presented of arbitrary detention, 464 have been imputed with precautionary measures and remain secluded, overriding the defense and prosecution solicitudes to grant freedom while imposing arbitrary conditions to release them.

During the month of April, there was at least new 68 cases of arbitrary detention under political motives engrossing the previous 117 cases for a total of 185, and a minimum of 500 people injured, many of them severely, due to the extreme repression displaced by the governmental forces, including the shooting of metal pellets at point blank, tear gas capsules deployed and used as projectiles to hit people's bodies, and fire-gun bullets employed by pro-government paramilitary groups.

Currently, the dead toll has increased from 29 at the end of April, to 50 in middle May (OVV, 2017). Additionally, the use of military courts to judge civilians inside military zones, contrary to the standards of the due process have been denounced by both Amnesty International and Human Rights Watch.

Economic, Social and Cultural

Scarcity of food and goods in general, such as medicines, car supplies, etc., and the current economic crisis were also constantly presented in the fragments-of-life-stories, while the high rates of inflation, the unaffordable increase in prices and scarcity of food constituted the other main reason for emigrants to flee and not to return.

4.3.5 Economy

A look into the Economist (2017) forecasts to Venezuela's current financial situation, following the International Monetary Fund, predict inflation will exceed 1600% this year, while economy shrank 10% last year, and will be 23% smaller than in 2013 at the end of the year.

Cerra (2016) argues that Venezuela's system of rationing foreign exchange makes the market for goods and imports repressed; and while Venezuela's 90% exports are from oil, the

plummeting in 2014 of oil prices led to a massive contraction in the provision of foreign exchange to importers. However oil prices and the “economic war” would only seem to be scapegoat rhetoric from the Bolivarian government to justify the lack of goods.

4.3.6 Health

On March 2016 the NGOs CODEVIDA²⁰ and PROVEA released the declaration “United for Life”²¹ to demand action from national authorities by requesting international help regarding the protection of the right of life and health, due to the fragility, lack of supplies and poor situation of local institutions.

According to the report (CODEVIDA and PROVEA 2016), the Venezuelan state has failed to ensure the rights to life and health by: centralizing resources and discretionally redirecting those to parallel institutions which nowadays stand isolated and incapable to fulfill their duties, while reducing the access to foreign exchange and purchase of medical supplies; presenting one of the lowest public spending in Latino America in the area of health while also consequently assigning an insufficient budget; restricting the access to epidemiologic information and delaying and sub-registering mortality statistics; conducting, promoting and allowing harassment to all of those who denounce the health system situation.

-Until 2014, the number of operative beds in hospitals had reduced a thirty percent to 0.9 beds per 1000, well below the recommended standard of 3 per 1000.

-On 2015 a survey revealed that 130 hospitals located in 19 of the 24 states suffer from: 61% of severe failure in surgical supplies, 65% with severe failures regarding catheters, 86% with damaged x-rays, 94% with damaged tomographs, 94% labs with lack of reagents, 44% closed surgical rooms.

-In January 2016 the lack of medicines reached and unprecedented 80%.

-Until 2015, 24% of the health professionals had left their placements because the inability to fulfill their duties, the violation of their work rights and the insecurity and violence in their work places.

PROVEA (2015) also published a more detailed report for 2015, where the synergy between economic and health was addressed, some of these important factors were:

²⁰ Original in spanish: Coalición de Organizaciones por el Derecho a la Salud y la Vida –Right to Health and Life Organizations Coalition.

²¹ Original in spanish: Unidos por la Vida

- The use of the discretionary Executive funds (such as Fonden and El Fondo Chino) to supply the lack of budget within the health sector in 2015 amounting to a 74% extra.
- From 2014 to 2015 there was a 13% increase in the public spending to the health sector, which did not match the 180, 9% inflation rate according to the Venezuelan Central Bank²².
- The difficulty to obtain supplies, 90% of them imported, due to state control on foreign currency exchange, and the contraction of the economy in the last years.
- The cumulative debt to foreign pharmaceuticals amassed by the government.

On May 2017 the newspaper “El Estímulo” reported the destitution of the Health Minister because of her release of the epidemiological report from 2016, after a year and a half void of publications. In the report it was informed a 30.12% increase in newly born death toll, for a total of 11.466. Chandra and Dinda (2013) also reported life expectancy at birth had diminished constantly after 1998, suggesting the decline in quality of life during Chávez and Maduro’s regime.

These issues are expressed by emigrants actively interrelated, and not as unique isolated obstacles; for instance, the lack of medicines and the irregularity of services deeply affected hospital services, with one of the interviewees narrating how she went wandering to places looking for bottled water, because her recently hospitalized father require it after chemo procedure.

The progressive deterioration of the country is also reflected by emigrants’ stories in the extreme difficulty to conduct normal daily tasks in Venezuela, such as doing laundry, buying food, or getting to work, due to the malfunctioning of public services: with electricity cuts affecting the country while water provision has been restricted to specific times a day, for periods of half an hour or one hour.

