



DISPLACED
WOMEN'S RIGHTS
TO HOUSING, LAND AND PROPERTY

ECUADOR

HOUSING, LAND AND PROPERTY
RIGHTS FOR COLOMBIAN REFUGEE
WOMEN AND PERSONS IN NEED
OF INTERNATIONAL PROTECTION
(PNIP)



NRC

NORWEGIAN
REFUGEE COUNCIL

Updated Executive Summary

This is an updated abridged version of the report *Acceso a tierra/vivienda para mujeres en necesidad de protección internacional (PNPI) y refugiadas en Ecuador* published by the Norwegian Refugee Council in July 2013 and available at <http://womenship.nrc.no/countries/ecuador/>

For information about the NRC Colombia programme see www.nrc.org.co

Authors: Javier Arcentales Illescas / Susy Garbay Mancheno

Document coordination: Karine Ruel, Refugee Programme Manager, NRC Colombia

Contributors: Carlos Leon (Country Office Coordinator, NRC Ecuador), Alexandra Visser (ICLA, NRC Ecuador), Fernando de Medina Rosales (Acting Head, Technical Support Section, NRC Head Office), Atle Solberg (former Country Director, NRC Colombia) and David García (Communications and Advocacy Officer, NRC Colombia).

Translation: Sammy Riley, ONG Traducciones

Editor: Tim Morris, Kirstie Farmer and Monica Sanchez Bermudez (ICLA Adviser, NRC Head Office)

Design and layout: Christopher Herwig

Photographs: APDH Ecuador and Christopher Herwig with support from NRC

This report has been funded by the **UK Government** and the **Norwegian Ministry of Foreign Affairs**. The views expressed do not necessarily reflect the UK Governments official policies or those of the Norwegian Ministry of Foreign Affairs.

June 2014





Housing, land and property rights for Colombian refugee women and persons in need of international protection (PNIP) in Ecuador

“ To understand someone else you need to be able to put yourself in their shoes. I have lived through a lot of things here, I have heard them say that the Colombians come to rob and commit crimes and the Colombian women steal husbands and it's not like this. I have suffered discrimination everywhere, in education, looking for housing, at work, everywhere. ”



BACKGROUND

NRC's Information, Counselling and Legal Assistance (ICLA) Regional Programme

NRC's Refugee Programme was established in 2005 to undertake ICLA activities in Ecuador, Panama and Venezuela. The programme focuses on providing information to Colombian asylum seekers and refugees about access to rights in Ecuador. It has a mobile outreach component to reach asylum seekers as soon as possible after they have crossed the border. As a result of this research uncovering HLP challenges for Colombian refugees and Persons in Need of International Protection (PNIP) the refugee programme is currently looking at ways to support access to housing in urban areas and in border locations for Colombian refugees and PNIP.

NRC'S INITIATIVE ON DISPLACED WOMEN'S HLP RIGHTS

The Norwegian Refugee Council (NRC) is an independent, international, humanitarian non-governmental organisation which provides assistance, protection and contributes to durable solutions for refugees and internally displaced people worldwide.

In 2011, NRC embarked on a five-year initiative aiming to increase displaced women's access to housing, land and property (HLP) rights through international and national advocacy. The project aims to provide well-researched legal, policy and practice recommendations for the humanitarian community, including practitioners, donors, governments and civil society.

The project's evidence base is drawn from NRC's extensive operational experience, for over 15 years, as a provider of information, counselling and legal assistance (ICLA) related to HLP rights in 15 countries afflicted by conflict or recovering from it. Studies involving assessments of NRC's legal cases and commissioned country research were conducted in Afghanistan, Lebanon, Liberia, Palestine (Gaza) and South Sudan and with Colombian refugees in Ecuador. For the country reports and more information visit womenshlp.nrc.no

The rationale for focusing on displaced women's HLP rights stems from the growing understanding that women in the countries where NRC operates are already disadvantaged in many areas, including access to HLP rights. Factors such as displacement, poverty and being a single head of household often serve to exacerbate discrimination and therefore these groups warrant specific programmatic and policy interventions.

