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**“Analysis of the Collective Colombian refugee inclusion in Cuenca from the
Constitution of Montecristi in 2008”**

Final graduation project prior to obtaining the bachelor degree in International Studies with
a mention in Foreign Trade.

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DEDICATION

To my parents Galo and Mónica and to my brother Andy, for being the fundamental pillar in every step of my life; To Andrés my husband, friend and life partner, who has shown me that the perseverance is the first step to achieve the dreams.

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ABSTRACT

The mobilizations and movements of people around the world became a problem for States, so that the authorities in each country were in the need for laws and regulations to protect the lives of the people who were mobilized by various reasons either in groups or solitary. Within the history of the displaced and deployed worldwide, the most significant aspect comes after the Second World War, when the Nazi soldiers deported all ethnic, religious, political and social groups from Germany to Poland mainly as a means of repression becoming to the refugees in priority groups for International Organizations, which took place international conventions to which they were discussed and accepted new legal guidelines leading to conceptualize the term refugee worldwide.

Today, there are still refugees in the world, but the laws and regulations of each State shall protect and safeguard their life and the life of their family, in our country the rules are vital because they offer refugees the same duties and rights as citizens, giving them the ability to look for a job, protecting its integrity, while ensuring decent and legal wages and including them in our society.

According to data from the Ministry of Human Mobility, the most population of refugees in our country, are Colombians. In the city of Cuenca this group has managed to adapt to our culture and customs, managing to establish friendly, supportive and trade ties, overcoming prejudice and rejection of those who were victims.

INTRODUCTION

The migratory flows are a constant in the development of mankind, from pre-historic times, men and their communities have been mobilized for various situations, they have established roots and it contribute in the majority of the cases in a positive way to the territories to which have migrated, creating relationships between peoples, employment opportunities, trading of goods and services, solidarity and protection, and others else.

Now a days, due to increased human mobility rates in the world, it has generated several International Instruments, which are based on the Universal Declaration of Human Rights¹ shelter and protect people who are vulnerable because they have left their territory and their State reject to protect them. It is of our interest and subject of this thesis, know about the special protection of shelter to the individuals and groups who have founded fears where their life is in danger; in this case of study, it is about the situation of the Colombian population displaced to Ecuador.

The world and the whole society should be organized to protect the weakest people, that is why the Public International Law in conjunction with different Institutions have generated three branches with humanitarian inspiration: The International Law of Human Rights, The International Humanitarian Law and the International Refugee Law, is in the last one on which we focus.

The reality of our country guarantees the solidarity of the people; it is why the American continent and especially Ecuador has become the destination of the refugees who are looking to find their lives in peace. The Colombian citizens take as their first choice our country, the strongest factor is the geographic location, followed by the dollarized monetary system and the simplicity of crossing the border, because it is open and unrestricted. The Republic of Colombia has endured for decades conflict by the presence of various armed groups, including guerrillas, drug dealers, armies, militiamen, common violence, and others else, that brings different and terrible consequences that endanger the lives and the integrity of human beings, so that, Ecuador is obliged to receive and protect the victims of these

¹ Publicación de las Naciones Unidas, 10 de diciembre de 1948.

conflicts and to give access to refugee claims of Colombian citizens. Our Constitution provides an explicitly protection to these individuals and groups of priority attention.

Since 2008 from the Constitution of Montecristi, which was accepted democratically by a referendum, it has facilitated the recognition of refugees in our country that has enabled them to settle in large number in the city of Cuenca.

Therefore, it is important to know what are the advantages and disadvantages of the presence of this group in our city, their roles and job opportunities have been presented to them or the positions they hold. And, knowing what is the mind of cuencanos who share living in partnership with Colombians.

CHAPTER I: GENERALITIES AND MEANINGS.

1.1 Basic Concepts and Notions

According to the events that occur worldwide as wars, armed conflicts, guerrilla, political meanings or different ideological thoughts, there are people who have had to change their lifestyle, varying the way of their life, even the place where they live. Despite talking about a world without barriers, without borders and freedom, it is an ideal that has not yet been managed entirely due to several differences in thoughts and in the vision of people, on ideologies and religions, and the diverse cultures around the world. This means a major obstacle to achieve the peace in the world, for this reason there is a need to move between countries.

It is important to be fully aware of the meanings of some words and phrases that are used throughout this work, for which it is necessary to conceptualize those meanings understanding the thesis theme. Below, some vocabulary words will be explained, and then those words will be used throughout this text.

The word Refuge comes from the Latin “*refugium*”, it means asylum, and the latin root “*fugio*” that means “*run away, escape, avoid*”;² therefore, it used to be meant as “*action of going back*”³ and also “*been in a protected place where a person is retired going backwards ... with this lexical words, there also exist words like run, fugitive escape, fleeting, fugitive ...*”⁴. The law about the refuge considers that could give this protection to a group of people or it can be applied to a single person that for several reasons, primarily because of the persecution, they have had to leave the boundaries of their state and seek support in foreign lands. The Convention relating to the Statute of Refugees, was produced at Geneva on July 28, 1951 (which was initially applied to people who become refugees as a result of events occurring before January 1, 1951) and later I will refer to all the people who deserve international protection and therefore beneficiaries of the Status of Refugees with the following quote:

² Echaury, Eustaquio. Diccionario Manual Latino – Español, séptima edición. Publicaciones y Ediciones Spes.

³ <http://etimologias.dechile.net/?refugio>; (Consulta realizada el 19 de junio de 2015); Etimología de Refugio.

⁴ <http://etimologias.dechile.net/?refugio>; (Consulta realizada el 19 de junio de 2015); Etimología de Refugio.

*"Due to founded fears of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, a person is located outside of the nationality country and being unable or, owing to those fears, is unwilling to avail himself of the protection of that country; or who, lacking a nationality and being outside of the country where was the usual residence, is unable or, owing to such fears, is unwilling to return to it "*⁵

The word refuge and its concept will be used to approach the study of this work; however it is important to know some other concepts that are often confused like synonyms of Refuge.

The next concept to differentiate is **Exile**, usually this term is mistaken with the meaning of refuge. According to the Royal Academy of the Spanish Language, the term Exil comes from the Latin “*exilté*” and it is defined as “the separation of a person from the own land”.⁶ On the Politics Encyclopedia wrote by Rodrigo Borja Cevallos, who establish the difference between a refugee and exile, and the principal difference is that a refugee is looking for shelter by their own choice because the several fears they have, meanwhile the exile has been expelled.

So, it is said that an exile is a person who either voluntarily or forcibly had to leave their place of residence, or is usually due to political reasons; there are some authors that use this term as a form of punishment for the person who has achieved an exile.

It is important to know that there is an external exile and an internal exile, the external exile is the way out of a person or a group of people from their place of residence, and usually occurs in the political field, because a person lack the laws of the State and it is the State itself who punish and demand a person to leave. The internal exile occurs when a person decide to stay in his country but must stay out of the laws and rules that the State indicate; in this type of exile we find the case of people like politicians, filmmakers, writers or poets that, according to the differences of thoughts they are who exclude themselves to the society.

⁵ <http://www.acnur.org/t3/a-quien-ayuda/refugiados/quien-es-un-refugiado/> (consulta 27 de abril de 2014); Alto Comisionado de las Naciones Unidas para los Refugiados)

⁶ <http://lema.rae.es/drae/?val=refugio> (consulta 3 de agosto); Real Academia Española.

There exists an example of external exile, it is the case of the political Victor Raúl Haya de la Torre, who began his political career in the National University of Trujillo, he started being the President of the Federation of Students, where he struggled to get 8 hours of labor work. At this time as president of the Student Federation, he led several protests against the government of President Augusto Leguía, who spent several years in power. After several years and with all the protests he led, he also formed links with students and workers, and traveled to Mexico where he founded and became leader of the party "American Popular Revolutionary Alliance" which allowed him to return to Peru and initiate a coup to the government of Manuel Odria, who denied the safe - conduct to Victor Raúl Haya de la Torres to go out of the country, he needed the support of the embassy of Colombia in Lima, where he lived and it became home for the next five years.

The antonym word of exile is **Asylum**. The word asylum has very similar characteristics to the refuge, but when a person requests it for political reasons, the asylum is granted. According to the Royal Academy of the Spanish Language the definition of asylum is "*Protection, shelter, support.*"⁷ A person who has been exiled from his country, either mandatory or voluntary, could have the access to asylum. The embassies of each country offer the ability to protect a citizen within its premises, a person who has made mistakes, usually politicians, even a person may escape to own country and stay in foreign territory under the right of asylum. Each State has the option to entrust or not the right of asylum to an individual, there are places where applicants are required to certain conditions, such as sanitary; the State may refuse this request, arguing for example that the person requesting this right can be a person unfit to be considered as an applicant for asylum. Within this category are some political agitators; likewise it is possible to grant a temporary residence in which the applicant for asylum must achieve some conditions to access to this temporal time, this form of asylum applies only when the person who has applied for asylum, should stay out his country temporarily, due to a process of war or during the time it takes to prove his innocence. However, it is important to emphasize that when a person has a foot in a different state of their own, automatically granted temporary asylum until proven guilty.

⁷ <http://buscon.rae.es/drae/srv/search?id=ukNZpF0zwDXX2N5Zp136/ZwlCzxTnlDXX2SiQ4sgM>; (consulta realizada el 4 de agosto de 2014); Real Academia Española; Asilo.

When a person is in asylum in another state, the own country cannot pursue that person while he is outside of his territory.

The places throughout history that have served asylum are "*offices of diplomatic missions, consular offices, warships and military bases*."⁸ According to Professor Atle Grahl-Madsen, Norwegian lawyer, who works for the UN agency at the International Refugee Organization, the right to asylum under the rights of each State to grant consists of the following characteristics:

- *"Right to admit a person into a territory.*
- *Right to allow a person to remain in that territory.*
- *Right to refuse to expel a person.*
- *Right to refuse to extradite a person to another State.*
- *Right to not chase the person, punish or otherwise restrict its freedom."*⁹

According to information obtained from sources such as newspapers as El Universo, and La Hora it indicated that Ecuador is the country with the largest number of ex-Presidents who have applied for asylum in a new territory. The history of Ecuador indicates that in the past two decades, four constitutional presidents have fled the country seeking political asylum claiming political persecution; It is appropriate to review this historical situation. In 1997 Abdalá Bucarám Ortiz who was just six months as president, was removed from his position by the Congress because of "*mental incompetence to govern*;"¹⁰ because of the riots that both party-liners and opposition that took place in the streets of the main Ecuadorian cities, the lawyer Bucarám had the necessity to leave the country seeking political asylum in Panama. So far, this ex-president cannot return home because "over him exist three trials for public money misuse and facts of slander to his opponents. Also he has

⁸ <http://biblio.juridicas.unam.mx/libros/2/831/27.pdf>; (Consulta realizada el 4 de agosto de 2014); El Derecho de Asilo en el Sistema Jurídico Internacional.

⁹ <http://journals.cambridge.org/action/displayAbstract;jsessionid=03D19B7D204A32BF4A815BF6BB95814B.journals?fromPage=online&aid=6500768>; (Consulta realizada el 4 de agosto de 2014); Revista Internacional de la Cruz Roja.

¹⁰ http://apps.asambleanacional.gob.ec/proleg/publico/navegar/navegar_documento.asp?codigo=I-97-065-R&path=/autenticos/1996-1997&numero=1&hojas=3&tipo=AUT&defWidth=992&serial=2396; (consulta realizada el 4 de agosto 2014); Libro Auténtico de Legislación Ecuatoriana del Congreso Nacional, 1997.

an arrest warrant."¹¹ In the Ecuadorian territory Abdala Bucaram is considered a fugitive from justice.

During the presidency of Jamil Mahuad Witt, during the years 1998 - 2000, term that this ex-president could not conclude was begun one of the most severe financial crisis that Ecuador has experienced. In 1999 this crisis began, in which several banks began to bankrupt owing to the misuse of their current assets, almost a dozen banks harmed to their customers closing their doors without back their money regardless of the quantity, the most important national banks are closed, like La Previsora Bank, Banco de Préstamos, Banco del Progreso, Filanbanco and Banco Popular.¹²

Owing to the economy has been affecting, on March 8, 1999 happen the "bank holiday" which supposed to last only 24 hours in order to avoid hyperinflation, however this "holiday" was prolonged and it ended the fifth day. During this "holiday bank" all transactional banking operations were suspended, meaning that nobody could use the money of the personal bank accounts. While this was going on, that night on national television the President of that term warned Ecuadorians and the people living in the country that all the bank accounts that have more than two million of Sucres would be frozen for a year.¹³

The protests were swift, the people went to the streets to make their voices heard against the President and his policies, it forced Dr. Jamil Mahuad Witt to leave the country and seek asylum in the United States, where he lives currently. Now a day he works as a professor at Harvard University. Jamil Mahuad is accused of give the order of an obligatory "Holiday Bank" due to trigger the Ecuadorian Financial Crisis in 1999.

¹¹ <http://www.ecuavisa.com/articulo/noticias/actualidad/56201-15-expresidentes-latinos-marcados-justicia-sus-paises>; (Consulta realizada el 4 de agosto 2014); Ecuavisa.

¹² Seeing that more and more people was affected by this cause, the government established policies of "bank bailout" loans in which public funds for private banks were made in order to avoid breaking the bank.

¹³ During the year the government and the Central Bank attempted operations savings and trying to prevent more institutions continue breaking, nevertheless due to inflation, unemployment and capital flight were in the need to amend the national currency, transforming it from Sucre to US dollar, with the conviction that the dollar is a safe currency. Thus one year after the freezing of funds, people recovered only one-fifth of their money, while those who had reduced to the fifth their credit debt.

The successor of Jamil Mahuad was the Dr. Gustavo Noboa Bejarano, who was President of Ecuador since January 2000 until 2003¹⁴; at the end of his mandate in 2003, he was accused of embezzlement of the State funds; he had the necessity of seek political asylum in the Dominican Republic, he was accepted and suddenly he traveled to that country. In 2005 he returned to Ecuador where he was under house arrest, but the police and the tribunal did not find any evidence against him, and the he was released. Currently, this ex-president lives in Ecuador.

The most recent case of ex-presidents exiled presidents corresponds to Coronel Lucio Gutierrez, he won the presidential election in 2003, and he was overthrown in 2005. Although during the government of Gutiérrez the basic food basket was stabilized and the prices were frozen, the reason for his departure was the accusation of corruption within the political party that he belonged. He was accused of joining his families for public office, also to give bribes to important officials who were military friends of Lucio Gutierrez.

In April of 2005 the citizens of Ecuador were taking place of the streets; headed by a civilian group called "Los Foragidos" who protested against the government and members of the judicial function. Screaming the slogan "Let all go" for days the people were settle in the downtown near to Carondelet waiting for the declaine of then President.

From the Latacunga airport he left Ecuador and he went to Brazil where he stayed for a few days, because he lost the rights of political asylum for having failed to qualify as asylee when he started giving declarations of our country, which give as a result that some supporters of the ex-president arrived to that place to pretest against the Embassy, so that he had to flight to Colombia. The Colombia State granted the asylum after many talks with Ecuadorian officials. When he returned to Ecuador, he was arrested because of the accusation of sedition against him, but in March 2006 he was released for lack of evidence.

Leaving the theme of exile, it is important to know the meaning of another term that is ***Extradition.***

¹⁴ Gustavo Noboa continue with the dollarization system that was imposed by the last president of Ecuador Jamil Mahuad, despite the new president took over a country in crisis he took the necessary decisions to stabilize the economy and achieve keep the dollar that gradually was overcoming the former currency "Sucre".

According to The Free Dictionary by Farlex, the term extradition is “*the return of a refugee or a detained person in a country to the authorities of another that claims to judge.*”¹⁵ By this definition we understand then that is certainly an antonym to the vocabulary previously mentioned; as we already discussed in this text a person cannot be expelled from a territory which that person came looking for help, but when the State to which that person belongs seeking the extradition of its citizens it should study the reasons for this request being approved.

For a State requesting extradition of any of its citizens who required asylum it must meet the following requirements:

1. *“The Extradition is generally regulated by international treaties; and only the absence of instruments of that nature the national laws are applied.*
2. *The offenses should be explicitly mentioned in the treaty and must have the same or equivalent category in the State that requests and in the State that provides or denied the right.*
3. *The International reciprocity principle is applied in respect of specific treaties on extradition, as the application of national law, in the absence of those.*
4. *The Extradition applies only in relation to criminal offenses and not in political offenses, because for it exist the institution of asylum. Common crimes must be serious.*”¹⁶

There exist active extradition and passive extradition.

It is an active extradition when in a judicial process it is the own State requests to the State where the person is asylum condition that be delivered to his home country to stand trial because he is blamed for any wrongdoing and is pursued.

¹⁵ <http://es.thefreedictionary.com/extradiciones>; (consulta realizada 4 de agosto 2014); The Free Dictionary by Farlex.

¹⁶ http://www.revistajuridicaonline.com/images/stories/revistas/1996/12/12_La_Extradicion.pdf; (consulta 5 de Agosto 2014); Revista Jurídica Universidad Católica de Guayaquil.

On Ecuador there is no history of extradited citizens from other countries, though there are some cases of requested citizens by the government, for example:

- The government of Ecuador requested the extradition of a businessman surnamed Tambaco to Uruguay, which failed.
- In 1969, the government of Dr. Velasco Ibarra, the State of Ecuador requested the extradition of the hijackers TAME who took refuge in Cuba, which extradition failed.
- The State of Ecuador asked for an Australian vagabond which last name was Wenthand, she had committed crimes in the country. That request was denied by Australia and noted that Ecuador had used outdated legal criteria. The State of Ecuador asked to the Foreign Affairs Ministry to draw up a new application and it never was done; a year later, Wenthand appear by her own in the country.¹⁷

Another concept to consider is the term **Deportation** and according to the virtual page of The Free Dictionary by Farlex states: "The Banishment of a person to a place away for political reasons or as punishment."¹⁸ Usually the deportation occurs in those countries where people have violated the border limits illegally and that people are detainee, their punishment is to be returned to their country of nationality. Also there exist foreigners that can be detained if they violate the benefits of the visa they purchased. A Deportation can also be performed when there exists differences between religious or ethnic beliefs in a particular group, regularly extremists groups like and Muslims, Jews and Hindus.

One of the more representative facts that are known by the whole world is The Second World War, when as a mean of repression all the religious and social groups including politicians were deported from Germany to Poland. It is known that the people who were not deported and they were separated from their families had to live in hiding throughout the war period was from 1939 to 1945.

¹⁷ http://www.revistajuridicaonline.com/images/stories/revistas/1996/12/12_La_Extradicion.pdf; (consulta 5 de agosto de 2014); Revista Jurídica de la Universidad Católica Santiago de Guayaquil.

