

COLOMBIA:

Rate of new displacement highest in two decades

A profile of the internal displacement situation

17 October, 2008

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The Internal Displacement Monitoring Centre, established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide.

Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based Centre runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries.

Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards.

The Internal Displacement Monitoring Centre also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people. In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

For more information, visit the Internal Displacement Monitoring Centre website and the database at www.internal-displacement.org.

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CONTENTS

CONTENTS **3**

OVERVIEW **8**

RATE OF NEW DISPLACEMENT HIGHEST IN TWO DECADES 8

CAUSES AND BACKGROUND **17**

FORTY YEARS OF INTERNAL ARMED CONFLICT IN COLOMBIA: CAUSES AND ACTORS **17**

UNEQUAL LAND DISTRIBUTION AS THE ROOT CAUSE OF CONFLICT (SPECIAL REPORT, JUNE 2006) 17

THE EMERGENCE OF GUERRILLA WAR IN COLOMBIA (SPECIAL REPORT, JUNE 2006) 18

PARAMILITARIES AS INTEGRAL PART OF COUNTER-INSURGENCY STRATEGY (SPECIAL REPORT, JUNE 2006) 20

THE URIBE ADMINISTRATION'S POLICY TO ADDRESS THE INTERNAL ARMED CONFLICT **21**

SIX YEARS OF 'DEMOCRATIC SECURITY' POLICY (APRIL 2008) 22

DEMobilISATION AND THE JUSTICE AND PEACE LAW (SPECIAL REPORT, JUNE 2006) 23

CAUSES OF DISPLACEMENT **25**

DISPLACEMENT INCREASINGLY USED AS A STRATEGY OF WAR (FEBRUARY 2005) 25

DISPLACEMENT CAUSED BY GUERRILLA GROUPS (JUNE 2008) 27

DISPLACEMENT CAUSED BY PARAMILITARY GROUPS (MAY 2008) 30

DISPLACEMENT CAUSED BY THE COLOMBIAN ARMED FORCES (FEBRUARY 2003) 30

COLLUSION BETWEEN COLOMBIAN SECURITY FORCES AND PARAMILITARY GROUPS AGGRAVATE THE PROBLEM OF DISPLACEMENT (2003) 33

DISPLACEMENTS CAUSED BY FUMIGATIONS AND PLAN COLOMBIA (2006) 36

DISPLACEMENT INDUCED BY DRUG TRAFFICKING (2005) 41

STRONG CORRELATION BETWEEN MULTINATIONAL COMPANIES AND FORCED DISPLACEMENT (NOVEMBER 2006) 44

DISPLACEMENT ROOTED IN TERRITORIAL AND RESOURCE INTERESTS (APRIL 2006) 44

AFRICAN PALM PLANTATIONS AND FORCED DISPLACEMENT (SPECIAL REPORT, NOVEMBER 2007) 48

MILITARY PRESSURE AND AERIAL SPRAYING WORSEN IDP SITUATION (SPECIAL REPORT, JUNE 2006) 53

POPULATION FIGURES AND PROFILE **56**

GLOBAL FIGURES **56**

THE SCALE OF THE DISPLACEMENT CRISIS IN COLOMBIA (SEPTEMBER 2008) 56

GOVERNMENT CHALLENGES IDP FIGURES RELEASED BY THE CIVIL SOCIETY (SEPTEMBER 2008) 56

RECENT TRENDS **58**

NUMBER OF IDPs (1985-2005) (SPECIAL REPORT, JUNE 2006)	58
RECENT DRAMATIC INCREASE OF INTERNAL DISPLACEMENT (SEPTEMBER 2008)	58
GEOGRAPHICAL DISTRIBUTION	59
DISPLACEMENT BY DEPARTMENT ACCORDING TO ACCIÓN SOCIAL (AUGUST 2008)	59
DISPLACEMENT IN CHOCÓ DEPARTMENT (JUNE 2008)	59
DISPLACEMENT IN NARIÑO DEPARTMENT (APRIL 2008)	60
DISPLACEMENT IN MOJANA REGION (BOLÍVAR, SUCRE, CÓRDOBA, AND ANTIOQUIA DEPARTMENTS) (APRIL 2008)	60
DISPLACEMENT IN MONTES DE MARÍA REGION (CENTER OF BOLÍVAR AND SUCRE DEPARTMENTS) (APRIL 2008)	62
<u>PATTERNS OF DISPLACEMENT</u>	63
GENERAL	63
DISPLACEMENT FROM RURAL TO URBAN AREAS IS THE DOMINANT PATTERN (JUNE 2008)	63
AGE, GENDER, AND ETHNICITY OF THE DISPLACED POPULATION (JUNE 2008)	63
MASS DISPLACEMENT VS. INDIVIDUAL DISPLACEMENTS (SEPTEMBER 2008)	64
ADDED VULNERABILITY OF IDP FAMILIES (JUNE 2008)	64
INTRA-URBAN DISPLACEMENT (SEPTEMBER 2008)	65
<u>PHYSICAL SECURITY & FREEDOM OF MOVEMENT</u>	66
PHYSICAL SECURITY	66
THREATS TO PHYSICAL SECURITY CONTINUE (JULY 2008)	66
VIOLATIONS OF HUMAN RIGHTS AND HUMANITARIAN LAW RESULT IN CONTINUED DISPLACEMENT (MAY 2008)	67
INDIGENOUS AND AFRO-COLOMBIAN POPULATIONS SUFFER MOST HUMAN RIGHTS VIOLATIONS (MAY 2008)	67
HUMAN RIGHTS DEFENDERS AND IDP LEADERS CONSTANTLY THREATENED (JULY 2008)	68
IDP LEADERS KILLED SINCE 2002 (AUGUST 2007)	70
NEW IRREGULAR GROUPS POSE SERIOUS THREATS TO PHYSICAL SECURITY (JULY 2008)	73
WOMEN EXPERIENCE DIFFERENTIATED, SPECIAL PROTECTION NEEDS (APRIL 2008)	74
ABOUT TWO PEOPLE ARE VICTIMS OF A MINE ACCIDENT DAILY IN COLOMBIA (2008)	76
FREEDOM OF MOVEMENT	79
WARRING PARTIES PREVENT CIVILIANS FROM ACCESS TO FOOD AND MEDICINE (MARCH 2007)	79
<u>SUBSISTENCE NEEDS</u>	83
OVERVIEW	83
VIOLATIONS OF RIGHTS TO FOOD, EDUCATION AND HEALTH (SPECIAL REPORT, JUNE 2006)	83
FOOD	84
ECONOMIC CONDITIONS ARE THE STRONGEST CHALLENGE TO FOOD SECURITY (NOVEMBER 2007)	84
PROBLEMS RELATED TO FOOD SECURITY OF IDPs (NOVEMBER 2007)	84
MALNUTRITION AMONG INTERNALLY DISPLACED CHILDREN (JUNE 2008)	85
HEALTH	85
HEALTH PROBLEMS COMMON AMONGST IDP (MARCH 2008)	85

GAP BETWEEN REGISTRATION AND DELIVERY OF HEALTH SERVICES (SEPTEMBER 2008)	86
ACCESS TO HEALTH SERVICES BY IDPs (NOVEMBER 2007)	87
AERIAL FUMIGATIONS HAVE A NEGATIVE IMPACT ON HEALTH (MARCH 2008)	87
THE HEALTH SITUATION OF DISPLACED WOMEN (JUNE 2008)	88
IMPACTS OF VIOLENCE ON MENTAL HEALTH (JUNE 2008)	89
WATER AND SANITATION	90
10% OF IDPS HAVE NO ACCESS TO SANITATION SYSTEMS (APRIL 2005)	90
SHELTER AND NON-FOOD ITEMS	91
MANY IDP CONTINUE TO LIVE IN UNSATISFACTORY CONDITIONS (MARCH 2008)	91
IDPS SHELTER SITUATION IS PRECARIOUS (JUNE 2008)	91

ACCESS TO EDUCATION **93**

GENERAL	93
DISPLACED CHILDREN: LOWER ACCESS TO EDUCATION (NOVEMBER 2007)	93
ACCESS TO EDUCATION: COMPARISON BETWEEN IDP AND NON-IDP POPULATION (APRIL 2008)	93
ACCESS TO EDUCATION FOR IDPS IN LARGE, MEDIUM, AND SMALL CITIES (APRIL 2008)	94

ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION **95**

SELF-RELIANCE	95
IDPS EXPERIENCE EXTREME DIFFICULTIES FINDING EMPLOYMENT, AND 92% ARE INFORMAL LABORERS (JUNE 2008)	95
PRACTICALLY NO IDP FAMILIES HAVE INCOME OVER THE POVERTY LINE, AND HAVE SIGNIFICANTLY LOWER INCOME THAN NON-IDP FAMILIES. (JUNE 2008)	95
HARSHER LABOR CONDITIONS FOR IDPS IN SMALLER URBAN CENTERS (JUNE 2008)	96
PUBLIC PARTICIPATION	96
PUBLIC PARTICIPATION IS FUNDAMENTAL TO GUARANTEE OTHER RIGHTS OF IDPS (JUNE 2008)	96
PUBLIC PARTICIPATION OF IDPS IS MORE FORMAL THAN REAL (JUNE 2008)	97
RECOMMENDATIONS TO THE GOVERNMENT ON HOW TO GUARANTEE THE RIGHT TO PUBLIC PARTICIPACION OF IDPS (JUNE 2008)	97
KEY REASONS WHY IDP PARTICIPATION IS FUNDAMENTAL (SEPTEMBER 2008)	98

DOCUMENTATION NEEDS AND CITIZENSHIP **99**

GENERAL	99
IDP REGISTRATION IN THE RUPD: PERCENTEGES AND OBSTACLES (NOVEMBER 2007)	99
THE CONDITION OF BEING DISPLACED IS INDEPENDENT AND DOES NOT REQUIRE A CERTIFICATE (FEBRUARY 2008)	99
IDPS MUST REGISTER WITH THE SYSTEM WITHIN A YEAR, BUT THAT RULE HAS EXCEPTIONS (FEBRUARY 2008)	100
HANDLING OF THE REGISTRATION SYSTEM MUST KEEP IN MIND THAT DISPLACED PERSONS ARE EXTREMELY VULNERABLE (FEBRUARY 2008)	101
RATES OF STATEMENTS AND REGISTRATION WITH RUPD (NOVEMBER 2007)	102
TIME THAT GENERALLY ELAPSES BETWEEN DISPLACEMENT AND REGISTRATION (NOVEMBER 2007)	102

ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE 104

GENERAL	104
INEQUITIES IN ASSISTANCE PROVIDED TO WOMEN (APRIL 2008)	104
INDIGENOUS PEOPLES FACE SITUATION OF PARTICULAR RISK (AUGUST 2008)	104
NUMBERS OF INDIGENOUS AND AFRO-COLOMBIAN IDP HARD TO ESTIMATE (MARCH 2008)	106
IDP REGISTRATION SHOULD BE AVAILABLE IN LANGUAGES OTHER THAN SPANISH (NOVEMBER 2007)	106
MAP OF INDIGENOUS "RESGUARDOS" IN COLOMBIA (JULY 2008)	106
RIGHT TO CONSULTATION (ILO CONVENTION 169) AND DISPLACEMENT (JULY 2008)	108
GOVERNMENT REPORTS IT HAS TAKEN MEASURES TO PREVENT DISPLACED MINORITIES FROM BEING DISCRIMINATED AGAINST (MAY 2008)	108

PROPERTY ISSUES 109

DISPLACEMENT AND LOSS OF PROPERTY	109
FAMILIES ABANDON LAND AND HOUSING (NOVEMBER 2007)	109
RELATIONSHIP BETWEEN DISPLACEMENT AND LAND APPROPRIATION (JUNE 2008)	109
RELATION OF CAUSALITY BETWEEN CONCENTRATION OF LAND OWNERSHIP AND INTERNAL DISPLACEMENT (JUNE 2008)	110
LOW IMPACT OF PROGRAM FOR THE PROTECTION OF LAND ABANDONED BY IDP (JUNE 2008)	111
LAW AND POLICY	111
COLOMBIAN AGRARIAN INSTITUTE LACKS CAPACITY (DECEMBER 2007)	111
UNHCR/GOVERNMENT OF COLOMBIA SIGN AGREEMENT TO PROTECT PROPERTY RIGHTS OF IDP (APRIL 2008)	112
EVOLUTION OF THE POLICY ON LAND ACCESS FOR DISPLACED POPULATIONS (JUNE 2008)	112
CONSTITUTIONAL COURT RULING ON REPARATIONS AND RESTITUTION (OCTOBER 2007)	113
GOVERNMENT ISSUES A DECREE ON REPARATIONS (JUNE 2008)	113

PATTERNS OF RETURN AND RESETTLEMENT 115

GENERAL	115
RETURNS WITHOUT GUARANTEES PRODUCE NEW DISPLACEMENT (SEPTEMBER 2008)	115
IDPS HAVE LITTLE INTENTION TO RETURN (JUNE 2008)	115

HUMANITARIAN ACCESS 117

GENERAL	117
FIGHTING PREVENTS ACCESS FROM HUMANITARIAN ORGANIZATIONS (AUGUST 2008)	117

NATIONAL AND INTERNATIONAL RESPONSES 118

OVERVIEW	118
THE CONSTITUTIONAL COURT: SHAPING THE GOVERNMENT'S RESPONSE (APRIL 2008)	120
THE CONSTITUTIONAL COURT: REDUCING THE GAP BETWEEN POLICY AND IMPLEMENTATION (APRIL 2008)	122

GOVERNMENTAL RESPONSE: UNCONSTITUTIONAL STATE OF AFFAIRS PERSISTS (JANUARY 2008)	123
IMPUNITY FOR THE CRIME OF FORCED DISPLACEMENT (AUGUST 2007)	124
COLOMBIAN NGOS	124
INTERNATIONAL RESPONSE: IMPLEMENTATION OF CLUSTER APPROACH IN COLOMBIA (APRIL 2007)	125
INTERNATIONAL GOVERNMENTAL ORGANIZATIONS PLACE COLOMBIA'S SITUATION HIGH IN THE PRIORITY AGENDA (JUNE 2008)	125
UN FINANCIAL AND COORDINATION RESPONSE (JANUARY 2008)	126
INTER-AGENCY STANDING COMMITTEE HUMANITARIAN RESPONSE COORDINATION (APRIL 2008)	127
INTERNATIONAL HUMANITARIAN RESPONSE (SPECIAL REPORT, JUNE 2006)	127
REFERENCE TO THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT	129
KNOWN REFERENCES TO THE GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT (2001)	129
<u>LIST OF SOURCES USED</u>	<u>134</u>

OVERVIEW

Rate of new displacement highest in two decades

The protracted internal armed conflict in Colombia had by June 2008 displaced 2,649,139 people according to the government, and 4,361,355 people according to a reliable non-governmental source. An alarming trend of rising internal displacement has been registered since 2006, and the highest rate of displacement in 23 years was recorded in the first semester of 2008.

All parties in the conflict, including guerrilla groups, paramilitaries, and state forces are responsible, to different degrees, for forced displacement and human rights violations and abuses.

President Uribe's "Democratic Security" policy has entailed a hard-handed approach against the left-wing guerrilla insurgents, and a demobilisation programme for right-wing paramilitaries. While it is clear that the guerrilla Fuerzas Armadas Revolucionarias de Colombia (FARC) have been weakened, and although demobilisation of paramilitary members of the Autodefensas Unidas de Colombia (AUC) has been formally completed, the displacement crisis and the conflict are far from over: FARC have announced an escalation of their military offensive, and paramilitary groups are as active as before the demobilisation process. Further, the last year has seen an escalation in the regional ramifications of the conflict.

The government's response to the plight of internally displaced people has improved in recent years, partly because of the notable role played by the Constitutional Court. Nevertheless, much more needs to be done to prevent new displacement, protect the displaced population, and implement durable solutions through effective reparation and return policies.

Background to the conflict and internal displacement

The current internal armed conflict and widespread violence in Colombia have their roots in the country's post-independence history. The 1950s period of deep social unrest known as *la violencia* ("the violence") is generally identified as the precursor to the current situation. The unrest was triggered by the assassination in 1948 of a presidential candidate from the Liberal party who had challenged the power structures of both the Liberal and Conservative parties (Livingstone, 2003, p.41). An estimated 200,000 people were killed and hundreds of thousands more were displaced during the following years. The political crisis ended when the two parties reached a power-sharing agreement in 1957.

The guerrilla groups currently fighting the government emerged largely in response to *la violencia*, to repression in the 1960s, and to rural violence aimed at consolidating extreme economic inequalities. Peasant farmers were killed or driven out of their homes as a means of expanding large-scale commercial farms or *latifundia* (IACHR, 1999). The guerrilla fighters of groups including the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia*, or FARC) originated chiefly among the forcibly displaced in these isolated areas where they had a strong popular support base, a main reason why they have managed to sustain armed conflict against the government for more than 40 years (Lair, 2000, p.94). Another major factor sustaining the guerrilla war was the growth of the coca trade in the late 1980s and 1990s.

In the late 1970s and in the 1980s the paramilitary self-defense groups connected to the landowning elite grew stronger, and their counter-insurgency activities were increasingly coordinated with the Colombian security forces. The paramilitary groups also formed strong ties with drug trafficking organisations who sought to defend their economic interests against the guerrilla groups. Over the last 20 years, organised crime has also had a huge impact on Colombian national life, affecting all aspects of society, including the electoral process and the justice system. The guerrillas have also developed a confusing combination of alliances and simultaneous clashes with other actors in organised crime (IACHR, 1999).

President Alvaro Uribe was elected in 2002 after promising a decisive tough line with the insurgents. President Uribe began implementing a “democratic security” policy, which involved intensifying the military offensive against the insurgency. The policy has led to the reduction of some crimes associated with the conflict: the rate of homicides and kidnappings has drastically dropped since 2002 (Departamento Nacional de Planeación, 2007). Likewise, current events seem to signal that Uribe’s approach to the insurgency may have weakened its position (ICG, April 2008), and public opinion polls have shown a rejection of the armed groups and support for Uribe’s policy (Cambio, 2008).

Nevertheless, it is evident that the policy has had a negative impact on the rural population and has failed to prevent a continuing increase in the incidence of forced internal displacement. Furthermore, a political scandal exposing the paramilitary groups’ links with high-ranking government officials and congressmen has revealed the extent to which they have infiltrated public institutions and continue to flourish despite the highly publicised demobilisation process that ended in 2006 (Semana, 2007). Finally, President Uribe’s policy has resulted in the regionalisation of the conflict as tensions with Ecuador and Venezuela have increased during 2008.

Displacement figures and profile

Although the figures describing internal displacement in Colombia vary according to their source, it is clear that displacement has steadily increased since 2006. The government’s Unitary Displaced Population Registry (*Registro Único de Población Desplazada*, or RUPD) has registered a total of 2,649,139 internally displaced people (IDPs) at the end of August 2008, with 281,937 people displaced in 2007, and 117,248 thus far in 2008. However, the authoritative local NGO *Consultoría para los Derechos Humanos y el Desplazamiento* (CODHES) records a total of 4,361,355 IDPs to March 2008, with 305,966 people newly displaced in 2007, and 270,000 in the first six months of 2008. Furthermore, high-ranking government officials acknowledged before the Constitutional Court that there is significant under-registration of IDPs (UNHCR, August 2008). Some categories of displaced people who typically do not register include those displaced within urban centres, those displaced by aerial coca spraying; and those displaced by unlisted paramilitary groups or by security forces. Differences in counting methodologies may also account for some of the difference between the two figures.

Displacement affects the whole country. The table below summarises figures for registered IDPs in the ten departments in which most people are displaced and to which the highest numbers go. (Source: Government of Colombia, Acción Social)

Departments of Displacement			Departments of Reception		
Department	No. of IDPs	% of total	Department	No. of IDPs	% of total
Antioquia	419,887	16	Antioquia	386,037	14.6
Bolívar	234,839	9.2	Bogotá D.C	223,087	8.5
Magdalena	168,433	6.4	Valle del Cauca	163,044	6.3
César	139,665	5.5	Bolívar	157,880	6.2
Chocó	143,852	5.4	Magdalena	144,995	5.5
Caquetá	135,666	5.2	Sucre	130,356	5.2
Tolima	130,992	5	Santander	110,441	4.3
Putumayo	118,447	4.6	César	107,750	4.2
Valle del Cauca	112,495	4.3	Córdoba	106,050	4.1
Cauca	102,506	3.9	Nariño	103,082	3.7

The figures indicate that most people displaced have remained within the same department, while a significant number have fled to the major cities such as Bogotá. Despite an increase in intra-urban displacements since 2003, the main pattern of recorded displacement continues to be rural-urban. 92 per cent of the displaced population have been displaced from rural areas and only eight per cent from urban environments. Of those displaced from rural areas, 93 per cent have moved into a town or city and only seven per cent into another rural area. Of those displaced from urban areas, 93 per cent stay in towns and cities, and seven per cent go to rural areas (Departamento Nacional de Planeación, 2008).

The Civil Society Follow-Up Commission on Public Policy on Internal Displacement, based on an extensive survey, found women comprise 48 per cent of IDPs, 47 per cent of displaced families are headed by women, 63 per cent of the displaced population are under 25 years of age, and 14 per cent of the displaced cannot read or write. Adding to their vulnerability, internally displaced families included an average of 5.2 children, compared to four for non-displaced families (Comisión de Seguimiento, 4 June 2007).

Physical security of IDPs and others affected by the conflict

A defining feature of the Colombian armed conflict and associated violence is that the parties have routinely targeted civilians to clear land for economic and strategic advantage. Given that Colombia's is a multi-party conflict, it is virtually impossible for civilians to find safe ground where they are not targeted by any armed parties. Displacement is realised through a pattern of deliberate human rights abuses. The human rights to life, personal integrity, and personal liberty are regularly abused by all parties to the conflict, including the state (IACHR, December 2007).

According to *Acción Social*, the government agency for IDP policy, FARC and the guerilla National Liberation Army (*Ejército de Liberación Nacional*, or ELN) have been responsible for 23 per cent of internal displacement, and the paramilitary groups no more than 12 per cent. A national verification survey (*Encuesta Nacional de Verificación*) conducted by the Civil Society Follow-Up Commission found, in contrast, that guerrilla groups were responsible for 33 per cent of displacement, and paramilitary groups for 37 per cent. The sharp difference in the percentage of cases of displacement attributed to paramilitaries may be explained by the fact that people feel more comfortable declaring the cause of their displacement to a civil society group than to the authorities, especially for those who might fear retaliation from paramilitaries (Comisión de Seguimiento, 30 June 2007).

Extrajudicial killings, forced disappearances, and threats by FARC, ELN, and the security forces continued in the last year (OHCHR, 2008; Amnesty International, 2008; ICRC, 2008). Further, as the UN Secretary-General's Representative on the human rights of IDPs (the RSG) pointed out after his visit to Colombia, the increased military presence among the civilian population has blurred the lines between military and civilian parties, thus increasing the danger faced by civilians (RSG, 2006).

Even though the demobilisation process has been formally completed, paramilitary groups are flourishing. Immediately following the end of the demobilisation process, new illegal armed groups emerged to commit widespread human rights abuses which resulted in displacement. The government describes these groups as criminals, but there is evidence that they are rather demobilised paramilitary groups under a new identity (USDoS, 2008; UN HCHR, 2008). Some members of the state security forces, ranging from enlisted personnel to senior officials, collaborated with or tolerated the activities of new illegal groups or paramilitary members who refused to demobilise. This collaboration often facilitated unlawful killings and may have involved direct participation in paramilitary atrocities (USDoS, 2008).

Some of these groups, going by names such as the Black Eagles, *Organización Nueva Generación* (ONG), *Rastrojos*, *Traquetos*, *Machos* and Black Hand (ICG, 2007), existed as private armies for organised criminal groups preceding AUC demobilisation, but the paramilitary groups active in 2008 are more than simple criminal gangs: they replicate the military structure and organisation of the AUC, and some are headed by former AUC paramilitaries. Colombian NGO Indepaz estimates that there are at least 9,000 individuals who comprise 76 groups in 25 departments in throughout the country, the same extension and size as the AUC before the formal demobilisation started five years ago (Colombian NGO Platform, 2008). These groups operate in departments that were traditional AUC strongholds, including Norte de Santander, Nariño, the Atlantic Coast, and Medellín.

Human rights defenders and representatives of internally displaced populations are regularly targeted; at least eight leaders of IDP organisations were killed in the first six months of 2008 (CODHES, February 2008). Many human rights defenders have fled or at risk of being forced to flee (RSG, 2006).

Another factor that continues to affect the rural population and prevent IDP returns is the extensive presence of landmines. According to Handicap International, Colombia has the highest number of victims of anti-personal mines in the world, and is the only country in the Western hemisphere where mines are still being laid (Handicap International, 2007).

Access of IDPs to shelter, food and healthcare

Many IDPs continued to live in unacceptable conditions (USDoS, 2008). According to the Civil Society Follow-Up Commission, housing is perhaps the most critical problem faced by IDPs, and the one in which the least progress has been achieved (Comisión de Seguimiento, 4 June 2008). The Commission's national survey showed that fewer than eight per cent of displaced families registered in the RUPD were living in acceptable housing. The duration of displacement was not found to affect this indicator. IDP participation in focal groups consistently identified lack of decent housing as their most important challenge (Comisión de Seguimiento, 4 June 2008).

A World Food Programme/ICRC study conducted in eight cities found that the number of displaced families living in shelter that did not comply with minimum standards (in terms of construction materials, space, access to potable water and sanitation) was higher than the number of non-displaced families. Most displaced families were living in rented property or in

informal dwellings over which they had no title. The principal form of state housing support to IDPs was the payment of housing subsidies.

Poverty has affected the food security of displaced families. A lower percentage of IDP families than of non-IDP families had an adequate diet (WFP/ICRC, 2007). The expenditure on food of IDP families leaves no income for other needs. Food assistance programmes reportedly reach less than ten per cent of children registered in the RUPD, and 18 per cent of registered internally displaced children under the age of five are malnourished, compared to seven per cent for non-displaced children of the same age (Comisión de Seguimiento, April 2008).

For social and healthcare support, roughly 80 per cent of the internally displaced population are affiliated with the *Sistema General de Seguridad Social en Salud* (SGSSS) either under the special or the subsidised schemes (Comisión de Seguimiento, 4 June 2008). However, they have had more difficulty obtaining services or have received services of lower quality as members of these schemes (WFP/ICRC, 2007). Acknowledging these problems, the Constitutional Court in August 2008 ordered the government to improve access to healthcare for IDPs.

Aerial fumigations in some departments have had a negative impact on health, although the government has contested this (UN HCHR, 2008). Colombia is the only country in the world allowing aerial spraying for coca eradication.

Finally, internal displacement has been shown to have a negative impact on mental health. Displaced populations have shown rates of depression significantly higher than non-displaced groups. Violence associated to displacement has generated a high frequency of post-traumatic stress disorder (Comisión de Seguimiento, 30 June 2008). Finally, 18 per cent of displaced families registered in the RUPD include someone with some form of disability.

Impact of displacement on indigenous and Afro-Colombian groups

The internal armed conflict threatens the deep cultural wealth of Colombia's indigenous groups (UNHCR, 8 August 2008). There are around one million indigenous people in Colombia, belonging to 80 groups with over 60 different languages. Almost all of them have been victims of forced displacement or have been threatened as a result of the internal armed conflict (UNHCR, 8 August 2008; UN HCHR, 2008; AI, 28 May 2008). According to the National Indigenous Organization of Colombia (*Organización Nacional Indígena de Colombia*, or ONIC), the continued existence of 18 of these groups is at risk. Illegal armed groups have sought to control indigenous territories to profit from their strategic location, raise and process illegal substances, and exploit their rich natural resources (IACHR, December 2007). Each year, between 10,000 and 20,000 indigenous people are registered as displaced (UNHCR, 8 August 2008), and these numbers may not reflect the real figures, as many indigenous people cannot register because of lack of information and the remoteness of their location.

Indigenous communities were at high risk of mass displacement during 2007 due to armed confrontations, forced recruitment and minefields (Minority Rights Group International, 11 March, 2008). For example, in July 2007 the Ombudsman's Office reported that 600 members of the Awa indigenous community, having returned from an earlier displacement in 2006, faced renewed displacement due to minefields planted throughout their communal territory in Magüí in Nariño Department (Minority Rights Group International, 11 March 2008).

Displacement has particularly shattering effects on indigenous people because of their dependence on their territories for the continuation of their way of life (I/A Court HR, 2001, para. 149). In addition to the impact they suffer directly from the conflict, indigenous groups have been

affected by large-scale economic development projects that render their traditional livelihoods impossible, and by the aerial spraying of illegal crops (UN HCHR, 29 February 2008).

According to the International Labour Organization's Convention 169 of 1989, which Colombia has ratified, indigenous groups shall be consulted whenever consideration is being given to legislative or administrative measures which may affect them directly, or when the exploitation of natural resources belonging to them or under state property is being considered (ILO 1991, Articles 6 and 15). Various Colombian NGOs have denounced the government for violating indigenous groups' right to consultation because legislation affecting them directly was adopted without consultation. This legislation had a negative impact over the Wounaan, Embera, Eperara and Awá (Colombian NGO Platform, 2008).

Afro-Colombian communities face a similarly heightened risk of displacement as indigenous groups, and for much the same reasons: CODHES estimated in 2007 that 12 per cent of the displaced population was Afro-Colombian (USDoS, 2008).

The government reports that it has taken measures to protect displaced indigenous and afro-Colombian minorities. These measures include a decree to prevent discrimination in the governmental response to displaced minorities (Government of Colombia, 27 May 2008). While prevention of discrimination is an important step, differentiated policies are needed to respond to the special needs of displaced minorities.

Impact of displacement on women

Displaced women in Colombia are in a situation of particular hardship and vulnerability. In 2004, the Constitutional Court ruled that the failure of the government's response programmes to reflect the particular vulnerability of women facing conflict, violence, and internal displacement amounted to a violation of their rights. The Court also stated that this vulnerability was even greater in the case of indigenous and Afro-Colombian women, who faced the added burden of discrimination.

The Court identified 13 risk factors that make women caught in the midst of violence and displacement more vulnerable than men in the same position. These factors include the greater risk of sexual violence and sexual exploitation; of exploitation for labour considered specific to women in a patriarchal society; of their children being forcibly recruited by armed groups; and the risk of being persecuted for their membership of women's organisations. In view of those risk factors, the Court ordered the government to implement 13 special programmes to protect internally displaced women, including programmes to protect against sexual violence and domestic violence; promote health; support head-of-household displaced women; provide education support; and provide access to land. In 2008 the government has begun to comply with some of the Court's orders, and it remains to be seen how far it will go forward with the realisation of these programmes.

National response to internal displacement

Failure of transitional justice processes

President Uribe's administration has championed since 2002 a process of negotiated demobilisation of members of the paramilitary AUC. The process involved substantial reductions of criminal sentences to perpetrators of crimes against humanity; thus the victims' rights to justice and accountability were sacrificed so to better establish truth and eventually obtain reparations based on the testimonies of paramilitary members wishing to benefit from sentence reductions.

However, the proceedings did not effectively guarantee the right to justice, truth, and reparation, but left human rights abuses unpunished (IACHR, October 2007).

The Justice and Peace Law of 2005 (Law 975), which came to regulate demobilisations when they were already underway, was flawed both substantively and procedurally, and several of its articles were declared unconstitutional by the Constitutional Court (Decision C-370, 2006). The government then issued various decrees that confounded and sometimes contradicted the Court's mandate, making impunity possible and violating victims' rights.

The process has to date brought no justice to IDPs, despite the valuable opportunity which it presented. First, the demobilisation proceedings did not effectively allow for the participation of IDPs, even though the rules governing the proceedings guarantee the victims' right to participation. The right to participation in these proceedings implies, in turn, a bundle of rights including the right to be recognised as a party with standing; the right to file, demand, and contradict evidence; the right to have access to information; and the right to integral compensation (IACHR, October 2007). Throughout the proceedings, the victims were not able to enjoy these rights for a variety of reasons. Beyond the expense of being present at proceedings, and the fact that many victims lacked information about the proceedings, they could not question paramilitary leaders directly during the preliminary hearings, but only during the second stage, and indirectly. The prosecutor was able to eliminate questions and only asked those he or she considered important. Consequently, while forced displacement was the second most-frequently denounced crime after homicide, no questions were presented in relation to this crime during the first hearings. Further, victims were not able to re-question or ask for clarifications. Through the exclusion of direct questioning and re-questioning, the opportunity to find the truth was almost entirely lost.

90 per cent of paramilitaries were given a de facto amnesty by a decree preceding Law 975. Up to December 2007, only 116, less than one in 300 of over 30,000 AUC members were being tried under Law 975, and none of them had been found guilty December, 2007 (Colombian NGO Platform, 2008). After demobilising, paramilitary leaders continued to commit crimes; instead of taking back the sentence reduction benefits that had been given to them under the demobilisation process, and continue their trial under criminal law, the government in May 2008 extradited 14 of these paramilitary leaders to the United States to be tried on drugs-related charges, leaving their human rights abuses unpunished.

Exacerbating it all, and confirming what many warned when the process began (CCJ, MAPP/OEA, 2005), there is clear evidence that many demobilised paramilitaries have re-armed, vie for power and control of the drug trade, and target the civilian population, causing new displacement. These new armed groups have threatened human rights defenders and IDP leaders. They forcefully recruit men and youth, run illegal check points and have targeted indigenous people (MAPP/OEA, 2008). Thus, neither justice nor transition has been attained.

Prospects for property restitution

Most IDPs in Colombia have been displaced from rural areas. The illegal armed groups have forced peasants from their land by violent means in order to profit from the land themselves. 74 per cent of the displaced population registered in the RUPD have declared that they abandoned property.

Exacerbating the problem is the fact that Colombia already has a highly unequal concentration of land ownership, which has itself been a root cause of conflict. The *Instituto Geográfico Agustín Codazzi* (IGAC) shows that 94 per cent of landowners in the country hold only 19 per cent of the total land area, while 1.4 per cent of landowners hold 65 per cent of the total. Further, studies demonstrate that displacement has been more frequent in departments with higher rates of land

concentration, and that the areas with the highest rates of internal displacement have witnessed an increase in the concentration of land ownership since 1996 (Comisión de Seguimiento, 30 June 2008).

The government has yet to demonstrate commitment to remedying the property loss associated with internal displacement, despite sustained pressure from civil society and the rulings of the Constitutional Court. Law 975 made reparation for property loss dependent on the criminal indictment of perpetrators, rendering it virtually impossible for IDPs to access redress. Paramilitary members tried under Law 975 have not been yet forced to return property that was taken by force. In 2007, the Constitutional Court ruled that the victims of violence had an integral right to reparations, and established the government's obligation to create a policy to guarantee reparations through property restitution. The government issued Decree 1290 in April 2008, creating a programme for individual restitutions through an administrative procedure. This programme is insufficient as it does not contemplate tailored-made mechanisms for restitution to IDPs, instead drawing on general existing rules on property.

A comprehensive plan for reparations through restitution has yet to be drafted. Some of the very thorny issues that the plan will have to address include criteria to prioritise beneficiaries of restitution; the type of property that will be included for restitution; division of responsibilities and powers between the various government institutions; procedural rules for the complaints; and funding for the restitutions programme. It is of utmost importance that the crafting of the national reparations plan includes the participation and voice of IDPs.

Role of the Constitutional Court

Colombia was one of the first countries in the world to have a domestic IDP statute, which was adopted in 1997, a year before the UN issued the Guiding Principles on Internal Displacement. However, the adoption of this statute failed for many years to lead to improved protection of IDPs, and the Constitutional Court declared in the landmark decision T-025 of 2004 that the government's response to internal displacement amounted to an "unconstitutional state of affairs". Through this innovative legal concept, the Court ruled that the violation of basic human rights extends to an unidentifiable number of people – the entire IDP population beyond those particular individuals who brought the complaint – and cannot be ascribed to one government authority, but to a widespread, structural failure of the government's response.

This decision has led to gradual improvements in the government's response to internal displacement. The government has since allocated steadily increasing funds to the IDP response, from \$177 million (363 billion pesos) in 2004 to \$525 million (1,080 billion pesos) in 2008.

Since decision T-025, the Constitutional Court has asserted its jurisdiction until the unconstitutional state of affairs is overcome. It has thus handed down, on its own initiative, a variety of subject-specific writs describing the special situation of vulnerability of women and children, and ordering the adoption of differential, needs-based measures, which the government has yet to realise in October 2008.

In order to close the large gap between policy and implementation highlighted by the RSG after his last visit to Colombia, in 2006 the Court ordered the government to adopt outcome indicators to evaluate its response and allow the Court to determine if the structural inadequacy of the response has been overcome. The Court has emphasised that the indicators should be quantifiable and should provide information about the living conditions of IDPs rather than institutional aspects of the government's response (Rothing and Romero, 2008). The Court considered the government's initial indicators unsatisfactory, and has asked the Civil Society Monitoring Commission and other expert bodies to provide technical support in the elaboration of the indicators.

The Constitutional Court has also attempted to gather data on the response given by local and central authorities, with the aim of improving coordination and assuring equal response throughout the country. To this end, the Court issued Writ 052 of 2008, requesting that the government of each department provide specific information about its response to internal displacement. Drawing on that court order, the Congress passed Act 1190, ordering departmental governors to design, implement, fund and periodically evaluate better strategies based on timebound goals. Nonetheless, the road ahead towards a more structured response from local authorities is still long.

Humanitarian access and international response

Access to displaced populations in the towns and cities to which most IDPs flee is generally satisfactory. However, during 2007, access to conflict hotspots was obstructed by the intensity of the fighting. National and international aid organisations could not access many newly displaced populations in areas in the departments of Nariño, Valle de Cauca, Arauca, Antioquia, Chocó, and Norte de Santander (USDoS, 2008). Given the geographic location of conflict areas, humanitarian organisations need major logistical means to reach affected populations and to transport humanitarian aid (Diálogo Inter-Agencial Colombia, 2008).

International non-governmental and governmental organisations continue to place the situation in Colombia high in the agenda. The Inter-American Commission on Human Rights' Annual Report included Colombia as one of the countries in the region whose situation required special attention (IACHR, December 2007). Colombia is one of the countries in which the humanitarian reform process has implemented the cluster approach, and protection, early recovery, and assistance clusters have been thus far tested.

CAUSES AND BACKGROUND

Forty Years of Internal Armed Conflict in Colombia: Causes and Actors

Unequal land distribution as the root cause of conflict (Special report, June 2006)

The Colombian state which emerged after independence from Spain in 1810 has never been strong and large tracts of the country remain up to the present beyond the reach of state institutions. A powerful regional and national oligarchy, mostly of Spanish descent, has both taken advantage of these weak state structures and resisted attempts to strengthen them. The Spanish conquistadores and their descendants created, with the hesitant support of the monarchy in their homeland, a semi-feudal social system focusing increasingly on land possession and cattle ranching as the mines ceased to yield as much as they had done during the first century after the conquest (UNDP, September 2003).

In the late 1840s, these elites formed the Liberal and Conservative parties which have ever since dominated most of the state structures and public life. Whereas the Conservative party aimed at a stronger centralised Roman Catholic state, the Liberal Party wanted it to be secular and federal (Livingstone 2003, pp. 37-39). The two parties have fought each other, occasionally with extreme violence, since their inception. The semi-feudal system and the corresponding vertical loyalties allowed for the mobilisation of the lower classes, particularly the peasants (campesinos), to commit atrocities against other peasants loyal to the opposing party. The most violent of these bi-partisan conflicts, “the war of 1,000 days” from 1899 to 1902, resulted in the death of an estimated 100,000 people, as peasants massacred and persecuted each other according to party affiliation.

The elites’ emphasis on land and the prestige attributed to it often went hand in hand with violent repression of social movements, union and peasant leaders, political dissidents and the exploitation of mine workers. This has historically resulted in population movements from the central highlands to the peripheries, in many respects a precursor to the current internal displacement movements.

Until well into the 20th century, the process of colonisation had not been completed; free land or land occupied by indigenous communities outside the formal colonised agricultural sector still provided a political, social and economic safety valve for the marginalised, excluded or persecuted parts of society. This was the case during a period of massive political violence, triggered by the assassination in 1948 of a presidential candidate from the Liberal party who had gone too far in challenging the power structures of both the Liberal and Conservative parties. Livingstone, 2003, p. 41 An estimated 200,000 people were killed and hundreds of thousands more were displaced during the following years. This crisis, referred to as “the violence”, ended when the two parties reached a power-sharing agreement and formed a “National Front” in 1957.

The “violence” sparked massive population movements to the periphery of the country, in some cases to areas inhabited by indigenous communities or descendants of African slaves, commonly referred to as Afro-Colombians. For example, thousands of people fled to Sierra Nevada in the Caribbean north, forcing indigenous communities from the best land. Maldonado, 1999 The National Front lasted until 1974 and represented a continuation of the political and economic hegemony of the elites. The concentration of land ownership continued, forcing more and more

peasants and marginalised people to the periphery of the country, to areas where few if any state institutions were effective.

Today, Colombia figures among the countries in the world with the most unequal distribution of land, a situation that has been both the objective and the result of armed conflicts and displacements; 0.4 per cent of landowners own 61 per cent of rural land. Instituto Geográfico Agustín Codazzi, 19 March 2004 More than 50 per cent of the population live below the poverty line, according to government statistics, with rural areas particularly hard hit (WB, 2006, p. 23; March 2002, p. 2). Comprehensive agrarian reform, which would improve their situation, has been blocked by an increasingly powerful alliance of government officials, the national army, landowners and their paramilitary protectors.