As part of this series, in July 2013 NRC Colombia published *Acceso a tierra/vivienda para mujeres en necesidad de proteccion internacional (PNPI) y refugiadas en Ecuador*. The study describes access to HLP rights for female refugees and PNIP in Quito and the cities of Esmeraldas, Tulcán and Lago Agrio bordering Colombia, from 2008 until 2012. The report launch was followed by a series of roundtables which sought feedback from key stakeholders.

INTRODUCTION

“ We don’t stop being Colombians when we become refugees, but it’s as if we had lost everything, even our nationality, because they don’t take us into account for anything. ”

COLOMBIAN REFUGEES AND PERSONS IN NEED OF INTERNATIONAL PROTECTION IN ECUADOR

The armed conflict in Colombia causes constant forced displacement of Colombians into Ecuador – the country receiving the highest number of Colombian refugees.¹ By September 2013 170,965 Colombians had registered for asylum in Ecuador, with an average of 1000 new claims each month.² The vast majority of claimants are denied refugee status by the Ecuadorian authorities – the latest figures to be released in September 2013 show a 7.4% recognition rate. There are 28,482 Colombian men and 26,138 Colombian women holding refugee status in Ecuador.³

Furthermore there has been a significant decrease in the number of successful applications as a result of Executive Decree 1182, adopted in May 2012. The decree eliminates the broader refugee definition of the Cartagena Declaration and sets out more restrictive procedures for admission, which exemplifies a growing tendency in the country’s asylum policy.⁴ It also puts in place more restrictive administrative procedures for asylum applications, setting a limit of 15 days from entry into Ecuadorian territory for asylum seekers to make a formal claim for refugee status in person at one of the government refugee offices. This is a problem for many asylum seekers who are unaware of the regulations and who are located far from government offices.⁵ The vast majority of Colombians who are denied refugee status remain in Ecuador as irregular migrants.⁶

It is important to note that access to rights varies according to

1 Colombian refugees make up 98 per cent of the refugee population in Ecuador.

2 The Refugee Department of the Ministry for Foreign Affairs, Commerce and Integration, as of September 2013, There are no official figures after this date. Also cited by UNHCR at <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492b66>

3 Refugee Department of the Ministry for Foreign Affairs, Commerce and Integration, as of September 2013.

4 UNHCR Ecuador <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492b66>

5 For example one of the main border crossings between Colombia and Ecuador is San Lorenzo. There is no presence of governmental refugee authorities in this border town, despite the continuous arrival of Colombians seeking international protection.

6 The Refugee Department of the Ministry for Foreign Affairs, Commerce and Integration, as of September 2013.

7 Article 1A (2). <http://www.unhcr.org/4ec262df9.html>

whether Colombians have refugee status or are asylum seekers. Both groups have the right not to be returned (*refouled*) to Colombia and are legally allowed to stay in the country.

PURPOSE OF THE STUDY

Research into the situation of HLP rights for Colombian refugee women and PNIP was undertaken in Ecuador in 2013 to gain a deeper understanding of the specific issues facing Colombian women in the border cities of Esmeraldas, Tulcán and Lago Agrio. The study also looks at the rights of Colombian refugee women and PNIP in Quito. To date there has been little focus on the access of Colombian PNIP to HLP in the countries where they seek asylum.

The study focused on the following issues:

- ▶ The overall context and access to HLP rights for Colombian refugee women and PNIP in Ecuador in both rural areas where access to land is important, as well as in urban areas where access to housing is more relevant
- ▶ The national and international legal framework for HLP rights
- ▶ Public policy related to the areas covered by this study
- ▶ The main challenges faced by Colombian refugee women and PNIP
- ▶ Recommendations for government responses to improve access to HLP rights for Colombian refugee women and PNIP; and recommendations for civil society and INGOs
- ▶ Recommendations for NRC's ICLA programme in Ecuador

METHODOLOGY

Researchers carried out a review of national, regional and international law relating to HLP rights. The study also involved examining national policies, literature and media information relating to housing and land access. Ten interviews were held with public officials and an additional ten with NGO representatives. Information was sought from seven national and local institutions.