4.3.7 Food Shortages

ENCOVI or the living conditions survey in Venezuela²³ (2016) reported in their annual inform that from a total of 6.413 families interviewed, 93.3% answered their income wasn’t enough for food purchase, while 48.7% of the same total also referred to their daily diet as deficient and monotonous and a 80.6 reports never eating outside home. The percentage of people that is only able to eat twice a day has increased from 11.3% in 2015 to

²²Original in Spanish: Banco Central de Venezuela

²³Original in spanish: Encuesta sobre Condiciones de Vida

32.5% in 2016 for a total of 9.6 million people in the national territory; and a 72.7% lost around 8.7 kilograms in the last year. The report also mentions the change in Venezuelans diet due to the reduction in the acquisitive power displacing proteins of high value for tubers, roots and greens.

4.4 The Degree of Legality and Illegality

This headline compiles an analysis of the diverse legal “instances” emigrants have faced as a result of the interaction between personal situations, different migration procedures among countries and Venezuela’s institutional inconsistency. Strategies have been shown by emigrants in order to access or remain legal in their respective new residence countries.

4.4.1 Foreign Exchange Control

From the beginning of the Chávez era, already in 2003 government started to exercise control over the influx of dollars by oil revenues with CADIVI²⁴, the governmental institution responsible for managing and approving foreign exchange applications. The name of the institution has changed over the years, as it was previously mentioned, the current one being CENCOEX, but Venezuelans still refer to it as CADIVI, the longest and most widespread used name.

Reports from Globovision archives; a cable television channel which used to follow editorial direction characterized by its fierce criticism of Chavez government, until its selling to pro-government executives in 2013 due to governmental harassment; show the timeline and evolution of the foreign exchange system²⁵. A detailed description and analysis of the exchange system falls beyond the scope of this study, but some highlights of this system have been:

-February 2003: CADIVI is created and with CADIVI there was also the rising of a parallel market, “the black market” as it is called in Venezuela, where dollar transactions are made underground based on offer-demand canons among people who has dollars. Across the years

²⁴ Original in spanish: Comisión de Administración de Divisas –Foreign Exchange Administrative Commission.

²⁵ A detailed timeline can be found in: <http://archivo.globovision.com/historia-del-ultimo-control-cambiarior-venezolano/>

the regulations of the system and its name changed, producing: Sicad I and II, Simadi, Sitme and CENCOEX.

-January 2008: there is a change in Venezuela's currency, officially eliminating three zeros to the coin, in an attempt to disguise the rising inflation rate in the country.

-April 2012: Students were only granted the possibility for foreign exchange currency abroad if their career of choice was consider a "national priority area for undergraduate and postgraduate", according to the official gazette 39.904 (Asamblea Nacional, 2012).

-May 2014: CENCOEX reduced 78% of foreign exchange currency approval to international airlines. The debt held by the government with the airline companies fostered them to sell plane tickets at black market prices, which currently corresponds to ten times the price, but at times can even be 50 times more costly. This debt also propelled many airline companies to leave the country and discontinue their business in Venezuela.

Mentions to CADIVI by interviewees often dwell with the type of limitations that foreign exchange have posed for the person consulted. According to the narratives collected, these limitations have changed across time by becoming more restricted with passing years. References from the last three to four years voice out the impossibility of actually obtaining foreign currency through this procedure, because even if it is institutional, granting on provisions seem to have stopped or reduced to a minimum.

Several of the emigrants interviewed, who left the country before 2014, report accessing CADIVI through the student application because there was no formal procedure for emigrants per sé to access foreign currency; people leaving the country could access foreign currency only within two legal procedures instructed by CADIVI: as a tourist or as a student. Consequently, persons deciding to leave Venezuela and looking to transform their capital in bolívares²⁶ to other currencies frequently pick studies abroad, chose the tourist procedure and/or turned to the black market, whose exchange rate has always been at least twice as the official rate.

Some interviewees reported having chosen their studies abroad according to the CADIVI list aforementioned, for example one of the interviewees commented: "being honest, I chose what I was going to study with 75% of the decision based on the list of subjects that CADIVI financed because if not... I didn't have the resources to finance it for myself (at black market prices)..."²⁷ (interview 1, 27/02/2017)

²⁶ Venezuela's currency.

²⁷ "Te voy a ser honesta, fue una decisión donde el 75% de la decisión fue tomada con la lista de materias que CADIVI te financiaba porque si no la verdad no... osea, no tenía los recursos para pagar una maestría o una

In 2013, however, the approval for CADIVI student applications stopped without previous warning, leaving students abroad with the impossibility to access foreign currency and unable to pay for their studies and expenses. Many relied on their studies for a visa, and because it was illegal to work while having CADIVI student (even if it was delayed or cancelled), it became a very hard task not to break the law in one of the two countries: Venezuela or the new country of residence.

4.4.2 Bureaucracy or Strategy

“They make it illegal to be legal” (interview18, 26/01/2017)

In the fragments-of-life-stories and interviews, Venezuelans commonly referred as one of their major struggles to overcome, when deciding to leave the country and while being abroad, the “bureaucracy” of the Bolivarian government to fulfill legislation procedures. These internal obstacles are perceived as governmental-crafts which have intensified during the recent years, increasing the difficulty to access common and rightful documents such as: passports, passports renewals, IDs, studies’ certifications, criminal records, etc., and the aforementioned CADIVI applications.

