

# Living on the Edge: Colombian Refugees in Panama and Ecuador



A Refugee Council USA Report 2011

## Refugee Council USA Mission to Panama and Ecuador Delegation Members

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**Washington, DC:** Department of State, Bureau of Population, Refugees and Migration; United Nations High Commissioner for Refugees (UNHCR); Refugees International; Washington Office on Latin America; Catholic Relief Services

**Panama:** UNHCR Panama; U.S. Embassy; Oficina Nacional para la Atencion de Refugiados (ONPAR); Defensoria del Pueblo (Ombudsman); Panama Immigration Office (Jaque); Jesuit Refugee Service; Norwegian Refugee Council; Mesa Nacional de Migrantes y Refugiados (MENAMIRE), Pastoral Social-Caritas Panama; Archdiocese of Panama City; Comisión de Justicia y Paz, Centro de Asistencia Legal Popular (CEALP)

**Ecuador:** UNHCR Ecuador; International Organization for Migration; U.S. Embassy; Human Rights Ombudsman; Vice Minister for Human Rights; Mayor's Office, San Lorenzo; Jesuit Refugee Service, Hebrew Immigrant Aid Society; Asylum Access, Manos Amigas; Mujeres Sin Fronteras; Federacion de Mujeres de Sucumbios; Fundacion Ambiente y Sociedad; Comite Pro Refugiados; Refugee and Migration Coalition; Nuestras Jovenes; ASOCOMIRCE; ASOPMICEO

# Introduction

Refugee Council USA (RCUSA), a coalition of 26 U.S. non-governmental organizations (NGOs) focused on refugee protection, sent a delegation of RCUSA members and a representative of the Canadian Council for Refugees (CCR) to visit Panama and Ecuador from November 1-9, 2010. The mission's purpose was to learn more about, and bring increased attention to the complex protection and resettlement needs of Colombian refugees. The delegation went to Panama and Ecuador because RCUSA and CCR recognize that the plight of Colombian refugees and displaced persons is arguably the most persistent humanitarian crisis in the Western Hemisphere. While many policy makers are aware that Colombia's nearly 50-year-long armed conflict between guerillas, paramilitaries and the Colombian armed forces has resulted in the targeted persecution and displacement of over four million Colombians in the last two decades, the spill-over effects of the conflict and the growing refugee crisis in the region has received little attention from the international community. Approximately 500,000 Colombian refugees have fled to neighboring countries throughout the region, many of whom remain in need of durable solutions, particularly as local integration and safe returns to Colombia remain elusive options.

The delegation first conducted meetings in Panama City and in Panama's Darien Gap border region, and then travelled to Ecuador where it conducted meetings in Quito and in two border communities, San Lorenzo and Lago Agrio. In both countries, the delegation met with refugees, NGOs, government representatives, and with United Nation High Commissioner for Refugees (UNHCR) representatives.

The RCUSA delegation found that Colombians who cross by land into Panama seeking asylum continue to be confined by the government to the dangerous southern jungle region, living in camp-like conditions but without the basic assistance and services usually provided to refugees. Meanwhile, the vast majority of Colombian refugees who live in Panama City lack legal recognition, and subsist without access to employment, health care, or education. Too often they are the victims of xenophobia and exclusion and are blamed for all violent crime in Panama. Throughout the country, Colombian refugees live under the constant threat of deportation and refoulement.

RCUSA also noted that while the government of Ecuador has taken significant steps to provide legal status and protection to refugees, approximately half of the estimated 250,000 Colombian refugees in Ecuador live along the porous Ecuador-Colombia border or in other areas where the security situation leaves them vulnerable. Regardless of their status, Colombian refugees in Ecuador also often suffer from xenophobic-based discrimination, including limited access to the labor market, health care, and education. Of particular concern are Afro-Colombian refugees, unaccompanied Colombian minors, and refugee women at risk of exploitation, including victims of trafficking. The specter of forced returns now haunts Colombian refugees in Ecuador, as only days after our delegation departed, Ecuador's Director General for Refugees, citing the inability of Ecuador to continue to find resources for a swiftly growing refugee population, announced the intention of Ecuador to cooperate with Colombia in the return of some 15,000 Colombian refugees to three Colombian departments that were among the hardest hit last year by guerilla and paramilitary attacks on civilians.

This report includes recommendations, detailed descriptions about each portion of the mission, organized according by country, and case studies. For more information about the delegation's findings and advocacy efforts, please contact RCUSA at 202-319-2103 or at [info@rcusa.org](mailto:info@rcusa.org).

# RCUSA Recommendations: Colombian Refugees in Panama and Ecuador

## Recommendations (Panama)

- The United States should elevate refugee concerns in diplomatic relations with Panama, including advocating for reform of the asylum system; addressing xenophobia and sexual and gender-based violence (SGBV); and, improving protection and services for refugee women and children.
- The United States should ensure that U.S. foreign assistance to Panama supports refugee protection and development opportunities for refugee and host communities in need.
- UNHCR should establish and implement a resettlement program for Colombian refugees in Panama.
- UNHCR should increase its presence in the Darien, as should NGOs and other U.N. agencies, and durable solutions should be found for the 863 people that have Temporary Humanitarian Protection status in the region.
- UNHCR should ensure that refugee children receive Best Interest Determinations that take into consideration durable solutions, family reunification, and permanency planning.

## Recommendations (Ecuador)

- The United States should increase assistance to Ecuador in recognition of the efforts it has made to expand the protection space for refugees, as well as in recognition of the needs of host communities and refugees.
- The United States should make greater use of resettlement as a strategic protection tool for Colombian refugees by increasing resettlement opportunities for this population; supporting solidarity resettlement in the region by participating in twinning programs and providing integration support for new resettlement countries; and, establishing a regional Overseas Processing Entity (OPE) in Quito to ensure an appropriate level and quality of referrals.
- The United States should fund efforts aimed at integrating Colombian refugees into Ecuadorian society, placing special emphasis on livelihoods, housing, education, access to naturalization, and combating xenophobia.
- The United States and UNHCR should work with the Ecuadorian government to expand protection for survivors of SGBV by increasing the capacity of local police and prosecutors to respond to cases of SGBV; training security forces about SGBV; and, providing access to safe housing and income generating opportunities.
- U.N. agencies, including UNFPA, UNDP, UNICEF, and UNHCR, as well as NGOs, should expand their presence on the Ecuador-Colombia border to increase protection for refugee and host communities.
- UNHCR should consider making Quito an additional pilot city for its Urban Refugee Policy.
- UNHCR should ensure that refugee children receive Best Interest Determinations that take into consideration durable solutions, family reunification, and permanency planning.

