

Expanded Refugee Protection for Some: Understanding the Application Patterns of the Cartagena Refugee Definition to Asylum Seekers in Mexico

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Motivation



- Mexico's role as a refugee country is increasingly becoming important.
- In 2011, México received 1,296 asylum seekers, mainly from Honduras and El Salvador. In 2016, México received 8,796 asylum seekers; this represented an 1126% increase rate.
- In 2016, an exodus of Venezuelan asylum seekers arrived in México, becoming the second nationality with more asylum seekers after Honduras.
- Until now, there was no analysis or evaluation of the implementation of Cartagena's refugee definition.

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Introduction

- Up to 2016, the main nationalities of asylum seekers arriving in México were:
Honduran 29%, Venezuelan 28%, Salvadoran 25%
- Large disparities in the refugee recognition rates of these asylum seekers:
Venezuela 98%, Honduras 55%, El Salvador 67%
- México included this definition in 1990 on the Population Law, and in 2011 on the Refugee Law.

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Objectives of the study

General:

To understand the conditions under which the Cartagena refugee definition has been implemented in the Mexican context between 2011 to 2016 through the analysis of:

- RSD administrative resolutions emitted by RSD officers.
- Internal databases of the Mexican Commission for Refugee Aid.
- Interviews with relevant Mexican stakeholders.

Specific:

To analyze the different implementation patterns of the regional refugee definition regarding the nationality of asylum seekers.

To contribute to the literature on refugee law, mainly implementation gaps of regional refugee definitions.

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Theoretical framework

- The RSD administrative decisions are highly interpretative and speculative (Hamlin, 2014).
- Past decisions disproportionately affect future decisions. Rather than approaching each problem as a blank slate, decisionmakers tend to evaluate new conditions in the context of past decisions. (Frederickson 2016).
- Most Venezuelan nationals need international protection under the criteria contained in the Cartagena Declaration (UNHCR, 2019).
- Organized criminal violence in the Northern Triangle is ‘as deadly as armed conflict’, there is parity with root causes widely recognized as legitimate sources of refugee flows (Cantor, 2016).

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Methodology

- Quantitative and qualitative study.
- Implemented a quantitative monitoring mechanism for the asylum system in Mexico focused on studying and analyzing the decisions of the Mexican Commission for Refugee Aid (COMAR) issued by its RSD officers since the entry in force of the Refugee Law.
- Research process divided into three sequential stages:
 - 1) Information gathering
 - 2) Methodology adaptation
 - 3) Interviews with relevant stakeholders

Information gathering

- To obtain quantitative information, COMAR databases regarding people who were recognized as refugees under Cartagena were requested through the National Institute for Transparency and Access to Public Information (INAI) These databases included the following information:
 - The number of cases in which the COMAR determined the existence of Cartagena grounds and number of RSD's based on those grounds, disaggregated by sex, age, and nationality.

Information gathering

- For qualitative analysis, we obtained 6,331 RSD resolutions for the years 2011-2016
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- Given the number of resolutions, representative samples were obtained per year.
- The sample size consisted of 570 resolutions and was calculated for 90% confidence.

Methodology adaptation

- Sequentially, a database for standardized analysis was developed for the analysis of sample resolutions.
- Several evaluation mechanisms were investigated, we selected:
- Manual: *Building in Quality. A Manual on Building a High-Quality Asylum System, Further Developing Asylum Quality in the European Union* (UNHCR, 2011) of the United Nations High Commissioner for Refugees.

Methodology adaptation

- 115 categories of analysis were identified for the orderly and standardized review of the RSD resolutions. Categories were selected on the basis of:
 - 1) Application to all resolutions, regardless if they recognized/not recognized refugee status.
 - 2) Ability to give an account of the profile of the asylum seekers, including their reasons for displacement and;
 - 3) Feasibility of reporting the argumentative exercise of the RSD officers within their determinations.
- Qualitative interviews (22) with various authorities of different levels of government, UNHCR and NGO representatives to help explain the determinants of Cartagena implementation (in process).