Colombian refugee women and PNIP were consulted primarily through four focus group discussions¹⁰ during January and February 2013 in the locations of Quito, Esmeraldas, Tulcan and Lago Agrio organised with support from the refugee assistance teams at the Jesuit Refugee Service and the Scalabriniana Mission in Lago Agrio.

⁸ UNHCR definition at <http://www.unhcr.org/pages/49c3646c137.html>

⁹ UNHCR definition at <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=4716249e0&query=guidelines%20on%20protection%20international%20protection%20gender%20related%20persecution>

¹⁰ To protect the identity of women who participated in the focus groups, researchers did not record women's real names.

KEY TERMS

REFUGEE

The 1951 Convention defines a refugee as a person who is outside of his or her country of nationality or habitual residence; has a well-founded fear of being persecuted because of his or her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail himself or herself of the protection of that country or to return there for fear of persecution.⁷

HLP – HOUSING, LAND AND PROPERTY

Drawn from international humanitarian law and human rights law, HLP rights entitle displaced people to a safe place to live, where they can be sheltered and free from forced eviction.

ASYLUM SEEKER

The terms asylum-seeker and refugee are often confused: an asylum-seeker is someone who says he or she is a refugee, but whose claim has not yet been definitively evaluated. National asylum systems are there to decide which asylum-seekers actually qualify for international protection. Those judged through proper procedures not to be refugees, nor to be in need of any other form of international protection, can be sent back to their home countries.⁸

PNIP

The term "PNIP" refers to the People in Need of International Protection including those registered by individual RSD procedures and those who have not accessed them.⁹



LEGAL FRAMEWORK FOR HLP RIGHTS IN ECUADOR

“

It's difficult. Sometimes they put up signs saying "No Colombians." You see that the place is for rent and you ask about it and they say no, that it's already rented, and so you have to keep looking. That is because they hear our accent and know that we're Colombians. ”

Ecuador is a party to the main international and regional human rights treaties. Those most relevant to refugees and asylum seekers' rights are the *1951 Refugee Convention*¹¹ which obliges host states to guarantee a range of rights relating to immovable property on at least the same terms as non-citizens¹²; the *International Covenant on Economic, Social and Cultural Rights*¹³ and other interpretative documents issued by the United Nations Committee on Economic, Social and Cultural Rights, such as General Comment 4 which elaborates on the right to adequate housing.¹⁴ Importantly, international human rights instruments are directly enforceable in Ecuador national jurisdiction.¹⁵

The 2008 Constitution of Ecuador¹⁶ protects the rights of refugees and asylum seekers, proclaims the principle of equality between Ecuadorean nationals and others¹⁷ and prohibits discrimination on the basis of, *inter alia*, place of birth or migratory status.¹⁸ This demonstrates a higher level of protection than is included in the 1951 Convention, which recognises the possibility of differential treatment between nationals and non-nationals. Furthermore, refugees and those applying for refugee status are considered by the Ecuadorean Constitution to be part of the population groups that should receive prioritised attention, including *affirmative action measures that promote real equality for the benefit of the rights-bearers who are in a situation of inequality*.¹⁹

The Constitution contains only one limitation in the exercise of HLP rights by Colombian refugees – Article 405 of the Constitution establishes that *foreign natural persons or legal entities will not be able to acquire any land deeds or concessions in areas of national security or protected areas, in accordance with the law*.²⁰ According to the State and Public Security Law, security zones are those within 20 kilometres of the border. It is also important to note that asylum seekers whose refugee status determination is still pending are prohibited from purchasing property under Decree 1182, although they are permitted to carry out legal economic activities.²¹

11 <http://www.unhcr.org/pages/49da0e466.html>

12 *1951 Refugee Convention*, Article 13 <http://www.unhcr.org/3b66c2aa10.html>

13 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

14 For a summary of the main legal instruments relevant to displaced women's HLP rights see NRC, 2014, *Life can change: Securing housing, land and property rights for displaced women*, pp 34-45 womenshlp.nrc.no