The current IDP situation has thus to be seen in the context of a historical movement of expansion by the land-owning elites, an agrarian and structural problem, complicated and compounded since the 1970s by drug-trafficking and the presence of large international corporations. But, as compared to previous population movements, people forced to abandon their homes in the current unrest have less space and fewer opportunities in the geographical periphery of the country. Firstly, the continuing expansion of the large land holdings and the state's increased control of the territory have reduced the areas available for internal colonisation; secondly, agricultural market liberalism has opened up the national market to cheap imported food; thirdly, Colombia as one of the world's largest coffee exporters has been particularly vulnerable to fluctuating prices on the world market; fourthly, lack of infrastructure – especially transport links connecting the rural areas with national and international markets – has rendered economic activity unsustainable in many areas. Largely as a result, a majority of the people forced from their homes in the current phase of the conflict have sought protection and anonymity in towns and in slums around the major cities.

In 2002, a right-wing coalition led by Álvaro Uribe was voted in on a tough programme to restore government authority throughout the country after the failure of peace negotiations between the previous administration and the main guerrilla group. President Uribe was re-elected in May 2006 with over 60 per cent of the votes, following his coalition's equally clear victory in parliamentary election two months earlier. While turn-out was unusually low in both elections, and there were reports of fraud, particularly in areas controlled by paramilitary groups, the government's comfortable victories are largely attributed to its success in improving security in urban areas where kidnappings and homicide rates have dropped during its tenure.

The emergence of guerilla war in Colombia (Special report, June 2006)

The guerrilla groups currently fighting the government emerged largely in response to the "violence" in the 1950s, repression by the National Front in the 1960s and structural inequalities. Many of the founders of the Colombian Revolutionary Armed Forces – People's Army (Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo, or FARC-EP) – the most powerful of the remaining guerrilla groups – were people who fled the partisan violence to so-called "independent republics" in Cundinamarca, southern Tolima, and Huila. The central government launched heavy-handed military attacks on these "independent republics", forcing the separatists to flee again to the eastern plains and northern part of the Amazon jungle at the beginning of the 1960s. The FARC-EP originated chiefly among the forcibly displaced in these extremely isolated areas. The guerrilla groups have thus had a strong popular support base, which is one of the main reasons why they have managed to sustain the armed struggle against the government for more than 40 years (Lair, 2000, p. 94).

Another major factor sustaining the guerrilla war was the introduction of coca in the late 1980s and 1990s. Until then, lack of access to the formal state-protected market economy in the central highlands led farmers to engage in subsistence farming with its attendant exposure to climatic risks and socio-economic hardship. The introduction of coca radically changed the farmers' socio-economic outlook and strengthened the guerrillas. Firstly, profits from coca cultivation attracted a massive movement of urban poor and landless peasants from the central highlands to the guerrilla-controlled areas to clear the forest and establish small coca farms. Secondly, the FARC-EP started taxing the cultivation of coca in exchange for offering quase-state services, such as health, education and justice, in an alliance of convenience with the drug-traffickers who processed and commercialised the coca, literally creating a "state within the state". Thirdly, the tax revenues made it possible for the guerrillas to boost their destructive power and they soon controlled up to 40 per cent of Colombian territory, posing an increasingly serious threat to the state and the land-owning elites. However, the guerrillas' alliance with the drug-traffickers did not last long as the latter successively invested their enormous profits mainly in cattle ranches and land, which rendered them increasingly indistinguishable from the guerrillas' traditional enemies – the land-owning elites. The guerrillas started kidnapping drug-traffickers and land-owners for ransom in the 1980s, taking the conflict closer to the central areas.

In 1985, the FARC-EP supported the foundation of a political party, the "Union Patriótica", in response to attempts by President Belisario Betancourt's government to engage in a dialogue with the guerrillas. However, up to 3,000 of the party's members or affiliates, including two presidential candidates, were killed by paramilitary groups with the support of members of the army and the bi-partisan establishment in the years that followed. This fuelled deep-rooted suspicions among the guerrillas about any possibility of resolving the conflict through regular political channels. The FARC-EP has currently an estimated 17,000 fighters in its ranks and a ten-point programme that calls for land distribution, and social benefits and political power for poor and landless peasants.

The National Liberation Army (Ejército Nacional de Liberación – ELN), the other main guerrilla group, emerged chiefly among students, unionists and the urban middle-class in response to political and economic exclusion by the National Front. One of their main war strategies has been attacking and destroying infrastructure owned or managed by multi-national corporations, particularly in the north-eastern region bordering Venezuela. They reportedly control around 3,000 fighters, using kidnapping of civilians and extortion from oil companies as their main sources of revenue, avoiding taxing drug production until the 1990s. The government reinstituted peace talks with the guerrilla group in 2005, but as of May 2006, the negotiations were still in an exploratory phase (Alto Comisionado para la Paz, May 2006).

Whereas both the ELN and the FARC-EP claim to fight for political and social equity, they have lost significant political clout because of the methods they have used, such as massacres of civilians, assassinations, kidnapping for ransom or political gain, torture, extortion, forced confinement and forced recruitment. The drug production and trafficking has also significantly altered the guerrillas' motivations to keep on fighting and boomeranged by undermining popular support in areas under their control. Coca farmers are reportedly increasingly indifferent to the political and ideological discourse of the guerrillas as long they can make a living out of their crop. The loosening of the ties between the guerrillas and the coca farmers has paved the way for the paramilitary groups, who in many cases have simply replaced the guerrillas as the de facto authorities. Landless peasants can be hired to pick coca leaves and sell them to both left-wing guerrillas and their right-wing opponents, thereby fuelling a cycle of violence without end; the armed groups routinely seek revenge on populations who have stayed in an area controlled by the enemy, with ensuing forced displacements and human rights violations. By way of example, the majority of the Colombian coca farmers seeking refuge in neighbouring Ecuador at the beginning of 2006 are fleeing the guerrillas in Putumayo region, according to UN sources (Interview with UNHCR Official, 10 February 2006). While both the FARC-EP and ELN emerged

in response to structural inequalities, drug trafficking has now permeated all sides of the conflict, rendering it increasingly hard for outsiders to distinguish means from objectives (Pecaut, 2000).

Paramilitaries as integral part of counter-insurgency strategy (Special report, June 2006)

The paramilitary groups have roots as far back as the “violence” of the 1950s as an integral part of the army’s counter-insurgency strategy. In response to intense international scrutiny of the human rights record of both the army and the government, civilian auxiliary forces were legalised in 1965 and 1968 and further strengthened in the late 1970s and especially the early 1980s. (AFADDES, 9 September 2005, pp. 8-9; National Security Archive, 16 October 2005). Well-documented reports of disappearances and the systematic use of torture of political prisoners by the national army during President Julio Cesar Turbay Ayala’s term in power (1978-1982) triggered international criticism; this led the army leadership to camouflage and conceal the military’s direct involvement in gross human rights violations by delegating much of the “dirty work” to informal groups of armed civilians they would train, coordinate and equip. The paramilitaries provided the army – and government – with two key elements: a brutally effective auxiliary force which could target civilians perceived as guerrilla supporters, and the means to dissociate themselves from the crimes committed, thereby averting international criticism.

Colombia is a resource-rich country which has attracted large amounts of international investment from many of the largest companies in the world (Coinvertir, December 2005). In the 1980s, the paramilitary forces became the hub of an alliance between the land-owning elites and some of these large foreign corporations in response to what was perceived as the inability of a weak state to defend their interests.

The guerrillas on the other hand accuse the companies of collaborating with the government and of siphoning off national resources, and see them as legitimate military targets. Company infrastructures and installations have therefore been attacked and destroyed repeatedly throughout the conflict. The Caño Limón-Coveñas oil pipeline linking the oil fields bordering Venezuela to the Caribbean coast, for example, has been attacked over 900 times in its 16 years of existence, with tremendous economic costs for its US co-owners Occidental Petroleum and the state and suffering for the workers (Semana, March 2006; Living on earth, 2004). In addition to having had their installations and infrastructure destroyed, foreign companies’ officials are also subject to recurrent extortion and kidnappings by the guerrillas.

Other resources such as timber, mines, hydroelectric power, coal and African palm have also attracted multi-national companies, as well the guerrillas to fight their presence. Particular interest has been devoted to the south of Bolivar, which has one of the most important gold deposits in the world, Norte de Santander, where an estimated 90 per cent of the coal extracted from huge deposits is exported to the US, and the region of Tolima, which contains enormous gold and precious metal deposits. Other regions of interest for multinational companies are Putumayo, with huge natural gas reserves, Chocó, with bountiful mining, forestry, energy, and marine resources, and Casanare with oil reserves (Proexport Colombia, 3 March 2006 ; Democracy Now, 9 March 1999).

However, while defending the interests of the state and the companies operating in these districts, the paramilitaries have committed the majority of the human rights violations reported in the past few years; they are notorious for extreme brutality, involving massacres, torture, kidnappings, extortion and massive displacements of civilians (CERAC, 3 November 2005). These violations have been committed mainly as part of an explicit strategy to separate the guerrillas from their perceived popular support base and gain control over land, natural resources and strategic roads. This largely explains the strong co-relation between internal displacement

and the presence of multinational companies in Colombia. The regions richest in natural resources are also the ones most prone to internal displacement.

According to data collected by one of the most prominent human rights organisations in Colombia, paramilitary groups were responsible for at least 12,398 extrajudicial executions, 1,339 acts of torture and 2,121 forced disappearances between 1988 and 2003. CINEP, 2004 They have also engaged in what has been referred to as “social cleansing”, namely the murder and intimidation of people they disapproved of, such as drug addicts, homosexuals, prostitutes, the homeless, beggars and alcoholics, as well as killing trade union leaders. CODHES, 28 April 2003; AI, 30 June 1997 In 2005, 70 union workers were assassinated, and 260 received death threats, mainly from paramilitary groups, according to a Colombian workers union. CUT, 31 March 2006; Cuellar, 2005 The paramilitaries’ strategy of separating the civilian population from the guerrillas has forced many small farmers and members of indigenous and Afro-Colombian communities to abandon or sell their land and assets at low prices as a direct consequence of threats, massacres, killings and torture. The brutality has even included cutting up people alive with chainsaws (IPS, 28 March 2006).

The state’s responsibility for these groups and the atrocities carried out by them has been clearly demonstrated and denounced by a number of national and international organisations, including the Inter-American Commission on Human Rights, which stated in 1999:

“The Commission must conclude that the State has played an important role in the development of the paramilitary groups and has not adequately combated those groups. The State is thus responsible, in a global sense, for the existence of the paramilitaries and therefore faces responsibility for the actions carried out by those groups.” (OAS, 26 February 1999, paragraph 303. Other reports demonstrating the state’s links to paramilitary groups include; Amnesty International, August 2005; International Crisis Group, 16 September 2003; Human Rights Watch, September 2001).

In the same vein, Human Rights Watch wrote in September 2001: “[...]the relationships [...]involve active coordination during military operations between government and paramilitary units; communication via radios, cellular telephones, and beepers; the sharing of intelligence, including the names of suspected guerrilla collaborators; the sharing of fighters, including active-duty soldiers serving in paramilitary units and paramilitary commanders lodging on military bases; the sharing of vehicles, including army trucks used to transport paramilitary fighters; coordination of army roadblocks, which routinely let heavily-armed paramilitary fighters pass; and payments made from paramilitaries to military officers for their support.” (Human Rights Watch, September 2001)

In November 2004, President Uribe said: “We can no longer have a country [threatened] by guerrillas or defended by paramilitaries groups. We need central control” (BBC, 18 November 2004).

The president’s statement with its apparent admission of collusion between the state and the paramilitary groups takes on renewed significance and importance as the government embarked on a nationwide demobilisation process – particularly targeting the paramilitaries, or “self-defence groups” – in an apparent combined effort to pacify the country, establish central control and curb international criticism.

The Uribe Administration's policy to address the internal armed conflict

Six Years of 'Democratic Security' Policy (April 2008)

- President Uribe's Democratic Security policy has meant a strengthening of military and police forces, and an increased offensive on insurgent groups.
- Given its increase in military action, the policy has had a negative impact on human rights and internal displacement.
- 52.7% of the total number of displacement has occurred since the beginning of the policy in 2002.
- The hard-hand approach has resulted in a significant weakening of insurgent groups, especially the FARC.

IDMC Special Report, June 2006:

"In 2002, a right-wing coalition led by Álvaro Uribe was voted in on a tough programme to restore government authority throughout the country after the failure of peace negotiations between the previous administration and the main guerrilla group. President Uribe was re-elected in May 2006 with over 60 per cent of the votes, following his coalition's equally clear victory in parliamentary election two months earlier. While turn-out was unusually low in both elections, and there were reports of fraud, particularly in areas controlled by paramilitary groups, the government's comfortable victories are largely attributed to its success in improving security in urban areas where kidnappings and homicide rates have dropped during its tenure."

International Crisis Group, Colombia: President Uribe's Democratic Security Policy, 13 November 2003:

"Although the Uribe administration has emphasized time and again its commitment to defending human rights, serious problems persist. A broad spectrum of state institutions, international organisations and domestic and international human rights groups have voiced concern about the DSP's negative impact on human rights and the rule of law."

International Crisis Group, Colombia: Making Military Progress Pay Off, 29 April 2008:

"Almost six years of intense security operations against the Revolutionary Armed Forces of Colombia (FARC) by the administration of President Álvaro Uribe are beginning to produce tangible results. Government forces killed several important rebel field commanders in 2007 and two members of the central command in March 2008, including second-in-command Raúl Reyes, and have severely disrupted insurgent communications, prompting a loss of internal cohesion and decreasing illegal revenues. However, this progress has come at the cost of severely deteriorating relations with Ecuador and Venezuela and increased risk of political isolation after the controversial bombing raid on Reyes's camp inside Ecuador. Military gains can pay off only if combined with a political strategy that consistently pursues a swap of imprisoned insurgents for hostages in FARC captivity, reestablishes much needed working relations with neighbours along borders and strongly advances integrated rural development to consolidate security and broaden Colombia's international support."

CODHES, Huyendo de la Guerra, November 2007:

"Es decir, durante los cinco años de la llamada seguridad democrática se produjo el desplazamiento del 52.7% del total de la población desplazada que reconoce el registro oficial, si se tiene en cuenta que las cifras del gobierno indican que el total de personas desplazadas en el país desde 1999 hasta el 30 de octubre de 2007, ascienden a 2.224.931."

Demobilisation and the Justice and Peace Law (Special report, June 2006)

While in principle open for paramilitaries and guerrillas alike, it is almost exclusively the former who have benefited from the demobilisation process which was elaborated and granted a legal framework through Law 782 of 2002, Decree 128 of 2003, and Decree 4760 of 2005 which partially regulates Law 975 of the same year, or the so-called Justice and Peace Law (GoC, 25 July 2005). The National Reparation and Reconciliation Commission says it has demobilised 30,000 paramilitary combatants Alto Comisionado para la Paz, 17 April 2006 as of April 2006, while the government reports to have captured more than 12,000 members of these groups between 2002 and 2005, however, without explaining how or if this has affected the demobilisation process (Commission on Human Rights, 27 March 2006). Since the declaration of a ceasefire in 2002, paramilitaries have been responsible for over 2,500 killings outside combat (Amnesty International, 1 August 2005), as well as major displacements, massacres, disappearances, continued territorial expansion and institutional and economic consolidation in flagrant violation of the government's conditions for sustaining the demobilisation process (CCJ, 30 June 2005). Moreover, IDPs have been forced to abandon between one and four millions of hectares of land since 1985 (Contraloría de la Nación, December 2004) large tracts of it grabbed and controlled by the perpetrators who have been demobilised within this legal framework. Paramilitary groups have since the beginning of the demobilisation process strengthened alliances with the political establishment, particularly the Democratic Colombia Party of President Uribe, in César, Sucre, Magdalena, Atlántico, Guajira, Bolívar and Antioquia y Valle provinces and infiltrated the National Intelligence Service (Departamento Administrativo de Seguridad) according to Colombian newspapers (El Universal, 31 January 2006; La Semana, "Cuando renunciara?", February 2006).

The demobilisation process and its legal framework have been severely criticised by national and international organisations for failing to dismantle the paramilitaries' political and economical power and for violating the victims' right to truth, justice and reparation (IACHR, 2 May 2006; Human Rights Watch, 1 August 2005; Amnesty International, 1 September 2005; ASFADDES, 2 September 2005).

Some observers, including the Inter-American Commission on Human Rights (Inter-American Commission on Human Rights, 15 September 2005), are particularly concerned over Decree 128 of 2003 which exposes to prosecution only those who admit their crimes or have criminal investigations opened against them. As combatants wishing to demobilise have no incentives to confess their crimes and since many victims are afraid of denouncing perpetrators or lack faith in the judicial process, this in practice it means that most of the crimes will not be investigated and prosecuted. As a result many of the victims, including millions of IDPs, will not be able to exercise their right to truth, justice and restitution of properties or reparation.

While the Decree 128 has passed relatively unnoticed, the Justice and Peace Law of June 2005 has triggered criticism from a wide range of organisations, including the Constitutional Court which declared parts of the law unconstitutional in May 2006 (Constitutional Court, 18 May 2006). The Justice and Peace Law was endorsed by the Congress in June 2005 as a legal framework of the already ongoing demobilisation process.

The principle of reduced sentences in exchange of “voluntary confessions” is a key element in the Law and the demobilisations process, in addition to voluntary return of illegally acquired assets. Separate tribunals have been set up to investigate crimes and bring perpetrators to justice.

The government also established a Reparation and Reconciliation Commission consisting of 13 members appointed by the president for a period of eight years (BBC, 4 October 2005). Among the main tasks of the Commission is the adjudication of claims for material reparation and the dispersal of assets returned by demobilised combatants, public funds allocated by the government and domestic or international donations. Claims concerning illegal expropriations or forced sales of land and assets at unfair prices are transmitted to the General Prosecutor's Office (La Fiscalía General de la Nación) for investigation.

In addition, the government has set up institutional mechanisms to prevent and investigate grabbing of land in cases of displacement, along with initiatives to establish an inventory of land in areas under dispute.

Criticism of the demobilisation process and its legal framework include concern over the fact that only a small number of combatants – some 600 out of the more than 30,000, or around two per cent – will be tried by the tribunals established under the Justice and Peace Law (Alto Comisionado para la Paz, 17 April 2006). Even if convicted, perpetrators of grave human rights violations, war crimes and crimes against humanity, including extortion, massacres, assassinations and torture, only face prison sentences of up to eight years if they confess their crimes, the maximum sentence set by the Law for such cases. Another concern is that the victims are not allowed to be heard during the judicial proceedings, which means that the investigations and verdicts have to rely on confessions by the accused combatants. Efforts to promote truth and reconciliation will also be limited. Allegations of state complicity with the paramilitaries will not be subject of the investigations, which represents a set-back for the truth and reconciliation process.

As membership in paramilitary groups is considered a political crime under the Justice and Peace Law, combatants are protected from extradition to foreign courts by the Colombian Constitution. The dismantling of paramilitary groups is hampered by the Law allowing paramilitary leaders to receive demobilisation benefits regardless of whether their units are still active or not.

The return of land and property illegally acquired by paramilitaries is severely complicated by the practice of using front men, or *testaferros*, for such transactions. Front men are only subjected to an investigation under the Justice and Peace Law if the prosecutor determines so (El Tiempo, 3 January 2006; OHCHR, 6 January 2006). Although at least one million hectares of land was abandoned by the displaced according to conservative estimates, as of April 2006 only 24,000 hectares of land alleged to be illegally seized by members of armed groups were being investigated under the new Law.

The institutional mechanisms to prevent and investigate grabbing of land have proved inadequate considering the magnitude and complexity of the problem and the interests involved. Legal provisions designed to freeze or invalidate transactions on lands in cases of imminent displacement or in the wake of displacement have never been correctly implemented by local authorities. In addition, legal mechanisms providing for the invalidation of property titles acquired illegally have proved cumbersome, slow and generally inefficient. While the Inspector General's Office (La Procuraduría General de la Nación) has made significant efforts in partnership with different international agencies to train prosecutors in rural areas to protect lands and assets of displaced persons, their efforts have had limited results and even been directly obstructed by a bill presented to the Congress in March 2005 which makes it easier for occupiers of illegally acquired land to legalise it (CCJ, 21 October 2005).

Investigators in the tribunals set up by the Law have only ten months (CCJ, 7 February 2006) to disentangle extremely complex property issues and identify witnesses who in many cases would have to risk their lives to testify against individuals within the paramilitary structure (ICJ, September 2005, CCJ, 29 July 2005). Moreover, the tribunals bear the responsibility both to investigate and try the combatants, two functions that are normally separated to guarantee impartiality.

While the Reparation and Reconciliation Commission is expected to strengthen the victims' rights, it does not have sufficient resources to carry out all its tasks properly. The Commission has only 13 members, whereas in comparison, the truth commissions in South Africa, Guatemala and Peru had several hundred members each (Radio Nederland, 5 October 2005; ICJ, September 2005). It is also considered partial as all the members are appointed by the president. Two seats in the Commission were reserved for victims' organisations, but scepticism has remained high and prominent victims' organisations have declined to be part of the Commission (Actualidad Colombiana, 22 March 2006).

Considering that there are very limited incentives for former combatants to confess their crimes, that sanctions are not proportionate to the crimes and that the mandate of the Reparation and Reconciliation Commission does not include investigating the links between the state apparatus and paramilitary groups, paramilitary structures are likely to remain intact or re-emerge. This is also suggested by the Organisation of American States' Mission to Support the Peace Process' in its report of March 2006 (OAS, 1 March 2006).

The Colombian Constitutional Court declared parts of the Justice and Peace Law unconstitutional in May 2006, giving credit to some of the objections against the Law outlined above (Constitutional Court, 18 May 2006). The verdict protects the victims' right to truth, justice and reparation, emphasising that demobilised combatants' voluntary confessions should encompass the whole truth about their crimes to benefit from the Law. The verdict also protects the victims' right to be heard in the judicial process. It also instructs that paramilitary units should answer collectively with all their personal assets or resources for crimes committed by individual members.

Still, it appears unlikely that the Constitutional Court verdict, which came at a time when the demobilisation process was nearing its end, will be fully implemented. The government has reassured paramilitary leaders that the verdict will not be applied retroactively and the demobilisation process may therefore proceed without ending the paramilitaries' economic power and political influence. It remains to be seen if the verdict will have positive consequences for the victims' right to compensation, restitution or reparation.

Causes of displacement

Displacement increasingly used as a strategy of war (February 2005)

- Displacement in Colombia is not only a side effect of armed conflicts but a goal in itself
- According to Acción Social's data to July, 2008, 580,879 persons have been displaced to date by the Guerrilla groups, 273,508 by the paramilitaries, and 13,977 by the Government forces.

CODHES, February 2005:

“Una de las características del período es el crecimiento del desplazamiento individual y unifamiliar y la disminución de los eventos masivos, de mayor impacto y visibilidad pública en el país. Si bien es cierto que la disminución de los desplazamientos masivos tiene que ver con la disminución de las masacres, también lo es que el incremento de los desplazamientos individuales o unifamiliares tiene relación con la persistencia de los asesinatos selectivos, el aumento de las amenazas y la generalización de las detenciones masivas, indiscriminadas y arbitrarias.”

Typology of conflict-related causes of displacement:

IACHR 1999, chapter VI, para. 21:

"The Delegate Procurator General for Human Rights in Colombia has identified four types of displacement:

1. Displacement of peasant populations deliberately brought about by the different actors involved in the violence through killing or physically assaulting peasants until they manage to drive away the entire group or community. This is mainly caused by paramilitary groups in the Chocó region, part of the Urabá region in the Department of Antioquia, in Bolívar and in Magdalena;
2. Non-deliberate displacement resulting from confrontation between armed groups, bombardment, or military actions that indiscriminately target the local population, who lack minimum guarantees and protection for their life and physical integrity. This situation arose in the regions of Antioquia, Magdalena Medio, Bolívar and Meta;
3. Displacement caused by groups of people intent on taking possession of the land, who act through private-interest action groups that force peasants to abandon their homes and crops;
4. Voluntary displacement of people to forestry or wildlife reserves, whose aim is to cultivate illicit crops cultivation and who generate another type of conflict."

Displacement as military strategy:

UN HCHR, 28 February 2002, para. 144, 88:

"Death threats are the mechanism that the armed groups use most frequently to get rid of people considered "undesirable" because of their alleged collaboration with the "enemy" and to take over their property or to motivate them to displace. Furthermore, threats continue to be the means used to force shopkeepers, businessmen, cattle ranchers and other groups in the economic sector to make payments to the different armed groups."

GTD, 29 November 2002, p6:

"11. One tactic of the illegal groups is to "besiege" rural communities, preventing villagers from leaving, and blocking access to food, fuel, medicines and the basics for survival. Communities sometimes find themselves enclaved or isolated between two or more armed bands and cannot displace themselves, although their circumstances are objectively similar to those described in article 1 of Law No. 387/97."

Reasons for fleeing:

GTD, 19 January 2001:

"Over the past few years and owing to the very nature of the armed conflict, displacement has been caused by armed groups: the United Self-Defence Forces of Colombia (AUC), guerrilla groups and Government forces. The Social Solidarity Network (RSS) notes in a study on forced displacement that the proportional responsibility of each of these groups has varied considerably; while there was a sharp increase in the proportional responsibility of AUC that of the Government forces declined. The participation of guerrilla groups fluctuated, although there has been an upward trend in recent months. The reasons given by internally displaced persons for their flight can be broken down as follows: threats 34 per cent; fear 18 per cent; assassinations 14 per cent; clashes 10 per cent; and massacres 9 per cent (the percentage of persons citing massacres increased in the second half of 2000)."

Displacement caused by guerrilla groups (June 2008)

- To July 2008, Acción Social registers at 580,879 the number of displacements caused by guerrilla groups, notably the FARC.
- The guerrilla groups initially were engaged in land struggles and multiplied and strengthened their presence in many areas of the country throughout the 1960s and 1970s
- They have massacred civilians, burned cars and destroyed infrastructure in an offensive in the run-up to the elections in March and May 2006
- The two main active guerrilla groups as of March 2006 are the FARC (Revolutionary Armed Forces of Colombia) and the ELN (National Liberation Army)
- Displacement inducing practices include use of anti-personnel mines, hostage-taking, kidnappings, destruction of civilian property, and attacks on vital civil works
- FARC mostly resort to kidnappings, selective killing and 'social cleansing'
- In 2003, for the first time, guerrilla groups were the agent most responsible for forced displacement
- Nevertheless, recent events suggest that the FARC must be at their weakest point in years.

UN HCHR, 29 February 2008:

"The figures on forced displacement in 2007 reveal that incidents were provoked mainly by attacks on the civilian population by FARC-EP and the ELN, by clashes between these two groups, or by clashes between these groups and law enforcement agencies.

In Nariño, one of the departments most affected, displacements were caused by clashes between the guerrillas and the self-styled Nueva Generación. Also, in certain areas displacement was related to the presence of illegal crops, or to pressure exerted by illegal armed groups, or gangs engaged in the growing of illegal crops and drug-trafficking, or as the effect of aerial spraying."

Committee for the Elimination of Racial Discrimination, 27 May 2008:

"31. Adicionalmente, las FARC el ELN continuaron con una campaña de desplazamiento forzado, generando para el período 2002-2006 según el Registro único para la población desplazada (RUPD), un total de 1.245.378 personas en situación de desplazamiento forzoso, lo que da un promedio de 682 personas al día."

USDOS, 11 March 2008:

"The FARC and ELN continued to discourage IDPs from registering with the government through force, intimidation, and disinformation; guerrilla agents often infiltrated IDP receptor communities."

UNHCHR 8 February 2001, chapter V, para. 26:

"The main insurgent armed groups (guerrillas) in Colombia that oppose the State are the following: the Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia (FARC), the National Liberation Army (Unión Camilista-Ejército de Liberación Nacional (UC-ELN) and the People's Liberation Army (Ejército Popular de Liberación (EPL))"

CODHES, 1 April 2004:

"El año pasado [2003], por primera vez desde que se estudia el desplazamiento forzado en Colombia, la guerrilla encabezó el listado de presuntos responsables armados que generaron desplazamiento por sus amenazas, asesinatos, masacres y reclutamiento forzado. Estas acciones se siguen registrando de manera sistemática y deliberada contra la población civil, lo que consitute una clara infracción del derecho internacional humanitario."

Obregón & Stavropoulou 1998, p. 412:

"The guerilla groups initially were engaged in land struggles. They multiplied and strengthened their presence in many areas of the country throughout the 1960s and 1970s. These groups were the Revolutionary Armed Forces of Colombia, or FARC, made up initially of peasants demanding land; the People's Liberation Army, or EPL; the National Liberation Army, or ELN; the M-19 Movement, created after allegations of fraud during the 1970 presidential elections; the Quintín Lame Armed Indigenous Movement; the Ricardo Franco Commando; and others."

Organization of American States (OAS), June 2008:

"Las FARC han retrocedido sustantivamente, ahora son menos de la mitad de lo que eran hace tres o cuatro años', sobre todo tras la muerte de su líder y fundador Pedro Antonio Marín, más conocido como 'Manuel Marulanda Vélez' o 'Tirofijo', máximo jefe de esa guerrilla.... Ha disminuido el apoyo interno que tenían las las Fuerzas Armadas Revolucionarias de Colombia (FARC), 'lo cual ha tenido un impacto importante'

Amnesty International, 28 May 2008:

"The FARC and the National Liberation Army (Ejército de Liberación Nacional, ELN) continued to commit human rights abuses and serious and repeated violations of international humanitarian law, including killings of civilians and hostage-taking. More than 210 killings of civilians were attributed to guerrilla groups in the 12-month period ending in June 2007."

Displacement-inducing practices:

HRW, 2001:

"Armed opposition guerrillas also committed abuses, and were considered responsible for 20 percent of the killings of civilians recorded in the six months from October 1999. The FARC received foreign dignitaries, U.N. officials, and Wall Street billionaires in the five southern municipalities ceded to them to promote peace talks, but continued to murder civilians, execute captured government soldiers and rival guerrilla combatants after surrender, threaten and kill civilians who refused to accede to their demands, take hostages, and force thousands of Colombians to flee and become displaced. The group maintained an estimated seventy battle fronts throughout Colombia thought to include at least 17,000 trained, uniformed, and armed members."

IACHR 1999, Chapter VI, para. 72:

"From the outset and for both historical and strategic reasons, [guerrilla groups] have opted to operate in rural areas and gradually advance on urban centers. [...]Although observers agree that rural zones are the worst affected, armed violence does not exclude towns and cities, where persons displaced from rural areas again encounter the same kinds of violations and insecurity."

UNHCHR 8 February 2001, chapter VI, para.141:

"According to the Consultoria para los Derechos Humanos y Desplazamiento (CODHES), an NGO that tracks the number of displaced and the causes of their displacement, guerrillas were responsible for approximately 28 percent of forced displacements during over the first six months of 2000."

USCR June 2001:

"According to the government, in 2000, the guerrillas were responsible for 14 percent of forced displacement. [...] The FARC and ELN fund their insurgencies both through kidnappings and taxing coca growers and narcotraffickers in areas under their control."

UN HCHR, 28 February 2002, para. 227:

"The guerrillas were blamed in 19 per cent of the cases, a significant increase compared to 2000 (11 per cent).[...] Displacements caused by the guerrillas were more common in the southern part of the country and owed much to the fear of forced recruitment by FARC."

AI Annual Report 2001:

"Violation of international humanitarian law (in 2000) by armed opposition groups increased significantly. Several hundred people, including scores of civilians, were deliberately and arbitrarily killed by armed opposition groups. [...] Kidnappings and hostage-taking reached unprecedented levels. Of a reported 3,000 cases, more than half were believed to have been carried out by armed opposition groups and paramilitary organizations. Children accounted for 200 of the victims."

UN HCHR, 28 February 2002, para. 174:

"Causing mass exoduses by means of terror was one of the armed group's warfare strategies. Sometimes, displacement was sparked by the fear that the arrival of one of the armed groups was imminent. The groups did not always have to make specific threats, since the population already knew what to expect if they were to turn up. Other displacements took place in the aftermath of massacres. On 1 January, ELN [National Liberation Army] forced 1,100 peasants in the eastern part of the department of Antioquia to move, as retaliation for a similar action by AUC involving people who lived near the Medellín-Bogotá highway."

UNCHR, 24 February 2003, paras 30, 57:

"30.[...] [T]he guerrilla groups stepped up their attacks. Pursuing their policy of attacking State institutions at all levels FARC-EP in particular adopted new war strategies, pulling back their forces in the countryside and avoiding excessive exposure to the security forces. These strategies included threats and attacks against public officials, such as mayors or municipal ombudsmen, which caused serious disruptions to local democracy. The methods used to attack the civilian population, including more frequent hostage-taking and terrorist acts, combined with an intensification of their attacks on public infrastructure, threaten the country's political and economic integrity and seriously restrict public life. The indiscriminate use of inappropriate weaponry has had the effect of victimizing the civilian population. The new strategy of open war on anything to do with the State has made the country much harder to govern and badly affected regional institutions. It would appear also that kidnappings by FARC-EP were intended not only to fill its war chest but also to make the group's presence felt in defiance of the Government's policy, already challenged by acts of terrorism.

[...]

57. Although the number of massacres is estimated to have decreased, the number of violent deaths continued to rise. In this respect, it is worth noting the increased incursions by FARC-EP, including acts of terrorism, death threats, selective killings and "social cleansing", as well as indiscriminate attacks. The worst such attack, which occurred on 2 May 2002 in Bojayá (Chocó), caused the deaths of 119 civilians when a gas-cylinder bomb launched by FARC-EP during a clash with paramilitaries hit a church where a group of civilians had taken refuge. [...] A number of such acts are also attributed to ELN. An increase was observed moreover in attacks on

medical personnel and units, hostage- taking and the recruitment of minors by illegal armed groups. The paramilitary groups continued to perpetrate massacres, although they more often went in for selective killings and “social cleansing”. The illegal armed groups, especially FARC-EP, have adopted new pressure tactics including threats and attacks on public officials such as mayors and municipal ombudsmen, causing serious disruption to local democracy.”

CODHES, 2 September 2004:

“Contrario a las tendencias anteriores, los datos muestran una aparente disminución del accionar bélico de las Farc, aunque no por ello ha dejado de impactar negativamente la vida individual y colectiva de los pueblos indígenas. Por último, parece presentarse una reducción de los delitos cometidos contra los pueblos indígenas del país por parte del ELN, al parecer por una disminución de las acciones bélicas.”

For more detailed information on violations of international humanitarian law by the guerilla movements, see HRW's report "War Without Quarter - Colombia and International Humanitarian Law", [Chapter V "Guerilla Violations of International Humanitarian Law" \[External link\]](#); and the Colombia 1999 report of the Inter-American Commission on Human Rights, [Chapter IV, section D "Violence carried out by armed dissident groups" \[External link\]](#)

Displacement Caused by Paramilitary Groups (May 2008)

- Acción Social estimates that Paramilitary groups are responsible for 273,508 cases of forced displacement to date.
- Estimates indicate that, despite the demobilization process started in 2005, there are at least 9,000 paramilitary effectives comprising 76 groups operating, some of them under new names, in 25 departments.
- These groups have strengthened their presence through fraudulent appropriation of lands obtained from forced displacement.

UN Committee on the Elimination of Racial Discrimination, 27 May 2008:

“La organización no gubernamental Instituto de Estudios para el Desarrollo y la Paz (Indepaz) estima, con base en datos de la Policía Nacional, que actualmente hay por lo menos 9.000 paramilitares armados que hacen parte de 76 grupos que siguen operando, algunos bajo nuevos nombres, en 25 departamentos del país⁴⁶. Estos mantienen el control social de la población en sus territorios mediante la comisión de violaciones a los derechos humanos y al derecho internacional humanitario. Así mismo, sus estructuras económicas se han consolidado a través del proceso de legalización de los bienes y negocios que obtuvieron mediante el despojo y el desplazamiento forzado.”

Displacement caused by the Colombian armed forces (February 2003)

- Acción Social reports that the Government forces have thus far caused 13,977 cases of displacement.
- Successive Governments have assigned the armed forces a growing role not only in the counter-insurgency fight, but also in maintaining public order in general
- President Uribe's ‘counter-insurgency’ strategy based on Decree No.2002 which rules that guerrillas are infiltrated in the Colombian social fabric is blurring the distinction between combatants and civilians (2002-3)

- Reports of violations of international humanitarian law and indiscriminate use of force by security forces have increased (2002-3)
- As Uribe took office (Aug 2002) he declared state of internal commotion granting the military with judiciary police powers
- Decree No. 2002 (Sept 2002) which sets 'rehabilitation and consolidation zones' was declared unconstitutional by the Constitutional Court (Nov 2002) for violating freedom of movement, residence, rights to privacy and due process
- Security forces have been authorized to perform arrests, raids and searches without a warrant
- Uribe's new policy includes the use of hooded informers, some of whom were then killed by guerilla groups

UN CHR, 3 October 1994, paras. 20-21:

"Not uncommonly, the Government's response to social instability and insurgency has been to make use of state-of-siege legislation, periodically ceding large parts of the country to the military. In the 1970s armed insurgency continued to grow, while the State adopted increasingly repressive measures to combat it. The country has been under a state of siege virtually since the end of the *Violencia* [in 1958]. Successive Governments have assigned the armed forces a growing role not only in the counter-insurgency fight, but also in maintaining public order in general. One example has been the loss of autonomy of the police, which was subordinated to the Minister of Defence, until recently a senior general of the Army."

Displacement-inducing practices

IACHR 1999, chapter VI, paras. 67-68:

"Most observers agree that during the period of effect of Presidential Decree No. 717, of April 18, 1996, when almost 25% of the country was declared a 'special public order zone', in which the armed forces were granted emergency powers, the situation of displaced persons worsened, and that 'an extremely high percentage of human rights violations and infringements on provisions of humanitarian law has gone unpunished.' [Office of the Human Rights Ombudsman, Third Annual Report of the Human Rights Ombudsman to the Congress of Colombia, 19996, pp. 28-29]"

UNHCHR, 8 February, 2001, chapter VI, para. 141:

"CODHES estimated that the government forces were responsible for approximately 5 percent of displacements over the first six months of 2000."

UNCHR, 24 February 2003, para37-58:

"37. In areas where the Army applied its new offensive strategy mentioned above, there were complaints that on occasion the civilian population fell victim to a failure to distinguish between combatants and civilians. In this regard, an important factor has been the attack on alleged civilian "support networks" for the guerrillas, which was one of the announced objectives included in the measures adopted during the state of internal commotion and an integral part of the counter-insurgency strategy. The Army's strategy of cutting off the guerrilla forces' supplies wherever possible without then guaranteeing the principle of distinction, has, on several occasions, caused difficulties for the civilian population on account of blockades imposed on the transport of food, gasoline and other articles of prime necessity. That was the case in Sierra Nevada de Santa Marta and in Chalán (Sucre). On the other hand, shortcomings in military intelligence may well be to blame for inadequate warning and protection of the civilian population, for the failure to apply the principle of distinction, and for the adoption of questionable methods of combating violence, such as establishing networks of informers and conducting large- scale raids. [...]"

58. Reports of breaches of international humanitarian law by the security forces also increased, especially in connection with the principles of distinction, limitation and proportionality. The State added roadblocks, commonly used by all armed groups, to its policies for impeding support and supplies supposedly provided by civilians to the illegal armed groups: for example in Urrau (south-east Antioquia) and Bahía Solano (Chocó) in September and October, and in the river Atrato area. This approach to the problem is in fact suggested in Decree No. 2002, which says that criminal groups are blending into the civilian population. On the other hand, the State was clearly unable to prevent attacks by illegal armed groups or mount an adequate response to them. As the Government itself admits, the effectiveness of its preventive mechanisms has been limited. [...]"

State of internal commotion further undermines the rule of law:

UNCHR, 24 February 2003, paras 63, 65:

"63. The Office in Colombia, under the terms of its mandate, gave advice regarding the compatibility of the rules and measures brought in under the state of internal commotion with the Government's international commitments. It expressed an opinion on some of the provisions of Decree No. 2002 of 2002, which set up rehabilitation and consolidation zones (special public order zones) and imposed restrictions on the rights to freedom of movement and residence, to respect for private life and domicile, to individual freedom and to due process, in a manner incompatible with international principles. On 26 November, the Constitutional Court declared several of its provisions to be inapplicable, as described in chapters III and VIII of this report. [...]"

65. In view of the short time during which the state of emergency has been in effect, any firm conclusions would be premature. Nevertheless, the Office of the High Commissioner wishes to mention its concern at the abusive and indiscriminate use of force and the violations of due process and other fundamental rights entailed by measures that are not founded on the principle of legality and are removed from the prior and subsequent independent supervision of the courts and the Department of Public Prosecution. The main concerns in this respect focus on the need for adequate means of ensuring effective, independent State supervision. Moreover, the danger that the civilian population may end up being disproportionately affected and increasingly vulnerable, especially in the case of groups such as human rights defenders, social leaders and displaced persons, must be examined prudently and responsibly."

Decree No. 2002 – ruled unconstitutional by the Constitutional Court set up 'rehabilitation and consolidation zones':

UNCHR, 24 February 2003, paras 68-69:

"68. In many of the operations, the security forces made use of the powers they had been given under the decree (which were subsequently declared unconstitutional by the Constitutional Court), authorizing them to perform arrests, raids and searches without a warrant; this led to the detention of many individuals, of whom only a minority were ever brought before the courts. In several cases, the use of hooded informers damaged the reputations of the individuals they singled out. The arrests of some 2,000 people in Saravena (Arauca), on 12 and 13 November, led to the prosecution of 49 of them, of whom almost 20 belonged to social or trade union organizations. Also in Saravena, at least five relatives of informers were killed by guerrilla groups. In addition, grave abuses by the Army were reported, including executions, especially in Arauquita, where similar problems had already arisen prior to the establishment of the zone."