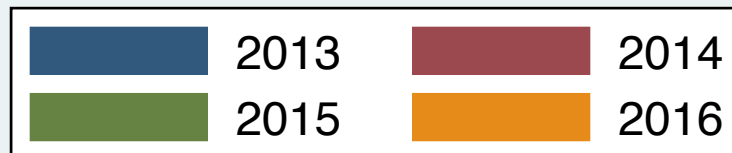
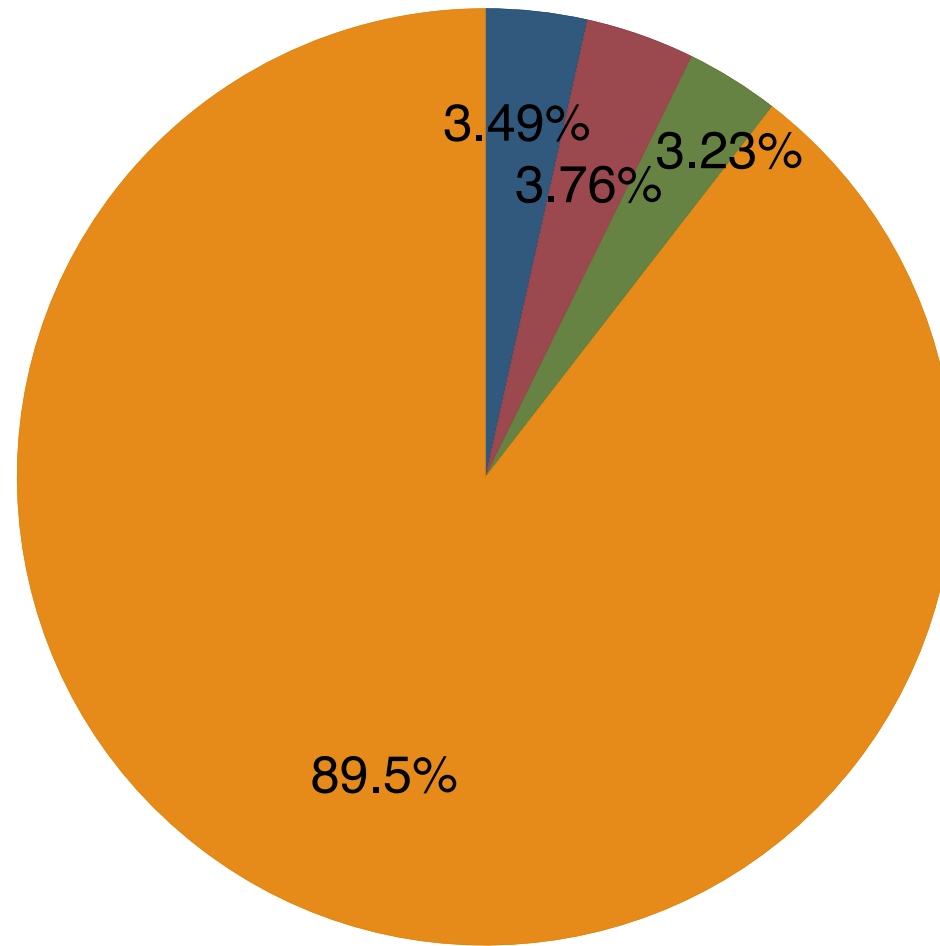
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Table 1. Nationality of refugees recognized by Cartagena (2013-2016)