While most Venezuelan emigrants called it “governmental bureaucracy”, it actually seemed to be perceived by interviewees as an intentional decision or *modus operandi* from the authorities to delay procedures and “punish” citizens. In the fragments-of-life-stories, the interviewees convey that although these difficulties to complete paperwork started in Venezuela; with few offices and a centralized system that amounted to making lines hours before sunrise, very few daily operations and in some cases the need to apply for previous appointments that were granted months later (interviewees often said at least three months later); they tend to continue all over the world after they left, independently of their new residence countries.

One of the interviewees, concealed in an ironic tone of voice “you take Venezuela with you wherever you go”, meaning that she had to confront several obstacles in order to start the process of renewing her passport: buy a plane ticket and fly to the Venezuelan consulate in Belgium because the one in her country of residence had been recently closed for political reasons, besides wasting an entire day in line due to a supposed system failure in the

especialización en ese momento y también pues quería aprovechar, obviamente en ese momento que lo podía hacer a través de CADIVI”

consulate that could only be amended, according to the consulate authorities, within Caracas timeframe of working hours (encompassing six hour difference in time zones).

Similarly, a man looking to renew his passport in Canada started the process a year later as a prevision -as he called it- not to be left without a valid passport when he needed to renovate his Canadian resident visa, but eight months later he hadn't still receive it, according to what he was told by the consulate local authorities, because of a lack of supplies; also a very commonly used reason in the offices located in Venezuela.

Because of these obstacles many of the interviewees report, and also resent, the need of requiring to illegal procedures in order to reclaim their right for documentation, where a common decision is to pay a "gestor", or individual who provides consultancy in legislative matters but also "knows people on the inside" and is capable to obtain or speed up the expedition of legal documents by the means of bribery. This is what is referred by one of the interviewees as "they make it illegal to be legal".

4.5 The Importance of Networks

"I mean a family of four people completely blown apart"²⁸ (interview 1, 27/02/2017).

An important drive for Venezuelan emigrants, according to their testimonies, would seem to be family, friends and social networks with their fragments-of-life-stories constructed by placing a lot of content and consideration to feelings of social support and acceptance. Several reflected in the high value placed to the possibility of being geographically close or physically reunited with friends and family, even more so than obtaining a legal status within another country.

From a symbolic point of view, this was also referred by deciding to emigrate to cultures perceived as similar to that of Venezuela, not only because of practical considerations, such as language or food similarities, etc., but also in search to feel closer to their own culture/people. This aspect was also prevalent when noticing negative aspects of emigration, were for most emigrants the sense of loss coming from the missing of social and/or professional networks constituted an elevated price to pay; in line with the disappointment felt due to social change of status. In terms of returning, many felt their past lives were gone and going to the country would be endangered them: "that would be suicide" was one of the comments.

²⁸ "Osea, un núcleo familiar de cuatro personas completamente dinamitado."

4.5.1 Gender and LGBTI issues

“If you are born within a society where you are hearing since you were a kid, that you are not welcome, that the way you are, the way you love, the way you think is categorized as a sin, as immoral or whatever, and you grow up in a society where you feel rejected; obviously this might have to do with the fact that you never felt identified with the place to begin with”.²⁹ (interview 23, 05/04/2017)

Several of the interviewees, who consider themselves within the LGBTI spectrum, mentioned that although their emigration decision was influenced by issues of discrimination, the boiling point was still a combination of the previous mentioned factors, such as criminal violence and scarcity.

However, LGBTI self-defined emigrants also manifested a lack of identification with their Venezuelan nationality and a void in rights compared to heterosexual citizen counterparts:

“I never liked the country (Venezuela). I never felt I belonged, never felt it was my place (...) In Venezuela if I say I have a girlfriend, a job or a bank credit could be denied to me. Here you could easily sue them. Go to a place where you don’t have to be a second class citizen just because you exist. Homophobia is in every day details.” ³⁰ (interview 23, 05/04/2017)

Most of these interviewees who fled, look for countries in Europe or North-America searching for better LGBTI conditions socially and as citizens, and admit probably in Venezuela, in regards to this specific area, they wouldn’t be able to have the same lifestyle.

4.6 Contesting the Legislative Framework

The discussed thematic axes portray a meaningful and dynamic perspective on the elements associated with the process of emigration undergone and ongoing, by the

²⁹ Original in spanish: “Si tú naces y creces en un país donde desde la infancia, lo que estás escuchando es que tú no eres bienvenido en ese país, que la forma, que tu forma de ser, tu forma de amar, tu forma de pensar es catalogada como pecado, eh, inmoral o lo que sea y, y creces en una sociedad que sientes que te rechaza; obviamente eso puede influir en que nunca te sientas completamente identificada con, con el sitio.”

³⁰ “Original in spanish: Nunca me gustó el país. Nunca me sentí arraigada, nunca sentí que ese era mi lugar... en Venezuela si digo que tengo novia y pueden negarme un crédito o un trabajo. Aquí podrías demandar tranquilamente. Irte a un lugar donde no te tienes como ciudadano de segunda por existir. Día a día en los pequeños detalles está la homofobia.”

interviewees. This information provides certain ground to contest several features of traditional policies and practices in refugee law and international migrant legislation.

First, the prevalent use of top-down approaches in spite the method of choice, to identify refugees according to the theoretical framework of HR and international legislation. This practice of implementation overlooks dynamic aspects of the country of origin situation and decontextualizes the refugee story into the subjective perspective of the country legislation receiving the application.