69. At the same time as the security forces intensified their counter-insurgency operations in the rehabilitation zones, which cover areas traditionally under guerrilla control, paramilitary groups penetrated some places, as in the town of Sincelejo and other municipalities in Sucre, such as Chalán and Ovejas. In other places, such as Arauca, they maintained their presence despite the military operations."

Collusion between Colombian security forces and paramilitary groups aggravate the problem of displacement (2003)

- Collusion between the armed forces and paramilitary groups and widespread impunity are factors seriously aggravating the situation of displacement
- Reports indicate that paramilitaries consolidated their presence in areas where the army had conducted counter-insurgency operations like in Arauca, the 'former demilitarized zone', Valle del Cauca, Guaviare and El Catatumbo
- 76% of violations committed by 'unknown' agents are allegedly attributed to State agents, 5% of which directly and 71% indirectly according to the Colombian Commission of Jurists (2002)
- Paramilitaries are de facto assuming state functions by imposing codes of conduct on the population and imposing that public resources be channeled through organizations under their control (2002-3)
- Colombians have recurrently identified members of the military forces among the paramilitaries and often soldiers wear no kind of identification
- Paramilitary and armed forces joint operations are to blame for the massacre of El Limón and the theft of WFP supplies according to UNHCHR
- The great majority of paramilitaries and public officials linked to them enjoy impunity for the crimes they commit

USCR, June 2001:

"The Colombian Commission of Jurists (CCJ) and other local and international human rights organizations charge that the government is responsible for many of the abuses committed against civilians, including forced displacement, because it supports or tolerates the actions of the paramilitary groups. According to the CCJ, 'In many of the crimes committed by the paramilitaries, there is active or passive participation of government forces.'

The Colombian government continued to deny accusations that it supports or colludes with paramilitary groups. A December 2000 report on paramilitary groups issued by the vice-presidents office said that the findings of a government study on this issue 'disproved accusations that the government finances, organizes, or plans joint operations with 'self defence' [paramilitary] groups.' The report noted, however, 'That does not mean that some of its [the government's] agents do not have an attitude towards these organizations [paramilitaries] that is sympathetic, or even supportive.'

AI, 2001:

"Collusion between the Colombian security forces, particularly the army, and paramilitary groups continued and, indeed, strengthened. Instances of collaboration included the sharing of intelligence information, the transfer of prisoners, the provision of ammunition by the armed forces to the paramilitary, and joint patrols and military operations in which serious human rights violations were committed."

UN HCHR 28 February 2002, para. 202:

"During 2001, the Office continued to observe that paramilitary activity was strengthening and spreading throughout much of the country's territory. The Office noted the limited effectiveness of the measures taken against paramilitary groups to curb their activities, contain their advance and respond to their aggressions, as well as the fickle commitment on the part of the State in this struggle. The members of the paramilitary groups continued to be the main parties responsible for the increase in human rights violations. They also greatly contributed to the deterioration in

the conflict through their systematic use of violence and terror against the civilian population in zones under their control and in areas affected by their raids. Toleration, support and complicity on the part of public servants, as well as non-fulfilment of their duty to safeguard rights, with respect to several acts by these groups, mean that the State continues to bear responsibility."

HRW, September 2001:

"Human Rights Watch has documented abundant, detailed, and compelling evidence that certain Colombian army brigades and police detachments continue to promote, work with, support, profit from, and tolerate paramilitary groups, treating them as a force allied to and compatible with their own.

At their most brazen, the relationships [...] involve active coordination during military operations between government and paramilitary units; communication via radios, cellular telephones, and beepers; the sharing of intelligence, including the names of suspected guerrilla collaborators; the sharing of fighters, including active-duty soldiers serving in paramilitary units and paramilitary commanders lodging on military bases; the sharing of vehicles, including army trucks used to transport paramilitary fighters; coordination of army roadblocks, which routinely let heavily-armed paramilitary fighters pass; and payments made from paramilitaries to military officers for their support.

In the words of one Colombian municipal official, the relationship between Colombian military units, particularly the army, and paramilitaries is a "marriage."

AI Annual Report, 2001:

"A wide-ranging pattern of collusion between the national police, the army and paramilitary forces in the area of Puerto Asís, Putumayo department, was revealed to the authorities by a member of the national police and the local human rights ombudsman. According to their sworn testimonies, paramilitary groups consorted openly with army personnel and police in the town of Puerto Asís. On the outskirts of the town they maintained a base, where people who had been abducted were taken to be tortured and killed. The base was only a few hundred metres from the headquarters of the army's 24th Brigade and a base of the 25th Battalion. Army officers held regular meetings with paramilitary leaders in the base."

HRW World Report, 2001:

"The office (of the High Commissioner for Human Rights) noted that "disciplinary and judicial investigations reveal that direct links between some members of the Armed Forces and paramilitary groups persist" and described the government's efforts to break those links as virtually nonexistent."

AI, HRW, WOLA, February 2002:

"[...] Colombian human rights groups submitted a list of five massacres carried out by paramilitaries in 2001 and January of 2002 in which there is credible evidence that Colombian military units either took direct part or allowed the killings to take place and the perpetrators to escape. Separately, Human Rights Watch received recent, credible, and detailed reports of continued collaboration between the Colombian military and paramilitary groups in the Middle Magdalena region, [...] the southern Pacific coast, [...] the department of Putumayo, [...] the Urabá region, [...] and the department of Antioquia. These are not isolated incidents, but rather widespread patterns of behavior and collusion."

UNCHR, 24 February 2003, paras38,58,75:

"Approximately 76% of the homicides of political and socially marginalized individuals and of forced disappearances, in which the generic perpetrator is known, are allegedly attributed to State agents. Five percent (5%) are attributed directly (127 victims), while 71% (1,882 victims), indirectly, because of omission, tolerance, acquiescence, or support to the violations committed by paramilitary groups. 24% (628 victims) of the cases were allegedly attributed to guerrillas." (Asamblea Permanente de la Sociedad Civil por la Paz, etc...)

“38. It is worth noting that several times the paramilitaries moved into and stationed troops in areas of the country where the security forces had previously conducted counter- insurgency operations. This occurred, for instance, in the municipalities of Mesetas, Vistahermosa and San Vicente del Caguán (the former demilitarized zone), in the province of Ocaña (Norte de Santander), in Curillo (Caquetá), and in Cravo Norte, Puerto Rondón and Tame (Arauca), and in Medellín.

[...]

59. The critical human rights and humanitarian law situation, combined with the worsening armed conflict, has aggravated problems with governability and the rule of law. The problems are also due to indiscriminate action by illegal armed groups and the lack of a Government presence in several areas of the country. The paramilitaries have continued with their strategy of usurping functions that properly belong to the State, taking advantage of the tolerance or passive attitude of the authorities and of some sectors of society. The expansion and consolidation of paramilitary forces in several areas under their control have enabled them to infiltrate the State system as part of their strategy, going so far in several regions as to set up a kind of parallel State, at great implicit risk to the continued enforcement of the rule of law. Perhaps the most blatant public sign of this de facto assumption of State functions, though by no means the only one, is the way they have imposed codes of conduct on the whole population. The Office in Colombia has received complaints of municipal or departmental decisions having to be approved by paramilitary chiefs, and of pressure being brought to bear on the choice of recipients of funds, with indications of where and how funds should be invested, or requiring public resources to be channelled through organizations under the paramilitaries' control.

[...]

75. Concerns are partly due to the frequent failure to act in response to reiterated complaints and public awareness of the existence of permanent paramilitary bases, checkpoints and operations. The Office in Colombia has received reports of the security forces themselves announcing the impending arrival of paramilitary groups, and even of cases where local inhabitants recognized members of the military forces among paramilitary contingents. This coordination between the two is also indicated by the fact that paramilitary incursions have occurred either immediately before or after major military operations, such as in Arauca, the former “demilitarized zone”, Valle del Cauca, Guaviare and El Catatumbo. Further doubts are raised by the fact that soldiers sometimes wear no kind of identification to distinguish them from other armed groups. One reported example of failure to act concerns the events in Bojayá, which were preceded by paramilitary boats coming along the river Atrato from Turbo, thus having to pass several security force control posts. In some cases, the reports were not only of the security forces tolerating or failing to respond to paramilitary activities, but also of complicity or direct involvement by the security forces in such activities, such as the massacre in El Limón (Guajira) on 31 August, the theft of World Food Programme (WFP) food supplies in July in Cesar (blamed on paramilitaries but recovered by the Army, which said that it had confiscated the supplies from the guerrilla forces), and the meetings between commandos or members of AUC and the Armed Forces in Vigía el Fuerte (Antioquia) on 9 and 10 May.”

Impunity:

HRW World Report 2001:

“Officers implicated in serious abuses remained on active duty, and only in exceptional cases were they suspended. Military judges generally continued to ignore a 1997 Constitutional Court decision requiring that cases involving soldiers accused of gross human rights violations be prosecuted in civilian courts.”

U.S. Department of State, March 2002:

“Despite some prosecutions and convictions, the authorities rarely brought higher-ranking officers of the security forces and the police charged with human rights offenses to justice. Members of

the security forces collaborated with paramilitary groups that committed abuses, in some instances allowing such groups to pass through roadblocks, sharing information, or providing them with supplies or ammunition. Despite increased government efforts to combat and capture members of paramilitary groups, security forces also often failed to take action to prevent paramilitary attacks. Paramilitary forces still find support among the military and police, as well as among local civilian populations in many areas.”

AI, HRW, WOLA, February 2002:

“The Inter-American Commission on Human Rights, which visited Colombia in December 2001, said that it remained striking that “the confessed perpetrators of crimes against humanity, with pending orders of arrest against them, move throughout Colombia while giving press interviews.” The Commission also concluded that paramilitaries continue to depend on the active coordination with and the tolerance of units within the security forces.”

HRW, 2001:

“Members of the Colombian military continued to accuse government investigators, agencies, and nongovernmental organizations of having been infiltrated by opposition guerrillas, and questioned the legitimacy of investigations.”

UNCHR, 24 February 2003, para.77:

“77. The fact that the great majority of these cases go unpunished and public officials are never held criminally liable for their links with paramilitary groups and operations, is one of the more questionable aspects of the commitment to oppose such situations. Furthermore, the transfer of several such cases to the military courts, as mentioned in the following section, detracts from the independence of investigations and limits their effectiveness. These factors undermine the maintenance and construction of an institutional base which is both democratic and respectful of the rule of law, and confirm the impression that paramilitarism is tolerated, even accepted, among certain sectors of the population.”

Displacements caused by fumigations and Plan Colombia (2006)

- The US supported plan Colombia causes cross-border movements to Ecuador, Venezuela, Costa Rica and Panama (February 2006)
- Since 2000 the US gave US\$ 3 billion mostly in counter-narcotics military aid to Colombia (end 2003)
- Indigenous communities are concerned that areas where illegal crops are grown have turned into dangerous war zones due to the war on drugs
- Nearly 80% of the aid will be for military anti-narcotic efforts in the Caquetá and Putumayo region, in southern Colombia
- US government officials admit that as many as 150,000 people might be displaced as a result of the US financed counter narcotics activities in Colombia
- More than US\$ 490 million in military aid is planned for 2003 by President Bush, for the "counter-insurgency war", with complete disregard for the already noted increase in violence and paramilitaries' human right abuses
- The Bush administration removed all restrictions on U.S. military aid to Colombia notably those imposing human rights standards
- Farmers whose land had been fumigated said fruit trees and vegetable crops were destroyed, leaving the soil totally infertile for food-crops – ironically coca can grow on infertile land
- Local authorities demands to central government to consider manual eradication of coca have been ignored and fumigations in La Gabarra are displacing coca cultivation to indigenous reserves

- Farmers are willing to substitute coca crops with other crops but government policy of no assistance before 'total eradication' leaves farmers in hunger and destitution, and only shifts coca cultivation to other impoverished remote areas
- Irregular armed actors have undermined manual eradication of coca, they impose taxation on coca products and enforce roadblocks making legal agricultural production unviable and weakening social structures
- Operation Holocaust to combat insurgents and their war economy launched in September 2003 displaced many families in North of Santander

For background of the the "Plan Colombia", click [here](#).

El Tiempo, 9 February 2006:

"Su director [de ACNUR]dijo en Quito [en Febrero 2006]que las víctimas causadas por la lucha contra la guerrilla y el narcotráfico se han desplazado hacia Ecuador y Venezuela.

"Diría que desde (que empezó a aplicarse el) Plan Colombia, los refugiados se han elevado. Colombia dice que ha disminuido, pero la realidad es otra. El problema continúa", afirmó Philippe Lavanchy, director de la Oficina de las Naciones Unidas para los Refugiados en América (Acnur), en conferencia de prensa en Quito.

Según el delegado internacional, la ofensiva antidrogas ha obligado a miles de personas a buscar refugio en países vecinos, generando una situación "dramática".

"Colombia tiene la situación de refugiados mas dramática del hemisferio", enfatizó, y agregó que la misma ha afectado a las naciones que a diario reciben a los desplazados por la violencia colombiana.

En ese sentido, precisó que Ecuador, con 250.000 solicitudes de refugio, encabeza la lista de los países que más siente el impacto del conflicto armado en su país vecino desde 2000.

Le siguen Venezuela (200.000), Panamá (40.000) y Costa Rica (20.000), sin contar con los desplazados dentro de territorio colombiano, donde son cerca de 2 millones, precisó.

Lavanchy detalló que sólo Acnur ha atendido a 25.000 refugiados en Ecuador y aclaró que el desfase con el total de afectados se debe a que la mayoría teme o ignora que puede pedir ayuda al organismo."

Eradication policies

IACHR 1999, chapter VI, para. 71:

"The Commission also examined the conditions surrounding the implementation of illicit-crop eradication programs by the military in zones allegedly under guerilla control. The aim of such programs is to destroy coca plantations using chemicals like tebuthiuron, which is classed as one of the most harmful to humans and future crops. Reports from several sources allege that military forces have caused the displacement of coca growers using these methods, as well as extreme violence against persons they alleged were connected with insurgents."

UNCHR, 24 February 2003, para.100:

"The Office has received evidence that fumigations on land inhabited by indigenous and Afro-Colombian communities affect the environment and the food security of the local inhabitants by destroying crops and impoverishing the soil. This has happened in the departments of Cauca, Norte de Santander and Putumayo."

Plan Colombia

ICG, 13 November 2003, p.12:

"Since 2000, Washington has provided approximately U.S.\$3 billion in support of Plan Colombia, largely aimed at stemming the production and flow of drugs to the U.S. For FY2004, the aid flow – mostly military – to its closest South American ally in the "global war on terrorism" is expected to continue. [...] The U.S. plans to appropriate approximately U.S.\$424 million in military and police assistance and U.S.\$150 million in social and economic aid through the Andean Counter-Drug Initiative (ACI). An additional U.S.\$108 million would be provided by the defence department in foreign military assistance."

USCR February 14, 2000:

"On January 11th [2000] the Clinton Administration announced an aid package to Colombia for more than \$1 billion over the next two years. This will be in addition to the more that \$300 million in the current budget. Nearly 80% of the aid will be for antinarcotic efforts in the Caqueta and Putumayo region, in southern Colombia. Included are funds to buy military equipment (\$400 million to buy Blackhawk helicopters), to train two antinarcotic battalions, carry out drug traffic interdiction, and equipment for crop eradication. The remaining 20% will go for alternative development programs, strengthening of the judicial system, and human rights protection. Given the dangerous, marginalized lives displaced Colombians already endure, it is particularly egregious that the Administration's proposed aid package encourages and funds a military offensive into southern Colombia that it anticipates will displace thousands more civilians from their homes. The aid package language demonstrates this by calling for funds to "provide shelter and employment to the Colombian people who will be displaced" by the offensive. According to Ruiz, "It is shocking that instead of helping alleviate the plight of displaced Colombians, the United States plans to help swell their ranks."

GTD 19 January 2001:

"Since August 2000, there has been a noticeable deepening in the humanitarian crisis and a deterioration in security conditions, which adversely affect the protection of the civilian population. Moreover, the Colombia Plan has led to the increasing polarization of Colombian society.."

US Office on Colombia, 18 March 2002:

"To end curbs on aid to Colombia the Bush administration announced plans, on Friday 15th March, to ask Congress to remove all restrictions on U.S. military aid to Colombia, including those that limit assistance to counter-narcotics efforts, impose human rights standards on the Colombian military and cap the number of U.S. military personnel in the country. The administration will also seek permission for U.S.-trained brigades, along with U.S. equipment and ammunition, to be used in military operations against the Armed Revolutionary Forces of Colombia (FARC). The proposal, which also aims to prevent restrictions on any future aid, will be included in legislation for additional funds for global and domestic anti-terrorism efforts this year. The Pentagon recently proposed including Colombia in the global war on terrorism."

PCS, 8 November 2002:

"El 80% de los ingresos de la guerrilla vienen del narcotráfico ya que es más seguro que el secuestro. Aunque los paramilitares también está altamente involucrados en ele negocio, en particular en la Gabarra. Los cultivos ya están bajando más cerca de los grupos de población, hacia Ocaña, Convención y Sardinata."

PCS, 28 August 2003:

"During late May and most of June 2003, spray planes flew over the southern part of the department of Bolivar in the heart of Colombia, indiscriminately fumigating vast jungles, grazing land, rural dwellings and both licit and illicit crops with the chemical glyphosate.

[...]

The main obstacle to successful coca eradication is that the government's carrot and stick approaches of fumigation and alternative development programs do not respond to the complexity of local situations, with their extremely bad infrastructure, the presence of armed

groups – FARC, ELN and AUC – that often impose economic and food blockades on the local population, and a historically weak state presence: Geographical remoteness is a problem. It is difficult to reach rural areas given the poor road conditions and high transport costs. Among other factors, the lack of passable roads makes some rural areas extremely inhospitable for legal cash crops. For example, the cost of transporting a truckload of cassava to the nearby urban centre of San Pablo – just 30 km away from Virgencita - is 20,000 pesos while the cassava itself would only bring 30,000 pesos on the market, leaving the family with 10,000 pesos or approx US\$3 (without including cultivation and harvesting costs). While traditional agricultural products cost too much to produce and hardly yield any profit, coca paste is easily transportable and pays enough to earn a living. The presence of irregular armed actors has a number of consequences: (1) they undermine manual eradication of coca crops, (2) impose taxation on coca leaves and paste and enforce roadblocks, and (3) weaken social structures. Armed actors have adopted a hostile stance toward crop substitution and rural development. Local farmers told the mission that they had received threats and were advised not to agree to manual eradication, which would secure alternative development in the region. Armed actors stigmatize and exploit farmers, impose taxation on coca leaves and paste, engage in the looting of livestock and food and increasingly impose economic and food blockades. Indeed, frequent restrictions on movement and trade means that commerce is almost impossible in the region.

[...]

Intensifying restrictions on trade and migrations have dissuaded farmers from investing in traditional activities such as cattle ranching and instead encourage coca cultivation. Furthermore, the presence of the paramilitary and guerrilla groupings has weakened social structures. Community leaders in particular have been subjected to systematic disappearances, massacres and forced displacements. The lack of welfare and basic service provision has pushed many farmers to opt for the coca economy. Local community leaders have continuously insisted on funds for road improvements, employment schemes, schools and health care, but so far regional authorities have not responded to their needs, according to peasant leaders of rural San Pablo. Peasant communities feel criminalized by the state, which depicts them as guerrilla supporters and coca producers. Aerial fumigation and lack of socio-economic investment, far from eliminating coca crops, are fuelling anti-government sentiments, particularly in guerrilla controlled areas.

[...]

Most families of Agualinda have lost both their coca and food crops, but no one has received any aid to date. Families are now running out of food.

[...]

In spite of these controversies, President Uribe restarted fumigation in October 2002, following a temporary halt because of the Ombudsman's appeal to investigate Plan Colombia's impact on public health. Uribe intends to target all areas where coca is being cultivated in order to stamp out drug production and trafficking by 2006; the government's determination is outlined in the latest '*Plan de Seguridad Democrática*' [...]. This year's target is the fumigation of a 200,000-hectare area, twice the amount of existing crops [...], and Uribe is now frantically fumigating to meet his goal. The Magdalena Media region has an estimated 30,000 hectares of coca land, of which 10,000 hectares are to be sprayed during the course of the year. Spraying has also become an instrument to combat insurgents groups – the war on drugs and terrorism are interlinked, according to the US and Colombian governments – in order to re-establish state control over its regions and take charge of its economic resources again. To meet the objective of total eradication, the government designed a multifaceted strategy that combines aerial fumigation, the apprehension of drug trafficking networks, socio-economic investment and alternative development programs. The plan states that farmers wishing to benefit from drug substitution projects must commit to a total eradication of illicit crops (*Política de Defensa y Seguridad Democrática*, 2003) The problem is that unless alternative rural development programs are implemented – at a national level - prior to eradicating the coca, illicit crops will keep moving to other impoverished rural areas throughout Colombia and the Andean region. While the government has Plan Colombia funds available for social programs that seek to facilitate and

promote the eradication of illicit crops (i.e. funds for emergency aid and alternative development programs), nothing has to date been invested in the way of assisting locals of rural San Pablo.

Consequences and impacts of fumigation

Aerial fumigation has exacerbated economic hardship, inflicted a humanitarian crisis and also meant that many had to leave the area. Fumigation policies in general have long raised questions about the impact on food security, the environment and health, as well as its relation to forced displacement. Although the impact of aerial fumigation has been studied widely [...] such evaluations have not been taken into account by the US and Colombian governments."

AI, 10 July 2000:

"The Colombian Government has presented to the international community an aid package known as "Plan Colombia". Plan Colombia is based on a drug-focussed analysis of the roots of the conflict and the human rights crisis, which completely ignores the Colombian state's own historical and current responsibility. It also ignores deep-rooted causes of the conflict and the human rights crisis. The Plan proposes a principally military strategy (in the US component of Plan Colombia) to tackle illicit drug cultivation and trafficking through substantial military assistance to the Colombian armed forces and police. Social development and humanitarian assistance programs included in the Plan cannot disguise its essentially military character. [...] Humanitarian assistance programs for internally displaced persons fail to address the causes of displacement and are merely designed to mitigate its consequences and thereby reduce the visibility of the internally displaced, including those people displaced as a consequence of the Plan's military operations."

GTD, 23 November 2002, p.26:

"Como indicado en el anterior informe del GTD, las Naciones Unidas [...] admiten la erradicación forzada y la fumigación, siempre y cuando se haga en el respeto de los derechos humanos y fundamentales (en los cuales se incluye la salud humana) la protección de medio ambiente y el respeto de los usos tradicionales de la hoja de coca. Esto significa que la fumigación se aplique como última instancia – cuando no haya posibilidades de lograr formas de erradicación voluntaria y sustitución de cultivos, y que de toda manera no se fumiguen áreas de pequeños cultivos de menos de 3 hectáreas y áreas de comunidades indígenas."

WFP, 16 October 2003:

"In the region of Catatumbo, Norte de Santander, fumigation of illicit crops continues and is producing displacement of farmers from rural areas to the urban centers. In order to tackle the rising problem, regional authorities are asking the central government to consider the manual eradication of coca plants instead of chemical fumigations."

USCR June 2001:

"USCR travelled to Putumayo in June. Farmers whose land had already been fumigated said that the fumigation had destroyed fruit trees and vegetable crops, leaving the soil so contaminated that they were not able to re-plant their food crops, and that contamination of streams and ponds has resulted in widespread deaths of fish and farm animals. The mayor of Puerto Asis municipality said that fumigation 'will not end coca production. That will just move deeper into the jungle.' Many farmers said that they would be glad to substitute other crops for coca, but the government would have to help them."

CODHES, 2 January 2004:

"En Norte de Santander si bien se han dado fumigaciones este año desde el mes de enero, ha sido en el mes de septiembre [2003] en el que más se ha visto afectada la población. La operación militar Holocausto que acompañó las fumigaciones en el mes de septiembre generó entre otras cosas el desplazamiento forzado de población desde la Gabarra hacia otras regiones del departamento y hacia el otro lado de la frontera."

CODHES, December 2004:

"Otro factor que está afectando las condiciones para permanecer en esta zona es la inseguridad alimentaria, como consecuencia del inicio de las fumigaciones en la zona del bajo Putumayo hace dos meses. Según los habitantes de la región, esta estrategia sigue aplicándose de forma indiscriminada³³ y ha afectado la zona de Gallinazo (36 veredas), corregimiento del municipio de Puerto Guzmán sobre el río Caquetá, muy cerca de la base de Tres Esquinas. Incluso el gobierno, a través del vice-ministro de Defensa reconoce el impacto de esta estrategia de seguridad sobre la situación alimentaria de economías campesinas basadas en el cultivo de coca: "hay un serio problema de desabastecimiento por las incautaciones del Ejército y porque sin la pasta de coca no tienen cómo pagar la comida" [...] Hasta el momento, esta estrategia de seguridad no cuenta con el apoyo gubernamental para otras opciones sostenibles y viables que permitan la sustitución de cultivos ilícitos de forma gradual y garanticen el sustento de estas familias que dependen de la economía de la coca."

For further information on the consequences of the aerial spraying; click [here](#).

Displacement induced by drug trafficking (2005)

- Colombian territory has one of the largest illicit drugs cultivation areas in the world which generates high levels of violence and corruption
- Colombian potential cocaine production has increased at over 150% since 1995
- Colombian authorities found evidence of the existence of a network of 162 new Colombian drug groups, directly involving at least 4,060 persons, which in turn are connected to more than 40 international criminal organisations (2002)
- Displacement of indigenous populations from their territories is also a result of the growing invasion of settlers involved in growing coca (often with the support of the paramilitaries), guerrilla activities and the repression of those activities
- The Colombian border zones worst affected by armed conflict in recent years have been areas of illicit drugs cultivation and of strategic interest for the illicit traffic of arms and drugs
- Leaders of indigenous communities have been disproportionately killed and displaced because their communities live in areas of strategic importance or where there is potential for drug production
- 200 Kankuamo leaders have been killed between 2002-2005

IACHR 1999, chapter I, paras. 48-51:

"Despite its anti-drug campaigns, including record fumigations of drug crops in 1997, Colombian territory produces one of the largest illicit drug crops in the world. According to Colombian National Police statistics, 50,000 hectares of Colombian land support coca crops. Other estimates are even higher. The drug trade is inherently violent, because it involves activities outside of the boundaries of the law which include the handling of large amounts of money. Because the norms and mechanisms of the law do not apply to these activities, the disputes which inevitably arise are also resolved illegally, usually with violence. In addition, those involved in the drug trade must constantly seek to protect themselves and their business from the scrutiny of the law. They use their capacity to commit acts of violence as the primary means of obtaining this end. At the same time, using the threat of violence, they engage in acts of bribery and extortion of public officials, introducing extreme levels of corruption into the State entities which must deal with the trade. Thus, the State is affected, either through violence against its agents or through their corruption. In this way, drug trafficking agents and the business itself bring levels of violence and corruption which are intolerable and which threaten the very social, political and economic fabric of the

country. In addition, the money which the State must place into the fight against drugs might otherwise be used to strengthen State programs addressing the needs of the poor. The diversion of these funds contributes to the situation of social and economic inequality which, in turn, often leads to additional violence."

U.S. DOS, 16 May 2001:

"Colombian potential cocaine production has increased at over 150% since 1995."

El Tiempo, 24 March 2002:

"According to the CIA, the illegal crops increased with 25% last year. 170,000 hectares of the country are covered with coca crops."

El Tiempo, 24 March 2002:

"Las autoridades colombianas tienen evidencias sobre la conformación de cerca de 162 nuevos grupos de narcos que involucran directamente a por lo menos 4.060 personas en el país y que están conectados con más de 40 organizaciones delictivas internacionales. [...]"

Como en la década de los ochenta y los noventa, los narcotraficantes están tratando de infiltrar organismos de seguridad y cuerpos colegiados, coinciden oficiales colombianos de inteligencia. [...]"

La arremetida de la mafia también se detecta en la creciente conformación de pequeños carteles. [...] "Prácticamente ya no existe un gran cartel como tal. Ahora, hay organizaciones que se concentran en una etapa del negocio y luego se asocian. La estrategia es no ser detectadas fácilmente por las autoridades y tener rendimientos económicos más seguros y con menos riesgo", dice otro investigador de la Policía. [...]"

Hechos de violencia ligados con la mafia [...] son otras alertas."

CODHES, 1 December 2004:

"En síntesis, la frontera colombo-venezolana presenta dos dinámicas de conflicto asociadas al incremento del desplazamiento: una de confrontación armada por el control de las áreas cultivadas de coca y los corredores para el tráfico ilegal de armas y drogas en Norte de Santander, Guajira y Cesar. Otra de traslado de estos cultivos, repliegue de la guerrilla y avanzada paramilitar más "silenciosa" y menos visible mediante siembra de minas y bloqueos, hacia la orinoquía y amazonía, con alto riesgo de convertirse en escenario de confrontación. [...]"

El traslado de cultivos desde el sur, en el departamento de Nariño por toda la costa pacífica hasta el Chocó, constituye un factor de riesgo para la población civil de esta región, para la seguridad alimentaria y para la sostenibilidad ambiental ante un posible inicio de las fumigaciones en esta zona con más alto nivel de biodiversidad en el mundo. Además, con el incremento de los cultivos de coca en la zona se agudiza el conflicto y se intensifica la guerra. [...]"

La información presentada en esta sección muestra que durante los últimos tres meses en las zonas de frontera hay una intensificación y expansión del conflicto hacia los países vecinos. Esta dinámica está directamente relacionada con la disputa territorial entre grupos armados irregulares, asociada al control del negocio de las drogas y del tráfico ilegal de armas (control de corredores estratégicos, mano de obra, recursos). La política de erradicación forzada de cultivos de uso ilícito implementada por el gobierno nacional y promovida por el gobierno de Estados Unidos, no ha dado resultados en el sentido de desarticular las redes del narcotráfico de grupos armados al margen de la ley [...]"

La combinación de esta estrategia con el componente militar para expulsar de sus zonas de control a las FARC, sin un componente de ayuda económica para que la erradicación voluntaria sea posible, sin un componente de ayuda social para atender el desplazamiento y la inseguridad alimentaria, sin un proyecto de fortalecimiento de la gobernabilidad democrática en estas regiones; está generando nuevos desplazamientos, confinamientos y masacres de civiles no combatientes."

Illegal crops and indigenous populations

IACHR 1999, chapter X, paras. 50-51:

"For the indigenous peoples of Colombia, law enforcement activities against illicit crops (especially coca, poppy, and marijuana) and their trafficking has special consequences entailing increased violence, invasion of indigenous territories by settlers who grow coca, and the loss of cultural identity and deterioration of their unique organizations and authorities. The impact is accentuated in Colombia, as the production of illicit crops is not an extension of ancestral indigenous commercial practices, but rather a relatively new phenomenon. The Commission has received information indicating that although some indigenous persons appear to be involved directly with illicit crops (e.g. poppy in Cauca, coca in the Orinoco basin and middle Amazon region), in other cases the drug trade affects them more than it involves them. One study [C.S. Perafan-Simmonds, Impacto de cultivos ilícitos en Pueblos Indígenas de Colombia, Indigenous Peoples and Community Development Unit, Department of Social Programs and Sustainable Development, Inter-American Development Bank, November 17, 1997] found that '41.12% of the [Colombian] indigenous are affected by such crops, and in some cases involved in them.' A total of 17.01% of the illicit crops in Colombia are located in indigenous resguardos or reservas, i.e. within legally-recognized indigenous territories: 18.95% of the poppy crops; 71.43% of the marijuana crops; and 10.8% of the coca crops."

IACHR 1999, chapter X, para. 55:

"The Commission also received a situation report from the Regional Indigenous Organization for Putumayo (Organización Zonal Indígena de Putumayo - 'OZIP') that included the same types of complaints as those noted by the indigenous in the rest of the country, but in addition reflected the particularly severe internal displacement of the indigenous population to other areas, due to the growing invasion of settlers, especially those involved in growing illicit crops, guerrilla activities and the repression against those activities."

Obregon and Stavropoulou 1998, p. 414-415:

"[W]ith anti communist propaganda and a land expansion agenda, the drug traffickers and their paramilitary alliances have obtained extensive property by killing or threatening the local population and forcing them to sell their land cheaply or abandon it altogether. Through this method they have managed to "cleanse" entire areas of the country and repopulate them with those who are more receptive to their economic and political agenda. This would explain why drug traffickers are directly responsible for only 2 to 4 percent of the displacement but indirectly, through their alliances, for much more."

RSS, February 2001:

"En los últimos años, algunas regiones fronterizas colombianas se han visto afectadas de manera creciente por el conflicto armado interno. Las zonas más afectadas son aquellas en donde hay cultivos ilícitos, recursos naturales estratégicos y condiciones favorables para el tráfico de armamento y de productos ilícitos, como las regiones con Ecuador ; y el Tapón del Darién, que limita con Panamá."

IDD, 9 February 2005:

"Indigenous communities in Colombia, who are amongst the most vulnerable groups, have made strenuous efforts to resist being co-opted by armed actors. However, the fact that they live in areas of strategic importance or where there is potential for drug production has made them vulnerable to fierce territorial disputes between armed actors. Consequently, a disproportional number of indigenous persons have been assassinated or displaced, as for example in the mountainous area of Sierra Nevada de Santa Marta on the Caribbean coast. The leader of the Wiwas community in this area was assassinated the night before he was due to meet the

mission. Representatives of the Kankuamos told the mission that over 200 of their leaders had been killed over the last three years. The killings of Kankuamos continue despite the issuance of special protection measures by the Inter-American Commission and the Inter-American Court. OHCHR is monitoring the human rights situation of these indigenous communities, but has no permanent presence in this region."

Strong correlation between multinational companies and forced displacement (November 2006)

- Forced displacement and massacres increased significantly in areas with abundant natural resources
- Internally displaced people report having lost 4 million hectares of land, corresponding to 1/3 of the arable land in Colombia
- Popular tribunal holds multinational companies responsible for displacements and other violations to control the land

TRIBUNAL PERMANENTE DE LOS PUEBLOS, 11 November 2006, pp. 8-9:

"Desplazamiento forzado y mercantilización de tierras. Las implicaciones que tiene la extracción rentable de minerales a gran escala sobre los patrones vigentes y tradicionales de ocupación del territorio y de relaciones entre la población y sus recursos naturales, han provocado progresivos despojos y desplazamientos que han incidido en el deterioro de las condiciones de vida de grandes franjas de población y en la profundización de estructuras de desigualdad a nivel nacional. Se mencionaron zonas, donde la presencia de las empresas multinacionales ha creado un vínculo estrecho entre la concentración de la tierra y el desplazamiento forzado de la población, pues introduce un conflicto alrededor del control territorial de áreas estratégicas. De hecho, los conflictos de tierras y la violencia en Colombia tienen un vínculo de vieja data. El conflicto actual parece no ser la excepción. Desde la década del noventa, el ingreso de la inversión extranjera aumentó como consecuencia de la disminución de las trabas legales a la misma y al mismo tiempo se incrementaron los desplazamientos forzados y las masacres en lugares de gran riqueza minera y natural. Ha sido subrayada la coincidencia de que hacia dichas zonas se dirige la ayuda militar norteamericana para la construcción de bases militares y que en ellas la presencia paramilitar se hace más visible. La población desplazada reporta haber perdido cuatro millones de hectáreas lo que equivale a una tercera parte de la tierra cultivable en Colombia.

Colombia ofrece un claro ejemplo de la dinámica de concentración de la tierra y el conflicto violento. Los casos analizados en éste tribunal lo demuestran. La ocupación territorial y el desalojo de la población civil son estrategias de guerra, adoptadas por las empresas transnacionales para desocupar territorios, expandir sus áreas de control y apropiarse de manera violenta de la tierra, usando y financiando para tal efecto a los grupos paramilitares y a las mismas fuerzas del Estado. En ese marco, el desplazamiento de la población parece ser además una estrategia de bajo costo para ocupar la tierra. Los campesinos, indígenas, afrocolombianos, mineros, cuentan con una capacidad limitada para adoptar medidas de protección, lo cual los convierte en un blanco de amenazas por parte de los agentes de las ETN, la fuerza pública y los paramilitares; situación que se agrava en zonas de presencia guerrillera. El control de recursos naturales primordiales, tales como el agua, y la perspectiva de futuros proyectos mineros y viales, entre otros, han promovido también la apropiación violenta de la tierra."

Displacement rooted in territorial and resource interests (April 2006)

- Increasingly paramilitary groups are launching incursions into rural areas in order to regain control of traditionally guerrilla areas while they previously mainly controlled urban areas
- Drug dealers controlled more than 4 million hectares of land as of 2000, much of it seized from IDPs
- Distribution of land is at the root of the social violence: 3 percent of landowners own more than 70 percent of the arable land as a result of the state's failure to implement a comprehensive agrarian reform
- Displacement is significantly more pronounced in areas where political violence coincides with violence associated with land ownership
- Colombian strategy of war is closely linked to strategies of re/depopulation of areas aiming at transforming land and property-ownership
- Deliberate displacement for control over resources, strategic territories and political loyalties is changing the population and socio-cultural map of Colombia
- Catatumbo is very rich in oil and carbon resources and Colombia's economic policies are aimed at attracting foreign capital in the area
- Bari indigenous people have been granted territorial autonomy in the Catatumbo-Bari Reserve in 1978 and stand in the way of multinational exploitation
- Many indigenous people opposed to encroachment on their land argue that armed actors forcibly displace them to suit national and multinational economic interests

UNDP, 20 April 2006:

"La agudización y expansión territorial de la violencia han propiciado procesos de apropiación de la tierra, reflejados hoy en una alta concentración de la misma y en el control de diversos territorios por parte de diferentes actores inmerso en el conflicto armado. La presión ejercida sobre la población civil para desalojar los territorios está asociada a factores como: i) la existencia de disputas sobre el territorio y/o las tierras; ii) el control territorial como un objetivo de quienes agencian la disputa, por su interés de controlar corredores para tráfico de armas, movilizar y refugiar combatientes; dominar recursos naturales y disponer de tierras para el cultivo, procesamiento y tráfico de ilícitos; o incidir sobre poderes locales para garantizar su lealtad a uno u otro grupo armado ilegal. Así, campesinos, colonos, indígenas y negros con asiento en diversos territorios han sufrido la expulsión violenta y el despojo de sus tierras mediante la expropiación directa o la venta forzada de sus predios a menores precios, lo que ha configurado el abandono de tierras en una escala que parece ser significativa pero que carece de información suficiente y confiable. La Contraloría General de la Nación afirmó que en 2000 los narcotraficantes poseían 4,4 millones de hectáreas y que la compra de las tierras "equivale a una contrarreforma agraria o, mejor aún, a una reforma agraria a la inversa"."

CODHES, 1 December 2004:

"Un tercer factor que contribuye al desplazamiento es el temor por la inminente confrontación armada que se avecina entre guerrilla y fuerza pública, guerrilla y paramilitares, en un intento por "recuperar" el control de estos territorios estratégicos para el abastecimiento al otro lado de la frontera y para el tráfico de armas, drogas y precursores químicos. Las nuevas dinámicas del conflicto muestran que los grupos paramilitares están incursionando en las zonas rurales, para enfrentar a la guerrilla, cambiando la estrategia utilizada hasta el momento, es decir, mantenerse en los cascos urbanos."

UN CHR, 10 November 2004:

"The Government has assured the Special Rapporteur of its determination to deal effectively with the social and economic problems that face more than 700,000 indigenous people in Colombia. The Special Rapporteur considers certain urgent issues to be of vital importance, including the internal forced displacement of numerous indigenous people, the exploitation of the natural

resources on their lands, the spraying operations that are part of the campaign against illicit crops and prior consultation on matters that affect them, notably in the area of economic development.

[...]

The Embera-Katio people of Alto Sinú have been subjected to murder, forced disappearances and displacements, intimidation and destruction of their property because of their opposition to the construction of the Urrá hydroelectric dam on their land. The precautionary measures called for on their behalf by the Inter-American Commission on Human Rights have still not been implemented."

CODHES, 6 October 2004:

"Analizando las crisis humanitarias en todos el mundo, en África, en Medio Oriente, en Asia pero la magnitud del desplazamiento interno en Colombia es uno de los peores del mundo, y tal vez no se ha dedicado suficiente atención a la crisis humanitaria tan grave que hay en Colombia. [y luego agregó] Lo que me ha impresionado fuertemente es que en Colombia la población civil no sólo está atrapada dentro del fuego cruzado sino que son directamente el objetivo de los ataques, como parte de una estrategia para controlar tierras y accesos a rutas y territorios."

Harvey, 8 January 2003:

"La ubicación estratégica y el correlativo control de territorios en disputa abarcan corredores de tránsito, zonas de retaguardia o avanzada de los actores armados. Pero desde una lectura complementaria al registro de la confrontación armada, la disputa por recursos no menos estratégicos relacionados con la oferta biofísica: biodiversidad, agua dulce, yacimientos de hidrocarburos, carbón, gas natural, oro, platino, la existencia o posibilidad de expansión de cultivos de uso ilícito, entre otros recursos, hacen parte de los motivos por los cuales se expulsan de sus territorios a indígenas, afrocolombianos y campesinos.

[...]