# Panama

The celebration of the separation of Panama from Colombia during the delegation's visit in early November 2010 was a visible reminder of the historic association between the peoples of these two countries. While there are no official statistics available, it is estimated that as many as 100,000 to 200,000 Colombians currently reside in Panama. Of these, UNHCR estimates that 15,000 to 20,000 are thought to be in need of international protection, but NGOs believe that number could be as high as 75,000. However, only 2,500 persons of concern are currently registered with UNHCR. The situation of refugees<sup>1</sup> in Panama can best be characterized by the combination of a restrictive protection environment, a broken asylum system that grants recognition to only 2% of refugee applicants annually, and a lack of durable solutions. The result is a highly vulnerable refugee population in which the vast majority of bona fide refugee claimants are without legal or physical protection, and single women/women heads of household, the elderly, persons with chronic illness and children in particular reside in gravely precarious and unstable conditions.

## Refugee Recognition and a Broken Asylum System

Panama is a signatory to the 1951 Refugee Convention and its 1967 protocol, the tenets of which were incorporated into Panama's national legislation in 1977.<sup>2</sup> While Panama is a signatory to the Cartagena Declaration, they have not in practice recognized refugees who were displaced by generalized violence. In addition, it is important to note that Panamanian asylum law requires that for a person to receive refugee status, his/her persecution must be individualized and have been perpetrated at the hands of the government of the asylum seeker's country of origin or habitual residency. Given the persecution scenarios that currently dominate displacement in neighboring Colombia, Panama's national Human Rights Ombudsman's office expressed concern to the RCUSA delegation about the refusal of Panamanian refugee authorities to grant status to refugees who base their claims on persecution by non-state actors. The Panamanian government's refusal to recognize refugees who were persecuted by FARC or ELN guerillas, or the swiftly proliferating paramilitary organizations, has meant a near blanket denial of Colombian refugee claims.

This restricted definition of who qualifies as a refugee was also one of the reasons that the RCUSA delegation found the Panamanian asylum system to be deeply flawed. The Panamanian asylum system is so dysfunctional that it actually deters refugees from seeking protection, and in many cases is approached as the option of last resort. For example, the recognition of asylum claims where a woman has been the victim of sexual and gender based violence at the hands of one of the Colombian armed groups is so low that female applicants are regularly encouraged to apply for other types of visas (e.g.: domestic worker visas) rather than seeking protection through Panama's asylum system.

Furthermore, Panama's asylum process is extremely cumbersome. On average, it takes between one to three years for any given case to work its way through the system. The two step process begins with an application to the national office for refugees (ONPAR) whose director is responsible for the initial eligibility screening. Only 10% of asylum applications make it through this phase. Those who are denied entry into the second stage of the review process are subject to detention and repatriation. Step two is a review by the National Refugee Commission (CNPR), made up of representatives from nine government offices. The United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) also have seats on the review panel, but only as observers/consultants and are ultimately not able to contribute to the commission's decisions. Of the cases reviewed by the CNPR, only 20% are approved. Thus, in a year in which 400 persons apply for asylum, only eight will be granted status. The criteria applied during the eligibility phase of the process remains unclear, and many inconsistencies between Panamanian law and actual practice also contribute to the extremely limited protection the government provides to asylum seekers. For example, according to Panamanian law, the Commission should meet four times per year, but in 2009, it only met once.<sup>3</sup> In addition, while Panamanian law states that refugees will be recognized if the majority of the Commission votes to grant the case, in current practice a refugee is only granted asylum if the Commissioners are unanimous in their approval.

If the Commission denies a case, the refugee has five business days to ask for reconsideration by the same Commission. If the reconsideration is denied, a refugee has only three business days to file an appeal to the Ministry of Govern-

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<sup>1</sup> The word "refugee" is used broadly to talk about all of the Colombians in need of protection, except where otherwise noted to distinguish among the different types of status offered by the Panamanian government.

<sup>2</sup> UNHCR fact sheet.

<sup>3</sup> It should be noted that the Commission had met three times in 2010 before our visit and met once more in November when it made the controversial decision to grant asylum to Maria del Pilar Hurtado, the former director of Colombia's intelligence agency who was under criminal investigation in Colombia for ordering the illegal wiretapping of Supreme Court magistrates, journalists, politicians, and human rights organizations. She was one of the only Colombian nationals granted asylum in Panama in 2010.

ment, which then submits the appeal to the same national office for refugees (ONPAR) where the original application was filed. If applicants are denied again at this stage in the process, they have two weeks to pursue other immigration options before they are subject to deportation. The extremely low 2% success rate for asylum claims simply demonstrates Panama's failure to recognize the trends of continued violence and persecution in Colombia. In addition, for the very small number of applicants who actually do receive refugee status, it is very important to note that currently in Panama, refugee status does not provide a path to permanent status or citizenship, resulting in continued limited protection even for recognized refugees.

