



## **Introduction:**

1. “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood” (art. 1, UDHR).

2. The Lutheran World Federation (LWF) is a global communion of 148 churches in the Lutheran tradition, representing over 75 million Christians in 99 countries. The LWF acts on behalf of its member churches in areas of ecumenical and interfaith relations, theology, human rights, ecological justice, humanitarian assistance, communication and the various aspects of mission and development. The Lutheran Church of Peru (ILP) believes that every human being is created in the image of God (Gen 1:27). By virtue of that foundational conviction of faith, we believe that each person is endowed with God-given dignity.

3. In this context, we are committed to the defense and promotion of human rights and have decided to participate in the UPR process for Peru, highlighting two issues in which we have been institutionally involved through pastoral services: the protection of the rights of the Venezuelan migrant population in Peru and the right to a healthy environment.

### **1. Methodology**

4. For the preparation of this report, the Lutheran Church of Peru has developed technical analysis based on the experience of professionals involved in projects that it implements and the existing regulations. The identification of violations of rights, norms, and policies has been collected and examined in consultations with the participation of recognized specialists from human rights organizations, and the pastors and activists of the congregations that make up the Church at the national level.

### **State Commitments**

5. According to the opinions on the conclusions and/or recommendations, voluntary commitments, and responses presented by the Peruvian State to the United Nations in 2017, there is no specific reference to commitments by the Peruvian State to address the situation of the population in a state of mobility of Venezuelan origin, as the problem had not yet acquired the dimensions seen in subsequent years. There is also no specific mention of the right to a healthy environment. Therefore, we allow ourselves to present the following information.

### **2. Situation of the Venezuelan migrant population**

6. According to figures from the Office of the United Nations High Commissioner for Refugees (ACNUR), Peru hosts 1.3 million refugees and migrants from Venezuela, forced to migrate from their homeland due to the crisis in that country.



7. According to the National Migration Superintendence, as of June 2022, around 426,000 Venezuelans have residence permits and regular stay in Peru. The rest have no legal status, which prevents them from accessing rights such as access to work, education, and healthcare, and so forth.

8. According to the Special Commission for Refugees of the Ombudsman's Office, 615,771 people applied for refugee status and 98.5% of the applicants are Venezuelan nationals. However, only 4,125 Venezuelan citizens have been granted refugee status.

9. COVID-19 exacerbated the vulnerable situation of the Venezuelan refugee and migrant population, as the barriers to the effective exercise of their rights increased. The economic crisis caused by the pandemic has particularly affected this population, leaving them without resources to cover basic services such as food, housing, and health, amongst others.

10. Of particular concern is the situation of children and adolescents of Venezuelan nationality in the migratory context since they experience difficulties in accessing education and health systems, the efforts of the State authorities being insufficient to guarantee their rights.

11. This is associated with the lack of documentation that is required to access enrollment to educational institutions, in the case of the right to education; and to be included in the comprehensive health insurance program (Seguro Integral de Salud, SIS), in the case of the right to health. As can be seen, the difficulties of children and adolescents in accessing documentation, especially that which allows them to have access to adequate identification and migratory regularization in national territory, hinders the exercise of their fundamental rights.

12. In its 2021-2022 annual report, Amnesty International reports that, in 2021, children and adolescents were excluded from the granting of humanitarian visas as members of family groups. It adds that, after the efforts of various civil society organizations, in December 2021 it was possible to regularize this process for more than 3,000 children and adolescents who had been denied humanitarian immigration status since June, even if it had been granted to their parents.

13. The Ombudsman's Office has reported having identified a negative attitude on the part of immigration and police authorities regarding the reception of refugee applications from unaccompanied and separated children and adolescents, despite the fact that there are international regulations that recognize and recommend approving these cases.

14. There are discriminatory practices against refugees and migrants residing in Peru that are manifested in various ways. One example is the presentation of bills that tend to blame refugees and migrants for pre-existing structural problems in terms of health, education,



social programs, and access to employment, amongst others. Discrimination also affects migrant children and adolescents, and can be seen in the verbal abuse they receive from their fellow students, in addition to other forms.

