



# Linking Land Tenure and Use for Shared Prosperity

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## SECURING LAND RIGHTS FOR COLOMBIAN REFUGEE WOMEN IN ECUADOR AND PANAMA

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## **Abstract**

**Thematic Category: Advances with securing and protecting land rights from a gender perspective**

### **Colombia Paper Abstract: Securing land rights for Colombian refugee women in Ecuador and Panama**

#### **Background to Colombian refugees' access to land in host countries**

The armed conflict in Colombia causes constant forced displacement into neighboring countries. Ecuador is the country receiving the highest number of Colombian refugees. By the end of 2013, 135 588<sup>1</sup> people living in a refugee-like situation were registered in Ecuador by UNHCR; with an average of 1000 new claims each month. In Panama, UNHCR estimates that 18 297<sup>2</sup> people are living in a refugee like situations mostly in urban areas or marginalized suburbs. However the rate of recognition of refugee status for Colombian asylum seekers is generally low in the region. This low rate of recognition leaves most of people in need of international protection (PNIP) without regular status and documentation in those countries generating important implications and barriers for access to land.

Those fleeing the conflict in Colombia arrive into an already challenging housing and land situation in the neighboring countries. Although the majority of refugees and asylum seekers arrive in urban areas, UNHCR estimates that in Ecuador for example up to 40 per cent reside in isolated regions along the northern border, with limited access to basic services and poor infrastructure.<sup>3</sup> Access to land is particularly important in rural areas both for dwelling and for livelihood purposes in the provinces 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. 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. In Panama, most PNIP live in urban areas close to Panama City or Colon facing challenges of limited space, violence and overcrowded accommodation. Nevertheless, Temporarily Protected People (THP) people who have lived confined in host communities in the border area with Colombia (Darién province) for years are now facing other challenges in finally being able to formalize their contracts for land ownership in that region after law 356<sup>4</sup> provides them with permanent residence in this country.

Colombian women fleeing the conflict face a range of social, psychological, cultural and economic difficulties in exercising their housing, land and property (HLP) rights. Moreover, lack of access to housing and land undermines lasting solutions to displacement and perpetuates the protection risks for these populations.

#### **Legal framework for refugees' and PNIP access to land**

In terms of legal support for land rights, the legal framework in the region is more protective of refugees'

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<sup>1</sup> UNHCR GLOBAL TRENDS 2013, <http://www.unhcr.org/5399a14f9.html>

<sup>2</sup> UNHCR GLOBAL TRENDS 2013, <http://www.unhcr.org/5399a14f9.html>

<sup>2</sup> UNHCR GLOBAL TRENDS 2013, <http://www.unhcr.org/5399a14f9.html>

<sup>3</sup> UNHCR Ecuador at <http://www.unhcr.org/cgi-bin/texis/vtx/page?page=49e492b66>

<sup>4</sup> 11 of July 2011

rights that many other regions. The constitutions of Ecuador<sup>5</sup> and Panama<sup>6</sup> both have strong guarantees of equality between nationals and others and prohibit discrimination on the basis of, *inter alia*, place of birth or migratory status (Ecuador).<sup>7</sup> This demonstrates a higher level of protection than is included in the 1951 Refugee Convention, which recognizes the possibility of differential treatment between nationals and non-nationals.

In general, governments should include refugees and asylum seekers as a category of persons requiring prioritized assistance, eligible to benefit from governmental social assistance programs, including the grants aiming at facilitating access to housing. In Ecuador, refugees and those applying for refugee status are considered by the Constitution to be part of the population groups that should be prioritized, including through affirmative action measures.<sup>8</sup> This includes the *2009 Plan de Fomento de Acceso a Tierras y Territorios*<sup>9</sup> which seeks to hand over land to organized groups of families that have little or no land, women, owners of small farms and members of ethnic groups. Provisions in the *2010 Ley Orgánica del Régimen de la Soberanía Alimentaria*<sup>10</sup> give special consideration to the needs of single mothers. However the affirmative action measures of both of these laws have yet to be implemented.<sup>11</sup>

### **Addressing specific challenges facing Colombian refugee women:**

The organization established an operational presence in Colombia in 1991 and runs a regional program aiming to respond to the need for international protection of Colombian refugees and asylum seekers in Ecuador, Panama, and Venezuela, including access to information, counseling and legal assistance.

Through its research conducted between 2012-2014 on Colombian women's housing, land and property rights in Ecuador and Panama, the organization has identified the main challenges facing Colombian women refugees and PNIP. Despite the strong regional and national legal guarantees, Colombian women struggle to access land in their host countries, which affects their access to many other rights and services; not least their ability to find a lasting solution for their displacement. Since 2013, the organization has developed programs with the specific aim of supporting Colombian refugee women's housing, land and property rights in these countries.