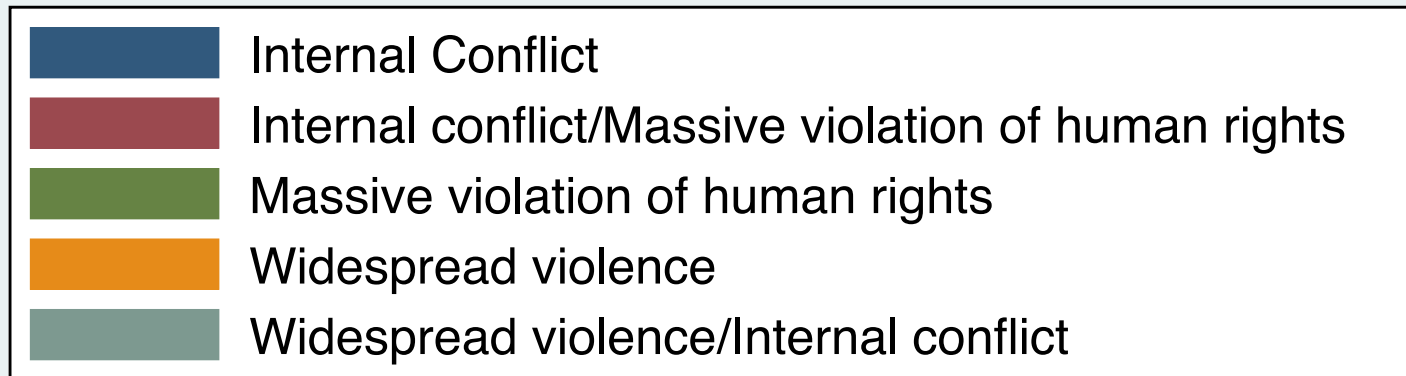
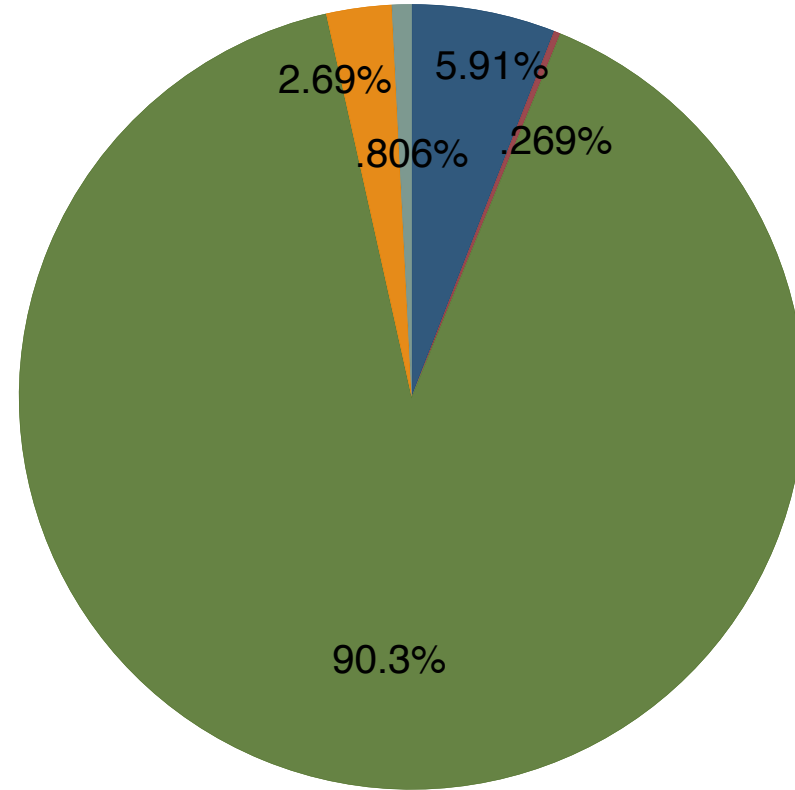
Country of Origin	Recognized Refugees	Percentage
Colombia	2	0.54%
Côte d'Ivoire	1	0.27%
Guatemala	2	0.54%
Haiti	1	0.27%
Irak	9	2.42%
Nigeria	1	0.27%
Syria	26	6.99%
Ukraine	6	1.61%
Venezuela	324	87.10%
Total	372	100%

