

Ecuador, regionalization of the Colombian conflict, borders, immigration and refugees

Last October's electoral results in Ecuador have opened up a scenario that offers interesting prospects for confronting the countless challenges related to the problems of refugees and the impact in Ecuador of the Colombian conflict. Even before the new administration took office, new government measures had been announced in relation to policies on borders, refugees and immigration to be implemented by the Ecuadorian state. In this sense, the Ecuadorian government's discourse has distanced itself from the inflammatory declarations that, during the electoral campaign, proposed an Ecuadorian alignment with Plan Colombia, renovation of the agreement for US use of a military base in Manta, prioritization of a security perspective for approaching the humanitarian aspects of the refuge problem and, consequently, the possibility of increasing the notorious militarization already existing along Ecuador's northern border.

President Rafael Correa's government has given some favorable indications on his policies on borders, migration, asylum and refugees. In spite of the agreement recently subscribed with Chile in relation to maritime limits with Peru, interpreted by this country as harmful to its interests, attempts were made to implement policies of integration. Correa visited Lima as president-elect, and committed to working on a common agenda with Peru, which would include among others points power integration allowing Ecuador to refine its petroleum in Peru, fighting against contraband fuel, which has a major impact in Peru's border cities like Tumbes and Piura, relaunching of the Binational Plan with financing offered by European countries and its extension until 2019 and, as a centerpiece, respect for the rights of Peruvian migrant employees who work in Ecuador.

Concerning this latter point, and in relation to immigration policy, it should be recalled that the first stage in the "Agreement to regularize the labor and immigration situation of Ecuadorian and Peruvian nationals in the extended border integration region" was executed through May 10th. This agreement was expected to benefit mainly Peruvian migrant workers from the provinces of El Oro, Loja, Zamora Chinchipe, Morona Santiago, Orellana, Pastaza, Sucumbíos, Napo, Azuay and Cañar. The process was concluded with little success, although there are suggestion to implement a second stage to run through October.

In another area, bilateral relations with Colombia have swiftly deteriorated over recent years as a result of the impacts on Ecuador of Plan Colombia's application and the regionalization of the Colombian conflict. Between November 2005 and December 2006 the Ecuadorian chancellery issued eight formal protests to its Colombian peer

because of the numerous problems along the common border.¹ This crisis has been exacerbated since December 2006, mainly related to the resumption of interdiction flights and the employment of glyphosate along the common border, although Colombia committed to suspending such air spraying in the agreements subscribed by both governments in 2005. The recall of ambassadors in Quito and Bogota led to the highest point of diplomatic tension. But overflights were resumed on numerous occasions and Ecuador undertook action to bring a case before The Hague International Court. In a new protest note issued in February, the Ecuadorian government argued that air spraying "causes displacements within Ecuador, as well as the mobilization of Colombian citizens who enter Ecuadorian territory seeking to protect themselves" A recent Colombian approach was made by chancellor Fernando Araújo, who indicated that henceforth Colombia would carry out only manual eradication, committing itself to indemnify those possibly affected. Coincidentally, this about-face took place within the context of an increasing lack of credibility for the Colombian administration vis-à-vis the international community, to a great extent triggered by the "para-policy" scandal, now fed by the signals that demobilized paramilitary leaders are making against congressmen and government officials in their open public hearings in which the paramilitary declare having demobilized, which took place as part of the process initiated with the signing of the Ralito Agreements in 2004.

In another area, April 24th saw presentation of what is being called a Plan Ecuador. This is an integral border development plan that will be implemented in four-year stages through 2018. Some months ago there had been a first isolated announcement offering regularization for some 500.000 Colombians who live in Ecuador. In the words of President Rafael Correa, this plan is an attempt, "to promote a process of peace, integral security and well-being focusing on the border population" and is an "alternative of peace, fairness and development in response to the militaristic, violence-oriented Plan Colombia", emphasizing, "there are no human beings who are illegal, but rather practices that are illegal, diseased and violent." This Plan anticipates an initial investment along the border area of 135 million dollars from the Ecuadorian government, with the intention of adding specific contributions from the international community for another 135 million. This will be used to enhance the state's presence by investment in health, education and training, among other areas, and the implementation of productive projects that would allow generating employment in the area. This Plan Ecuador would benefit the Ecuadorian population in the Esmeraldas, Carchi and Sucumbíos border provinces as well as the Colombian

¹The reasons for protest notes are various: Colombian incursions of military airships in Ecuadorian territory, the entry of eight thousand Colombian into Ecuador in November 2005, the death of Ecuadorians at the hands of Colombian agents in Ecuadorian and Colombian territory on repeated occasions and the unsubstantiated accusations by the Colombian army's General Staff on the presence of FARC commandos in Ecuadorian territory, among others.

population inhabiting this region. In this context, the recognition of refugee status for the Colombian refugees or the regularization of their immigration status would be alternatives for broadening protection for this population.

