

COLOMBIA:

New displacement continues, response still ineffective

A profile of the internal displacement situation

3 July, 2009

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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.

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OVERVIEW

Colombia: New displacement continues, response still ineffective

The protracted internal armed conflict in Colombia had to May 2009 displaced almost 3.1 million people according to the government, and over 4.6 million people according to a reliable non-governmental source. Nevertheless, under-registration in the government's system remains pervasive. In 2008, Colombia's highest administrative court derogated a decree that determined that internally displaced people (IDPs) could only be included in the national registry up to one year after being displaced, and in January, 2009, the Constitutional Court directed the government to decisively tackle this problem by improving registration systems.

All parties to the conflict, including guerrilla groups, the new armed groups which have emerged since the demobilisation of paramilitaries, and state forces, are responsible for forced displacement and human rights abuses and violations. According to a recent survey, threats directed at civilians by the illegal armed groups have become the single greatest cause of internal displacement. Human rights violations by government forces have continued, including systematic extra-judicial executions. Additionally, aerial fumigations of illegal crops, which also destroy other crops, have caused displacement by causing food insecurity. Finally, human rights defenders, including IDP leaders, have continued to be threatened, attacked, and killed, and discredited by government.

The government's response to the plight of IDPs has continued to improve, but not enough to meet the benchmarks set by the Constitutional Court. The Court has ordered significant amendments to government policy and programmes for IDPs and has continued to measure the enjoyment of rights of the displaced population, declaring in January 2009 that the "unconstitutional state of affairs" in the government's response for IDPs, originally declared in 2004, continued. In June 2009, a proposed law to protect and provide reparations to victims of conflict, the so-called "victims' law", was defeated by a government majority in the House of Representatives.

The Court's data shows that the biggest gaps relate to housing, income generation, and protection of land. Much more needs to be done to prevent new displacement, protect the displaced population, and implement durable solutions through effective reparations and solutions other than return – only three per cent of the displaced population wish to return to their place of origin under the current conditions.

Context and causes of displacement

Colombia's protracted conflict has many battlefronts across most of the country's regions, including the Pacific and Caribbean coasts, the Central Andes, and the Amazon region. Parties to the conflict include government forces, remnants of demobilised paramilitary groups, and rebel groups including the Revolutionary Armed Forces of Colombia (*Fuerzas Armadas Revolucionarias de Colombia* or FARC) and the National Liberation Army (*Ejército de Liberación Nacional* or ELN). Besides confrontations among armed actors, the violence is characterised by attacks and threats by armed groups against the civilian population. Recent data show that direct threats are the greatest cause of internal displacement (Comisión de Seguimiento, 2009). Threats are used to intimidate the civilian population and maintain the domination of illegal groups over certain areas, and also as a tool to drive small farmers from land to develop legal and illegal crops.

The government has carried out sustained anti-insurgency and anti-narcotics campaigns during the seven years of Alvaro Uribe's presidency, which have clearly weakened the FARC (ICG, March 2009). However they have resulted in widespread breaches of international humanitarian and human rights law by all parties involved, and in massive internal and cross-border displacement of the country's rural civilian population (OHCHR, 2009; IACHR, December 2007; USDoS, 2009). Hopes for a negotiated end to the conflict remain faint, especially now that the FARC have announced their re-grouping and drawn up a new military plan that includes more attacks into urban centres (El Espectador, February, 2009).

Latest displacement figures

Internal displacement currently affects between six and ten per cent of the population and the rate of new displacement has increased. According to the reliable non-governmental Observatory on Human Rights and Displacement (*Consultoría para los Derechos Humanos y el Desplazamiento* or CODHES), over 380,000 people were newly displaced in 2008, bringing the total number of IDPs to over 4.6 million. In 2008 the number of people newly displaced was 24 per cent higher than in 2007, and the rate of displacement per 100,000 inhabitants increased from 713 in 2007 to 888 in 2008 (CODHES, 2009). The government's figures for new displacement in 2008 are only slightly lower, as it registered over 370,000 new IDPs, but the government's total is significantly lower at just under three million. 2008 thus continues a pattern whereby yearly CODHES's and Government figures follow a similar trend (IDMC, 2009).