Figure 1. Annual distribution of RSD by Cartagena



Source: Figure made with information provided by the Transparency Unit of COMAR

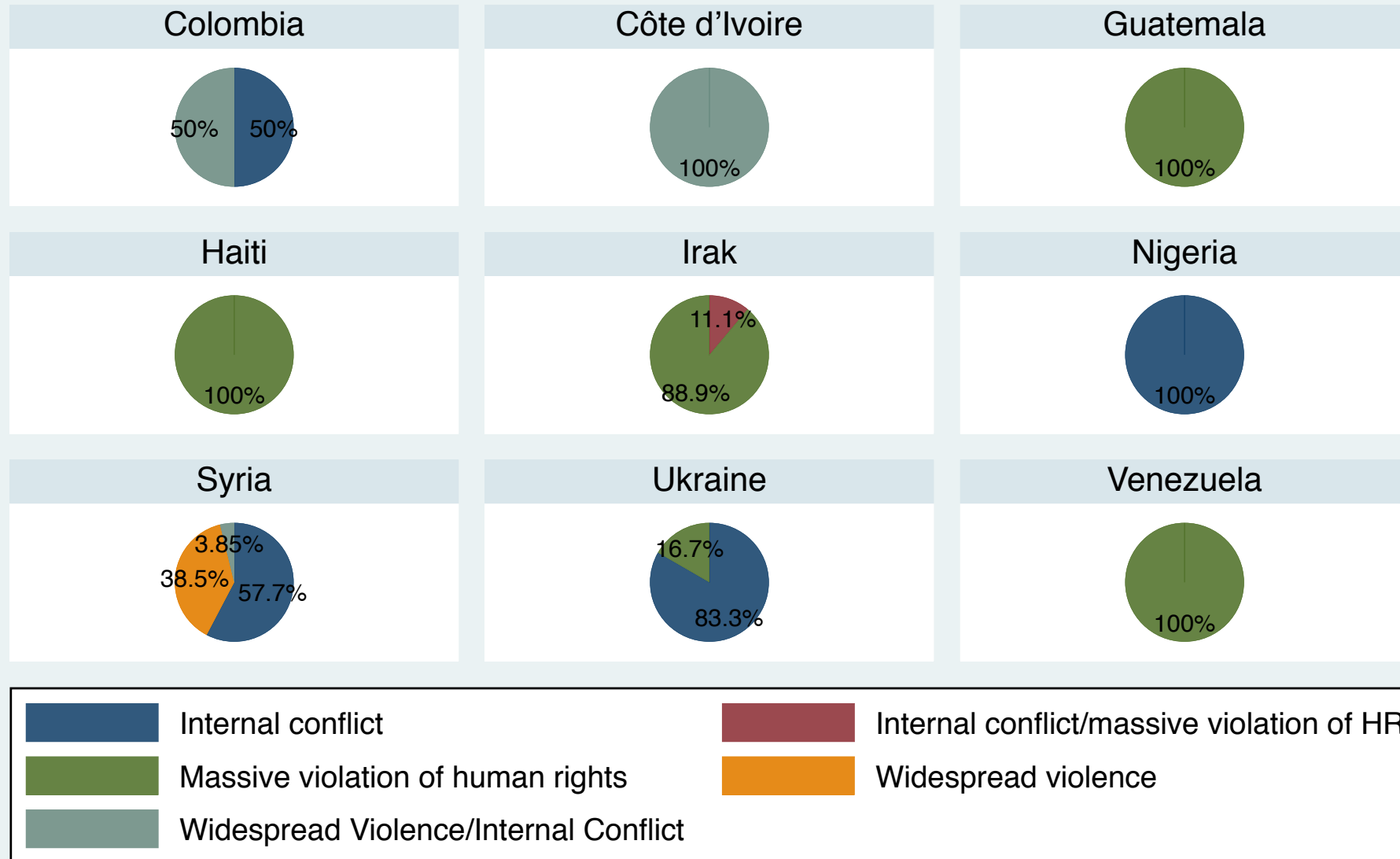
Figure 2. Cartagena's grounds used for RSD