One thing certain is that application of this Plan Ecuador is an attempt to confront a crisis that has deepened and now exceeds the Ecuadorian state's capacity for attention; only with implementation of this Plan has a state policy been formulated for attention to the humanitarian crisis that has been ongoing in the northern provinces for years. It should be noted that to date the US government has destined more than 4 billion dollars for military aid since the beginnings of Plan Colombia.

On the other hand the UNHCR has already issued pronouncements on the need to relocate Colombian refugees in Ecuador and Costa Rica. To further this end, agreements have already been signed with Argentina, Chile, Brazil, with an agreement with Uruguay expected in the near term, followed by one with Paraguay. UNHCR and Ecuadorian officials have already indicated that as a result of the massive influx of Colombians refugees, there have been massive internal displacements of the Ecuadorian population. Ecuador now recognizes something less than 15.000 refugees; while UNHCR estimates this population as around 250.000 Colombians altogether.

Colombian refugee population in Ecuador

It is estimated that a total of 600,000 Colombians moved to Ecuador between the years 2000 and 2006; of this total, approximately 40% fled from the overall violence in Colombia,² seeking greater guarantees in Ecuador that would allow protecting their lives and personal integrity. Through September 2006, 41.820 people had officially requested asylum. Of these, 13.041 are known to have been recognized until now. National security considerations in recent years restricted the recognition of many actual applicants needing international protection. There remains a large proportion of potential cases in Ecuador, effectively barred from returning to Colombia due to the violence or lack of security in their former communities, but they maintain a low profile due to a number of reasons, with the most important being considerations for their own safety, ignorance of their rights as a population needing international protection, ignorance of the asylum request proceeding, are.

In addition we must indicate that the lack of information and knowledge on refugee procedures and the rights of refugee populations also has a similarly relevant impact when we consider border officials or the Ecuadorian population already living in this areas. This brings about three immediate consequences:

² Figures suggested by the Cartagena Declaration (1984) with respect to the broad definition of refugee found in Chapter 1, article 2, of the Refugee Statute's Regulations for Application in Ecuador, indicating, among others reasons, "(...) those people who have fled because their life, safety or freedom has been threatened by the generalized violence (...) shall be considered as refugees in Ecuador "

- Restriction of effective access for those persons who could potentially be subject to international protection.
- It exposes the refugee population to controls and sanctions, to the extent to which they may be confused with irregular economic migrants and, for that reason, subject to controls and penalties that impair their protection needs and the no-penalty and no-return principles contemplated in Ecuadorian Law and the international agreements subscribed by Ecuador in matters of refugees and asylum.
- It exposes these persons to levels of insecurity and violence as they may be subject to exploitation, blackmail or other abuses in their attempts to work even without access to a visa, maintaining their irregular immigration status.

Added to this overall context is the political context prevailing in Ecuadorian-Colombian relations, the impact of Plan Colombia and the construction of a state discourse, amplified by the mass media fomenting the discrimination and exclusion of this Colombian population.

Colombian refugees are identified as causing the violence and delinquency that exists in Ecuador. They have also been stigmatized as responsible for the emigration of Ecuadorians abroad and the displacement of domestic manual labor. Due to their irregular immigration status and the hardships that they face, Colombian refugees make up an important component of cheap manual labor, which the Ecuadorian working population perceives as unfair competition in border areas with poor economies and few job opportunities. This feeds the different prejudices and partially negative perceptions present in the imagination of the local population, which gives rise to stigmatization and discrimination.

The official discourse as revealed through the mass media has managed to divide the sense of solidarity and collective participation in the community, stigmatizing and criminalizing Colombian refugees. This requires new arrivals to isolate themselves, creates obstacles for their labor insertion and gives rise to distrust, xenophobia and discrimination in the community. All of the foregoing is manifested in the daily life of people: an excluding personal treatment on the street, the relations between neighbors, the proceedings in public or private agencies, limitations in access to services, etc. All this makes the integration of Colombians in Ecuador difficult.

This framework of discrimination, which particularly affects the exercise of social and economic rights, also produces vulnerability in the enjoyment of civil rights, especially the right to physical integrity and freedom. Numerous violent manifestations of discrimination have recently taken place against refugees.