15. There is concern about collective deportations and an increase in migratory control without due process being respected, violating the right to family life since it causes the rupture of the family migratory unit. According to the Ombudsman's Office, these actions violate the principle of non-refoulement of people who request refugee status.

### ***Protection legal framework***

16. In Peru, refugees have duties and rights established by the Convention on the Status of Refugees, the Refugee Law (Law No. 27891), and its Regulations, Decree No. 119-2003. The law and its regulations indicate the conditions, procedures, and agencies responsible for determining refugee status. The Peruvian State recognizes its obligation to guarantee people who request refugee status access to their rights.

17. The 1951 Convention on the Status of Refugees establishes the rights of refugees as well as obligations that States must guarantee and respect from the moment a person requests recognition of their refugee status or for those who have already been recognized.

18. Article 44 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families establishes as a general principle the commitment of States to respect and ensure fundamental rights for all migrant workers and members of their families, without exception, as well as to protect the respective family unit.

19. The Convention on the Rights of the Child recognizes the comprehensive protection of the human rights of children; and, in the migratory context, it highlights the adequate analysis of the principles and rights in the best interest of the child (art. 3); equality and non-discrimination (art. 2); preservation of identity, filiation and non-separation of families (arts. 8, 9 and 10); and special protection in particular circumstances in which they are deprived of the family environment (art. 20).

20. Article 22 of the aforementioned Convention imposes on the State the obligation to adopt the necessary measures to ensure that children and adolescents who seek refugee status or who have been recognized as refugees enjoy adequate protection and humanitarian assistance for the enjoyment of the rights recognized in the convention or in other international human rights or humanitarian treaties to which the State is a party to.

21. In 2017, through the Legislative Decree on Migration (Legislative Decree 1350), the best interest of the child is recognized as a fundamental principle in migration regulation. For this reason, the migratory procedure that must be followed in the case of children and



adolescents has been established, as well as the obligation of the National Superintendence of Migration and the Ministry of Foreign Affairs to inform the relevant authorities of situations of vulnerability in migrants so as to adopt administrative or jurisdictional actions that correspond to the protection of their rights, in particular of children and adolescents.

22. The Constitution of Peru, in paragraph 2 of article 2, states that everyone has the right to equality before the law and that no one should be discriminated against for reasons of origin, race, sex, language, religion, opinion, economic condition or of any other nature. Peruvian legislation criminalizes discrimination and its incitement.

### ***Recommendations***

- Strengthen the institutional capacity of the State to implement a comprehensive migration policy that is structured, multi-sectoral and multi-level and that incorporates the needs of people on the move in the design and implementation of sectoral policies consistent with state obligation to international standards that protects the rights of refugees, asylum seekers and migrants.
- Promote a national public policy to combat discrimination.
- Establish a clearly defined criteria for the identification and entry of persons who require international protection, who are in a situation of vulnerability, or who have special protection needs.
- Recognize the validity of expired identity cards and birth certificates of Venezuelans for purposes of immigration procedures.
- Establish precise criteria in order to avoid the discretion of officials regarding the application of humanitarian exceptions and family reunification at borders.
- Design migratory regularization procedures with accessible requirements and costs for people with irregular entry into the country.
- Guarantee compliance with the principles of due process in sanctioning administrative procedures of a migratory nature.
- Ensure the protection of the rights of the refugee child and the rights of refugees with regard to access to education, employment, healthcare, social security and basic amenities.

### **3. Right to a healthy environment**



23. As the Office of the Ombudsman maintains, the State has the obligation to implement decisive and urgent actions in the fight against climate change considering the high degree of vulnerability in which the Peruvian territory finds itself. In fact, the increase in the frequency and intensity of floods, droughts, and forest fires, among other natural disasters stimulated by climate change, have been generating serious impacts on sensitive economic activities, such as agriculture, increasing food security risks in the country's population as a result of factors such as inflation and the shortage of fertilizers.