15 Republic of Ecuador 2008 Constitution, Article 11 (3). *The rights and guarantees set forth in the Constitution and in international human rights instruments shall be directly and immediately enforced by and before any civil, administrative or judicial servant, either by virtue of their office or at the request of the party.*

16 Republic of Ecuador 2008 Constitution, English version at <http://pdba.georgetown.edu/Constitutions/Ecuador/english08.html>

17 Article 9. *Foreign persons in Ecuadorian territory shall have the same rights and duties as those of Ecuadorians, in accordance with the Constitution.*

18 Article 11 (2). *All persons are equal and shall enjoy the same rights, duties and opportunities. No one shall be discriminated against for reasons of ethnic belonging, place of birth, age, sex, gender identity, cultural identity, civil status, language, religion, ideology, political affiliation, legal record, socio-economic condition, migratory status, sexual orientation, health status, HIV carrier, disability, physical difference or any other distinguishing feature, whether personal or collective, temporary or permanent, which might be aimed at or result in the diminishment or annulment of recognition, enjoyment or exercise of rights. All forms of discrimination are punishable by law. The State shall adopt affirmative action measures that promote real equality for the benefit of the rights-bearers who are in a situation of inequality.*

19 Article 11 (2).

20 The sole exceptions are if foreigners are married or in a recognised civil union with an Ecuadorian and have been resident for at least five years.

21 As part of Decree 1182 <http://cancilleria.gob.ec/wp-content/uploads/2013/06/decreto-1182.pdf>

Current legislation does not establish any restrictions on the nationality of those who apply to be beneficiaries of agricultural land allocation, as defined in the *Ley de Desarrollo Agrario*²² (Agricultural Development Law). Furthermore, the 2009 *Plan de Fomento de Acceso a Tierras y Territorios*²³ (Plan for the Promotion of Access to Land and Territories) seeks to hand over land to organised groups of families that have little or no land, prioritising women, owners of small farms and members of minority ethnic groups. Implementation hinges on the development of a National Land Registry, but this has not happened and none of the plan's components had been implemented as this research was completed.

Regarding the right to adequate housing for women, the Constitution includes specific obligations within the section on habitat and housing specifying that:

*the state at all levels of government shall develop plans and programmes to fund housing of social interest, through government banks and grassroots credit institutions, with emphasis on persons with limited financial resources and women heads of household.*²¹

In this Article, the State formally recognises the criteria of affordability, developed in accordance with international standards on the right to adequate housing and specifically focusing on women heads of households. The same article refers to the State's obligations regarding rental contracts, which will be shown below to be particularly relevant for Colombian refugee women and asylum seekers in directing the State to ensure that all persons have the right to enter into housing rental contracts at a fair price and without abuse.²⁵

In terms of access to land, there are provisions in the 2010 *Ley Orgánica del Régimen de la Soberanía Alimentaria*²⁶ (Law for a Food Sovereignty Regime) to give special consideration to the needs of single mothers in policies supporting access to land but there are no specific enforcement measures, nor public policies explaining how this is to be implemented in practice.

In summary, there is strong legal protection for refugee women and asylum seekers' HLP rights in Ecuador which consists of a combination of the relevant provisions of international law and the principle of equality emphasised in the Ecuadorian Constitution, including a directive for affirmative action. Except for the limitation mentioned related to the security zones in border areas, refugees have the same HLP rights as Ecuadorean nationals and for that reason any differential treatment based on nationality should be considered unconstitutional. Despite the existing legal provisions, this study shows that laws and policies at the local level have not yet been adjusted to fully comply with the Constitution.

22 <http://www.superley.ec/superley/Legislacion/DERECHO%20AGRARIO/Ley%20de%20Desarrollo%20Agrario.htm>

23 <http://www.produccion.gob.ec/wp-content/uploads/downloads/2013/02/Informe-Rend-Ctas-MAGAP1.pdf>

24 Article 375 (5)

25 Article 375 (7) 2008 Constitution of Ecuador

26 <http://www.wipo.int/wipolex/es/details.jsp?id=11406>



WOMEN REFUGEES AND ASYLUM SEEKERS' ACCESS TO HLP RIGHTS IN ECUADOR

“ If you have children it's worse. They saw that I have two children and they told me that I couldn't rent the place. They ask if you have children and how many, then they don't rent it to you. ”