## **Protection Risks: Refoulement, Limited Safety Nets, and Refugees in the Darien**

### **Refoulement**

Cases of refoulement are all too common in Panama, and refugee advocates report a continuing rise in the detention of newly arrived refugees and other refugees who come into contact with authorities. The Panamanian government's general reluctance to provide basic protections to those seeking asylum from Colombia is further complicated by the Panamanian border police's endemic skepticism about ethnically indigenous asylum seekers from Colombia. While the Panamanian Immigration Law that went into effect in August of 2008 "recognizes the right to cross-border migratory movements of indigenous groups on its territory, so long as such "do not constitute a mass influx..."<sup>4</sup> in practice the Panamanian police regard these movements with suspicion and forcibly remove communities of Colombian-born indigenous persons who voice their intent to seek refuge from the Colombian armed conflict by remaining within Panama's borders. During the delegation's visit, a group of Panamanian citizens personally sought out representatives of immigrant and refugee agencies to intervene with the national border police in order to prevent the return of a small group of indigenous Colombian asylum seekers who were seeking re-entry into Panama after being sent back to Colombia three weeks earlier. Due to this intervention, some of the asylum seekers were interviewed and allowed to re-enter the country, but the border police again threatened to detain the group. Humanitarian workers insisted that the Panamanian refugee adjudication authority visit the families who were seeking asylum and formally register them. As further indication of widespread refoulement, in completely separate discussions with local and national officials, there were reports of the refoulement of 30 young Colombians who were recently repatriated to Bogotá without being allowed to enter the asylum adjudication process, despite their claim that they were being pursued by the FARC. This case raised issues of particular concern, because Panamanian officials stated that if the group made "repeated attempts" to cross the border, this would prove their real need for international protection, indicating a clear, fundamental misunderstanding of the basic international refugee protection framework and Panama's obligations under the Refugee Convention.

### **Limited Safety Nets for Asylum Seekers**

No government assistance is available for asylum seekers in Panama, and UNHCR-funded assistance has decreased steadily over the past several years due to limited financial resources. In the past year, UNHCR's budget for Panama only totaled \$600,000 USD. UNHCR staff reported that they do not have sufficient funds to expand the levels of assistance that they can provide and are concerned that they cannot afford to support additional refugees should they be identified.<sup>5</sup>

### **Protection Risks for Women**

The lack of any real, sustainable safety nets for asylum seekers in Panama creates an environment in which refugees face daily significant challenges. For example, both in the border region and in Panama City, women are forced to overcome tremendous obstacles in order to survive and provide for their families. Employment opportunities are so limited that many are forced into prostitution or the informal economy. Across the board, Colombian women are stigmatized and classified as prostitutes and face sexual harassment in workplace environments that offer no protection. There is only one domestic violence shelter for women in all of Panama, so Colombian women who are survivors of domestic violence have limited resources available to them. In addition, the RCUSA delegation was told disturbing reports of border police and immigration officers sexually abusing Colombian women. In some cases, in exchange for avoiding detention or deportation, or to receive immigration benefits, Colombian women were forced to provide sexual favors for officials.

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<sup>4</sup> *Ley de Migración del 2008* El Decreto Ley No. 3 de 22 de febrero de 2008

<sup>5</sup> 2010 budget provides \$600,000 to assist 2,500 refugees.

## Protection Risks for Children

Inquiries throughout the visit yielded surprisingly little information about refugee child issues in Panama. It is known that UNHCR refers unaccompanied Colombian children to the Panamanian child welfare system, which then places them in local youth shelters intended for homeless children. No information was available about what happens to the youth after their placement in these shelters; nor, was there evidence of any coordination between these care arrangements and refugee protection or access to a permanent status. The lack of transparency about what happens to unaccompanied Colombian children once they are in the custody of the Panamanian government raises concerns about their lack of documentation, lack of access to education, and the high risk of being forced into finding other means of survival, including recruitment into gangs and prostitution. Another complicating factor for Colombian children in Panama is that for those Colombian children born in Panama, it is very difficult to get birth registrations, particularly in rural areas. The numbers of unregistered children that were cited by UNHCR<sup>6</sup> and NGOs were in the single digits. This is significantly below the international average for similar circumstances, as well as when compared to the reports from the conflict inside Colombia which has produced a high rate of orphans and children recruited by armed groups. It was, therefore, difficult to determine if there are any formal policies or procedures to identify unaccompanied or separated children among the Colombian population in Panama, or to assess their care arrangements for their well-being, permanency and access to a durable solution.

## Refugees in the Darien Region: A Decade in Limbo

*“Here we live like slaves.” Colombian refugee grandmother, with Humanitarian Temporary Protection who has lived in the town of Jaque since 1998*

Five members of the RCUSA delegation visited the small town of Jaque, located in the Panama-Colombia border region known as the Darien Gap. The Darien is a remote, jungle-filled, impoverished part of the country that is largely inaccessible except by boat or plane. Conditions for everyone in Jaque are precarious, and for the Colombian asylum seekers trapped there, life is exceptionally difficult.

Jaque and its immediate surroundings are now home to a relatively small group of Colombian asylum seekers with Humanitarian Temporary Protection (PTH) status. From 1998-2000, a group of people Afro-Colombians from the town of Jurado in Colombia crossed the border from Colombia into Panama as a result of several massacres carried out in town by the AUC paramilitaries and the assassination of the town's mayor by the FARC guerillas. In 1998 the Panamanian government established PTH status for 863 asylum seekers. However, in 2003, having received assurances from the Colombian government that safe returns could be implemented, the Panamanian government carried out a formal repatriation program in collaboration with the government of Colombia, forcing 85 refugees to return to Colombia. Within weeks of the forced return, several of the returned refugees were assassinated and others fled back over the border into Panama, sparking condemnation of the returns by UNHCR, Jesuit Refugee Service (JRS), and the Bishops Vicariate in the Darien.<sup>7</sup>

The majority of those with PTH status are Afro-Colombian. Few Colombians of indigenous origin who entered during the same period ever registered. There are currently about 70 families (170 persons) with PTH status and 26 families of asylum seekers (155 persons) reported to be living in Jaque today. It should also be kept in mind that children of PTH holders are not given their own status, so they remain undocumented.

PTH status provides limited protection from refoulement, but little else. PTH holders need permission to travel outside the immediate vicinity of Jaque – a three mile radius - for any purpose, including exigent circumstances and emergency healthcare. This extremely limited mobility guarantees that those with PTH status are relegated to extraordinarily unstable lives. They are not able to move much beyond the borders of Jaque to raise crops or to fish, and livelihood opportunities in Jaque are scarce at best. Delegation members spoke with Colombians in Jaque who regularly put their children to bed hungry and have limited opportunities to provide even the most basic necessities for their families. Moreover, in order to access any type of advanced medical assistance, PTH holders must receive government permission to leave the Darien to seek the care they need. Due to the lack of adequate medical facilities in the area, refugees are therefore

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<sup>6</sup> UNHCR reported only five unaccompanied minors in 2009 and zero in 2010. One NGO reported working with two unaccompanied children, while another NGO reported referring six Somali adolescents to a youth shelter.

