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## **Discriminatory approach to border closure and mobility restriction: Brazilian government's handling with Venezuelan migrants**

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### **Abstract**

Despite its lax response to the COVID-19 pandemic, Brazil has imposed harsher mobility restrictions on Venezuelan migrants. International relations, mobility regulations, and public health policies are deeply intertwined.

### **Keywords**

Brazil, Venezuela, borders, COVID-19, mobility, discrimination

### **Theme**

Shock (im)mobilities

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In an unprecedented effort to contain the spread of the COVID-19 pandemic, South American countries implemented border restrictions. While most recognised the urgency to contain the spread of the coronavirus, Brazil's President Jair Bolsonaro downplayed the seriousness of the pandemic and said that closing borders was a 'hysterical' move.<sup>2</sup> Nevertheless, Brazil partially closed its borders with Venezuela on 18 March 2020. By that time, Argentina, Bolivia, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay and Venezuela had already adopted stricter border restrictions.<sup>3</sup> On 19 March, Brazil's federal government announced further mobility restrictions by limiting the movement of foreign nationals across its land borders; however, airports remained open.<sup>4</sup> Brazil only halted the entry of all foreigners via land, air and water transport two months later.<sup>5</sup>

Considering that Brazil's government was reluctant to impose any mobility restrictions at all, it is significant that Venezuela was singled out as the first country subject to border closures. This measure restricted the entrance of foreign nationals coming from Venezuela via Pacaraima in the state of Roraima, the main point of entry into Brazil for Venezuelans. However, the transit of goods was exempted from these restrictions.<sup>6</sup> President Jair Bolsonaro explained that allowing the movement of goods to continue across that border was crucial to prevent Roraima's economy from collapsing.<sup>7</sup> In order to secure the border, Brazil deployed its army to monitor the Federal Highway Police checkpoint.

Brazil's restrictions on the Venezuelan border seem to be based on the premise that the political tensions in that country have led many to cross the land border into Brazil searching for refuge and resources.<sup>8</sup> President Bolsonaro said that closing the borders with other South American countries would not have been a practical solution against COVID-19, but that the situation in Venezuela required an exception. Moreover, the federal government expressed its concerns that Brazil's

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<sup>2</sup> Manetto, Francesco, Sara España, and Florantonia Singer. 2020. Países da América do Sul fecham fronteiras e ensaiam cooperação diplomática para conter pandemia [South American countries close their borders and launch diplomatic cooperation to contain the pandemic]. *El País*. 17 March 2020. Available online at: <https://brasil.elpais.com/internacional/2020-03-17/paises-da-america-do-sul-fecham-fronteiras-e-ensaiam-cooperacao-diplomatica-para-conter-pandemia.html>. Last accessed 20 October 2020.

<sup>3</sup> Nobrega, Ighor. 2020. Países da América do Sul fecham fronteiras por pandemia [South American countries close their borders because of the pandemic]. *Poder 360*. 18 March 2020. Available online at: <https://www.poder360.com.br/internacional/paises-da-america-do-sul-fecham-fronteiras-por-cao-do-coronavirus/>. Last accessed 20 October 2020.

<sup>4</sup> Mazui, Guilherme, and Fábio Amato. 2020. Brasil fecha fronteiras terrestres para entrada de estrangeiros vindos de países vizinhos da América do Sul [Brazil closes its land borders to foreigners from neighbour South American countries]. *GI Brasília*. 19 March 2020. Available online at: <https://g1.globo.com/politica/noticia/2020/03/19/brasil-fecha-fronteiras-com-paises-da-america-do-sul.ghtml>. Last accessed 25 August 2020.

<sup>5</sup> Massali, Fábio. 2020. Covid-19: governo proíbe entrada de estrangeiros no país por 30 dias [COVID-19: Government bans foreigners from entering the country for 30 days]. *Agência Brasil*. 22 March 2020. Available online at: <https://agenciabrasil.ebc.com.br/saude/noticia/2020-05/covid-19-governo-proibe-entrada-de-estrangeiros-no-pais-por-30-dias>. Last accessed 25 August 2020.