Source: Figure made with information provided by the Transparency Unit of COMAR

Figure 3. Cartagena's grounds used for RSD

Disaggregated by country of origin



Source: Figure made with information provided by the Transparency Unit of COMAR

FIGURE 4. Alleged Reasons for Forced Migration

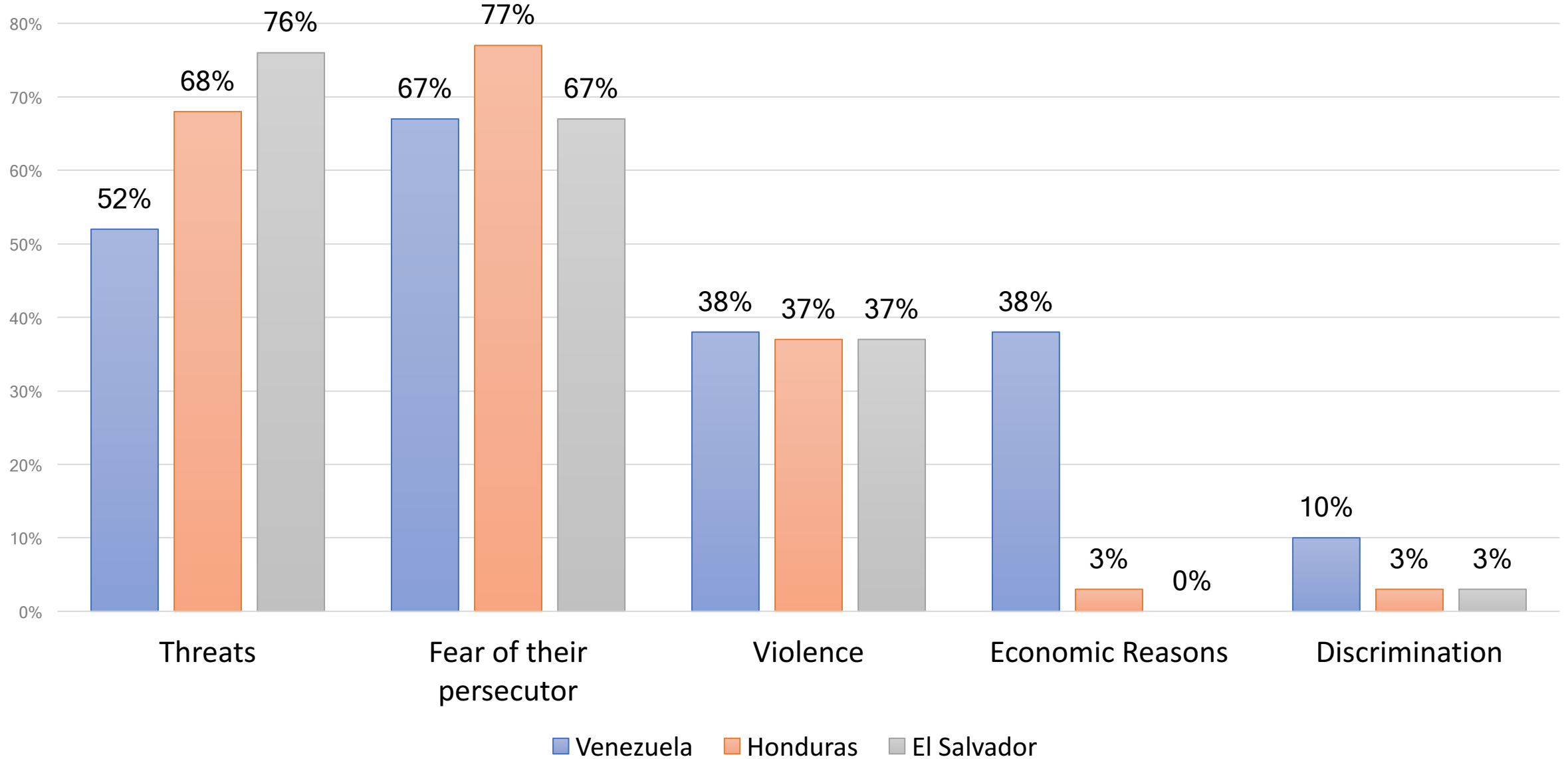
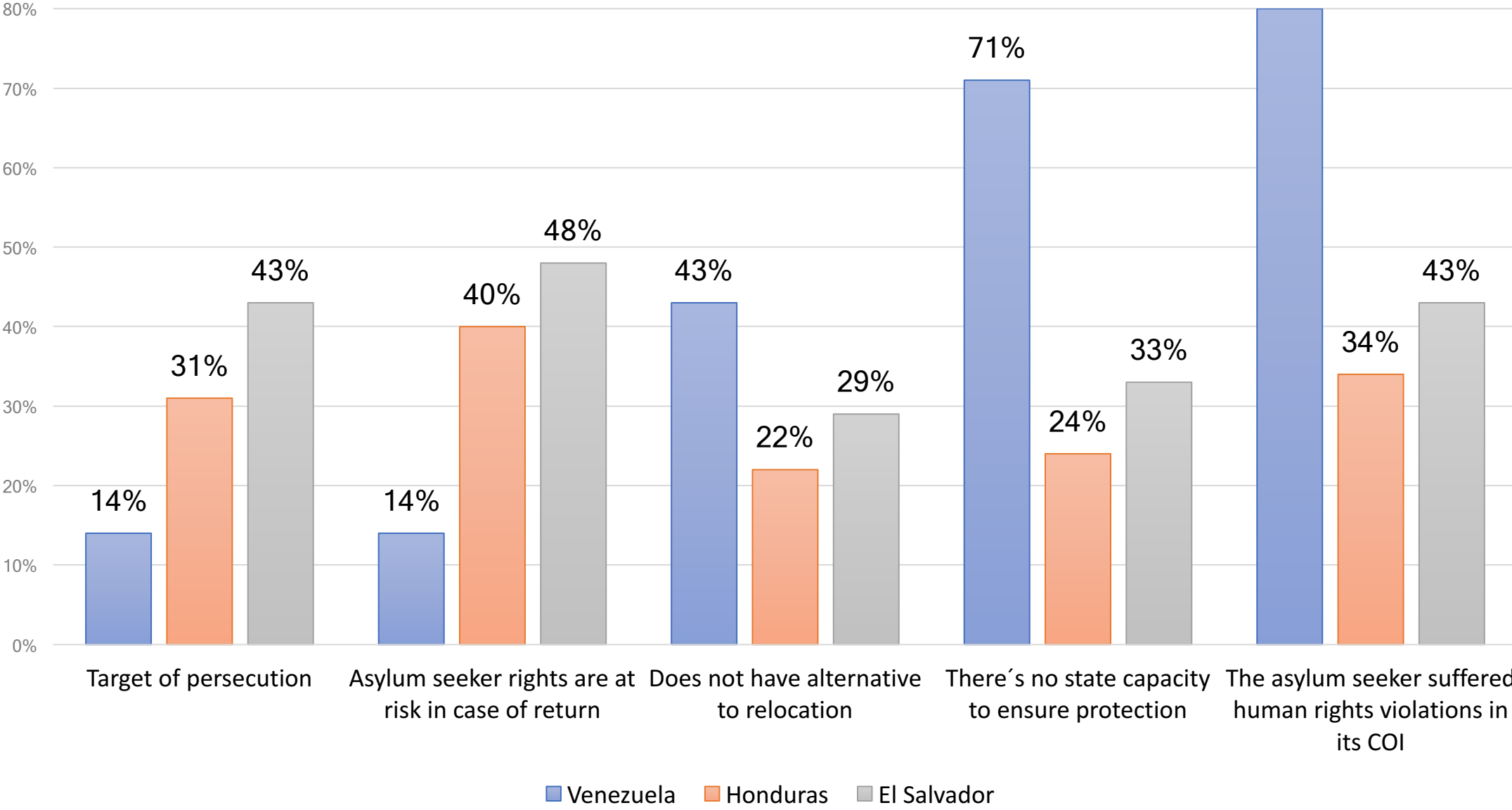


FIGURE 5. State response to the asylum seekers claims



Interviews

- Venezuelans tend to be perceived positively due to their appearance and better socioeconomic status.
- Socio-economic and racial discrimination against Central-Americans. They tend to be perceived as dangerous individuals, as their countries of origin are linked to organized crime.
- There is external pressure on Mexico, mainly exerted by the United States, to detain migrants in the southern border and stop them from reaching American territory

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Conclusions

This research records the favorable treatment that the Venezuelan asylum seekers receive in Mexico by the implementation of the Cartagena Refugee Definition.

Since 2016, this favorable treatment was more evident in comparison with Salvadoran and Honduran asylum seekers.

Even though these asylum seekers may come from similar contexts in terms of violence or risk; the Mexican authorities treat them very different.



In the case of the Venezuelan asylum seekers, there seems to be premeditation to recognize them as refugees according to the definition of Cartagena, particularly under the grounds of massive violation of human rights.



When implementing RSD procedures for Central-Americans, there are existing biases based on a negative perception of the RSD officers.

IN CONCLUSION: México has been implementing the Cartagena Refugee definition to recognize the refugee status since 2013; however, its discriminatory application has turned it into an exclusive and partial protection mechanism, which is used only in a select group of cases.