

**Submission by the United Nations High Commissioner for Refugees**  
**For the Office of the High Commissioner for Human Rights' Compilation Report**  
**- Universal Periodic Review -**

**PERU**

**I. Background Information**

Peru is a State Party to the *1951 Convention relating to the Status of Refugees and its 1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). Peru applies the regional refugee definition envisaged in the *Cartagena Declaration on Refugees* (1984).

Peru's national legal framework dealing with refugee protection is primarily contained in Refugee Law No. 27891 and its complementary regulations. The Refugee Law established the Special Commission for Refugees (CEPR) to receive, examine, process and decide on refugee claims. Applications can be channeled through UNHCR, but can equally be submitted directly at airports, ports or police stations. In the latter case, the Ministry of Interior should refer these cases to the CEPR within 15 days.

By the end of 2011, Peru hosted 1,144 recognized refugees and 494 asylum-seekers, who were awaiting a first-instance decision of the refugee status determination (RSD) procedure. Of the 494 asylum-seekers, 466 persons applied for asylum during 2011. Of the total number of refugees, approximately 52% are of Cuban origin; 27% are of Colombian origin; and the rest are from Africa, the Middle East and South America.

Peru has not implemented legal mechanisms to address the protection and assistance needs of persons in need of international protection who cannot be considered refugees under the conventional or regional definitions, including persons fleeing the consequences of natural disasters, and who remain unable to return to their countries of origin.

Peru is not a State Party to the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness*.

The Government has demonstrated its commitment to refugee and statelessness issues, resulting in pledges formulated at the intergovernmental event to commemorate the 60th anniversary of the *1951 Convention relating to the Status of Refugees* and the 50th anniversary of the *1961 Convention on the Reduction of Statelessness* on 7-8 December 2011 in Geneva, Switzerland. During the event, the Government of Peru pledged to:

- 1) Accede to the *1954 Convention relating to the Status of Stateless Persons* and *1961 Convention on the Reduction of Statelessness*;
- 2) Promote the adoption/amendment of national legislation to ensure the implementation of international standards to prevent statelessness;
- 3) Facilitate asylum-seekers' and refugees' access to employment opportunities by establishing simplified procedures for the approval of labour contracts and the issuance of professional driver's licenses;
- 4) Ensure asylum-seekers' and refugees' access to public health services via the Universal Insurance Health System.

## **II. Achievements and positive developments**

Peru passed Refugee Law No. 27891, adopted in December 2002. Both the *1951 Convention* refugee definition and the regional refugee definition from the *Cartagena Declaration* are reflected in the law. In addition to establishing the CEPR to adjudicate asylum claims, the law establishes the Reviewing Commission for Refugee Issues to resolve appeals. The law also sets out regulations governing RSD procedures and applicable guidelines in cases of mass influx. Under the law, refugees who enter Peru as part of a mass influx are entitled to temporary protection for three months, though it can be extended for up to one year. The Government generally respects the following principles: a) *non-refoulement*, b) access to borders; and c) not imposing sanctions due to illegal entrance.

## **III. Challenges, constraints and recommendations**

### **Issue 1: Stateless persons**

Peru is not a State party to the *1954 Convention relating to the Status of Stateless Persons* or the *1961 Convention on the Reduction of Statelessness*. However, at UNHCR's Ministerial Meeting in 2011, the Government of Peru pledged to accede to both of these conventions and to regulate statelessness issues, which in practice would mean establishment a procedure by which stateless persons in the country may be identified.

Peruvian nationality legislation is generally in conformity with international standards but does lack some safeguards to prevent statelessness, including provisions to ensure that persons renouncing their nationality are prevented from doing so, unless they possess another nationality or have obtained assurances to that effect.

Accession to the *1954 Convention relating to the Status of Stateless Persons* is important because the Convention ensures minimum standards of treatment of stateless persons in respect to a number of fundamental rights. These include, but are not limited to, the right to identity and travel documents, administrative assistance, education, employment, housing, and public relief. The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth. An increase in the number of States Parties to these conventions is essential to strengthening international efforts to prevent and reduce statelessness.

Recommendation:

UNHCR looks forward to the implementation of the pledges made by Peru in relation to statelessness during the UNHCR Ministerial Meeting in December 2011. In addition, Peru is encouraged to review its legislation to bring it fully in line with international standards contained in the 1961 Statelessness Convention.

**Issue 2: Rights of asylum-seekers and refugees**

Despite the efforts made by the CEPR, asylum-seekers and refugees continue facing obstacles in fully exercising their right to work. Refugees and asylum-seekers residing in Peru are mainly employed in the informal market as they encounter difficulties in obtaining the tributary codes (Registro Único de Contribuyentes-RUC) that would allow them to work independently. The validation of professional degrees obtained abroad is another barrier to the full enjoyment of refugees' right to work.

Additionally, asylum-seekers are excluded from the Universal Health Insurance System (*Sistema de Aseguramiento Universal en Salud*), a public health program addressed to persons that do not benefit from private health insurance, because their temporary documents are not recognized as valid for enrollment in the program. Although the regulations permit enrollment if refugees present their residence identity cards, in practice, refugees face significant difficulty in enrolling due to lack of knowledge of this regulations.

UNHCR is also concerned about the situation of elderly refugees who have been residing in Peru for many years and who have no access to social security programs.

Recommendation:

UNHCR welcomes the recent initiatives by the Government of Peru and encourages Peru to conclude its efforts to include refugees and asylum-seekers in the Universal Health Insurance System and other social programs that would facilitate their local integration and access to health care.

**Issue 3: Child Asylum-Seekers**

Cases of unaccompanied and separated children (UASC) are dealt with on an *ad hoc* basis. The introduction of child-friendly RSD procedures and coordination mechanisms would ensure the appropriate referral of these children to the national child protection system, and the adequate legal representation before the RSD procedure.

Recommendation:

UNHCR encourages the Government of Peru to apply UNHCR's Guidelines on International Protection on Child Asylum Claims issued on 22 December 2009<sup>1</sup>, which offer substantive and procedural guidance on carrying out RSD in a child-sensitive manner.

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<sup>1</sup> UN High Commissioner for Refugees, Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08, available at: <http://www.unhcr.org/refworld/docid/4b2f4f6d2.html>.

#### **Issue 4: Human Trafficking**

The situation of asylum-seekers and refugees make them, particularly refugee women, especially vulnerable to human trafficking for sexual exploitation. However, there are no special mechanisms in place to identify victims of trafficking, who are in need of international protection and to refer them to the asylum procedures.

#### Recommendation:

UNHCR recommends the Government of Peru to establish a system to identify victims of trafficking and to refer them to the RSD procedure.

#### **Issue 5: Complementary Forms of Protection**

Peru has not established complementary forms of protection or humanitarian statuses to address the situation of persons in need of international protection that do not necessarily fall under the refugee definition, such as persons fleeing the consequences of natural disasters who are unable to return to their countries of origin, or persons protected against *refoulement* by Article 22.8 of the Inter American Convention on Human Rights and Article 3 of the Convention Against Torture.

However, on 23 April 2012 a draft law promoting the amendment of the migratory legislation to incorporate the humanitarian migratory criteria was formally presented before Congress. The proposal seeks to facilitate a legal response to the situation of persons in need of international protection who otherwise do not qualify as refugees, such as stateless persons, victims of trafficking and persons unable or unwilling to return to their countries of origin as a consequence of the adverse effects of natural disasters.

#### Recommendation:

UNHCR welcomes the recent draft law that establishes complementary forms of protection for persons in need of international protection that do not fall under the refugee definition and encourages the Congress of Peru to adopt it.

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