

# THE TIME HAS COME TO HAVE A REGULATORY FRAMEWORK FOR MIGRATION

Colombia changed from a country which saw its citizens emigrate to one which receives immigrants from other nations, especially Venezuela. The new situation obliges the State to come up with an integral migratory policy which transcends the government which happens to be in office and responds to the short, medium and long term needs of the country. An investigation done by 21 universities, led by the Universidad del Rosario, sets forth guidelines for the creation of such norms.

By: Ángela Constanza Jerez  
Photos: Leonardo Parra, 123RF

**A**s of the 31<sup>st</sup> of January this year, 1,200,000 Venezuelans were living in the territory of the nation, according to the figures of “Migración Colombia”. That estimate does not include those who are in an irregular situation and thus not known to the immigration authorities, a fact which causes anxiety, a feeling shared by many local authorities and ordinary citizens, who now have to deal with a scenario of emerging migration, due to the massive flows of migrants from Venezuela.

Both the national and local governments have responded to this new reality with



guidelines, resolutions and suggestions for short and middle term solutions to this humanitarian emergency. In the opinion of professor María Lucía Torres Villareal: “It is all very well that they want to stay afloat with temporary measures to deal with the situation. It is all very well that the administration of president Iván Duque has continued with the actions taken by the administration of Juan Manuel Santos and hasn’t reversed them, but the basic fact is that we cannot go on like this without a normative framework. Nor should we go the other extreme, like now, when there are several bills about migration before the legislature. The positive message of all this is that the time had come for the Colombian State to implement an integral migratory policy.”

Torres teaches at the Faculty of Jurisprudence of the Universidad del Rosario and is a co-researcher in the research project entitled a *Regional Diagnosis of migration in Colombia, with a focus on Human Rights, 2014-2018*, which counted on the participation of 21 universities from six regions of the country (the northeast, center, Antioquia, Caribbean coast, Coffee

Zone and the south). The Universidad del Rosario acted as the director of the project on a national level.

Although the results of the information which was gathered by the different teams and the respective analyses of the framework which the educational institutions employed (which measured access to the rights of health, education, work and justice) are still not definitive, the tentative conclusion is that Colombia must take a great leap forward to deal with the current reality of migration, and that it should do it with a policy of integral care linked with human rights and not only aimed at Venezuelan citizens, but Nicaraguan and Chinese ones as well, among others. In other words, the policy should aim at the protection of the rights of all foreigners in Colombia.

María Teresa Palacios Sanabria, the director of the *Human Rights Research Group* of the Faculty of Jurisprudence of the Universidad del Rosario and head of the research project, explains why this reform is needed: “Colombia has not been sufficiently prepared to deal with the reality of a migration which has changed in recent years. We have always been characterized as a country of origin or transit, but not one that is a destination. This situation took us by surprise, without being able to come up with a change in the norms which would be sufficiently solid to secure the rights of those who arrive here.”

The university teachers who are involved in the project have called on the authorities to deal with the situation and design a policy which takes its different aspects into account. The most important one: To understand that it is crucial to respect the dignity of the individual. “The *pro persona* principle should be applied. If we interpret it in the light of this principle, we are always going to find sound practices or a broader standard for human beings,” Palacio points out.

The international obligations in the field of human rights which Colombia has assumed are another important feature which should be taken into account; and, recently, its signing of the Global Compact for Migration, adopted by the General Assembly of the United Nations on December 10, 2018, which sets forth 23 objectives based on a number of ideals agreed on by the signatory States. They are: Prevention, access to all rights, the compilation of statistics to have a clear idea of the dimension of migrations, a differentiated approach to care, campaigns against discrimination and the possibility of regarding migration as an opportunity for the recipient nations.

### Other findings

In addition to the evident need to count on a migratory policy, the study also showed that the different regions do not have the same capacities or resources and are hampered by many particularities which should be taken into account.

