

AI INDEX: AMR 53/07/99

2 July 1999

Colombian refugees in Venezuela: Forcible return is a flagrant violation of national and international law

The Venezuelan authorities must carefully assess all requests for protection by anyone seeking asylum as a result of political violence, Amnesty International said following press reports that 700 Colombian refugees would be forcibly returned to their country.

“The Venezuelan authorities cannot simply set aside their international obligations towards the hundreds of refugees fleeing paramilitary killings and death threats in Colombia,” Amnesty International stressed.

“International law and Venezuela’s own constitution clearly recognize the right to asylum of anyone facing human rights violations. Not a single individual should be forced to return to Colombia until their asylum request has been carefully and impartially assessed.”

According to the press reports, a Venezuelan army general described the refugee’s return to Colombia as “imminent”, and it could possibly take place through the Venezuelan border town of Puerto Santander. Fears for their safety are extremely serious.

Despite this, 300 were reportedly returned in June without having their situation assessed in a full and fair asylum procedure, and at least 100 were forcibly returned after having sought help from independent human rights organizations to formally request asylum in Venezuela.

Amnesty International also expressed profound dismay at learning that their return was apparently jointly agreed by the Colombian and Venezuelan authorities without the participation of the United Nations High Commission for Refugees (UNHCR), and that efforts by UNHCR staff to assess the refugees’ situation were apparently blocked.

Under the principle of *non-refoulement* -- recognised by the international community as a norm of customary international law binding on all States and established in several treaties ratified by Venezuela -- Venezuela is obliged to ensure that no person is returned, directly or indirectly, to a country where they would face serious human rights violations.

Implicit in this obligation is the necessity to establish and ensure access to a satisfactory asylum procedure to identify those at risk. Such a procedure must include access to the UNHCR and provisions for an effective appeal against rejection of an asylum claim, whereby the person is allowed to stay in the country while the appeal takes place.

Furthermore, Venezuela -- together with other members of the Organization of American States (OAS) -- proposed the 1984 Cartagena Declaration on Refugees, and should therefore apply the broader definition of a “refugee” enshrined in this Declaration, which recommends that refugee

status be afforded to those who have fled their country because their lives, safety or freedom have been threatened by, among other things, generalized violence, internal conflicts, or massive human rights violations.

“By blatantly ignoring the rights of these people, the Venezuelan government has violated its commitments under the Cartagena Declaration, the UN Convention against Torture and Cruel, Inhuman or Degrading Treatment, the International Covenant on Civil and Political Rights, the UN Convention relating to the Status of Refugees and Article 116 of the country’s own constitution,” Amnesty International stressed.

Article 116 of Venezuela’s constitution recognizes “the right to asylum of any person who is the target of persecution or finds him or herself in danger for political reasons, and who fulfills the conditions and requirements established by domestic legislation and the standards of international law”.

Only three days ago, the UNHCR Executive Committee of EXCOM in Geneva said: "UNHCR has underlined in its demarches with the Government in Caracas -- as well as with the Colombian authorities -- the critical importance of upholding the fundamental principles of international protection. In this context... while UNHCR welcomes discussions amongst concerned States on the implications of cross-border movements, we should like to caution against States resorting to speedy and unsafe bilateral arrangements in response to the plight of Colombians fleeing violence."

Background

In May 1999, a 400-strong Colombian paramilitary force surrounded the rural district of La Gabarra, Norte de Santander department, near the border with Venezuela. The paramilitaries reportedly killed at least five local peasant farmers, threatened to attack the community and refused to let the inhabitants leave. The paramilitaries warned others, whom they detained and then released, that they were going to take control of the district and execute those they considered to be guerrilla sympathizers or collaborators. On 1 June a Colombian local ombudsman reported that the paramilitaries had killed up to 20 people and abducted a further 15. The paramilitary incursion was followed by clashes between Colombian security forces and guerrillas, which are continuing.

Since the start of the offensive by Colombian paramilitaries and security forces, some 3,700 Colombian men, women and children have fled across the border into Venezuela, in four separate waves. Those who crossed in the first three waves -- some 3,000 -- have already been returned to a part of Colombia where they are not in immediate danger. Most apparently returned voluntarily.

At the moment, some 700 refugees are currently held in a Venezuelan military post in the state of Zulia. They have apparently been denied access to human rights defenders and journalists. Amnesty International does not know whether they have had access to UNHCR staff. ENDS.../

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