<sup>7</sup> “Voluntary repatriation? Panamanian government returning Colombian refugees” Project Counseling Service, Colombia Regional Report: Boundaries, 18 December, 2003 <http://www.pcslatin.org/publicaciones2/14/Repatriation%20of%20refugees%20ENGLISH.pdf>

forced to travel to Panama City for medical attention. Even if travel is approved by Panamanian authorities, the cost of transportation and medical services is frequently prohibitive. However, when able, UNHCR, JRS and the ICRC provide financial assistance for airfare, food and lodging for those refugees who must leave to get the medical help they need.

The plight of the PTH population in Jaque is so dire that the RCUSA delegation members were unsure how the group is able to survive at all. It is clear though that the humanitarian assistance provided by the local and national Roman Catholic Church ministries, JRS, a newly established Hebrew Immigrant Aid Society (HIAS) office, and UNHCR plays an invaluable role in the lives of PTH holders. However, many PTH holders reported that family members had actually made the extremely difficult decision to return to Colombia, in spite of their fears, because of the unsustainable circumstances they are forced to endure in Jaque.

Contributing to the overall insecurity of Colombian asylum seekers in Jaque is the very visible presence of the militarized border police. Although Jaque is the official port of entry in the Darien, the lack of civilian government presence is conspicuous. The greatest government presence is the constantly patrolling armed police force, resulting in making the community feel very much like an occupied police state. The police enforce a restrictive curfew on the PTH population and require these refugees to carry their documents on them at all times or face arrest and possible deportation. Reports of police misconduct and abuse of this confined population were made not only by the refugee population and the handful of humanitarian workers living in the village, but also by another government official. Reports ranged from unwarranted physical assault on refugees and erroneous confiscation of meager food from the refugee community, to arbitrary detention of refugees and 12-hour long interrogations. Refugees also reported cases of the border police's improper treatment and sexual exploitation of young, Colombian women and girls living in the community. In addition, there was only one low-level staff person assigned to work in the local immigration office. While UNHCR and national ONPAR representatives travel to Jaque periodically, refugees expressed concern at the lack of on-going presence and the sense that they have been abandoned. Most PTH holders have lost hope of obtaining permanent status from the Government of Panama, and NGOs question if the government has the political will to do so.

## **Durable Solutions**

Due to the continued instability in Colombia, voluntary repatriation for Colombian refugees in Panama is currently not a viable durable solution. Therefore, local integration and resettlement are the options that should be pursued at this time.

### **Local Integration**

There are significant barriers to local integration for refugees in Panama. Most are forced to remain in the shadows, lacking documentation and access to legal and social services. Refugees visited throughout the mission were found to be living in grim conditions and were frequently unemployed. Due to the fact that refugees have no right to work or access to health care during the asylum process, UNHCR and many NGOs provide food and other basic assistance. However, assistance levels have been dropping as the Colombian refugee situation becomes a protracted one, without any hope in the foreseeable future for a resolution. Many NGOs and the government refugee agency spoke of the need for a shelter for refugees and migrants, as well as support for transitional housing. At the time of the RCUSA delegation visit, the Archdiocese of the Roman Catholic Church had begun plans to develop a shelter in an effort to meet these needs.

Colombians visited by the delegation in Panama City were struggling to survive and protect their families. They live in some of the city's poorest neighborhoods, and the levels of criminal violence in some of these areas are so high that police do not even enter some of them. Many Colombians living in the capital reported discrimination and xenophobia, stating that they are often assumed to be drug dealers, prostitutes or guerilla members. They are frequently harassed by police and threatened with detention or deportation, and accessing quality medical care is also a significant challenge. The obstacles faced by refugees are exacerbated by documentation related issues. The Panamanian government issues letters for asylum applicants. These letters are then followed by an asylum ID card and a refugee ID. Refugees reported experiencing discrimination based on their refugee IDs. They were frequently rejected by employers, landlords and banks because their documentation clearly identified them as Colombians. In addition, the letter and ID cards need to be renewed annually, leaving many refugees with expired documents during the renewal period. These identification documents do not automatically come with the right to work. Separate work permits are required, and they have their own expiration dates. In an effort to in theory help address these issues, but certainly also as a way to raise additional funds, the Panamanian government has begun to organize "migration fairs" during which a variety of visas are essentially for sale. Visa fees range anywhere from \$700 to \$3000, depending on the country of origin of applicants, and provide

the visa holder with protection from deportation for two years, but they do not guarantee any other basic rights. Most asylum seekers, therefore, live with a high degree of insecurity about their future.

Jaque and the surrounding villages in the Darien are primarily based on subsistence economies. Typical employment in the region includes fishing, farming and collecting sand from the river beds for construction material. As noted earlier, PTH holders are prohibited from moving from one town to another, effectively denying them access to even these basic forms of survival. Instead, refugees manage by finding occasional domestic work or small construction projects whenever they can. Because of the overall lack of economic opportunity in the region, Panamanians in the Darien must rely on commerce with Panama City to survive, and there is a high out-migration of Panamanian citizens to the capital. This depressed local economy severely limits employment or business opportunities, even for those refugees who come with appropriate skills. One recent asylum seeker said, "I am anchored here and can't offer myself, my gifts. I was a jeweler in Colombia and organized a jeweler's association." Without access to a market, this asylum seeker must rely on charitable support from the local church and residents for survival.

National and international organizations have provided targeted assistance to both PTH holders and asylum seekers through the years. Nevertheless, these efforts have been insufficient to create the necessary environment to support and sustain refugee integration. While Panamanian President Martinelli has made promises to resolve the situation of these refugees, and a bill that would provide a path to regularization for this discreet group of refugees is pending in the Panamanian Congress, these same promises of resolution have been made before, on at least five different occasions over the last decade, and still no result has been forthcoming. The PTH refugees have stopped believing that their lives are valued by Panamanian authorities. They have no hope in the political process and are weary of promises from government officials that have resulted in no tangible or substantial change in their conditions.