HLP challenges for Colombian refugee women and PNIP should be understood within the overall context of housing access for the Ecuadorean population. A national housing survey undertaken in 2005 found that there was a housing deficit in Ecuador that affected 12 million homes, 76 per cent of these are in urban areas.²⁷ According to the *Encuesta de Condiciones de Vida*²⁸ (ECV, *Survey of Living Conditions*) in the period between 2005 - 2006 over 75 per cent of dwellings had problems; 72 per cent lacked materials, 40 per cent lacked basic services and 30 per cent were overcrowded. Furthermore, official housing allocations have declined from \$464.9 million in 2008 to \$144.3 million in 2011.

Those fleeing the conflict in Colombia arrive into an already challenging HLP situation. According to UNHCR, 60 per cent of refugees and asylum seekers settle in marginal and poor urban areas, mainly in Quito, Guayaquil and other cities, while around 40 per cent reside in isolated regions along the northern border, with limited access to basic services and poor infrastructure.²⁹

Rental accommodation is the most accessible form of housing for refugees and PNIP in urban/peri-urban areas and is generally of poor quality – often damp, run-down and overcrowded. Unable to afford flats or houses, most rent single rooms for under \$80 a month. At times, more than one family shares a room. Lack of financial resources means that refugees or PNIP are usually forced to live far from basic services such as public transport, work opportunities and schools. They often live in vulnerable locations. In Esmeraldas researchers found Colombian women who lived on landslide-prone hillsides and near sewage outlets.

Many Colombians from rural areas do not wish to settle in the cities but prefer Ecuador's rural areas. Access to land is particularly important in rural areas both for dwelling and for livelihood purposes in the provinces of Carchi and Esmeraldas, where many of the displaced Colombian farming families have settled. In these areas refugees and PNIP often reach informal agreements to farm and care for livestock in return for shelter. As their work is unpaid, this is, in effect, a form of serfdom.

There are programmes to legalise land ownership – such as the *Tierra Sí* programme but these are not accessible to refugees. Recent changes in the agricultural sector – such as the allocation of large areas of land for export crops and agribusiness ventures have put more pressure on available resources.

The prohibition on foreign nationals to purchase land in areas of national security (within 20 kilometres of the border) affects Colombian refugees settling in these areas. Women refugees who

27 Instituto Nacional de Estadística y Censos (INEC) 2005 Survey on Housing Conditions cited by the Facultad Latinoamericana de Ciencias Sociales (FLACSO) <http://www.flacso.org.ec/portal/>

28 <http://anda.inec.gob.ec/anda/index.php/catalog/358>

29 UNHCR Ecuador at <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492b66>

have exceptionally been able to purchase land in these areas have done so by putting the property in the name of their Ecuadorean children or husband.

Overall, the lack of access to HLP is related to socio-economic status as very few asylum seekers leave Colombia with sufficient funds to afford quality housing. And even though there are no legal impediments to obtaining employment for those applying for refugee status, in practice this is a significant obstacle. Many refugees and PNIP find work in the informal economy, lacking job security and social security benefits. Colombian women in Quito reported that they are in domestic service but are poorly treated, badly paid, abused and threatened with deportation if they complain.

“

Here they have told me that Colombian women come here to take husbands. They think that because a Colombian woman is in need she has to prostitute herself.

”



THE MAIN HLP CHALLENGES FOR REFUGEE WOMEN AND PNIP

“ The female owner of the house came the other day and told me: all Colombian women are prostitutes. I just stood there looking at her and didn't say anything. And she said, 'it must be difficult that your people are like this'. ”

1. Lack of knowledge, resources and the effects of trauma



A friend of the family allowed us to stay in a room, with one mattress for all of us. Later we had to leave and look for a place to stay, and that was really hard because no one would rent us a place. You have to do your best with what you have, wherever you are, just to survive.

I came here with my children, the youngest was four years old and the other was thirteen. We slept in a nightclub and we had to wait outside until dawn to be able to go inside and sleep.