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<sup>5</sup> Article 9. *Foreign persons in Ecuadorian territory shall have the same rights and duties as those of Ecuadorians, in accordance with the Constitution.*

<sup>6</sup> Panama Constitution establishes the principle of non-discrimination in Article 19 'for reasons of race, birth, disability, social class, sex, religion or political ideas'. However Despite the principle of equality, there is no other reference in the Constitution on the policies that the State must develop and exercise in order to achieve equality between women and men and the text contains language which is not very gender sensitive

<sup>7</sup> 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.*

<sup>8</sup> Article 11 (2). In Panama there is no such provision in the Constitution.

<sup>9</sup> <http://www.produccion.gob.ec/wp-content/uploads/downloads/2013/02/Informe-Rend-Ctas-MAGAP1.pdf>

<sup>10</sup> <http://www.wipo.int/wipolex/es/details.jsp?id=11406>

<sup>11</sup> The affirmative action provisions of these laws require the development of a National Land Registry (for the 2009 Plan de Fomento de Acceso a Tierras y Territorios) as well as accompanying legislation, public policy and enforcement measures, none of which have been developed to date.

The paper will present four initiatives undertaken by the organization to address the issue of access to land for Colombian refugee women:

### **1. Supporting refugee women to have access to land through the Ministry of Agriculture in Ecuador**

The new initiative by the Ministry of Agriculture<sup>12</sup> in Ecuador (MAGAP) aims to grant title to “*tierras baldias*” to families living on the land, after five years. Importantly, it includes an initiative to mainstream gender in the titling process. The organization is working with the Ministry of Agriculture to advocate for the inclusion of refugee women within this program – starting with two pilot cases in Sucumbíos (Nueva Loja).

### **2. Supporting refugee women to have documentation as a basis for land registration specifically in border areas in both countries**

The prohibition on foreign nationals to purchase land in border areas designated as national security zones, affects Colombian refugees settling in these areas. Women refugees lacking the required documentation are often forced to register land, to which they have financially contributed, in the name of their husbands or children as nationals of the host country. The organization provides services to support documentation of common law unions to ensure that women’s joint tenure rights are recognized.

### **3. Empower a community-based association lead by women in Ibarra (Ecuador) through the provision of legal assistance**

The organization currently supports a community-based association in Ibarra to obtain housing permits on a land purchased with community savings and cooperative credits. This project involves members of host community and refugee women.

### **4. Provide legal information, counseling or assistance to THP in Panama to secure tenancy or land property**

The organization is supporting THP providing them with legal assistance to formalize their contracts for home and land ownership where the lands are no longer local and there has already been a titling process in Darien province.

## **Conclusion**

Through the organization’s research on Colombian women’s challenges for access to land in host countries, and program experience of tackling some of these challenges, the paper will draw conclusions about practical ways to support Colombian refugee women. This has further implications for disadvantaged groups of women through its potential use by organizations seeking to better support women’s access to land in the region and in other contexts.

**Key Words:** Land, gender, refugee, Colombia, Panamá, Ecuador, NRC.

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<sup>12</sup> <http://www.agricultura.gob.ec/legalizacion-masiva-de-tierra/>

## **Thematic Category: Advances with securing and protecting land rights from a gender perspective**

### **Securing land rights for Colombian refugee women in Ecuador and Panama**

#### **Background to Colombian refugees' access to land in host countries**

The protracted armed conflict in Colombia has triggered constant forced displacement to neighboring countries. Ecuador has received the highest number of Colombian refugees. In both countries, the 1951 United Nations Convention Relating to the Status of Refugees has been adopted with the following definition of a refugee (in Article 1.A.2):

[Any person who: owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country].

In Ecuador there are 60,500 people with refugee status. By the end of 2013, 135,588 people living in a refugee-like situation were registered in Ecuador by UNHCR; with an average of a thousand new refugee claims each month. In Panama there are 2,237 officially registered refugees but the UN Refugee Agency (UNHCR) estimates that 18,297 people are living in refugee-like situations, mostly in poor urban areas. UNHCR describes refugee-like situations as “groups of persons who are outside their country or territory of origin and who face protection risks similar to those of refugees, but for whom refugee status has, for practical or other reasons, not been ascertained”<sup>13</sup>.