The search for independent factors determining the refugee condition fosters an atomized perspective on HR, deeming them as divisible and hierarchical, when in true, what motivated Venezuelan emigrants to leave the country was a conjunction of interrelated factors which made the situation unbearable. By atomizing HR, hierarchies emerged precluding a comprehensive understanding of the individual situation, and with the direction to make a categorical difference between a refugee and a migrant, vulnerability issues to HR are definitively lost, specially to those afterwards considered “migrants”, such as in the case of the Venezuelan LGBTI emigrants.

Aspects of country of origin legislation which deem these migrants more vulnerable to HR violations seem to go under-noticed with the current refugee law and HR legislation. This is the case with the second thematic axe, corresponding to the headline “the Degree of Legality and Illegality”. The aspects reflected under this axe certainly blocked or difficult the possibility of emigrants to access legal or economic owned or rightful resources, and may increase their proclivity for deportation. Such vulnerability is possible due to the two different and mixed national legislations, the one from the country of origin and the one from the receiving country, acting independently, full-force and according to their own canons. There is no transitional legal figure protecting migrants from HR arbitrariness committed by their country of origin, but the juxtaposition of two country legislations and the victimization of them as a result.

CHAPTER 5: CONCLUSIONS

In this study, complementarity between bottom-up and top down approaches was instrumental to fulfill the objective: to contest refugee law and international migrant legislation through the study of Venezuela's case. True considerations to these normative frameworks required methodological, epistemological and political concerns as well, in order to overcome the historical tendency to frame refugee and migrant research within national canons of public politics.

The comprehensive perspective yielded by fragments-of-life-stories and semi-structured interviews, the bottom-up approach, was triangulated with the top-down perspective of the document research allowing to: give voice to emigrants who can rarely participate in the drafting and considerations of international legislation, while portraying synergetic aspects of HR violations in a country where 90% of the public media is government controlled.

The thematic axes obtained through fragments-of-life-stories interpretation and the information gathered through the semi-structured interviews allowed providing a meaningful structure in order to understand the complex situation of Venezuelan emigrants within the Chavez and Maduro regimes.

The first thematic axe "The Country Deterioration" developed civil, political economic, social and cultural considerations as reflected in the fragments-of-life-stories, interviews and document research. This axe directly described the evolution of HR interrelated violations which propelled Venezuelans to leave their country and not to return, at least under the present conditions.

Until the recent protests of 2017, these violations disguised within the mediatized government political narratives of "an economic war", "terrorism" and "U.S political inherence" to name a few, had not received much international attention in spite of local NGOs denounces. The Country Deterioration thematic is easily relatable to HR constructs, and it poses a broader reflection on how rights are, from an empirical perspective, effectively interrelated in people lives.

In regards to refugee law and migrant legislation, these findings were perceived as posing questions to some procedures and guidelines used to determine refugee status, grounded in positivist law: the favoring of top-down approaches (independently of the method) in order to determine HR violations and also to define terms such as “refugee” and “persecution” universally, but out of context. Consequently, the determination of refugee status has been granted on the base of analytic, specific and isolated factors, theoretically alluding to certain right or “type” of rights, while in reality the refugee status is a right consequence of a threat to rights.

Again, the combination of top-down and bottom-up approaches seemed to demystify this idea, by portraying how the given conditions to HR violations that forced people out of their country, in this case Venezuela, were given in an complex environment of interrelated violations, at times as full-front persecution, and at other times as a lack of state protection.

The second thematic axe surged from emigrants’ meaningful experiences of subjugation to Venezuela’s government emigration policies, even after they had leave the country several years before. This caught the researcher’s attention for several motives: (1) given that the Migrant Workers Convention referred before is centered upon the relation between the state of employment and the migrant worker, although the country of origin and the country of employment are supposed to work together into ensuring the migrant worker’s HR (2) because in spite none of the aforementioned elements under this axe constitute an outright HR violation, their combination, however, can preclude and difficult emigrants legality within other countries and (3) because the institution of foreign exchange control neglects procedures for emigrants access to foreign currency.

This axe clearly responds to Venezuela’s specific context but also puts forward internal legislative country factors, overlooked and non-measured by international framework making migrants vulnerable to theirs and other countries policies and HR violations. Venezuela’s emigrants became frequent victims of a lack of resources (either economic or legal), as explained before, which jeopardized their migration status and risked them for deportation. In this sense, the categorical dichotomy used in HR treaties between “migrants” and “refugees” seems insufficient to provide a full understanding of the Venezuelan *emigrants*.

The third thematic axe developed “the Importance of Networks”, as a repeatedly implied subject within the fragments-of-life-stories and interviews in Venezuelans emigrants decision making. In this axe were also portrayed issues related to gender and LGBTI population, describing how discrimination due to a lack of state protection on their country of origin was another powerful factor into deciding to flee from Venezuela.

CHAPTER 6: RECOMMENDATIONS

Policy:

International legislation must develop measures to evaluate aspects affecting migrant and refugee conditions, associated with the juxtaposition of the country of origin and the country of reception legislation, threatening the full enjoyment of the migrant/refugee HR. These aspects act as obstacles embedded in the international legislation system itself, by being perceived as concerning to each state in particular, but not as a result of both states legislations interaction.