Colombian women fleeing the conflict face a range of social, psychological, cultural and economic difficulties in exercising their right to adequate housing, which will be explored further below. Firstly, they lack knowledge of public and non-state assistance providers where they could get support. This is especially apparent in Quito, given the size of the city compared with smaller cities closer to the border with Colombia, such as Esmeraldas, Tulcán and Lago Agrio. UNHCR has also identified that PNIP in remote border areas lack information about the asylum process itself, resulting in a failure to present asylum claims within the 15 day limit from the time of arrival.³⁰

Additionally, many bear the psychological consequences of the violence which forced them to leave their place of origin. Some Colombian women, particularly single women and mothers, reported fear of going out and meeting other Colombians.

2. Refugees and asylum seekers are excluded from social housing programmes

Although the 2008 Constitution has strong guarantees of equality for refugees and asylum seekers, NRC's research found instances where refugees and asylum seekers were excluded from programmes that provide access to rural and urban housing implemented by the *Ministerio de Desarrollo Urbano y Vivienda* (MIDUVI, Ministry of Urban Development and Housing). In addition, the study found that government is yet to put in place plans for affirmative action measures that support housing access for Colombian refugee women and men.

Overall, NRC's research shows that refugees and asylum seekers are not currently considered a target group for housing programmes implemented by national or sub-national governments. The following examples were identified during NRC's research:

³⁰ Executive Decree 1182 stipulates that asylum requests must be presented at Refugee Directorate offices within 15 days from arrival in the country. UNHCR Ecuador <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492b66>

National-level

At the national level, public officials implement policies that effectively exclude Colombian refugees and asylum seekers from housing schemes:

- ▶ The *Plan Nacional para el Buen Vivir 2009–2013*³¹ (National Plan for Good Living) encompasses the government's overall policy in relation to the living conditions of the general population. It proposes certain HLP-related goals such as increasing the percentage of families with adequate housing to 71 per cent and reducing the concentration of land ownership by 22 per cent. As part of its objective "to improve the quality of life for the general population" the plan includes policies to provide integrated services for women and groups that require prioritised assistance and to guarantee dignified, safe and beneficial housing with equality, sustainability and efficiency. The social housing projects, however, which are financed in part with subsidies provided by the MIDUVI, are only accessible to Ecuadorean nationals.
- ▶ Housing grants are provided by the MIDUVI consisting of a contribution of US\$6,000 towards the purchase of a home. The housing grant is directed at people with low economic means and population groups that receive prioritised assistance. However, research showed that the MIDUVI has a policy of refusing these grants to non-Ecuadorians. MIDUVI officials interviewed for this study state that this is based on the assumption that the refugee population will not remain in Ecuador permanently, because of type of visas that refugees hold.³² According to MIDUVI's rationale, to include refugees would defeat the purposes of the scheme as helping an itinerant population would have no long-term impact. The Office of the Ombudsman has studied the MIDUVI exclusionary procedures and is currently seeking clarification on which social benefits should not include the condition of Ecuadorean nationality, as this can be seen as discriminatory. However, the Office's role is limited to recommendations and it cannot legally oblige other state institutions to comply with its directives.

Provincial and municipal level

At the provincial and municipal level refugees and asylum seekers' inability to access to housing programmes can result from a lack of resources:

- ▶ The provincial government of Pichincha has a policy of supporting refugees. However, it lacks economic resources to assist refugees with housing. The government recognises its limitations in guaranteeing refugees' HLP rights and has stated its willingness to participate in any initiative to address this situation.

31 <http://www.unosd.org/content/documents/96National%20Plan%20for%20Good%20Living%20Ecuador.pdf>

32 The *Ley de Extranjeria* (Foreign Nationals Law) classifies the visas of refugees as temporary non-immigrant visas, meaning that the law regards Colombian refugees as only temporarily residing in Ecuador.

The Municipality of Quito has created the Metropolitan Housing and Habitat Company but it too, has no policy directed at refugees. Officials interviewed said their priority had to be Ecuadoreans, especially Ecuadorean single mothers and not those from abroad.