¹⁸ <http://es.thefreedictionary.com/deportaci%C3%B3n>; (consulta realizada 5 de agosto de 2014); The Free Dictionary by Farlex.

Another example is the one that occurs when the travelers who have to submit their visa and travel documents to enter to a different country; for example at United States every day there are many people who are deported by trying to cross the border illegally, they are captured by the immigration police, and they are returned to their countries of origin.

Another term to analyzed is **Expulsion**, according to Aggnitio the legal dictionary it states: *"Any action or measure in general which results in the separation and alienation with violence, of a person when that person is forced to leave a place without the right to return it could be a local, a meeting, an entity, an association, democratic party or territory."*¹⁹

Finally, to the term **Expatriation** the dictionaries have given different definitions, because this word can be used for different situations, among the most important are:

- *"The Expats are those people who having their basic personal ,family and professional relations in a country, they have to move to perform their profession in another country in which they must develop and stably their personal, family and social life again, and then returning after a relatively long time, to their country of origin "*²⁰
- *"The Expats are employees that were send abroad to live and work in very good conditions for a certain time"*²¹

We must indicate that there exist a difference between the expatriates and the migrants. The expatriates are qualified professionals who have been sent to another country by their own companies to another country to grow professionally and then return with the acquired knowledge to share with the personal in the same company; and the migrants are the people who are seeking employment in exchange for a good salary in another country.

¹⁹ <http://www.definicion-de.es/expulsion/>; (consulta realizada 5 de agosto de 2014); "Expulsión".

²⁰ <http://www.iese.edu/research/pdfs/estudio-30.pdf>; PIN, José Ramón 1999; (Consulta realizada el 5 de agosto de 2014); Políticas de Expatriación y repatriación en multinacionales: visión de las empresas y las personas.

²¹ <http://www.iese.edu/research/pdfs/estudio-30.pdf>; (Consulta realizada el 5 de agosto de 2014); Políticas de Expatriación y repatriación en multinacionales: visión de las empresas y las personas.

It is important to note that the terms and definitions may vary according to the context we used, however the term expatriate is also used by retirees who have decided to leave his country and move to a foreign country to live.

A great example is seen every day in our city, with US foreign retirees who are living here in Cuenca. According to the Chamber of Commerce of Cuenca and the exclusive program for expats and foreigners that the Institution manages called “Cuenca for Expats” the average number of foreigners living in our city under this condition is 7,000 people. This data is backed up in the Chamber of Commerce according to group of foreign affiliates that are part of this program and also the data from the television network BBC in London.

Once that some of the words that are considered important for this graduation work has been analyzed, we can focus on the fundamental issue and term, the Refuge.

1.2 History

It is said that the history of asylum and refugees began centuries ago with the nomadic peoples who were moving from one place to another, this mobilization creates the term "the admission to men to the tent" which means that when a new nomadic man came into a new territory, the native habitants were willing to help.

The phenomenon of human mobility including the refuge, has a long history, we will base on the text called "LOS REFUGIADOS AYER Y HOY: UNA TRAGEDIA QUE SE AGRAVA." It was published by the Pontifical Council for the Pastoral Care of Migrants and Itinerant People: *"The refugees are not a peculiar product of our times. In the course of the history, the groups from different cultures and races have had tensions also between the rights of an individual and the rights of a State; have often led in wars and persecutions, expulsions and leaks."*²² In the Catholic Bible we find several examples of refuge that are remembered until now, some of those examples are: *"And when they had gone, an angel of the Lord came to Joseph in a dream, saying, Get up and take the young child and his mother, and go into Egypt, Herod will be searching for the young child to put him to*

²² Pontificio Consejo Cor – Unun, Pontificio Consejo para la Pastoral de migrantes e itinerantes (1992) “Los Refugiados, un desafío a la Solidaridad”, Editrice Vaticana, Ciudad del Vaticano.

death.”²³ (Mt 2: 13-15); “Now at that time a violent attack was started against the church in Jerusalem; and all but the Apostles went away into all parts of Judaea and Samaria.”²⁴ (Ac 8.1); “...For I was in need of food, and you gave it to me: I was in need of drink, and you gave it to me: I was wandering, and you took me in; I had no clothing, and you gave it to me: when I was ill, or in prison, you came to me. Then will the upright make answer to him, saying, Lord, when did we see you in need of food, and give it to you? Or in need of drink, and give it to you? And the King will make answer and say to them, truly I say to you, because you did it to the least of these my brothers, you did it to me.”²⁵ (Mt 25: 31-46).

The phenomenon of migration is also a fact where you can find stories of refugees, there are people who have been through their borders and leave their countries due to the world wars, civil wars, armed conflicts, famine, climate change and natural disasters. There exist an organization called the League of Nations; it was created by the Treaty of Versailles after First World War ended in order to seek peace between Germany and the countries that were involved in this war. During the interwar period, this organization, the League of Nations, was the responsible for the bilateral agreements, international relations pacts between nations, among others, its main objective was to discuss differences between nations and prevent another war breaks out.

However, twenty years after, the Second World War began (1939-1945). As the end result The Second World War many displacements, famine, homelessness and loneliness. That was when the League of Nations is eliminated and the United Nations (UN) was found, It was created with the ability to take control over the effects of the Second War left body is created.

The 51 countries that originally founded the United Nations, they make the compromise to *"maintain international peace and security among nations to promote friendly relations*

²³ La Biblia (1972), Mateo 2: 1-2, 13-15, Décimo sexta edición, Ediciones Paulinas Verbo Divino.

²⁴ La Biblia (1972), Hechos 8, Décimo sexta edición, Ediciones Paulinas Verbo Divino.

²⁵ La Biblia (1972), Mateo 25: 31-46, Décimo sexta edición, Ediciones Paulinas Verbo Divino.

and promote social progress, with better living standards and human rights."²⁶ Because the UN had several issues to undertake in 1946 was created "The International Refugee Organization", This Organization was in charge only of the large number of refugees who appeared after the war, but in 1952 this organization was replaced by the United Nations High Commissioner for Refugees (UNHCR).

According to a report by the United Nations in 2012, there are about 7.2 million people are in a condition called "long exile". This reflects the fact that there are countries hosting refugees and countries of origin of them are not able to work together and offer very limited resettlement places.

Now a day on June 20 is the World Refugee Day.

1.2.1 World Refugee Protection System

According to the statistics from the UNHCR the refugee phenomenon grows more and more, and *"the refugees consist in 80% of women and children,"*²⁷ Due to this growing number, it was the need to create an organization that protects the rights of refugees, thus appeared "The Global System for the Protection of Refugees"²⁸, in 1950, this Organization works together with the High United Nations Commissioner for Refugees (UNHCR).

Initially, this Organization was created to introduce refugees from the Second World War, and it had over three years to do this, everything under the tutelage of the High Commissioner Fridtjof Nansen²⁹, but the subject refuge is such a controversial issue, that in view of the conflicts and the crises have not stopped, the "UNHCR has over 60 years of

²⁶ <http://www.un.org/es/aboutun/>; (consulta realizada 6 de agosto de 2014); Las Naciones Unidas.

²⁷ http://www.acnur.es/PDF/8340_20120402180124.pdf; (Consulta realizada el 7 de agosto de 2014); La protección internacional de los refugiados en las Américas.

²⁸ <http://www.icrc.org/spa/resources/documents/misc/5tdq4h.htm>; (consulta 7 de agosto de 2014); Comité Internacional de la Cruz Roja.

²⁹ <http://www.acnur.org/t3/el-acnur/estructura/que-es-el-acnur/>; (Consulta realizada el 8 de agosto de 2014); La Agencia de la ONU para los Refugiados.

uninterrupted activity"³⁰ and the mandates of the High Commissioner are named every five years.

Ecuador is part of this organization since 1954; Ecuadorian laws are being harmonizing with the points listed in the Convention for the welfare of the people who entered the country. For several years our country has been one of the countries with the larger number of refuge people, it was necessary to have a guide to provide the necessary assistance to the different cases of people claiming this right.

To be a Goodwill Ambassador from the UNHCR is required only one requirement: *"a real desire to help those in need."*³¹ Over the 60 years of life of this agency, the Goodwill Ambassadors have been some athletes, actors, actresses, models and singers. The soprano Barbara Hendricks is the only public figure who has been named ambassador for life, among the most popular celebrities are:

- The actress Angelina Jolie
- The actress Sophia Lorena
- The designer Giorgio Armani
- The Colombian singer Juanes.³²

Usually, there are the governments of each State, the responsible for ensuring human rights and physical and social development of each of its citizens, but when one or more of these citizens leave their hometown to become refugees this safety disappears. People who are outside to their national boundaries are facing real social and cultural issues and become victims or vulnerable people because they do not have the protection of their own state.

Thus it is argued that:

³⁰ <http://www.acnur.org/t3/el-acnur/estructura/que-es-el-acnur/>; (Consulta realizada el 8 de agosto de 2014); La Agencia de la ONU para los Refugiados.

³¹ <http://www.acnur.org/t3/el-acnur/celebridades-y-colaboradores/embajadores-de-buena-voluntad/>; (consulta realizada el 11 de agosto de 2014); La Agencia de la ONU para los Refugiados.

³² <http://www.acnur.org/t3/el-acnur/celebridades-y-colaboradores/>; (consulta realizada el 11 de agosto de 2014); La Agencia de la ONU para los Refugiados.

"The international protection of refugees begins with guarantee the admission to a safe country of asylum, safeguarding the protection of asylum and ensuring respect for their fundamental rights, including the right to do not be forcibly returned to a country where their safety or survival are threatened (the principle of non-refoulement) ".³³

This protection must be respected by the person who asks for the shelter and for the State which has been requested. This shelter will last as long as necessary, according to the reasons that moved a person to seek for refuge. This protection ends only when the refugee decide to return voluntarily to their home country or a third place of refuge, or when the refugee is sitting safely to leave the country that welcomed him.

The protection is provided in different countries, and it varies according to their traditions, culture, religion, social activity and even barriers to migration and restrictions on the law. Due to the UNHCR functions, it has made worthy to receive twice the Nobel Peace Prize in 1954 and 1981.

It is noteworthy that the UNHCR is receiving funding through voluntary donations that are made by both, public and private international organizations, and by individuals. These donations can be money or items necessary for the development of the activities of the Organization as food, cleaning supplies, toys, etc.

Additional UNHCR receives an annual contribution from the United Nations, which comprise the 2% of its budget, so it is of utmost consideration to have the support of international governments, other organizations and individuals who support these causes.

1.2.2 Convention relating to the Status of Refugees of 1951

This Convention according to the Office of the United Nations Human Rights High Commissioner was adopted on July, 1951, but takes effect from April, 22 1954. The Statute contains 8 chapters and 46 articles, within it indicates what is the definition of a refugee, also who could be considered refugee and the rights each individual must meet in protection.

³³ <http://www.acnur.org/t3/que-hace/proteccion/>; (Consulta realizada el 7 de mayo de 2014); La Agencia de la ONU para los Refugiados.

It is important to note that since the convention was created, the concept of refuge that previously was cited has been using until today.

Throughout all these years very important achievements and major changes have existed, for example it achieved that a refugee has the right as non-refoulement to a territory where that person may suffer persecution, discrimination because of race, religion or beliefs, also the right to work and the purchase or lease of real estate and voluntary decision to return to their country of origin when the conditions are safe.

In legal terms it is significant to note the importance of the Convention like it is the first instrument of international scope that examines the main problems of refugees, whatever their reason for mobility. Just as all people have rights and duties, the Convention meticulously details the fundamental human rights of this group of people, and they must be respected and protected in the resident state. It also requires the protection and international cooperation between States.

The Statute also includes some of the duties that refugees must meet in order to continue enjoying this privilege, within these obligations it is indicated refugees must keep in order and update their documents, if someone is found illegal must justify why that person not have the documents, if someone is working they have the earn a basic remuneration according to the country where they are.

This convention, also known as "*Geneva Convention*"³⁴ because it was approved in Geneva, remains a cornerstone to approve the stay of refugees in any State and to ensure the interests of around fifty million people found in this situation. It is said that the convention will be used, and is absolutely necessary, as long as people who move from one place to another driven by social, cultural, economic or political problems and it has created a culture of fear due to persecution.

³⁴ http://noticias.juridicas.com/base_datos/Admin/iaecer.html; (consulta realizada el 12 de agosto de 2014); Noticias Jurídicas.

Some of the most important items that this convention achieved include:

- The right not to be discriminated. (Article 3).
- The free access to the courts in the territory of the Convention. (Article 17).
- The right to legally gainful employment. (Article 17).
- The right to education, whether in public or private institution to refugees and all family members who are acting as refuge with the applicant. (Article 22).
- The right to use public services, whether ministries, health centers, educational institutions, etc. (Article 23).
- The freedom of movement and travel within the territory where they live. (Article 26).
- The right to not return to the native country when the person who looks for refuge has a threat to his life. (Article 32).

1.2.3 Protocol relating to the Status of Refugees of 1967

This protocol was held in the United States, in New York City on January, 31 1967. It was created to remove the limitations that existed in the geographical, political and temporal scopes of the original Convention, held in Geneva in 1951, in which it was stated that only the Europeans who seek refuge after Second World War.

In the Statute which it indicates the rights and obligations of people seeking refuge, the number of applications was increasing, so it was necessary to change part of this Statute to protect refugees after January 1, 1951.

The UNHCR calls to the Member States to submit reports whenever necessary of: "*a) the condition of refugees, b) Implementation of the Protocol, c) Laws, regulations and decrees which are, relating to refugees*"³⁵. In order to regulate and monitor the refugee status who are at different points.

It is important to note that to become part of the group of refugees the state should study the case of the person who is making the request and also the reasons why this people decided to leave their homes, it is necessary for the UN to understand the differences as cultural,

³⁵ <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=biblioteca/pdf/0003>; (consulta realizada el 12 de agosto de 2014); La Oficina de la ONU para los Refugiados.

political, social or racial that each person has. This protocol is a cornerstone to prevent discrimination between people.

The cooperation and support that States should give the Office of the United Nations High Commissioner for Refugees was also emphasized in this Protocol, either to monitor the applied rules being in order or to accept the provisions of Refuge to people requesting refuge. In the case there exist some kind of dispute or misunderstanding between parties, the Protocol states that if there is no possibility of solution the case would be sending and managed by the International Court of Justice. Any party involved in this, may make the request.

The full text of this Protocol has been translated into five languages, giving the Member States the capacity of comprehension and the ability to use an unique interpretation of this article, it cannot be misinterpreted at the time of translation, the languages in which the Protocol is are: Chinese, Spanish , Russian and French. All these texts are reviewed and signed by the President of the General Assembly and the Secretary of the United Nations. Member States shall keep a certified copy for use.

CHAPTER II: POLITICAL AND REGULATORY CONTEXT.

2.1 Regulator Context

2.1.1 International Standards

All the people who obtain the refugee law are protected under same regulations covering government regulations and international legal instruments.

The International Organizations are largely based on the United Nations Convention for Refugees, implementing and managing international policies for those applying this law. There are several countries applying their own laws and regulations while maintaining the fundamental principle of non-refoulement and to admit the refugees. There are different conventions, treaties and agreements that modify and legalize the rights of refugees, these can be:

- The Convention on the Specific Aspects of Refugee Problems in Africa of the African Organization in 1969.

This convention was held in Addis Ababa - Ethiopia in September 1969, and after being accepted by all heads of State and the governments that were involved, came into force on June 20, 1974.

This treaty has 15 articles, in which it talks about the issue of African refugees and asylum seekers; there are several articles that are based on the UN Convention on Refugees held in 1951. The success of this convention took place in 1999 when the 45 of 53 African States were part of the UN Convention on Refugees.

- The Declaration of Cartagena in 1984 applied in Latin America.

This Declaration was held in Cartagena at November 1984, it was achieved taking some of the recommendations that were made at the symposium held in Mexico at 1981 which was entirely concerned to the Refugees in Latin America, for people looking for a place to stay and for the countries that accept refugees.

It is requested to adhere to the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, to reach a greater number of refugees regardless of the cause of displacement. Consular offices are established in each member country of this convention, with the purpose of providing information and assistance to foreign citizens in each country.

The protection programs for refugees are more important and strong each time; it helps to have a compliance of the rights to study, to work, and to have medical care and social security with the refugees.

This Convention focused specifically in the refugees who sought protection in the countries of Mexico, Panama and Central America, since that time, there was a massive influx of refugees and refugee claims.

On the last December, there was a meeting in Brasilia to commemorate the 30 years of work of one of the most important instruments to the Latin American Refugees. This meeting was held with 28 countries that had the commitment to continue working together in the way to maintain the highest standards of protection for all refugees who decide to seek support and protection in any of the countries of the continent.

- The 2004 European Union Directive on minimize the standards for the qualification and status of third country nationals and refugees and persons necessary to ensure their protection.

After interwar period, the influx of refugees was minimal in European continent, however, a directive was formed to open the European borders, even though there was not a very high number of refugees in European countries, there existed the necessity to do a document to register to all those who choose one of the European countries to take refuge.

The visa between the European Union was one of the highlights of this meeting, because the European citizens could travel inside the European Union without any problem.

2.1.2 Constitution of the Republic

a) The Republic of Ecuador, was founded in 1830 in Riobamba, it has maintained a high civic sensibility in its population despite the dictatorships that have occurred overcoming the democratic power. As proof of this we can cite the Constitution of Cuenca of 1845, it responds to a perfect, clear and relevant illustration concept of Republic, it determinates the rights and duties commensurate with the time for those who considered citizens at that moment. Now a days with the Constitution of Montecristi of 2008 we found a protection system according to time in which we live, and it was superior to the previous one.

In the Constitution of 2008, the constitutional legislator incorporated fundamental rights, as the human rights and in the article 425 he established a hierarchy in the legislation, whose apex is the Constitution and under it, there are the conventions and the international treaties. It would have been wrong if it is not envisaged in Article 424, -technically called constitutionality block-, the possibility that all international instruments being incorporated into the Ecuadorian system if preferably it apply for the protection of human rights, impregnated in the Constitution of the Republic.

In our country, since the Constitution of 2008, there have existed 77 presidents including the current one and we had 20 Constitutions³⁶ it have been determined basing on the principle of positive limiting competition, the capacity or allocation of the State functions (Executive, Legislative, Judicial, Electoral and Citizen Participation and Social Control).

After the crisis that the country experienced due to the overthrow of several presidents, the temporary President, Fabian Alarcon, called a referendum in which the question was *"Do you agree that a National Assembly been convening for the only purpose that the Constitution of the Republic be reformed?"*³⁷ The people vote and they gave the winning to the YES answer with the 65%. This new Constitution has worked in the city of Riobamba (1998).