Additionally, Refugee status determination procedures should be de-centralized from governmental organizations, and involve NGOs, International NGOs and institutions of the third sector, whose agenda depart from the focus on state interests, and also contemplates humanitarian and transnational objectives.

Practice:

Even if the existence of common international legislation provides guidelines to Refugee Status determination, appropriate attention should be given to these methods, which must include a mix of top-down and bottom up methodological approaches, and interrelated consideration of rights and context situation affecting the applicants. In this sense, the practices for Refugee Status determination should be adjusted in a more general sense, and tailored to each specific case.

Research:

Research must be carried in order to identify and describe the dynamics of the aforementioned aspects related to the impediment of migrants and refugees full enjoyment of HR.

Research should be also conducted in order to study the dynamic of these aspects with more stable socio-cultural structural factors in society, such as race, gender, etc.

BIBLIOGRAPHY

- Amnesty International, 2017. Venezuela: Uso de tribunales militares contra civiles pone en jaque al estado de derecho. *Amnesty International*. [online] 10 May. Available at: <https://www.amnesty.org/es/latest/news/2017/05/venezuela-uso-de-tribunales-militares-contra-civiles-pone-en-jaque-al-estado-de-derecho/> [Accessed 20 May 2017]
- Arksey, H., 1996. Collecting Data through Joint Interviews. *Social Research Update* [online] Available at: <http://sru.soc.surrey.ac.uk/SRU15.html> [Accessed 15 May 2017]
- Asamblea Nacional, 2012. *Gaceta Oficial de la República de Venezuela* (39904) [pdf] Available at: http://www.inapymi.gob.ve/documentos/Gaceta_39904.pdf [Accessed 29 Abril 2017]
- Atkinson, R. and Flint, J., 2001. Accessing Hidden and Hard-to-Reach Populations: Snowball Research Strategies. *Social Research Update* [online] Available at: <http://sru.soc.surrey.ac.uk/SRU33.html> [Accessed 13 May 2017]
- Bhui, K., Abdi, A., Abdi, M., Pereira, S., Dualeh, M., Robertson, D., Sathyamoorthy, G. and Ismail, H., 2003. Traumatic events, migration characteristics and psychiatric symptoms among Somali refugees. *Social Psychiatry and Psychiatric Epidemiology*, 38, pp.35-43
- Centro de Derechos Humanos de la Universidad Católica Andrés Bello (CDH-UCAB), Programa Venezolano de Educación – Acción en Derechos Humanos (PROVEA), Civilis, Derechos Humanos Espacio Público., 2017. *De Aquella Impunidad Vienen Estas Torturas. Informe de seguimiento a la implementación de las observaciones finales del Comité contra la Tortura sobre Venezuela*. Caracas.
- Cerra, V., 2016. *Inflation and the Black Market Exchange Rate in a Repressed Market: A Model of Venezuela*. (WP/16/159) [pdf] International Monetary Fund. Available at: <https://www.imf.org/external/pubs/ft/wp/2016/wp16159.pdf>
- Chandra-Dasa, R., Dindab, S., 2013. Economics vis-à-vis Politics of Venezuela under the Chavez Regime 1998-2012. *International Journal of Research in Business and Social Science*, 2(3), pp. 41-53

- Coalición de Organizaciones por el Derecho a la Salud y a la Vida (CODEVIDA) and Programa Venezolano de Educación-Acción en Derechos Humanos (PROVEA), 2016. *Unidos por la Vida*. [pdf] CODEVIDA and PROVEA. Available at: <http://www.oas.org/fpdb/press/informe-codevida--provea-marzo-2016.pdf> [Accessed 1 May 2017]
- Committee to Protect Journalists (CPJ), 2017. Venezuela: Periodistas cubriendo protestas agredidos y atacados; sitios Web bloqueados. *Committee to Protect Journalists*. [online] 12 April. Available at: <https://cpj.org/es/2017/04/venezuela-periodistas-cubriendo-protestas-agredido.php>
- Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. *A European Agenda on Migration*, 2015. (COM(2015) 240 final). Brussels: European Commission.
- Consejo Ciudadano para la Seguridad Pública y la Justicia Penal (CCSPJP), 2017. *Metodología del ranking (2016) de las 50 ciudades más violentas del mundo*. [online] CCSPJP. Available at: <http://www.seguridadjusticiaypaz.org.mx/biblioteca/prensa/category/6-prensa> [Accessed 29 April 2017]
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.*
- Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status*
- El-Estímulo, 2017. Destituyen a Ministra de Salud tras divulgar cifras sobre mortalidad infantil. *El Estímulo*. [online] 12 May Available at: <http://elestimulo.com/blog/afirman-destitucion-de-caporale-del-ministerio-de-salud-tras-divulgar-cifras/> [Accessed 15 May]
- European Court of Human Rights, 1950. *European Convention on Human Rights*. [pdf] pp. 5-30 European Council,. Available at: http://www.echr.coe.int/Documents/Convention_ENG.pdf
- European Court of Human Rights, 1963. *Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms securing certain rights*

