



## OPEN LETTER TO THE HEADS OF STATE OF AMERICAN STATES ATTENDING THE 52<sup>ND</sup> ORDINARY SESSION OF THE GENERAL ASSEMBLY OF THE OAS

The Organization of American States (hereafter “the OAS”), in its 52<sup>nd</sup> Ordinary Session of the General Assembly, will discuss the issues of [inequality and discrimination](#) in the region.

As previously stated, Amnesty International believes that inequality and discrimination are cross-cutting issues in terms of the full realization of the human rights of all people. The Covid-19 pandemic highlighted the deep structural inequalities in the region in terms of economic, social, and cultural rights, and it is in this context that the organization calls on this regional forum to adopt the measures necessary to create optimal conditions for the guarantee and protection of human rights by strengthening policies and mechanisms to address inequality gaps and combat discrimination and racism in the Americas.

On this occasion, Amnesty International reiterates to the OAS Member States and to the Secretary General of the organization the following considerations on some urgent human rights issues that need to be addressed in efforts to combat inequality and discrimination in the region.

### *1. [Inequality and discrimination in the aftermath of the Covid-19 pandemic](#)*

There is evidence that the Covid-19 pandemic has exacerbated the deep inequalities and systemic failures of the human rights protection mechanisms across the whole continent of America. Thus, many people in the region have suffered disproportionate effects on the right to life, health, social protection, an adequate standard of living and work, among others. These situations have affected people in situations of historical marginalization such as Indigenous Peoples, Black and Afro-descendant communities, women and girls living in poverty, and LGBTIQ people, among others, in different ways.

Amnesty International carried out an [in-depth analysis](#) (Spanish only) of the States Parties to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights<sup>1</sup> (hereinafter referred to as “the Protocol of San Salvador”) and concluded that inequality and discrimination are based on economic, gender and racial-ethnic factors. Thus, the richest 20% of the population in the region accounts for half of total household income while the poorest only 5%. As if that were not enough, women face challenges in terms of economic inclusion and a disproportionate burden of care work, which reduce their opportunities. Furthermore, Indigenous people and people of African descent have less economic opportunities and face structural discrimination. Unfortunately, the emergency measures adopted by governments to deal with the pandemic have not been sufficient insofar as complying with their duty to eradicate discrimination and actively promote substantive equality in the enjoyment of human rights, particularly economic and social rights.

Similarly, the right to health also implies access to clean drinking water and food. Across the American continent there are still places where access to clean drinking water is limited, particularly in rural communities. All of the above, in addition to underinvestment and underperformance in terms of economic, social, and cultural rights, contributed to higher rates of Covid-19 mortality. On the other hand, the structural problems in the health systems in the Americas in terms of free and universal access and adequate budgetary and human resources mean that the healthcare systems do not comply with the requirements of accessibility, availability, quality, and cultural relevance established by the right to health. In the Americas, with the exception of Argentina and Uruguay, countries spend less than 6% of their Gross Domestic Product (hereafter “GDP”) on public health, which is the standard set by the Pan-American Health Organization (hereinafter “PAHO”) to achieve universal health coverage.

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<sup>1</sup> The countries that are not yet States Parties to the Protocol of San Salvador are Cuba, Dominican Republic and Venezuela. [Chile](#) ratified the Protocol of San Salvador in July 2022.



In light of the above, Amnesty International has concluded that socio-economic inequality in the region in addition to structural inequalities explain the impact of Covid-19 in the Americas. They are not merely an unintended consequence of the pandemic, but rather the result of actions or omissions to address discrimination and inequality, as well as the lack of measures to protect traditionally marginalized groups.

The organization believes that States in the Americas must, at the very least, ensure that public spending on health is at least 6% of GDP, as established by PAHO. To achieve this, they must organize their tax policies, both on revenue collection and expenditure, in order to progressively seek to significantly reduce discrimination and inequality.

## 2. *The situation faced by migrants and refugees*

The American continent is the location of some of the world's most important cross-border movements of people. The human rights crisis in Venezuela has forced more than [6.8 million](#) people to flee the country. The political and humanitarian crisis in Haiti has led to the movement of thousands of people who are trapped at different borders in the region. The situation of generalized violence, compounded by natural disasters associated with climate change in Central America, has caused tens of thousands of people from El Salvador, Honduras, and Guatemala to set off for the north of the continent.