³⁶ <http://cancilleria.gob.ec/constituciones-del-ecuador-desde-1830-hasta-2008/>; (Consulta realizada el 2 de Octubre de 2014); Constituciones del Ecuador desde 1830 hasta 2008.

³⁷ Zavala Egas Jorge, Derecho Constitucional, tomo I, Edino, 1999.

During the first presidency of the current president, the economist Rafael Correa, the constitutional reform of 1998 was carried out as government project in the presidential campaign with changes in the management of the legislative and judicial function, and then of a referendum called by the President where 81% of Ecuadorians approved a Constituent Assembly with full powers, it began to develop the new Constitution, it was approved and it was published in the Official Record, on 20 October 2008.

Thus, the Constitution of Montecristi has been described as a Constitution that provides all the guarantees, because *"It has guarantees for all rights and against all power,"*³⁸ it means that the current Constitution recognizes that it has full power and it prevail over any other law on the rights of nationals and foreigners who are in our country. This means that a domestic or foreign person can be supported in the Constitution laws.

To speak of a guarantor State, it is important to know the meaning of the term guarantee that, according to the dictionary of the Royal Academy, it is expressed like a concept of offer warranty, other common meanings are *"strengthen, secure, protect, defend or tutelary."*³⁹ Thus we understand that within the articles that talk about human rights in the Constitution were created in order to protect the individuals or group of people from the aggression or fears they have, without difference between domestic or foreign people.

b) The Ecuadorian Constitution is mainly based on the rights and duties of citizens; the rights⁴⁰ are specifically guaranteed by regulations, policies and judicial safeguards that has to be worked with the legislative, executive and judicial fields respectively; all this work has to be done with the aim of preventing the violation of rights or to restore a violated right. Consequently, if a State is named as guarantor all the areas and actions will be directed to compliance and respect the human rights.

³⁸ ÁVILA, Ramiro (2012) "Los Derechos y sus garantías: ensayos críticos" Primera Reimpresión; Centro de Estudios y Difusión del Derecho Constitucional. Quito – Ecuador.

³⁹ <http://www.nexos.com.mx/?p=12013>: (consulta realizada el 21 de agosto de 2015); "Un tribunal garantista"

⁴⁰ Según Luigi Ferrajoli indica que los derechos fundamentales se diferencian y distinguen de los derechos ordinarios o patrimoniales, siendo los derechos fundamentales los que se encuentran citados y aprobados en nuestra Constitución.

As warranty legislation, it means the obligation under the duty to accommodate required by international human rights conventions⁴¹, in the 84 Article of the Constitution of Ecuador is explained how to adapt the mandate enshrined formally and materially, the domestic legal provisions lower-level rights under the Constitution and international treaties, and even the rights that are necessary to ensure human dignity.

The article 84 of the Constitution is referred to:

“Art. 84. - The National Assembly has the obligation to adjust, the laws and all the other legal rules provided in the Constitution, and the international treaties formally and materially, and all the necessary laws to ensure the dignity of human or communities, people and nationalities. In any case, the reform of the Constitution, laws, other legal acts or acts of public authority shall prejudice the rights recognized by the Constitution.”⁴²

Consequently, under the rule cited above, the legislator should amend the rules that are incompatible with the rights enshrined in the Constitution and with the International Treaties, otherwise it is necessary to invalidate those laws that violate or may violate the rights.

This in accordance with the provisions of paragraph 4 of Article 11 of the Constitution of the Republic determined that there are not rules or laws that restrict the content of the rights and constitutional guarantees; also under paragraph 8 of that article the content of the rights will be developed in a progressive way through the rules.

Also the progressive development of rights should be performed through the jurisprudence and public policy.

Moreover, all administrative operations from the executive function, and the Executive Branch agencies, the Transparency and Social Control and Electoral should guide their policies, programs and projects to the realization and effective exercise of the rights enshrined in the Constitution and international treaties; so at the end of Article 226 of the Constitution referring to the powers and authorities of public servants, it stated:

⁴¹ ÁVILA, Ramiro; ob. cit. pág. 189.

⁴² Constitución de 2008, título III, Cap. I

“They will have the duty to coordinate actions for the fulfillment of the objectives and fulfill the enjoyment and exercise of the rights recognized in the Constitution.”

In this context, we can see that it is the general duty of the states, in order to achieve the good life, to guarantee the rights of individuals, communities and nature.

It is important to give a special mention to the role of the judges within the system of guaranteeing the rights established in the Constitution; they have a fundamental role, for example, in the Article 172 of the Constitution it is cited *“the judges would administer justice according to the Constitution, the international laws on human rights and the law”*⁴³ it establish a wide scope for judges in order to ensure the exercise and development of rights.

We note for example that in accordance with Article 4 of the Code of Judicial Function, *“The judges, the administrative authorities and the servants of the judiciary, apply the constitutional provisions, without the necessity this are developed in other lower rank standards. The decisions may not be restricted, diminish or derogating from the original content.”*⁴⁴ Thus, this new legal framework contains large differences in effect until 2008, in which the judges were a more restricted role based primarily on the law in the Constitution.

Another special reference in law, it is that related to international treaties, which, as we already mentioned, as part of our domestic law, the judges have to apply the law according to the provisions given on the Article 417 of the Constitution of the Republic, that is, on the Human rights articles there no exist principle of restriction on rights. In addition, under the second paragraph of Article 424 of the Constitution, the International Human Rights Treaties ratified by the State to recognize rights more favorable than those contained in the Constitution shall prevail over any other law or act of public authority.

In this context, the judges are granted with new powers, by which they can take decisions protected by the Constitution and international treaties, to ensure the rights and their

⁴³ Constitución del Ecuador

⁴⁴ Código Orgánico de la Función Judicial

exercise; and even, in certain cases and especially in human rights issues should get out of classical doctrines to ensure good living of an Ecuadorian citizen or foreign resident in our country.

The protection that applies to people of priority attention, and whose rights have been protected through statutory law in various international treaties, as in the case of refugees it has been incorporated into Ecuadorian law system.

c) In the previous Constitution, of 1998 it recognized the human rights of three groups: children and adolescents, people with disabilities and senior citizens; in the present Constitution has been added some rights and guarantees collective to those groups, and it has introduced new human groups that have been recognized in the 2008 Constitution, in this new group are those exposed to human mobility.

There exist several articles that talk about mobility in its different forms, for example.

- The people who have had to leave the Ecuadorian territory will not be judged as illegal, the assistance will be provided to their families, they will receive protection of the Ecuadorian government, it will be connections with the country, and the migrants and their families will be protected inside and outside the country. (Article 40).
- The foreigners, who are residing in our country, they enjoy all the rights and duties as same as Ecuadorians do, with some restrictions on political rights. (Article 9).
- The humanitarian assistance is granted when there is a ban on travel, and when a person has been displaced inside Ecuadorian territory. (Article 42).

And perhaps the fundamental rule in the Constitution of the Republic is that contained in article 41, which reads:

"Art. 41- In accordance with the law and international human rights instruments the rights of asylum and refuge are recognized. The people who are in asylum or refugee status enjoy special protection that guarantees the full exercise of their rights. The State shall respect

and ensure the principle of non-refoulement, in addition to humanitarian and emergency legal assistance."⁴⁵

It means that within the Ecuadorian Constitution from 2008 the vulnerable groups such as refugees are protected in our country, the rights and duties are granted for them, those under the international human rights standards must be met and the State give the security that these rights are not violated or modified.

The fact of being in the condition of refuge becomes them in vulnerable people, because for different reasons their life is in danger, likewise this rule is extended to protect the family of the person who has sought refuge in our country. Some of the rights that are included in this article are: the right to work, the right to education, the right to free care. The criminal penalties could not be applied to the people who are seeking asylum or refugee because of their income or their stay in irregular situations. It is important to note that the Ecuadorian State expressly establishes the obligation of non-refoulement for those individuals or groups seeking international protection when they feel their life is threatened and seek this assurance in a third country.

d) It is important to note that the Constitution of the Republic recognizes the equality between nationals and foreigners, the Article 9 states:

*Art. 9. "The foreigners who are living in the Ecuadorian territory have the same rights and duties as Ecuadorians, according to the Constitution."*⁴⁶

Thus, the Constitution provides that the rights and obligations of the refugees and citizens of a country are similar. Also in the Constitutions, explain that the protection that a refugee should receive is specified. From this article we can emphasize the conduct based on precepts inherent to our condition as human beings. The Ecuadorian Constitution

⁴⁵ Artículo cuadragésimo primero, Constitución de la República, Registro Oficial número 449 de fecha lunes 20 de octubre del año 2008.

⁴⁶ Artículo noveno, Constitución de la República, Registro Oficial número 449 de fecha lunes 20 de octubre del año 2008.

recognizes and affirms that the treatment of domestic and foreign people, generate a legal equality that provides opportunities for all.

e) A rule that deserves special reference in constitutional and human rights aspects it is the rule in the Article 11 of the Constitution; therefore the principles of the rights are expressed in it.

The principles contained in paragraphs of that prescript are:

Paragraph 1. *“The rights may be exercised, promoted and enforced individually or collectively with the competent authorities.”*

Paragraph 2. *“All people are equal and they enjoy the same rights, duties and opportunities.”*

The rule states that no one shall be discriminated *“against of ethnicity, place of birth, age, sex, gender identity, cultural identity, marital status, language, religion, ideology, political affiliation, criminal record, socioeconomic status, immigration status, sexual orientation, health status, with HIV, disability, physical difference; or any other distinction, personal or collective, temporary or permanent, which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise of rights.”*

It is expressly prohibited the discrimination based on immigration status.

Paragraph 3. *“The rights and guarantees established in the Constitution and in international human rights instruments shall be directly and immediately applicable by and before any servant or public administrative or judicial server.”*

The rule states that rights are fully under the law and that may not be invoked lack of rule of law to justify violation or ignorance.

Paragraph 4. *“Any law can restrict the content of the rights and constitutional guarantees.”*

Paragraph 5. *“In terms of constitutional rights and guarantees, the public servants, administrative or judicial officials must apply the standard and interpretation to the rule.”*

Paragraph 6. “All the principles and rights are inalienable, irrevocable, indivisible, interdependent and of equal rank.”

Therefore, we can say that rights are inalienable because those cannot be changed; they are irrevocable because Ecuadorian citizens and resident people who are living in the country cannot waive any of the rights of the Constitution; the rights are indivisible because as same as people those are integral, and those cannot be modified at the expense of some other right; the rights are interdependent, because rights are interrelated, it is essential that all the rights being performed in the same way, otherwise if this norm is not fulfill the effect would be that other rights may be affected. (The rights must be read systematically and they are created so that people can live properly); the rights are of equal rank. All the rights are equally important in the classification of International Organizations, it means that it should not matter the order in which they appear or it being enumerated; so when we talk about human rights it is important to consider that we should not enhance any of the rights specified in the Constitution and in this way we would be doing a discriminatory attitude.⁴⁷

Paragraph 7. *“The recognition of the rights and guarantees established in the Constitution and in the International Human Rights Instruments, shall not exclude other rights that are derived from the dignity of individuals, communities, people and nations, which are necessary for their full development.”*

Paragraph 8. “The content of rights will develop progressively through the rules, jurisprudence and public policy.”

Therefore it is considered unconstitutional to any act or omission of regressive decrease, or unjustifiably impairs defeat the exercise of rights.

⁴⁷ ÁVILA, Ramiro (2012) “Los derechos y sus garantías: ensayos críticos”; Primera reimpresión, Centro de Estudios y Difusión del Derecho Constitucional. Quito – Ecuador.

Paragraph 9. *“The highest obligation of the State is to respect and enforce the rights guaranteed in the Constitution.”*

From this mandate comes the obligation of the State, their delegates, dealers and anyone acting in the exercise of public authority, to remedy violations of rights because of the absence or deficiency in the provision of public services, or for the actions or omissions of its public officials or employees in the performance of their duties.

Due to the adjustment of the Constitution in which refugees are accept, many of them are living in Ecuador, under international human rights and international treaties, the foreign citizens that are living in the country regardless their reasons, they are guaranteed their fundamental rights.

Ecuador is a constitutional State and that is why our country has as the highest duty of the State *“to respect and ensure respect for the rights guaranteed in the Constitution”*⁴⁸ so it is important to ensure compliance with international norms and human rights treaties, such as health, education and housing.

f) According to the Embassy of Ecuador it indicates that our country has the highest number of refugees in Latin America, according reforms in the Constitution of 2008, *“the refugees enjoy all the rights and responsibilities allowed to Ecuadorian citizens, even they have the access to free health care, education and other vital services to improve their lives.”*⁴⁹

According to the refugee applications, our country Ecuador, accepts approximately 20% of them; this is one of the highest rates in the world. The group of Colombians who reside in our country, have many stories to tell, but the most common reasons because they are living as refugees in our country is due to assassinations, kidnappings and other threats that occur in their country, most of them against themselves or their families.

⁴⁸ ÁVILA, Ramiro (2012) “Los derechos y sus garantías: ensayos críticos”; Primera reimpresión, Centro de Estudios y Difusión del Derecho Constitucional. Quito – Ecuador.

⁴⁹ <http://www.ecuador.org/blog/?p=2996>; (consulta realizada el 4 de Octubre de 2014); Embajada del Ecuador.

The work that the Government does in favor of refugees, to avoid being victims of discrimination or abuse, is based on the constitutional framework and in the international treaties; also the government promote campaigns in favor to refugees to some public and private companies. In this way people with refugee cards can work and live in Ecuador while they achieve the necessary regulations. Three years after their stay in the country they can apply for Ecuadorian nationality.

It is important and critical for a refugee person and for the State, that the foreigners are safe on their physical and mental health, and is necessary for us as Ecuadorians to understand the reasons why a person is in refuge conditions, in that way we should avoid the discrimination against this people because of the social ideas that are managed to a certain group of foreigners.

Angelina Jolie, is one of the Goodwill Ambassadors of UNHCR, she said: *“If the refugees do not find security in Ecuador, they probably would not be alive; Nobody wants to be a refugee, and have to leave home. Nobody wants to live in another land having to ask for a visa every year and not be able to know what will become of his life or the lives of their children, or have access to jobs or get medical help.”*⁵⁰

According a report of Human Mobility in the Ecuador presented by the Federation for migration and shelter, Ecuador is known as *“The Land of Universal Citizenship”*, due to the large opening that our country has for foreign migrants. The limitations and restrictions are only bounded by the Constitution.

The right to migrate or to have the option to leave a country in a voluntary way, become vulnerable to a migrant in a new society, but within the Ecuadorian Constitution there is the following article:

⁵⁰ <http://www.ecuador.org/blog/?p=2996>; (Consulta Realizada el 4 de Octubre de 2014); Embajada del Ecuador.

“Art. 10. The people, communities, towns, nationalities and collectives are entitled and they shall enjoy the rights guaranteed in the Constitution and in international instruments.”⁵¹

It is unacceptable that a foreigner being criminalized by their nationality or that person become a victim of xenophobia due to certain stereotypes made by the societies, so that, the current Constitution establishes standards of protection to foreigners, even higher than that the international organizations determine.

The current Constitution protects the displaced people on our territory, and also prevents that the last Constitutions restricts and give limits to the rights of a person from another country. The current Constitution avoid the abuse and discrimination.

It is noteworthy that the right to migrate puts people who move is a safe place to move in any part of our territory and our country and it is not considered illegal as it happens in the big countries where the influx of migrants is extremely high.

“The different international instruments according the rights of people on mobility can be applied directly by any authority or a public servant.”⁵²

Among the main international instruments in this area we can find:

The international instruments on human mobility. ⁵³

International Instrument	Rights protected	Instrument Type	Effective date
International Convention for the Protection of Migrant Workers and their Families.	Rights of migrants.	International United Nations Convention.	Official Register 133, July 25, 2003.

⁵¹ Constitución de la República, Registro Oficial número 449 de fecha lunes 20 de octubre del año 2008.

⁵² <http://movilidadhumana.files.wordpress.com/2012/07/informe-movilidad-humana-ampliado.pdf>; (Consulta realizada el 16 de Octubre); Informe sobre movilidad Humana.

⁵³ Arcentales, Javier; Sistema de Información Legal LEXIS; 2011

Convention relating to the Status of Refugees, Geneva 1951.	Right of refugees.	International United Nations Convention.	Official Register No. 153, November 25, 2005.
Protocol relating to the Status of Refugees.	Right of refugees.	International United Nations Convention.	Official Register No. 93 of January 14, 1969.
Convention relating to the Status of Stateless Persons 1954.	Right of stateless people.	International United Nations Convention.	Official Register No. 153, November 25, 2005.
Protocol against the Smuggling of Migrants by Land, Sea and Air.	Regulations on the crime of smuggling of migrants.	International United Nations Convention.	Official Register No. 153, November 25, 2005.
Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplement the United Nations convention against transnational organized crime.	Regulations on the crime of trafficking.	International United Nations Convention.	Official Register No. 153, November 25, 2005.
Cartagena Declaration in 1984	Right of refugees	Declaration at the regional level.	It was adopted by the Colloquium on International Protection of Refugees in Central America, Mexico and Panama: Legal and humanitarian issues held in Cartagena, Colombia. 19-22 November 1984.
Decision 503	Right of migrants in the CAN.	Andean Council of Foreign Ministers.	Official Register No. 385, August 7, 2011.
Decision 548	Right to consular protection of migrants.	Andean Council of Foreign Ministers.	Official Register, No. 161, 3 September 2003.
18 advisory Opinion	The right to equality	Advisory Opinion	Advisory Opinion

on the Status and Rights of Undocumented Migrants.	of persons with irregular immigration status.	of the Inter-American Court of Human Rights (CIDH).	(AO) 18/03, September 17, 2003.
16 advisory Opinion on the right to information on consular assistance in the framework of the guarantees of due process.	Right to consular protection.	Advisory Opinion of the Human Rights Commission.	AO 16/99, October 1, 1999.

Table 1: Main international instruments on human mobility.

As we have mentioned, the Ecuadorian Constitution expressly recognizes the rights that correspond to the different ethnic groups, nationalities, religions, beliefs, etc. that exist in this multinational and multiethnic Ecuador, providing special protection for uncontacted or voluntarily isolated people. As citizens of this country is our duty to organize to protect the weakest people.

It is important to recognize the good behaviors that the domestic and foreign people residing in our country must maintain to give refugees a comfortable environment, in order that they easily adapt to a new environment and begin to develop the life in a new country.

There is also a harmonization of national and international legislation to allow refugees to restoration of their rights, the satisfaction of needs and social inclusion in various fields such as health, education and others.

g) The paragraph 14 of Article 66 of the Ecuadorian Constitution provides:

“Art. 66. Rights to Freedom:

(...)