The only national law that has provided a legal means to local integration expired in November 2010 and was not widely available to Colombians. Law 25, passed in 2008,<sup>8</sup> allowed refugees to apply for permanent residence status if they had been living continuously in Panama since 1998. This law only applied to those granted refugee status, so Colombians with PTH status did not qualify. Efforts to extend this law have been unsuccessful and those in the country for less than ten years will have to wait for a new law to be passed.

## Resettlement

Although Panamanian law recognizes the right of UNHCR to recognize refugees under their mandate, UNHCR has only referred 20 individuals for resettlement since 2005 and currently has no process in place to recognize refugees outside the failing national system. Therefore, currently, resettlement is not a realistic option for Colombian refugees in Panama. The RCUSA delegation believes that since voluntary return to Colombia is not practical and local integration in Panama remains elusive for many, UNHCR should establish and implement a resettlement program for Colombian refugees in Panama. Without real local integration opportunities and a functioning resettlement program, Colombian refugees in Panama are essentially left without access to any durable solution.

## Ecuador

Ecuador has the largest population of recognized refugees in all of Latin America, totaling about 50,000 – 98% of whom are of Colombian origin. UNHCR believes that 135,000 to 160,000 individuals are in need of international protection in Ecuador, with the number of Colombians seeking refugee status climbing yearly. While the central government in Ecuador has taken significant steps to recognize Colombian refugees, address a growing backlog of refugee applicants, improve its outreach to refugee communities, and enshrine a refugee rights framework into domestic law, refugees still tend to lack effective access to the most basic of rights, and Colombian refugees too often find that their physical security is threatened within Ecuador's borders.

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<sup>8</sup> Law 25 was established to respond to Salvadoran and Nicaraguan asylum seekers in Panama.

## Refugee Recognition and Enhanced Registration

Hundreds of thousands of Colombians have fled over the border into Ecuador in the last decade, in search of refuge and new lives in a country still struggling to meet the needs of its own citizenry. Despite this tension, in 2009, the Ecuadorian government had the highest refugee recognition rate in the region, granting asylum to 66% of the refugees who apply through the normal asylum procedures. Ecuador is a signatory to the 1951 Refugee Convention and its 1967 Protocol, the Cartagena Declaration – which expands the refugee definition to include persons displaced by generalized violence – and the newly minted Brasilia Declaration on the Protection of Refugees and Stateless Persons.

The regular asylum procedures consist of a cumbersome process that the Ecuadorian Human Rights Ombudsman finds problematic. Ecuador requires a refugee applicant to request an interview before the Director General for Refugees (DGR), a government office that sits within the Ministry of the Exterior. The refugee applicant must then wait 3-8 months depending on the backlog and his/her place of residence before receiving an asylum interview with a government official. During this period, the asylum seeker is given a renewable identification card that expires every 3 months, which is clearly marked with the words “asylum applicant.” From filing for an interview to receiving a final decision, a refugee may wait as long as two years. In 2009, Ecuador’s Director General for Refugees took the extraordinary step of dedicating substantial resources to a refugee recognition campaign aimed at bringing Colombian refugees living along the 586 kilometer-long Northern border out of the shadows, granting them legal status and a renewable refugee visa. This innovative year-long “Enhanced Registration” process, supported in its implementation by UNHCR and NGO partners, doubled the number of recognized refugees in the country, processing and granting recognition to refugees the same day they were interviewed. The process was generally thought to be a great success; 27,740 refugee residents of isolated Ecuadorian border communities were recognized by the special mobile brigades using expedited recognition procedures.

The process did have its limitations, however. The Ecuadorian government decided to make the refugee visa valid for only one year. This meant that nearly as soon as the year-long mobile brigades had concluded their work, the government had to begin processing requests for renewal of the refugee visas they had issued at the beginning of the process. The Ecuadorian government also failed to institutionalize a permanent presence for the General Directorate for Refugees throughout the border provinces, and thus new influxes of refugees in the border region face long waiting periods before receiving an interview with the government ministry that considers their claims. Finally, the registration campaign was carried out without a companion integration program, drawing refugees out of the shadows only to abandon them to face the effects of a rising tide of xenophobia, rampant joblessness in the border provinces, and increased visibility inherent in the refugee documents which clearly identify the holder as a refugee.

## Protection Risks: Physical Security Threats, Sexual and Gender-Based Violence and Xenophobia

*“The conflict in Colombia has increasingly spilled over to Ecuador and civilians are trapped between the FARC, ex-paramilitaries, narco-traffickers, and the Colombian and Ecuadorean armed forces... The Ecuadorean military is not well equipped to deal with the situation, and as their relations with citizens have soured, their reliance on abusive tactics to obtain information has increased.... The level of impunity for all types of killings in Ecuador is shocking. For every 100 killings, only one perpetrator is actually convicted.” UN Special Rapporteur on Extrajudicial Executions, Philip Alston, Statement to the Press, July 2010*

The security situation in border provinces in Ecuador, and even in the Ecuadorian interior, is increasingly characterized by many of the same elements typically identified with the Colombian armed conflict. The Revolutionary Armed Forces of Colombia (FARC) and Colombian paramilitary groups have imbedded in border towns in Ecuador, carving up territory and terrorizing both the local and refugee populations as they traffic in drugs, arms, and people. The Ecuadorian Army has responded to this threat to its national sovereignty by sending tens of thousands of troops to the Sucumbios Province in Ecuador, which borders Colombia’s Putumayo province. As the U.N. Special Rapporteur on Extrajudicial Executions indicated, the increased Ecuadorian troop presence has failed to improve the security situation in the border provinces, which are inhabited by large refugee populations. In fact the Ecuadorian troops have been implicated in a number of human rights abuses and targeting of Colombian refugee populations – who they equate with the Colombian armed actors – as they struggle to address a security situation that is rapidly spinning out of control.

Refugees are particularly vulnerable in this environment and are likely to come into contact with the same irregular armed groups that spurred their displacement in Colombia. Nonetheless, many refugees – especially those who were farmers in Colombia – are reluctant to move away from border provinces, having learned from members of the community who left and returned that xenophobia is more pronounced in the Ecuadorian interior, livelihoods are scarce, and few opportunities exist for those who have no training outside of subsistence farming. UNHCR and Jesuit Refugee Service (JRS) have assisted in the relocation of several hundred refugees in the last year in response to threats to their physical security and pursuit by Colombian armed groups. Relocation does not always resolve security issues. Our delegation was informed of a number of cases in which refugees were targeted by their Colombian persecutors after internal relocation in Ecuador.