In the specific case of Haiti, between September 2021 and May 2022, the US expelled more than 25,000 Haitians, in most cases using the so-called Title 42.<sup>2</sup> According to a [recent Amnesty International investigation](#), the mass or collective expulsions of Haitian asylum seekers by US authorities under Title 42 form part of a practice of detention, exclusion, and deterrence based on systematic discrimination against Black Haitians.

Furthermore, the majority of Haitian asylum seekers interviewed by Amnesty International who were detained in the US reported that they were not allowed to make phone calls, and none of them had access to interpreters or legal assistance. They also reported that they had received little or no information about their whereabouts and the reasons for their detention, all of which constitutes arbitrary detention under international law. In this respect, the US has violated international human rights law by denying people the right to seek asylum and returning them to countries where they may suffer irreparable harm upon return, in violation of the principle of *non-refoulement*.

As the humanitarian and human rights crisis in Haiti manifests itself, among other issues, in the continually increasing flow of Haitian migrants and asylum seekers across the continent, it is urgent that state authorities in the Americas provide Haitians with a system of protection without discrimination that includes fair and individualized refugee status assessments and avenues for regularization, taking into account the appropriate safeguards set out in the UN Convention relating to the Status of Refugees and the Cartagena Declaration.

On the other hand, it is important to note that gender-based violence in Latin America has been described by UN Women as “the shadow pandemic”.<sup>3</sup> For women refugees and migrants, their migration status is a risk factor that increases their vulnerability, exposing them to gender-based violence throughout the migration route or in the cities where they decide to stay.

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<sup>2</sup>An order implemented during the Trump administration disguised as a public health measure (an argument that has functioned as a deterrent to migration and asylum policy), it constitutes an express violation of national and international law.

<sup>3</sup>UN Women, *The Shadow Pandemic*, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>



Despite significant levels of under reporting, existing figures show that gender-based violence against refugee women has increased. According to an [Amnesty International investigation](#), in Colombia the number of reported cases of gender-based violence against Venezuelan refugee women rose from 2,430 in 2018 to 4,165 in 2020<sup>4</sup> and in Peru from 1,384 in 2019 to 1,818 in 2021.<sup>5</sup>

In the aforementioned report, the organization concluded that gender-based violence against refugee women occurs in all spaces. Venezuelan women are repeatedly subjected to assault and sexual violence in public spaces, both in the host cities where they live and along the migration route. Irregular border crossings are sites of violence against Venezuelan refugee women perpetrated by organized armed groups, while others are trafficked from Venezuela for the purpose of labour or sexual exploitation. In addition, working environments, are *per se* violent for Venezuelan refugee women, in both countries. Thus, they face compound stereotypes when searching for decent work, because they are denied the opportunity to access work because they are Venezuelan, coupled with discriminatory factors such as age.

Similarly, there are multiple obstacles to Venezuelan women's right to access justice and health services without discrimination. Furthermore, the widespread perception of impunity and the lack of effectiveness of the justice system in general - for both nationals and foreigners - are factors that discourage many women from reporting gender-based violence in both countries. However, Venezuelan refugee women also face specific challenges: a lack of regularization of migration status leads to the perception that they do not have the same rights as the rest of the population and therefore cannot demand them from the institutions, or that by doing so they would run the risk of being deported to their country. Added to this is the gap in access to information on care options for survivors of gender-based violence: Venezuelan women report that they are not aware of them, they do not know which institution to contact or what mechanisms exist.

In this regard, in light of the above, it is essential that State authorities in the Americas guarantee that all institutions dealing with survivors of gender-based violence, including the police, prosecutors' offices, migration and health institutions, have solid protocols for handling cases of gender-based violence that address the special needs of refugee and migrant women survivors of gender-based violence, based on intersectionality and the obligation of non-discrimination.

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<sup>4</sup>Colombian Ministry of Health, *National Gender-based Violence Observatory*, <https://www.sispro.gov.co/observatorios/onviolenciasgenero/Paginas/home.aspx> (filter General indicators and Venezuelan women) (Spanish only).

<sup>5</sup>Figures from Women's Emergency Centre (Centro Emergencia Mujer, CEM) records on sexual violence for the years 2019, 2020 and 2021. Cases of sexual violence - Rape, indecent assault, sexual harassment and sexual harassment in public places - from <https://portalestadistico.aurora.gob.pe/formas-de-la-violencia-2019/> and CEM records (Spanish only).