14. The right to travel freely throughout the country and to choose their residence, the facility to freely enter and leave the country, that exercise is regulated in accordance with the law. The ban on leaving the country may only be ordered by a judge.

Foreign people may not be returned or expelled to a country where their life, liberty, security or integrity or their families be threatened due of their race, religion, nationality, ideology, membership of a particular social group or political opinion .

Collective expulsion of foreigners is prohibited. Migration processes should be easy.

(...).”⁵⁴

As such, foreign people cannot be returned or expelled to a country where their life, liberty, security or integrity or the life of their families, are in danger for reasons of race, religion, nationality, ideology, membership of a particular social group, or their political views. This rule is consistent with the principles and rights enshrined in the Magna Carta.

Thus, a person who is outside their territory and decided to opt for the option of refuge in our country should follow the legal process, which can be summarized as follows:

1. Within the three months after the entry of a person in Ecuador, he should approach the Refuge office of the Ministry of Foreign Affairs and Human Mobility, or if this is not possible, he may send an authorized representative to these offices.
2. They must submit all their identity documents regardless the reason why the refuge is sought, according to Article 4 of Executive Order 1182, which states: *“It did not require persons seeking refugee status police clearance, visas and other requirements that impede their entry into Ecuador or the access to the procedure for determining refugee status.”*⁵⁵
3. After doing the check in at the offices of the Ministry, the Department of Refuge should perform an interview with the applicant to qualify him as a refugee or not. If the application has been approved it will be given a record of your request that is valid for 10 days, during which must notify the Department of Refuge for reporting.
 - 3.1 If the application for refugee status within the country was approved, the department of Refuge grants a provisional certificate that guarantees stay in the country. This certificate lasts for 90 days until the commission determines refugee status and this application being accept.

⁵⁴ Artículo sexagésimo sexto, numeral décimo cuarto, “Derechos de Libertad”, Constitución de la República, Registro Oficial número 449 de fecha lunes 20 de octubre del año 2008.

⁵⁵ Decreto Ejecutivo No. 1182. Presidencia de la República.

- 3.2 If the request was denied, the applicant has three days to resubmit his documents and give the reasons for his request, so he can fix his immigration status, otherwise he has to leave the country.
4. The commission is attended by a representative of the Ministry of Foreign Affairs, Trade and Integration, a representative of the Interior Ministry and a representative of the Ministry of Justice. In this session they may voluntarily attend a delegate of the United Nations High Commissioner or members of governmental and non-governmental institutions, who may be present but they do not have voting rights.
5. The decision to give refuge to a person is the only responsibility of the Government of Ecuador.
- 5.1 If the application is accepted: The refugee will get a Visa 12-IV which confirms the status of refugee in our country, this visa must be renewed every two years.
- 5.2 If the request is denied, the refugee may appeal in the follows 15 days in the Minister of Foreign Affairs, Trade and Integration.

Thus all people with the need to seek refuge in our country can do it and appeal it if the case warrants.

As it is indicated by some people who are living in our city with the visa refugees found refuge in our country, and they feel motivated to find work and good education for their family.

Within the Constitution of Ecuador, where we made the most important articles on the subject of Refuge for the development of this thesis, there is the article number 423, which speaks especially of the refugees in Latin America and the Caribbean, and it has served as a guideline to understand the rights, needs and obligations covering the Colombian group that has taken refuge in our country. This provision states:

“Art. 423.- The integration, especially with the countries of Latin America and the Caribbean will be a strategic objective of the State. In all instances and integration processes, the Ecuadorian State undertakes to:

*Encourage the creation of the Latin American and Caribbean citizenship; the free movement of people in the region; the implement of policies that guarantee the human rights of border populations and refugees; and the common protection of Latin American and Caribbean countries of transit and destination of migration.”*⁵⁶

This shows us -once again-, that Ecuador is a territory where people can take refuge and their life is not at risk. It emphasizes again that foreigners regardless of the form of life that they have been established in our country enjoy the same rights and duties as an Ecuadorian citizen.

2.1.3 Executive Decrees

An executive decree is an administrative act based on a decision that can only be taken by the head of a State or an agent in the matter relating to the executive.

In the executive decree No. 1182 issue on May 30, 2012, during the presidency of Rafael Correa Delgado, it regulates the protection of individuals and group of people refugees in our republic, it correctly observe the international obligations of non-refoulement, as it is suggested in natural law and it inspire solidarity among nations; these rights are regulated under a rule of law and those are protected by national and international laws, under a humanitarian inspiration.

The Executive Decree No. 1182 is based on the 1951 Convention, it is stated that States should “*continue receiving refugees in their territories and act in common agreement, with a spirit of international solidarity, so that the refugees can find asylum and resettlement opportunities.*”⁵⁷ This contains 63 articles and each one of them indicates the forms and rules of procedure with people seeking refuge in our country. To summarize these articles, we can indicate those aspects that seem most relevant:

- Provide protection to refugees seeking refuge in the Ecuadorian territory governed by the provisions of the Constitution of the Republic, the International Refugee Law and the United Nations Convention of 1951 (Article 1).

⁵⁶ Artículo 423, Constitución de la República, Registro Oficial número 449 de fecha lunes 20 de octubre del año 2008.

⁵⁷ <http://www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/Publicaciones/2007/5754;> (Consulta realizada el 24 de junio de 2015); La Convención de 1951 sobre el estatuto de los Refugiados.

- Any person who is requesting the asylum right, would obtain it, and that person could remain in the country until their refugee application be processed (Article 2).
- According to the Constitution of the Republic it recognizes that refugees have the same rights and duties as Ecuadorians (Article 3).
- Anyone who is applying for refuge must show their identity documents. Criminal record or some kind of visa will not be required when a person is entering to the country (Article 4).
- The refugee documents and permissions may also be extended to a family group. (Article 6).
- The principle of non-refoulement is established in the United Nations Convention of 1951 and in the Constitution of the Republic. Unless the refugee be considerate a danger to society (Article 9).
- According the United Nations Convention, Ecuador has the right to do not grant refuge to persons in the following cases:
 1. *“They have committed a crime against peace, a war crime or a crime against humanity.*
 2. *They have committed a serious crime outside the Ecuadorian territory before being admitted to it.*
 3. *They are guilty of acts contrary to the purposes and principles of the United Nations”*⁵⁸ (Article 10).
- It is established that people who remain in our country illegally could not be penalize as:
 1. *“They go to the authorities within 15 days of arrival.*
 2. *They manifest their need for international protection.*
 3. *They allege justifications for their illegal entry or residence”*⁵⁹ (Article 12).
- The national Institution in charge of asylum seekers and refugees is the Ministry of Foreign Affairs and Human Mobility, who is in charge of a commission to determine whether or not the permanence of a refugee (Articles 14 and 15).

⁵⁸ <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8604.pdf?view=1>; (consulta realizada el 24 de junio de 2015); Decreto Ejecutivo 1182; Presidencia de la República.

⁵⁹ <http://www.acnur.org/t3/fileadmin/Documentos/BDL/2012/8604.pdf?view=1>; (consulta realizada el 24 de junio de 2015); Decreto Ejecutivo 1182; Presidencia de la República.

- The applications of refuge should have a maximum of four months to accept or not a person as a refugee (Article 20).
- According to the Constitution it is an obligation of the State to give priority attention to people who are “*older adults, children and adolescents, pregnant women, people with disabilities, detainees and those people who suffer from catastrophic illnesses [...] The same priority attention will receive people at risk, victims of domestic and sexual violence, child abuse or natural disasters*”⁶⁰(Article 22).
- While a person is a refugee in our country that person has the right to engage in economic activities that are legally recognized (Article 35).
- When a person is found with refugee card must attend a series of interviews that the State deems necessary. These interviews are strictly confidential (Article 36).
- El trámite de solicitud de refugio es totalmente gratuito (Artículo 37).
- The application process of refugee is free (Article 37).
- The State may revoke the application of refuge if the applicant has been part of criminal acts or situations that affect the peace (Article 55).
- To the refugees in our country who have lived for more than 3 consecutive years in the Ecuadorian territory they may be granted a residence visa (Article 61).

It is important to remember that the Ministry of Foreign Affairs and Human Mobility, has the power to grant the refugee status to a person, as long as this person is under the requirements to seek refuge in our country. Once all requirements have been presented in the Ministry of Foreign Affairs and Human Mobility, this body is the responsible to respond positively or not to the petitioner. There are resources to which an applicant may appeal if that person was notified in a negative way.

2.1.4 Ministerial Agreements

A ministerial agreement is a resolution that is adopted by the ministries.

In the Constitution of Ecuador of 2008 there exist express provisions for the protection of refugees within the Ecuadorian State. It is important to note that today has become the

⁶⁰ Constitución del Ecuador, Capítulo tercero, Artículo 35, 2008 “Derechos de personas y grupos de atención prioritaria”

obligation of the State in a daily practice that provide the facilities to people who are seeking refuge in our country, and thus they can reside within Ecuador without any problem.

Some of the ministerial agreements that are in effect now a day, are indicated below.

The Ministerial Decree No. 206, issued by the Ministry of Foreign Affairs on August 13, 2009, in which the National Technical Secretary for Human Resources Development and Public Sector Remuneration - SENRES and the Ministry of Labor were merged and it was created the Ministry of Labour Relations, naming at the time as Minister Richard Espinoza Guzman.

The Ministry of Labour is the body in charge of labor issues of the residents within the country; if a person is living in our state is required to obtain all the legal permissions to perform any type of work, in the case of Refugees, they need to get their identification as such, the Ministerial Agreement 206 states:

“The refugees who have the credential agree to comply with the internal laws of Ecuador, as well as existing agreements signed by the country; also they agree to do not participate in political activities. They have the same duties and rights of the foreign residents in the country. They cannot be deported to their country of origin while the Government recognizes them as refugees. The bearers of this identification hold a J 2-IV visa and with it they can look for a well remunerated job. This document will be sufficient requirement for the issue of Occupational Card by the Ministry of Labour and Human Resources ...”⁶¹

Within this Ministerial Agreement, in Article 1, there is the authorization to the refugees, to enjoy the same labor rights and duties that an Ecuadorian citizen, if they have submitted their requirements to obtain the Visa Labor 12-IV.

To enter into the plan of legal work for refugees, it is necessary that the applicants enter their personal information in the form on the website of the Ministry of Labour Relations; this form must be filled out correctly and signed by the applicant and the employer.

There are different kinds of jobs that are given for different types of people as a refugee.

^{61 61} Acuerdo Ministerial 206; Ministerio de Relaciones Laborales, Constitución del Ecuador 2008.

In Article 2, of this same Agreement it states that the foreigners who participate in works of national interest are provided with employee request, must meet some requirements to access to these places of work, so they should fill out the form to the website of the Ministry of Labour Relations provides to legalize contracts.

The requirements for these positions are:

a) “The application and basic information filled in the application that is found on the web page of the Labor Ministry: www.mrl.gon.ec or is provided in the Employment Bureau.

b) Letter of sponsorship and / or a copy of the work contract done by the Public Company.

c) Certificate of compliance with obligations authorized by the Superintendence of Companies.

d) Certificate of compliance with obligations authorized by IESS.

e) Form of thirteenth and fourteenth pays until the last period.

f) Declaration form of legalized utilities.

g) Proof of payment of the Occupational Card valued at \$ 60, value that will be repaid in the Finance Department of the Ministry of Labor Relations.”⁶²

In the article 3 of that agreement it states, a “*Provisional Authorization for Refugees*” (90 days) indicated. In which the different options and ways in which a person who is a refugee can access job options and vacant within the country indicated.

It is always advisable to specify that a person seeking for a refugee status is the one who crosses an international border in search of protection, due to well-founded fears, their life or the life of their family is in danger. Once the refuge is crossing the border, that person would obtain the work permission, with it that person will be allowed to conduct a lawful activity in exchange for a fair and legal to pay surviving with dignity.

⁶² http://www.1800refugio.org.ec/refugionano/?page_id=418; Acuerdo Ministerial No. 206.

Once a person has obtained the refugee status by the Ecuadorian government through the Ministry of Foreign Affairs and Human Mobility, that person has all the rights and obligations of a citizen of Ecuador, he could formally being inserted in the labor market for which the Ministerial Agreement No. 00206 of 2010 expressly provides in the Article 3, the temporary work that is permit for refugees once they have complied with the presentation of the following requirements:

1. *“The refuge application provided by the Department of Employment and retraining.*
2. *Refugee Identification Document (Visa 12-IV) and a color photocopy duly notarized.”*⁶³

However, on July 2, 2012 a new ministerial agreement the No. 118, that only repeals the Article 3 and leaves it without effect. So, since the new agreement, all people who are refugees would no longer need a temporary work permit.

The Ministerial Decision No. 000004 issued on January 11, 2011 by the Ministry of Foreign Affairs, Trade and Integration, about the recognition of Ecuadorian nationality by naturalization; the recognition of the Ecuadorian Nationality through marriage or de facto union; the obtain of Ecuadorian citizenship by naturalization; the nationality Ecuadorian recovery; the renunciation of Ecuadorian nationality by naturalization; the issuance of Certificates of non-naturalized in Ecuador; and the relevant information for foreign citizens.

In this Ministerial Agreement, on the first article is quoted the follow:

1. *“Recognition of Ecuadorian nationality by birth.”*⁶⁴
2. *“Recognition of Ecuadorian nationality by naturalization.”*⁶⁵
3. *“Recognition of Ecuadorian nationality by marriage or by facto union.”*⁶⁶
4. *“To get the Ecuadorian Nationality through naturalization.”*⁶⁷

⁶³ Acuerdo Ministerial 206; Ministerio de Relaciones Laborales, Constitución del Ecuador 2008.

⁶⁴ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

⁶⁵ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

⁶⁶ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

5. *“Recovery the Ecuadorian nationality.”*⁶⁸
6. *“Renounce to the Ecuadorian Nationality through naturalization.”*⁶⁹
7. *“Requirements for the Issuance of Certificate of Non-naturalized in Ecuador.”*⁷⁰

So, this article is set in a systematic way to obtain the recognition of Ecuadorian nationality and other relevant topics. Within it, in its different headings and paragraphs, there are establish some procedures, legal references, the costs and the delivery of documentation corresponding to the different procedures of recognition of Ecuadorian nationality by naturalization, certificate of naturalization, adoption of citizenship by marriage or facto union, and the renunciation of nationality and recovery of it. There is a special mention that should be made to the presentation of certificates to non-naturalized.

There is also the Ministerial Agreement No. 337, issued on May 15, 2008, in which the rights and duties that Ecuadorian and foreign people have about to the right to study. This agreement indicates the possibility of obtaining education; this is a right that obtains all the people that are residing in Ecuador and also the foreigners.

It is about the right to choose the place to study, and the received education must be the same between an Ecuadorian and a foreign, regardless of the reason that person has chosen to live outside their country. The educational institutions should not ask any other document than the legal papers that a foreign person needs, the enrollment could not be denied.

I think that it is important to work against discrimination of foreigners and minors who are attending an educational institution. The public entities provide a social service without cost if necessary. These people, the refugees, can access to a public or a private education, and if is necessary to attend a university campus, they have to go with the same conditions

⁶⁷ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

⁶⁸ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

⁶⁹ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

⁷⁰ Acuerdo Ministerial No. 000004; Ministerio de Relaciones Exteriores, Comercio e Integración, Constitución del Ecuador, 2008.

as an Ecuadorian person. It is important to know that if a student joins in a campus outside the normal registration dates, they must access a placement test.

The Ecuadorian Constitution in accordance with the Executive Decree No. 1182 establishes the obligation to ensure the protection of a minor, and all of those who are in situation of refuge that are living in our country, even if the immigration documents of their parents are not established yet.

2.1.5 Other International Organizations

The International Federation of Red Cross and Red Crescent has seven fundamental principles to prevent and remedy the suffering of human beings in whatever way this is manifested, especially to the people who has been victims of the international armed conflicts. The ICRC is the international body that has the mandate of the international community to develop, disseminate and implement international humanitarian law.

2.1.5.1 The Red Cross

The Red Cross together with the Red Crescent is the largest humanitarian organization in the world, it was founded in 1864, its main mission is to *“prevent and alleviate, in all circumstances the human suffering; to protect life and health and ensure respect for the human people, especially in times of armed conflict and other emergencies.”* This organization is present in all countries around the world and it is supported by millions of volunteers who work for the neediest people.

The Red Cross does not work only with people in refugee status, the Organization has the obligation to work for those who are threatened or vulnerable, under the parameters of International Humanitarian Law, where the Red Cross is the main representative group to talk about the respect and support for all individuals, regardless of race, nationality, gender as long as they are going through a situation of danger to their lives.

Usually in a period of war, the Red Cross is the body responsible for ensuring the safety of citizens, based on the principles of International Humanitarian Law (IHL) which states that

“all parties, including irregular groups, guerrillas, rebels and other armed actors, must respect the essential rules of IHL therefore is necessary.

- *Respect civilians and their property.*
- *Do not attack the medical or nursing staff or facilities.*
- *Do not hinder the Red Cross staff in the performance of their function.*
- *To distinguish between military targets and civilians, etc.”⁷¹*

Therefore, we understand that the Red Cross plays an important role when it is about people in vulnerable situations such as the case of Refugees.

⁷¹ Cruz Roja Ecuatoriana; Folleto “El Derecho Internacional Humanitario”

CHAPTER III: ANALYSIS OF THE PRESENCE OF COLOMBIAN REFUGEES IN CUENCA.

3.1 Interviews and Surveys.


In the month of June 2015, I conducted a survey of a population of 100 Colombians who live in this city, in order to determine the number of refugees and Colombian refugee applicants and also to analyze their quality of life in the city of Cuenca. I had access to this population thanks to MIRA group, it is a social and nonprofit association that has national and international experience, that are responsible to raise and maintain the quality of life of the people of the towns or cities where their work is required. Due to this organization that brought the largest number of respondent people, I managed to get the results that will be detailed below. These people have the refuge card and some of them are doing the process of refuge. Most of them are living in the city of Cuenca for the minimum period of one year in various situations.

The information obtained from this survey was not readily available, because the respondents were afraid to give their answers by the fact of being fragile or exposed in a new society, they feel fear because of the reality they are living a cause of the escape from their country that was caused for a conflict, also they feel distrust for the safety of their family.

They indicated that different inspectors from the Ministry of Foreign Affairs and Human Mobility and some other Organizations that work for the refugees had visited them, and after some interviews, they had to change their documents and update them, even an entire family had to return to Colombia for lack of supporting of the documents for refugee status.

The survey questions were developed in order to get as much information as possible about their residential status in our city and to confirm that the process of migration, mobility and refuge was being fulfilled. In addition to analyzing whether the rights of refugees are being respected.