Since 2013, the rate of recognition of refugee status for Colombian asylum seekers in the region has been low due to long, complex procedures for claiming asylum and a restrictive definition of refugees. Indeed, Ecuador before decree 1182 of May 30th 2012 also integrated the wider definition of the Cartagena declaration. The Declaration is a non-binding agreement that expands the meaning of Refugee, applicable to individual systems for refugee status determination as well as to situations of large-scale influx. It incorporates objective elements without accounting for the subjective aspects related to the well-founded fear concept articulated in the 1951 Convention. It also leaves aside any reference to the element of “persecution” that might lead to rejection or objection by the State of the country of origin. The third conclusion of the Declaration states that:

[...the definition or concept of a refugee to be recommended for use in the region is one which, in addition to containing the elements of the 1951 Convention and the 1967 Protocol, includes

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<sup>13</sup>UNHCR Statistical Online Population Database: Sources, Methods and Data Considerations Country Data Sheets, 1 January 2013 <http://www.unhcr.org/45c06c662.html>

among refugees persons who have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order.<sup>14]</sup>

However after 2012 until the recent constitutional ruling in august 2014<sup>15</sup>, Ecuador was restricted its interpretation to the 1951 convention definition limiting the access to the refugee status determination for new claims. In August 2014, the constitutional court of Ecuador reestablished the application of the definition of the Cartagena Declaration as well as the three months deadline to claim refugee status in the country<sup>16</sup>.

The complexity of the process to claim asylum excludes many asylum seekers from gaining refugee status. This is of particular concern in Panama, where the numbers of refugee applications doubled in 2014 compared to 2013 but the recognition rate remains extremely low. Many thus fall within the category of Persons in Need of International Protection (PNIP)<sup>1718</sup> and without regular status and documentation. There are thus many unrecognized refugees who are unable to return, staying in their host countries illegally, at risk of being detained or deported. It also has important implications for their access to secure tenure for accommodation and land.

### **The Norwegian Refugee Councils' work on displaced women's housing, land and property rights**

The Norwegian Refugee Council (NRC) established an operational presence in Colombia in 1991 and aims to respond to the need for international protection of Colombian refugees and asylum seekers in Ecuador, Panama, and Venezuela. The program focuses on providing legal 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 Colombian border.

In 2011, NRC embarked on a global five-year initiative to increase displaced women's access to HLP rights through international and national advocacy. Studies involving assessments of NRC's legal cases and commissioned country research have been undertaken in Afghanistan, Lebanon, Liberia, Palestine (Gaza) and South Sudan and with Colombian refugees in Ecuador and Panama<sup>19</sup>. The rationale for focusing on displaced women's HLP rights stems from the growing understanding that women in the

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<sup>14</sup> <https://rightsbasedapproach.wordpress.com/2012/09/04/the-impact-of-the-cartagena-declaration-in-latin-america-the-case-of-ecuador/>

<sup>15</sup> *Sentencia # 002-14-SIN-CC caso n 0056-12-IN y 003-12-IA acumulados, del 14 de agosto 2014*

<sup>16</sup> *Decree 1182 had established a 15 days deadline.*

<sup>17</sup> *See definition of refugee-like situation, those two terms are used for the same category.*

<sup>18</sup> *PNIP status (PNPI in Spanish) does not accord the same protections offered in international refugee law by the definition of refugee contained in the 1951 Refugee Convention. The term is, however, widely used in relation to Colombian refugees whose claims for refugee status are not recognized but who are in a similar situation those entitled to be internationally recognized as refugees and who benefit from the state obligation not to return them to their country of origin (prohibition of refoulement)*

<sup>19</sup> *All reports available on [www.womenshlp.nrc.no](http://www.womenshlp.nrc.no)*

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. Therefore these groups warrant specific programmatic and policy interventions.

As part of this series, in July 2013 NRC Colombia published a study analyzing access to HLP rights for women refugees and PNIP in Quito and the cities of Esmeraldas, Tulcán and Lago Agrio bordering Colombia, from 2008 until 2012.<sup>20</sup> The report launch was followed by a series of roundtables, which sought feedback from key stakeholders. In December 2014 NRC published a further study on Colombian women refugees in Panama.<sup>21</sup>

Through this research on Colombian women's HLP rights in Ecuador and Panama, NRC has identified the main challenges facing Colombian women refugees and PNIPs. Despite the existence of strong regional and national legal guarantees (which are described below), Colombian women struggle to access land in their host countries. This affects their access to many other rights and services, not least their ability to find a durable solution for their displacement. Since 2013, NRC has developed programs with the specific aim of supporting Colombian refugee women gain security of tenure in these countries. As a result, NRC has expanded its programs to better support their security of tenure near the border and in urban areas.

The paper outlines the main challenges for Colombian refugees in Ecuador and Panama to have secure tenure, based on NRC's program experience and research. It presents five programmatic initiatives undertaken by the organization to support Colombian refugee women's security of tenure in Ecuador and Panama. It begins by outlining the reasons why HLP rights are important for displaced women and sets out legal framework applicable to Colombian refugee's rights in these host countries. The paper concludes by suggesting practical recommendations to increase support for Colombian refugee women in the region.