- and freedoms other than those already included in the Convention and in the First Protocol thereto.* [pdf] pp. 34-37 European Council,. Available at: http://www.echr.coe.int/Documents/Convention_ENG.pdf [Accessed 13 March 2017]
- European Court of Human Rights, 1984. *Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms.* [pdf] pp. 5-30 European Council,. Available at: http://www.echr.coe.int/Documents/Convention_ENG.pdf [Accessed 13 March 2017]
- Feller, E., 2005. Refugees are not Migrants. *Refugee Survey Quarterly*, 24(4), pp. 27-35. <https://10.1093/rsq/hdi077>
- Foro Penal Venezolano (FPV), 2017a. Reporte sobre la Represión del Estado Venezolano. [pdf]Caracas: Foro Penal Venezolano. [Accessed 7 May 2017]
- Foro Penal Venezolano (FPV), 2017b. Reporte sobre la Represión del Estado Venezolano. [pdf]Caracas: Foro Penal Venezolano. [Accessed 7 May 2017]
- Grahl-Madsen, A., 1983. Identifying the World's Refugees. *The Annals of the American Academy of Political and Social Science*, 467, pp. 11-23.
- Globovision archives, 2015. Historia del último control cambiario venezolano. *Globovision* [online] (13 January 2015) Available at: <http://archivo.globovision.com/historia-del-ultimo-control-cambiario-venezolano/> [Accessed 15 May 2017]
- Hataway, J., 2014. Food Deprivation: A Basis for Refugee Status? *Social Research*, 81(2), pp. 327-340.
- Human Rights Watch (HRW), 2014. Punished for Protesting. Rights violations in Venezuela streets, detention centers and justice system. [online] May 5. Available at: <https://www.hrw.org/report/2014/05/05/punished-protesting/rights-violations-venezuelas-streets-detention-centers-and>. [Accessed 25 March 2017]
- Human Rights Watch (HRW), 2017. Live Updates: Venezuela's Crisis. [online] May 18. Available at: <https://www.hrw.org/blog-feed/venezuelas-crisis>. [Accessed 25 May]
- Kamminga, eds. 2009. *Methods of Human Rights Research*, Oxford: Intersentia. pp.19-43.
- Landaeta, M., Herrera, M., Ramírez, G. and Vásquez, M. (2016) *ENCOVI Encuesta sobre Condiciones de Vida Venezuela 2016*. [online] UCV-UCAB-USB.

- Available at: <http://www.fundacionbengoa.org/noticias/2017/images/ENCOVI-2016-Alimentacion.pdf> [Accessed 29 April]
- Landman, T., 2009. Social Sciences and Human Rights. In: F. Coomans, F. Gründfel and M. Malkki, L., 1995. Refugees and Exile: From “Refugee Studies” to the National Order of Things. *Annual Review of Anthropology*, 24, pp. 495-523.
- Marfleet , P., 2007. Refugees and History: Why We Must Address the Past. *Refugee Survey Quarterly*, 26(3), pp. 136-148. <https://doi.org/10.1093/rsq/hdi0248>
- Marfleet , P., 2013. Explorations in a Foreign Land: States, Refugees, and the Problem of History. *Refugee Survey Quarterly*, 32(2), pp. 14-34. <https://doi.org/10.1093/rsq/hdt006>
- Martínez, M., 2015. Informe Venezuela. *Índice de Desarrollo Democrático para América Latina*. [online] pp. 231-235 Available at: <http://www.idd-lat.org/2015/downloads/idd-lat-2015.pdf>. [Accessed 17 May 2017]
- Moreno, A., 2002. *Historias-de-vida e Investigación*. Caracas: Texto.
- Moreno, V., 2017. Balance al #10May: de los 50 fallecidos en protestas, 25 recibieron impactos de bala. *Observatorio Venezolano de Violencia*. [online] Available at: <http://observatoriodeviolencia.org.ve/balance-al-10may-de-los-50-fallecidos-en-protestas-25-recibieron-impactos-de-bala/> [Accessed 15 May 2017]
- Nykänen, E. , 2012. *Fragmented state power and forced Migration: A study on non-state actors in refugee law*. [e-book]Leiden: Martinus Nijhoff. Available through: Gothenburg University Library website < <http://www.ub.gu.se/>> [Accessed 13 March 2017]
- Observatorio Venezolano de Violencia (OVV), 2016. *2016: OVV estima 28.479 muertes violentas en Venezuela*. [online] Available at: <http://observatoriodeviolencia.org.ve/2016-ovv-estima-28-479-muertes-violentas-en-venezuela/> [Accessed 4 May 2017]
- Organization of American States (OAS), 1948. *Charter of the Organization of American States*. [online] Available at: http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp [Accessed 25 August 2016]
- Organization of American States (OAS), 1948. *Convention on Territorial Asylum*. [online] Available at: <http://www.oas.org/juridico/english/treaties/a-47.html> [Accessed 25 May 2017]