This behavior tends to be exacerbated in those districts receiving refugees, where there are no initiatives that would help to integrate the receiving population with those people needing protection in social, cultural, religious, community or productive aspects. All of the foregoing, generates the mobilization of civil society and Catholic Church institutions, seeking lasting solutions for integration. From the Church's experience and the information gathered by its pastors throughout the country, it is estimated that 85% of these people undergo different types of discrimination that makes their social integration process significantly difficult. In addition, the Regional Human Rights Consulting Foundation (INREDH) reports 591 legal cases of persons needing international protection taken care of between August 2004 and October 2005, with 90% reporting having faced discrimination processes in Ecuador. Most reports of discrimination are made in relation to the right to the work, following by discrimination in treatment and access to housing, education and health.

Containment activities and deportation proceedings have been implemented that have had a singular repercussion on the Colombian population. According to statistics from the National Immigration Police, in 2003 1.196 Colombian citizens were deported and in 2004 this figure rose to 2,687,³ with the main reason being that they were undocumented.

The adoption of sustained processes for deporting the Colombian population opens a field of vulnerability and risk to the no-return principle, because the only mechanism that is currently implemented is UNHCR and the Ministry of Foreign Relations' Refugee Office's certification of refugee status. However, as we have indicated, there is a broad range of people who through ignorance or fear have not registered with that office or have received a denial of refugee status from the State.

According to testimony from people deported in immigration proceedings, they were not provided defense counsel, nor were either their consular representative or UNHCR summoned. In some cases these people told local authorities of their fear to return to Colombia, but were ignored.

Immigration authorities have proceeded with immediate deportation towards the country of origin; when attempts were made to prove the need of their being deported to another country, it was argued that the order indicated by law had to be maintained; indicating difficulties in their acceptance on the part of other states. It was further indicated that, if applicable, those people would have to remain in detention until obtaining acceptance on the part of another State.

With respect to access to the procedures to request refugee status, there is an almost complete absence of specialized areas for consulting and sponsorship for appeals of those applicants denied at the first level. This is without even considering the lack of

³ Ecuador's National Immigration Police, Statistical Table of Colombian Citizens, 2003-2004.

motivation and other technical faults in eligibility procedure resolutions issued by the Ministry of Foreign Relations, which obviates access to due process, thus infringing constitutional norms and the principles of human rights and the right to asylum.

In spite of this having been structured so formal as to be practically a procedure that seeks to guarantee effective and just recognition, in practice it still demonstrates some vacuums and limitations, which are evidenced in the procedure's different stages from. Thus we have:

- a) Demanding documents such as judicial background, Andean card and authorization for minors as requirements to continue the proceeding in the Ministry of Foreign Relations' Refugee Office.
- b) Lack of documentation for applicants in provinces.
- c) Failure to deliver a copy of the asylum request as proof of its presentation.
- d) Absence of indicators in the request that would allow maintaining statistical records, especially on type of persecution and gender or sexual choice.
- e) Insufficient motivation in the resolutions denying asylum at the first level and those for cancellation.
- f) Nonexistence of an independent level for review and resolution of the appeal.
- g) Limitations in the application of UNHCR directives and the observation of international human rights standards.
- h) High percentage of asylum denials at the first level.
- i) Very low acceptance of appeal cases at the second level.
- j) Limitations in the judicialization of recognition process (judicial administrative actions) due to authorities' lack of awareness on asylum issues.
- k) Limited legal assistance for applicants at the first and second levels.

In view of the new dynamics in procedures that the Ministry of Foreign Relations is implementing starting from January 2007, that is to say, the responsibility to register and interview asylum applicants without support from civil society is presenting many challenges for the integral defense of refugees.

From all of the foregoing, we believe that a greater work of dissemination and training still remains pending, one that allows sensitizing both local authorities and the receiving population. In addition, this work must contribute towards reducing the gap between the 200.000 persons involved as identified by UNHCR and the mere 41.820 requests filed until now.

Another one of the conundrums of this combination of refugee problems is violations to civil, economic, social and cultural rights. Many of these violations arise from

Ecuador's very social and economic structure, which has generated for both Ecuadorians and foreigners a systematic process of violating their fundamental rights. The country posts high rate of unemployment and under-employment, poverty coupled with a higher cost of living and limitations in the budgets for public services, among others.

We believe that the continuous arrival of Colombian refugees under very precarious conditions results in humanitarian treatment for the Colombian population being a *sine qua non* necessity, particularly in reference to the coverage of basic services such as health and education. Nevertheless it is of the utmost priority that this task be undertaken in parallel with an appropriate strategy of sensitization and impact in coordination with Ecuadorian and Latin American organizations, so that lasting and solutions sustainable over time can be achieved in the health and education areas.

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