### **The importance of HLP rights for displaced women**

Access to housing, land and property is one of the principal factors determining the economic and social well-being of women, especially in situations of conflict and displacement when their rights are violated on a mass scale. Demographic changes that occur during conflict result in higher numbers of single women and women-headed households. In general, women-headed households have a higher dependency

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<sup>20</sup> *Acceso a tierra/vivienda para mujeres en necesidad de proteccion internacional (PNPI) y refugiadas en Ecuador*  
<http://womenshlp.nrc.no/countries/ecuador/>

<sup>21</sup> [www.womenshlp.nrc.no](http://www.womenshlp.nrc.no)

burden than male-headed households. Poverty in these households is significantly exacerbated when gender-biased laws deprive women of access to the property of a deceased or missing spouse.

Even before conflict, women are disadvantaged when it comes to HLP entitlements. The World Bank has noted that land ownership remains largely restricted to men, both by tradition and law.<sup>22</sup> Conflict exacerbates this inequity. When women also happen to have insecure tenure – as they often do because their access to housing and land hinges on a relationship with a man, or because they face additional hurdles as sole head of a household – they are particularly vulnerable.

Women experience the loss of HLP rights at every stage of displacement. When women are forced to leave their homes, finding a place to stay is at the forefront of their ability to survive displacement and provide safety for their families. On arrival in Ecuador and Panama, NRC found that women fleeing conflict in Colombia – many of them Afro-Colombians – face racial discrimination as well as a range of social, psychological, and economic difficulties in exercising their HLP rights. It is important to recognize and understand these factors when designing assistance programs for Colombian refugee women, as described in this paper.

### **Legal framework for refugees' and PNIP access to land**

For NRC, as an organization working to uphold the rights of refugees and displaced people, the issue of land is inherently linked to a humanitarian concept of HLP rights, all of which are underpinned by the principle of security of tenure. Drawn from International Human Rights Law, specifically the right to adequate housing, the right to security of tenure in essence means the freedom from forced eviction. It applies to all forms of tenure – including renters and those living in informal settlements. Importantly, it has a strong, gender dimension, which promotes the protection of women's security of tenure independently of their relationship with men.<sup>23</sup> This is therefore the approach that NRC takes in supporting displaced people – incorporating housing and land – and is the basic concept that is set out throughout this paper.

In terms of legal support for security of tenure for housing and land, the legal framework in the region is more protective of refugees' rights than many other regions. The constitutions of Ecuador and Panama both have strong guarantees of equality between nationals and others and Ecuador prohibits discrimination on the basis of, *inter alia*, place of birth or migratory status. This demonstrates a higher

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<sup>22</sup> World Bank, 2012, *World Development Report 2012: Gender Equality and Development*. p. 82, <https://openknowledge.worldbank.org/handle/10986/4391>

<sup>23</sup> *Special Rapporteur on the right to adequate housing, Guiding Principles on Security of Tenure for the Urban Poor, 2014* <http://www.ohchr.org/EN/Issues/Housing/Pages/StudyOnSecurityOfTenure.aspx>



level of protection than is included in the 1951 Refugee Convention, which allows for differential treatment between nationals and non-nationals. Moreover, in 1989, Panama included gender in its definition of refugee – thus recognizing women who were persecuted because of their gender, as refugees.

In principle governments should include refugees and asylum seekers as a category of persons requiring prioritized assistance, entitled to state assistance programs, including housing grants. In Ecuador, this has been enacted in law and in “plan buen vivir” to implement public policies for 2013-2017, but not applied in practice. Refugees and those applying for refugee status are considered by the constitution to be part of the population groups that should be prioritized, including through affirmative action measures. This includes the 2009 *Plan de Fomento de Acceso a Tierras y Territorios* which seeks to hand over land to organized groups of families that have little or no land, women, owners of small farms and members of ethnic groups. Additionally, provisions in the 2010 *Ley Orgánica del Régimen de la Soberanía Alimentaria* give special consideration to the needs of single mothers. However, the both of these laws have yet to be implemented.

In Panama there is no legal framework for local integration of refugees, nor are there specific instruments to prioritize refugee needs. However, the constitution (Article 117) gives full social protection and access to social programs without distinction. Specific groups such as indigenous people have special treatment and regulations to access land. Indeed the Panamanian constitution in Article 127 establishes that:

“The State shall guarantee indigenous communities the reservation of the necessary lands and the collective ownership of them to achieve their economic and social welfare. The law shall regulate the procedures to be followed to achieve this purpose and corresponding framework within which private ownership of land is prohibited.”