<sup>6</sup> Araújo, Fabrício, and Valéria Oliveira. 2020. Fronteira do Brasil com a Venezuela é fechada [Brazil's border with Venezuela closed]. *GI Roraima*. 18 March 2020. Available online at: <https://g1.globo.com/rr/roraima/noticia/2020/03/18/fronteira-do-brasil-com-a-venezuela-e-fechada.ghtml>. Last accessed 25 August 2020.

<sup>7</sup> Vilela, Pedro Rafael. 2020. Bolsonaro fala em fechamento parcial da fronteira com a Venezuela [Bolsonaro speaks of partial closure of border with Venezuela]. *Agência Brasil*. 17 March 2020. Available online at: <https://agenciabrasil.ebc.com.br/politica/noticia/2020-03/bolsonaro-fala-em-fechamento-parcial-da-fronteira-com-a-venezuela>. Last accessed 25 August 2020.

<sup>8</sup> Verdélio, Andreia. 2020. Governo restringe temporariamente entrada de venezuelanos no Brasil [Government temporarily restricts entry of Venezuelans in Brazil]. *Agência Brasil*. 18 March 2020. Available online at: <https://agenciabrasil.ebc.com.br/internacional/noticia/2020-03/governo-restringe-temporariamente-entrada-de-venezuelanos-no-brasil>. Last accessed 25 August 2020.

decentralized national healthcare system (*Sistema Único de Saúde*, SUS) would have difficulties to provide treatment to immigrants suffering from coronavirus infection.<sup>9</sup>

Diplomatic relations between Brazil and Venezuela—already tense as President Bolsonaro refuses to recognise Nicolás Maduro as Venezuela’s legitimate leader—further deteriorated during the COVID-19 pandemic.<sup>10</sup> On 5 March 2020, the Brazilian government ordered the return of four Brazilian diplomats and eleven officials.<sup>11</sup> Similarly, on 28 April, Brazil’s Ministry of Foreign Affairs ordered 34 Venezuelan diplomats to return to Venezuela within five days. In response, the Venezuelan government informed Brazil that their diplomatic team would not abandon their posts and functions.<sup>12</sup>

### Selective mobility restrictions targeting Venezuelans

On 22 May, the Brazilian federal government published the Interministerial Ordinance No. 225, halting the entry of foreign nationals into Brazil by land, water and air.<sup>13</sup> The ordinance included an exception for immigrants with permanent residency status and foreigner with Brazilian spouses, partners, parents, or offspring, among others, who were allowed to continue entering the country.<sup>14</sup> This exception, however, did *not* apply to people coming from Venezuela. Furthermore, Ordinance No. 225 allowed foreigners to travel between twin cities (international border municipalities) but excluded those alongside the Venezuelan border.

Brazil’s Public Defender’s Office (*Defensoria Pública da União*, DPU) filed a public civil action on 27 May, to request for the repeal of Ordinance No. 225 for its discriminatory nature against Venezuelan migrants.<sup>15</sup> The DPU argued that the ordinance was causing considerable challenges for hundreds of thousands of refugees, migrants and asylum seekers in Brazil. Mobility restrictions implemented by Ordinance No. 225 also permitted border authorities to reject any request for refuge, as well as carry out deportations and forced repatriations. The ordinance made it impossible for

<sup>9</sup> Lima, Ana Paula. 2020. Governo Federal proroga proibição de entrada de venezuelanos no Brasil por mais 30 dias [Federal Government extends ban on entry of Venezuelans into Brazil for another 30 days]. *Roraima em Tempo*. 1 April 2020. Available online at: <https://www.roraimaemtempo.com/ultimas-noticias/governo-federal-prorroga-proibicao-de-entrada-de-venezuelanos-no-brasil-por-mais-30-dias,354007.jhtml>. Last accessed 29 August 2020.

<sup>10</sup> Pleno. News. 2021. *Diplomatas de Maduro têm até 2 de abril para saírem do Brasil* [Maduro’s diplomats have until 2 April to leave Brazil], 22 March 2021. Available online at: <https://pleno.news/brasil/politica-nacional/governo-bolsonaro-manda-diplomatas-de-maduro-sairem-do-brasil-ate-o-dia-2-de-abril.html>. Last accessed 22 March 2021.

<sup>11</sup> Deutsche Welle. 2020. Brasil ordena retirada de diplomatas da Venezuela [Brazil orders withdrawal of diplomats from Venezuela]. 6 March 2020. Available online at: <https://p.dw.com/p/3YwfW>. Last accessed 14 December 2020.