### The Situation for Women Refugees in Ecuador

The situation for women refugees in Ecuador, especially for female heads of households, is particularly troubling. Over fifty percent of women refugees are between 18 and 35 years of age, according to UNHCR. Many of these young women entered Ecuador fleeing violence that had claimed the lives of their spouses, fathers, brothers and companions. The Women's Federation of Sucumbios paints a foreboding landscape for refugee women and girls. The Federation reports that sexual and gender-based violence is rampant, and trafficking is commonplace in the border county of Lago Agrio. A full 80% of the female population reports experiencing gender-based violence. A recent UNHCR study in the Lago Agrio area with 700 refugee women found that 94.5% have experienced sexual and gender-based violence throughout their lives.<sup>9</sup>

Prostitution is a major and legal industry in Lago Agrio. The town is full of brothels and prostitution bars - 85 have been legally certified for operation by the Ecuadorian government. Colombian women report being forced into survival sex and prostitution; indeed about half of the women working in the brothels are Colombian. In recent months, several of the NGOs in the area have helped refugee women escape the trafficking rings that prey on refugee women and girls. Last year when a newly appointed superintendent of police, a woman brought in from outside of Lago Agrio, tried to close several brothels that were engaging in the prostitution of minors, she was assassinated. A dearth of legal services and complicity on the part of local authorities in the culture of violence presents challenges for women seeking justice and reparations. Local authorities appear to have no interest in prosecuting cases of domestic violence and sexual assault in Lago Agrio, and indeed some local authorities, including police, and members of the military have been implicated in gross cases of sexual and gender based violence.

The Women's Federation of Sucumbios described one such case in which a refugee woman was arrested by the Ecuadorian Police in Lago Agrio for supposed intoxication. She was found dead in her cell the next morning. The coroner's office issued a report that the woman had suffered a cranial fracture. However, she had contusions on her arms and breasts, and that there was evidence of sexual assault. When it became clear that the only people who had access to her cell were three Ecuadorian police officers, the coroner changed his report, saying the woman had committed suicide, and the police were exonerated of any wrong-doing. Refugee and host community women who have experienced gender-based violence, trafficking and domestic violence have few resources upon which to depend. There are only five women's shelters in the entire country for housing women whose physical security is in peril. According to Asylum Access, even in the capital, the legal system fails to protect women who cannot present forensic evidence to substantiate a claim of sexual assault. The prosecutor's office in Quito fails to pursue cases where DNA evidence is not present. While the Ecuadorian central government launched a campaign to prevent Sexual and Gender Based Violence in December of 2010, without justice system support and local government cooperation, the campaign may fail to improve the conditions facing refugee women who are among the most vulnerable and marginalized sectors of Ecuadorian society.

### The Situation for Refugee Children in Ecuador

Refugee children also experience acute vulnerabilities, particularly in the border provinces. UNHCR reports that refugee children in border provinces have few opportunities to pursue secondary education. Of the 43 communities that border Colombia in the Province of Sucumbios, 42 have primary schools but only two have secondary schools. Refugee parents also identified fear of forced recruitment of their children as a major security concern in border provinces. One refugee mother approached our delegation to ask if we knew of a way to get her daughter out of the border town where she had, against all odds, finished high school, "I need to get my daughter out of this town. She just turned seventeen

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<sup>9</sup> "El 70% de los refugiados colombianos está en Ecuador" *Hoy*, October 20, 2010, <http://www.hoy.com.ec/noticias-ecuador/el-70-de-los-refugiados-colombianos-esta-en-ecuador-436927.html>

and I'm afraid that if I can't get her to a better place, into a university or higher education, she will fall prey to bad things, bad people."

Unaccompanied refugee minors regularly appear at the door of the Hebrew Immigrant Aid Society (HIAS) and UNHCR in Lago Agrio. Some of these children are fleeing forced recruitment by armed groups; others were trafficked across the border by the same groups and sold to the local brothels. At the time of our visit to Ecuador, there were no shelters that had adequate facilities to protect and assist unaccompanied refugee youth. As a result unaccompanied children were often placed in centers reserved for "street children" juveniles who had committed legal infractions.

### **Lack of Civilian State and Civil Society Presence in the Border Region**

The poor protection environment is exacerbated by the lack of civilian state presence on the border, an absence of international humanitarian and development actors other than UNHCR, and the economic underdevelopment of border communities in general. UNHCR's work therefore is unsupported by a comprehensive U.N. approach to the blossoming crisis. Asylum Access, JRS and HIAS are among just a handful of international NGOs supporting UNHCR's efforts to assist and provide protection for the refugee population in the region. The central government's funding scheme also contributes to the lack of resources in border communities. Resources are doled out to provinces in accordance with the census estimates of the number of resident citizens in a particular province, leaving provinces with large numbers of resident refugees struggling to support a population that does not calculate into the central government's resource equation.

Likewise the Mayor's office in the border town of San Lorenzo in the Esmeraldas province reported that the town is over-stretched by the influx of Colombian refugees. Said one official in the Mayor's office, "The refugees are our Colombian brothers. The first five families that started our town were Colombians. We are Colombian-Ecuadorians.... We don't reject them, but we have needs. Refugees come with a mindset of violence and drugs. It has affected us. Our basic services are stretched. Water is the biggest problem." The resultant dearth of resources in provinces fosters attitudes of discrimination against the refugee population as the host community fights to hold on to the limited means at their disposal.

### **Discrimination and Xenophobia**

A recent study of Colombian refugee populations living in the urban centers of Quito and Guayaquil, released on December 14, 2010 by the Latin American Faculty on Social Sciences in Ecuador (FLACSO, by its Spanish acronym) found that 97.3 % of refugees interviewed had experienced incidents of discrimination simply for being Colombian. The FLACSO study confirmed anecdotal accounts by refugees that the police and employers are central figures in acts of discrimination and xenophobia.