The researchers suggest that the norms should have an integral perspective and be socialized in each entity which plays a role in the migratory process, so that they may be applied in accordance with the spirit of the reforms. “They must be accompanied by a pedagogy for the public officials who, at one time or another, are in contact with the migrant. The person who should be familiar with the law is not the migrant: The Colombian official is the one who has that duty. Ignorance of the norms may be a stumbling block for the migrant’s access to his or her rights,” Torres explains.

Along the same line of thought, the academics who made the study suggest that such knowledge should be extended to the whole of the Colombi-

an population to eradicate discriminatory practices against the migrants: To show that we have a different reality, that Colombians are not the only ones who live in our territory, there are many foreigners as well.

Finally, they single out another finding, which is the fact that migration was usually thought of in terms of countries, but the current exodus is a matter of regions. In the case of Venezuela, the Colombian State should be summoned to play a leading role in different international bodies, like the one it presently has in the Group of Lima, with the aim of discussing solutions on a regional level. In that way, plans for global governance may be made.

“Let us hope that, with the subject of migration, we may establish an integral policy as a State and ensure that the same thing which weakened the policies on forced displacement does not happen, where a judge had to fill the legal gaps and all of the needed changes were left in the hands of the judiciary,” remarks Palacios. ■



## RESULTS BY REGIONS

Each university which participated in the study chose a target population to compile information (documentary, working panels with diverse actors in the migratory process, interviews) and undertake the analysis. Thus, the northeast zone focused on Cucutá (communes 3, 4, 6, and 7) and Bucaramanga. The central node focused on Zipaquirá, Bogotá, Soacha and Neiva. The Antioquia node focused on Medellín. The Caribbean coast node focused on Barranquilla and Santa Marta. The Coffee Zone node focused on Pereira and the southern node on Pasto.

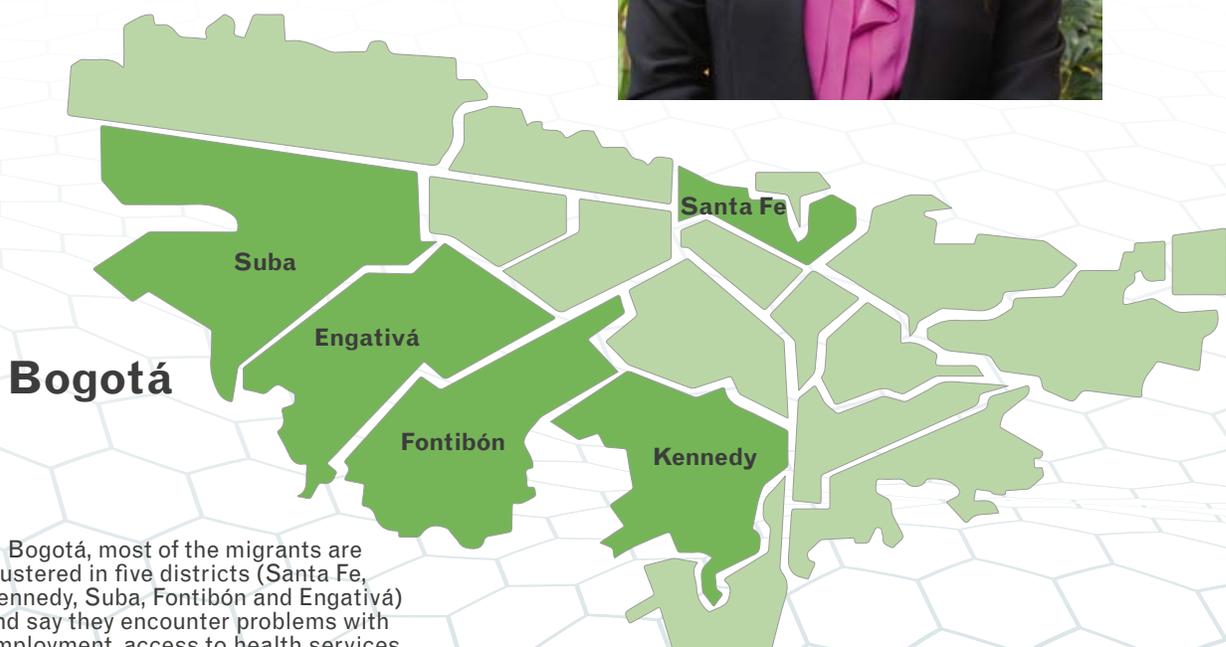
In broad terms, it was found that there is not a complete characterization of the migrant population nor are there reliable figures on the number of migrants, since they vary from institution to institution, as happened with forced displacement. In addition, it was never foreseen that the Venezuelan migrants would decide to remain in Colombia. For a long time, they were regarded as a floating population. Migrants in transit are usually found in cities like Tunja, Paipa and Pereira.