El Gobierno colombiano reconoce claramente la superposición de formas de gobernabilidad indígena expresada en el gobierno propio y la autonomía territorial, el desarrollo de la guerra e intereses económicos: ". . . el mapa de los territorios indígenas en el país coincide, en parte, con el de grandes proyectos de infraestructura, con el de una gran biodiversidad, con el de riquezas del subsuelo, con el de cultivos ilícitos y con el de la lucha armada" Los análisis que convergen en esta misma dirección señalan que "Esta situación ha dado lugar a conflictos que se traducen en el desconocimiento de la posesión indígena de su territorio; la concentración de fuerzas e intereses; la violencia física, en especial contra los líderes y dirigentes; el desplazamiento [forzado] de la población; la integración acelerada a la sociedad nacional y, paulatinamente, su arrinconamiento geográfico y cultural". Todo lo anterior, en relación con que aproximadamente el 28% del territorio colombiano ha sido declarado constitucionalmente 'territorio colectivo', con carácter inalienable, imprescriptible e inembargable para 91 pueblos indígenas cuya población asciende a aproximadamente 800.000 habitantes, y para cerca de cuatro millones y medio de afrocolombianos "

Issue of land distribution as the root cause for violence:

CHR 3 October 1994, para. 30:

"The issue of distribution of land is at the heart of the social conflicts in Colombia. According to one report, 3 per cent of the landowners own more than 70 per cent of the arable land in the country. / Asociación SETA, Colombia: Misión de Identificación de Derechos Humanos en Colombia, Informe de Misión at 7./ However, in the last 35 years the number of very large land properties has decreased somewhat. / See CPDIA report at 14-15./ As one government official said, effective action by the State in this field has never been possible; for instance, the first agrarian reform in the 1930s was restricted to defining the ownership titles of the coffee haciendas south of Bogotá. Another one, in the 1960s, was phased out in 1971 due to opposition by the landowners. A third one, in the 1980s, originating in the demobilized guerrillas, was also

partial. Another commentator suggested that because agrarian reform implies a change in the land rights and in politics, Governments have never engaged in it seriously.[...] Thus, invasions and conflicts associated with them have never been avoided, since peasants have had to resort to occupation and, as is the case in Meta, have subsequently been forced out by wealthier landowners. One government official, describing this process as 'colonization' and calling it absurd, noted that in areas where land distribution has been carried out, settlements tend to be more peaceful. Colonization also affects the environment, as it often entails clearing the jungle to establish a field or a pasture."

IACHR 1999, chapter VI, para. 22:

"For its part, the study by Dr. Alejandro Reyes, a political analyst, states that displacement is significantly more pronounced in areas where political violence coincides with violence associated with land ownership (Atlantic Coast, Chocó and the Urabá region of Antioquia) than in areas where, despite the level of political violence, the incidence of land disputes is less (Northeast, Central Andean Region, Southwest). Dr. Reyes believes that, 'in local wartime conditions it is not only impossible to put forward social demands, but the problem becomes one of how to safeguard the stability of the population in their territory, since the territory acquires strategic value for the opposing sides. Displacement occurs when threats force a dilemma between property and life and the State is incapable of providing protection for the population.' [Alejandro Reyes Posada, *El problema territorial del desplazamiento forzoso*, annexed to Final Report on the on-site technical assistance mission on internal displacement in Colombia of the Permanent Consultation on Internal Displacement in the Americas (CPDIA), Technical Secretariat, Inter-American Institute of Human Rights, 1997]. This analysis and the Commission's own confirmations during its on-site visit, satisfy it in the conviction that there is a close connection between social injustice, particularly land takeovers, and internal displacement, the prime causes of which predate the current armed conflict."

Economic interests:

IACHR 1999, chapter VI, para. 23:

"The Commission has received information stating that 65% of heads of displaced households who owned land had to abandon it as a result of the acts of violence that forced them to flee. This statistic tends to confirm once more that, concealed behind the phenomena of violence and armed confrontation, are economic interests associated with the so-called agrarian counter-reform that affects small and medium-scale landowners."

IACHR 1999, chapter X, para. 23:

"While some 30 million hectares of indigenous lands have been recognized, these claims and even the possession of lands already recognized are hindered and opposed in some cases by threats, harassment, and violence. Various actors are responsible for these acts of violence and threats, but frequently they are carried out by large landowners acting in cooperation with paramilitary groups and, in many cases, members or units of the Colombian State public security forces."

CHR 16 March 1999, para. 97:

Displacement is also a way of gaining possession of land. The existence of natural resources and/or the implementation of large-scale economic projects tend to create pressures which force small-scale farmers to leave their land. The Office has received reports of compulsory sales of land at far below market values.

Land and illicit cultivations:

Obregon and Stavropoulou, 1998, pp. 408-409:

"Wealthy drug traffickers have pushed their own process of 'conteragrarian reform' through several years of buying or appropriating land abandoned by peasants who fled from paramilitary groups or by landowners exhausted from guerrilla pressures. This process has shifted the concentration of land from the traditional elites to the emerging narco-businessmen."

HRW October 1999, chapter IV:

"This trend continues, with drug traffickers buying huge tracts abandoned by fleeing families. 'Land-buying by drug traffickers changes the war's course, because these new land owners become part of the paramilitary structure,' commented Alejandro Reyes, a sociologist who has studied political violence, in an interview with Human Rights Watch. 'It is then that the traffickers begin to defend themselves territorially.'"

De/Re-population strategies :

CODHES, 18 November 2002:

« Nuevamente es necesario llamar la atención sobre la necesidad de analizar la complejidad de este problema en Colombia. Además de los rigores de la guerra, muchas veces el desplazamiento obedece también a estrategias de repoblamiento con propósitos destinados a la transformación drástica y vertiginosa de la tenencia y la propiedad en Colombia, del control del acceso a recursos y territorios estratégicos. El destierro como estrategia intencional modifica el mapa poblacional y sociocultural del país, las posibilidades reales de participación y movilización social, así como la reivindicación de derechos y garantías democráticas. El desarraigo violento está reconfigurando la territorialidad del poder y el control político, económico y cultural en los ámbitos locales y regionales; los responsables del desplazamiento y quienes los apoyan, intentan moldear las lealtades y solidaridades de la población en beneficio de sus proyectos. »

The example of Catatumbo:

PCS, 11 February 2003:

"The interesting question for the purpose of holistically viewing the rational behind regional armed conflict is how the *apertura economica* based on attracting foreign capital to modernize the Colombian economy, within the context of a regional free trade agreement supported by mega projects is fuelling this war economy dynamic further? The Catatumbo's abundant supply of natural resources coupled with a cheap supply of labor and a favorable geo-strategic position has it that the region attracts multinational and national companies eager to extract oil and carbon. Big parts of these resources lay in the northeastern territory of the Catatumbo, the 158,000 square km National Park of the Catatumbo-Bari. Under the 1978 law, the indigenous people of Bari were granted autonomy over this territory, and this has remained a stumbling block in multinationals exploiting the zone. Indigenous are refusing exploitations. In the light of this, many have argued that armed actors are inducing displacement in order for multinational or national companies to explore these territories. There is a need for researchers to further explore the development of the war economy, within the context of armed elites competing for control of Colombia's natural resources."

African palm plantations and forced displacement (Special report, November 2007)

The African palm is a tropical tree used to extract African palm oil, for which global demand is expected to increase significantly over the coming years as a sustainable source of biodiesel. (For more on the Colombian government's African Palm oil export policy, see La Diocesis de

Quibdo, “La Palma Africana”, p.120, April 2005.) The two main producers and exporters of African palm oil on the world market are Malaysia and Indonesia. In Colombia this cash crop may offer a viable source of income for the government and an economic alternative to drug cultivation. The government plans to dedicate six hundred thousand hectares of land to increase the production of African palm oil and export of biodiesel. (Comisión Intereclesial de Justicia y Paz. “La Tramoya, Derechos Humanos y Palma Aceitera Curvaradó y Jiguamiandó, caso 5”, April 2005, pp.137-145.) Thus biodiesel projects have attracted considerable private investment as well as support from international donors for regional development and the eradication of illicit crops.

In Jiguamiandó and Curvaradó, following the end of the major clashes between the guerrillas and the national army and paramilitary groups in 2000, a group of companies started establishing African palm plantations on the land the IDPs had fled from. The growth of the banana plantations in the Urabá region in the 1950s and the establishment of these African Palm plantations since 2000 show crucial similarities, particularly the lack of respect for the human rights of the workers and the local population shown by the companies and the authorities. (“Territorio Patrimonio y Desplazamiento”, Seminario internacional, Bogota, October 2005, pp.124-125.)

In response to complaints by the people who had been forced from their land, the *Instituto Colombiano de Desarrollo Rural* (National Rural Development Institute, INCODER) (The institutional mandate of INCODER includes execution and monitoring of Law 70 of 1993, which grants wide concessions to Afro-Colombian communities in recognition of their historical use of land and their ethnic specificity. INCODER has awarded more than four million hectares of land to Afro-Colombian communities within the last four years, but their rights and semi-autonomy granted by the law are rarely respected by the armed actors or by commercial undertakings – as this report documents. For more on INCODER, see: <http://www.incoder.gov.co/noticias/verNoticia.asp?Id=826>.) confirmed in a verification report of 14 March 2005 that more than 3,800 hectares, or 93 per cent, of the land that the companies planted with African palm trees belonged to displaced Afro-Colombian communities. INCODER, 14 March 2005, p.11. INCODER concluded that between 2001 and 2004 a group of private investors took advantage of the forced displacements that these communities had been victims of, and developed a massive purchasing scheme to establish African oil plantations. Ibid, p.2

The land purchases were characterized by gross irregularities; in interviews with IDMC in September 2006, IDPs described a pattern of forced sales in which representatives of the companies colluded with paramilitary groups to present to the landowners offers far below the estimated market price which were backed up by indirect or direct death threats. (Interviews with IDPs, Curvaradó and Jiguamiandó, 11-13 September 2006.) “If you do not sell to us, the widow will sell cheaper” was a threat commonly used by representatives of the companies. Ibid. The region’s record of human rights violations and the ongoing impunity of perpetrators lent weight to these threats. All the IDPs interviewed added that while the price offered had amounted to only a small fraction of the market value, full payment was still pending, several years after the sales were forced on them.

As of July 2007, the companies continue to extend the plantations despite orders issued by INCODER, the *Procuraduría General de la Nación* (Procurator General’s Office) and IACHR to stop the commercial exploitation of the land and promote the return of the rightful owners. (Interview Procurator General’s Office, Bogota, June 2007.) Between March 2005 and July 2007, according to the Procurator General’s Office, the area covered by plantations has increased from around 4,000 hectares to more than 7,000 hectares in Jiguamiandó and Curvaradó. Ibid. The companies plan to continue expanding their activities to cover more than 22,000 hectares of land whose ownership they assert. (Ombudsman’s Office, “Resolución Defensorial No 39”, 2 June 2005, p.14.)

INCODER's report of March 2005 recalled that its antecedent INCORA had awarded Afro-Colombian communities in Jiguamiandó and Curvaradó more than 100,000 hectares of land in 2000, in compliance with Law 70 of 1993. (INCODER issued resolutions 2809 and 2801 on 22 November 2000, officially granting the land to the communities in compliance with Law 70 of 31 August 1993 of the Congress of Colombia.) Article 7 of Law 70 states that all land granted under the law is "inalienable, can not be seized nor expire". INCODER consequently recommended a plan "to reintegrate the displaced communities entirely; [to ensure] the immediate suspension of land transfers; immediate suspension of the companies' attempts to repopulate the abandoned areas with workers from neighbouring departments [and] compensation and economic and moral reparation to the victims." (INCODER, 14 March, 2005, p.30.) These recommendations were reiterated and supported by the Ombudsman's Office in Resolution 039 of 2 June 2005 and its follow-up report of July 2006. (Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006.)

In describing the situation, Resolution 039 cites the Quibdo Superior Court's response to a petition for protection of rights against the African palm company Urapalma and government institutions: "Urapalma invaded land that was private property to sow palm and in some cases later signed a contract to pay the owners of the usurped land and return part of it, but this contract was usually not honoured or was partially fulfilled." (Resolución Defensorial 39, 2 June 2005, p.16.)

However, the IDPs' land rights were not to be so easily defended. Following the publication of the INCODER report in March 2005, a national newspaper reported that the President's Office instructed the Ministry of Agriculture not to distribute the report further. *El Tiempo*, 23 October 2005. In October 2005, INCODER retracted its March statement, instead confirming the existence of 732 private titles in the two municipalities, with 217 of them – covering more than 15,000 hectares – overlapping the land awarded to the Afro-Colombian communities in 2000 under Law 70. (INCODER, 17 November 2005, quoted in Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, p.9.)

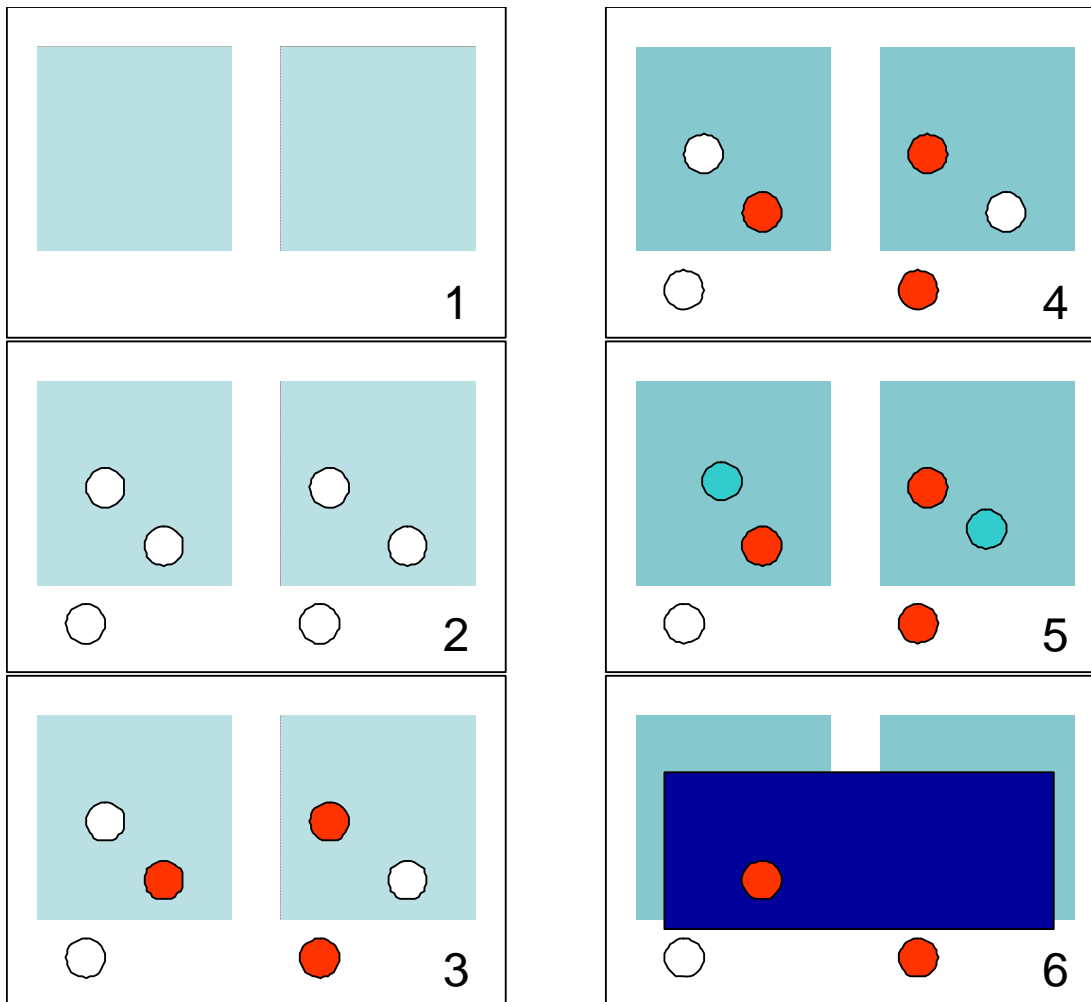
The revised position capitalises on a legal confusion created by INCODER; in the 1970s and 1980s, as part of the internal colonisation process, *colonos* – smallholding settlers of mainly Spanish descent – had been allocated land by INCORA. Thus in 2000, when INCORA awarded collective land to the Afro-Colombian communities under Law 70 in Jiguamiandó and Curvaradó, it was ruling on land already legally owned by the settlers.

The resulting competing claims over the land, according to the Ombudsman's Office in the city of Apartadó, should in principle be resolved according to the principle of first registration at the "*Superintendencia de Notariado y Registro*", a government institution mandated to register ownership. Thus, settlers who received land from INCORA in the 1970s or 1980s in principle only retain their statutory rights to the land if they registered it before the Afro-Colombian communities were awarded title in 2000. (Interview, Defensoría del Pueblo, Apartado, 14 September 2006.)

In any case, INCODER's new stance on community ownership was welcomed by the government and the companies involved. It opened the way for the legalisation of extensive African palm plantations within the collective territories, and boosted the government's biodiesel policy. The Ministry of Agriculture said soon after the announcement of the revised position that "Any company can plant palm on this land." (Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, p.38.) Representatives of the companies said that "the confidence of private and public investors would increase" and that this would entail a "re-launch of the African palm projects". (*El Tiempo*, 23 October 2005. The public finance institutions referred to are FINAGRO and Banco Agrario, with the latter depending on the Ministry of Agriculture.)

Yet the Ombudsman's Office's February 2006 examination of the revised INCODER report found serious irregularities, including the award of titles exceeding the maximum allowed area of 450 hectares, the transfer of ownership before the end of a compulsory 15-year ownership period, and the creation of false titles. One African palm company had claimed to have bought 6,000 hectares of land from a settler who had been awarded only 18.3 hectares in the late 1980s by INCORA. (Ombudman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, pp.10-15.)

Figure 1: Schema of the evolution of land ownership on collective territory



1. Much of the land in the region is informally occupied by Afro-Colombian and indigenous communities.
2. Settlers are allocated land through the 1970s and 1980s by INCORA.
3. Some settlers register their ownership at the *Superintendencia de Notariado y Registro*.
4. 2000: INCODER awards collective title to Afro-Colombian communities under Law 70 of 1993.
5. Settlers with unregistered title lose legal ownership.
6. Palm companies forcibly take possession of land from communities and settlers.

Interviews with members of the Humanitarian Zones in September 2006 confirmed these irregularities and underlined the active role of paramilitary groups in the forced sale of land.

The paramilitary support for the establishment of African palm plantations in Jiguamiandó and Curvaradó was publicly admitted by one of the paramilitary leaders in June 2005: "And in some territories of the Jiguamiandó River it is said that there are already sprouting fields of African

palm, as put forward by the [paramilitary] self-defense groups in talks with the government on the economic plans they will implement once the demobilisation is carried out. Plots acquired illegally in the middle of the armed conflict are discussed within these plans.” (Quoted in Comisión Intereclesial de Justicia y Paz, October 2005, pp.112,113.)

A programme aimed at economic development and the eradication of drugs may unintentionally have contributed to these human rights violations and illegal land seizures. In 2005, the Colombian Agrarian Bank and US Aid provided the Urabá Union of Palm Oil Growers (Urapalma) with more than \$6 million within a programme to replace illicit crops. (USAID, ARD / CAPP Colombia Agribusiness Partnership Program Report, 1 August 2005, p.1. “CAPP’s objective is to help Colombian private sector customers develop and sustainably implement large agribusiness projects that provide an alternative source of licit family income, establish a substantial quantity of new hectares of licit crops and provide significant employment opportunities in geographic areas susceptible to illicit production.”) Since then Urapalma has continued expanding African palm in Jiguamiandó and Curvaradó, as reported by the Procurator General’s Office in Bogota. (Interview Bogota, June 2007.)

According to a 2003 report in the *Washington Post*: “Church officials, military intelligence officers and farmers [in Urabá] say the land seizures are being used to hide paramilitary money, build a strategic buffer against nearby guerrilla fronts with designs on the region, and provide thousands of paramilitary soldiers with work and land after the fighting ends.” (Washington Post Foreign Service, “Cease-Fire Becomes Land Grab”, 20 September 2003.)

The content of the *Washington Post* article was corroborated by the Procurator General’s Office which, in a report of October 2006, warned that a proposed law on rural development (Law 210/07) could serve to launder illegally acquired resources. Procuraduría de la Nación, 16 October 2006. Despite protests (El Espectador, 23 October 2006.) from Afro-Colombian and indigenous communities, Law 210/07 was adopted by the Congress in June 2007. While the purpose of Law 210 is to improve socio-economic conditions in rural areas, critics have pointed to warnings by the Procurator General’s Office that claimants to land will only have to provide officially recognised documents without having to produce evidence on how it was acquired. (Law 210/07, Article 138.) In Jiguamiandó and Curvaradó, this means that the African palm plantations may more easily formalise their ownership of the land they have acquired by force.

Military pressure and aerial spraying worsen IDP situation (Special report, June 2006)

While the government says its fight against the guerrillas has been successful, claiming that between 2002 and 2005 it reduced the yearly numbers of forced displacements from 424,000 to 160,000, of massacres from 115 to 48, and of kidnappings from 2,800 to 800 (GoC, 27 March 2006, p.4; 4 April 2006), there are doubts as to whether the government’s claims to have reduced the violence reflect the complexity of the conflict and the security situation. In its annual report of 20 January 2006, the Office of the UN High Commissioner for Human Rights said the government statistics method was such that it was “unable to adequately identify indicators referring to murders of protected persons within the context of the internal armed conflict, so as to differentiate them from deaths caused by common crime.” (UNHCHR, 20 January 2006, p 24)

Since President Uribe took office in 2002, the conflict has continued with numerous assassinations, cases of torture and massive displacements – particularly in Putumayo and Nariño in the south, Chocó in the Pacific west, and Guajira and Cesar on the Caribbean coast in the north, according to national and international human rights organisations (CCHS, 22 December 2005; CODHES, 26 October 2005; UNOHCHR, 20 January 2006). The Colombian non-governmental organisation CODHES, which monitors displacements and human rights

violations, reported an escalation of the conflict from 2004 to 2005. Almost one million people have been forced from their homes since 2002 – more than 300,000 in 2005 alone, it said.

The Office of the UN High Commissioner on Human Rights reported a number of violations of the right to freedom of movement in 2005 by all the armed groups. In March 2006, the FARC-EP prevented several hundred farmers from fleeing Pogué on the Bojayá river, and paramilitaries were reported to have established checkpoints in the village of Corazón de Jesús and later of Caimanero (Chocó), threatening the inhabitants in order to extort information about the guerrillas (UNHCHR, pp.17, 91-92).

The UN's Working Group on Enforced or Involuntary Disappearances reported after a visit in July 2005 that the armed groups, particularly the paramilitaries, were continuing to cause terror and displacement often with the aim of grabbing land from the victims. The paramilitary perpetrators of disappearances and displacements were also reported to maintain "social contacts with representatives of the authorities and of the armed forces." (WGEID, 17 January 2006).

The guerrillas on the other hand seem to be bent on demonstrating that the government's military strategy has failed. Most of the guerrillas' destructive power reportedly remains intact and heavy fighting has been reported in many parts of the country along with widespread breaches of international humanitarian law (UNHCR, 30 May 2006; UNHCHR, 28 February 2005, p. 21). The number of cases of torture, sexual violence, forced disappearances and extra-judicial executions has increased in 2005, mainly outside urban centres (UNHCHR, 20 January 2006; AI, 1 February 2005; CCJ, 3 March 2005; UNCHR, 28 February 2005).

As part of its "Plan Colombia" – originally aimed at ending the armed conflict through a range of measures but later narrowed down under US influence to strengthening the military and fighting drug trafficking - the Colombian government has embarked on a massive campaign of indiscriminate aerial chemical spraying of illicit crops which has forced thousands of farmers to flee their homes since 1999, particularly in the western Amazon region traditionally controlled by the guerrillas and where the state has hardly ever had any presence. The spraying indiscriminately damages illicit crops, as well as food crops, wells and farm animals and thus threatens the livelihoods of affected populations. Moreover, the affected farmers are often perceived as collaborators of the guerrillas and reportedly treated accordingly by the local authorities or paramilitary groups. By way of example, in mid-May 2006, aerial spraying of illicit crops triggered demonstrations by affected farmers in Pasto, the regional capital of Nariño in southern Colombia. In the meantime, heavy fighting for control of the drug-production and trafficking erupted in their homes areas between paramilitary groups and leftist guerrillas. The paramilitary group engaged in the fighting warned that some of the demonstrators would be killed if they returned (UNHCR, 30 May 2006).

Since the spraying takes place in conflict zones, there are few official assessments of the consequences, and the institutional mechanisms for compensating farmers claiming to have had their farm sprayed without justification appear to be dysfunctional. Only \$18,500 was paid to farmers who had filed complaints to the authorities between 2000 and 2004 (LAWG, March 2004; PANNA, April 2004).

While the spraying has reduced illegal cultivation in some areas, the total area where narcotics are grown has, according to an official US report, not changed since 2002; this is mainly because drug farming is increasingly spreading to neighbouring regions and countries (The US Office of National Drug Control Policy, 14 April 2006; ICG, 27 January 2005). "Plan Colombia" focused on eradicating the illicit crops, not on making the local agriculture competitive, against the much cheaper imports (LAWG, March 2004). The spraying has worsened socio-economic conditions in the guerrilla-controlled areas where enormous distances from markets and the absence of infrastructure already make farming precarious, and thus helped drive farmers off the land.

The displaced farmers are left with few alternatives. Some continue planting coca crops in even more remote areas, others join the guerrillas or paramilitary forces or flee to urban centres where they live in violent slums among hundreds of thousands of other displaced people, stigmatised as supporters or sympathisers of the guerrillas.

Another main component of the government's counter-insurgency strategy has been its policy of "democratic security", consisting principally of increasing the military presence, involving the civilian population in fighting the guerrillas, and intensifying the aerial spraying of illicit crops under "Plan Colombia". The government has recruited some 15,000 peasant soldiers and established a network of over one million paid informants as part of the policy (PCS, May 2003). As a result, the distinction between civilians and combatants – a central element of international humanitarian law – has been increasingly blurred. The government also granted police powers to the military without judicial oversight, thus exposing civilians to unchecked abuses by the armed forces. The latter measure was declared unconstitutional by the Colombian Constitutional Court in 2005, but seemingly without any practical consequences.

The government says it has accompanied the return of more than 19,000 families between 2003 and May 2005, but figures are contested. The Inspector General's Office had only registered the return of 8,000 families in the same period (Procuraduría General de la Nación, 22 February 2006). UNHCR is also concerned that the structural causes of the violence have not been overcome in the return areas. The government's return programme has in any case not prevented continued massive displacements. The efforts to quell the insurgency and remove the guerrillas' main source of income have in some cases contributed to the displacements, as demonstrated in the region of Meta in the first months of the 2006. Several thousand people have been displaced as a result of an unprecedented manual coca eradication campaign which the government initiated in January. The campaign was launched soon after the killing of 29 soldiers by FARC guerrillas in the commune of "Vista Hermosa" at the end of 2005. The campaign has involved thousands of police, an estimated 6,000 soldiers from the national army, almost 1,000 "eradicators" and a new paramilitary group, "Bloque Meta", consisting of recently demobilised fighters from "Bloque Centaurus" (Interview with international aid worker, 10 February 2006; CCJ, 21 February 2006).

POPULATION FIGURES AND PROFILE

Global figures

The scale of the displacement crisis in Colombia (September 2008)

- The total figures of internal displacement in Colombia vary according to source. Nevertheless, the scale of the crisis is one of the largest in the world.
- Consultoría para los Derechos Humanos y el Desplazamiento (CODHES), an authoritative local NGO records a total of 4,361,355 IDP since data are available until March 2008.
- For its part, the government's Registry of Displaced Population (RUPD, for its name in Spanish) has registered a total of 2,649,139 IDP as of August 31, 2008.
- CODHES registers 305,966 newly displaced in 2007, and 270,675 in the first semester of 2008. (It must be noted that CODHES only counts IDP according to arrival or reception, not expulsion.)
- Acción Social registers 281,937 displaced persons in 2007, and 117,248 thus far in 2008.
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Both sources, the CODHES and the Acción Social reports, give detailed information on the IDP figures in the different regions.

Government Challenges IDP figures released by the civil society (September 2008)

- Acción Social challenged displacement figures released by CODHES for the first semester of 2008.
- It argues that CODHES figures are based on estimates, while Acción Social's are based on census-like registration.
- Between 2003-2006, RUPD's data followed similar trends as CODHES'.
- CODHES' definition of displacement is broader, including people in situations not registered in RUPD.
- However, Colombian authorities acknowledge that the numbers may be higher as a result of under-registration. High-ranking government officials acknowledged before the Constitutional Court that there is significant under-registration of IDP.
- Some categories of displaced persons which are not registered include those displaced within urban centers; displacement caused by aerial spraying; and displacement caused by non-enlisted paramilitary groups and by security forces.

Accion Social, 30 September 2008:

"Aunque se desconoce el detalle de cómo CODHES realiza sus estimaciones sobre desplazamiento forzado, lo primero que se debe resaltar es que la metodología de conteo de esta organización es diferente de la del gobierno. Mientras que, como se dijo, CODHES realiza una estimación del fenómeno, el gobierno, a través del Registro Único de Población Desplazada - RUPD, lleva un registro administrativo, cuasicensal, del fenómeno.

Durante algunos años (2003-2006) el RUPD llevó una tendencia similar a las estadísticas de CODHES, sin embargo, en la actualidad, la situación no es así. En lo corrido del 2008, Acción Social, encargada del RUPD ha registrado 117.000 (111.000 si se toman los primeros 6 meses), cifra bastante inferior a la estimada por CODHES.

Tradicionalmente, varios elementos han alejado las cifras gubernamentales de las CODHES; entre ellas, que la definición de desplazamiento que utiliza este último es más amplia, incluyendo situaciones que distan de las contempladas en el RUPD. En particular este año, las movilizaciones de protesta contra la erradicación forzosa de cultivos ilícitos han sido contabilizadas por la Consultoría como desplazamientos por la violencia; situación que ha afectado de manera especial el departamento de Antioquia, que, en parte, explica las conclusiones de dicha organización.

En torno de los desplazamientos masivos, ha habido un repunte, pero son infinitamente inferiores a los de los años 2000 a 2002, en los que el promedio de desplazados masivamente fue de 95.000 por año. De hecho, la tendencia de los desplazamientos masivos, por lo general de público conocimiento, se alinea claramente con la tendencia a la baja (2002-2008) de otros delitos relacionados como homicidios, secuestros y masacres.

Más importante aún, y sin desconocer que aún persisten dificultades para algún número mínimo de compatriotas para registrarse como desplazados, es que para el gobierno existen serios indicios de fraude al mecanismo de registro de población desplazada. Cada día aumentan las quejas que llegan al Gobierno sobre personas inescrupulosas que "preparan" a personas no desplazadas para que pasen el proceso de valoración que adelanta Acción Social. Sobre este fenómeno se está actuando de manera fehaciente, pues se estima que para casos como Bogotá, esta situación podría explicar una parte importante de los registrados este año.

Un nuevo fenómeno que está afectando las cifras del registro de desplazamiento tiene que ver con la dinámica propia de las familias y no con la violencia en el país. Es así como, por ejemplo, de las casi 400.000 personas que se han registrado entre 2007 y lo corrido de 2008, 160.000 corresponden a los mismos hogares que ya estaban en el 2006, pero que en un proceso de división, reunificación natural y nacimiento de nuevos niños dentro de los hogares, aumentaron el tamaño del registro.

Si bien las cifras que aún muestra el desplazamiento son altamente preocupantes y dan razón de los importantes esfuerzos que está haciendo el gobierno para atender este grave mal, distan mucho de la historia, casi apocalíptica, que muestra CODHES en sus cuentas. En ese sentido no sobra invitar a esta importante organización a revisar sus estimaciones. "

UNHCR, Balance de la política pública para la atención integral al desplazamiento forzado en Colombia, 2004-2007, pp. 51:

"Para abril 21 de 2007, se han registrado en el RUPD 2.054.733 personas desplazadas. Sin embargo, las autoridades reconocen que esa cifra puede ser superior como consecuencia del subregistro de la población. La Corte Constitucional, en el Auto 218 de 2006, retomó las

estimaciones de altos funcionarios del Gobierno en donde se reconoce que pueden existir en Colombia tres millones de personas desplazadas... Es por eso que cuando el ACNUR señala, en el Refugee Trends 2006, la existencia de tres millones de desplazados, está tomando como base las mismas estimaciones efectuadas por las autoridades el Estado colombiano. "

Recent trends

Number of IDPs (1985-2005) (Special report, June 2006)

Year	CODHES	GoC SUR
1985-94	720,000	4786
1995	89,000	247
1996	181,000	2,570
1997	257,000	11,099
1998	308,000	34,460
1999	288,000	29,139
2000	317,375	329,981
2001	341,925	373,663
2002	412,553	422,957
2003	207,607	219,4310,414
2004	287,581	145,99501
2005	310,237	159,534216
Total Cumulated	3,720,278 (CODHES, 24 February 2006)	1,752,033 (Accion Social, 20 April 2006)

Recent Dramatic increase of internal displacement (September 2008)

- CODHES, the main Colombian NGO counting IDP, released its report for the first semester of 2008.
- It shows that 270.675 people were displaced in this period. This figure is 41% higher than the one recorded for the same period in 2007 (191.313 people).
- 14 of the 32 departments have the highest rates of displacement.
- On average, 1,503 persons per day were displaced in the first semester of 2008
- 76% of the displaced population is in 50 cities and municipalities and in 19 departments.
- In the first semester of 2008, there were 66 mass displacements.
- 255 IDP leaders have been threatened during this period.
- Some of the causes of increased displacement during the first semester of 2008 identified by CODHES:
 - Re-arming of paramilitaries in zones in which the AUC have control.
 - New armed groups
 - Attacks launched by FARC against civilians as a way to re-strengthen their position vis-à-vis the increase governmental offensive
 - The government offensive
 - Aerial fumigations and forced manual eradication of illegal crops
- Data from CODHES, Boletín #77, "Tapando el Sol con las Manos", 30 September 2008

Geographical distribution

Displacement by Department according to Acción Social (August 2008)

Acción Social, 31 August 2008:

Departments of Displacement			Departments of Reception		
Department	No. of IDPs	% of total	Department	No. of IDPs	% of total
Antioquia	419,887	16	Antioquia	386,037	14.6
Bolívar	234,839	9.2	Bogotá D.C	223,087	8.5
Magdalena	168,433	6.4	Valle del Cauca	163,044	6.3
César	139,665	5.5	Bolívar	157,880	6.2
Chocó	143,852	5.4	Magdalena	144,995	5.5
Caquetá	135,666	5.2	Sucre	130,356	5.2
Tolima	130,992	5	Santander	110,441	4.3
Putumayo	118,447	4.6	César	107,750	4.2
Valle del Cauca	112,495	4.3	Córdoba	106,050	4.1
Cauca	102,506	3.9	Nariño	103,082	3.7

Displacement in Chocó Department (June 2008)

- Numbers of displaced persons in Chocó department in 2008, as per UN OCHA Colombia.

UN OCHA, June 2008:

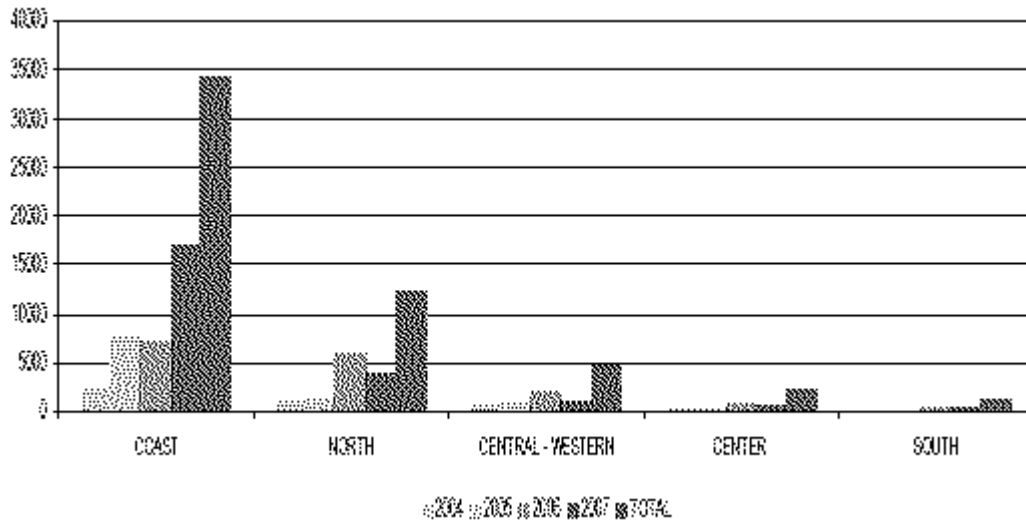
EVENTO	NÚMERO DESPLAZADOS
Desplazamiento Comunidades Suruco, Sta. Mónica, Bocas de Luis, Quebrada de Oro, Bocas de Suruco a Itzmina	430 personas
Desplazamiento comunidades La Carmelita, Juana Marcela, Playa Grande, Basura, Paitó hacia Itzmina	Entre 700 y 1000 personas
Desplazamiento comunidades Playa Grande, Paitó, Juana Marcela, Carmelita, Basura hacia Itzmina	282 personas
Desplazamiento comunidad de El Sepulcro, El Pajonal, Puerto Meluk hacia las comunidades de La Playa y la Comba	130 personas
Desplazamiento comunidad de Santa Rosa de Hijua a comunidad de Unión-Chocó	66 personas
Desplazamiento Vereda Bajo Grande hacia Belén de Occampadó, Sivrú y Pizarro	183 personas
Desplazamiento comunidad de San Luis hacia Pizarro	74 personas
Desplazamiento de la comunidad de Playta a Docordó, Istoraí del San Juan	69 personas
Desplazamiento comunidades de Comunidades: Charco Gallo, Mojaudó	17 familias

Displacement in Nariño Department (April 2008)

- Nariño: the Department with highest levels of forced displacement both at individual and mass levels.

UN OCHA, 14 April 2008:

"According to the Presidential Agency for Social Action and International Cooperation, Nariño is the most affected department due to forced displacement, both at an individual and massive levels. Forced displacement has increased significantly since 2006, coinciding with the increase in armed confrontations and the active presence of illegal armed groups. The municipality of El Charco is the most affected one, both nationally and at the departmental level. In fact, the number of individual and mass displacements in this municipality makes the Coastal region in the most affected by this phenomenon."



Displacement in Mojana Region (Bolívar, Sucre, Córdoba, and Antioquia Departments) (April 2008)

- Figures of Displacement in Mojana Region, which comprises parts of the Bolívar, Sucre, Córdoba, and Antioquia Departments.
- Map of Displacement in the Region.

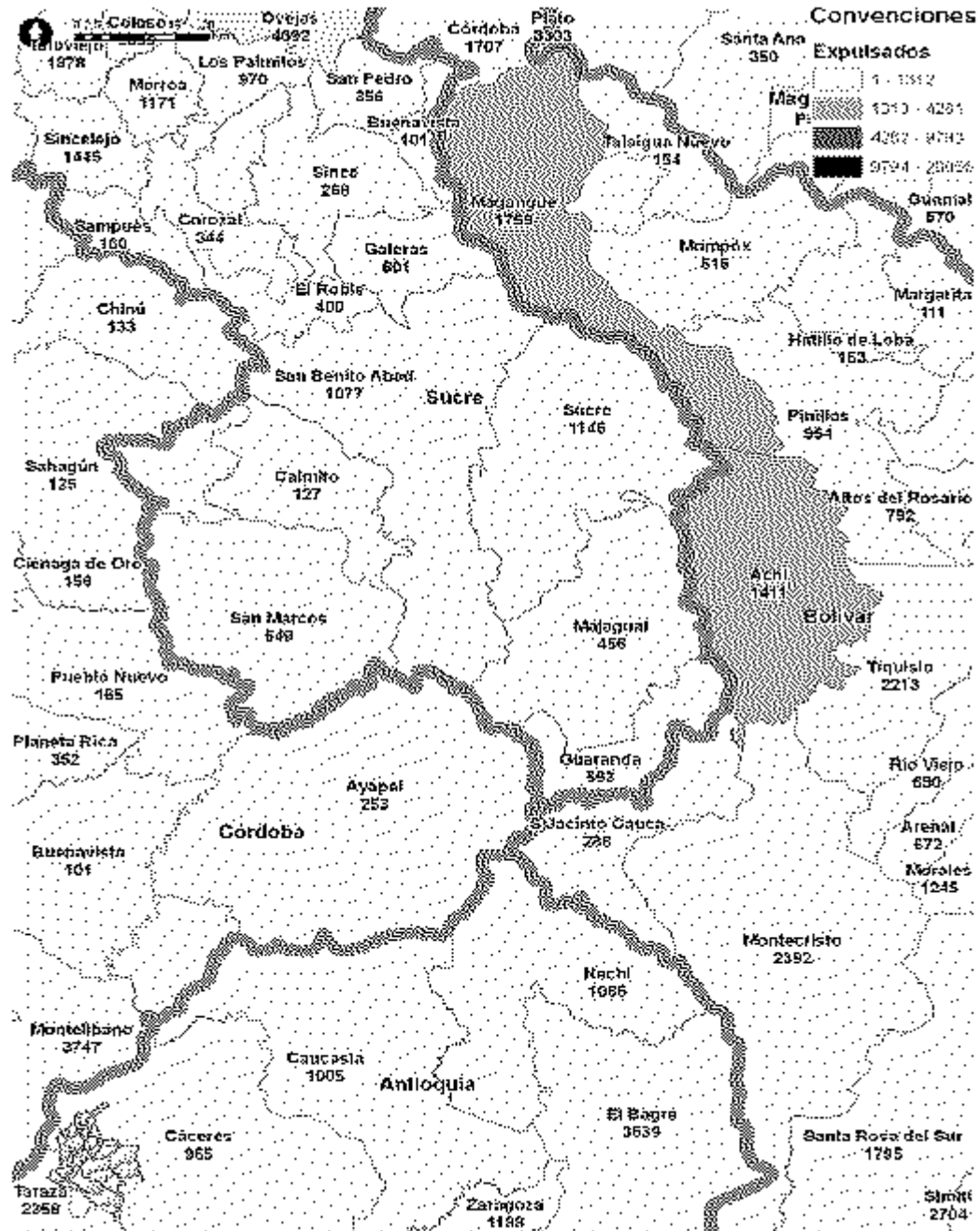
UN OCHA, 14 April 2008:

"At least 8981 persons were forced to displace in the Mojana region between 1 January 2004 to 31 December 2007. The level of forced displacement in the Mojana region appears to follow a constant trend, between 1800 and 2600 victims per year.