- Organization of American States (OAS), 1984. *Cartagena Declaration on Refugees, Colloquium on the International Protection of Refugees in Central America, Mexico and Panama*. [pdf] Available at: https://www.oas.org/dil/1984_cartagena_declaration_on_refugees.pdf [Accessed 10 May 2017]
- Páez, T. coord., 2015. *La Voz de la Diáspora Venezolana*. Madrid: Catarata.
- PROVEA, 2015. *Derechos Económicos, Sociales y Culturales. PROVEA Informe Anual*. [pdf] PROVEA. Available at: <http://www.derechos.org/ve/pw/wp-content/uploads/Derecho-a-la-Salud.pdf> [Accessed 3 May 2017]
- Redacción RunRun.es., 2017. Conatel saca de las cable operadoras a CNN en Español. *Runrunes*. [online] 15 February. Available at: <http://runrun.es/nacional/venezuela-2/297395/conatel-saca-de-las-cable-operadoras-a-cnn-en-espanol.html> [Accessed 20 May 2017]
- Reed, K. and Pandskocimaite, A., 2012. *The Right Toolkit*. [pdf]. California: Human Rights Center, University of Berkely. Available at: <https://www.law.berkeley.edu/wp-content/uploads/2015/04/The-Right-Toolkit.pdf> [Accessed 17 May 2017]
- Reporters without Borders, 2016. *Venezuela. Takes sides or be silenced*. [online] Available at: <https://rsf.org/en/venezuela> [Accessed 19 May 2017]
- Robson, C., 2002. *Real World Research*. 2ed. Oxford: Blackwell.
- Romero, C., 2013. La Revolución Bolivariana: sinopsis de una permanente ambigüedad. *Desafíos*, 25(1), pp. 15-43.
- Rosemberg, A., 2017. “Colectivo” Responsibility. *Caracas Chronicles*, [online] 12 May. Available at: <https://www.caracaschronicles.com/2017/05/12/colectivo-responsibility/#comments> [Accessed 19 May 2017]
- Storey, H., 2014. What Constitutes Persecution? Towards a Working Definition. *International Journal of Refugee Law*, 26(2), pp. 272-285.
- The Economist, 2017. How Maduro and Chávez impoverished Venezuela. *The Economist*. [online] 6 April. Available at: <http://www.economist.com/news/finance-and-economics/21720289-over-past-year-74-venezuelans-lost-average-87kg-weight-how?fsrc=scn/tw/te/rfd/pe> [Accessed 15 April 2017]

- The Guardian, 2017. 'Dictator Maduro!': thousands of Venezuelans protest ban of opposition leader. *The Guardian*, [online] 9 April. Available at: <https://www.theguardian.com/world/2017/apr/09/dictator-maduro-thousands-of-venezuelans-protest-ban-of-opposition-leader> [Accessed 19 April 2017]
- Torres, P. and Casey, N., 2017. Los colectivos venezolanos, las bandas de civiles armados que atacan a los manifestantes y defienden a Maduro. *The New York Times*. 22 April. [online] Available at: <https://www.nytimes.com/es/2017/04/22/colectivos-venezuela-nicolas-maduro/> [Accessed 19 April 2017]
- Turton, D., 2003. Refugees, Forced Resettlers and Other Forced Migrants: towards a unitary study of forced migration. [pdf]. Geneva: United Nations High Commissioner for Refugees. Available at: <http://www.unhcr.org/research/working/3f818a4d4/refugees-forced-resettlers-other-forced-migrants-towards-unitary-study.html> [Accessed 25 January 2017]
- United Nations Development Program (UNDP), 2004. [pdf] Governance Indicators: A Users' Guide United Nations Development Program. Available at: https://www.un.org/ruleoflaw/files/Governance%20Indicators_A%20Users%20Guide.pdf [Accessed 3 May 2017]
- United Nations Development Program (UNDP), 2006. Indicators for Human Rights Based Approaches to Development in UNDP Programming: A Users' Guide. [pdf] United Nations Development Program. Available at: <http://gaportal.org/sites/default/files/HRBA%20indicators%20guide.pdf> [Accessed 3 May 2017]
- United Nations (UN), 1948. *Universal Declaration of Human Rights*. [online] Available at: <http://www.un.org/en/universal-declaration-human-rights/> [Accessed 16 August 2016]
- United Nations (UN), 1951. *Convention Relating to the Status of Refugees*. [online] Available at: <http://www.unhcr.org/3b66c2aa10> [Accessed 16 August 2016]
- United Nations (UN), 1967. *Protocol Relating to the Status of Refugees*. [online] Available at: <http://www.unhcr.org/3b66c2aa10> [Accessed 16 August 2016]
- United Nations (UN), 1976. *International Covenant on Economic, Social and Cultural Rights*. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> [Accessed 16 August 2016]

- United Nations (UN), 1976. *International Covenant on Civil and Political Rights*. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> [Accessed 16 August 2016]
- United Nations (UN), 1990. *International Convention on the Protection of the Rights of All Migrant Workers*. [online] Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx> [Accessed 16 August 2016]
- Zetter, R., 2007. More Labels, Fewer Refugees: Remaking the Refugee Label in an Era of Globalization. *Journal of Refugee Studies*, [e-journal] 20(2), pp. 172-192 <https://doi.org/10.1093/jrs/fem011>

APPENDICES

Appendix 1: Original template in Spanish for emails and whatsapp messages, followed by the English translation.

Original in Spanish

Hola mi nombre es Lis Santamaría, soy venezolana y psicóloga clínica de profesión. Estoy en contacto contigo gracias a: *nombre de la persona*.

En este momento estoy haciendo un Master en Derechos Humanos Política y Práctica en España y para eso estoy recolectando testimonios anónimos de emigrantes venezolanos, principalmente para explorar el tema de protección por parte de la legislación internacional.

