

United Nations High Commissioner for Refugees

Ecuador

We would like to bring your attention to the following excerpts of Treaty Body Concluding Observations and Special Procedure reports relating to issues of interest and concern to UNHCR with regards to Ecuador.

Treaty Body Concluding Observations

CAT/C/ECU/CO/3

8 February 2006

20. The Committee regrets the allegations that in deportation cases the rules of due process are not fully complied with, and that the functioning of the machinery to prevent individuals from being placed at risk through return to their countries of origin is not fully guaranteed. It also regrets the inadequacy of the machinery to enable the migration authorities to check whether an individual runs the risk of torture by returning to his or her country of origin (arts. 3 and 6).

The State party should adopt administrative measures in all the country's police stations so as to guarantee respect for due process during deportation, especially the right to a defence, the presence of a diplomatic agent from the detainee's country and, in the case of refugees, the mandatory presence of UNHCR personnel. The Committee also recommends the organization of training programmes on international refugee law with emphasis on the content and scope of the principle of non-refoulement for migration police officers and administrative officials handling deportation procedures throughout the country.

CRC/C/15/Add.262

13 September 2005

63. The Committee notes with appreciation the efforts made by the State party in hosting an increasing number of asylum-seekers among which there is a significant number of children, including the steps taken in cooperation with the United Nations High Commissioner for Refugees in registering asylum-seekers and refugees and issuing new identification documents to both asylum-seekers and refugees.

64. The Committee recommends that the State party continue to strengthen its asylum policy, in particular to adopt legislative measures governing the treatment of unaccompanied and separated children. Furthermore, the Committee recommends that the State party strengthen its efforts to secure full access of all refugee and asylum-seeking children to education, health and other services. In this regard, the Committee recommends that the State party seek international cooperation with and assistance from, inter alia, the United Nations High Commissioner for Refugees and the United Nations Educational, Scientific and Cultural Organization.

Internal/external displacement

65. *The Committee expresses its concern at the high number of people, among which a significant number of children, who are victims of violence and displacement, which are to a significant degree a consequence of Plan Colombia.*

66. *The Committee recommends that the State party undertake all necessary measures to reduce the negative impacts of Plan Colombia on the population, to ensure the respect of the rights of the children and to provide all victims with assistance for recovery.*

CERD/C/62/CO/2

2 June 2003

4. *The Committee welcomes the adoption of several action plans within the framework of the State party's National Human Rights Plan, in particular those on the rights of black persons and on the rights of foreigners, migrants, refugees and stateless and displaced persons, as well as the State party's efforts to promote the adoption of other action plans, in particular on the rights of indigenous peoples.*

CCPR/C/79/Add.92

18 August 1998

18. *The Committee is concerned that the births of children born in Ecuador to undocumented refugees are frequently not registered due to the parents' fear of deportation. This situation prevents the children from claiming Ecuadorian nationality, to which any child born in Ecuador is entitled under Ecuadorian law.*

Special Procedure Reports

SPECIFIC GROUPS AND INDIVIDUALS: MIGRANT WORKERS

Report prepared by Ms. Gabriela Rodríguez Pizarro, Special Rapporteur, in pursuance of resolution 2001/52, Addendum, Mission to Ecuador*

E/CN.4/2002/94/Add.1

18 February 2002

80. *The Special Rapporteur deems it important to examine appropriate legislative reforms, as referred to in the Operational Plan relating to the Human Rights of Migrants, Foreigners and Refugees, to bring national standards into line with the commitments entered into by Ecuador in the field of human rights. In particular, she considers that the Migration Act should be revised to ensure that it does not contain discriminatory criteria which exclude foreigners. She also believes that consideration should be given to introducing legislative reforms so that deportation orders are subject to administrative or judicial review and that victims of smuggling on Ecuadorian territory are not penalized. Lastly, she is of the view that Ecuador should seek solutions to the situation of foreign migrants who remain in*

detention after serving their sentences, although their release has been ordered, because lack of money is delaying their deportation.

81. The Special Rapporteur notes with concern the situation of illegal migrants in Ecuador and indigenous migrants in the cities, who suffer stigmatization, discrimination and xenophobia, and recommends that Ecuador should put into effect the provisions agreed at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in order to address this problem in the country. In that regard, she deems it important that the State should guarantee migrants who have no papers access to basic educational and health services without discrimination. She also welcomes the agreements reached under the Operational Plan relating to the Human Rights of Migrants, Foreigners and Refugees for efforts to carry out training, publicity and awareness creation among the population concerning the rights of migrants, foreigners and refugees, and recommends their implementation.

**APPLICATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

Report of the Working Group on Arbitrary Detention

Chairperson-Rapporteur: Ms. Leïla ZERROUGUI, MISSION TO ECUADOR*

A/HRC/4/40/Add.2

26 October 2006

94. The Working Group met various immigrants awaiting deportation who had no documentation or funds with which to return to their countries by their own means. At least 147 asylum-seekers or applicants for refugee status were detained in 2005. In accordance with article 9 of the Migration Act, convicted foreigners must be detained with a view to their deportation once their sentences are served, even if a release order has been issued in the criminal procedure. In addition, foreigners who are stateless, who cannot prove their identity or nationality or who do not have the funds to return to their countries of origin once their status becomes illegal may be held in detention for up to three years. After the three years in detention, they are permitted to remain in the country on a temporary basis.

95. Article 30 of the Migration Act establishes that the deportation order is not subject to any judicial or administrative appeal or review. The Constitutional Court has ruled that this provision is unconstitutional, but the Supreme Court has deemed that the Constitutional Court was not competent to issue such a ruling. This has exacerbated the situation of immigrants who do not have the funds with which to return to their countries and who are subject to a deportation order.

**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”
Report of the Special Rapporteur on the situation of human rights and
fundamental freedoms of indigenous people, Rodolfo Stavenhagen
MISSION TO ECUADOR**

**A/HRC/4/32/Add.2
28 December 2006**

87. The Special Rapporteur recommends that the Ecuadorian Government draw up and apply an emergency plan (in consultation with the region’s indigenous peoples) on the critical situation of indigenous border communities (particularly the Awá), as a result of the impact of the internal conflict in Colombia, illicit drug production and trafficking activities, environmental degradation, the influx of indigenous refugees from Colombia and the situation of violence and insecurity in the area. Concessions granted to oil and mining companies must be reviewed. The State must shape public policies aimed at protecting the various sectors, peoples and communities who live on the northern border, with their full participation, including the right to free, prior and informed consultation.

- End of excerpts -

**Protection Operation and Legal Advice Section
Division of International Protection Services
UNHCR
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