According to the Presidential Agency for Social Action and International Cooperation, 52% of displacement victims are women and children, while 48% were men. Among the most frequently

mentioned reasons alleged by the victims of displacement are the occurrence of armed confrontation in populated areas, threats and homicides of protected persons."

Map of Displacement in Mojana Region:



Displacement in Montes de María Region (Center of Bolívar and Sucre Departments) (April 2008)

- Figures of displacement in Montes de María.

UN OCHA, 11 April 2008:

"The Presidential Agency for Social Action and International Cooperation – Acción Social, has recorded the displacement of 47803 persons between 1 January 2004 and 31 December 2007. All 16 municipalities of Montes de María are considered to have the double condition of expellers and receptors of displaced population. El Carmen de Bolívar is the most affected municipality regarding expulsion of population.

Keeping with the national trend, 42% of the victims of displacement were women, 19% were children under 18 years – old and 39% were men.

According to Accion Social, among the most common reasons cited by displaced persons for their migration are the recurrence and intensity of armed confrontations in populated areas, forced recruitment by illegal armed actors, individual and collective threats and homicides of community leaders."

PATTERNS OF DISPLACEMENT

General

Displacement from Rural to Urban areas is the dominant pattern (June 2008)

- Despite an increase in a pattern of expulsion from urban areas (intra-urban displacement) since 2003, the main pattern of displacement continues to be rural-urban.
- 92% of the displaced population has been displaced from rural areas, and 8% from urban environments.
- Of those displaced from rural areas, 93% arrive into an urban environment and 7% into a rural area.
- Of those displaced from urban areas, 93% stay in urban areas, and 7% go to rural areas.
- The displaced flee often first to smaller administrative centres or to a nearby village where they have some family ties and then end up in bigger urban centres
- Most IDPs end up in the slums of Bogotá, Barranquilla, Medellín, Cali and Cartagena
-
- Figures in the above bullet points are based on the Departamento Nacional de Planeación, Política de Desplazamiento en Colombia, 30 June, 2008.

UN GA, 24 January 2007:

“Displacement now tends to be individual or affecting relatively small groups instead of massive, as was the pattern until recently. In most cases, displaced persons move from rural areas to villages and small rural towns or go to larger urban areas. Inter- and intra-urban displacement is a growing phenomenon with IDPs, and particularly their leaders who have fled to urban areas to become displaced again, most often as a consequence of attempts by (reconstituted) paramilitary groups and/or criminal elements to control poor urban and semi-urban areas.”

Age, gender, and ethnicity of the displaced population (June 2008)

- 56 of the displaced population is between 0 and 29 years of age.
- The average age of the displaced population is 25.
- 36% of the displaced population is under 18 years of age.
- 46% of the displaced families is led by women.
- 2% of the total IDP population is indigenous, 6.7% is afro-Colombian, and 0.5% is Rom.
-
- Figures in the above bullet points are based on the Departamento Nacional de Planeación, Política de Desplazamiento en Colombia, 30 June, 2008.

Mass displacement vs. Individual displacements (September 2008)

- Individual displacement accounts for the bulk of displacement.
- From January to June, 2008, there were 131.791 IDP in Colombia. 15,155 (11.4%) were displaced in mass events (based on Acción Social's data.)
- The department with the highest number of mass displacement is Antioquia (5573 people), followed by Chocó (2338), Arauca (2000), Nariño (1383), Cauca (1045).
- In the first semester of 2008, 66 mass displacement took place, which affected 33,251 people (based on CODHES's data).
-
- Figures in the above bullet points are based on OCHA, Humanitarian Information Trends, 31 August 2008, which draws on RUPD data.

Refugees International, December 2007:

"Internal displacement in Colombia is a complex phenomenon. It is shaped by regional dynamics and its characteristics have been evolving over time. Nevertheless studies have been able to shed some light on common trends and similarities among communities and their ways of coping with the forced uprooting.

The majority of the displaced groups is from rural backgrounds and from the Pacific and Central regions. While big urban centers like Medellín, Cartagena and Bogotá, which itself has received around 20% of all displaced, are the privileged destinations, displacement waves have been recently contained within each department, between villages or from villages to minor towns. Most recent displacements happening in Nariño and Chocó departments have also shown the inclination for affected groups to stay close to areas that have geographic, cultural and emotional importance for them. This is particularly true for indigenous and Afro-Colombian communities as forced displacement has a profound impact on traditional social and economic aspects of their lives.

Most recently it appears that besides single household or individual displacements, which have been a long standing pattern, massive displacements, which in Colombia are defined as more than 50 people fleeing at once, are sharply on the rise. In April more than 7,000 peasants were displaced in El Charco and in September 1,200 indigenous people fled fighting in Tumaco, Nariño. Throughout this year several groups of hundreds of people have been displaced in the departments of Meta, Chocó and Norte de Santander."

BBC, 30 September 2008:

"El director de Codhes, Jorge Rojas, declaró a BBC mundo que el primer semestre de 2008 se presentaron 66 desplazamientos masivos, que afectaron a 33.251 personas.

"Los éxodos en masa indican que hay una presión violenta contra población civil en muchas regiones del país y que sigue siendo crítico el tema de las fumigaciones de los cultivos ilícitos", añadió Rojas. "

Added vulnerability of IDP families (June 2008)

- The Civil Society Follow-Up Commission conducted an extensive survey (Encuesta Nacional de Verificación, or ENV), applied to 6,000 displaced households included in the RUPD, and to 3,500 non-IDP families, in 50 municipalities.
- It reports that 47% of displaced families is headed by women.

- Between 18 and 20% is analphabet.
- 20% of women between 18 and 24 years of age is pregnant or became pregnant during 2007.
- Displaced families have an average of 5.2 children, compared to 4 for non-IDP families.
-
- The information in the bullet points above is based on Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 4 June 2008.

Intra-Urban Displacement (September 2008)

- Intra-urban displacement, i.e., displacement within urban areas, increased starting in 2002, and is on the rise.
- For the first time a court ruling recognized that people displaced within urban areas or within the same municipality are entitled to IDP status
- Case study of intra-urban displacement in Santa Marta, Colombia, reveals that IDP populations are more likely to have lower access to education, employment, quality of housing, and potable water than non-IDPs and migrants.
- Likewise, IDPs are more likely than non-IDPs to have household problems and someone with a disability in the household.

Tufts/IDMC, 30 September 2008:

“Education: IDPs had lower levels of education than non-IDPs. IDPs were more likely to have no formal schooling, or to have stopped at the primary school level. Non-IDPs were more likely to have attended secondary school, vocational or technical programs and university.

Employment: Half our total sample (51%) was housewives (reflecting the gender bias and time of day of the interview). IDPs and non-IDPs reported difficulties with finding employment at similar rates, but non-IDPs were more likely to have contractual employment, which means their job security is greater and their wages are probably higher (but we did not explore this). IDPs were more likely to be unemployed than non-IDPs. This pattern was similar in both low and high IDP density barrios.

Water: Of the total sample, 71% has direct access to water within their house. Nine percent get water at a standpoint, and 9% buy water from vendors, while 6% get their water from bottles or plastic containers. IDPs were less likely to have a direct water connection to their home.

Household difficulties: When asked if their household experienced any difficulties, a third of our respondents said they experienced no real problems, but another third mentioned lack of water access, and a quarter mentioned problems with sewerage, garbage or filth. Other mentions were: the area was unsafe due to crime (17%), and they were unable to find work (14%). IDPs mentioned more problems and at higher rates than non-IDPs, particularly poor infrastructure, insecurity, troublesome relations with the authorities, and difficulties with the community or neighbors.

Disabilities: IDPs were almost twice as likely as non-IDPs to have someone with a permanent disability living in their household (16% vs. 8.6%).”

PHYSICAL SECURITY & FREEDOM OF MOVEMENT

Physical security

Threats to Physical Security Continue (July 2008)

The widespread conflict in Colombia continues to threaten the physical security of rural Colombian population, especially in the departments of Chocó, Cauca, Nariño, and Putumayo. Human rights violations result in massive displacement of indigenous and Afro-Colombian populations. As the Inter-American Commission on Human Rights pointed out in its 2007 report, the fundamental human rights to life, personal integrity, and personal liberty are constantly violated by all parties in the conflict, including the State (IACHR, 2007.) Extrajudicial executions, disappearances, and threats by the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP), the National Liberation Army (ELN), and State Security forces continued in the last year (UN HCHR, 29 February 2008; Amnesty International, 28 May 2008; ICRC, 27 May 2008). Further, as the Special Representative of the Secretary General on the Rights of IDPs wrote that "dangers of becoming victims of the armed conflict are enhanced by the physical presence of armed forces amidst civilian populations. In Toribio, Cauca, for instance, he witnessed that the armed forces had installed their headquarters in the middle of the village, next to a primary school, and had erected posts in the central square of town immediately next to a playground and a church centre." (UN HRC, 2007)

Nevertheless, as Amnesty International noted, "fewer civilians were killed than in recent years. People continued to be kidnapped, with guerrilla groups responsible for most conflict-related cases, but there were fewer reported cases than in previous years." (Amnesty International, 2008.)

The last year has seen the emergence of new illegal groups who also committed various human rights violations which resulted in displacement. These new illegal groups, "which the government also described as new criminal groups, consisted of demobilized paramilitaries who returned to violence, individual paramilitaries who never demobilized, common criminals, and narcotics traffickers primarily involved in criminal activity." (USDoS, 11 March 2008). Nevertheless, "some NGOs, such as CINEP, considered the new illegal groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. They also included killings by these groups in their definition of "unlawful killings." ... "Some members of government security forces, including enlisted personnel, noncommissioned officers, and senior officials, in violation of orders from and president and the military high command, collaborated with or tolerated the activities of new illegal groups or paramilitary members who refused to demobilize. Such collaboration often facilitated unlawful killings and may have involved direct participation in paramilitary atrocities." (USDoS, 11 March 2008)

Human rights defenders and representatives of internally displaced populations were targeted in the last year. In addition to displacements of resident population, at least six leaders of IDP organizations were killed in the first nine months of the [last] year (USDoS, 11 March 2008). The assassination of a human rights leader in June 2008 was condemned by all UN Agencies working in Colombia (UN OCHA, July 2008) and by many UN experts holding Special Procedures Mandates (UN, 30 April 2008). Many human rights defenders fled or feared being forced to flee (UN HRC, 2007).

Violations of Human Rights and Humanitarian Law result in continued displacement (May 2008)

- The fundamental human rights to life, personal integrity, and personal liberty are constantly violated by all parties to the conflict.
- However, it was reported that fewer civilians were killed in the last year than in recent years.
- Extrajudicial executions, disappearances, and threats by the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP), the National Liberation Army (ELN), and State Security forces continued in the last year.
- Presence of armed forces in the midst of civilian population enhances the risk of becoming victims of armed conflict.

Inter-American Commission on Human Rights, 29 December 2007:

"Despite the demobilization of the AUC, violence resulting from the armed conflict persists. The IACHR continues to receive complaints alleging that armed outlaw groups –paramilitaries and guerrillas- and members of the military and police forces continue to be involved in crimes, human rights violations and violations of international humanitarian law committed against the civilian population and that resulted in violations of the right to life, the right to personal integrity and the right to personal liberty. Because of this, the phenomenon of internal displacement continues.

[...]persons executed or disappeared are generally *campesinos*, indigenous persons, laborers, disadvantaged persons or community leaders; the military or police report the victims as being insurgents who died in combat;"

Amnesty International, 28 May 2008:

"All parties to the 40-year-old conflict committed violations of international humanitarian law (IHL), including war crimes and crimes against humanity. However, fewer civilians were killed than in recent years. People continued to be kidnapped, with guerrilla groups responsible for most conflict-related cases, but there were fewer reported cases than in previous years."

United Nations High Commissioner for Human Rights, 29 February 2008:

"The office in Colombia of OHCHR received complaints of violations of the right to life by extrajudicial execution. In most cases, these executions followed the same pattern observed in previous years: the victims were civilians who were presented as members of guerrilla groups or other illegal armed groups, reported as killed in combat."

ICRC, 27 May 2008:

"The ICRC documented allegations of IHL violations and made representations to weapon bearers with a view to ending such practices. Disappearances, threats, summary executions and forced displacements represented the bulk of the cases."

Indigenous and Afro-Colombian populations suffer most human rights violations (May 2008)

- Indigenous and Afro-Colombian populations are mostly the victims of human rights and are particularly affected by violence, which force them to abandon their habitual places of residence.
- The government has made efforts to protect indigenous populations vulnerable to violence.

Amnesty International, 28 May 2008:

"Civilians continued to bear the brunt of the conflict, especially those belonging to Indigenous, Afro-descendant and peasant farmer communities, many of whom lived on lands of economic interest to the warring parties. At least 1,340 civilians were killed or forcibly disappeared in the 12-month period ending in June 2007."

United Nations High Commissioner for Human Rights, 29 February 2008:

"56. Indigenous and Afro-Colombian groups - who make up a considerable percentage of the displaced population - have been particularly affected. This situation is partly due to the fact that they are located in territories that are strategic in the dynamics of the internal armed conflict, and partly because they have suffered from discrimination and marginalization.

57. Serious violations committed against indigenous ethnic communities have been attributed to illegal armed groups. One instance was the massacre of eight Awá and Pastos Indians in the municipality of Cumbal, Nariño, in June 2007, attributed to FARC-EP. The worst affected regions are Arauca, Cauca, Chocó, Córdoba, Guajira, Nariño, Putumayo and Valle del Cauca. The intensification of the armed conflict in Buenaventura gravely affected the individual and collective rights of the Afro-Colombian population in that area. A very large number of members of the nomad group Nukak Makú - inhabitants of a region in the Department of Guaviare who, as a group, are in danger of extinction - have been displaced and are in a critical situation, needing very specific attention due to their cultural peculiarities.

58. The Government extended its comprehensive plan for the support of extremely vulnerable or endangered indigenous communities into the Departments of Cesar, Risaralda, Meta and Guajira. This is a positive step which needs to be consolidated, expressly taking into account results from studies conducted among several ethnic groups focusing on their expected life plans."

UN High Commissioner for Human Rights, 5 March 2007, pp. 39,40:

"The ethnic groups, particularly the indigenous and Afro-Colombian populations, are in a situation of great vulnerability as a result of the internal armed conflict. The FARC-EP, paramilitary groups and demobilized paramilitaries are believed to be responsible for the murder of protected persons, threats, stigmatization, forced displacement, hostage-taking, forced recruitment, attacks against the civilian population, restrictions on the movement of food, medicines, fuel and people, and accidents and deaths resulting from anti-personnel mines. For their part, the security forces have been held responsible for extrajudicial executions, arbitrary arrests and identifying members of indigenous and Afro-Colombian communities as guerrillas. There were complaints of the security forces imposing restrictions on the movement of goods and persons and occupying civilian premises such as houses and schools. Information was received about cases of indigenous persons being arrested and not being allowed to perform their traditional practices."

Human Rights Defenders and IDP leaders constantly threatened (July 2008)

- Human rights defenders and IDP leaders are constantly targeted.

- The assassination of a human rights leader in June 2008 was condemned by all UN Agencies working in Colombia (UN Agencies, July 2008) and by many UN experts holding Special Procedures Mandates (UN Experts, April, 2008).
- Many human rights defenders fled or feared being forced to flee.
- Constitutional Court of Colombia orders special measures to protect threatened IDP leaders.

Inter-American Commission on Human Rights, 29 December 2007:

"The patterns of threats, harassment, and homicide continued to plague human rights defenders in Colombia in 2007. The IACHR has received complaints reporting e-mailed threats against human rights organizations, acts of intimidation and the theft of information at their main offices, committed by all sides in the conflict. It also remains concerned by the "phony" charges being brought against human rights defenders, some of whom have cases before the inter-American system.

In March and June of 2007 paramilitaries known as "*Nueva Generación*" leveled threats against human rights defenders, international organizations, social organizations and religious organizations doing their work in the department of Nariño. In February 2007, the Cauca Indigenous Regional Council (ACIN) –whose leaders are the beneficiaries of precautionary measures ordered by the IACHR- and the *campesino* organization CIMA received threats from the FARC-EP to the effect that they would be regarded as military targets unless they pledged "to demand the resignation" of the president. These threats put human rights organizations in peril and affect the legitimate exercise of their mission."

U.S. DOS, 11 March 2008:

"In addition to displacements of resident population, at least six leaders of IDP organizations were killed in the first nine months of the year. Press reports indicated that most of these IDP leaders were seeking reparations or return of land that former paramilitary groups had forced them to surrender."

UN OCHA, July 2008:

"La Oficina en Colombia del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (OACNUDH), el Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR), el Programa Mundial de Alimentos (PMA) y la Oficina para la Coordinación de Asuntos Humanitarios (OCHA) rechazan el asesinato de la lideresa Martha Cecilia Obando ocurrido el domingo 29 de junio, en el municipio de Buenaventura, Valle del Cauca."

United Nations, 30 April 2008:

"We are deeply concerned by recent developments in Colombia indicating the deteriorating situation of human rights defenders in recent months, in particular the killings, harassment and intimidation of civil society activists, trade-union leaders and lawyers representing victims.

We recognize and appreciate the adoption of some measures by the Government of Colombia in an attempt to improve the security of those who find themselves at risk as a result of their activities in defense of human rights. We do, however, call upon the Government to provide more effective and consistent protection measures for defenders at risk as a matter of urgency."

Constitutional Court of Colombia, 26 February 2008:

“[...] es necesario remitir al Ministerio del Interior y de Justicia - Programa de Protección, el nombre y la identificación de los líderes que solicitaron protección para garantizar su derecho a la seguridad personal, a su vida y a su integridad física, con el fin de que el Ministerio verifique la efectividad de las medidas de protección que se les están brindando. De conformidad con los programas adoptados en cumplimiento del Auto 200 de 2007.”

IDP leaders killed since 2002 (August 2007)

- Las Playas community of indigenous Embera-Catío were frightened and considered fleeing after three of their leaders were massacred with machetes by armed men in Urabá who threatened to come back in December 2004
- Las Playa Embera-Catío community had already been displaced in 1997
- The New Administration accused human rights defenders of collaborating with insurgents, these allegations further undermine their protection
- The very fact of fleeing rises suspicion around the alleged loyalty of the displaced to a particular armed group
- Armed groups from all sides attack and displace civilians whom they commonly accuse of supporting the “enemy”
- As displaced people are often stereotyped as guerrilla fighters, including by the press, people are reluctant to rent rooms or provide help to the displaced by fear of retaliation
- Displaced in city outskirts have been the victims of urban death squads
- Protection of human rights defenders continued to be inadequate and forced many to flee
- Several leaders of displaced populations and other communities were murdered in 2001 and the beginning of 2002
- Most selective killings targeted at human rights defenders, trade unionists and indigenous or displaced community leaders are perpetrated by paramilitary groups

[List](#) of IDP leaders killed since 2002

IDD, 9 February 2005:

“Similar to human rights defenders and other rights-oriented groups, the leaders of organized IDP communities have been the target of frequent attacks often resulting in violations of their physical integrity and/or secondary displacement. The Ministry of Interior has now included 38 IDP leaders in its protection programme for local authorities, human rights defenders, union and community leaders. Protection measures for these leaders range from the issuance of communication equipment to the use of bullet-proof vests and armored cars. NGOs pointed out that while this may sometimes be useful, the focus on hardware rather than other types of protection is generally ineffective and is often off-set by high-level Government officials’ public questioning of human rights and IDP leaders’ “neutrality” in relation to the armed actors. In addition, the initiation of judicial processes based on weak or non-existing evidence has become an increasingly common way to silence community leaders.”

UNHCR, 14 December 2004:

“UNHCR team has reported that the inhabitants of the indigenous settlement of Las Playas, in Colombia's north-western Urabá region, are extremely frightened and are considering fleeing to the town of Apartadó following the murder of three of their leaders last week. Fear is also spreading to other indigenous communities in the Urabá region.

[...]

The small community, which UNHCR reaches by foot through the jungle, consists of some 300 members of the Embera-Catío ethnic group. According to local witnesses, a group of armed men entered the settlement on the evening of 6 December and asked for the three indigenous leaders by name. They then took them to a riverbank and brutally murdered them with machetes. Before leaving the village, the armed men threatened that they would come back. The community had not received any specific threats from any armed group before."

ICG, 13 November 2003, p.2:

"Uribe's strong verbal attack against human rights defenders in early September, some of whom he accused of collaboration with the insurgents, caused severe consternation in Colombia as well as abroad"

HRW 2001:

"Government efforts to protect threatened defenders continued to be slow, inadequate, and often irrelevant. Even as government offices provided bullet-proof glass to threatened offices and distributed bullet-proof vests, defenders continued to be murdered by experienced killers who often benefited from impunity [...]."

HRW, 15 March 2002:

"Some government offices attempted to protect threatened defenders, supplying bodyguards, bulletproof reinforcement for offices, and an emergency response network operated by handheld radios. In many instances, however, the government's response was slow, nonexistent, or abusive."

IACHR 2000, Chapter IV:

"Durante el año 2000 también se multiplicaron los homicidios selectivos precedidos de amenazas contra defensores de derechos humanos, funcionarios judiciales, periodistas, sindicalistas, académicos, funcionarios municipales, líderes indígenas y campesinos, candidatos a cargos de elección popular –incluyendo a miembros de la Unión Patriótica[18]—y ex combatientes desmovilizados."

UN HCHR, 8 February 2001, chapter VI, para. 145:

"The displaced are not receiving due protection and security guarantees from the State. In many areas of inward flow, the Office has registered threats and attacks on members of the displaced population, particularly their leaders. In this sense, the shrinkage of the humanitarian spaces in several regions is extremely alarming. The Government still has not created an adequate programme to care for displaced people at risk, nor has it taken any measures to overcome the discrimination and stigmatisation that the displaced have to face. Mention must be made of the Cacarica case in which three displaced individuals were killed in Turbo in March 2000 by people thought to be paramilitaries. In September 2000 a group of displaced people who had settled Tuluá (Valle) were threatened by paramilitaries who told them to go back home. The Government's reaction was to set up a high-level commission that has not yet been able to arrive at a final answer for the individuals concerned, many of whom felt constrained to submit to the paramilitaries' will."

UNHCR, 11 January 2002:

"UNHCR is increasingly concerned about the deteriorating situation in Colombia and its impact on innocent civilians [...] We were particularly outraged by the murders in late December [2001] of

two leaders of the Peace Communities of the Atrato River. The murdered leaders –Petrona Sánchez and Edwin Ortega- were both dedicated to serving their community, especially children and women, and to creating an environment in which people could live together.”

UN CHR, 11 March 2002:

“[...] the threats to physical security which the displaced flee to escape often follow them into the communities in which they seek refuge. The very fact of having fled typically heightens suspicions of allegiance to a particular armed actor and intensifies the risk of being targeted. Stigmatized and fearing for their lives, many of the displaced seek safety in anonymity, attempting to blend into communities of the urban poor. Having abandoned their homes, property and livelihood for conditions of destitution and continued insecurity, they constitute an extremely vulnerable segment of society.”

Cohen and Sanchez-Garzoli May 2001:

"In Colombia, by far the most complicated civil war in Americas, paramilitary forces—under the umbrella of the United Self-Defense Units of Colombia (AUC)—regularly label displaced persons ‘guerrilla sympathizers’. Often they denounce peasants in this way because they covet their land. They then uproot them to enhance the holdings of large landholders for whom they work or for their own criminal and related activities. Responsible for most of the displacement in Colombia, they also uproot peasants to rout guerrilla forces, namely the Revolutionary Armed Forces of Colombia (FARC) or the National Liberation Army (ELN). These insurgencies control large swaths of land in Colombia, benefit from drug trafficking, and engage in hostage taking, forced conscription and other criminal activities, from which peasants also flee. Whether uprooted by AUC and government counterinsurgency drives or by the guerrilla groups, displaced persons remain politically suspect *after* they have abandoned their homes and communities. The very fact that they have fled areas of fighting provokes suspicion of them as people with an allegiance to a particular armed actor. And in their new places of ‘refuge’, many continue to fear for their lives and for that reason, try to blend into communities of urban poor to reduce the risk of being targeted. Nonetheless, because they are stereotyped as guerrillas or as their relatives, ‘people won’t rent rooms to the displaced, and the press describes IDPs in ways which support this impression.”

Displaced people victims of "social cleansing"

PCS, 17 March 2003:

"The poor and the displaced are particularly affected by urban death squads rooming marginal barrios. Given that the Catatumbo has historically been an Eln occupied zone, displaced people settling in Cucuta are often stigmatized as guerrilla supporters. Consequently, many prefer not to get onto the RSS register which would in theory guarantee a three months humanitarian assistance, for fear of being targeted by one of the armed actors.”

UN HCHR 28 February 2002, para. 144:

"Death threats are the mechanism that the armed groups use most frequently to get rid of people considered “undesirable” because of their alleged collaboration with the “enemy” and to take over their property or to motivate them to displace.”

Women's Commission May 1999, pp. 3-4:

"In the cities, gangs known as *brigadas populares* attracted the support of guerrillas. Other gangs also formed, particularly 'cleanup squads' comprised of young upper-class men seeking to rid cities of 'undesirables' and, eventually, displaced people. These gangs had support from drug

traffickers and the young men who joined them were known as *sicarios*. 'Thus by the mid-1960s,' observes Tirado-Mejía, 'violence, which had hitherto been mostly rural, also became urban.'

Several indigenous leaders were killed in 2001 and the beginning of 2002:

UN HCHR, 28 February 2002, paras. 279, 298, 299, 301:

"Another worrying trend can be observed in the attacks against leaders of the displaced population. Examples are the homicide of the president of the Fundación Solidaridad y Justicia de las Víctimas y Desplazados por la Violencia, Darío Suárez Meneses, attributed to members of FARC, on 11 May in the city of Neiva (Huila), and the case of Eder Enciso Sandoval, one of the leaders of the displaced population in the township of La Reliquia, Villavicencio (Meta).

[...]

Several indigenous leaders were murdered in 2001. Attacks on these leaders particularly weaken the internal organization and undermine the leadership of their communities and jeopardize their very survival as communities. Furthermore, unwise decisions by regional authorities that question or cast doubt on the integrity of indigenous individuals or their communities do little to protect the latter or safeguard their fundamental rights.

[...]

The Embera Katio communities have been particularly affected. A typical example is the disappearance of Kimy Pernia Domico, leader of the indigenous council of Río Verde (Alto Sinú) on 2 June, for which paramilitary groups have been held responsible.

[...]

The Office continued to receive complaints from the indigenous communities living in the Sierra Nevada de Santa Marta and the Perijá mountains in the jurisdiction of the departments of César, Magdalena and La Guajira. The large number of "selective" killings (mainly attributed to the paramilitaries) in the course of the year in the region inhabited by the Kankuamo indigenous people is a cause for concern. Some irregularities committed by the military were also reported, such as the excessive use of force or ill-treatment of indigenous officials and leaders. The Office received information to the effect that on 9 May, in downtown San Juan de César (Guajira), four soldiers from the army detained a Wiwa leader at gunpoint and forced him to the ground. The communities living in the Sierra Nevada and the Perijá mountains have also reported instances of pillaging of indigenous homes."

UN HCHR, 28 February 2002, para. 42, 139, 275:

"The High Commissioner has repeatedly expressed her concern at the insecurity that affects those participating in the investigation of human rights violations as a result of impunity.

[...]

AUC launched a campaign of violence and terror against the civilian population in the region, identifying the people and groups involved in defending human rights and humanitarian law as potential or actual guerrilla collaborators and declaring them "military targets".

New irregular groups pose serious threats to physical security (July 2008)

- In the last couple of years, new irregular groups emerged; these groups committed various human rights violations which resulted in displacement.
- These groups comprise demobilized paramilitaries, paramilitaries who never demobilized, common criminals, and drug traffickers.
- New armed groups compete with FARC and ELN for the control of coca cultivation, and engage in acts of terror, including selective assassinations.

U.S. DOS, 11 March 2008:

"New illegal groups committed numerous human rights abuses. The last United Self Defense Forces of Colombia (AUC) block demobilized in August 2006, but AUC members who refused to demobilize, AUC members who demobilized but later abandoned the peace process, and other criminal groups remained the object of security force action. (The new illegal groups, which the government also described as new criminal groups, consisted of demobilized paramilitaries who returned to violence, individual paramilitaries who never demobilized, common criminals, and narcotics traffickers primarily involved in criminal activity. These new groups lacked the organization, reach, and military capacity of the former AUC and focused primarily on narcotics trafficking and extortion rather than fighting the FARC or ELN. In these circumstances, it was often difficult to determine responsibility for abuses committed.)

Some NGOs, such as CINEP, considered the new illegal groups to be a continuation of the paramilitary groups and attributed reports of human rights violations committed by these groups directly to the government. They also included killings by these groups in their definition of "unlawful killings."

Refugees International, 30 July 2008:

"Along the river Patía in the Nariño department, for example, fighting between the Co-lombian army and the New Generation narco-group displaced around 250 families to Sanchez on May 8.

A plethora of new narco-groups composed of former paramilitary personnel and common criminals are competing with the FARC (Revolutionary Armed Forces of Colombia) and ELN (National Liberation Army) for the control of coca cultivation, harvesting and processing areas and strategic corridors to take the coca to international markets. In some locations like Nariño, FARC and ELN have agreed to share the coca business, while in south-ern Córdoba, the FARC are partnering with a local paramilitary group. The illegal groups assert territorial control by engaging in acts of terror, including the use of selective assassinations in order to maintain strict control over communities."

Women experience differentiated, special protection needs (April 2008)

- The Constitutional Court of Colombia, in a landmark writ (auto) No. 92—a writ issued as part of its follow-up efforts to landmark decision T-025 of 2004—determines that conflict, violence, and internal displacement affect women in a differentiated, acute manner.
- The Court identifies 13 risk factors that make women caught in the midst of violence and displacement more vulnerable than men in the same condition.
- These factors include, among others: risk of sexual violence and sexual exploitation; risk of exploitation for labor considered for women in a patriarchal society; risk of their children being forcibly recruited by armed groups; risk of being persecuted by reason of their membership in women's organizations.
- In view of those risk factors, orders the Court orders the government of Colombia to implement 13 special programs to protect internally displaced women.
- Those programs include prevention of sexual violence; intra-family violence; promotion of health; support to head-of-household displaced women; education support; access to land, among others.

Constitutional Court, 14 April 2008:

En el ámbito de la prevención del desplazamiento forzoso, la Corte Constitucional ha identificado diez (10) riesgos de género en el marco del conflicto armado colombiano, es decir, diez factores de vulnerabilidad específicos a los que están expuestas las mujeres por causa de su condición femenina en el marco de la confrontación armada interna colombiana, que no son compartidos por los hombres, y que explican en su conjunto el impacto desproporcionado del desplazamiento forzoso sobre las mujeres.

Estos riesgos son:

- (i) el riesgo de violencia sexual, explotación sexual o abuso sexual en el marco del conflicto armado;
- (ii) el riesgo de explotación o esclavización para ejercer labores domésticas y roles considerados femeninos en una sociedad con rasgos patriarcales, por parte de los actores armados ilegales;
- (iii) el riesgo de reclutamiento forzado de sus hijos e hijas por los actores armados al margen de la ley, o de otro tipo de amenazas contra ellos, que se hace más grave cuando la mujer es cabeza de familia;
- (iv) los riesgos derivados del contacto o de las relaciones familiares o personales -voluntarias, accidentales o presuntas- con los integrantes de alguno de los grupos armados ilegales que operan en el país o con miembros de la Fuerza Pública, principalmente por señalamientos o retaliaciones efectuados a posteriori por los bandos ilegales enemigos;
- (v) los riesgos derivados de su pertenencia a organizaciones sociales, comunitarias o políticas de mujeres, o de sus labores de liderazgo y promoción de los derechos humanos en zonas afectadas por el conflicto armado;
- (vi) el riesgo de persecución y asesinato por las estrategias de control coercitivo del comportamiento público y privado de las personas que implementan los grupos armados ilegales en extensas áreas del territorio nacional;
- (vii) el riesgo por el asesinato o desaparición de su proveedor económico o por la desintegración de sus grupos familiares y de sus redes de apoyo material y social;
- (viii) el riesgo de ser despojadas de sus tierras y su patrimonio con mayor facilidad por los actores armados ilegales dada su posición histórica ante la propiedad, especialmente las propiedades inmuebles rurales;
- (ix) los riesgos derivados de la condición de discriminación y vulnerabilidad acentuada de las mujeres indígenas y afrodescendientes; y
- (x) el riesgo por la pérdida o ausencia de su compañero o proveedor económico durante el proceso de desplazamiento

Los trece programas que Acción Social deberá, en ejercicio de sus competencias, diseñar para efectos de colmar los vacíos críticos en materia de género en la política pública de atención al desplazamiento forzado en el país, son los siguientes:

- a. El Programa de Prevención del Impacto de Género Desproporcionado del Desplazamiento, mediante la Prevención de los Riesgos Extraordinarios de Género en el marco del Conflicto Armado.
- b. El Programa de Prevención de la Violencia Sexual contra la Mujer Desplazada y de Atención Integral a sus Víctimas.
- c. El Programa de Prevención de la Violencia Intrafamiliar y Comunitaria contra la Mujer Desplazada y de Atención Integral a sus Víctimas.
- d. El Programa de Promoción de la Salud de las Mujeres Desplazadas.
- e. El Programa de Apoyo a las Mujeres Desplazadas que son Jefes de Hogar, de Facilitación del Acceso a Oportunidades Laborales y Productivas y de Prevención de la Explotación Doméstica y Laboral de la Mujer Desplazada.
- f. El Programa de Apoyo Educativo para las Mujeres Desplazadas Mayores de 15 Años.
- g. El Programa de Facilitación del Acceso a la Propiedad de la Tierra por las Mujeres Desplazadas.
- h. El Programa de Protección de los Derechos de las Mujeres Indígenas Desplazadas
- i. El Programa de Protección de los Derechos de las Mujeres Afrodescendientes Desplazadas.

- j. El Programa de Promoción de la Participación de la Mujer Desplazada y de Prevención de la Violencia contra las Mujeres Líderes o que adquieren Visibilidad Pública por sus Labores de Promoción Social, Cívica o de los Derechos Humanos."

About two people are victims of a mine accident daily in Colombia (2008)

- Colombia is the second country in the world with the most important number of new landmines/UXO victims.
- Between 1990 and 2005 there were 6,021 mine incidents in Colombia with a total of 3,419 victims however under-registration of cases is considered to be huge due to the lack of systematic reporting
- Mines litter one out of two municipalities of the Colombian territory affecting 30 out of 32 departments and 256 municipalities
- 37% of mine-victims were civilians and out of these 33% were children
- Mines impeded access to services such as schools, water points and fields and returning IDPs are particularly at risk
- Convención, Tibú and San Calixto in the departments of North of Santander and San Carlos and San Luis in department of Antioquia are municipalities affected by both the highest rate of displacement in 2002 and the presence of minefields
- According to government sources there are more than 70,000 antipersonnel mines in Colombia
- According to calculations of ICRC, about 2,000 persons per month or 1 every 20 minutes, become victims of mine incidents, Arauca is the worst affected department
- Thousand of displaced persons are unable to return to their homes due to the presence of antipersonnel mines
- The government of Colombia has ratified the Ottawa Convention on the Elimination of Anti-Personnel Landmines, but demining costs have been estimated at US\$23 million

Llamamiento de Ginebra, 29 August, 2008:

"Today, Colombia is the second country with the most important number of new landmines/ UXO victims.

This situation has led to a "grave" humanitarian crisis for the victims and their families; a desolating

situation in some regions of the country: abandoned lands, empty schools, girls, boys and young people

mutilated or dead, displaced peasants, entire families in a lonely exile without even the basic conditions of

life. Furthermore, landmines not only steal lives and affect the integrity of the person but also kill dreams

and hopes for the future."

Programa Presidencial de Derechos Humanos, 9 September 2008:

"En zona rural del municipio de Samaniego (Nariño), tropas del Ejército hallaron y desactivaron un campo minado compuesto por 20 minas antipersonal.

"En zona rural del municipio de Mapiripán (Meta), tropas del Ejército hallaron y desactivaron 4 minas antipersonas, las cuales habían sido instaladas por guerrilleros del frente 44 de las Farc."

GoC, 14 February 2005:

“Señaló sobre el particular que es especialmente grave el uso indiscriminado por parte de estos grupos de minas antipersonal que afectan en promedio a dos colombianos cada día y el reclutamiento intensivo y en muchos casos forzoso de niños.”

UN CTC, 31 January 2005:

“De acuerdo con el Observatorio de Minas Antipersonal del Programa Presidencial de Derechos Humanos y Derecho Internacional Humanitario de Vicepresidencia de la República, durante el año el 2005, en Colombia se han registrado 67 víctimas, en promedio una por día, de las cuales 12 pertenecen a la población civil (4 son niños y 1 niña). Estas víctimas fueron causadas en 27 accidentes registrados en 10 de los 32 departamentos: Antioquia, Arauca, Bolívar, Caquetá, Cauca, Huila, Meta, Nariño, Putumayo y Tolima. En lo referente a los incidentes, es decir, aquellos eventos que tienen el potencial para conducir a un accidente, se han presentado 40 de los cuales 16 son incautaciones y 24 desminado militar. Según el Observatorio, la presencia de las minas antipersonal y de las municiones abandonadas sin explotar, representa uno de los problemas más graves generado por las condiciones internas que vive Colombia, siendo una amenaza de alto riesgo para la población civil. El Observatorio de Minas Antipersonal indica que desde el año 1990 hasta el 17 de febrero 2005, se han identificado 6,021 eventos, encontrándose afectados parcialmente 582 municipios del total del territorio que conforma el Estado Colombiano, es decir uno de cada dos municipios presenta eventos por minas ó municiones abandonadas sin explotar, ubicados en 30 de los 32 departamentos. El Observatorio ha registrado desde el año 1990 a la fecha, 3,419 víctimas en su mayoría domiciliadas en zonas rurales, resaltando que el subregistro por efectos de la insuficiencia de reportes es importante. Del total de víctimas registradas, el 24% ha fallecido en el lugar del accidente. El 37% del total de víctimas son civiles y el 33% de estas víctimas civiles son niños y niñas, de los cuales, el 49% ha sufrido el accidente al manipular artefactos explosivos abandonados, generalmente granadas. Las minas antipersonal están ubicadas alrededor de colegios, fuentes de agua, zonas de cultivos de pan coger y caminos de acceso a las comunidades. De esta manera, además de amenazar la integridad y la convivencia de la población, también impiden el acceso a los servicios y a las entidades públicas. Las minas antipersonal también representan un obstáculo serio para las actividades de desarrollo y las acciones humanitarias. En algunos casos, poblaciones desplazadas que retornan sus comunidades, están en alto riesgo de constituirse en víctimas de estos artefactos mortales.”

CODHES, 28 April 2003:

“Al menos 57.898 personas salieron forzadamente en 2002 de regiones en las que, además de las formas tradicionales de degradación de la guerra, fueron denunciadas la existencia de campos minados. Se calcula que 28 de los 31 departamentos están afectados por el uso de estas minas reportadas en por lo menos 256 de los 1.115 municipios del país. Antioquia, Bolívar, Santander, Arauca, Cesar, Putumayo, Norte de Santander y Cundinamarca, están señalados como los ocho departamentos que tienen mayor presencia de minas antipersonales [...].

Municipios como Convención, Teorema, Tibú y San Calixto (Norte de Santander), así como San Carlos y San Luis (Antioquia) presentan la doble condición de ser zonas minadas y tener una de las más altas tasas de desplazamiento en el 2002.”

Programa Presidencial de Derechos Humanos, December 2001, p.7:

“La información reunida por el Observatorio de Minas Antipersonal permite concluir que estas minas afectan una vasta extensión del país. Del total de 1.097 municipios de Colombia, 140, localizados en 22 de los 31 departamentos, fueron escenario de accidentes e incidentes por estos artefactos durante los diez primeros meses de 2001[...]. En otras palabras, se conoce que el 12,8% de los municipios de Colombia tiene plantadas minas antipersonal. El departamento

más perjudicado es sin duda Arauca, donde no sólo se ha presentado el mayor número de víctimas (ver más adelante), sino que cinco de sus siete municipios (71,4%) han presenciado accidentes e incidentes por minas antipersonal. En Antioquia fueron 34 los municipios afectados, concentrados en su mayoría en el oriente y el sur del departamento, en una franja geográfica que se prolonga hasta los departamentos de Santander y Norte de Santander, donde se han producido accidentes e incidentes en 13 y 11 municipios respectivamente."

Programa Presidencial de Derechos Humanos, December 2001, p.5:

"20,000 antipersonnel landmines have been planted by the military; the rest by the armed opposition groups, in particular the FARC and ELN. If we take into account that antipersonnel mines have been used in Colombia since the era known as "La Violencia" (1940s), and that there is evidence that indicates that the majority of the guerrilla groups have been using them ever since, the number of landmines in the country might be much higher."