<sup>12</sup> Melito, Leandro. 2020. Após Bolsonaro expulsar diplomatas, Venezuela diz que equipe "não abandonará funções" [After Bolsonaro expels diplomats, Venezuela says team ‘will not abandon functions’]. *Brasil de Fato*. 30 April 2020. Available online at: <https://www.brasildefato.com.br/2020/04/30/apos-bolsonaro-expulsar-diplomatas-venezuela-diz-que-equipe-nao-abandonara-funcoes>. Last accessed 13 December 2020.

<sup>13</sup> Minister Head of the Civil House of the Presidency of the Republic, Minister of Justice and Public Security, Minister of Infrastructure, and Minister of Health. 2020. *Portaria Nº 255, de 22 de maio de 2020 [Ordinance No. 255, of 22 May 2020]*. Presidência da República. Available online at: <https://www.in.gov.br/en/web/dou/-/portaria-n-255-de-22-de-maio-de-2020-258114133>. Last accessed 12 December 2020.

<sup>14</sup> Conectas. 2020. *Fechamento de fronteira discrimina venezuelanos* [Border closure discriminates against Venezuelans]. 1 June 2020. Available online at: <https://www.conectas.org/noticias/portaria-sobre-fechamento-de-fronteira-e-questionada-na-justica-por-discriminar-pessoas-vindas-da-venezuela>. Last accessed 27 August 2020.

<sup>15</sup> Defensoria Pública da União (DPU). 2020. *Ação civil pública com pedido de tutela de urgência, processo de assistência jurídica nº 2020/026-01580* [Public civil action with a request for urgent injunctive relief, legal aid case No. 2020/026-01580]. Conectas. Available online at: <https://www.conectas.org/wp/wp-content/uploads/2020/06/ACP-PORTARIA-MIGRANTES-E-REFUGIADOS.-DEPORTA%C3%87%C3%83O.-INABILITA%C3%87%C3%83O.-REF%C3%9AGIO.-CRIMINALIZA%C3%87%C3%83O.-DISCRIMINA%C3%87%C3%83O..pdf>. Last accessed 27 August 2020.

people arriving from Venezuela to seek refuge in Brazil, thereby neglecting the needs of vulnerable migrant groups such as young and elderly people and potential victims of human trafficking.<sup>16</sup>

### Selective reopening of borders

Venezuelan citizens were singled out again during the process of border reopening. On 30 June 2020, Brazil relaxed its mobility restrictions and allowed foreign nationals to enter the country via the Guarulhos International Airport in São Paulo, the Antonio Carlos Jobim International Airport in Rio de Janeiro, the Viracopos International Airport in Campinas, and the President Juscelino Kubitschek International Airport in Brasília.<sup>17</sup> The Brazilian government reopened its air space to all international flights and foreign nationals on 29 July. International flights could enter all airports in the country, except for those located in the states of Mato Grosso do Sul, Paraíba, Rondônia, Rio Grande do Sul and Tocantins.<sup>18</sup> To enter Brazil, foreign nationals were required to present proof of health insurance valid for the entire period of their stay and a negative COVID-19 test result.

While some airports reopened, Brazil's federal government continued prohibiting the entry of foreigners of all nationalities by land or sea for an additional 30 days.<sup>19</sup> Authorities also made an exception for foreigners who needed to cross over into Brazil from neighbouring countries to board a return flight to their home countries; however, this did not include foreigners arriving from Venezuela.

The new regulations clarified that those who entered the country without permission would be subject to 'civil, administrative and criminal liability; repatriation or immediate deportation; and inability to request refuge'.<sup>20</sup> This meant that asylum seekers, fleeing persecution and war, would not be able to seek refuge in Brazil.

Furthermore, while most immigrants who have residency in Brazil could cross the border, those arriving from Venezuela were selectively prevented from entering the country. The DPU and human rights organisations have criticised and challenged these discriminatory mobility restrictions, saying that such policies do not follow the international treaties which Brazil has signed. On 6 August 2020, the Brazilian government finally authorised the entry of 36 people, mostly Venezuelans, who had been stuck at the border between Brazil and Peru and living in limbo for three months, unable to move one way or the other.<sup>21</sup>

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<sup>16</sup> Ibid.