The situation of Afro-Colombians and Colombian single-women-headed households is particularly grim in Quito, where stereotypes abound concerning these two groups. All Afro-Colombians interviewed by the delegation reported the near impossibility of finding work in Quito. Afro-Colombian men reported that they are targeted, harassed and at times arbitrarily arrested and detained by Ecuadorian police even after they have received refugee recognition. Colombian women are popularly perceived as "loose women" or "prostitutes," and report a disproportionate incidence of sexual harassment, exploitation, and rape. Colombian women are particularly vulnerable to gender-based-violence and have fallen victim to trafficking rings and survival sex as well, a fact noted by UNHCR, NGOs and by the Vice-Minister of Human Rights and the Human Rights Ombudsman. One recognized Afro-Colombian refugee interviewed by the delegation in Quito reported constant harassment and threats, particularly by police, who have stopped him on multiple occasions to search him for drugs and guns. On one such occasion the police removed him from a bus and asked him for his wallet and his documents. The authorities then required him to remove his shoes. "They took my money, and made me walk home shoeless." Another refugee, a woman, complained of constant job discrimination. "If you are a Colombian woman, you are a prostitute. No one wants you in their houses. Not even to clean. The constant rejection has been very hard."

### **Durable Solutions**

Due to the security situation in Colombia, the continued displacement of hundreds of thousands of Colombians annually, and the ongoing internal armed conflict, UNHCR has determined that voluntary repatriation is not an appropriate durable solution for Colombian refugees at this time. Local integration and resettlement of the refugee population are therefore the appropriate alternative durable solutions for this refugee population.

## Local Integration

The rising insecurity in border provinces and the strain on social services including education, health, and water, and other infrastructure have presented difficulties for the local integration prospects of regions that have traditionally received large refugee influxes. Funding for local integration projects from the international community has been scarce and UNHCR and NGO partners have engaged in limited micro-finance projects to assist Colombian refugees to move toward self-sufficiency. Rampant discrimination, and the resultant lack of access to the banking system and the job market in the Ecuadorian interior provinces has also contributed to lack of local integration prospects for persons holding refugee visas, as noted by the Human Rights Ombudsman's office in a 2010 report.

Access to employment, housing, healthcare and education are central to ensure the successful integration of Colombian refugees. The international donor community should support livelihood programs, assisting UNHCR and local development organizations to offer micro-credit loans for refugee collectives interested in engaging in small business opportunities. In San Lorenzo, the delegation met with two refugee/host community women's cooperatives that have had some success in creating livelihood opportunities for their members. Manos Amigas (loosely translated as Friendly Hands) is one such organization that has received support and capacity building from UNHCR and JRS over the last three years. They produce merchandise to sell to sports teams and dance troops in the community and have had achieved a small productive business through this effort. Another refugee/host community collective in Lago Agrio, ASOPMICEO, has formed a community-based micro-loan program with a small grant from an Ecuadorian government development institution (FAS-Ecuador). These burgeoning projects that benefit both host communities and refugees represent important steps towards integration and self-sufficiency for refugees and should be expanded with the support of the international community and the Ecuadorian state.

Finding dignified housing has also presented persistent difficulties for the majority of refugees. Landlords often charge exorbitant rents for Colombian refugees, and raise rents arbitrarily, forcing refugees to relocate on multiple occasions. In San Lorenzo, the delegation visited one refugee family living in a shack that was precariously suspended over sewage. The refugee inhabitants paid \$30 a month for the one room shack and struggled every month to scrape together enough money to meet the landlord's demands. While the government of Ecuador has developed an initiative aimed at supporting the improvement of infrastructure and social services in border areas, this plan has received little in the way of donor community support.

Ecuador's naturalization laws may offer hope for encouraging integration of large numbers of Colombian refugees as well. After three years of legal residency in Ecuador refugees may be eligible to begin the naturalization process. Unfortunately the process is complicated, extremely costly and currently nearly impossible for Colombian refugees to access. However, a naturalization initiative that focused on lowering costs for refugees, and offering pro-bono services for those who apply, may be an important mechanism for breaking down legal barriers to integration, particularly in the banking and credit sector.

## Resettlement

For some Colombian refugees, resettlement to a third country is the only option to achieve adequate protection. Our delegation noted that the Ecuadorian government has consistently stated that though it sees refugee recognition as a priority, it lacks sufficient capacity and resources to support the growing number of Colombians seeking sanctuary within its borders. Resettlement for Afro-Colombians, women-at-risk, persons with serious security concerns, unaccompanied minors, and others with a lack of local integration prospects is an urgent and continuing necessity. Unfortunately interest by the international community in supporting the strategic use of resettlement appears to have declined in recent years, even as the number of Colombian refugees requiring this durable solution has increased. Ecuador currently ranks second in the world on UNHCR's list of resettlement needs versus resettlement capacity.

UNHCR has estimated that 15,944 Colombians are currently in need of resettlement, and set a goal to resettle 4,644 Colombians in 2010, a goal that fell short by 3,643 persons. The United States accepted only 57 Colombian refugees for resettlement in fiscal year 2009 and only 123 in fiscal year 2010, despite its stated intention to accept 300 refugees of Colombian origin in these fiscal years. While 2010 saw a slight increase in the number of Colombian refugees admitted to the U.S. Refugee Admissions Program, challenges remain. For example, in sharp contrast to other regions in the world where large numbers of refugees are in need of the durable solution of resettlement, the United States relies on an understaffed Virtual Overseas Processing Entity that only assisted 310 refugees in fiscal year 2010, creating further barriers to the growth of the resettlement program and to addressing challenges in the processing cases. Another

challenge is evident in the rapidly changing dynamics of the Colombian conflict and the lack of continuous and vigorous training among the USCIS officers who make the eligibility decisions. U.S. officials may be making adverse credibility findings based on faulty information no longer relevant to the current conflict dynamics. UNHCR must now dedicate numerous staff hours to provide the background information necessary to put forth successful referrals to U.S. officials.