UN HCHR, 28 February 2002, para. 182:

"The guerrilla groups continued to use anti-personnel mines, endangering the civilian population, especially children, and disregarding the principle of distinction. ELN placed mines on the highway from Quibdó to Carmen de Atrato and in central Atrato. They cited their conflict with FARC in the region as justification."

U.S. DOS, 23 February 2001:

"Paramilitary groups on occasion used landmines and sometimes forced underage into their ranks. [...] Guerrillas used landmines both to defend static positions (such as base camps, cocaine laboratories, and sites at which kidnap victims were held) and as indiscriminate weapons of terror. According to the Vice President's office, the FARC and ELN have laid indiscriminately 50,000 mines in rural areas. Landmines planted by guerrillas or disguised as everyday items such as soccer balls or paint cans often resulted in the killing or maiming of civilian noncombatants; thousand of displaced persons were unable to return to their homes due to the presence of antipersonnel mines."

UN HCHR, 17 April 2001:

"The Colombian Government had taken a number of positive steps in the area of the rule of law, the High Commissioner said. [...] The Government also had ratified the Ottawa Convention on the Elimination of Anti-Personnel Landmines [...]."

El Espectador, 24 March 2002:

"Colombia necesitará al menos 20 años y más de 23 millones de dólares para remover las minas antipersonales sembradas en el país, en cumplimiento del Tratado de Otawa, que otorga a los países firmantes diez años como plazo límite para eliminar sus inventarios de estas armas y erradicar los campos minados en sus territorios.

[...]De acuerdo con el Tratado de Otawa, los estados firmantes deben destruir todas sus existencias de minas en un plazo de cuatro años, y en seis más, levantar todos los campos minados existentes en sus territorios. [...]Al ratificar el Tratado, en marzo del año pasado, Colombia se comprometió a eliminar estas armas de sus estrategias militares y a limpiar el país de minas.[...]Estas obligaciones no son fáciles de cumplir, no sólo por el costo que puedan tener, sino también porque el conflicto armado dificulta un trabajo efectivo frente al problema de las minas. "Mientras no existan acuerdos humanitarios sobre este tema, la guerrilla seguirá sembrando, almacenando y fabricando minas y no entregará información sobre su ubicación", concluye el estudio."

Freedom of movement

Warring parties prevent civilians from access to food and medicine (March 2007)

- Armed groups and public security forces act like an occupying power and forcibly confine people and prevent circulation of basic goods, fuel and medicines in order to avoid 'infiltrations' from the enemy
- One out of three indigenous people live under armed groups' blockades and about 180,000 indigenous and Afro-Colombian people in Chocó alone are blockaded
- All but one department (Amazonas) in border areas are affected by blockades, affecting most particularly indigenous Embera Chamí, Nasa, Wayúu Pijao and Awa people
- Departments most affected by blockades were Antioquia, Norte de Santander, Chocó, Bolívar, Santander, Arauca, Caquetá, Nariño, and Putumayo in 2004
- Some blockaded people manage to flee, leaving belongings and land behind, and most of those who stay are not reached by state assistance
- Common military tactic of armed groups is to besiege communities, depriving them from freedom of movement, and right to flee or seek humanitarian assistance
- Besieged communities are often indigenous or Afro-Colombians and most affected are the regions of North of Santander, in the Sierra Nevada of Santa Marta, Serranía of Prijá, Chocó and Cauca
- Human rights violations suffered by besieged communities are not registered and communities are out of reach of humanitarian assistance in areas where there is no state presence
- Civilians in La Gabarra zone controlled by paramilitaries and guerrilla groups have been put under siege and prevented from fleeing by the latter who need the farmers to cultivate coca

UN High Commissioner for Human Rights, 5 March 2007, p. 37:

"Complaints were also received by the Office regarding arbitrary restrictions imposed by army personnel on individual freedom. On 12 July in Ricaurte (Nariño), members of No. 3 Mechanized Cavalry Group "José María Cabal" allegedly seized over 100 people from the village of Cumbas. They were held in a school for three days, during which they were supplied with only a limited amount of food. 88. The civilian population has been seriously affected by clashes between illegal armed groups. In February, in several villages within the municipality of Los Andes (Nariño), fighting between FARC-EP guerrillas and AC-ONG paramilitaries led to the complete isolation of the inhabitants, since for several days the warring groups did not allow them access to medicines or food. In the same fighting, six civilians were wounded, and several houses and a school were damaged."

PCS, 29 November 2004:

"To date the magnitude of the population affected by the confinement is unknown, but it is estimated that in the past two years situations associated with confinement of civilian populations have occurred in some 131 municipalities of the country. [...]

[...]

One can only speak of confinement of communities in resistance when the armed actors, aiming to aggravate the people's situation, weaken their capacity for resistance and motivate forced displacement or violently expropriate resources and/or territories. In these cases, the research

verifies that the armed actors, mainly the public forces and paramilitary groups,⁸ frequently increase perimeter control measures over the territories of these communities.

[...]

Indiscriminate confinement:

In its extreme form, the armed actors completely restrict the movement of one or various rural communities, indiscriminately isolating entire towns or hamlets, including women, children or people who need medical attention. This strategy tends to be used to oblige a local population to leave the area, or to force people to stay where they are when they are considered strategic for the military operations or economic interests of the armed actors. In this case, the civilians are used as human shields or as a labor force for coca cultivation or other productive activities.

[...]

Selective confinement:

The armed local actors exercise sporadic—and less visible—control over the population's movement through this second form of confinement and impose restrictions on the transport of certain goods or limits on the amounts of money or articles of value that a person can carry. The above is an effort to control the movement of adversaries, trigger the enemy's departure through hunger or maintain social control over the communities because, according to the armed actors, their enemies are hiding among the civilian population. The armed actors establish numerous kinds of norms. They come to impose taxes on the commercialization of goods and products, particularly agricultural products, fuel, medicines and the commercialization of coca. [...] Through retainers and guard posts, they also oblige local residents who circulate through the region to register their names. In other cases, they establish codes of conduct on the population, such as for example prohibiting men from wearing long hair, or curfews that often prevent locals from leaving their villages or even their houses after a specific hour. In addition, they sometimes only permit restricted access to certain zones. Such restrictions often affect agriculture, fishing and hunting, and thus tend to weaken the communities' capacity to produce food, generating hunger in the population. Children, women and the elderly are especially affected.

ICRC, WFP, 27 December 2004, p.4-11:

"In recent years, new modalities for controlling population movements have been introduced. The latter are modern-day sieges known as restrictions. Restrictions imply the control over the movement—or isolation—of entire communities. Restrictions are enforced for the entry of selective goods, access to health services and limitations in the supply of humanitarian aid. This dynamic contributes to creating the impression—on the outside—that isolated communities are party to the actions and objectives of armed actors. As such, civilians are increasingly viewed as military targets, thereby precipitating further insecurity and instability.

[...]

Conservative figures by CODHES estimate that 195,000 people are affected by restrictions in 20 municipalities. Moreover, armed actors fall-back on ancestral lands and territories as a rearguard or retreat zone, using inhabitants as a human shield to avoid punitive action by other armed actors. [...] Women are particularly at risk in these zones, as sexual and other forms of domestic violence are common."

CODHES, 10 December 2003:

"Sobre guerra y confinamiento el informe precisa que las zonas mas afectadas fueron la Sierra Nevada de Santa Marta, la región de los Montes de Maria, Arauca, Catatumbo, Bajo Atrato, Magdalena Medio, Oriente antioqueño, litoral pacifico de Nariño y territorios de la antigua zona de distensión en la que se realizaron los fallidos diálogos por la paz entre el anterior gobierno y las FARC."

PCS, 2 December 2003:

Besieged and embargoed Afro-Colombian and indigenous along the Atrato river (1996-2003)

"We speak to one of the displaced who tells us that the security forces – albeit present in Bellavista, the municipal capital just 10 minutes from Caimanero – have been unable to provide protection to rural areas like Caimanero. People would return if the security forces could protect the village and the state would rebuild the houses destroyed by war. Apparently, the local guerrilla leader wasn't very happy about our arrival at La Loma de Bojaya, a larger village of some 900 inhabitants. The FARC has established a quasipermanent presence here and, according to some, they are the real masters of this village. Understandably, locals are reluctant to speak about their situation here, but one tells us that no one in this village was allowed to vote in the mayoral elections in October. The FARC burnt the ballots to make their point clear. The day of our arrival, the local FARC leaders order the community to a meeting. Villagers are reluctant to attend, given that they may be perceived as guerilla supporters if they do, but may be punished by the guerrillas if they don't. As we continue our journey into the Lower Atrato, the landscape changes from plain forests to vast cordilleras and swamps. At Curbaradó, we meet with the 14 displaced families who came here two months ago from nearby Jiguamiandó, which is one of the areas where the food and economic blockades imposed by both the paramilitary and guerrilla forces in their fight to control the zone are most severe. Local farmers have not been allowed to visit their farms or cross the river since the blockades began in March 2003, or to bring in food from the outside. Most of the 250 families who lived in the basin have since left because of lack of food and work and above all because of fear. They left behind their lands, livestock and houses. Those who came to Curbaradó have not yet received state-provided relief aid packages and live in extremely precarious conditions – poor and overcrowded housing and only occasional work opportunities. We are told, however, that despite these conditions and the trauma of displacement, the situation of these families has somewhat improved, mainly because of the relative peace they feel here.

[...]

Hampering commerce

Everyone we talk to speaks of the impact of blockades and sieges on the local communities along the river. While implications vary from area to area depending on the dynamics of localized war, the closure of this commercial Cartagena-Turbo-Quibdó water route as part of the escalation of the conflict has had an affect on everyone. The boats that used to carry people and goods along the river have been unable to pass since 1996. Consequently, farmers can no longer sell their agricultural produce and the prices of goods purchased from outside the Atrato region have soared. *'The Cartagena-Quibdó river route allowed the exchange of agricultural products for merchandise at a better price. The arrival of the conflict made it impossible for us, preventing free movement,'* one peasant tells us.

[...]

Blockades – a military strategy

The public security forces as well as the irregular armed actors have checkpoints along the Atrato River to control the movement of people and goods, and limit the transport of fuel and medicine. The church, the local indigenous and Afro-Colombian organizations and the mayor's office continuously criticize the local security forces for confiscating or restricting the transport, particularly of medicine, fuel and canned food, allegedly to prevent them from reaching the guerrillas. The local indigenous organization OREWA has denounced the rationing of basic provisions by security forces, which further exacerbates food insecurity in the region. The local population is also wary of the frequent interrogations and compulsory registering of their names at checkpoints, a particular habit of the security forces. *'At times the armed actors register us, noting down our names and taking our photos. This makes us uncomfortable, because we don't know what they are using this information for,'* says a local community leader.

Tackling food insecurities?

Despite the lack of security and blockades, people are increasingly resisting displacement as they see few chances of survival elsewhere, but in some cases, such as that of Jiguamiando,

residents eventually have no choice but to leave their homes. *'People have been slowly displaced due to hunger and fear.'* Both the regional ombudsman and the ACIA representative emphasize that more needs to be done to assist blockaded communities with relief aid and protection mechanisms in order to prevent further displacements. Indeed, blockaded communities face similar conditions to those that are internally displaced (loss of income, absence of employment, trauma, impoverishment and uncertainties)."

CODHES, 28 April 2003:

"En estas circunstancias, salir o permanecer se convirtió en una elección dramática entre la libertad para huir y el miedo a quedarse. Huyen quienes pueden salir en busca de refugio porque su territorio, o bien es objetivo de un actor armado, o es todavía escenario de disputa. En cambio, cuando una de las partes asume el control y ejerce modelos de sometimiento similares al de una fuerza de ocupación, se impide la libre movilidad de sus habitantes y se limita la acción humanitaria.

[...]

En cambio, quienes se quedaron o fueron obligados a permanecer, viven hoy el drama del sometimiento, del emplazamiento, del sitio en su territorio y el control a la población por parte del actor armado dominante, que usa esta estrategia para evitar la "infiltración del enemigo", y posicionarse en la zona sin importarle la suerte de una población civil atrapada y sin salida. Así ocurre en sectores y comunidades de Norte de Santander (en especial Alto Bobalí), en la Sierra Nevada de Santa Marta y Serranía de Perijá, Chocó (en los ríos Jiguamiandó y las comunidades de paz de Cacarica), y Cauca (región del alto Naya), entre otros. Esta situación, sostenida en algunos casos durante meses, incrementa las condiciones de crisis humanitaria a las que son sometidas personas, familias y comunidades, quienes deben enfrentar la adversidad del confinamiento, sin posibilidad de apoyos externos o una respuesta estatal pronta y efectiva. Las lógicas de dicho confinamiento pasan por el bloqueo que realizan los actores armados a la circulación de personas, mensajes, alimentos, medicinas e insumos; es decir, por el confinamiento territorial. En el caso de los pueblos indígenas, sus organizaciones estiman que en 2002 fueron sometidas a este tipo de confinamiento forzado más de 21.720 personas: 5500 Kankuamos en la Sierra Nevada de Santa Marta (25%); 4300 Nasas (Paeces) de la Cuenca Alta del río Naya (20%); 4000 Barís de la Serranía de los Motilones, en la Cuenca del Catatumbo (18%); 2760 Emberas del medio Atrato, en el departamento del Chocó (13%); 2500 Yukpas de la Serranía del Perijá (12%); 1.850 Emberas en Dabeiba, Antioquia (9%); y 800 Emberas de Carmen de Atrato, en la Subregión andina del Chocó (4%)."

GTD, 29 November 2002, pp.6, 10, 18:

"11. One tactic of the illegal groups is to "besiege" rural communities, preventing villagers from leaving, and blocking access to food, fuel, medicines and the basics for survival. Communities sometimes find themselves enclaved or isolated between two or more armed bands and cannot displace themselves, although their circumstances are objectively similar to those described in article 1 of Law No. 387/97.

[...]

26. Recently, new kinds of victimization have begun to emerge but have not been registered, as in the case of the "besieged communities" not being reached by food, medicine, fuel or basic supplies. It is rare for such communities to receive any humanitarian assistance, despite the obviously critical situation and the urgency of intervening. Likewise, there are other groups affected by the conflict to which attention is not being drawn and which are not being helped, such as the receiving communities."

SUBSISTENCE NEEDS

Overview

Violations of rights to food, education and health (Special report, June 2006)

The conflict has generated a protracted humanitarian crisis which affects the majority of the internally displaced people socio-economically, emotionally and socially. Their situation is particularly precarious in a country where more than 50 per cent of the population lives below the poverty line and where the pervasive nature of the conflict makes it hard to find physical protection and stability, even in urban areas where the majority end up. An inter-agency report of December 2005 covering six severely affected regions shows that IDPs are generally worse off than the poorest urban host communities when it comes to rights to food, health, education and housing (WFP, European Commission, WHO, December 2005). A Médecins Sans Frontières (MSF) report of April 2006 found that the IDPs' mental health is severely affected by the conflict and that violence tends to lead to more violence. Many IDPs (37 per cent) have witnessed the killing of parents, children or siblings, contributing to long-term emotional disorders and social disintegration (These findings confirm and substantiate the conclusions of the Constitutional Court sentence of January 2004 and several other reports, including by government institutions; Human Rights Watch, 14 October 2005; ICRC, 22 April 2005; WHO, PAHO, 7 April 2005; WFP, ICRC, 27 December 2004; Ombudsman's Office, *Duodécimo Informe del Defensor del Pueblo ante el Congreso de la República*, Bogotá, 2005). The IDPs' emotional and social state and poor access to food, health care, education and housing are further aggravated by the fact that most of them have been uprooted from an agricultural subsistence-oriented economy to a market economy in urban centres where their professional skills are largely rendered irrelevant, with ensuing difficulties in accessing the labour market and providing for their own livelihoods (ICRC, 22 April 2005, p.6). As a result of the abrupt character of the displacements – which in 96 per cent of cases have been triggered by direct threats, massacres and/or fighting – the IDPs are left with little or no time to prepare for their flight and bring with them valuable assets that may ease their life during displacement (MSF, April 2006; Contraloría General de la Nación, December 2004). The difficulty they have in entering the labour market and stabilising socio-economically is clearly reflected in the average monthly IDP household income, which is slightly more than the equivalent of \$100, or 65 per cent of the legal minimum wage.

The equivalent of \$60 or slightly more than half of the average income is spent on food, while most of the rest is spent on housing and public services like water, electricity and gas (WFP, ICRC, 27 December 2004, p.11). This leaves only six and three per cent on health and education respectively.

Two-thirds of IDPs live in inadequate housing with no access to basic sanitation. ICRC, 22 April 2005; WFP, 16 June 2003 About 70 per cent of IDPs have two or more unmet basic needs, including housing, access to services, living conditions, school enrolment and economic dependency, compared to 10 per cent among the poorest urban dwellers. WFP, ICRC, 27 December 2004, p.10 As a result, over half of displaced households report anaemia, which stunts the growth and learning capacity of children (WFP, ICRC, 27 December 2004).

Only 22 per cent of IDPs receive medical attention, in spite of the fact that registered IDPs are entitled by law to free and unlimited access to health care and medicines (Marie Stopes

International, etc, 13 February 2003). In practice, hospitals commonly refuse to treat IDPs because they are often not reimbursed for the costs of the services provided due to administrative inefficiencies. As a result, about half of the displaced do not seek medical assistance due to lack of money. IOM, 6 June 2002 In addition, access to medical care is hindered because most IDPs lack identification papers – a requirement for receiving medical aid. A survey found that morbidity among IDPs is six times the national average (WFP, 16 June 2003, p.9).

Although women and girls represent nearly half of the displaced population, there is no comprehensive policy to address their specific gender and reproductive health needs (UNCHR, 24 February 2003). Nearly one-third of displaced women have had either miscarriages or stillbirths, and only 63 per cent received treatment. Despite the fact that some 52 per cent of displaced women reported having suffered physical violence and about 36 per cent have been sexually abused, according to the Ministry of Social Protection, gender-based violence remains largely unaddressed (AI, 13 October 2004; UNCHR, 28 February 2005).

More than one million Colombian children have had to flee their homes with their families; some 300,000 of these displaced children do not have access to the national education system, often because of the costs incurred by the materials required, such as school uniforms, school books and transportation.

Food

Economic Conditions are the Strongest Challenge to Food Security (November 2007)

The most important challenge to food security for displaced families is economic conditions. Despite extreme poverty—reflected in average expenditures by family—in Barranquilla, Cartagena, Santa Marta and Sincelejo more than 65% of families eats seven or more food groups. The situation is worst in Florencia, Villavicencio, Medellín and Bogotá.

Problems related to food security of IDPs (November 2007)

- The most important challenge to food security for displaced families is economic conditions.
- A comparison between IDP and non-IDP families in seven cities shows that lower percentages of the former eat seven food groups than the latter. (see table below).
- A joint ICRC/WFP study shows that despite extreme poverty—reflected in average expenditures by family—in Barranquilla, Cartagena, Santa Marta and Sincelejo more than 65% of families eats seven or more food groups. The situation is worse in Florencia, Villavicencio, Medellín and Bogotá.
- The most important expenditure for IDP families is on food; little income is unlocked for other needs.

ICRC, WFP, November 2007:

"La información recolectada en este estudio permite afirmar que a pesar de la precaria situación económica de los hogares desplazados (que se hace evidente con las cifras de gasto promedio del hogar presentadas en la tabla No. 16), en las ciudades de Barranquilla, Cartagena, Santa Marta y Sincelejo, más del 65% de los hogares consume siete o más subgrupos de alimentos. La situación de pobreza se refleja especialmente en Florencia, Villavicencio, Medellín y Bogotá en donde sólo entre un 40% y un 51% de los hogares alcanzan a consumir siete o más subgrupos de alimentos.

Según los resultados de la encuesta, en la mayoría de ciudades alrededor de una cuarta parte de los hogares desplazados con niños y niñas y/o mujeres gestantes o lactantes recibieron alimentos por fuera del hogar. Estas ayudas disminuyen la situación de inseguridad alimentaria en términos de acceso físico de los alimentos, pero no alcanzan a generar dentro de los hogares redistribución del gasto de tal manera que liberen recursos para otros rubros, teniendo en cuenta que el gasto más importante para los hogares desplazados es el que corresponde a alimentos.

Es significativamente menor la proporción de hogares en donde los niños y niñas comen menos de tres comidas al día, aunque en ningún caso es menor al 25%. Adicionalmente, en la mayoría de los hogares en todas las ciudades ha faltado dinero para comprar alimentos y por falta de dinero han disminuido el número de comidas."

Malnutrition among internally displaced children (June 2008)

- 17.5% of internally displaced children under the age of 5 registered in the RUPD reached 17.5%.
- This percentage is 7% higher than for non-displaced children in the same age group.
- Food rationing programs are reported to reach less than 10% of people registered in the RUPD.

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 June 2008:

"[...] La desnutrición diagnosticada de menores de cinco años abarcaba al 17.5% en el caso de la población desplazada RUPD, porcentaje superior al 7% de desnutrición global para este grupo etario de la población colombiana, al 12% de desnutrición crónica, y 2.1% de desnutrición severa reportados por última encuesta nacional de nutrición del año 2005. Y aunque no se aclara si se trata de una condición aguda o crónica, sin duda puede ser explicada por el hallazgo de que la mitad de los menores presentó alguno de los síntomas de alimentación insuficiente que no puede ser compensado en el muy bajo porcentaje de hogares beneficiarios de algún programa de ración alimentaria que beneficie a los niños, con una cobertura reportada inferior al 10% en el caso de la población RUPD según la encuesta ENV-2007."

Health

Health Problems Common amongst IDP (March 2008)

Internally displaced persons in Colombia face a variety of challenges to the realization of the right to health, including poverty and lack of coordination in the delivery of services. Displaced families have a lower access to the National System of Beneficiaries of public health services (50%) than

non-displaced families (70%), Medellín being the city with highest access for IDP and Bogotá de lowest. (pp. 47). Coordination problems were identified, for example, entities providing health services sometimes lack access to the Unified Registry for Displaced Population (RUPD, for its name in Spanish). This has a negative impact on displaced families' access to health services. (pp. 50) In addition to this, aerial fumigations with glyphosate in some Departments have had a negative impact on health, although the government of Colombia asserts that there is no scientific evidence of the negative (Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Preliminary note on the mission to Ecuador and Colombia). Colombia is the only country in the world using aerial spraying for the eradication of coca.

Gap between registration and delivery of health services (September 2008)

- In principle, everyone in Colombia should be affiliated to the public Sistema General de Seguridad Social en Salud (SGSSS), under either of the four existing schemes: contributive (for those with paying capacity), special (for public employees), subsidized (for those without paying capacity), or "vinculado" i.e., special (for those in special situations of vulnerability, such as IDP)
- In order to benefit from the SGSSS subsidized health scheme, people must qualify under the National System for the Selection of Beneficiaries (SISBEN), according to their income.
- Effectively, roughly 80% of the IDP population is affiliated with the SGSSS either under the special or the subsidized schemes, a figure not statistically significantly higher than the one for non-IDP population.
- Beyond affiliation, there are disparities in the actual accessibility to and quality of services, where those affiliated under the subsidized or special schemes have more difficulty obtaining services or are given services of lower quality. (World Bank, 9)

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"En lo que respecta a la afiliación al Sistema General de Seguridad Social en Salud se ha corroborado que los avances logrados en el país en los últimos años en términos de afiliación han beneficiado también a la población desplazada incluida en el RUPD. En efecto, la Encuesta Nacional de Verificación encontró que cerca de un 80% de la misma se encuentra afiliada a dicho sistema, proporción que no es estadísticamente diferente a la de la población vecina no desplazada. Sin embargo, sí se detectaron diversos factores de vulnerabilidad de la población desplazada en relación con la realización efectiva del derecho a la salud. "

World Bank (WB), September 2008:

"Those affiliated to the subsidized system have access to half of the coverage provided by the OHP relative to those affiliated to the contributive system, which reveals a significant disparity in **access** to health services.

19. Medical care to those who are not affiliated to the SGSSS is provided by public health institutions or by private entities that have contracts with the government to provide such services. There is no registry that could provide information about how many of the non-affiliated actually have access to these services. Thus, there are no clear guarantees or standards for this segment of the population.

20. As in the case of the education sector, the Colombian health system is very unequal not only in terms of access to services, as demonstrated above, but also in terms of quality, presenting

significant disparities depending on whether citizens are affiliated to the contributive or subsidized system or not affiliated at all. The contributive regime is assisted by large insurance companies, with high liability and investment rates and a large number of affiliates, which helps to mitigate risks. The subsidized, on the other hand, is assisted by small service providers, with weak structures, low solvency and few affiliates. As a consequence, the two regimes offer different guarantees to citizens, and quality disparities abound. This situation exposes the limitations of a system that has been conceived as a mandatory service and not as an essential right. The government has proposed to equalize the plans of benefits of both regimes by 2019."

Access to health services by IDPs (November 2007)

- Other challenges to the realization of the right to health are poverty and lack of coordination in the delivery of services.
- Displaced families have a lower access to the National System of Beneficiaries of public health services (50%) than non-displaced families (70%), Medellín being the city with highest access for IDP and Bogotá de lowest. (pp. 47).
- There are coordination problems in the delivery of health services to IDP, for example: entities providing health services sometimes lack access to the Unified Registry for Displaced Population (RUPD, for its name in Spanish). This has a negative impact on displaced families' access to health services. (pp. 50)

ICRC, WFP, November 2007:

"Por otra parte, según las entrevistas realizadas, en la mayoría de las ciudades se presentan dificultades por parte de las Empresas Sociales del Estado (ESE) y/o las Administradoras del Régimen Subsidiado (ARS) para acceder al RUPD y poder comprobar el estatus de la población para ofrecerles atención preferencial, lo que obliga a las familias a conseguir "avales" para demostrar su condición. En ciudades como Santa Marta y Barranquilla se tienen dificultades en la renovación de contratos para proveer medicinas y con las mismas entidades prestadoras de los servicios lo que genera atrasos en la atención y problemas de calidad y adecuación.

A pesar de las percepciones positivas frente a la atención en salud de los hogares desplazados recogidas en la encuesta, en los talleres se presentaron numerosas manifestaciones relacionadas con la deficiente calidad en la atención, el rato recibido y las dificultades para acceder a turnos para consulta."

Aerial Fumigations have a negative impact on health (March 2008)

- Aerial fumigations with glyphosate, used in some departments, has negative impact on health.
- Colombia is the country in the world using aerial spraying for the eradication of coca.
- Ecuador sues Colombia before the International Court of Justice for aerial fumigations with glyphosate, alleging fumigations affect the health of its citizens living near the border.

United Nations Human Rights Council (UN HRC), 4 March 2008:

"12. The aerial spraying of illicit coca crops with glyphosate is carried out as part of Plan Colombia, adopted in 1999. Supported by the United States of America,² the plan, inter alia,

addresses the financing of illegal armed groups and drug trafficking. Aerial spraying is one of several complementary techniques aimed at the eradication of coca crops. Colombia is the only country in the world using aerial spraying for the eradication of coca.

18. While in Colombia, the Special Rapporteur had the opportunity to discuss some of his preliminary views with the authorities. He notes the position of the Government of Colombia that there is no scientific uncertainty about the impact on human health of glyphosate, which is routinely used in both Colombia and Ecuador, and that the precautionary principle does not apply in this situation.

20. It is imperative that, when considering this very important issue, the human right to health, and thus the well-being of disadvantaged individuals and communities, is placed at the centre of all decision-making."

Environment News Service, 31 March 2008:

"The government of Ecuador today filed suit at the International Court of Justice against the government of Colombia, in an effort to stop or restrict aerial anti-coca spraying that has allegedly sickened people on the Ecuadorean side of the border and harmed livestock, farmland, and sensitive, ecologically diverse rainforest areas.

The lawsuit follows seven years of persistent but unsuccessful diplomatic efforts on Ecuador's part to convince its neighbor to the north to establish a 10 kilometer (six mile) no-spray zone along their shared border.

Colombia is expected to argue that the aerial fumigation of illegal coca farms, which provide the raw material for cocaine production, is a linchpin of the war on drugs. Ecuador claims that the chemical sprays have sickened its people, poisoned farmland and damaged ecologically sensitive areas."

The health situation of displaced women (June 2008)

- Internal displacement causes specific impacts on women's health, especially sexual and reproductive health.
- Displaced women between 40 and 49 years of age have an average of 5,8 children a lot higher than the national average of 3.1.
- Displaced women have a rate of anemia of 70%.
- 23% of pregnant displaced women have low weight.
- One third of displaced adolescents are pregnant or are mothers already.
- Displaced women required hospitalization two or three times more than displaced men.

Constitutional Court, 14 April 2008:

"En efecto, el desplazamiento forzado genera impactos específicos sobre el derecho a la salud de las mujeres, particularmente sobre su salud sexual y reproductiva, entre otras como consecuencia de los diversos riesgos a las que están expuestas y que se documentan en el presente capítulo. Así, las siguientes estadísticas –reportadas por diversas organizaciones nacionales e internacionales- resultan ilustrativas de la crítica situación de salud de las mujeres desplazadas, especialmente de su salud sexual y reproductiva:

Las mujeres desplazadas entre 40 y 49 años de edad tienen un número promedio de hijos de 5.8, mucho mayor que el promedio nacional de 3.1.⁶⁰

Las mujeres desplazadas en general registran la mayor Tasa Total de Fecundidad del país, con un promedio de 4.2 hijos por mujer, frente a un promedio nacional de 2.4.⁶¹

En las mujeres gestantes desplazadas, la prevalencia de anemia alcanza casi el 70%.⁶²

El 23% de las mujeres desplazadas en estado de embarazo tienen peso deficiente.⁶³

Una tercera parte de las adolescentes desplazadas están embarazadas o ya son madres – entre las jóvenes desplazadas entre 13 y 19 años, un 23.9% alguna vez ha estado embarazada, mientras que el promedio nacional para el mismo rango de edad es de 20.5%. A los 19 años, el 63% de las mujeres desplazadas han tenido por lo menos un hijo.⁶⁴

Según se indica en el informe antecitado de la Comisión Interamericana de Derechos Humanos, “tanto el ICBF como Profamilia (...) comunicaron a la Relatora el alto porcentaje de embarazos de adolescentes que se registran entre la población desplazada, el cual puede llegar a un 19% de acuerdo al ICBF. De los testimonios e información recibida durante la visita, se desprende que para las niñas desplazadas la lucha por el sustento, la salud, el alojamiento y la seguridad, las obliga a las relaciones sexuales y al matrimonio precoz. Las niñas pueden llegar a comerciar sexo por ropa, dinero o cupos escolares”.⁶⁵

Las mujeres desplazadas presentan una demanda de hospitalización entre 2 y 3 veces más alta que la de los hombres.⁶⁶

Entre las mujeres desplazadas entre 13 y 49 años existe una tasa de 36.7% de embarazos no deseados, mientras que el promedio nacional es de 22.1%.⁶⁷

El 22.9% de las mujeres desplazadas sufrieron aborto o pérdida del embarazo, frente a un promedio nacional de 17.5%.⁶⁸

La Encuesta de Profamilia también indica que las mujeres desplazadas desconocen en una significativa proporción los métodos de prevención del VIH/SIDA y otras infecciones de transmisión sexual.⁶⁹

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"Este panorama general de la situación de salud se complementa con el grado de vulnerabilidad de la población desplazada. En efecto, la ENV encontró que el 3.1% de las mujeres entre 12 y 50 años estaba embarazada al momento de la encuesta ... Es de anotar la proporción de adolescentes entre 12 y 17 años que al momento de la ENV 2007 se encontraban embarazadas o lo habían estado en el último año fue de 3.4% vs. 16.4% para el grupo de 18 a 24 años."

Impacts of Violence on Mental Health (June 2008)

- Displaced populations show rates of depression statistically significantly higher than non-IDPs.
- Violence associated to displacement has an important impact on mental health, generating a high frequency of post-traumatic stress disorder (TPET, for its name in Spanish).

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"Uno de los hallazgos que hay que resaltar es la diferencia encontrada en las condiciones de salud mental. Las escalas de depresión (22 vs 16 puntos) y de impacto de eventos (42 vs. 14

puntos) muestran diferencias estadísticas y clínicamente significativas entre las dos poblaciones, sugiriendo un mayor compromiso del estado de salud mental de la población desplazada.

Todo ello sugiere que los hechos violentos relacionados con el desplazamiento tienen un impacto importante sobre la salud mental de los desplazados, probablemente generando una alta frecuencia de TPET, condición que tiene importantes repercusiones sobre la salud general y sobre la capacidad adaptiva de las personas. La relación entre desplazamiento e intensidad de sintomatología de TEPT se mantuvo cuando se efectuó análisis intragrupos a nivel ciudad."

Water and sanitation

10% of IDPs have no access to sanitation systems (April 2005)

- Over half of displaced households have no access to sewage system
- Only one fourth of IDP households were connected to the public sewage system, compared with a 70% national rate, according to IOM
- 72% of IDPs have access to a public aqueduct for their water needs
- The IDPs with worst water and sanitation systems are those in the Departments of Santander, Valle, and North of Santander
- Less than half of the IDPs had access to waste disposal systems

WHO, PAHO, 7 April 2005:

"De este estudio se desprenden algunas conclusiones que son comunes en todas las ciudades estudiadas y en el resto de centros urbanos de Colombia. En cuanto a las condiciones sanitarias y ambientales de las viviendas de la población desplazada se pudo establecer que son muy precarias, en la mayoría de los casos son construidas con materiales de mala calidad y sobre pisos de tierra, lo que facilita la proliferación de plagas. Por otra parte, los hogares de la población en situación de desplazamiento tienen menor acceso a los servicios públicos domiciliarios y un inadecuado manejo de los residuos sólidos y líquidos debido a que más de la mitad de las viviendas no tienen acceso al servicio de alcantarillado."

IOM, 6 June 2002, pp. 18-21:

"De acuerdo con los resultados encontrados, se pudo establecer que en el aspecto de vivienda, un cuarto de los hogares entrevistados contaba con inodoro conectado al sistema público de alcantarillado, otro 24% estaba conectado a una pozo séptico. Un 11% del grupo tenía letrinas y 14% un inodoro no conectado, [...]. Según estadísticas oficiales respecto al país, el 70% de los hogares cuenta con un inodoro conectado al sistema público de alcantarillado, 12% utiliza fosa séptica, 8% utiliza inodoro no conectado o letrina, lo que significa que únicamente un 10% no tiene ningún tipo de unidad sanitaria. [...] Es claro, entonces, que la PDI presentaba condiciones de alcantarillado bastante deficientes.

[...]

Al preguntarles de dónde proviene el agua que utilizaban para beber, un 72% reportó tener acceso a un acueducto público o comunitario y el 28% restante agua de una pila pública, un pozo, un receptor de agua de lluvia, un río u otras fuentes [...]. Entre los hogares colombianos entrevistados en la encuesta del DANE sobre calidad de vida en 1997, el 85% de todos los colombianos tenía acceso a un acueducto público o comunitario [...]. Así, en conjunto la PDI de los seis departamentos estaba en una posición similar al del resto de la población en cuanto a agua.

No obstante, [...], la PDI que habitaba en los departamentos de Santander, Valle y Norte de Santander enfrentaba las peores condiciones absolutas y así mismo en relación con la población total departamental. Aunque en Caquetá se tenía un nivel bueno comparativamente (similar a Nariño y Putumayo) de acceso al acueducto, presentaba un pésimo porcentaje de conexión a alcantarillado, solo un 4% de los hogares. Es importante llamar la atención sobre el problema de acceso al alcantarillado de la PDI que habita en las ciudades de Florencia – Caquetá y de Tumaco – Nariño, 2% en ambos sitios. Sin embargo, este problema parece ser general para todos los habitantes de estas dos ciudades.

[...]

De acuerdo con la Encuesta de Hogares de la OIM, el 48% tenía servicio de recolección de basura [...]. El Índice de Necesidades Básicas Insatisfechas (INBI) muestra que un 43% de las familias colombianas reside en viviendas inadecuadas, 79% enfrenta servicios inadecuados y 61% hacinamiento crítico. Las gráficas 4, 5 y 6 resumen los porcentajes de población (PDI y grupo control) que enfrentan NBI en cuanto a servicios inapropiados, vivienda inadecuada y hacinamiento crítico, respectivamente ”

Shelter and non-food items

Many IDP Continue to Live in Unsatisfactory Conditions (March 2008)

USDoS, 11 March 2008:

Many Internally Displaced persons continued to live in unhygienic conditions with limited access to health care, education, or employment.

ICRC/WFP, November 2007:

A recent survey by the World Food Program and the ICRC finds that the amount of families living in shelter that does not comply with minimum standards (materials for construction, overcrowding, access to potable water, sewage) is higher than the amount of non-displaced families. This is true for many of the cities comprising the Survey. Most displaced families live in rented or sublets and their own home without title. Concerning housing, the most important mechanism of support provided by the State to IDPs are subsidies.

IDPs shelter situation is precarious (June 2008)

- Many IDPs continue to live in unhygienic conditions.
- The joint WFP/ICRC survey finds that the amount of families living in shelter that does not comply with minimum standards (materials for construction, overcrowding, access to potable water, sewage) is higher than the amount of non-displaced families.
- According to the Civil Society Follow-Up Commission, lack of decent housing is perhaps one of the most critical aspects of internally displaced persons.
- The percentage of IDP living in decent housing is only 7.5%.
- Given the lack of other solutions, invasion is the only alternative, which makes living conditions precarious and unfavorable.

U.S. Department of State (U.S. DOS), 11 March 2008:

"Many Internally Displaced persons continued to live in unhygienic conditions with limited access to health care, education, or employment. "

ICRC, WFP, November 2007:

"La calidad de la vivienda en donde habitan los hogares constituye un factor fundamental del ICV, dado que algunas de sus variables son el material de pisos y paredes exteriores de las mismas, la situación de hacinamiento, el abastecimiento de agua y la eliminación de excretas.

- En todas estas variables, según resultados de la encuesta, la proporción de hogares desplazados que no cumplen el mínimo estándar es mayor que la proporción de hogares residentes. Las variables del ICV en el tema de vivienda en donde la proporción de hogares por debajo del mínimo es crítica son: eliminación de excretas en Cartagena y Santa Marta, recolección de basuras en Cartagena, combustible con que cocina en Florencia y Cartagena, y material de pisos y paredes de las viviendas en Cartagena tanto para desplazados como para residentes, como se puede observar en la tabla No. 13."

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"La problemática de vivienda de los hogares desplazados es tal vez uno de los aspectos más críticos de la situación en que se encuentra este grupo poblacional, y sin embargo es también uno de los aspectos en donde menos se ha logrado avanzar en materia de realización de derechos vulnerados a la población desplazada.

En efecto, la precaria situación habitacional desplazada a nivel nacional se constató y cuantificó a partir de la realización de la Encuesta Nacional de Verificación (ENV), según la cual la proporción de hogares incluidos en el RUPD que habitan una **vivienda** que cumpla con todos los criterios que permitan clasificarla como digna de acuerdo con la normatividad prevaleciente, tan sólo asciende al 7.5%. Adicionalmente, los resultados no presentan variaciones significativas en términos del período de duración del desplazamiento.

La precariedad en la que viven los hogares desplazados también fue mencionada por varios de los participantes de los grupos focales adelantados a principios de 2008, al señalar reiteradamente que uno de sus principales problemas actuales es la vivienda. "

ACCESS TO EDUCATION

General

Displaced Children: Lower Access to Education (November 2007)

- Grade school attendance for non-displaced families is 95% while it is 85% for the displaced.
- Analfabetism is still extremely high amongst adult displaced population; this impacts displaced families' ability to access services.
- Barriers in access to education such as high costs for school supplies, transportation, and registration should be eliminated.

ICRC/WFP, November 2007, pp. 43:

"El analfabetismo de la población adulta es alto en todas las ciudades, siendo especialmente crítico en Medellín, Sincelejo, Barranquilla y Cartagena en población desplazada, como se puede ver en la tabla No. 22, en todos los casos, la proporción de hogares con adultos analfabetas es mayor en hogares desplazados en comparación con los hogares residentes."

Según los resultados de la encuesta, la asistencia escolar de la población residente en primaria es superior al 95% y en la población desplazada es superior al 85% (con excepción de Medellín que es el 81%) [...] Sin embargo en la población desplazada y residente en todas las ciudades, la cobertura baja entre 15 y 20 puntos de primaria a secundaria, siendo más crítica en Cartagena y Medellín.

La asistencia escolar en primaria y especialmente en secundaria, deja todavía grandes retos en términos de cobertura y acceso. Se debe trabajar en la eliminación de barreras dentro de las cuales se hace relevante las relacionadas con los costos de útiles, uniformes, transporte, e incluso en muchos casos las matrículas, a pesar de que no se le debe cobrar a esta población."

Access to education: comparison between IDP and non-IDP population (April 2008)

- A comparison between school attendance for IDP and non-IDP families reveals that the former enjoy lower access to education.
- Thus:
- 84,7% of IDP children attend grade school, while 83,1% of non-IDP children do.
- 51,0% of IDP youth attend secondary school, while 63.2% of non-IDP youth do.
- 16,5% of IDP youth access university education, while 32,6% of the non-IDP population does.
- Additionally, 35% of the IDP population between 12 and 15 years of age is still in grade school, while 17,6% of the non-IDP population is.
- Access to education free of charge: 66,4% of the IDP population between 5 and 17 years of age gets a free education, while 23,7% of the non-IDP population do.
-

- The data in the bullet points above comes from IV Informe a la Corte Constitucional, Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 April 2008

Access to Education for IDPs in large, medium, and small cities (April 2008)

- In large and small cities, a net 50,1% and 47,5%, respectively, of the children registered in the RUPD have access to education. In medium-size cities, only 37.5% do.
- Smaller differences are observed for primary education: 85.5% and 85.2% in large and small cities, respectively, compared to 83.2% in medium-sized cities.
- Access to education free of charge: There are significant differences between large and medium-sized cities, on the one hand, and small cities in the other:
- In small cities, the ratio of the population that is not required to pay school fees is between 13 and 11 percent points higher than in medium and large cities, respectively.
-
- The data in the bullet points above comes from IV Informe a la Corte Constitucional, Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 April 2008

ISSUES OF SELF-RELIANCE AND PUBLIC PARTICIPATION

Self-reliance

IDPS experience extreme difficulties finding employment, and 92% are informal laborers (June 2008)

- Difficulties finding employment is one of the great problems faced by IDPs.
- For this reason, IDP income is, in most cases, not enough to cover family basic needs.
- The National Verification Survey (ENV, for its name in Spanish) showed that the rate of informal employment amongst IDPs is 92%, compared with 71% for non IDPs, a rate that is already high.
- Informal laborers have no registration with the health and retirement systems.