<sup>17</sup> León, Lucas Pordeus. 2020. Governo autoriza reabertura de fronteiras aéreas para entrada de estrangeiros no Brasil [Government authorizes reopening of air borders for foreigners to enter Brazil]. 30 July 2020. Available online at: <https://agenciabrasil.ebc.com.br/radioagencia-nacional/acervo/politica/audio/2020-07/governo-autoriza-reabertura-de-fronteiras-aereas-para-entrada-de-estrangeiros/>. Last accessed 25 August 2020.

<sup>18</sup> Ibid.

<sup>19</sup> Deutsche Welle. 2020. Brasil reabre fronteiras aéreas para estrangeiros [Brazil reopens air borders to foreigners]. 30 July 2020. Available online at: <https://p.dw.com/p/3gA8U>. Last accessed 14 December 2020.

<sup>20</sup> Uribe, Gustavo, and Julia Chaib. 2020. Estrangeiro com seguro e teste negativo poderá entrar no país [Foreigners with insurance and negative test may enter the country]. *Folha de S.Paulo*. 29 July 2020. Available online at: <https://www1.folha.uol.com.br/cotidiano/2020/07/brasil-deve-reabrir-fronteira-para-estrangeiro-com-seguro-saude-e-teste-negativo-de-covid-shtml>. Last accessed 25 August 2020.

<sup>21</sup> Mantovani, Flávia. 2020. Justiça libera entrada de venezuelanos que ficaram semanas presos em ponte entre Brasil e Peru [Justice releases entry of Venezuelans who were stuck for weeks on bridge between Brazil and Peru]. *Diário de Pernambuco via Folhrapress*. 7 August 2020. Available online at: <https://www.diariodepernambuco.com.br/noticia/brasil/2020/08/justica-libera-entrada-de-venezuelanos-que-ficaram-semanas-presos-em-p.html>. Last accessed 28 September 2020.

Nevertheless, discriminatory mobility restrictions continued to target Venezuelan migrants. On 24 September, Brazil's federal government released an ordinance prohibiting the entry of people of all nationalities into Brazil for a further 30 days, due to the uptick of COVID-19 cases in the country.<sup>22</sup> These mobility restrictions applied only to people arriving by land or sea while flights continued coming in. The ban also exempted immigrants with permanent or fixed-term residency in Brazil, international organisations' employees, foreigners who were granted permission of entry for humanitarian reasons, and residents of twin cities whose governments reciprocally allowed Brazilian nationals to cross over.

Once again, this last exception did not apply to Venezuelans, who could not claim their family ties to Brazilian citizens either to enter the country.<sup>23</sup> Venezuelans continued to be singled out with the extension of these mobility restrictions for another week in December.<sup>24</sup> Certainly, Brazil's discriminatory mobility restrictions and border closures during the pandemic show how international relations and politics have played a role as important as health considerations in designing public health policies in the country.

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<sup>22</sup> Minister Head of the Civil House of the Presidency of the Republic, Minister of Justice and Public Security, Minister of Infrastructure, and Minister of Health. 2020. *Portaria nº 456 de 24 de setembro de 2020 [Ordinance No. 456, of 24 September 2020]*. Presidência da República. Available online at: <https://www.in.gov.br/en/web/dou/-/portaria-n-456-de-24-de-setembro-de-2020-279272788>. Last accessed 13 October 2020.

<sup>23</sup> R7 Brasil. 25 September 2020. *Governo define de que maneira estrangeiros podem entrar no Brasil* [Government defines how foreigners can enter Brazil]. 25 September 2020. Available online at: <https://noticias.r7.com/brasil/governo-define-de-que-maneira-estrangeiros-podem-entrar-no-brasil-25092020>. Last accessed 5 December 2020.

<sup>24</sup> Minister Head of the Civil House of the Presidency of the Republic, Minister of Justice and Public Security, Minister of Infrastructure, and Minister of Health. 2020. *Portaria nº 615 de 11 de dezembro de 2020 [Ordinance No. 615, of 11 December 2020]*. Presidência da República. Available online at: <https://www.in.gov.br/en/web/dou/-/portaria-n-615-de-11-de-dezembro-de-2020-293755847>. Last accessed 28 December 2020.