

Post-9/11 law keeps Colombian refugees out of US

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LAGO AGRIO, ECUADOR – The group of men who ate in Maria's restaurant in her Colombian border town seemed no different from other rural workers. But when she asked them to pay, their tall, bearded leader kicked down her door and tried to kidnap her two sons. Then the men, who Maria now knows belonged to a left-wing guerrilla group considered terrorists by the United States, ordered Maria to abandon her home and business within 48 hours.

Now living in refugee housing near this gritty Ecuadorian border town, Maria, who didn't want her real name used for fear of retribution, wonders what happened to her sons since that fateful day nearly a year and a half ago. She also fears the guerrillas will pursue her into Ecuador - as has happened to other Colombian refugees. She wants to be resettled in the US or Spain, where she can "live in peace and work."

Not long ago, her ordeal may well have qualified Maria for admission to the US as a refugee, like thousands of other victims of Colombia's decades of war.

But, like many other aspects of US law, 9/11 changed all that. Maria says she did not know who the men she served lunch were, and could have suffered violence for refusing them. But under a part of the USA Patriot Act that officials have begun enforcing more vigorously over the past year, the food Maria gave the guerrillas qualifies as "material support" of terrorists, and bars her from resettlement in the US. Critics say this law unfairly brands people victimized by terrorists as terrorist allies.

Refugee rights advocates estimate the material support rule has barred some 2,000 Colombian refugees from the US.

Another legal provision, in the REAL I.D. Act, dramatically broadens the definition of a terrorist group to include any two or more people who attempt to endanger lives or damage property.

The application of the new rules has brought a sharp drop in the number of Colombian refugees resettled from Ecuador to the US. In 2003, the US funded a United Nations refugee resettlement unit in Ecuador and committed to eventually receiving up to 5,000 people per year. That year, 111 Colombian refugees in Ecuador were accepted for resettlement in the US; in 2004, 225 were; and, in 2005, only 49 were, according to the UN High Commissioner for Refugees.

"Seventy to 80 percent of the refugees recognized in Ecuador have paid extortion ... in one way or another, meaning they would be affected by the material support limitation," says Simone Schwartz, senior protection officer for the UN High Commission on Refugees in Ecuador's capital, Quito. "We haven't submitted such cases at all to the US, because they wouldn't have been accepted."

Oscar Butragueño, who heads the UN refugee office in Lago Agrio, says the number of Colombians fleeing into that region of Ecuador has doubled in recent months, and that about half of them were forced to support outlaw groups.

"There are many areas where the only authority the people know are the guerrillas," he says. For those who disobey, "the normal punishments are summary execution or forced recruitment of family members as young as 13 or 14 years old."

Some US lawmakers have recently joined rights advocates who have long been criticizing the material witness law as unfair. In May, Sen. Patrick Leahy (D) of Vermont and Sen. Norm Coleman (R) of Minnesota sponsored an amendment that would have created an exception for refugees who acted under duress. The amendment was crushed by the Senate 79-19 on May 23.

Bill Strassberger, spokesman for the Department of Homeland Security's Citizenship and Immigration Services division, says that officials have worked for a year and a half to add more flexibility to the law, but he could give no date for when changes would be ready.

"It's a very complex process to aid people fleeing persecution and not aid people who persecuted," he says, citing cases of participants in Rwanda's genocide who claim they murdered under duress. If the law were made too flexible, he says, then the Taliban in Afghanistan, once considered US allies, might benefit from it.

Mr. Strassberger points out that, rather than being denied, the refugees' cases have been placed on hold and could be reopened.

In the meantime, people like Fernando, his wife, Ariana, and their two daughters are still waiting.

At the end of 2001, says the radio repairman, who did not want his full name used, Colombian guerrillas kidnapped him for 15 days, forcing him to fix their communication equipment "or else they would have killed me."

The family fled to Quito, where they have struggled to find work, and say they have suffered threats and extortion from Colombian guerrilla agents. They want to be resettled in a third country, but they say refugee agencies have not been helpful. Under US law, the repairs Fernando did while kidnapped make him a material supporter of terrorism.

"Doing that work was my only choice," he says. "Me and my family's lives were at stake."