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"[...] La dificultad de la población desplazada para encontrar empleos dignos en las ciudades y municipios receptores se convierte en una de las grandes problemáticas que se general como consecuencia del desplazamiento forzado del que han sido víctimas.

Dicha dificultad conlleva a que los ingresos generados en los hogares desplazados no logren cubrir, en la gran mayoría de casos, las necesidades básicas de sus miembros, y en una alta proporción, tampoco alcanzan a cubrir las necesidades mínimas de alimentación.

En efecto, por medio de la Encuesta Nacional de Verificación (ENV 2007) se logró constatar que el grado de informalidad laboral en la población desplazada que se encuentra ocupada como asalariada alcanza niveles del 92%, lo que contrasta con el 71% para el caso de la población vecina, el que de por sí es muy alto. Esto sin tener en cuenta a la población que trabaja como independiente, para la cual es prácticamente nula la afiliación a la salud y pensiones. "

Practically no IDP families have income over the poverty line, and have significantly lower income than non-IDP families. (June 2008)

- Practically no displaced families have income over the poverty line and only 26% has income higher than the indigence line.
- In contrast, 12% of non-IDP families have income higher than the poverty line, and 60% perceive income higher than the indigence line.
- It is not surprising, but it is highly worrisome, to find that only 11% of the working displaced population has income equal or higher than the minimum legal salary; 28% of non IDP families do.

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"Ante lo anterior no es sorprendente, aunque sí altamente preocupante, encontrar que tan sólo un 11% de la población desplazada ocupada percibe ingresos iguales o superiores al salario mínimo legal, en comparación con un 28% en el caso de la población vecina ocupada.

Igualmente, se observa que prácticamente ninguno de los hogares desplazados dispone de ingresos laborales superiores a la línea de pobreza y que tan sólo el 26% de los mismos cuentan con ingresos por encima de la línea de indigencia, reflejando una situación mucho más crítica que la de los hogares vecinos no desplazados, toda vez que el 12% y el 60% de los mismo percibe ingresos laborales por encima de la línea de pobreza y de la línea de indigencia, respectivamente."

Harsher labor conditions for IDPs in smaller urban centers (June 2008)

- The situation of IDPs in smaller urban centers (less than 300.000 people) is more critical.
- In this towns, there is a tight relationship between bad labor conditions and access to health, retirement, and disability protection.
- Less than 4% of working IDPs in small urban centers is affiliated to the health system, and around 93% has income underneath the legal minimum salary.

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"Adicionalmente, es crítica la situación de la población desplazada que se encuentra ubicada en ciudades pequeñas (menos de 300.000 habitantes, en las cuales existe una estrecha relación entre las malas condiciones laborales que padecen (menos del 4% de los ocupados está afiliado a salud, pensión, y riesgos profesionales, y cerca del 93% percibe ingresos por debajo del salario mínimo), su baja afiliación al régimen contributivo de salud (a penas el 7% presentó algún síntoma de insuficiencia alimentaria"

Public participation

Public Participation is fundamental to guarantee other rights of IDPs (June 2008)

- Effective participation has the function of setting forth mechanisms for the representation of IDPs in political, economic, and social decisions.
- In the case of displacement, participation has a social function which is to guarantee their human rights. In this sense, it is a cross-cutting or transversal right.

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"La función de la participación sería la de concretar mecanismos de representación de la población desplazada en las decisiones políticas, económicas y sociales, que de otra manera podrían quedar excluidos en esas determinaciones.

En el caso del desplazamiento, la participación debe cumplir una función social orientada a garantizar derechos. Según la defensoría del pueblo: "En situaciones donde el Estado y sus representantes no pueden o no quieren cumplir con sus obligaciones frente a los Derechos Humanos, en todas sus generaciones, la participación es un derecho prioritario y hasta primigénico, ya que a través de su fortalecimiento se permite que la sociedad misma los defienda y garantice."

La participación permitiría contar con un mecanismo que opere en función de reconocer a las personas en situación de desplazamiento como ciudadanos en los escenarios de acogida y posibilitar su interacción con la institucionalidad. Es decir, opera como un derecho transversal que concreta el derecho a tener derechos y a actuar como titular de los mismos."

Public participation of IDPs is more formal than real (June 2008)

- Both nationally and locally, the right to public participation has very low levels of application.
- Using the scale of Trillas and Novella to measure public participation, it is determined that real and day-to-day participation of IDPs both in decision making processes and as a passive source of information is extremely low.

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"Tanto a nivel nacional como territorial, el derecho a la participación es un derecho formal con muy bajos niveles de eficacia. Se ha orientado más a distribuir responsabilidades entre Estado y personas desplazadas para la superación de esa problemática social, que a propiciar la protección y la restitución de los derechos de las víctimas. Su reconocimiento normativo es generoso; sin embargo, su materialización es absolutamente deficiente.

Usando la escala de Trillas y Novella, la participación real y cotidiana de las OPDs se ubica entre los grados más bajos de la participación simple (asistencia para la legitimación artificial de decisiones) y los grados más bajos de la participación consultiva no vinculante, es decir, fuente pasiva de información, a través de caracterizaciones, eventos masivos y otras formas pasivas de evidenciar necesidades y opiniones. "

Recommendations to the Government on how to guarantee the right to public participation of IDPs (June 2008)

- Decisions by the Government in the short and medium term are needed to fulfill IDP's right to public participation.
- In the short term, a National Consultation with IDPs nationwide and with social organizations affected by displacement should be organized.
- A National Plan to Support IDPs should be set forth, specifying the mechanisms by which the government will create better conditions for IDP participation.
- In the medium term, the government should create a system to evaluate participation, using indicators for effective fulfillment of this right.

Comision de Seguimiento a la Política de Publica sobre el Desplazamiento Forzado, 4 June 2008:

"El gobierno podría avanzar en el cumplimiento de sus obligaciones relacionadas con el derecho a la participación efectiva de las OPDs si adoptara decisiones, en el corto y mediano plazo, como las que se proponen a continuación:

A corto plazo: organizar una GRAN CONSULTA SOCIAL con las OPDs de todo el país y con las organizaciones sociales afectadas por el desplazamiento.

Un Plan Nacional de Apoyo a las OPD que concrete la forma como el gobierno promoverá la creación de condiciones que permitan la participación efectiva de las OPDs.

A mediano plazo: poner en funcionamiento un sistema de seguimiento y monitoreo que, utilizando indicadores de goce efectivo, permita identificar los avances y retrocesos y superar los obstáculos que se vayan presentando en la realización de este derecho."

Key reasons why IDP participation is fundamental (September 2008)

- The survey relies on 900 interviews to IDPs around the world.
- It identifies the following as key reasons to increase IDP participation.

Brookings-Bern Project on Internal Displacement, 30 September 2008:

"The special needs of IDPs are often different from those of other war affected populations. Heeding what IDPs have to say can correct misinformation about their priorities in emergencies

Information from IDPs helps bring to light human rights and humanitarian abuses in a country that need to be aired.

IDP information enables governments, international organizations and NGOs to design responsive policies.

Consultations with IDPs can reinforce peace processes

Reconstruction and development projects have a better chance at sustainability if the views of IDPs are taken into account.

Failure to listen to the voices of IDPs can promote instability and sometimes lead to violence
Failure to listen to IDPs can lead to complaints in regional and international fora"

DOCUMENTATION NEEDS AND CITIZENSHIP

General

IDP registration in the RUPD: Percentages and Obstacles (November 2007)

- About three thirds of those displaced report that they have declared their situation of displacement before government entities. It takes between one to three months from displacement to declaration.
- Of those who declared, 70% or more were registered in the Universal Registry for Displaced Persons (RUPD, for its name in Spanish). The main reasons for declaring were lack of knowledge about the procedures and fear.
- Public employees themselves lack knowledge of rules and procedures.
- Number of families led by a female is higher in the RUPD.

ICRC/WFP, November, 2007:

"Cerca de tres cuartas partes de los hogares desplazados informan, al momento de realizar la encuesta del presente estudio, que han presentado declaración de su condición ante las instancias del Ministerio Público. Las ciudades con mayor nivel de declaración son Villavicencio, Santa Marta, Medellín y Barranquilla.

De los que presentaron declaración, el 70% o más quedaron registrados en el RUPD, con excepción de Bogotá y Cartagena. Las principales razones para no haber presentado declaración son el desconocimiento de trámites, no saber ante quien declarar y el temor. Estos resultados fueron corroborados por la comunidad en los talleres y por las instituciones en las entrevistas realizadas.

Transcurre de un mes a tres meses desde el desplazamiento hasta la declaración, dependiendo de la ciudad, lo que puede ser reflejo del nivel de información con que cuentan los hogares desplazados. Desde el momento de la declaración hasta conocer el estatus puede transcurrir hasta tres meses.

Un tema recurrente en todas las ciudades fue la falta de conocimiento de la normatividad y procedimiento que se aplica en el proceso de declaración y registro por parte de los funcionarios encargados de éste."

The condition of being displaced is independent and does not require a certificate (February 2008)

- Being internally displaced is a factual situation that originates in acts of violence which force people to live their habitual place of residence.
- Therefore, it is not registration as IDP which gives displaced persons their status as such.

- Consequently, it is important to bear in mind that the registration system is only a technical tool aiming at identifying the displaced population, keep track of their needs, and provide follow-up.
- Finally, it is also a system aimed at improving the national policy for internal displacement.

Constitutional Court of Colombia, 15 February 2008:

"[...] La condición de desplazado por la violencia es producto de los mismos hechos que dan lugar al desplazamiento (en los que deben estar presentes como elementos esenciales la coacción que da origen al traslado y la permanencia dentro de las fronteras de la nación) y es completamente independiente de la certificación o acreditación que, sobre esa condición, expida la autoridad competente.

Por otra parte, el artículo 5 del Decreto 2569 de 2000 dispone que Acción Social es también la entidad responsable del manejo del Registro Único de Población Desplazada al igual que define éste como *“una herramienta técnica, que busca identificar a la población afectada por el desplazamiento y sus características y tiene como finalidad mantener información actualizada de la población atendida y realizar el seguimiento de los servicios que el Estado presta a la población desplazada por la violencia.”*

Así pues, el RUPD es simplemente una herramienta técnica que facilita el desarrollo y ejecución de las políticas públicas que propendan por la protección de los derechos de las personas desplazadas y al mismo tiempo facilita la organización presupuestal, pero no otorga la condición de desplazado, ya que esta es una circunstancia de carácter fáctico que ninguna entidad estatal o particular está facultada para desconocer."

IDPs must register with the system within a year, but that rule has exceptions (February 2008)

- The registration procedure is as follows:
 - a) the displaced person gives a statement on the facts that caused him/her to be displaced;
 - b) the statement is forwarded to Acción Social;
 - c) Within 15 days, Acción Social decides to include the person, or not, in the RUPD.
 - d) If denied registration, the person can appeal;
 - e) If accepted, the person is informed of the date in which humanitarian assistance will be provided.
- In evaluating the statements by displaced persons, Acción Social must assume that they are true. (presunción de buena fe.)
- Displaced persons must register within a year after displacement
- However, if a situation beyond their control didn't allow them to do so, the year must be counted from the point in which that situation ended.

Constitutional Court of Colombia, 15 February 2008:

"Por otro lado, según el Decreto 2569 de 2000, existe un trámite preestablecido para recibir las declaraciones y proceder a su inscripción en el registro. Someramente, dicho trámite consiste en: (1) la persona desplazada rinde una declaración acerca de los hechos que dieron origen a su desplazamiento y el de su grupo familiar, ante autoridad competente; (2) la declaración se remite

a Acción Social o a una de sus unidades territoriales para su respectivo estudio; (3) dentro de los 15 días siguientes al recibimiento de la declaración, Acción Social decide sobre la procedencia del registro informando al interesado su inclusión en el RUPD o las razones por las cuales fue rechazado; (4) el acto administrativo que niega el registro se notifica y en él se informa al desplazado que puede interponer los recursos de reposición y apelación y (5) si la persona cumple con los requisitos para ser inscrita en el RUPD se le comunica en qué fecha se hará entrega de los beneficios y de la ayuda humanitaria de emergencia.

Ahora bien, esta Corporación, en múltiples ocasiones, ha realizado precisiones acerca del valor probatorio de las declaraciones que rinde la población víctima del desplazamiento interno, con el fin de enfatizar que aunque Acción Social está facultada para estudiarlas y confrontarlas con la información que obre en sus bases de datos sobre los hechos alegados por los solicitantes, ésta prerrogativa tiene ciertos límites siendo el principal de ellos la presunción de buena fe del declarante.

No obstante lo anterior, la Corte declaró la exequibilidad condicionada de la norma demandada, en el sentido de que, si llegara a presentarse un caso fortuito o fuerza mayor que impidiera al desplazado declarar en tiempo, el término de un año debía contarse a partir de la cesación de tal evento."

Handling of the registration system must keep in mind that displaced persons are extremely vulnerable (February 2008)

- Public employees in charge of collecting statements from IDPs, which are the basis for registration in the RUPD, are obliged to bear in mind the following:
- Most IDPs have basic or no education.
- The way in which they give their statement may not always be spontaneous and clear.
- IDPs suffer trauma from violence and from leaving everything behind. Therefore, they may have difficulty in giving their statements.
- They fear denouncing the facts that caused their displacement.

Constitutional Court of Colombia, 15 February 2008:

"En lo referente al manejo del RUPD, esta Corporación ha expuesto que los funcionarios encargados de recibir las declaraciones conforme a las cuales se realiza la inscripción de las personas desplazadas, están obligados a tener en cuenta lo siguiente:

"1. Que la mayoría de las personas desplazadas por la violencia provienen de ambientes donde la educación a la que tuvieron acceso es exigua -motivo por el cual el grado de analfabetismo es alto-;

2. Que en muchas ocasiones quien es desplazado por la violencia proviene de contextos en los cuales se ha educado a las personas en una especie de "temor reverencial" hacia las autoridades públicas;

3. Que en el momento de rendir un testimonio ante las autoridades, el grado de espontaneidad y claridad con el que podrían hacerlo se reduce considerablemente;

4. Que a las circunstancias del entorno de origen de los desplazados, se añaden las secuelas de la violencia. No es fácil superar el trauma causado por los hechos generadores del

desplazamiento forzado. Esta situación puede conllevar traumas psicológicos, heridas físicas y afectivas de difícil recuperación, además de la inminente violación de derechos humanos que se da desde que la persona es víctima del delito de desplazamiento que pueden influir en el desenvolvimiento del desplazado al momento de rendir la declaración.

5. El temor de denunciar los hechos que dieron lugar al desplazamiento hace que no exista espontaneidad en su declaración.” "

Rates of statements and registration with RUPD (November 2007)

- Three fourths of the population included in this study report that it has given its declaration for registration as IDP with the RUPD.
- Of those who gave their statement, 70% or more were registered with the RUPD, excepting in Bogotá and Cartagena.
- The main reasons for not declaring are lack of knowledge of the procedures, not knowing before where to declare, and fear.
- A higher number of families registered in RUPD are headed by women.
- IDPs have mentioned the need to adapt the format of the statements to specific needs, for example, have it in languages other than Spanish.

ICRC, WFP, November 2007:

pp. 28:

"Cerca de tres cuartas partes de los hogares desplazados informan, al momento de realizar la encuesta del presente estudio, que han presentado declaración de su condición ante las instancias del Ministerio Público. Las ciudades con mayor nivel de declaración son Villavicencio, Santa Marta, Medellín y Barranquilla.

- De los que presentaron declaración, el 70% o más quedaron registrados en el RUPD, con excepción de Bogotá y Cartagena. Las principales razones para no haber presentado declaración son el desconocimiento de trámites, no saber ante quien declarar y el temor. Estos resultados fueron corroborados por la comunidad en los talleres y por las instituciones en las entrevistas realizadas.

Por otra parte, en la mayoría de las ciudades, la proporción de hogares con jefatura femenina registrados en el RUPD es mayor que la de hogares con jefatura masculina. Este mayor acceso de hogares con jefatura femenina al sistema se ve reflejado en casi todos los temas de atención. En los talleres, se hizo referencia a la mayor gestión realizada por las mujeres en la consecución de ayudas y a la dificultad de los hombres en adaptarse a un nuevo entorno lo que se expresó en algunos casos, en desesperanza.

- En el taller con población indígena realizado en Bogotá, se hizo mención de la necesidad de adaptar el formato de declaración a las particularidades de las comunidades indígenas y afrocolombianas, teniendo en cuenta dificultades relacionadas, por ejemplo, con el idioma."

Time that generally elapses between displacement and registration (November 2007)

- In general, between one and three months elapse between displacement and the IDP declaration.

- Afterwards, up to three months may elapse until the IDP receives a response from Acción Social.
- Factors influencing the time for registration are lack of knowledge about the rules and procedures by the public employees in charge of processing registration; lack of private spaces to take declarations.

ICRC, WFP, November 2007:

"Transcurre de un mes a tres meses desde el desplazamiento hasta la declaración, dependiendo de la ciudad, lo que puede ser reflejo del nivel de información con que cuentan los hogares desplazados. Desde el momento de la declaración hasta conocer el estatus puede transcurrir hasta tres meses, dependiendo de aspectos como: i) del nivel de respuesta que exista por parte de Acción Social (por ejemplo, el represamiento en el proceso de registro en Villavicencio y Cartagena), ii) de la capacidad del hogar para ir a la UAO para conocer su estatus y iii) de la cercanía y accesibilidad de la UAO (por ejemplo, en casos como Medellín, Cartagena y Santa Marta la ubicación de la UAO es distante con relación a los puntos de concentración de la población desplazada). Estos tiempos que se muestran en la tabla No 10, dan cuenta de la oportunidad con que las familias ingresan al sistema de atención a población desplazada.

Un tema recurrente en todas las ciudades fue la falta de conocimiento de la normatividad y procedimiento que se aplica en el proceso de declaración y registro por parte de los funcionarios encargados de éste, lo que aunado a la congestión en las UAO, la carencia de espacios privados para tomar la declaración y el bajo nivel de escolaridad de la población desplazada, repercute en una deficiente declaración y posibles rechazos de la familia en el RUPD. Otro problema identificado es la baja sensibilidad frente a la problemática de las personas desplazadas, afectando la calidad y adecuación en la atención."

ISSUES OF FAMILY UNITY, IDENTITY AND CULTURE

General

Inequities in assistance provided to Women (April 2008)

UN HCHR, 29 February 2008:

"The Controller General, the Procurator General and the Constitutional Court have drawn attention to persisting deficiencies with regard to the differentiated attention to specific population groups (such as women, indigenous, Afro-Colombians) and inequity in handling protected rights, especially the right to housing."

Constitutional Court of Colombia, 14 April 2008:

"Con base en este informe de Acción Social, la Sala concluye que el Estado colombiano no ha respondido de manera específica a los graves riesgos de género que han sido identificados en la presente providencia, en sí mismos y en tanto causas de desplazamiento forzado de la población.

El común denominador de todos estos factores es la ausencia de una respuesta estatal específica a la situación, que por su magnitud requiere el diseño e implementación inmediata de una política pública diseñada para la finalidad concreta de prevenir estos crímenes, proteger a sus víctimas y sancionar a los culpables de su comisión. La inacción estatal ante situaciones de esta gravedad constituye un factor que refuerza el desconocimiento de los derechos a la justicia, la verdad, la reparación y la garantía de no repetición de las víctimas.

En atención a tan grave estado de cosas, la Corte Constitucional constata que el Estado colombiano está actualmente obligado a dar cumplimiento, con el mayor grado de diligencia, a sus diversas obligaciones constitucionales e internacionales atinentes al respeto, protección, restablecimiento y promoción de los derechos de las mujeres, niñas, jóvenes y adultas mayores desplazadas por el conflicto armado interno, así como a sus obligaciones de prevenir el desplazamiento forzado de la población, y específicamente de prevenir su impacto desproporcionado sobre las mujeres. Los avances logrados por las autoridades en este campo hasta la fecha son precarios, en particular desde la adopción de la sentencia T-025 de 2004, de los Autos 176, 177 y 178 de 2005 y 218 de 2006."

Indigenous Peoples Face Situation of Particular Risk (August 2008)

- Almost the entirety of the indigenous populations in Colombia has been a victim of forced displacement. The smallest groups are in risk of disappearing.
- Outlaw armed groups use indigenous territories for their purposes because of the location of those territories.

- Indigenous territories also affected by development projects.

Minority Rights Group International, 11 March 2008:

"Afro-Colombian and indigenous communities were at particularly high risk of mass displacement during 2007 due to armed confrontations, forced recruitment and minefields. In July 2007 the Ombudsman's Office reported that 600 members of the Awa indigenous community, who were returnees from earlier displacement in 2006, once again came under pressure due to minefields planted throughout their Magüí reservation."

UNHCR, 8 August 2008 :

"Hay cerca de un millón de indígenas en Colombia, pertenecientes a más de 80 grupos indioamericanos diferentes, con más de 60 lenguas distintas. Casi todos ellos han sido víctimas del desplazamiento forzado o han sido amenazados como resultado del conflicto armado interno. De acuerdo con la Organización Nacional Indígena de Colombia, 18 de los grupos más pequeños están en riesgo de desaparecer totalmente."

IACHR, 29 December 2007:

55. "The Commission is troubled by the fact that outlaw armed groups like to use the indigenous peoples' ancestral territories, whether for strategic points or to raise and process illegal substances; that interest appears to have increased in recent years. This situation, combined with the interest in exploiting the natural resources that exist on those reservations, has caused the violations of indigenous peoples' individual and collective human rights to increase."

UN HCHR, 29 February 2008:

"Indigenous and Afro-Colombian groups - who make up a considerable percentage of the displaced population - have been particularly affected. This situation is partly due to the fact that they are located in territories that are strategic in the dynamics of the internal armed conflict, and partly because they have suffered from discrimination and marginalization. In addition, they have also been affected by large-scale productive projects imposed on their collectively held territories and by legislation unfavourable to traditional forms of production, by the development of major infrastructure projects - such as dams which can negatively impact the environment - and by the aerial spraying of illegal crops."

Amnesty International, 28 May 2008:

"Civilians continued to bear the brunt of the conflict, especially those belonging to Indigenous, Afro-descendant and peasant farmer communities, many of whom lived on lands of economic interest to the warring parties."

WOLA, 30 July 2008:

"WOLA and other organizations expressed concern this month in a letter to foreign policy aides of members of the U.S. Congress regarding the recent rise in cases of serious human violations against Afro-Colombian leaders in the Departments of Nariño, Valle del Cauca and Chocó, Colombia."

Constitutional Court of Colombia, 14 April 2008:

"Este empeoramiento de las condiciones de las mujeres resulta más intenso aún en el caso de las ciudadanas que forman parte de grupos vulnerables de la población, tales como las mujeres indígenas, afrodescendientes y habitantes de zonas marginadas, quienes sufren la carga de múltiples discriminaciones y violencias superpuestas, al tiempo que son las menos preparadas para afrontarlas en términos materiales y psicológicos cuando llegan desplazadas a un nuevo entorno."

Numbers of Indigenous and Afro-Colombian IDP hard to estimate (March 2008)

USDOS, 11 March 2008:

"The UNHCR reported that it was difficult to estimate the number of indigenous or Afro-Colombian IDPs because of geographic isolation, displacement within traditional territories, and their tendency to seek assistance from communities or local organizations rather than the government. The ONIC reported that 7,190 indigenous persons were displaced during the year. The government registered 3,754 new IDPs who identified themselves as indigenous in the first nine months of the year. CODHES estimated that during the year 12 percent of the displaced population was Afro-Colombian."

IDP Registration should be available in languages other than Spanish (November 2007)

- Indigenous people who participated in a workshop noted that the format of the declaration for registration in the RUPD should be offered in languages other than Spanish.

ICRC/WFP, November 2007:

"En el taller con población indígena realizado en Bogotá, se hizo mención de la necesidad de adaptar el formato de declaración a las particularidades de las comunidades indígenas y afrocolombianas, teniendo en cuenta dificultades relacionadas, por ejemplo, con el idioma."

Map of Indigenous "Resguardos" in Colombia (July 2008)

- Map of Indigenous "Resguardos" (communities or reservations) and Afro-Colombian territories

UN OCHA, 23 July 2008:

OCHA
COLOMBIA

RESGUARDOS Y GRUPOS INDÍGENAS Y TÍTULOS AFRO-COLOMBIANOS
Fuente: DANE



0 25 50 100 150 200
Kms.



Right to Consultation (ILO Convention 169) and displacement (July 2008)

- Violation of right to consultation set forth in ILO Convention 169 increases risk of displacement (July, 2008)
- Recently adopted rules affect indigenous populations, as they restrict the growth of "resguardos" of Wounáan, Embera, Eperara y Awá indigenous groups.

Colombian NGO platforms, 31 July 2008:

"El Gobierno ha desconocido el derecho a la consulta contemplado en el Convenio 169 de la OIT sobre pueblos indígenas y tribales, lo que aumenta el riesgo de desplazamiento relacionado con proyectos de explotación de recursos naturales o de infraestructura en los territorios colectivos y en los resguardos indígenas. Normas aprobadas recientemente⁷⁶ vulneran a los indígenas al prohibir ampliar y sanear resguardos en el Pacífico (afectando a los Wounáan, Embera, Eperara y Awá) y obligando a los pueblos nómadas a convertirse en sedentarios para obtener la titulación de tierras. El Gobierno plantea que no habrá más tierra para indígenas⁷⁷, afirmando que son terratenientes, ignorando que sólo el 7.68% de los resguardos están en zonas de frontera agrícola, y que éstos son habitados por el 64.18% de la población indígena (885 mil personas), en 1 millón 290 mil hectáreas; para un promedio de 1.46 hectáreas por individuo, menos de una milésima parte de lo ocupado en promedio por los grandes propietarios."

Government reports it has taken measures to prevent displaced minorities from being discriminated against (May 2008)

- Government reports it has implemented at the policy level measures to provide differential service to minorities in the implementation of attention to displaced persons.
- A Decree was adopted which defines actions to guarantee the right of displaced persons to be protected against discrimination.
- This decree determines the state's duty to provide minorities with preferential and differential attention.

UN Committee on the Elimination of Racial Discrimination, 27 May 2008:

"Al respecto, cabe decir que Acción Social, como entidad coordinadora del Sistema Nacional de Atención Integral a la Población Desplazada (SNAIPD), ha desarrollado medidas tendientes a la protección de esta población contra prácticas discriminatorias, no sólo generadas por su origen étnico sino además por su condición misma de desplazamiento. Teniendo en cuenta el grado de vulnerabilidad de estas personas, el Consejo Nacional de Atención Integral a la Población Desplazada (CNAIPD), adoptó el Acuerdo N° 03 de 2006 por el cual se definen acciones para garantizar el derecho a la población desplazada a ser protegida contra prácticas discriminatorias.

219. El mencionado Acuerdo N° 03 establece el deber por parte de las entidades estatales de brindar atención preferencial y diferencial a este grupo poblacional, en miras de garantizar la igualdad real y efectiva. Se contempla que ningún funcionario público que haga parte del SNAIPD desarrollará conductas discriminatorias en contra de la población desplazada so pena de hacerse acreedor a las investigaciones y sanciones de orden disciplinario a que haya lugar."

PROPERTY ISSUES

Displacement and loss of property

Families abandon land and housing (November 2007)

- Higher percentages of families abandoned housing than land.
- Half of the families who abandoned land did not declare the abandonment with an official entity because of lack of knowledge of the procedures, lack of title, or fear.
- Recommendations include adopting effective norms to regulate the status of property left behind by the displaced.

ICRC/WFP, November 2007:

"Según los resultados de la encuesta presentados en las tablas No. 28, más del 40% de los hogares informan haber abandonado sus tierras, siendo especialmente alto en Florencia (67%) y en Villavicencio (65%). Como se puede ver, en todas las ciudades la proporción de hogares que dicen haber abandonado vivienda es mucho más alta que los que afirman haber abandonado tierras, siendo destacable el caso de Medellín con un 85%.

De los hogares que abandonaron sus tierras, solamente un 50% las declaró. Por lo general, afirman hacerlo ante alguna de las instancias del Ministerio Público. De estos hogares, en ciudades como Barranquilla, Bogotá y Santa Marta, una cuarta parte afirman que sus tierras se encuentran "congeladas" y es destacable que en Sincelejo el porcentaje es del 48%. En contraste, en ciudades como Cartagena y Florencia ningún hogar afirmó que sus tierras se encontraran congeladas. En estas ciudades las respuestas de los hogares se concentran en que sus tierras se encuentran abandonadas o en manos de los que los desplazaron.

Los hogares desplazados que no declararon el abandono de tierras argumentan que no lo hicieron, principalmente, por desconocimiento de trámites o del sitio en donde declarar, por carencia de títulos, por no querer declarar y por temor.

Se sugiere profundizar en alternativas de solución para la reparación del patrimonio abandonado, en donde no solamente se superen las barreras operativas del proceso de protección, sino que se consideren otros mecanismos que le permitan a los hogares recuperar el capital perdido y dar elementos para aumentar la sensibilidad y la flexibilidad del sistema de sustento."

Relationship between displacement and land appropriation (June 2008)

- The first and most important connection between displacement and the appropriation of land is that peasants are pushed by violent means out of their land because illegal armed groups covet their land for economic reasons.
- A second analysis suggests that institutional weaknesses prevent notaries and cadastral registrars from verifying that land sales by them registered are not forced, false, or have unreal prices.

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 June 2008:

"La relación existente entre el desplazamiento y el despojo de tierras ha sido estudiada en Colombia por diversos autores, y en distintos periodos de tiempo se han realizado estimativos de las extensiones de tierra que han perdido los desplazados a causa del conflicto armado.

Los dos primeros autores han señalado que miles de hogares han sido expulsados de sus municipios por los grupos armados, ya que sus intereses económicos contemplan con inusitada frecuencia la apropiación violenta de la tierra, generando desplazamiento a través del despojo y privando a miles de familias de uno de sus principales medios de subsistencia

Otro ángulo del problema es tratado por Saffon (2006) en su disertación de grado al afirmar que *"hay una gran insuficiencia de miembros de la fuerza pública capaces (tanto en número como en fortaleza) de evitar que los pequeños y grandes propietarios se vean presionados para vender y desalojar sus tierras; pero también de funcionarios notariales y de registro capaces de verificar - sin riesgo de sufrir como consecuencia actos violentos en su contra- que los títulos de propiedad no provengan de compras a precios irrisorios o por la fuerza, no se lleven a cabo sobre bienes inajenables, etc., y que, en caso de verificarlo, se nieguen a autenticarlos o registrarlos"* lo que corrobora la tesis de Duncan , según la cual la debilidad institucional es una de las causas que facilita la apropiación ilegal de tierras"

Relation of causality between concentration of land ownership and internal displacement (June 2008)

- The Instituto Geográfico Agustín Codazzi (IGAC) concludes that 94% of land owners in the country holds only 18.7% of the total extension of land, while 1.4% of land owners holds 65.4% of the total land extension.
- There is an apparent relationship of causality between land ownership concentration and internal displacement—studies show that displacement is more frequent in departments with higher rates of land concentration in few hands.
- The shown increase in concentration of land ownership after 1996 is associated with the highest rates of internal displacement (relation of association; causation not shown).

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 June 2008:

"De otra parte, recientemente el IGAC presentó una caracterización de la tenencia de acuerdo con las extensiones de superficie poseídas, concluyendo que el 94% de los propietarios del país (3'346.445) es titular de sólo el 18,7% de la superficie (12'683.460 ha), equivalente a 2'411.399 predios, cada uno con una extensión promedio inferior a 50 hectáreas. Mientras que el 1,4 % de los propietarios (48.212) son titulares del 65,4% de la superficie (44'260.931 ha), representada en 29.342 predios, cada uno con extensiones promedio superiores a las 200 hectáreas⁴⁰

De otra parte, las investigaciones realizadas apuntan a la existencia de una relación estrecha entre la concentración de tierra y el fenómeno del desplazamiento. Fajardo (2002) demuestra, según Ibáñez y Querubín, que el desplazamiento es más frecuente en los departamentos que registran mayores índices de concentración de tierra, medido a través del coeficiente de Gini.

Es importante señalar cómo el proceso acentuado de la concentración de la tierra acaecido después de 1996 coincide con una de las épocas de intensificación del fenómeno del desplazamiento forzado en el país.

Si se acude a los registros de población desplazada de CODHES y se ajustan por el número promedio de desplazamientos por grupo familiar encontrado en la Encuesta Nacional de Verificación ENV-2007 (1,12 desplazamiento por grupo) –para evitar duplicaciones en el número de hogares desplazados–, se encuentra que mientras que en el periodo comprendido entre los años de 1986 y 1994 se registraron cerca de 858.000 personas desplazadas, en el lapso comprendido entre 1997 y 2003 se alcanzaron cerca de 1.904.000 personas desplazadas, es decir, más del doble de los registrados en el periodo anterior."

Low impact of program for the protection of land abandoned by IDP (June 2008)

- Cross-referencing between Registry of IDP (SIPOD) and Registry of Abandoned Property (RUPTA) shows that only 5.5% of IDPs who abandoned land benefited from program to protect land abandoned by IDP.

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 June 2008:

"De acuerdo con el PPTP, del cruce realizado entre el Registro Único de Predios y Territorios Abandonados (RUPTA) y el Sistema de Información sobre Población Desplazada (SIPOD) a marzo 31 de 2008, 23.259 declaraciones en el Sipod –que representa 24.746 personas desplazadas– se relacionan con 23.251 registros de predios ante el RUPTA. En datos consolidados, la población desplazada que ha utilizado las rutas de protección para resguardar sus bienes representa el 32% del total de personas que han solicitado dicha protección, y los predios a los que refieren representan el 28% del total de predios relacionados en el RUPTA⁴⁹. Si se tiene en cuenta que a marzo 31 de 2008 se encontraban registrados en el Sipod más de 590 mil hogares desplazados, y que cerca del 75% de ellos dejó tierras abandonadas, podría decirse que los procesos de protección sólo habrían dado cobertura a un 5,5% de la población desplazada oficialmente registrada."

Law and Policy

Colombian Agrarian Institute Lacks Capacity (December 2007)

Refugees International, December 2007:

"The Colombian agrarian reform institute (INCO DER), which is supposed to perform countrywide mapping of land and process property titles, including protection of indigenous traditional ancestral

land and collectively owned land of Afro- Colombian communities, is understaffed, underfunded and therefore ineffective."

UNHCR/Government of Colombia sign Agreement to protect property rights of IDP (April 2008)

UNHCR, 8 April 2008:

"The United Nations High Commissioner for Refugees (UNHCR) and the Colombian Government are signing an agreement today to protect the property rights of the South American country's vast population of internally displaced persons (IDPs).

The agreement will provide a legal framework for various programmes already in place to protect abandoned land and it will also outline new initiatives to restore the property rights of people who have lost their land through forced displacement (...)"

Evolution of the policy on land access for displaced populations (June 2008)

- Decree 2217 of 1996 first included norms to give land to displaced population, in the context of a wider social policy for vulnerable people.
- Law 387 of 1997 declared that the Colombian Institute for Agrarian Reform, INCORA (now called INCODER) had to adopt a system for the adjudication and titling of land, giving preference to IDPs.
- Decree 2569 of 2000 regulated Law 387, and established that those IDP whom, before being displaced owned land, would have preferential access to land.
- In 2000, decree 2007 regulated several articles of Law 387, particularly in relation to the protection of property left behind by IDP and to prevention of displacement.

Comision de Seguimiento a la Politica de Publica sobre el Desplazamiento Forzado, 30 June 2008:

"El acceso a tierras para población campesina desplazada en Colombia, en el marco de una política social para la población vulnerable en esta materia, fue definido a través del decreto 2217 de 1996. La norma determinó la creación de un programa especial de adquisición de tierras en beneficio de población campesina desplazada por la violencia, de la que tuviera la condición de deportada de países limítrofes y de aquella que se hubiera visto afectada por calamidades públicas naturales.

Posteriormente, la Ley 387 de 1997, estatuto sobre desplazamiento forzado, consagró en su artículo 19.1 que el Instituto Colombiano para la Reforma Agraria -Incora (hoy Incoder), debía adoptar *programas y procedimientos especiales para la enajenación, adjudicación y titulación de tierras, y líneas especiales de crédito, dando **prelación** a la población desplazada*. Señaló además que el Incora *llevaría un registro de los predios rurales abandonados por los desplazados por la violencia e informaría a las autoridades competentes para que procedieran a impedir cualquier acción de enajenación o transferencia de títulos de propiedad de estos bienes, cuando tal acción se adelanta contra la voluntad de los titulares de los derechos respectivos*.

Como reglamentario de la Ley 387, en el año 2000 fue expedido el decreto 2569, el cual en su artículo 26 incluía entre los componentes de los programas de estabilización socioeconómica, el *acceso a tierras con fines productivos*, señalando al respecto que, en procura de satisfacer los derechos vulnerados en tal materia, accederían con carácter preferencial a tales beneficios *las personas que al momento del desplazamiento, previa verificación de la Red de Solidaridad Social, contaban con derecho de propiedad o posesión sobre un lote de terreno o una vivienda*.

Luego, en el año 2000, los artículos 7, 17 y 19 de la Ley 387 de 1997 son reglamentados a través del decreto 2007, en referencia particular a la protección de los bienes patrimoniales de la población desplazada y a la prevención del desplazamiento."

Constitutional Court ruling on reparations and restitution (October 2007)

- The Constitutional Court of Colombia ruled that displaced persons whose property has been taken have the fundamental right to the protection of that property from the State.
- The issue deserves special attention from the State.
- The Court orders the government to devise indicators to measure the fulfillment the displaced population's rights, including the right to property restitution.
- The Court orders the Government to design a policy for restitution, and to provide IDPs with counsel and information about this right.

Constitutional Court of Colombia, 5 October 2007:

"60. Las personas que se encuentran en situación de desplazamiento forzado y que han sido despojadas violentamente de su tierra (de la tierra de la cual son propietarias o poseedoras), tienen derecho fundamental a que el Estado conserve su derecho a la propiedad o posesión y les restablezca el uso, goce y libre disposición de la misma en las condiciones establecidas por el derecho internacional en la materia. En efecto, en estos casos el derecho a la propiedad o a la posesión adquiere un carácter particularmente, reforzado, que merece atención especial por parte del Estado

En suma, según la Corte, aún subsisten los vacíos en los indicadores propuestos por el gobierno para medir el goce de los derechos de la población desplazada, entre otros, al momento de la reparación integral y en la etapa del retorno, especialmente en cuanto se refiere a la restitución de la tierra de la que han sido arbitrariamente despojados.

Dado que la Corte ha podido advertir que no existe una política destinada a asesorar a las personas que se ven obligadas a desplazarse, sobre los mecanismos de protección de sus bienes, y que tal protección es necesaria para satisfacer el derecho fundamental a la reparación integral de estas personas, ordenará a la Agencia Presidencial para la Acción Social y la Cooperación Internacional – Acción Social, a la Procuraduría General de la Nación y a la Defensoría del Pueblo, que por su intermedio instruyan a todos los agentes de las respectivas entidades para que al momento de tomar la declaración de las personas en situación de desplazamiento interno, les informen sobre sus derechos a la propiedad y a la posesión y sobre los mecanismos para el aseguramiento de sus bienes y las acompañen y asesoren en esta tarea."

Government issues a decree on reparations (June 2008)

- In response to the Constitutional Court ruling, and to the recommendations given by the Inter-American Commission on Human Rights, the government adopted a reparations program.
- The program was adopted through decree 1290 of April, 2008.
- To date, 87.652 people have filed the complaint.

- The plan is not comprehensive and needs to be developed further.
- A bill for the Protection and Reparation for the Victims of Violence, currently under debate, mandates for a comprehensive reparations program.

Congress of Colombia, 18 June 2008:

"ARTICULO 52. MEDIDAS DE RESTITUCIÓN. El Estado Colombiano, a través del Plan Nacional para la Atención y Reparación Integral a las Víctimas de la violencia, deberá adoptar un programa integral dentro del cual se incluya el restablecimiento de la libertad, el retorno a su lugar de residencia, la restitución de sus bienes, especialmente las tierras, entre otros.

ARTICULO 117. DISEÑO Y OBJETIVOS DEL PLAN NACIONAL PARA LA ATENCION Y REPARACION INTEGRAL A LAS VICTIMAS DE LA VIOLENCIA. El Gobierno Nacional a través del Alto Comisionado para el Apoyo a las Víctimas de la violencia diseñará el Plan Nacional para la Atención y Reparación Integral a las Víctimas, el cual será adoptado mediante decreto. Para la elaboración de dicho plan se contará con el concurso de las entidades que conforman el Sistema Nacional para la Atención y Reparación Integral de las víctimas de la violencia y de la Comisión Nacional de Reparación y Reconciliación."