Both countries have very restrictive policies of land acquisition close to their borders. The Ecuadorian Constitution<sup>24</sup> prohibits the acquisition of titles, land or license for foreigners in national safety areas which are within 20 kilometers from the border<sup>25</sup>. In such a small country this limitation has a significant impact on the large numbers of refugees and PNIP living near the border areas in the north and east of the country. UNHCR estimates that in Ecuador up to 40 per cent of refugees live along the northern border, with limited access to basic services and poor infrastructure.

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<sup>24</sup> Art 405 *Las personas naturales o jurídicas extranjeras no podrán adquirir a ningún título tierras o concesiones en las áreas de seguridad nacional ni en áreas protegidas, de acuerdo con la ley.*

<sup>25</sup> *Según la Ley de Seguridad Pública y del Estado, comprenden zonas de seguridad aquellas que están dentro de 20 kilómetros medidos desde los límites fronterizos hacia el interior de territorio nacional.*

In Panama, the constitution establishes the same prohibition within 10 km. of the border.<sup>26</sup> This limitation has an effect in Darien province where specific population known as persons under temporary humanitarian protection (THP) are living and now being recognized as residents of the country but with very limited access to land. Nevertheless, Temporarily Protected People (THP) people who have lived confined in host communities in the border area with Colombia (Darien province) for years are now facing other challenges in finally being able to formalize their contracts for land ownership in that region after law 356 provides them with permanent residence in this country.

Although laws in Ecuador and Panama do not discriminate against refugees or asylum seekers in terms of access to housing and land there is, nevertheless, a system unfavorable to the recognition and integration of refugees. This means that refugees and those classified as PNIP receive little or no state support for access to housing and land and thus exist in conditions of insecure tenure.

### **Access to HLP rights for Colombian refugees**

The difficulties experienced by Colombian refugee women and PNIPs should be understood within the overall context of access to housing and land in Ecuador and Panama. Those fleeing the conflict in Colombia arrive in an already challenging HLP situation.

The majority of refugees and asylum seekers arrive in urban areas. In Panama, most Colombian families reside in the metropolitan areas of Panama City and Colón, as well as in the province of Darién and the Comarca de Guna Yala. Colombian refugees experience persistently high levels of poverty and government neglect despite being in a country with robust economic growth. In addition, in Panama, most PNIP who live in urban areas close to Panama City or Colon face challenges of limited space, violence and overcrowded accommodation.

For Colombians who settle in urban areas of Panama and Ecuador, rental accommodation is the most accessible form of housing. However they face problems finding rental accommodation and it is generally of poor quality – often damp, run-down and overcrowded. In Ecuador, refugees are unable to afford flats or houses and most rent single rooms for under \$80 a month. At times, more than one family shares a room. Most Colombians live in temporary accommodation, moving up to four times a year with resultant stress. People who cannot find a home or cannot pay rent have to live in informal settings or squat. Some rent properties in semi-urban areas and slums around the city, despite the risk of eviction. The majority of landlords request additional guarantees (higher deposits) from Colombian residents if they are not able to pay their rent on time. The lack of written tenancy agreements, combined with Colombian's lack of

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<sup>26</sup> *ARTICULO 291. Las personas naturales o jurídicas extranjeras y las nacionales cuyo capital sea extranjero, en todo o en parte, no podrán adquirir la propiedad de tierras nacionales o particulares situadas a menos de diez kilómetros de las fronteras.*

knowledge of their rights increases their risks of being forcibly evicted by the landlord without any recourse to legal remedy.

Lack of financial resources also 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 cities but prefer Ecuador's rural areas. Access to land is particularly important in rural areas both for dwelling and for livelihood especially in the provinces of Carchi and Esmeraldas in Ecuador, where many 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.

The main HLP challenges for Colombian refugees in Ecuador and Panama are:

- PNIPs are not integrated in social housing programs. In Ecuador it is not possible to use refugee documents to register for social assistance. In Panama, social programs from the ministry of housing exclude PNIPs.
- Lack of formal rental agreements or land title documentation puts PNIP at risk of evictions and exploitation from host communities. NRC research found that in Darien y Guna Yala in Panama the vast majority of properties used or owned by PNIPs are based in oral agreements with the local authorities or national owners, thus leaving the buyer without legal protection in case of dispute.
- In Panama Colombians granted temporary humanitarian protection (THP)<sup>27</sup> lived confined in host communities in the border area with Colombia (Darien province) for many years. Since the enactment of a new law granting them permanent residence, they still face additional challenges when they attempt to formalize their land documents.
- Refugees and PNIP have limited access to formal credit providers in the banking sector in order to benefit from housing grants. This reduces their purchasing capacity, preventing them from owning HLP.
- There is a general lack of understanding among this population in both countries regarding their legal rights; specifically in HLP rights and protection against illegal evictions. As an example in Darien Panama, communities had no access to mobility for years resulting in the total lack of knowledge on procedures to acquire land or housings or on how to regularize their titles towards the National Land Administration Unit (ANATI).