3. Multiple layers of discrimination

During NRC's research in Ecuador, Colombian refugee women and PNIP highlighted the strength of discrimination and xenophobia they encountered when looking for housing – primarily rental accommodation. Without exception, in all of the cities female interviewees highlighted instances of discrimination due to their nationality, Afro-Colombian ethnicity, refugee status, gender, or because they have children. They have to deal with strong stereotypes of Colombian women as prostitutes and reluctance from house owners to have them as tenants. In a survey undertaken by the *Facultad Latinoamericana de Ciencias Sociales (FLACSO)* 80 per cent of those surveyed had faced difficulties in accessing housing, citing their Colombian nationality as the main reason.³³

NRC's research found that discrimination against Colombian refugees and PNIP was cited as a basis for higher rent, increased deposits and less formalisation of rental contracts. Accommodation is generally rented without a lease regulating the landlord-tenant relationship, which allows landlords to arbitrarily increase the rent and demand other payments not included in the initial agreement. Colombian refugees and PNIP are also asked to pay up to three months of rent in advance in order to secure a property. This is impossible for those with limited means and is not a criteria that is applied to Ecuadorean nationals.

As a result, women reported having to live in poor quality, overcrowded housing where more than one family share a single rented room. Colombian women also reported problems with the return of deposits when they left properties. In such cases, refugees and PNIP are fearful of reporting discrimination and there have been no instances of complaints made to the Office of the Ombudsman, or of trying to prosecute landlords. NGOs state that many Colombian refugees are reluctant to get involved in legal action for fear of losing their documentation as refugees if they have any dealings with the authorities. Those living irregularly after their applications for refugee status have been refused are particularly unlikely to do so. The costs of legal action are in any case beyond their means. In some cases, landlords have used the threat of reporting tenants to the immigration authorities to extort payments or illegally evict refugee tenants. Few Colombian women are aware of their tenancy rights and landlords are ill-informed about their obligations when letting to refugees and PNIP.

This situation was corroborated by organisations that work with refugees. Interviewees from civil society organisations provided a range of evidence of cases in which landlords have avoided renting

33 <http://flacso.org.ar/english/>

accommodation to refugees and PNIP, or have charged them higher than market rates. A UNHCR official in Lago Agrio confirmed that international interventions cannot guarantee access to housing for refugees. Even in cases where UNHCR officials have accompanied refugees, a landlord refused to let his property to Colombians. Additional discrimination compounds difficulties faced by Afro-Colombian refugees and PNIP, particularly in Quito, Tulcán and Lago Agrio.

“ I pay \$60 a month in rent, but there is no running water. The neighbour lets me know when the water tanker arrives so I can go and fill up our tanks. We have a bathroom but there are six of us. ”

4. Other administrative barriers relating to HLP rights

In addition to the challenges described above, there are administrative barriers that effectively serve to limit refugees and PNIP's access to HLP, as the following examples illustrate:

- ▶ Refugees are generally unable to obtain credit from financial institutions because they cannot meet the main eligibility requirements – formal employment and affiliation with the state social security system.³⁴ Very few refugees are in the social security system. One of the main barriers is the discrepancy between the number of digits in refugees' identification document (refugee visa) and the number of digits required in the social security system's database. As a result, refugees use false numbers to be in the system to benefit from the services to which they are entitled. The situation for asylum seekers is worse because they are not even allowed to open a bank account.
- ▶ The few whom have purchased their own homes also report difficulties in legalising the transaction, primarily because their refugee visas are not recognised by the authorities as identity documentation. Women refugees lacking the required identification are often forced to register housing, to which they have financially contributed, in the name of their Ecuadorean husbands or children. Others are victims of scams: two women interviewed said they had paid money to purchase land yet never received title deeds.

³⁴ The government-run financial institution offering home loans is the *Banco del Instituto Ecuatoriano de Seguridad Social* (BIESS, Ecuadorean Institute of Social Security Bank) <http://www.biess.fin.ec/inici>



CONCLUSION

Recognising refugee status is critical for HLP and other rights. However, the shrinking asylum space in Ecuador which results from a restrictive refugee definition and more stringent application procedures means that the vast majority of Colombians are not granted refugee status. Those in the process of applying for refugee status face uncertainties about their rights despite having documentation authorising their presence in Ecuador and guaranteeing they will not be forcibly returned (*refouled*) to their place of origin.