The format of the survey for the refugees, is indicated below:

	<p>Survey of Colombian refugees living in Cuenca, with the aim of analyze the information Provided for the development of a Thesis Of International Studies at the University of Azuay The information provided will be complete CONFIDENTIALITY</p>
<p>Name: <input style="width: 150px;" type="text"/> (optional)</p> <p>Male <input style="width: 50px;" type="checkbox"/> Age: <input style="width: 50px;" type="text"/> Number of children <input style="width: 50px;" type="text"/></p> <p>Female <input style="width: 50px;" type="checkbox"/> Profession: <input style="width: 100px;" type="text"/></p>	
<p>1. Your current situation in Ecuador is:</p> <p>1.1 Refugee <input style="width: 80px;" type="checkbox"/> 1.2 How long? <input style="width: 80px;" type="text"/></p> <p>1.3 Legalizing documents <input style="width: 80px;" type="checkbox"/></p>	
<p>2. Where Colombian place are you from?</p> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	
<p>3. On what date did you ingress to Ecuador?</p> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	
<p>3.1 How long have you been living in Cuenca?</p> <div style="border: 1px solid black; height: 30px; width: 100%;"></div>	
<p>4. Did your house in Colombia is:</p> <p>4.1 Own house <input style="width: 80px;" type="checkbox"/> 4.2 Rented house <input style="width: 80px;" type="checkbox"/></p> <p>4.3 Family house <input style="width: 80px;" type="checkbox"/> 4.4 Friends house <input style="width: 80px;" type="checkbox"/></p>	
<p>5. Where are you living currently:</p> <p>5.1 Own house <input style="width: 80px;" type="checkbox"/> 5.2 Rented house <input style="width: 80px;" type="checkbox"/></p> <p>5.3 Family house <input style="width: 80px;" type="checkbox"/> 5.4 Friends house <input style="width: 80px;" type="checkbox"/></p>	
<p>If they are living in an own house or a rented house: How many rooms does your house have?</p> <p style="height: 20px;"></p> <p>If they are living in a family house or in a friend house: How many rooms are you using inside the house?</p> <p style="height: 20px;"></p>	
<p>6. Currently, how many dependents do you have in Ecuador?</p>	

7. What were the reasons that forced you to leave your country?					
7.1 Armed Conflict	<input style="width: 100%;" type="text"/>				
7.2 Political Persecution	<input style="width: 100%;" type="text"/>				
7.3 Common Violence	<input style="width: 100%;" type="text"/>				
7.4 Other	<input style="width: 100%;" type="text"/>				
8. What were the reasons you chose the city of Cuenca as a final destination?					
8.1 Due to recommendation of friends or family	<input style="width: 100%;" type="text"/>				
8.2 Researching at Internet	<input style="width: 100%;" type="text"/>				
8.3 Ecuadorian government information	<input style="width: 100%;" type="text"/>				
8.4 Due to suggestion of your national authorities	<input style="width: 100%;" type="text"/>				
8.5 Due to suggestion of non-governmental organizations	<input style="width: 100%;" type="text"/>				
9. Where did you work in Colombia?					
10. Where do you work currently?				Own Business	<input style="width: 100%;" type="text"/>
				Do you have workers under your control?	<input style="width: 100%;" type="text"/>
10.1 How long have you been in your current job or activity?					
11. Are you affiliated to Social Security?					
YES	<input style="width: 100%;" type="text"/>	NO	<input style="width: 100%;" type="text"/>		
12. How many hours do you work daily?					
13. What is your montly income?:					
13.1 Under the basic salary	<input style="width: 100%;" type="text"/>			13.2 Basic Salary (\$344)	<input style="width: 100%;" type="text"/>
13.3 From \$345 to 500	<input style="width: 100%;" type="text"/>			13.4 From \$500 to \$1,000	<input style="width: 100%;" type="text"/>
13.5 From \$1,000 to \$3,000	<input style="width: 100%;" type="text"/>			13.6 More than \$3,000	<input style="width: 100%;" type="text"/>
14. When you get sick, where do you prefer to receive health care?					
14.1 Private medical doctor	<input style="width: 100%;" type="text"/>			14.4 Hospital José Carraco Arteaga (IESS)	<input style="width: 100%;" type="text"/>
14.2 Hospital Regional	<input style="width: 100%;" type="text"/>			14.5 Particular hospital	<input style="width: 100%;" type="text"/>
14.3 Centro de Salud	<input style="width: 100%;" type="text"/>				
15. How do you rate the services the State provides for your as a refugee?					
PUBLIC SERVICES	Ministry of Foreign Affairs	Ministry of Labour	Colombian Embassy in Ecuador	Never used	Other
Excelent	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
Good	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
Regular	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
Bad	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>

16. ¿Are you or any of your dependents are attending to a school?	
YES	<input type="text"/>
NO	<input type="text"/>
17. What type of school do you attend?	
17.1 Public	<input type="text"/>
17.2 Private	<input type="text"/>
18. Have you ever had problems in access to education service for you, or your children?	
Explain.	
<input type="text"/>	
19. What are your activities on the weekend?	
<input type="text"/>	
20. Do you have plans to return to your country?	
YES	<input type="text"/>
NO	<input type="text"/>
Thanks for your cooperation.	

Table 2 Survey

3.1.1 Data Analysis and Interviews

The High Commissioner of the United Nations UNHCR has decided to establish the issue of Colombian refugees living in Ecuador as one of the six global priorities, followed by people who have moved to Syria and Africa and live in emergencies health. Even within the group of countries of MERCOSUR are managed and deliver actions to support Ecuador approaching to 60 million of dollars, this money is justified by the contributions that each of the countries members donates to protect displaced people who are living in the country. This contribution is voluntary, though the displaced people should be the responsibility of each country of residence, so that this contribution should be almost mandatory.

In February 2014 the Ministry of Foreign Affairs of Ecuador and Human Mobility had about 170,000 registered applications, of which 59,000 documents had been approved and 56,000 of these are from Colombian refugee requests. It means that the total of applications accepted in the Ministry 96% is from Colombians seeking refuge in our country.

For this reason the Ecuador and Colombia presidents work together with the State officials, and they hold annual meetings where they talk about the problem of mobilization and insecurity that the Colombian citizens felt in their own country. They have created plans to voluntary return for people who wish to return; with this plan the returners will have all the support and security for their life. However, the leaders want to extend this problem to other countries to reach the enough budgets to maintain the stay of Colombian citizens living in the country.

Owing to the large presence of foreign refugee people in our country and also in our city, Ecuador has joined to commemorate the world Refugee Day on June 20th; there are many Colombians residing in Cuenca, so that there is a week of national festivities and cultural exchanges in the main squares of the city, in which are the refugees who open stands with different themes such as culinary, cultural and artisans.

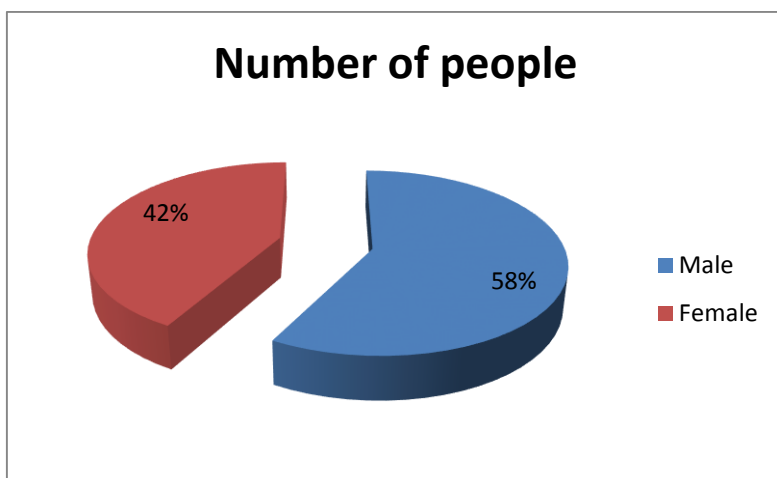
3.1.2 Analysis from National Institute of Statistics and Census.

According to the President of the Republic, Economist Rafael Correa, the Colombian people who are living in Ecuador, are the largest colony of foreigners residing here in our country; according to the Vice Minister of Foreign Affairs and Human Mobility through July 2014 the Colombian community in Ecuador was comprised of 59,000 people. There also exist a number of foreigners who are not in these statistics because this group does not have their personal documents in order and they work in informal trade.

According to the information provided by HIAS (Hebrew Immigrant Aid Society), in the city of Cuenca are living around 2,300 Colombian people, they are in refugee status and also they are legalizing their documents, this number means only 4% of all refugees living in our country. For some references, we have known that the Colombian community in our city is quite united, they protect and help each other, some of them are a familiar group and some others have formed their home here in the city. They are located in different parts of the city, but in the places where exist the largest numbers of Colombians are: in the downtown of the city, in President Cordova street (La Merced area), in Mariscal Lamar street (Mercado 9 de Octubre area), de las Americas Avenue (Miraflores area) and in Feria Libre area.

3.1.3 Survey Analysis

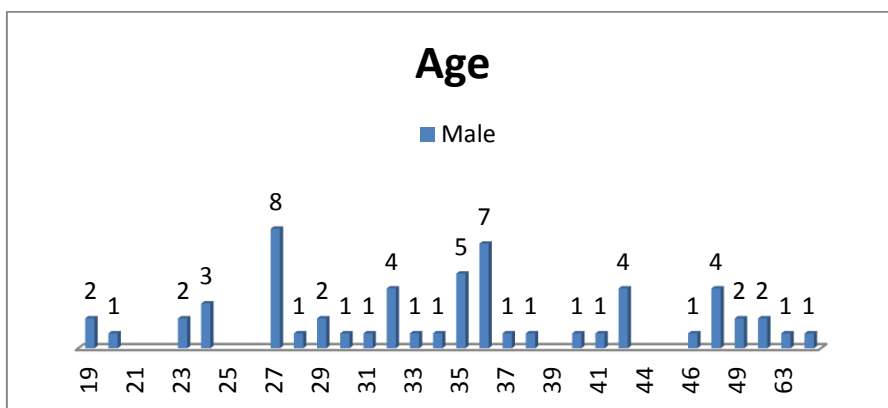
According to the information obtained from the survey to the Colombian population in the city of Cuenca, as refugees, we have could understand that their situation is exposed below.



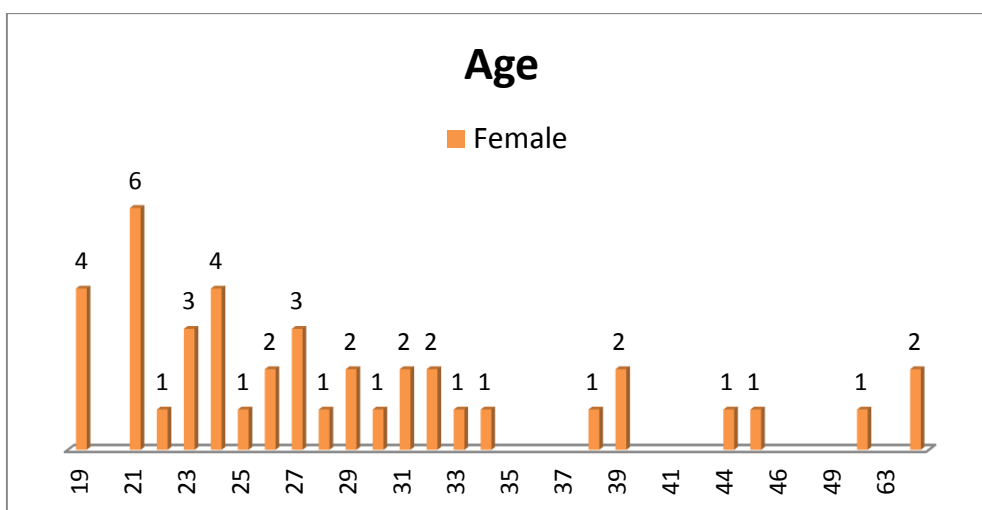
Graphic 1: Number of Colombians refuge applicants or refugees living in Cuenca

Through this graphic we can see that the male population in refugee status or refuge seekers of Colombian nationality in the city of Cuenca is higher than the female. As I talked to respondents they indicated that this difference is because the men are who risk to leave their homes and cross the border to find a place where they can live and once they feel secure in a place, they are able to bring their family; however, the gender difference, between refuge seekers and refugees living in the city of Cuenca is mostly not significant, since the time when a person is afraid for his life or the life of their family they decide to leave the place of residence and regardless of the situation they decide to move.

It is important to note that this survey was conducted to all persons as refugees or refuge seekers, who were older and economically active.



Graphic 2: Male age group of Colombian refugee or refuge seekers in Cuenca.

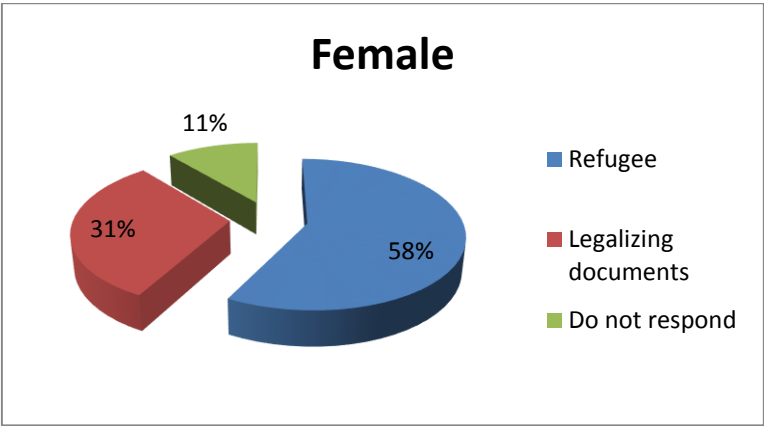


Graphic 3: Female age group of Colombian refugee or refuge seekers in Cuenca.

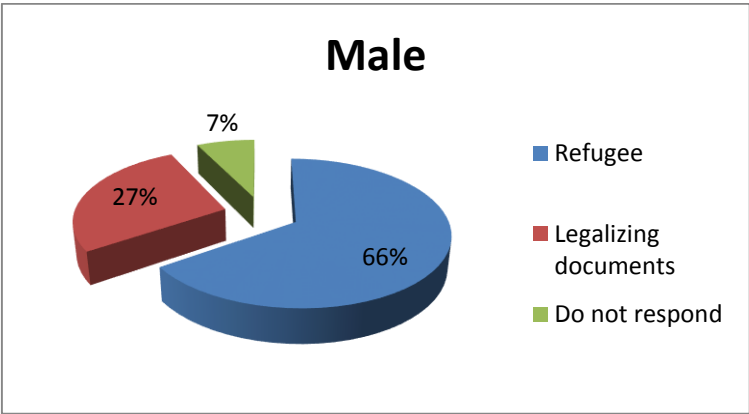
According to the age graphic we can observe that women who are in situations of refuge are younger than men. Also, we can see that most of the surveyed population was young people, perhaps this indicator shows us this information because from the year 2012 that the legalization of the status of refuge was easier for all those who for various reasons felt afraid for their life and according to the constitutional rules of the country could obtain refugee status in Ecuador, only if they meet the necessary requirements to be eligible for this right and start a new life in our country.

It is important to consider that in accordance with the Ministerial Agreement No. 004 of the Constitution of Ecuador that states that a person with refugee status, who is living by the minimum period of three years in our country, has the possibility of requesting the nationalization for the person who is requesting it and to all the family. As a result of the survey we can notice that the refugee people living in our do not belong to elderly; because after three years they are no longer refugees and they become Ecuadorians citizens.

It is crucial for the development of this research; to know, what the Colombian foreigners status is, while living in our city. Although, after the Executive and Ministerial Agreements that the Constitution of Ecuador Decreed, the process to legalize the housing situation in Ecuador became easier, there are still people who live illegally or are legalizing their stay in our country.



Graphic 4: Female migratory status of Colombian refugee or refuge seekers in Cuenca.



Graphic 5: Male migratory status of Colombian refugee or refuge seekers in Cuenca.

This graphic shows us the information of the 100 people respondent, and only a little more than the half, it means the 66%, are with their documents legalized. According to the information from the Ministry of Foreign Affairs and Human Mobility, there is an annual average of 12 people that enter our city seeking refuge, but the requests has not been completely done although according to the executive decrees, this is a process that must last maximum four months.

It means that many of these people are living in our city illegally, which is a negative aspect to them because they cannot apply for a job vacancy neither enjoy the benefits of law. Anyway as the respondents indicated the fact of not having all their documents as required by the State, has become an inconvenience with the incomes for their home, because when they look for a job, the lack of documents, is an impediment for them to been accepted in an enterprise, so they are forced to start an informal work in the streets.

It is essential to emphasize that the respondents of the survey indicated that the majority of them are 58% of female gender and 66% of male indicate who have valid documents, it confirms the speed and easily of the process in our city, even though the authorizations and studies are done in Quito city.

⁷²The Colombian country is divided geographically by 32 departments, 1,123 municipalities, 1 Capital District, 106 provinces and 6 special districts. ⁷³



Graphic 6: Colombia map

According to the information obtained by the survey, it appears that the Colombians, who live in our city, come from different regions, towns and cities in the border country.