PATTERNS OF RETURN AND RESETTLEMENT

General

Returns without guarantees produce new displacement (September 2008)

- The government has promoted returns for IDPs under its view that the armed conflict is over.
- These returns have taken place without providing enough guarantees for their integration and subsistence.
- Thus, they have resulted in new displacements and in humanitarian crisis of their own.
- Municipalities do not have enough capacity to provide services to large returned populations.

CODHES, 30 September 2008:

"Retornos sin garantías aseguran nuevos desplazamientos. Estimular retornos sin garantías de seguridad y en condiciones de pobreza provoca nuevos desplazamientos forzados. Bajo la idea de la superación del conflicto armado y de control de la Fuerza Pública se han producido retornos en departamentos como Chocó, La Guajira, Nariño, Antioquia y Sucre. "

Instituto Popular de Capacitación, 22 April 2008:

"La paradoja es simple: el fenómeno, que desde noviembre del año pasado adquirió carácter de masivo, ya desbordó la capacidad económica y logística tanto de la administración municipal como de los organismos humanitarios, quienes admiten que no cuentan con los recursos suficientes para garantizar 'condiciones dignas de retorno y restitución plena de los derechos afectados durante el desplazamiento', tal como lo exige la Ley."

IDPs have little intention to return (June 2008)

- According to the results of the National Verification Survey conducted by the Civil Society Follow-up Commission, only 3,1% of the families displaced have an intention to return;
- 76,4% would like to remain where they currently are;
- 6,7% would like to relocate to a different municipality;
- 2,7% would like to leave the country;
- And a significant 11% has not decided.
- The main reason for this low intention to return is the belief that the causes of the original displacement are still present, i.e., lack of security. (69,2% of the surveyed population)
- 6,3% do not want to return because of the bad prospects for living situation.

Comisión de Seguimiento, 30 June 2008:

"[...] De acuerdo con los resultados de la Encuesta Nacional de Verificación ENV-2007 adelantada por la Comisión de Seguimiento, sólo el 3,1% de los grupos familiares desplazados desearía regresar a su sitio de origen, mientras que el 76,4% desearía permanecer en su lugar de asentamiento actual, el 6,7% reubicarse en otro municipio, el 2,7% salir del país y un considerable 11% no habría decidido qué hacer. En total, un 86% de los hogares familiares no

retornaría al menos por ahora y hasta que no hubiera garantías de seguridad y de estabilización económica en sus lugares de origen. La falta de disposición para retornar se fundamenta en un 69,2% de los casos en la creencia o la convicción de que se mantienen las causas que originaron su desplazamiento, en un 6,3% obedece a las condiciones de vida con las que contaría en el lugar de expulsión, en un 2,2% se debe a la falta de un lugar al cual llegar, y en un 2,3% a la imposibilidad de encontrar oportunidades de empleo. "

HUMANITARIAN ACCESS

General

Fighting prevents access from humanitarian organizations (August 2008)

- The intensity of fighting in various regions prevents humanitarian organizations from assisting newly displaced populations.
- Inter-Agency Dialogue of NGO points out that the humanitarian space has been reduced; humanitarian aid is not used under the principles of neutrality and independence.
- Humanitarian organizations required major logistical means to access affected populations in remote areas.

USDOS, 11 March 2008:

"[International Humanitarian] organizations pointed out that, while the emergency response to such mass displacements was often rapid and adequate, assistance to those displaced individually or in smaller groups was frequently delayed for several days or weeks. In addition, due to the intensity of the fighting in conflict zones, including areas in the departments of Narino, Valle de Cauca, Arauca, Antioquia, Choco, and Norte de Santander, national and international aid organizations often could not access many newly displaced populations."

Diálogo Inter-Agencial, 30 August 2008:

"The humanitarian space has been reduced and some of the reasons that explain the fact are that there is a biased use without the proper independence and neutrality of humanitarian aid and also a misuse of humanitarian terms mixed with the belicist discourse. Additionally, the poor or damaged infrastructure or the adverse weather conditions make the access more difficult. The humanitarian organizations need major logistical means to reach affected populations and to transport humanitarian aid and the State is responsible for not hinder them. This not only puts the communities in need of aid at greater risk, but also the operators and social actors working in the humanitarian field."

NATIONAL AND INTERNATIONAL RESPONSES

Overview

National response to internal displacement

Failure of transitional justice processes

President Uribe's administration has championed since 2002 a process of negotiated demobilisation of members of the paramilitary AUC. The process involved substantial reductions of criminal sentences to perpetrators of crimes against humanity; thus the victims' rights to justice and accountability were sacrificed so to better establish truth and eventually obtain reparations based on the testimonies of paramilitary members wishing to benefit from sentence reductions. However, the proceedings did not effectively guarantee the right to justice, truth, and reparation, but left human rights abuses unpunished (IACHR, October 2007).

The Justice and Peace Law of 2005 (Law 975), which came to regulate demobilisations when they were already underway, was flawed both substantively and procedurally, and several of its articles were declared unconstitutional by the Constitutional Court (Decision C-370, 2006). The government then issued various decrees that confounded and sometimes contradicted the Court's mandate, making impunity possible and violating victims' rights.

The process has to date brought no justice to IDPs, despite the valuable opportunity which it presented. First, the demobilisation proceedings did not effectively allow for the participation of IDPs, even though the rules governing the proceedings guarantee the victims' right to participation. The right to participation in these proceedings implies, in turn, a bundle of rights including the right to be recognised as a party with standing; the right to file, demand, and contradict evidence; the right to have access to information; and the right to integral compensation (IACHR, October 2007).

Throughout the proceedings, the victims were not able to enjoy these rights for a variety of reasons. Beyond the expense of being present at proceedings, and the fact that many victims lacked information about the proceedings, they could not question paramilitary leaders directly during the preliminary hearings, but only during the second stage, and indirectly. The prosecutor was able to eliminate questions and only asked those he or she considered important. Consequently, while forced displacement was the second most-frequently denounced crime after homicide, no questions were presented in relation to this crime during the first hearings. Further, victims were not able to re-question or ask for clarifications. Through the exclusion of direct questioning and re-questioning, the opportunity to find the truth was almost entirely lost.

90 per cent of paramilitaries were given a de facto amnesty by a decree preceding Law 975. Up to December 2007, only 116, less than one in 300 of over 30,000 AUC members were being tried under Law 975, and none of them had been found guilty December, 2007 (Colombian NGO Platform, 2008). After demobilising, paramilitary leaders continued to commit crimes; instead of taking back the sentence reduction benefits that had been given to them under the demobilisation process, and continue their trial under criminal law, the government in May 2008 extradited 14 of these paramilitary leaders to the United States to be tried on drugs-related charges, leaving their human rights abuses unpunished.

Exacerbating it all, and confirming what many warned when the process began (CCJ, MAPP/OEA, 2005), there is clear evidence that many demobilised paramilitaries have re-armed, vie for power and control of the drug trade, and target the civilian population, causing new displacement. These new armed groups have threatened human rights defenders and IDP leaders. They forcefully recruit men and youth, run illegal check points and have targeted indigenous people (MAPP/OEA, 2008). Thus, neither justice nor transition has been attained.

Prospects for property restitution

Most IDPs in Colombia have been displaced from rural areas. The illegal armed groups have forced peasants from their land by violent means in order to profit from the land themselves. 74 per cent of the displaced population registered in the RUPD have declared that they abandoned property.

Exacerbating the problem is the fact that Colombia already has a highly unequal concentration of land ownership, which has itself been a root cause of conflict. The *Instituto Geográfico Agustín Codazzi* (IGAC) shows that 94 per cent of landowners in the country hold only 19 per cent of the total land area, while 1.4 per cent of landowners hold 65 per cent of the total. Further, studies demonstrate that displacement has been more frequent in departments with higher rates of land concentration, and that the areas with the highest rates of internal displacement have witnessed an increase in the concentration of land ownership since 1996 (Comisión de Seguimiento, 30 June 2008).

The government has yet to demonstrate commitment to remedying the property loss associated with internal displacement, despite sustained pressure from civil society and the rulings of the Constitutional Court. Law 975 made reparation for property loss dependent on the criminal indictment of perpetrators, rendering it virtually impossible for IDPs to access redress. Paramilitary members tried under Law 975 have not been yet forced to return property that was taken by force. In 2007, the Constitutional Court ruled that the victims of violence had an integral right to reparations, and established the government's obligation to create a policy to guarantee reparations through property restitution. The government issued Decree 1290 in April 2008, creating a programme for individual restitutions through an administrative procedure. This programme is insufficient as it does not contemplate tailored-made mechanisms for restitution to IDPs, instead drawing on general existing rules on property.

A comprehensive plan for reparations through restitution has yet to be drafted. Some of the very thorny issues that the plan will have to address include criteria to prioritise beneficiaries of restitution; the type of property that will be included for restitution; division of responsibilities and powers between the various government institutions; procedural rules for the complaints; and funding for the restitutions programme. It is of utmost importance that the crafting of the national reparations plan includes the participation and voice of IDPs.

Role of the Constitutional Court

Colombia was one of the first countries in the world to have a domestic IDP statute, which was adopted in 1997, a year before the UN issued the Guiding Principles on Internal Displacement. However, the adoption of this statute failed for many years to lead to improved protection of IDPs, and the Constitutional Court declared in the landmark decision T-025 of 2004 that the government's response to internal displacement amounted to an "unconstitutional state of affairs". Through this innovative legal concept, the Court ruled that the violation of basic human rights extends to an unidentifiable number of people – the entire IDP population beyond those particular individuals who brought the complaint – and cannot be ascribed to one government authority, but to a widespread, structural failure of the government's response.

This decision has led to gradual improvements in the government's response to internal displacement. The government has since allocated steadily increasing funds to the IDP response, from \$177 million (363 billion pesos) in 2004 to \$525 million (1,080 billion pesos) in 2008.

Since decision T-025, the Constitutional Court has asserted its jurisdiction until the unconstitutional state of affairs is overcome. It has thus handed down, on its own initiative, a variety of subject-specific writs describing the special situation of vulnerability of women and children, and ordering the adoption of differential, needs-based measures, which the government has yet to realise in October 2008.

In order to close the large gap between policy and implementation highlighted by the RSG after his last visit to Colombia, in 2006 the Court ordered the government to adopt outcome indicators to evaluate its response and allow the Court to determine if the structural inadequacy of the response has been overcome. The Court has emphasised that the indicators should be quantifiable and should provide information about the living conditions of IDPs rather than institutional aspects of the government's response (Rothing and Romero, 2008). The Court considered the government's initial indicators unsatisfactory, and has asked the Civil Society Monitoring Commission and other expert bodies to provide technical support in the elaboration of the indicators.

The Constitutional Court has also attempted to gather data on the response given by local and central authorities, with the aim of improving coordination and assuring equal response throughout the country. To this end, the Court issued Writ 052 of 2008, requesting that the government of each department provide specific information about its response to internal displacement. Drawing on that court order, the Congress passed Act 1190, ordering departmental governors to design, implement, fund and periodically evaluate better strategies based on timebound goals. Nonetheless, the road ahead towards a more structured response from local authorities is still long.

Humanitarian access and international response

Access to displaced populations in the towns and cities to which most IDPs flee is generally satisfactory. However, during 2007, access to conflict hotspots was obstructed by the intensity of the fighting. National and international aid organisations could not access many newly displaced populations in areas in the departments of Nariño, Valle de Cauca, Arauca, Antioquia, Chocó, and Norte de Santander (USDoS, 2008). Given the geographic location of conflict areas, humanitarian organisations need major logistical means to reach affected populations and to transport humanitarian aid (Diálogo Inter-Agencial Colombia, 2008).

International non-governmental and governmental organisations continue to place the situation in Colombia high in the agenda. The Inter-American Commission on Human Rights' Annual Report included Colombia as one of the countries in the region whose situation required special attention (IACHR, December 2007). Colombia is one of the countries in which the humanitarian reform process has implemented the cluster approach, and protection, early recovery, and assistance clusters have been thus far tested.

The Constitutional Court: Shaping the Government's Response (April 2008)

- Colombia was one of the first countries in the world to have a domestic IDP statute, which was adopted in 1997—one year before the Guiding Principles on Internal Displacement were adopted.

- Nevertheless, the adoption of this statute for many years did not translate into improved attention for the protection of IDPs.
- As a result, the Constitutional Court, in widely-known landmark decision T-025 of 2004, declared that the governmental response to the internal displacement crisis by the Government amounted to an unconstitutional state of affairs.
- Overview After decision T-025, the Constitutional Court has maintained its jurisdiction until the unconstitutional state of affairs is overcome.
- It has thus handed down a variety of subject-specific writs that evaluate the special situation of vulnerability of women and children and mandate the adoption of differential, needs-based measures.
- Among others, Auto 92 orders the government to implement a program to respond to the differentiated needs of women.
- Auto 167 identifies the lack of programs to adequately address the situation of displaced children, and orders the government to respond to this vacuum.
- The groundbreaking role of the Constitutional Court has also stretched to including the voice of IDP and civil society in the policymaking process.
- The Court has adopted a practice of asking the civil society for input as factual basis for its decisions through periodical and subject-specific information sessions.

Constitutional Court of Colombia, 22 January 2004:

"La Sala Tercera de Revisión, al resolver sobre las presentes acciones de tutela, concluye que por las condiciones de vulnerabilidad extrema en las cuales se encuentra la población desplazada, así como por la omisión reiterada de brindarle una protección oportuna y efectiva por parte de las distintas autoridades encargadas de su atención, se han violado tanto a los actores en el presente proceso, como a la población desplazada en general, sus derechos a una vida digna, a la integridad personal, a la igualdad, de petición, al trabajo, a la salud, a la seguridad social, a la educación, al mínimo vital y a la protección especial debida a las personas de la tercera edad, a la mujer cabeza de familia y a los niños (apartados 5 y 6). Esta violación ha venido ocurriendo de manera masiva, prolongada y reiterada y no es imputable a una única autoridad, sino que obedece a un problema estructural que afecta a toda la política de atención diseñada por el Estado, y a sus distintos componentes, en razón a la insuficiencia de recursos destinados a financiar dicha política y a la precaria capacidad institucional para implementarla. (apartado 6.3) Tal situación constituye un *estado de cosas inconstitucional* que será declarado formalmente en esta sentencia."

Constitutional Court of Colombia, 14 April 2008:

"Luego de valorar jurídicamente estos diez riesgos desde un enfoque de prevención del desplazamiento forzado, la Corte Constitucional ordena en el presente Auto que el Gobierno Nacional adopte e implemente un programa para la prevención de los riesgos de género que causan un impacto desproporcionado del desplazamiento sobre las mujeres, programa que ha de ser diseñado e iniciar su ejecución en un término breve en atención a la gravedad del asunto – a saber, tres meses a partir de la comunicación de la presente providencia."

Constitutional Court of Colombia, 4 July 2007:

"3.1. La no asignación de un lugar prioritario a la atención de los menores de edad en situación de desplazamiento dentro del Sistema Nacional de Atención Integral a la Población Desplazada y los programas que éste adelanta.

3.2. La inexistencia de programas específicamente dirigidos a la atención de menores de edad en situación de desplazamiento, de componentes específicamente dirigidos a la población

desplazada dentro de los programas ordinarios adelantados por las entidades que conforman el SNAIPD, y de estadísticas diferenciadas sobre el impacto de este delito en el goce efectivo de sus derechos prevalecientes.

3.3. El hecho de que los programas existentes para la atención de la población desplazada no están llegando, ni en su totalidad ni en algunos de sus componentes, a los menores en situación de desplazamiento, y la aparente ausencia de una actitud proactiva por parte de las autoridades."

The Constitutional Court: Reducing the gap between policy and implementation (April 2008)

- Aiming to reduce the gap between policy and implementation, the Constitutional Court has ordered the Colombian government to adopt outcome indicators to evaluate its response.
- These indicators will allow the Court to determine if the structural inadequacy of the response, which configures the unconstitutional state of affairs, has been overcome.
- Indicators must provide information about the actual living conditions of IDP, and they must be a tool for the effective realization of their rights.
- Sectoral or subject-specific indicators, based on a rights framework, include: housing, health, education, food, income generation, life, personal integrity and safety, freedom; public participation; reparations.
- Also aiming to reduce the policy/implementation gap, the Court has attempted to gather data on the response given by local and central authorities with the aim of improving coordination and assuring equal response throughout the country.
- To this end, the Court issued decision 052/2008, in which it requests the government of each department to provide specific information about their response to internal displacement.

UNHCR, 31 August 2007, p. 477:

"En el marco de la declaración del ECI, los indicadores cumplen una función primordial, en la medida en que deben permitir establecer el ritmo con el que el país avanza hacia su superación. Como se señaló al principio de este documento, una de las dificultades existentes es que se carece i) de criterios comunes de evaluación y ii) de información que permita establecer la situación en que se encuentra la población desplazada. "

Forced Migration Review (FMR), April 2008:

"Firstly, the Court said the indicators should allow measurement of progress in overcoming the problems and identify obstacles hindering the adoption of remedial measures. The indicators should thus say something meaningful about the impact of government policies. If the policies are unsuccessful in changing the lives of IDPs for the better, the indicators should signal ways to improve them."

Constitutional Court of Colombia, 21 February 2008:

"SOLICITAR a los Gobernadores de cada uno de los Departamentos del país que dentro del término de quince (15) días hábiles contados a partir de la comunicación del presente auto, remitan a la Corte por correo electrónico, o en caso de no ser ello posible por correo ordinario, las respuestas a las preguntas que a continuación se les formulan"

Governmental Response: Unconstitutional State of Affairs persists (January 2008)

- In the post-T025 period, the governmental response has grappled with overcoming the unconstitutional state of affairs, which has not been overcome to date.
- The National System for Integral Attention to the Displaced Population (SNAIPD, for its name in Spanish) has become progressively more efficient, but coordination still needs to improve.
- The system has been strengthened by the following elements: a) the National Council for the Integral Attention to the Displaced Population has been given more powers; b) the National Plan for the Integral Attention to the Displaced Population (coordinated by Acción Social); c) Fund allocation; d) Implementation of the Unified Action Plans (PIU, for their name in Spanish) at the local level; e) Better response by local authorities.
- Funding allocated for the response increased significantly after the T025 decision, from 363,822 million Colombian Pesos (US\$ 177 million) in that year to 1'080,394 million Colombian Pesos (US\$ 525'611,286) in 2008.
- Even though the larger appropriation of funds is a step forward, there are still serious challenges with planning coordination and execution.
- Certain NGO report that more funds have, to an extent, resulted in a large network of contractors without effective accountability.

UNHCR, 31 August 2007, p. 349:

"El Sistema Nacional de Atención Integral a la Población Desplazada (SNAIPD) ha registrado una serie de avances significativos en los últimos tres años. La dinámica de funcionamiento del Sistema es la más regular desde su creación en 1997. El esfuerzo gubernamental, en parte propiciado por el proceso en torno a la Sentencia T-025 de 2004, es una muestra del compromiso por avanzar hacia la superación del estado de cosas inconstitucional (ECI) declarado en el citado fallo de la Corte Constitucional.

Los principales avances en materia de fortalecimiento del Sistema y de los mecanismos de coordinación entre el 2004 y 2006 pueden sintetizarse en: i) el fortalecimiento del Consejo Nacional de Atención Integral a la Población Desplazada; ii) la formulación del Plan Nacional para la Atención Integral a la Población Desplazada; iii) la garantía en la asignación de recursos para la atención de la población desplazada; iv) el empleo generalizado de los planes integrales únicos (PIU) en la planificación de la respuesta local; y v) el desarrollo de iniciativas novedosas por parte de las autoridades locales."

Refugees International (RI), 30 January 2008:

"The build-up of resources in a relatively short time has spawned a network of contractors and sub-contractors to provide services to the displaced population. These implementing agencies are mainly comprised of local organizations of varying age, size, and sophistication, which implement grants from Acción Social and US-funded contractors, often at the same time. RI has seen excellent examples of local agencies effectively serving displaced communities, but the largest complaint RI receives directly from the displaced is that the services that were promised to them (and in some cases derived from Acción Social and USAID monies) were not delivered as promised, or never arrived at all. RI has documented claims of mismanagement, misuse of funds, and corruption in the management of IDP projects in all five territorial departments that RI staff visited in 2007."

Impunity for the crime of forced displacement (August 2007)

- Under Colombian law, forced displacement is a crime. (Law 599, 2000).
- However, to date, very few individuals have been tried for this crime, and even fewer have been found guilty.
- 6,501 criminal cases for forced displacement were brought to the prosecutor's office.
- Only 32 of those complaints made it to the courts for trial. Only 13 cases reached a decision, and in those cases, only 15 people have been found guilty of the crime of forced displacement.

UNHCR, 31 August 2007, p. 142:

"Si dentro de la política de desplazamiento existiese la noción de protección de los derechos de los desplazados en su condición de víctimas del delito de desplazamiento, se esperaría que la ausencia de sanción judicial fuera investigada por parte de la autoridad para precisar sus causas y establecer los correctivos necesarios.

[...] Se evidencia que el sistema judicial ha carecido de efectividad en material de investigación y sanción del delito de desplazamiento. Mientras entre el 2004 y 2006 fueron registradas 619.000 personas desplazadas, tan sólo se inició la investigación de 6.500 casos. Para ese mismo período, llegaron a juzgados penales 32 procesos y tan sólo 13 casos fueron fallados sancionando por este delito a 15 personas."

Colombian NGOs

- Colombian NGOs are active, well-organized, and have played a fundamental role in the protection of IDP.
- Hundreds of human rights NGO are organized under umbrella associations/platforms such as the Asamblea Permanente de la Sociedad Civil por la Paz; Plataforma Colombiana de Derechos Humanos, Democracia y Desarrollo; La Alianza de Organizaciones Sociales y Afines, among others.
- These organizations have brought complaints nationally, before the Courts and the Constitutional Court, and internationally, before the Inter-American Human Rights System and the United Nations system. Their complaints have resulted in some of the major rulings for the protection of IDPs.
- Because of their activism and strong positions, many local human rights activists and IDP leaders have been threatened and killed.

Websites of major Colombian NGOs and NGO umbrella organizations:

CODHES: www.codhes.org

Comisión Colombiana de Juristas: <http://www.coljuristas.org/index.htm>

Fundación Dos Mundos: <http://www.dos-mundos.org/>

Medios para la paz: <http://www.mediosparalapaz.org/index.php?idcategoria=2735>

La Alianza: <http://www.alianzapostlondres.org/>

Asamblea por la paz: <http://www.asambleaporlapaz.com/>

Plataforma Colombiana de DD.HH: <http://plataforma-colombiana.org/plataforma/>

Observatorio de Discriminación Racial: <http://odr.uniandes.edu.co/noticias/noticias.html>

Mujer y Conflicto Armado: <http://www.mujeryconflictoarmado.org/lamesa.html>

International Response: Implementation of Cluster Approach in Colombia (April 2007)

- In 2005, Inter-Agency Standing Committee principals agreed that the cluster approach to humanitarian response should be used.
- The cluster approach is one of the elements of the humanitarian reform agenda, which seeks to improve the capacity, predictability, accountability, and partnership of the response.
- Colombia is one of the countries in which the cluster approach has been used. The protection, early recovery, and assistance clusters have been implemented.
- Evaluation of the cluster roll-out in Colombia is in progress, results expected.

Inter-Agency Standing Committee (IASC), 25 April 2007:

"The IASC Principals (hereafter Principals) also agreed that the "Cluster Approach" should be applied, with some flexibility, at the country level. In December 2005 the Principals generally welcomed the Cluster Approach as a mechanism that can help to address identified gaps in response and enhance the quality of humanitarian action. It is part of a wider reform process aimed at improving the effectiveness of humanitarian response by ensuring greater predictability and accountability, while at the same time strengthening partnerships between the private sector NGOs, international organizations, the International Red Cross and Red Crescent Movement and UN agencies."

International Governmental Organizations place Colombia's situation high in the priority agenda (June 2008)

- The situation in Colombia warrants the inclusion of Colombia in the Inter-American Commission on Human Rights Annual Report, as one of the countries in the regions whose situation requires special attention.
- Organization of American States calls nations in the region to include the needs of internally displaced persons in their policy planning, to address the root causes of displacement, to improve implementation, among others.
- The UN Human Rights Council published the report of the RSG on the Human Rights of Internally Displaced Persons after his visit to Colombia.

IACHR, 29 December 2007:

"As in previous years, the situation in the Republic of Colombia in 2007 fits the criteria established in the introduction to Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR). In the case of Colombia, these criteria that are particularly relevant is the one that concerns the persistence of temporary or structural situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention.

The fifth criterion regards temporary or structural situations that may appear in member states confronted, for various reasons, with situations that seriously affect the enjoyment of fundamental rights enshrined in the American Convention or the American Declaration. This criterion includes, for example: grave situations of violations that prevent the proper application of the rule of law;

serious institutional crises; processes of institutional change which have negative consequences for human rights; or grave omissions in the adoption of the provisions necessary for the effective exercise of fundamental rights. "

UN HCHR, 29 February 2008:

"Throughout the year, the need to guarantee the rights of all victims of violations of human rights and breaches of humanitarian law was placed at the centre of public debate.

In 2007, the Office of the United Nations High Commissioner for Refugees published a comprehensive report on forced displacement in Colombia."

OAS, June 2008:

"[...] Urge member states to include, as appropriate, in their sectoral plans, policies, and programs, the special needs of internally displaced persons, especially in the preparation of programs to foster development and fight poverty.

[...] Urge member states, to continue considering the implementation in their domestic law or in their policies referring to all stages of displacement the Guiding Principles on Internal Displacement, which reflect certain aspects of international human rights law and international humanitarian law."

UN Financial and Coordination Response (January 2008)

- The Central Emergency Response Fund approved more than 6.3 million dollars for emergency humanitarian assistance.
- Refugees International reports that the IASC's protection working group has been active addressing protection gaps.

UN OCHA, 2008:

"Durante 2007, el Fondo Central de Respuesta a Emergencias (CERF, en inglés) aprobó más de 6.3 millones de dólares para asistencia humanitaria de emergencia en Colombia [...] Más de USD 2,2 millones para asistencia a PSD [personas en situación de desplazamiento] en 2007 en 3 departamentos."

Refugees International, December 2007:

"Since the end of 2006, the international humanitarian community in Colombia has been implementing the Inter-Agency Standing Committee (IASC) coordination mechanism with the objective to improve the overall response to forced displacement in complementarity with the authorities' interventions.

To date, the protection working group has been the most active, performing field visits and assisting local structures to address protection gaps in those areas with increased insecurity and occurrences of massive forced displacement."

Inter-Agency Standing Committee humanitarian response coordination (April 2008)

- Provincial Coordination Mechanisms's actions for IDP in Antioquia, Nariño, Chocó, Bolívar, Sucre, and Norte de Santander.

IASC, 15 April 2008:

"Antioquia

The provincial group provided accompaniment and permanent monitoring to a mass displacement of more than 6,000 IDPs in Tarazá and Valdivia municipalities, due to pressure of illegal armed groups in areas where illicit crop eradication efforts have been conducted.

Nariño

In addition, IASC Nariño has provided humanitarian accompaniment to indigenous communities including the Unipa and Camawari, with the participation of UNHCR, OXFAM, and Solidaridad Internacional to prepare a reestablishment plan for IDPs in Inda Sabaleta.

Chocó

The provincial Coordination Mechanism maintains monitoring and accompaniment efforts to the Istmina situation. During the first months of 2008, around 700 IDPs arrived in the urban area. In addition a review and strengthening of the contingency plan for the area was conducted, and a technical committee was formed to evaluate water-sanitation networks for the Istmina shelters in order to evaluate costs for improving these locations.

Bolívar/Sucre

The provincial IASC prioritized the municipalities in Montes de María region in order to influence and support municipal Development Plans in: Chalán, Colosó, Ovejas, El Carmen de Bolívar, Zambrano, San Onofre, and María la Baja. There was a preparatory meeting with Mayors in these municipalities in order to propose technical assistance and accompaniment in the area for IDPs, and 4 groups were formed, under the responsibility of UN agencies and International NGOs in the zone, to support the process.

Norte de Santander

In this province, the provincial Coordination Mechanism managed to meet with Mayors and Council Presidents of 20 municipalities to include the reparation to victims of violence and the rights-based approach into the Development Plans, with the participation of the National Commission for Reparation and Reconciliation and the Support Mission. In addition, there was constant participation in the Departmental HHRR Committee of Norte de Santander as well as two inter-agency missions, one is the village of Pacelly (Tibú municipality) to accompany the registration of victims of violence; and another to Filo Gringo (El Tarra municipality) to verify potential HR violations."

International humanitarian response (Special report, June 2006)

While the government response to the problem of IDPs remains inadequate and under-resourced, the international humanitarian response has not been commensurate with the scale of the crisis. The UN has sought to promote an inter-agency coordinated response to IDPs with a

first Humanitarian Plan of Action (HPA) launched in November 2002. This plan, with a budget of \$80 million, however, fell short of raising the expected support. A second plan was developed jointly by the United Nations, members of civil society and the government of Colombia, amounting to around \$185 million for 2005. While projects have already started, disagreements about the content of the HPA have risen, as the government has refused to be explicit about the ongoing armed conflict and humanitarian emergency, referring instead to “terrorist violence”; it has also rejected the previously agreed human rights focus of the Plan. The Plan was ultimately launched in early 2005 as a government document, not officially endorsed by the UN.

Given the discrepancy between government and NGO figures, the OCHA’s Internal Displacement Division recommended in January 2005 that the registration standards be re-defined to include the displaced people currently not granted official IDP status, as well as those who flee within the same city or as a result of spraying of coca plantations (IDD, 9 February 2005).

UNHCR in Colombia is mandated primarily to increase the capacity of national institutions and civil society to strengthen IDP protection and to raise standards through technical assistance. In coordination with the National Registrar, it has delivered documents to tens of thousands of IDPs, thus facilitating their access to public services and government assistance. UNHCR also monitors and supports programmes of return and resettlement, when implemented according to the basic principles of voluntariness, dignity and security. The agency has also established free legal aid centres in coordination with the Ombudsman’s Office. It has expanded its presence in the slums of the capital, the main destination for internally displaced people UNHCR, 3 December 2004. For example, a *casa de los derechos* (“house of rights”) was recently opened in Altos de Cazuca, a shanty town on the outskirts of Bogotá where IDPs represent 40 per cent of the population (UNHCR, 30 September 2005).

UN activities focusing on prevention and post-emergency assistance complement the work of the International Committee of the Red Cross (ICRC), which covers most of the emergency response, in coordination with the Colombian Red Cross and the RSS. The ICRC has the largest presence in the country of any international organisation with 17 field offices. This makes possible a rapid emergency response and regular contact with all armed groups. In addition to emergency assistance programmes, the ICRC implements training and advocacy projects to promote respect for international humanitarian law.

The government has sought to silence international organisations voicing concern over the consequences of its policies on the civilian population. While national human rights organisations have increasingly undergone mass arrests and arbitrary detention since 2002, international organisations, and in particular UN organisations and representatives, have been threatened with expulsion or revocation of their mandates (OHCHR, 17 August 2005).

The mandate of the UN Secretary-General’s Special Envoy, James Lemoyne, was not renewed in 2005 after he criticised the government’s security policy. Lemoyne was the focal point for the United Nations system in Colombia tasked with mobilising international assistance for social, humanitarian, human rights, drug control and peace-building activities in Colombia. *El Espectador*, 25 April 2005 The representative of the UN High Commissioner for Human Rights in Colombia, another critical voice, left in January 2006 (OHCHR, 24 January 2006).

The government has also sought to control the language used by international agencies and foreign diplomats. It sent guidelines to foreign ambassadors and representatives of foreign agencies in June 2005 discouraging the use of terms such as “armed conflict”, “non-state actors”, “civil protection”, “peace communities”, “peace territories” or “humanitarian space”. The government also discouraged international agencies from undertaking “so-called ‘humanitarian activities’” (*El Alto Comisionado para la Paz*, 14 June 2005).

UN agencies' space for undertaking advocacy and protection activities in favour of IDPs has consequently been greatly reduced. Even UNHCR's lead role in providing protection and assistance to IDPs appears to be under threat as the International Organisation for Migration (IOM) – an organisation lacking a protection mandate and protection expertise – received a \$100 million grant from the US Agency for International Development (USAID) in late 2005 for the provision of assistance to IDPs and other vulnerable groups for the next five years in partnership with the Pan-American Development Foundation (IOM, 7 October 2005).

Reference to the Guiding Principles on Internal Displacement

Known references to the Guiding Principles on Internal Displacement (2001)

- References to the Guiding Principles in the national legislation
- Other References to the Guiding Principles
- Availability of the Guiding Principles in local languages
- Training on the Guiding Principles

Colombia is the country with the most comprehensive and judicially advanced IDP legislation in the world. A legal framework made up of laws, presidential decrees, government policy documents and court decisions, regulate the prevention, protection, assistance and return/resettlement of people internally displaced. This framework also sets up coordinating structures and defines concrete responsibilities of each government institution. The centerpiece of this legal framework is Law 387 from 1997. In addition, the government has developed an extensive array of IDP policy documents. The Colombian Constitutional Court has issued several decisions and opinions interpreting the legal rights of the displaced, basing their opinion on the UN Guiding Principles.

UNHCR has compiled online all legal documents related to internal displacement in Colombia:

Colombian legislation relative to internal displacement

<http://www.acnur.org/secciones/index.php?viewCat=77#833>

Colombian Jurisprudence

<http://www.acnur.org/secciones/index.php?viewCat=97>

Cases and reports of the Inter-American Bodies of Human Rights on Colombian IDPs

<http://www.acnur.org/secciones/index.php?viewCat=27>

Only very few examples have been here selected out of the extensive Colombian legal framework. See also the above sections on Legal Framework and Government Policy and Gaps in the enforcement of existing laws.

References to the Guiding Principles in the national legislation

Constitutional Court Decision SU-1150

"This decision, from August 2000, is elaborated and handed down in response to three different IDP situations reportedly not attended to by the authorities. In one of the three cases, the Court order the President of Colombia to assure the provision of shelter to a displaced community in

Medellín and to include them in existing IDP support programmes. More importantly, as a result of its exhaustive analysis of the IDP situation the Court calls on the President to further develop and regulate ("reglamentar") existing legislation in order to better define the government agencies' responsibilities in relation to IDPs.

The court sentence reviews the Special Representative, Mr. Francis Deng's two reports on Colombia as well as the UN Guiding Principles. It suggests that the Principles be the "parameter for any new legislation on displacement as well as for the interpretation of the existing IDP legislation, and the assistance to displaced persons."

Source: Global IDP Project, May 2001, p. 16

Date: August 2000

Constitutional Court Decision T-327

"Decision T-327 from 26 March 2001 is a 40-page analytical document deciding in favor of a displaced person refused entry into the government's Central IDP Registry. Through out its analytical deliberations leading up to the decision, the Court emits important and critical opinions on the government's distinction between the "condition of being displaced" vs. "a de facto situation of being displaced". The former is a requirement for access to government support, but requires the displaced's formal "certification" as an IDP. The Court, holding up the concept of "presumption of good faith", argues that displacement is a de facto situation, which does not have to be "certified" by the authorities. It further emits a critical view of the government's concept of "cessation of displacement" and the exclusion from the IDP registry.

In this decision, the Constitutional Court frequently uses the UN Guiding Principles as a yardstick, when commenting on national norms. It even places the Principles above national legislation, referring to them as "supranational legislation". It also stresses the need for training in the Guiding Principles, particularly for recipients of IDP declarations, e.g. Municipal Human Rights Ombudspersons."

Source: Global IDP Project, May 2001, pp. 16-17

Date: 26 March 2001

Presidential Directive No.6

This Directive, promulgated by the then Presiden Pastrana, in October 2001, is meant to further strengthen already existing legislation and confirms the Constitutional Court's opinion that the Guiding Principles on Internal Displacement are on the same level as the Colombian Constitution. In order to improve its response mechanisms to displacement, Directive No.6 mandated the Social Solidarity Network (Government Agency dealing with displacement) to issue 'humanitarian orders' to all appropriate ministries, government officials, authorities, the police and state agencies, as well as the media, to take action pertaining to the situation of displacement, within ten days. This, in the fields of prevention, protection humanitarian assistance, as well as resettlement and long-term sustainability.

Source: Government of Colombia

Date: 28 November 2001

Other References to the Guiding Principles (in chronological order)

"[...] even if the instruments above could be seen as the most important, a large number of other laws, presidential and ministerial decrees, court decisions etc., refer to and affect the response to the situation of the displaced" (Global IDP Project, May 2001, p. 17)

CONPES 3057
"The current IDP policy document, CONPES 3057 from 10 November 1999, updates the two previous CONPES from 1995 and 1997. It provides an analysis of the current (1999) IDP situation and the existing mechanisms to attend to IDPs, including a graphic presentation of the institutional arrangements in place. Next, it goes on to present the activities foreseen in the field of prevention, protection, humanitarian assistance and return/resettlement. In the introduction to the document, the government explicitly states its commitment to "promote and respect the implementation of the Guiding Principles"
Source: Global IDP Project, May 2001, pp. 16-17
Date: 10 November 1999

Availability of the Guiding Principles in local languages

The Guiding Principles are widely available in Spanish. Published by OCHA, translated by : Principios Rectores De Los Desplazamientos Internos
Source: OCHA; Mr Francis Deng, the Representative of the Secretary-General on Internally Displaced Persons; Mr Sergio Vieira De Mello Assistant to the Secretary General for Humanitarian Affairs, To download the full document click here: [External Link]
Date: 1998

Training on the Guiding Principles (in chronological order)

"From 27 to 29 May 1999, a Workshop on Implementing the Guiding Principles on Internal Displacement was held in Bogotá, Colombia. [...] The workshop was jointly convened by the Brookings Institution Project on Internal Displacement (Washington D.C.), the <u>Grupo de Apoyo a Organizaciones de Desplazados (GAD)</u> , (Bogotá), The GAD (the Support Group for Organizations of Internally Displaced Persons), is a coalition of 13 Colombian human rights NGOs working with displaced populations and the U.S. Committee for Refugees (Washington D.C.). The main objective of the workshop was to disseminate and promote implementation of the Guiding Principles in Colombia through a detailed analysis of the degree to which the Guiding Principles are currently being applied. For this purpose, the convening organizations invited to the workshop representatives of the Government of Colombia, United Nations agencies present in Colombia, the International Committee of the Red Cross (ICRC), national and international non-governmental organizations (NGOs), the Catholic Church, as well as representatives of communities of IDPs."
Source: UN HCHR, 16 November 1999, paras.1-3
Date: 27- 29 May 1999
Documents: E/CN.4/2000/83/Add.2, 16 November 1999 Report of the Representative of the Secretary-General on Internally Displaced Persons, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1999/47 Addendum To download the full document click here: [External Link]

[http://www.unhcr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.2000.83.Add.2.En?Opendocument](http://www.unhcr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.2000.83.Add.2.En?Opendocument)

"From the 15-17 May 2001, the Global IDP Project of the Norwegian Refugee Council (NRC) and the Colombian Human Rights Ombudsman's Office organized a [Workshop on the UN Guiding Principles on Internal Displacement and the Colombian IDP legislation in Santa Fe de Antioquia (Colombia)]. [...]

In the Colombia workshop as much time and attention was dedicated to the Colombian IDP legislation as to the UN Guiding Principles. In addition to Colombian Law 387 on internal displacement (1997), the workshop analyzed and discussed the government's latest IDP policy document (CONPES 3057 from 1999), two presidential decrees on displacement (Decree 173 from 1998 and 2569 from 2000) and several decisions by the Colombian Constitutional Court (SU-1150 from 2000, T-327 from 2001, etc.).

[...]

Unlike previous workshops, which targeted a wider audience the Colombian workshop focused specifically on MOs. Forty-three recently elected Municipal Ombudspersons were selected from the province of Antioquia, the region most affected by internal displacement. [...] The Ombudspersons, and the institution they represent, play a key role in Colombian legislation as it relates to IDPs. The Public Ministry, and particularly the Human Rights Ombudsman's Office within that ministry, has been assigned a lead role on prevention as well as the protection of IDPs during displacement, and once they are returned or resettled. In addition, the Ombudsman's Office has been called upon by the Colombian Constitutional Court to target civil servants for dissemination of relevant laws and norms, which regulate the authorities' treatment of IDPs (Decision SU-1150/2000, par. 40). Responding to that court decision, the Ombudsman's Regional Office in Antioquia and the Global IDP Project exclusively targeted Municipal Ombudspersons for this workshop.

The three-day programme also received support from the National Ombudsman's IDP Unit in Bogota, the Social Solidarity Network, the UN High Commissioner for Human Rights and the UN High Commissioner for Refugees. Each of these institutions presented and facilitated the development of a respective agenda item."

Source: Global IDP Project, 15-17 May 2001, p.2

Date: 15-17 May 2001

Documents: To access the full workshop report in English click here:
http://www.idpproject.org/training/reports/colombia_2001.pdf

To access the full workshop report in Spanish click here:
http://www.idpproject.org/training/reports/colombia_2001_spanish.pdf

From May 16-18 2001, the TGD (Theme Group on Displacement) and OCHA (UN Organisation for the Coordination of Humanitarian Affairs) organized a workshop in Bogotá, coordinated by UNHCR (UN High Commissioner for Refugees), on the Guiding Principles in with internally displaced women. The workshop, *Consulta con mujeres desplazadas sobre principios rectores del desplazamiento*, was an inter-institutional effort to address the special needs of displaced women, adolescent and girls, to integrate them the national agenda on internal displacement. The workshop's goals were not only technical and juridical but also sociological, by addressing displacement during conflict as experienced by Colombian girls, adolescent and women. It aimed at strengthening the legal instruments and policies to integrate the gender-specific

protection as well as assistance needs.
Source: UNHCR, TGD, OCHA
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