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<sup>27</sup> *This group were not granted refugee status but were accorded temporary humanitarian protection (THP), a status that allowed them to live in this area but restricted their mobility or right to seek employment.*

- Very few asylum seekers leave Colombia with sufficient funds to afford quality housing. Major challenges result from the prohibition or the obstacles for asylum seekers to work both in Panama and Ecuador taking away any possibility of regular, legal income-generating activity in order to guarantee security of tenure. Access to HLP is linked to lack of livelihoods and low purchasing capacity, despite the fact that many refugees have been settled in these countries for years. Many refugees and PNIP find work in the informal economy, lacking job security and social security benefits. Women in particular are affected by challenges in finding work. For example, Colombian refugee women in Quito reported that they are in domestic service but are poorly treated, badly paid, abused and threatened with deportation if they complain. This has implications for their ability to pay rent and thus increases their risk of eviction.

In both countries state social housing programs prioritize nationals and bank credits or loans for the purchase of housing or land are denied to refugees. Lack of access to employment in the formal sector also prevents PNIPs from owning property. This, combined with to public officials' lack of knowledge of the legal requirement to prioritize this group for housing assistance, restrictively affects the exercise of refugees and PNIP rights.

### **Specific challenges facing Colombian refugee women**

NRC's research has found that Colombian women face a range of social, psychological, cultural and economic difficulties in exercising HLP. Lack of HLP rights undermines lasting solutions to displacement and exacerbates protection risks. Many Colombian women bear the psychological consequences of the violence which forced them to leave their place of origin and some, particularly single women and mothers, reported fear of going out and meeting other Colombians.

The main challenges for security of tenure for displaced women that NRC has identified mainly stem from multiple discrimination against Colombian women refugees, leading to their increased risk of eviction:

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 and gender. This discrimination is even greater towards single mothers with young children. They have to deal with strong stereotypes of Colombian women as prostitutes and reluctance from house owners to have them as tenants.

NRC's research found that discrimination against Colombian women was cited as a basis for higher rent, increased deposits and less formalization of rental contracts. 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 return of deposits when they left properties but were afraid to seek redress for fear of coming into contact with the authorities, losing their refugee documentation or otherwise having to leave the country. 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.

In Panama the threat of eviction is also a problem in privately owned accommodation for people who are unable to pay the rent according to deadlines these evictions can lead to situations of homelessness. In some cases, the person who evicts the refugee or threaten to do so is the spouse, partner or a relative of the person affected; a situation that particularly affects married women or those in partnership with nationals. Those situations lead to the woman being forced to tolerate situations of domestic violence or physical abuse since she has no place else to live.

The prohibition on foreign nationals purchasing land in areas adjacent to borders affects Colombian refugees settling in these areas affect women refugees differently. Those who have exceptionally been able to purchase land in these areas have done so by putting the property in the name of their Ecuadorean husband, which means that their access to this land depends on their relationship with their husband – upon death or divorce they risk losing this asset.

### **Supporting Colombian refugee women and PNIP security of tenure**

Based on NRC's understanding of the main difficulties facing Colombian refugee women, the following initiatives have been established in Panama and Ecuador and serve to show the different programmatic dimensions that can lead to improved security of tenure, not only for Colombian refugee women, but for their families and host communities. In this sense the examples demonstrate a holistic approach to securing HLP rights.

### **Registering Colombian women's land title in border areas**

Sixty per cent of the residents of the 9 de Octubre neighborhood of Lago Agrio in the eastern Sucumbíos province are Colombian PNIP. The *barrio* is located in the 20 kilometer- wide zone near the border where foreigners are not allowed to acquire land or other property.

NRC's engagement with the community began when staff were approached by a Colombian indigenous family who for 20 years had worked a piece of land given them by an Ecuadorian, but without any documentation. The family sought help after leaders of the host community began threatening them with

eviction. In the course of field visits, NRC learned of another dozen Colombia families, mostly women-headed households with an Ecuadorian partner, in a similar situation.

NRC staff undertook a series of mediation visits to discuss the cases with host community leaders and tensions gradually eased. The first step was to provide legal assistance to the host community leader to register his own property in order to promote good relations between the two communities; with the result that the host community stopped threatening the Colombian families. The provision of legal information and counseling for all those involved was also vital to enable the Colombians, some of whom were not literate, to better understand their rights. It was an important step in the empowerment of women within the community.

NRC sought to include the families within a scheme launched by the agriculture ministry to grant title to *tierras baldias* (uncultivated, fallow land) to families who had worked land for more than five years. The law specifically incorporates a gender component into the titling process. Colombians living with an Ecuadorian spouse or partner or with children born in Ecuador are entitled to gain formal title. NRC gathered evidence, in consultation with the original landowners, to present proof to the local authorities that the Colombian families had indeed worked the land for many years. This involved in some cases identifying and making contact with Ecuadorians who had moved to other distant parts of the country.