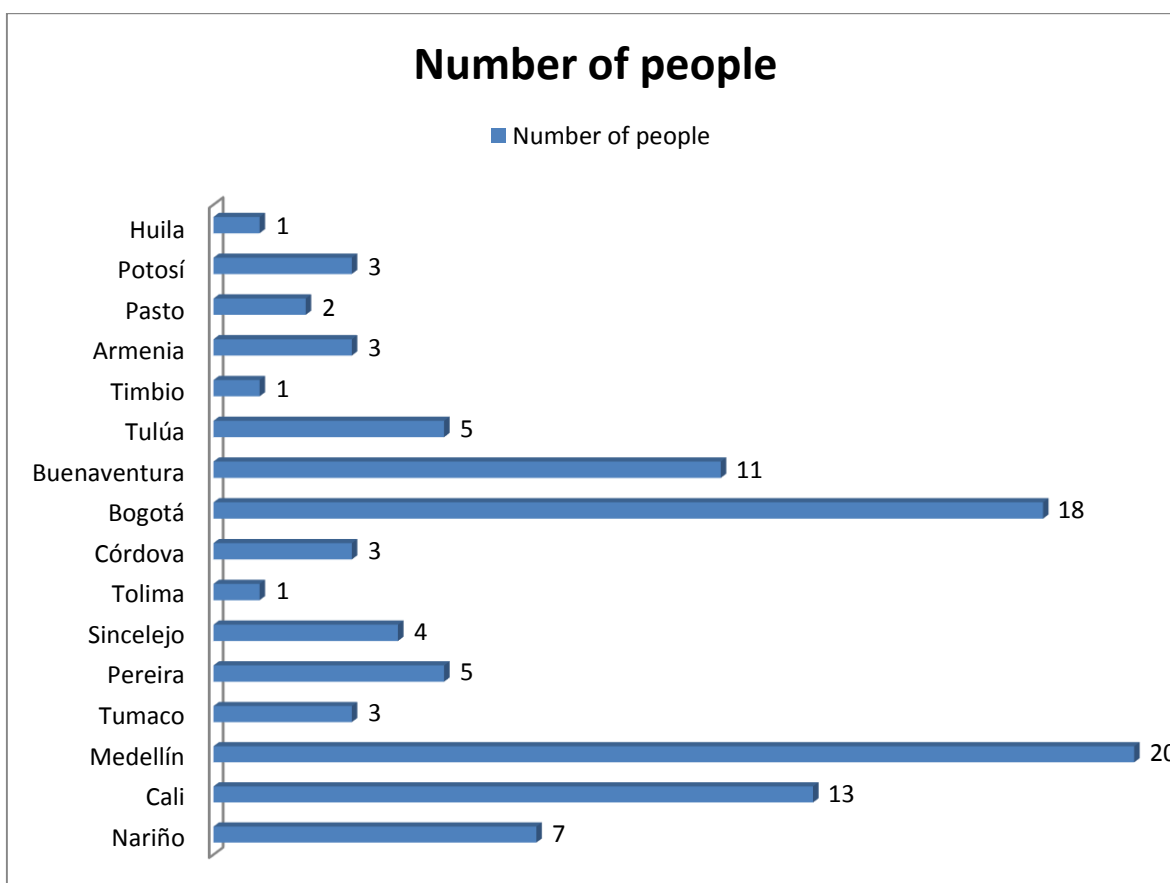
As we see in the map of Colombia, according to the surveys I had done, it is clear that from the Eastern part of Colombia is where the largest number of people come to our country, and according to the author Harvey Danilo Suarez Morales, director of "Consultancy for Human Rights and Displacement" in his publication "a country that runs away" he says that the settlements and guerrilla camps are located in the central region of Colombia, in the towns, jungles and mountains, and from there is where they operate and perform their daily work, it is known that the Colombian guerrillas also trafficked drugs and is involved in serious drug trafficking cases.

⁷² <http://www.lahistoriaconmapas.com/atlas/colombia-maps/imagenes-de-el-mapa-de-colombia.htm>; (Consulta realizada el 5 de agosto de 2015) Imágenes del mapa de Colombia.

⁷³ <http://www.colombia.co/asi-es-colombia/como-es-la-organizacion-politico-administrativa-de-colombia.html>; (consulta realizada el 22 de septiembre de 2015); Organización Administrativa de Colombia.

The limits between Colombia with Ecuador and the Pacific Ocean are linked to drug trafficking and sometimes with violence, such as murder, kidnapping and robbery, also it is a port of call for small and large boats there are people who take advantage to send drugs and ill-gotten money. For this reason violent clashes and persecution is daily news in the cities of the Colombian departments of the eastern part of the country.

It is clearly distinguish that from the cities of Medellin and Bogota there are the greatest number of people who are living in our city, according to the comments given by the respondent group, they indicate that this is because Medellin, is under their criteria, as one of the most dangerous Colombian cities, due to the killing and violence which sometimes they were witness.



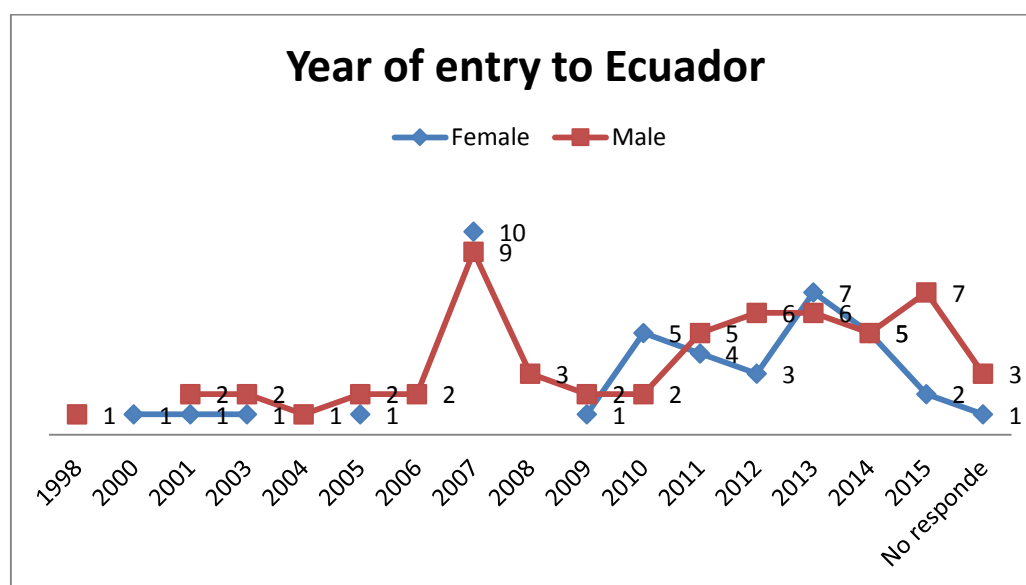
Graphic 7: Origin destination of Colombian collective refugee or refuge seekers in Cuenca.

Also they commented that during some years the kidnappings by the guerrillas were common, especially to the health professionals, because there were people with medical needs in the guerrilla camps; this kidnapping was temporary, only for as long as the sick

person needed attention. After that, the guerrillas and the whole camp was mobilized not to be located.

The number of people who migrate from Bogota is one of the highest because it is the capital of Colombia and there live a large number of people. According to surveys, it appears that only the 4% of the Colombian people, who already have refugee card and reside in Cuenca for several years, have left the Colombian capital and have decided to establish their life in the city so they have become professional and executive positions at companies in the city. Within this group of people are those refugees who have studied a university degree and have obtained their professional qualifications.

In 2007 there is a significant entry of Colombian refugees in our city, this information coincides with the statistics of the Colombian Embassy in Ecuador and UNHCR who claim that this year the quality of life of Colombians were highly in danger. The affluence of migration from Colombia to all parts of the world was unstoppable during this year due to the violence which the country was involved.



Graphic 8: Year of entry of Colombian collective refugee or refugee seekers in Cuenca.

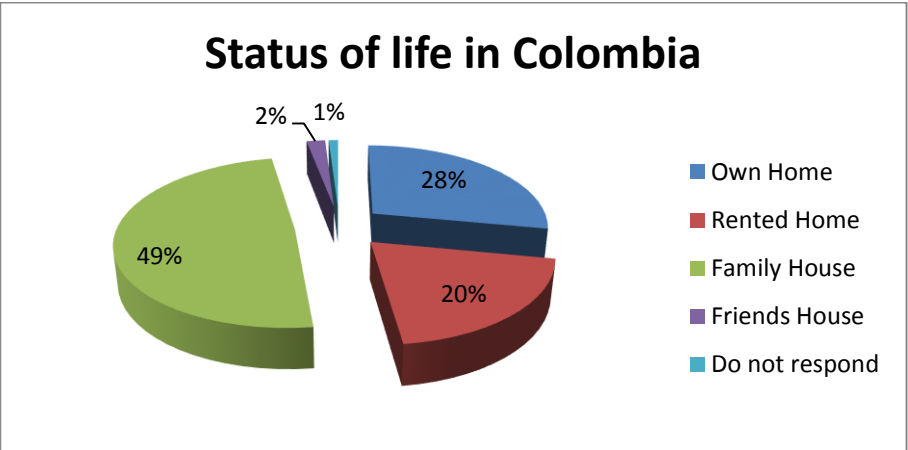
Also it is remarkable to note that to the following year the number of people who entered our city was minimized, and this is because of the peace treaties that the Colombian

government and the FARC handled. Likewise we note that from the new Constitution of the Republic of 2008 due to new facilities to entry to the country opening the borders since the year 2012 the mobilizations started again to our country and in our city.

There is not a big gap between male and female Colombians refugees in our city. As we already noted above, the male gender is superior in number to the feminine.

According to the result of this survey, we also know that in most of the cases the applicants have chosen the city of Cuenca as their first choice for refuge; some others indicated that the city of Cuenca was not the first and the only one option they had when leaving Colombia, they also indicated that they decided moved to other Ecuadorian countries to Cuenca due to the lack of jobs, insecurity and sometimes they were victims of discrimination. Some of the people, who are currently living in our city, indicated that they feel comfortable because they have become part of our society.

With the intention to know what were the living conditions of the people who migrated from Colombia to our city and I asked if the place of residence where they lived was an own house, rented, family or friends.



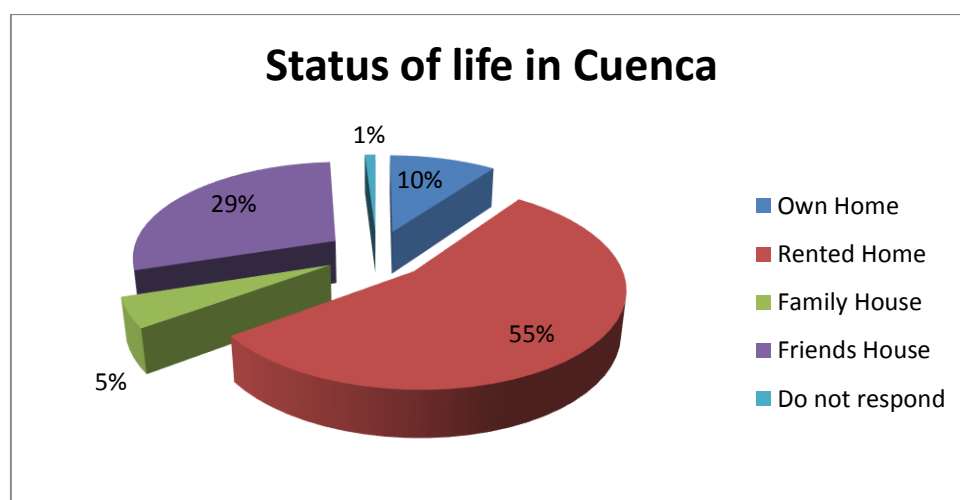
Graphic 9: Status of life in Colombia to the Colombian collective refugee or refuge seekers in Cuenca.

According to the information obtained from the surveys, a high number of people who are refugees in our city belong to an economic low extract and the economic situation they had in Colombia was not enough to purchase their own real property that is why they lived in

homes of familiars or they look for a rented house. The percentage of people with own home is 28%, similar to 20% of rental house, but their homes were very primitive, because the houses were provided by the Colombian government.

It is important to consider that the highest percentage of the status of life is to the family houses, it is because there are several families living together in one house, and they are occupying different rooms for the whole family. In this range there are also those people who feel fear for their life due to different situations and they were staying at the home of other relatives to hide.

Currently, the Colombian people who are living in our city, live in rented houses or family houses, there exists groups living in the same house occupying different rooms that pay a monthly common.



Graphic 10: Current status of life of Colombian collective refugee or refuge seekers in Cuenca.

We note in this graphic their housing condition has not improved compared to the lifestyle they had in Colombia, based on feedback from respondents, they indicated that the remuneration they get from the work they perform in the city is not enough to improve your lifestyle. But its main purpose is to protect their safety and their families' life.

We also note in this graphic that this population of Colombians, among friends and family houses, but they have to pay a monthly rental value despite they live in the homes of friends or relatives. This trend has been repeated for some time, because since the information of the last census in 2010, by the Statistics and Census Institute, the information of the people

born in Colombia and was living in Cuenca were register in the census living in the same house with groups of friends and family.

The people, who live with their families, are those who are living in the city for several years and the complete family has sought refuge. It is also important to mention that according to the Executive Decree extends this protection to the person who has sought refuge and the relatives accompanying him, as long as they have submitted all their identity documents.

Usually according to the results, it is observed that most people that are living in the city, either alone or with their family have a maximum of 2 bedrooms to live, the bathroom is shared with the other tenants living in the same house.

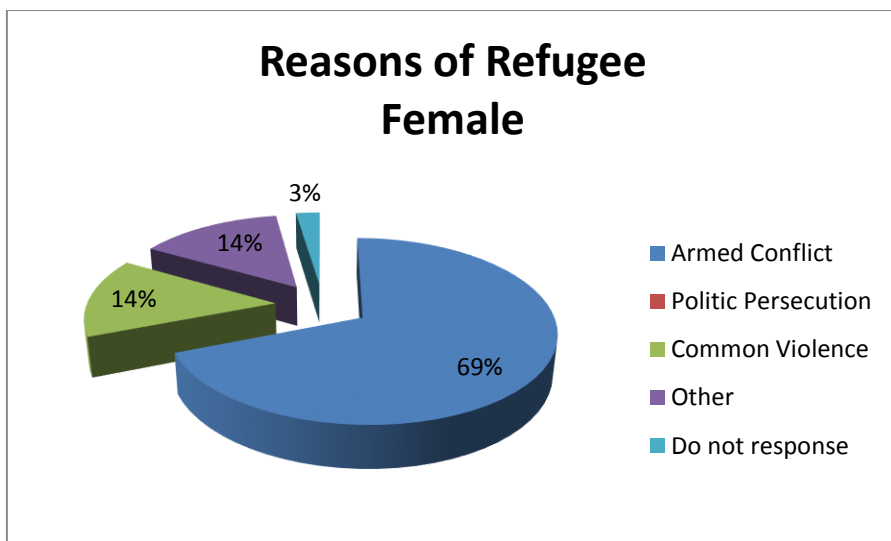
With this question in the survey the respondents also indicated that the refugees who recently arrived to the city, had to find a place to sleep or stay overnight, regardless of the cold city, they had to sleep at the street or on the porch of a house as they find a place to stay.

One of the reasons why this group is vulnerable is because they do not have enough money to pay rent or to buy food.

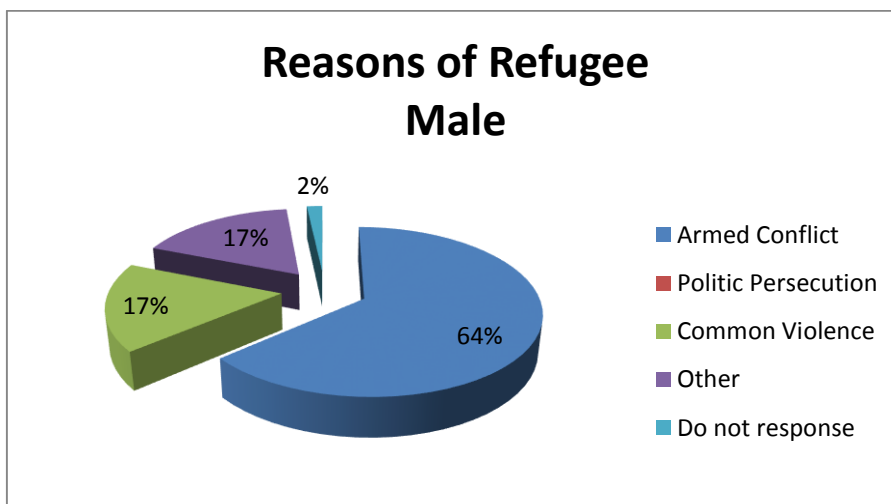
Only the 10% of respondents indicate to have an own house, this percentage belong to the refugees who are living here in Cuenca for several years, they are owners of prestigious business managed in Cuenca. There is also a small percentage of refugees who have decided to move forward, and continue with their studies until obtain an academic degree, it has facilitated the access to a good job with a good salary, allowing them get a mortgage and buy a home of their own. Within this percentage, they are also the people who married with cuencanos.

It is very low the percentage of the respondents that did not answer this question, this is because they are still afraid of being found and reject any kind of help or support either of NGOs, the Ministry of Foreign Affairs and Mobility human or any other kind of help offered to them.

According to the survey responses, we can determine the causes and reasons representing this population of Colombians decided to leave his country and move to live in our city.



Graphic 11: Female reasons of refugee of Colombian collective refugee or refuge seekers in Cuenca.



Graphic 12: Male reasons of refugee of Colombian collective refugee or refuge seekers in Cuenca.

Due to the armed conflict in Colombia for over 50 years, the citizens have been forced to care for their life and for their families, because so many of them had decided to move from their homeland. The Colombians preferred to seek a new residence in the neighboring countries like Ecuador, Venezuela and Panama.

The armed conflict was taking more strength and the guerrilla needed to recruit more people to join their group, the quickest way to do it that was kidnapping people. Several stories told by respondents confirmed that the result of the surveys is based to the guerillas threatened to their families on recruit older men, if they refuse, they should flee within 48 hours maximum, in the opposite case the guerrilla will kidnapping or kill them.

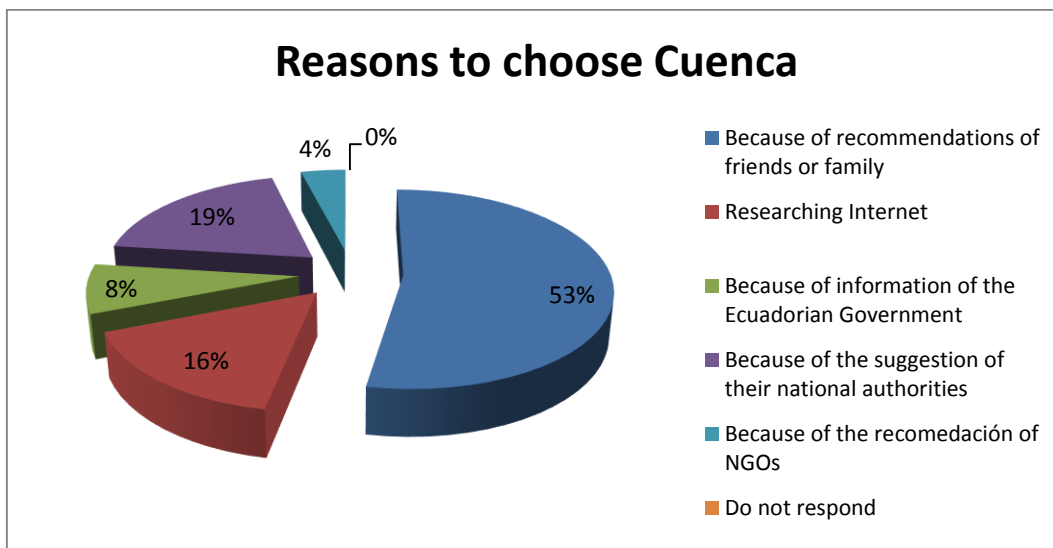
According to a study by the University of Los Andes in Bogota, the guerrillas did not act only abducting people; there were also bombing, raping, killing people, and threats against the lives of people, etc. Children and adolescents were the most vulnerable people in this case because they were intercepted off at the campuses and convinced them to go with strangers. The Guerrilla took away from their families, and to children they teach how to use the weapons and then they formed part of group of guerrillas.