Generalmente el procedimiento es más el de un fragmento de vida, en el que yo te pediría que me cuentes desde el momento en que empezaste a pensar en emigrar, hasta tu situación actual y luego complementaría con algunas preguntas de algo que me haya parecido particularmente importante o interesante.

Me dijeron que estabas en: *país*, así que podríamos vernos en persona o por skype , como prefieras y convenimos de acuerdo a posibilidades.

Yo generalmente grabo las historias y luego las transcribo digamos para poder analizarlas más al detalle, sin embargo la información siempre es confidencial y será tratada como anónima. Además si hubiese algún momento en el que quieres detener la grabación o la entrevista, pues perfectamente podemos parar.

Espero tu respuesta, Saludos. Lis

English Translation

Hi, I am Lis Santamaría, I am Venezuelan and a clinical psychologist. I got to know about you thanks to: *Name of the person who made first the contact*.

I am currently studying a HR masters in Human Rights Policy and Practice in Spain, and as a part of that I am collecting anonymous testimonies from Venezuelan emigrants, in order to study the system of international protection.

Usually I use fragments-of-life-.stories, where I would ask to tell me from the moment you started thinking about migrating, to your current situation; and then we could complete it with some questions of something particularly interesting or important.

I heard you were in: *country*, so we could meet in person (*if we were in the same country*) or in skype, however you prefer and then we could set a time and date.

I usually tape the stories and the transcribe them to be able to analyze them, however information will always be confidential and treated anonymously. However, if at some point you want to stop the recording, we can perfectly do that.

I await for your reply, Best, Lis.

Appendix 2: Original instructions, indications and semi-structured interview guide in Spanish and English translation.

Original in Spanish

Iniciar la entrevista explicando brevemente el motivo del trabajo de investigación, en qué marco se realiza, el porqué de tu interés. Resaltar la confidencialidad de la entrevista y el uso de la información (académico). Pedir consentimiento para grabar e indicar que en cualquier momento se puede retirar de la investigación. Indicar las instrucciones y esperar aclarar cualquier duda.

Iniciales Nombre y Apellido:

Fecha de Nacimiento:

Género:

Nacionalidad/es:

Profesión y Oficio:

Status Legal:

Tiempo emigrado (desde cuándo, cuanto tiempo)

¿Has vivido con anterioridad en algún otro país con motivos migratorios?

¿Vives con tu familia?

Fragmento de Vida

“Podrías relatarme desde que empezaste a pensar el tema de salir de Venezuela hasta el momento actual. Qué cosas/razones te motivaron y qué fue importante tomar en cuenta para ti.” ¿Cuáles han sido los hitos en ese proceso migratorio?

Entrevista Complementaria

-¿Cuál fue el detonante que te empujó a tomar la decisión final de irte de Venezuela? ¿Cómo llevo a cabo el proceso de salida?

-¿Qué factores fueron más difíciles de sortear/sobrepasar:

-Para salir de tu país de origen

-Una vez que iniciaste el proceso de migración.

-Una vez llegaste al lugar (o lugares) de destino

-¿A que otros lugares consideraste irte y por qué? ¿Por qué te decantaste por el destino final?

- ¿Hay factores que facilitaron el proceso? En ese caso, ¿Qué factores sientes que facilitaron:

-Tu proceso de emigración.

-Tu adaptación en el país actual.

-¿Has vivido alguna secuela/s o consecuencia/s particulares a raíz de tu salida del país (física, económica, social, cultural, emocional, etc.)?

-¿Te sientes establecido en el lugar dónde te encuentras ahora? ¿Por qué? ¿Piensas a menudo en regresar a Venezuela? (Explorar: que detiene regresar a Venezuela si esa es la respuesta).

-Cualquier otra cosa que quisieras añadir... Se te ocurre alguna otra cuestión, ¿algún tema que consideres relevante que no haya contemplado en la entrevista?

English Translation

Start the interview by explaining the reasons and objectives of this research, the framework of study and explain my interest. It is important to emphasize confidentiality and the academic use of information. Ask for recording consent and ensure the interviewees know they can stop the recording and withdraw themselves from the research whenever they want to. Provide instructions and clarify any questions.

Name and Lastname:

Date of Birth:

Gender:

Nationality/ies:

Profession and Employment:

Legal Status:

Emigration period (How long)

Have you ever lived in another country for migration motives?

Do you live with your family?

Fragments-of-life-story

Can you please tell me the story from the first moment you started thinking about leaving Venezuela until the present moment? What reasons or things motivated you and what was important for you to take into consideration? What do you think were the milestones of this migration process?

Entrevista Complementaria

-What was the principal motive that propelled you to take the final decision of leaving Venezuela? How did the leaving process develop?

-What factors were harder to overcome:

-To leave your country of origin.

-Once you started the emigration process.

-Once you arrived to your destination.

- Did you consider any other places to go? Why did you choose your final destination?
- Are there any factors that might have been helpful to your process? If that is the case, would you mind telling me which factors you felt facilitated:
 - Your emigration process.
 - Your adaptation to your current residence country.
- Have you ever lived any side effect as a consequence of leaving the country (either physical, economic, social, cultural, emotional, etc.)?
- DO you feel you are in a stable position where you are right now? Why? Do you often think about returning to Venezuela? (explore what is stopping from returning to Venezuela, if that the case).
- Any think else you would like to add... Is there anything you consider important that hasn't been contemplated in this interview?