NRC's research shows that access to HLP for refugee women and PNIP is a significant challenge. The main barriers are the failure of national and regional authorities to provide equal access to national housing schemes and other opportunities. This is in contradiction with the Constitution which stipulates that refugees and asylum seekers are a population group that should receive prioritised assistance. Furthermore, refugee women and PNIP face multiple forms of discrimination that limit their access to HLP rights and put them at a disadvantage for building longer term coping strategies for themselves and their families.

RECOMENDATIONS

TO THE GOVERNMENT OF ECUADOR:

1. Promote the creation of new legislation relating to refugees which is in accordance with the provisions and rights included in the Constitution and international human rights instruments. In principle, this process should be carried out by the National Assembly. Since 2009 initiatives to enact this legislation have been supported by the Ministry of Justice and Human Rights, the National Secretariat for Migrants and the Ministry of Foreign Relations, without any of these being successfully passed into law.
2. The Ministry for Coordination of Social Development should include refugees and asylum seekers as a category of persons requiring prioritised assistance and who should be eligible to benefit from the various governmental social assistance programmes, including the grants from MIDUVI aiming at facilitating access to housing.
3. Municipal and provincial authorities should also include refugees and asylum seekers in their local development plans, especially in programmes providing social services such as housing.
4. The Directorate of Refugees should move beyond its role of registration and refugee status determination to promote refugees' access to economic and social rights and achieve the durable solution of local integration of refugees in Ecuador.
5. The Directorate of Refugees should advocate for a solution to the problem of the false identification numbers that refugees have to provide to be able to register in the social system administered by the Ecuadorean Institute for Social Security.
6. The Banking Superintendent should require financial service providers to allow refugees and asylum seekers to benefit from the financial services they offer.
7. The National Development Bank should encourage staff to offer refugees the opportunity to open a bank account and apply for loans to purchase agricultural land.
8. The Transition Commission, part of the Equality Council, should recognise the discrimination refugee women and PNIP face not only based on their gender (as the discrimination faced by Ecuadorian women) but also based on their origin and nationality that furthers their disadvantage.
9. The Nationalities and Peoples Development Council of Ecuador (CODENPE) should include within its policies actions to eliminate racial discrimination against all persons, including refugees of Afro-Colombian descent living in Ecuador.

10. Efforts should be made through the media to actively challenge discrimination, xenophobia and stereotyping of Colombians, including through the promotion of initiatives that have favoured the exercise of rights by refugees and have led to better integration with the local population.
11. Government staff at all levels working on refugee and migration issues would benefit from being trained on human rights, gender equality and housing, land and property issues.

TO CIVIL SOCIETY AND INGOS:

12. Legal service providers in Ecuador should support refugee women and PNIP to claim their HLP rights by addressing some of the main barriers identified through this research.
13. An inter-institutional committee should be formed to develop strategies for the systematic documentation of cases illustrating obstacles faced in exercising HLP rights by refugees and PNIP, particularly women. This committee should identify areas in which their actions could have a political and public impact. Quito-based coordination should also include participants from other provinces and cities.
14. There is a need to train Colombian women refugees and PNIP in HLP rights and relevant national legislation, especially around issues of gender-based violence, inheritance laws and laws regulating the division of property in marriages and civil unions.
15. Stronger gender awareness and analysis is needed from organisations working to assist refugees so as to better identify gender-specific problems and design appropriate responses.
16. The National Ombudsman's Office should begin to analyse and document the denial of access to government housing subsidies for non-Ecuadorians. This may have no legal impact but could raise political awareness.
17. Promote financial compensation for victims outside Colombia in the framework of the 2011 Victims Law to enhance local integration.
18. Convene a technical roundtable on HLP within civil society in Ecuador.



NORWEGIAN
REFUGEE COUNCIL



NORWEGIAN MINISTRY
OF FOREIGN AFFAIRS



UKaid
from the British people