This initiative specifically addresses one of the main challenges for Colombian women refugees and PNIP identified through NRC's research in Ecuador and Panama. When Colombian women register land in the names of their husbands it makes their tenure security dependent on their relationship with a man – thus putting them at risk of losing their land in the event of divorce or their husband's death. It was also reported as a contributing factor for women staying in abusive relationships as they lack other alternatives for housing or livelihood. By registering the land owned in mixed families as joint family assets, women will retain rights to their part of the joint assets upon separation or divorce.

This initiative could be replicated in other areas, thus enabling Colombian PNIP with national partners or children to acquire formal title and develop secure agricultural livelihoods.

### **Supporting women-headed households to move from unsuitable living conditions in Ecuador**

The Association of Refugees and Immigrants from Colombia is an officially recognized organization with headquarters in the city of San Lorenzo, near the northern border with Colombia. It represents 133 households, of whom 70 per cent are PNPI and the remainder Ecuadorian citizens. The PNPI households are mostly female-headed and on average have three children. They live in deplorable conditions alongside a mangrove swamp on the outskirts of San Lorenzo. They have limited access to potable water

and no proper latrines. Their dwellings are both within an environment protection area and the 20 kilometer wide border zone in which foreigners are barred from owning property. They are thus at great risk of being evicted.

Seeking to find alternative land for its members, the association identified a large plot and collected \$9,000 towards the purchase cost. They found legal difficulties to be insurmountable and approached NRC. It became apparent that the seller of the land had not actually acquired formal title from the owner, the Ministerio de Agricultura, Ganadería, Acuacultura y Pesca (MAGAP). NRC is now seeking to expedite transfer of title from MAGAP to thus open the way for the refugee association to purchase the land. The experience has indicated the difficulties faced by extremely vulnerable refugee households, the majority of whom are women-headed households, who are unable to negotiate bureaucratic and legal obstacles without external support.

### **Empowering a women-led community association**

In the Nueva Esperanza barrio on the outskirts of the northern Ecuadorian city of Ibarra 98 families, sixty per cent of them PNIP and the rest bi-national or Ecuadorian, have collectively sought to improve their living conditions. Their charismatic leader is a 66 year-old Colombian refugee woman who has been living in Ecuador for a decade. For five years she has been mobilizing member households to pool their savings. Each household contributes \$5 per month and the association hopes to use the \$8,000 it has accumulated as surety to obtain a loan. NRC has assisted them to borrow \$70,000 to purchase a piece of land, paid for architects, urged the municipality to process building authorizations and liaised with a women's credit union.

NRC also brought architects to help the community to navigate the many bureaucratic obstacles to securing planning permission. The association also learned how to comply with requirements of Ecuadorian legislation concerning shared property, which facilitated by NRC by drafting the rules for organizing the joint property and mediating disputes. Regular meetings have led to agreements about such matters as garbage collection, regulations on pets and noise, dispute resolution procedures and obligations and responsibilities of the owners. NRC has moderated regular meetings of owners.

The success of the association has challenged the stereotype of refugees not being able to organize themselves to secure communal housing. The process has also empowered the community through the provision of legal assistance and advocacy which resulted in a successful challenge to initial decision by the municipality against the proposed housing development because of the common misunderstanding that Colombian refugees' don't qualify for social housing schemes. This was identified in NRC's research

in Ecuador and results from the type of visas held by Colombian refugees, which are classified as temporary resident visas. The project will now be replicated by NRC in other areas.

### **Advocating for refugees to have access to social housing grants – case study of *la mitad del mundo*” in Ecuador**

This case study illustrates difficulties for refugee and PNIP families to access social housing programs and grants for vulnerable households in host countries. NRC has been supporting seven families either Colombian PNIP or Colombians married with Ecuadorians who have purchased land for communal housing locality of “*la mitad del mundo*” on the outskirts of Quito.

As described earlier, even if the national constitution establishes that no discrimination should exist between refugees/PNIP and Ecuadorian nationals, there are several provisions of national and municipal laws that are not in conformity with this principle, or which are enforced in a discriminatory way. In Ecuador the “*bono de vivienda*” social program from the Ministry of Urban Development and Housing seeks to assist families with low incomes and other prioritized groups with a grant of 6000 USD to purchase housing.