The cases of violence have the 17% of the percentage of this graphic, sharing the same percentage with the cases of drug traffic; the Colombian government has been fighting during years for both of those problems. Among the cases of violence we can cite the story of one of the respondents who told us that he fled to their country, because one day while he was working as a security guard in a restaurant, right before his eyes a person was killed, the criminals realized that our respondent was a witness to this crime, so the criminals threatened him that he would be killed if they see him again. Like this story there are a lot more, and even into their eyes there still the sadness reflects, because of the past they lived in their country.

Drug trafficking is a problem which the Colombian have struggled for several years, some important and dangerous drug traffickers have been captured, and many others are still on the list of the most wanted. Due to the drug trafficking, Colombia has been embroiled in a series of hired assassin and murder against public people, members of newspapers, politicians or polices; also to simple and humble citizens due to accounts receivable.

It is noteworthy that none of the respondents told that one of the reasons for leaving their native Colombia was because of political persecution.

Our Cuenca city is well-known for its culture, traditions and the friendliness of its people, Cuenca has also been chosen by Colombian migrants who seek refuge and protection.



Graphic 13: Reasons to choose Cuenca as final destination of Colombian collective refugee or refuge seekers.

After analyzing the results of the survey, it shows us that the 53% of respondents agree that their family or friends recommended them our city to move from Colombia. Based on the conversations with some of the respondents told that before reaching the city, they had a friend or relative who was living in Cuenca. It is important to emphasize that in several occasions, the person who decides to flee from Colombia comes alone, leaving the family, children or couple in Colombia, because the only life in danger at that time was the own. There are also cases where they are not economically with the possibility of moving a family so they make short displacement inside the country to be hide for a while until they can meet again. This indicates that the main objective having to flee Colombia and leave their families temporally to protect his life and also start to work and in this way to receive their families as soon as possible and start a new life in our city.

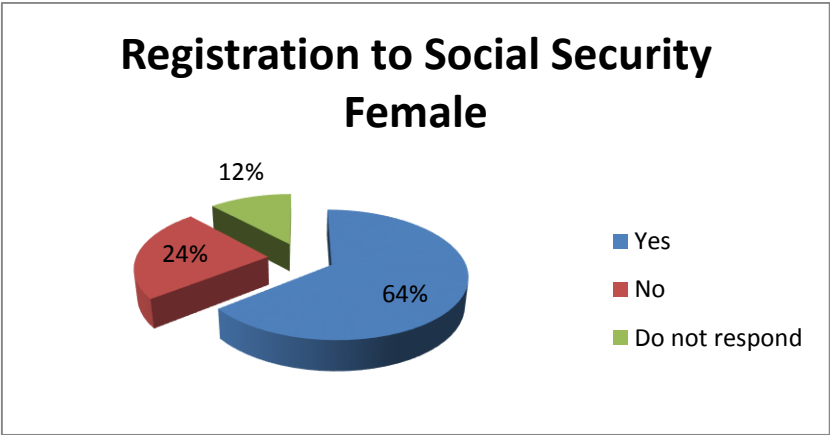
Most of the Colombian colony in Cuenca know each other, whether or not refugees. This is the reason that in most cases the refugees have chosen Cuenca as destination city because of the advice and experiences heard by their friends. In addition, Cuenca is a quiet town, as same as the small towns from the refugees come. Besides the fact that Cuenca are away from the Colombia border is a benefit to them because they feel far of the persecution and problems.

When a Colombian citizen has decided to leave his country and to become a refugee, their compatriots that are living in our city are in charge of looking for a place for their compatriot to have a place to live. This is the case of young people who in search of a better future have decided to leave their country behind, also the conflicts and problems in their city and move to a new country that offers them a better lifestyle. In Colombia, because of their age were not heads of family, but when they decide to start living alone in our city has to work for the personal income and to their families.

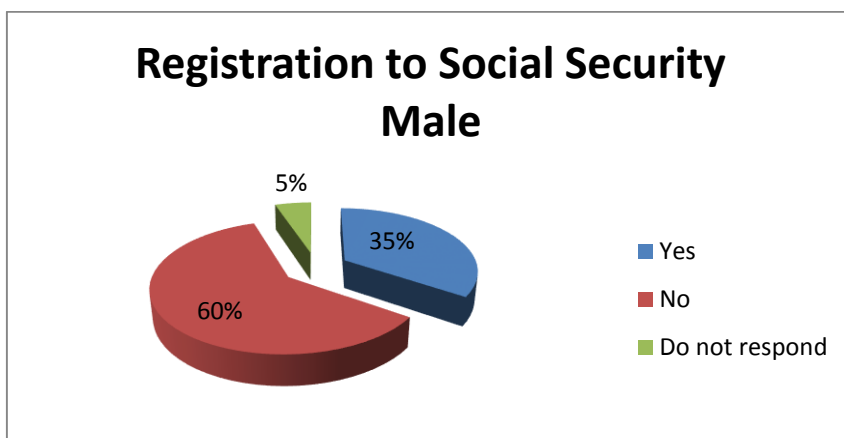
.Due to the Internet, the social media and the campaigns that the government has been launched, have been factors on the knowledge of the country and the city to the world, so at a rate of 16%, an under percentage but considerable to observe that there are people using the technology of Internet to research our city and they have decided to live in Cuenca.

The obligatory registration of workers to Social Security, is an initiative that the current government is working pushing hard with the aim of maintaining an adequate job security for employees in the country, ensuring that a worker receive the minimum salary according the law.

Within this survey we can analyze how many refugee people are with this right protected by law.



Graphic 14: Female registration to Social Security to Colombian collective refugee or refuge seeking Cuenca.



Graphic 15: Male registration to Social Security to Colombian collective refugee or refuge seeking Cuenca.

With this graphic we see that the percentage of men and women in this survey registered in the social security is very different. The female registration is 64% while the male registration is only 35%. This difference occurs because the men work in informally working in the street, like vendors or other activities, some of them working at the traffic lights in the main streets of our city or walking the sidewalks of the streets of Cuenca.

By contrast, the affiliations to women are higher than men, because some of them work in different basic positions in the city with the basic salary; they are enjoying the benefits of the law.

The jobs that this population does in Cuenca are very similar to the jobs they did at home. It is important to note that most of the respondents who live as refugee, are affiliated to the social security, despite the difficulties they faced in the early days of residence in our city such as sleep on the street, ask charity to buy food, etc., some of these people have managed to get ahead and have formed businesses ranging from small dining restaurants with typical Colombian food to large and important restaurants.

Furthermore, it seems important to mention the link with the prostitution that the Colombian women are involved, in according to the comments of several women interviewed for this survey indicate a high degree of dissatisfaction with this theme, they expressed *“not all women are prostitutes, neither all men are criminals.”* However, we must mention that in our city several prostitution groups are conforming by Colombian

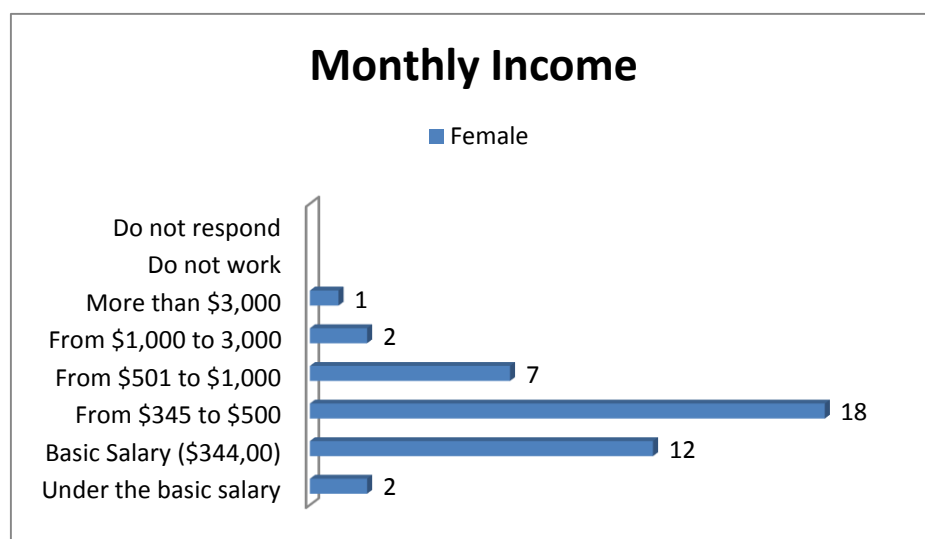
women who have excelled in different places of entertainment stereotyping hers with this profession.

With the information of the surveys we have realized that there are some women who have two jobs, it means that, they work the 8 hours of the work day and then at night they work as prostitutes in different night clubs. They said that also in this work there are favorite prostitutes to the bosses and they receive better benefits like, health in private hospitals, better salary, better clothes, etc.

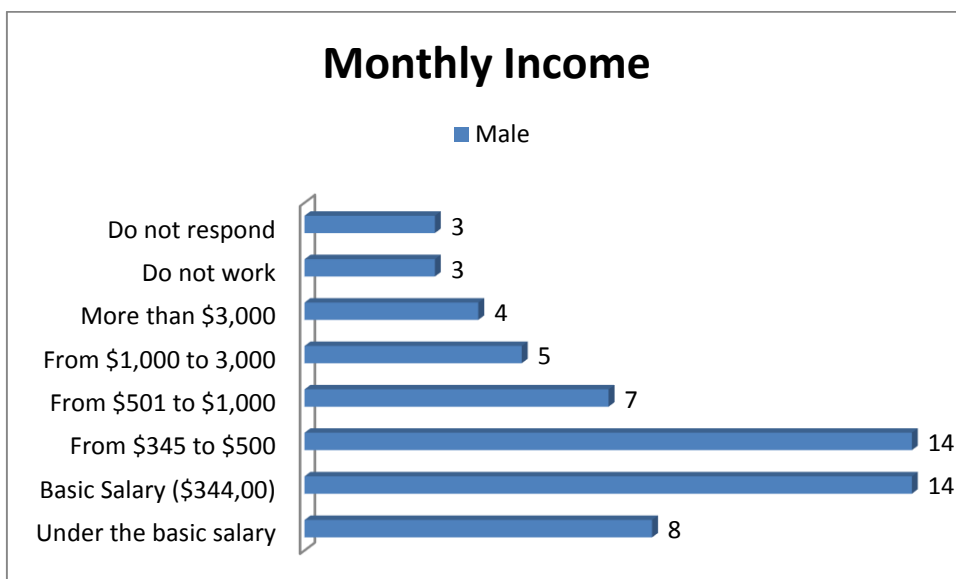
Another situation is the informal sellers that are in the streets of our city, usually male; They have found in sales a way to have income to their home, as they say “*everything could be sell*” they take advantage of the varied climate of our city to offer an article for the right time, cases for mobile phone, sunglasses, umbrellas, sleeves for professional drivers, rosaries, holy card, etc. Those articles are offered to people who drive around the city.

The work day is usually of 8 hours, although some of them agree to work overtime in exchange for a fee.

The principal problem of this refugee people is work every day for the enough income for their home. As we have mentioned before along this thesis the lack of money at the moment of crossing the border is one of the principles problems they have to deal with. Also they have to start a new life in a different country without friends neither family, and also they need to cover the food and housing costs since the first day in our country.



Graphic 16: Female monthly income of Colombian collective refugee or refuge claimant in Cuenca.



Graphic 16: Male monthly income of Colombian collective refugee or refuge claimant in Cuenca.

This result also shows us highly variable results among the options presented in the surveys. From the total of people that are working, all of them have different monthly incomes according to the activities they perform.

The respondents, who claim to earn less than the basic salary, are the people who are working in informal jobs or in the street as vendors. From the total of respondents the 14% were male and only the 5% were women; these groups of refugees earn small amounts of money every day, and they have to administrate in the same way. This group of respondents told that they work every day until reach the enough money they need for that day, that money could be earn in a couple of hours or sometimes in a long work day.

The largest number of people that were surveyed told that they are earning from the basic salary to \$ 500.00, this represents among 48% to males and 71% to females. They work different kinds of jobs, like shippers, managers, waiters, receptionists, office assistants, also executive positions in different companies of the city.

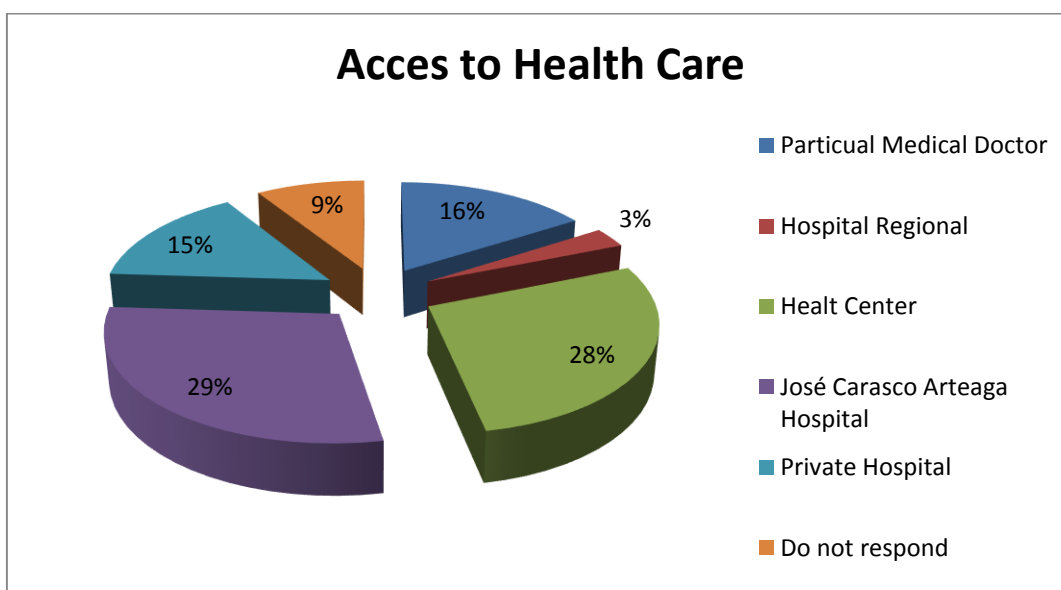
According the conversations with this group during the course of the surveys, we can realize that the refugee people with incomes higher to \$ 1,000 to \$ 3,000 are those who have started their own businesses in our city; this business become successful in Cuenca due to the happiness and cordiality that is a characteristic of the Colombians. Furthermore

they are not afraid to innovation and in the case of the restaurants they have decided to offer new tastes to the palate of Cuencanos.

The hairs salons are one of the businesses managed by Colombians also offer promotions to their customers and they add a differentiated service as an incentive to their clients. In addition it is important to note that the owners of this business accept their compatriots who cannot yet find refugee. The boss of the business offer them jobs with the basic salary according to the law. In that way the Colombian colony is growing.

The access to health has become a key factor on the plan of government of the current President of Ecuador, that is why the government has qualified various Health Centers, Hospitals and Health Care Points to achieve as much patients as be possible.

Ecuador is a country that has opened its borders and has facilitated the entry of several foreign, it is important to have good doctors and health plans for these foreigners can be attended. To find out what is the alternative health plan to this Colombian group, to the refugee or not in our city, I ask this question taking account the public and private centers of health.



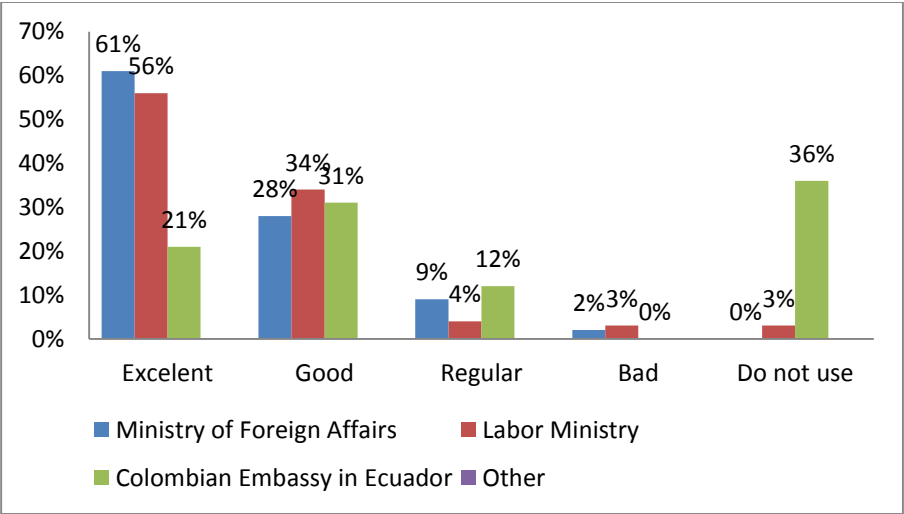
Graphic 17: Health Access to the Colombian collective refugees or refuge seekers in Cuenca.

The answers are varied with this question related to the access to the health care which the refugees use when they get sick. They indicate that the election of the medical center

depends on how sick they feel. The highest percentage is divided between the Social Security Hospital with 29% and health centers with 28%, according to the respondents this percentage is due to a free service those centers give to the people.

The respondents who indicated that they go to a medical appointment with private doctors corresponds the range of 16% of the total, they said that the private medical doctor that take care of them are personal friends, so the medical appointment is for free, they also said that sometimes “*it is forbidden to get sick*” because a day without work is a day without income. This result was surprising, because the 15% of the refugees look for care private clinics, even though mostly of people of this group belong to a low economic group, but when is the time to care their health they do not have any problem to go to a private hospital.

The current government has worked with special emphasis on promoting and creating laws and regulations in order that Ecuador become a country in which accept to the foreign and protect refugees; however although the government is making the best performance in the functions of these standards, the best feedback on this topic should give the protagonists who are directed these rules.



Graphic 18: Satisfaction level of the use of public services.

With this picture we can see the answers of the respondent group about the quality of public services that Ecuador provides to refugees.

The percentage of 61% corresponds to the excellence to the Ministry of Foreign Affairs and Human Mobility it is the public service more used for refugees and for people seeking refuge to find out what are the forms and documents to be completed to live in our country. The information provided by the Ministry has served to legalize their stay in our country, but some of them indicated that the process in Cuenca takes longer than indicated because the information and authorizations are given in Quito.