The Solidarity Resettlement program of the Mexico Plan of Action is of particular importance as a regional solidarity and responsibility-sharing mechanism. Colombian refugees who face protection risks in Ecuador have been referred to Argentina, Brazil, Chile, and more recently to Uruguay and Paraguay over the last several years. While these countries have extremely limited capacity for absorbing resettled population, the Solidarity Resettlement program has become an important protection tool for UNHCR-Ecuador. UNHCR points out the coming years will be crucial for the establishment of reception capacity and local integration schemes in these countries. Experience gained from resettlement programs elsewhere, particularly the United States and Canada, will be of great importance in making the new programs a success.

UNHCR-Ecuador's inadequate human resources and budgetary capacity has limited their ability to engage in Best Interest Determinations for unaccompanied refugee minors, robust livelihood projects, and larger scale resettlement referrals for vulnerable refugees at risk in Ecuador. Despite the doubling of the recognized refugee caseload in the last year, the budget allocated to address the needs of refugees in Ecuador remained at the 2009 level of only \$10 million. Donor support that focuses on a more robust international presence, strengthening the justice system, integrating and naturalizing Colombian refugees where appropriate and relocating and/or resettling the more vulnerable refugees should be a priority in the coming year.

## CASE STUDIES

### Panama

*All doors are closing in Panama:* The RCUSA delegation met with a Colombian woman who had been in Panama City for three years with her two young children. Her family received refugee status and she has a work permit, but she has been unable to find any sustainable means of supporting her family due to the discrimination she faces each time she applies for a job. Her husband tragically died in a car accident in Panama, and the family of the man in the other car is now threatening her. She is forced to depend on charitable support in order to survive, and noted that even though her family was forced to flee Colombia because of violence, they have been unable to find security in Panama. Refugee status has not given them any protection, and they remain alone, with no real support.

*No help for Colombians:* An Afro-Colombian man told the delegation that in Colombia his family experienced kidnappings three different times before they fled the country. He has been in Panama City for two years but has not yet received refugee status. He has no work permit and no job and has turned to the church for occasional assistance with shelter and food. He is deeply depressed by his inability to find a job, because he very much wants to support himself. He believes that refugees, in spite of their many skills and professions, are seen as people with no talents. He continues to feel that he is in physical danger in Panama City, but he also knows that he can't return home. He feels helpless and is unsure about what he should do.

*Desperate, Anguished, Alone:* An Afro-Colombian woman with three children told her family's story. It took eight days to leave Colombia and arrive in Panama City. Even though they received refugee status, she feels alone and desperate. She passed a note to one of the delegation members that said that refugees are desperate, used and abused. Her family continues to face real threats as a result of being Colombian. Panamanians say that her family is made up of drug dealers, and one of her children was stabbed four times when coming home from school. She went to the police, but no investigation is underway. There are days when she thinks it is actually less safe, less secure in Panama City than it was in Colombia.

*There are no jobs for women:* A young mother with PTH status spoke to the delegation members who went to the Darien region. She arrived in Panama in 1999 with her family, but her parents have since returned to Colombia. She is now raising her seven year old daughter and her two year old son on her own. She first became pregnant when she was 16 years old, and the father of her daughter is a border policeman who still lives in Jaque, but provides no as-

sistance to the family. She very much wants to work, but there are no jobs available for women in the community. She is occasionally able to find small cleaning jobs, and that helps her get food for herself and her children, but it is not enough to survive. Her little boy has medical issues that she can't attend to in Jaque, but she hasn't been able to send him to Panama City to receive the care that he needs.

## **Ecuador**

*If they hear your accent, they say "no jobs":* One young man told the delegation that he arrived in Quito with eight family members eight years ago. HIAS is now helping him with a scholarship so that he can study Technology and Tourism. In spite of the rare opportunity to receive any form of higher education, he still finds it extremely difficult to live in Quito as a Colombian. He faces constant discrimination and feels very isolated. He doesn't feel that he can mix with local Ecuadorians, and at one point, a petition was started to kick him out of his neighborhood. His mother brings in a modest income by selling bathing suits at the local swimming pool, but even that small amount of money has caused Ecuadorians to be envious. They accuse his mother of taking their work, and he has been unable to find employment, because he doesn't have the right connections and because when potential employers hear his accent and learn he is from Colombia, they consistently tell him that no jobs are available.

*It is one thing to have a law, but there is no reality:* One Colombian refugee woman told the delegation that most Colombian refugees cannot get ahead in Ecuador. She recognizes that life in Ecuador is hard even for many Ecuadorians, but it is harder for Colombians. Life is so difficult in Ecuador, that she knows many people who have returned to Colombia and were never heard from again. For example, her friend's husband went back to Colombia and was later murdered in his mother's house. She worries about the safety of her children in Quito. She fears that gang members are trying to recruit her daughter into a gang, and there is no police support to help keep her family and the Colombian community safe. She knows that Ecuador has laws that are designed to help Colombian refugees, but the reality is that the laws haven't helped them live safe and dignified lives.

*There is no place in Colombia you can live in peace:* The delegation met with an Afro-Colombian woman in San Lorenzo who had arrived with her husband and two daughters four months ago. Her husband is unemployed and she does sewing for Manos Amigas. Since they arrived in July, they were forced to move three times and now live in a fishing shack suspended over a sewage-filled river. Her family left Colombia because of the escalating violence in her community. In Ecuador there is no work and her family is often hungry, but she said they will not return to Colombia unless they are thrown across the border. In Ecuador, there is no gun fighting and she doesn't have to worry about stray bullets killing her or her family members.

*An impossible choice:* The delegation met with a 24 year old Colombian refugee woman in San Lorenzo. She and her two very young children lived in one small dark room and had just arrived less than a month prior to our visit. Before she arrived in Ecuador, she was forced to move several times in Colombia in order to avoid the guerrillas. In Colombia she was able to find domestic and restaurant work, but now that she is in Ecuador, she has no job and doesn't leave her home. This young woman was diagnosed with throat cancer and does not have access to the medical care that she desperately needs. HIAS has offered to move her to another location in order to receive more advanced medical attention, but she has made the difficult choice to stay closer to the Colombian border. She made this decision because she also has an eight year old son still in Colombia, and she wants to stay as close to him as possible, with the hope that he too will be able to cross the border and reunite with his family.



*Colombian refugees, San Lorenzo, Ecuador*



*Refugee housing in San Lorenzo, Ecuador*

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