Local municipal authorities have excluded refugees and asylum seekers from this program due to the fact their visa falls into the category of temporary residence (see previous example also) – applicants are required to have permanent residence in order to qualify. In practice, this designation of refugee visas as temporary results in discrimination for refugees. Furthermore, it also contravenes the constitutional provision that refugees should be considered as a prioritized group to benefit from social programs. Following a rejection by the municipality on this basis, the families approached the office of the ombudsman, but without the ability to document and present their case to the ombudsman, they received no response.

NRC is assisting the families by advocating with the refugee directorate to issue a certificate of residence to each of them and with the Ministry of Urban Housing and Development to accept this document to enable the holder to qualify for the grant. At the same time, NRC discovered that the land was still mortgaged until 2016; whereas to qualify for the housing grant the families had to own the land where the houses would be constructed.

NRC will follow up on this case to assist the families either to access social aid or if denied, assist the families to form a cooperative in order to obtain private credit from a cooperative or bank that works with social programs.

### **Assisting Colombians to secure land rights in Panama**



In 2002 indigenous and Afro-Colombians moved to Panama's Darien Province. They did not acquire refugee status but were accorded temporary humanitarian protection (THP), a status that allowed them to live in this area but restricted their mobility or right to seek employment. Those with THP status were previously not allowed to formally possess property but instead work land made available to them by host communities. However, new legislation in 2011 allowed them to obtain residence permits, which permit free movement within Panama and employment.

THP farmers indicated to NRC that they face multiple difficulties. They must often leave home for many days to work on land far from their dwellings and are required to first obtain permission from the authorities. Their land is of poor quality and they are only allowed to grow rice, yams and cassava. Lack of documentation makes it hard for them to move to reach markets to sell their produce. The few farmers who have obtained a degree of security have purchased land in the name of Panamanian families. NRC has helped these families by providing legal assistance to obtain formal title.

The case of Enilda highlights difficulties faced by refugees in Panama. She arrived in a community along the Tuira River in 2010 with her mother, her brothers and nephews. She bought a piece of land to start an inn and a shop but found the local magistrate provided documentation which did not specify the boundaries of the purchased land. A neighbor claimed the part of the land containing the shop was his property. His claim was supported by the magistrate. Relations with other neighbors deteriorated and she was reported to the police for not possessing a health card and for irregularities with her business license. Lacking a Panamanian national ID card, she was forced – like many Colombians – to ask a Panamanian to obtain a license on her behalf. NRC has started assisting Enilda to legally demarcate the extent of her property and to clarify her rights to operate her business.

### **Conclusion and recommendations:**

Recognizing refugee status is critical for HLP and other rights. However, the shrinking asylum space which results from a restrictive refugee definition and complex, lengthy application procedures means that the vast majority of Colombians are not granted refugee status in Ecuador and Panama. Those in the process of applying for refugee status face limitations in access to social housing programs and the ability to formalize land purchases despite having documentation authorizing their presence in guaranteeing they will not be forcibly returned (*refouled*). Those who have been denied refugee status exist in the informal economy, marginalized in many aspects of their lives including access to HLP – at risk of forced eviction.

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 national law in both countries, which stipulates that refugees and asylum seekers are a population group that should receive prioritized 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. The study concludes that access to housing and land is crucial for local integration, which is the most viable lasting solution for refugees and PNIP in Panama and Ecuador.

By providing examples of ways in which humanitarian programs can support Colombian refugee women, NRC is able to make important advances in supporting women's longer-term stability in displacement. There is increasing recognition of the ways in which international organization's support for refugees can be improved to make a much more significant impact on women's equality in the longer term. The cost of failing to address the challenges for women is high. With this in mind, supporting women's HLP rights represents an opportunity to strengthen the links between humanitarian responses and to set the framework for integration of refugees and broader development in the region.

Through the NRC's research on Colombian women's challenges for access to land in host countries, and program experience of tackling some of these challenges, NRC recommends the following practical ways to support Colombian refugee women in the region.

1. Provide legal information and counseling on how PNIPs can access HLP rights, particularly in border areas where regulations are complex and risk of eviction and exploitation is high
2. Empower women to be able to liaise with community leaders
3. Ensure there are participatory mechanisms to reduce tensions with host communities and promote coexistence
4. Seek alternative means to provide credit for women, including establishing women's cooperatives
5. Document good practices in order to reduce stereotypes and promoting instead refugee leadership
6. Advocate on behalf of refugees to be considered as a priorities for programs to incentivize land and property ownership for low-income families
7. Adjust programming to tackle real needs of women using legislations for example common law regulations that are favorable to women in Latin America in order to increase their capacity to own land or property (example of barrio 9 de October case)
8. Mount legal challenges to discriminatory practices which are not in accord with national legislation and international commitments

9. Urge host countries to change laws and administrative practices so as to allow asylum seekers to work during the process of refugee recognition, thus enabling them to generate legal income in order to ensure security of tenure and avoid evictions.