24. According to the Ministry of the Environment, 67% of disasters are a consequence of climate change, an increase in rainfall by up to 400% would generate floods and erosion in coastal areas, and 3,200 km of the Peruvian coastline are at risk, which could force local populations to be relocated.

25. The loss of forests in the Amazon continues. Deforestation is the main source of emission of one of the greenhouse gasses responsible for climate change in the country. It is also the primary factor in the destruction of biodiversity and the livelihood of native communities. This situation is alarming considering that, in just the last 20 years, Peru has lost more than 2.6 million hectares of forests, which are equivalent to the sum of the surfaces of Callao, Ica and Tumbes.

26. There are more than 1,500 garbage dumps throughout the country, which constitute another source of emission of one of the greenhouse gasses. Hundreds of tons of plastic waste end up in the sea, rivers, lakes and wetlands, affecting their ecosystems and biodiversity in addition to putting human health at risk. Microplastics were found in food-important fish in the cities of Lima and Iquitos.

27. It is necessary for the Executive Power, the Congress of the Republic, and the Public Ministry to act in a comprehensive and joint manner amongst themselves and with the regional governments in the eradication of illicit activities associated with deforestation, such as illegal logging and mining, drug trafficking, and illegal land acquisition that, in turn, generate contexts that harm life or put at risk the integrity of defenders of the environment and the rights of indigenous peoples.

28. Since the start of the pandemic (March 2020), at least 10 Peruvian indigenous leaders have been killed defending their territory from illegal logging or mining, drug trafficking, and land grabbing. According to the Last Line of Defense report by the human rights organization Global Witness, last year Peru was the third deadliest country in South America for environmental human rights defenders, after Brazil and Colombia.

29. More than a year after its launch, the progress and achievements of the Intersectoral Mechanism for the Protection of Human Rights Defenders are unknown. The death of



four indigenous leaders in the first quarter of 2022 shows that the procedures to obtain protection measures included in this instrument do not provide any protection.

30. Peru is one of the main destinations for mining investments in Latin America, and mining is the main activity that affects the environment in the country. Paradoxically, the localities where the extractive activities are located (large-scale mining and monocultures) register high rates of poverty and present a serious problem of human trafficking and social conflict. In addition, the growth achieved has had a high negative impact on ecosystems, aggravated by the absence of effective policies to remedy the environmental damage caused.

### *Legal framework*

31. The Constitution of Peru states in article 2, paragraph 22, that 'everyone has the right to peace, tranquility, the enjoyment of free time and rest, as well as to enjoy a balanced and adequate environment for the development of their life'. Article 67 establishes that the State determines the national environmental policy and promotes the sustainable use of natural resources.

32. Law No. 28611, General Law of the Environment, is the ordering norm of the legal regulatory framework for environmental management in Peru. It establishes the basic principles and norms to ensure the effective exercise of the right to a healthy, balanced and adequate environment for the full development of life as well as the fulfillment of the duty to contribute to effective environmental management and to protect the environment and its components, with the aim of improving the quality of life of the population and achieving the sustainable development of the country.

### *Recommendations*

- Ratify the Regional Agreement on Access to Information, Public Participation, and Access to Justice in environmental matters in Latin America and the Caribbean (Escazú Agreement), as it represents a regional effort to promote environmental protection and includes binding provisions for the protection of human rights defenders.
- Provide a sufficient budget for the implementation of the intersectoral mechanism to protect human rights defenders.
- Implement effective public policies against deforestation and environmental pollution as a consequence of extractive activities that particularly affect the territories of indigenous peoples.
- Take concrete measures to eradicate illegal activities associated with deforestation – such as illegal logging and mining, drug trafficking, and illegal land acquisition



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practices– that generate risks to the life and integrity of defenders of the environment and the rights of indigenous peoples.

- Prioritize the closure or conversion of dumps, the identification and eradication of municipal solid waste accumulation points, as well as the control of the sources that originate said waste, and the cleaning of beaches and riverbanks, lakes and wetlands.