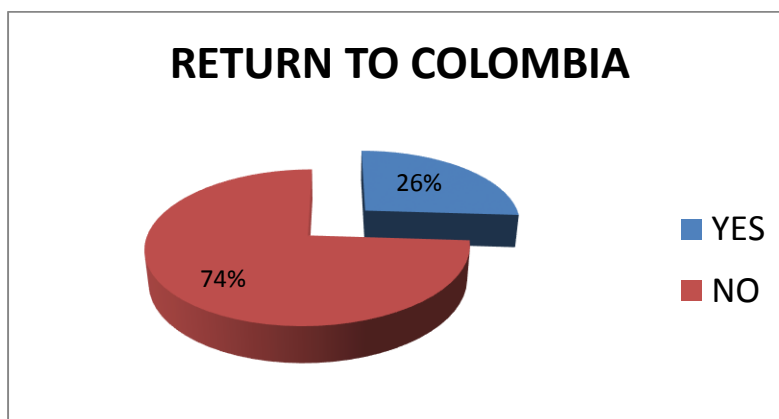
The Labour Ministry is an important Institution to the foreigners and refugees in our country and in the city, with a percentage of 56% corresponding the qualification of “good” this ministry offers the possibility to all those foreigners, who keep their situation duly legalized in our country to register in the web site created for the Ministry of Labour, to look for a job and to apply for the positions that companies offer. Additional the Ministry of Labour explains them their rights and responsibilities as workers of a company. Also the Ministry supports this group of people in labour issues.

Surprisingly we show in the graphic, that the public service least used by the Colombian refugees is the Colombian Embassy that is rate with 36%. It occurs because when refugees do the legalization of their documents as a refugee, they would not need the Embassy for any formality.

Other institutions that were cited by respondents were HIAS and The Red Cross. As we have mentioned this Organizations are also seeking the welfare of refugees in Cuenca.

It is essential to understand what the situation of refugees is in our city, we need to understand what their future plans are; it is important to know if they have found in our country and in our city the opportunity to reside indefinitely and to continue growing along with their family.

The last question of the survey asked to the respondents about their plans to return to their country and their plans to stay in ours. We have as results the following analysis:



Graphic 19: Analysis of the return of Colombian collective refugee or refugee seekers in Cuenca.

According to the surveyed people, the 74% indicated that they do not have in their plans to move or to return to their country, while the 26% said that they wish to return to Colombia. With this information the authorities and the government should think in a strategic plan that meets the needs of refugees, asylum seekers and foreigners who are living in our country. And handle a future plan that allows all foreigners who have decided to make the nationalization in our country and at the same time does not interrupt the continuous development of Ecuadorian nor affected the jobs of nationals.

It is also important that all public institutions and NGOs take into consideration that there is a high number of foreigners with great commercial potential to be inserted in our society. Due to the founded fears, a quiet life out of danger, or to live into a new society with their family, the Colombians refugees have decided to stay in our city.

3.2 The Pros y Cons of the presence of refugees.

The city of Cuenca is characterized by the warmth and friendliness of its people and the cultural heritage that goes from generation to generation is reflected in the beauty of the city and in the culture of the people. The Cuenca are people who are regarded as peaceful and calm people, who have mostly developed their style and way of life by the knowledge and beliefs that they have inherited, as marking stereotypes and believe in them, so the inclusion of a new group to the city is not an easy task.

The Colombian people living in Cuenca among their biggest problems is dealing with the acceptance in society. Because of the stereotypes, the Colombians are seen as bad people, criminals, thieves, killers, etc. Among the comments that Colombians have heard in our city, people say *“These Colombians only come to steal”*, *“... the thieves must have been Colombians”*, *“The hired killer did not exist in Cuenca, since these Colombians live here that happens ...”* the Colombians that are living in our city lament these comments because they know that there exist *“bad people”* but as exist everywhere.

However, there are several companies that have created new jobs, due to the demand that the new culture from Colombia people have been established in the city, especially in sales. Also there are cases of Colombians refugees who have decided to start a new life in our city because they feel peace living here. There are some pizzerias that have been gradually positioning in our market, because it offers a variety of products in different tastes of pizza, that here in our city we did not know. To have new business in our city means new opportunities of job to domestic and foreign people.

The multiculturalism due to the inclusion of this group in our city has achieved different aspects in our culture and customs, thus it offers to foreigners a city full of traditions.

3.2.1 Salaries and work positions

It is the labor issue where the refugees have the greater difficulty in the moment to look for a job. However, there are several organizations that deal with labor inclusion of foreigners. This is the case of the Hebrew Immigrant Aid Organization and Refugees (HIAS), a *“non-governmental organization whose origins date back to the 1880s.”*⁷⁴ *“This organization began to work in Spain since 2003 and together with the UN and UNHCR have developed*

⁷⁴ <http://1800refugio.org.ec/site/index.php/23-acompanamiento-y-apoyo-pichincha/acompanamiento-trabajo/74-hias-organizacion-hebrea-de-ayuda-a-inmigrantes-y-refugiados-trabajo>; (consulta realizada el 23 de junio de 2015); 1800 refugio.

several programs, including: Psychological support, university grants DAFI, CINOR, and training and since 2007 the Humanitarian Assistance Program".⁷⁵

This organization (HIAS) conducts programs in our city with small and large businesses to invite them, to hire refugee foreigners to the different work positions in the enterprises; the HIAS Organization supports in the same way that the job contracts are conducted legally and under all law benefits. With this program is linked "*Red Socio Empleo*", a public service provided by the Ministry of Labour under a virtual system where all people could look for a job opportunity in a public office, they have to fill the personal information to apply for positions that are offered by different companies. This network enables employees and employers to be aware of the documents and procedures required to be met by hiring a foreign person and even more as a refugee.

The most recent strategy that HIAS has been used since the last year is very successful. It is about invite to breakfast several executives of the companies of our city to give a conference about the refugees; in this conference the HIAS people explain the employment options and the situation of the refugees. This Organization does not have statistics on the labor market from refugees, because they are not hired with all the benefits of the law so they decide to work informally in the streets or start their own small businesses.

In our city there are several examples of different business driven by Colombians, such as pizzerias, restaurants, bars, and clothing retail, among others. In these shops we can feel the joy of Colombian people who with their typical accent involved the consumers and customers, it creates a just and necessary competence in quality of customer service with the nationals, this strategy has managed to change the bad customer service in our city we were used to.

Carlos Alberto M., a Colombian who is in a refugee told us that he had to flee from his native Medellin because some family members were kidnapped by guerrillas, he was threatened and "*he will be the next*", so he decided to settle in Cuenca because a friend had told him about the city. He quickly adapted to the city because he was used to a small

⁷⁵ <http://1800refugio.org.ec/site/index.php/23-acompanamiento-y-apoyo-pichincha/acompanamiento-trabajo/74-hias-organizacion-hebrea-de-ayuda-a-inmigrantes-y-refugiados-trabajo>; (consulta realizada el 23 de junio de 2015); 1800 refugio.

towns, and quickly he realized his visa procedures with the help of his friend. Rapidly he found a job in a private company as a workshop assistant and despite he enjoyed a good working relationship, his economic situation demanded a higher income than the basic salary he earned. His entrepreneurial spirit led him to open his own business, a small restaurant that initially only had a menu of four Colombian dishes, today the menu has grown and also the restaurant, with him there work some compatriots, some of them are refugees and some others do not.

3.3 Comments and Points of view

It is important to consider, the different opinions that people in the city have about Colombian foreigners. Clearly we can see that there is a rejection to this group because there exist criminal cases where Colombian people had been involved; as we have stated earlier, in our city there is a discomfort toward Colombians, pointing them in a negatively way.

Throughout this study we have understood the difficulties experienced by the refugees and the way try to be included in the Cuenca every day. It is noteworthy that the joy and the constant struggle of the Colombians are a point in favor of them to achieve fit.

3.3.1 Positive comments

The Dr. Jaime Arturo Moreno Martinez, Executive Director of the Chamber of Commerce of Cuenca, indicates that the presence of the Colombian group, those who are refugees or if they are legalizing their documents, in the city of Cuenca, should not be seen as a problem, because a migration flow is positive, even though the circumstances in which these people come to the city are unfortunate, it forces us to comprehend the principle of solidarity, an international principle that Ecuadorian State become part of and for this reason we should accept all foreigners who come to the city seeking support, shelter, assistance and international protection with a principle of non-refoulement.

The Dr. Moreno says that is important to realize that there are good and bad people among this group, it is significant to do not being based on the stereotypes that we heard toward people of different nationalities and cultures. It is crucial to understand that within this

group there are good people who come to the city to provide valuable lessons to internationalize the city to offer new customs and habits. As an example of the lessons that the Colombian group contributes to our city, it is how to treat customers and know how to sell a product that someone is interested. It means Colombian people are engaged in sales of any product or behind a counter they have taught us the difference between a good customer service and they present us a school which we must learn.

Doctor Moreno says the Chamber of Commerce of Cuenca, has been present in various events in which he could notice an increase of foreign personnel within companies of the guild members, it has been remarkable the presence of Colombians, who, despite that they are in our city for irregular reasons and also they are people who was suffering from different problems of their country, they have shown that tenacity and courage that are characteristics that represent them. There is no doubt that they are doing a successful job, and sometimes they are standing out from the cuencanos and nationals.

Finally, Dr. Jaime Moreno emphasizes that as Ecuadorian citizens, we have a human obligation in which the borders do not exist, it forces us to accept them, know them and link them into the society, the worst strategy against them would be to isolate.

Thus, we see that there are positive ways to take advantage of a new group in our city, the competition in the marketable area has grown so much that is why there are companies who prefer to work with foreign staff, because sales levels have risen.

3.3.3 Negative Comments

The ex-councilmen of Cuenca, Dr. Wilson Muñoz Serrano, ex-President of the Security Commission of Cuenca, and who was characterized to the issues security in the city indicates that the Ecuador is a country with a median population of inhabitants compared with Colombia, it exists a greater number of jobs opportunities, and the benefit that Ecuador is the only Latin American country that is dollarized offers an advantage to foreigners who handle another currency because it is an increase to their incomes and our country offers them a better standard of live.

In 2007 the State was the responsible for opening the borders in order to internationalize the country, it fact was taking advantage of by all those, who saw in Ecuador a place of residence, because in that time there no exist an analysis of the people who entered to our country by the Ministry of Foreign Trade and Human Mobility, to the Ministry was not important to know the antecedents of the people who decided to move to Ecuador to live, although some of that people already have police record; there were cases of people directly linked to the guerrillas and fugitives from justice. The result we get today is a city where the social peace and security of citizens have been altered. Dr. Muñoz indicated that Ecuador is a country where there are good people, and we are bearers of an ancient culture, which begins to look disturbed by the migrants disguised as refugees who decide to move to Ecuador, but also to the city Cuenca, a city of peace, where we could look at the center of our city when the jewelry business were open to the night, and their owners being quiet and nice people, which facilitated the criminal work these foreigners.

Dr. Muñoz believes that due to the stay of these visitors, (the refugees) it has been a number of criminal acts such as thefts, assaults to banks, sicariatos, express kidnapping among other events; which when the criminals were apprehending most of them were of Colombian nationality and sometimes these people carry the refuge card among his documents. The Dr. indicates that this information is in the official registers established in the Safety Commission and in the Attorney of Cuenca.

The Dr. also said that there is a public document that is a report about migration and refugees in Ecuador and the growth of crime rates, that after a thorough analysis executed in Washington the Ministry of Defense did it. It is why Ecuadorians are living mood of anxiety. In addition Dr. Muñoz notes that the government of Ecuador freed prisoners without trial, of which several of these detainees was Colombian and also there exist a contradiction of the Ministry of Defense with the ordinance to eliminate weapons to individuals, including security guards, who their only form of defense is a wand.

Finally, Dr. Wilson Muñoz gives us several examples of criminal acts in our city, it had been committed by foreigners with Colombian nationality who at the time of apprehension were found with the refugee card, that as he indicated there are relevant facts that can confirm that Colombians who are in refuge condition in Cuenca, they are not part of a

successful investigation of their police record or personal history by the Human Mobility Ministry, because only presenting legal documents that all people carry, they get this right as refugee. The examples cited are:

- The Assault to the Monte de Piedad.
- Assassins – The murder of the First Vice President of the Chamber of Commerce of Cuenca.
- The murder occurred in the Camino Viejo a Baños street, as consequence to the theft of a mobile phone to young man that was 20 years.
- 12 Jewelry were mugged in the downtown of the city.
- Express kidnapping.

Also Dr. Muñoz also said that when he was councilman of Cuenca, he tried to fight against this crime and the new forms of robbery and assault, but only some councilors joined to this fight, they felt unprotected by the sectional government, as consequence of this fight, several councilors, including Dr. Wilson Muñoz were threatened by these foreigners, who in turn they were also discovered of having links with the FARC and with groups disappeared as the M-19.

In conclusion, Dr. indicates that the system must change urgently, he indicates that it should conduct a thorough review of all the people who enter our country, whether or not tourists, in the same way when an Ecuadorian leaves the country needs a visa and documents that allow us to enter in another State, in the case that the Ecuadorian be a refugee, is carefully investigated to verify that it is a suitable person and eligible to be a refugee. He advises that charity should begin at home; it is to our city that we should cherish and protect, because this will be a legacy we will leave to our children and grandchildren.

According to the comments obtained by these two professionals, it understands the different points of view with which Cuenca agree. It is true that trade and the sales in the city has generated changes and there are new ways of promoting and selling the products in the market thanks to Colombians living in Cuenca; however the number of cases of

violence and crime have been linked to Colombian, it has formed fear among cuencanos against people who do not belong to the city.

CONCLUSIONS

Throughout this analysis on the inclusion of Colombian refugee group in the city of Cuenca, it has been necessary to consider the basic concepts of the different words that are related to the meaning of refuge, and thus, understand the difference between all the forms of migration and mobilization between people in different countries around the world. The history of mobilizations and displacements has existed since prehistoric times, when the nomads were traveling from one place to another, looking for the best land for work and housing; likewise, we find in the Bible verses in which stories of escapes, removals and shelter are cited because of wars, slavery or death.

Migrations and settlements of people inside and outside their borders, has been a topic for several years provided by the various governmental and non-governmental international organizations which work closely with the government of each country to protect people. They mobilize, because this issue is a priority in a State.

The importance of granting the right to refuge a person, whether in a country, a warship, a consular office or an embassy is essential, because the life of this person is in danger, so, the cases of refuge along the years have been diverse and in different countries, taking as main guideline the period of the Second World War, in which the Nazis deported all groups with different thinking and culture from Germany to Poland as repressive measure. So, after this chapter in the history of mankind, it was the need to create an Institution to shelter all those survivors of the war, they were vulnerable and they were alone; thus the “*World Refugee Organization*” was created. However, due to the cultural diversity that exists among people around the world, it has seen the necessity to work with various world Organizations in creating a solid Institution and covering the needs of all people who have been forced to seek refuge to save their life and the life of their families.

Thus, it was created the “*United Nations High Commissioner for Refugees*”, a non-governmental institution established by the UN, which to this day supports and works with the governments of each country, for all those people who for various reasons have had to leave their country.

Since the Constitution of the Republic of Montecristi in 2008, several changes were done, with reference to human mobility to foreigners in the country and to the Ecuadorian outside the boundaries. There were created executive decrees and ministerial agreements with the aim of offering refuge abroad as the best alternative for accessing to live in Ecuador, and giving these foreigners the same rights, duties and responsibilities of Ecuadorian people. However, there is a need to control the entry into the country of these migrants because when they obtain their refugee card, the only requirement in the Ministry that have to present, is the identification card. There is not a detailed investigation of the history of the person; it may become a threat to our society, if that right would be used by immoral people.

According to some conversations with the Colombian refugees group, they said that for a long time they felt the rejection of our people and even in some occasions, they were victims of discrimination because of their nationality, they have managed this situation and they have decided to stay in our city, and little by little the people of Cuenca loved them because of their jovial mood, it is very representative of the people from Colombia, and in this way our society stopped to look them as conflicting or dangerous people. Although there is still work to be done for effective inclusion, of this group in our society.

It is important to consider that, according to the results of surveys to a Colombian refugee group, they indicate that in their plans do not exist the possibility to return to their country, they have succeeded in inserting in our society and they indicate to feel very comfortable in Cuenca, leaving behind a painful past, they prefer to forget.

So, it is our responsibility to accept and include this foreign group in our city. It is up to us knowing how to distinguish between those Colombians who are contributing positively to our environment and to our society and the foreigners who damage the image of their compatriots with misconduct; as I have mentioned above the people of Cuenca are known to be friendly people with nationals and foreigners, and even though there are bad comments against refugees who are living in our city, they have created friendship ties with them, and in this way the refugees have been included in the society, accepting new behaviors and ways of thinking; also in the commercial sector it has succeeded in

improving the quality of customer service because of the warmth and joy from the Colombians that have been infected between those working in the commercial area.

However, there is still too much work to be done, despite the friendliness and warmth of cuencanos, some refugees still feel isolated and despised, because of the rumors, comments and criticisms they hear in the city, this, due to various criminal acts in which Colombians have been involved. It is the duty of the authorities and the cuencanos, to be aware of the differences between a group of refugees who are vulnerable and they are working to improve their quality of life and living away from the conflicts and problems that forced them to leave their country, and those who illegally live in our city and take advantage of the good life of Cuenca for illegal activities.

It is necessary that the Ecuadorian State and the sectional government work on a plan by which this group feel accepted in the country, and the opportunities of labor always be available for them, in the same way the governments have to ensure the rights and needs of nationals, because according to the statistics the refugees in our country and in our city are increasing year after year, it is necessary the jobs and the harmony of the city have not been affected.

RECOMENDATIONS

Cuenca city is known for the cultural diversity that it has, for the great architecture that it presents, and the traditions and customs that surround the city. These traditions and customs have been inherited from generation to generation, so that cultural and social roots are maintained over time.

Because of this cultural heritage with which we were born, it has formed social groups, in which traditions and ideas are preserved even today.

Thus, the inclusion of a new group in a society like this has been a great challenge for the authorities and citizens, when the frontiers were opened and the authorities allow staying in our country to all those people who, due to found stereotypes they have been considered as dangerous was a great effort. One of the activities that has achieved the greatest impact on our city, is organized by the Ministry of Foreign Affairs and Human Mobility each year during the month of June, which is celebrated the World Refugee Day, performing shows in the different plazas where exhibitors were refugees, there they have the chance to become known through the various crafts offered at the stands. This is an opportunity also for the refugee to meet the Cuenca society and learn to join it.

So it is recommended that the authorities and the different actors of human mobility, initiate campaigns, invitations, forums and talks in which the Cuenca society are taught to know who these people are, the various forms of shelter there are, and why they are covered under this law and now they are living in our city. Also it is important that we as cuencanos, are able to open spaces to socialize with foreigners whatever their status, and thus put away the prejudices that we have been inculcated.

So, it is essential to continue with this actions and also new campaigns of socialization and education, through which Cuencanos and refugees being introduced, and thus a natural peaceful inclusion can be achieved.

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