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“Colombia has not been sufficiently prepared to deal with the reality of a migration which has changed in recent years,” the researcher María Teresa Palacios points out.



In Bogotá, most of the migrants are clustered in five districts (Santa Fe, Kennedy, Suba, Fontibón and Engativá) and say they encounter problems with employment, access to health services and their extra-legal status.

# OBJECTIVES TO ENSURE A SAFE, ORDERLY AND LEGAL MIGRATION



1

Compile and use data which is precise and arranged in categories to formulate policies.

2

Minimize the adverse and structural factors which force people to leave their country.

3

Provide precise and timely information in all of the stages of migration.

4

Ensure that all migrants have proof of their juridical identity and adequate documentation.

5

Strengthen the availability and flexibility of the routes to legal migration.

6

Facilitate equitable and ethical employment and safeguard the conditions which ensure decent work.



7

Deal with and reduce the vulnerabilities of migrants.

8

Save lives and undertake coordinated international initiatives on migrants who have disappeared.

9

Strengthen transnational responses to the illegal trafficking of migrants.

10

Prevent, fight against and eradicate the White slave trade in the context of migration.

11

Manage frontiers in an integrated, safe and coordinated manner.

12

Strengthen the certainty and predictability of migratory procedures for the adequate verification of the background, evaluation and origin of the migrants.



13

The detention of migrants should only be used as a last resort.

14

Improve the protection, assistance and cooperation of consulates in the whole migratory cycle.

15

Provide migrants with an access to basic services.

16

Empower migrants and societies in order to achieve their full inclusion and social cohesion.





17

Eliminate all forms of discrimination and encourage public discussions of the situation.

18

Invest in the development of skills and facilitate the mutual recognition of skills, qualifications and talents.

19

Create the needed conditions for migrants and the subjects of exodus to be able to fully contribute to sustainable development.

20

Promote more rapid, safe and economical methods for remittances and encourage the financial inclusion of the migrants.

21

Help to facilitate the return and readmission of migrants to their countries of origin in conditions of security and dignity.

22

Establish mechanisms to transfer social security payments and other benefits the migrants have acquired.

23

Strengthen international cooperation and world alliances for a safe, orderly and legal migration.



The study was undertaken by the following institutions: The Universidad [U] de Santander, U. Santo Tomás, U. Antonio Nariño, U. Simón Bolívar, U. Libre, U. Sergio Arboleda, U. del Atlántico, U. Pedagógica y Tecnológica de Colombia, U. de Boyacá, Fundación Universitaria Autónoma de las Américas, U. Surcolombiana, U. La Gran Colombia, U. de Antioquia, U. de Nariño, Corporación Universitaria Rafael Núñez, Corporación Universitaria Remington, Unicoc, U. Cooperativa de Colombia, U. de Medellín, U. del Magdalena and the U. del Rosario.

## TESTIMONIES OF MIGRANTS WHO WERE INTERVIEWED IN THE FRAMEWORK OF THE PROJECT

### Access to services:

*"There is housing, the services are also expensive for a migrant who arrives without sufficient resources to sustain himself or herself."*

### Reasons for migrating:

*"My cousin has been living here for two years: It was he who told me to come. I chose this country because I had relatives here."*

*"The situation in Venezuela was very difficult. You couldn't buy food and I had to close my business," testimony of a migrant.*

### Access to employment:

*"I have managed to find work in construction, but to start with, I met up with a gentleman who wasn't very decent and things didn't work out, but I managed to find and work for a new boss who pays me and I do different construction jobs."*