The difference in the cumulative figure is accounted for by various reasons. First, CODHES's system has been estimating IDP movements since 1993, while the government's National Registry of Displaced Population (*Registro Único de Población Desplazada* or RUPD) was only launched in 2000. Second, as the government has acknowledged, there is a high rate of under-registration. A recent survey mandated by the Constitutional Court showed that only 65 per cent of IDPs are registered in the RUPD, as some IDPs do not declare their situation of displacement because of lack of information or their fear of coming forward, and other IDPs who declare are rejected (Comisión de Seguimiento, 2009).

Under-registration may also have been due to the limited registration period: shortly after the RUPD was launched, Decree 1569 of 2000 restricted the time that IDPs had to register to one year from their displacement. In June 2008 the country's highest administrative court (the *Consejo de Estado*) invalidated the Decree, meaning that people displaced before 2000 could finally apply to register as IDPs. The government has since argued that the high displacement figures during 2008 reflected the large number of people who requested registration when the one-year rule was invalidated.

Addressing the problem of under-registration is fundamental to IDP protection, as those IDPs not registered in the RUPD are consistently more vulnerable (Comisión de Seguimiento, 2009). In January 2009, the Constitutional Court ordered the government to make efforts to solve the problem (Constitutional Court of Colombia, 26 January 2009). Government agencies, including local authorities, are due to report back to the Court about progress made on 30 October 2009.

Patterns of displacement

Individual displacement continues to be the dominant pattern of displacement in Colombia, accounting for 89 per cent of displacement (Comisión de Seguimiento, 2009). Only 11 per cent of new IDPs included in the RUPD were displaced in mass incidents in 2008. There were 82 mass displacements in 19 Colombian departments, with the departments of Nariño (bordering Ecuador to the south-west) and Chocó (on the Pacific coast) most affected (CODHES, 2009, p.4).

Displacement from rural areas to mid-size and large cities is dominant. 92 per cent of the displaced population have been originally displaced from rural areas, and only eight per cent from small and mid-size towns. Of those displaced from rural areas, 93 per cent fled to an urban area and only seven per cent to a rural area (Departamento Nacional de Planeación, 30 June 2008). This pattern is contributing to rapid urbanisation throughout the country. Most displaced people do not remain in their first town of arrival.

86 per cent of IDPs included in the RUPD have been displaced once, while 12 per cent have been displaced twice and only two per cent more than twice (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 2009, p.45).

Profile of the displaced population

Displacement's impact on indigenous people and Afro-Colombians continues to be particularly intense. About 13,500 indigenous people were displaced in 2008, accounting for 3.5 per cent of the total IDP population (CODHES, 2009, p.4). Currently, between 17 and 23 per cent of the displaced population in Colombia is Afro-Colombian (Comisión de Seguimiento, 2009). For both groups, the rates of displacement have increased steadily over time. In February 2009, 17 members of the Awá indigenous group were brutally assassinated in the department of Nariño (UNHCR, 2009), while a report in May evidenced the precarious situation of the Embera indigenous group in the department of Chocó (PAHO, UNHCR, OCHA, and Embera Organization, 2009).

Both indigenous and Afro-Colombian IDPs continue to experience a lower enjoyment of rights than the rest of the displaced population. For instance, only 4.5 per cent of Afro-Colombian IDPs and 2.5 per cent of indigenous IDPs, respectively, live in housing complying with minimum standards (stability of ownership title, materials, services), compared to an already low 5.5 per cent for the rest of the displaced population. Only 11 per cent of the displaced Afro-Colombian population earn the minimum salary. The situation of afro-Colombian women is even more precarious: only 5.3 per cent earn minimum salary. More displaced indigenous people enjoy the right to work than Afro-Colombians; however the rate of displaced indigenous women in employment is 30 per cent lower than of men.

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 had an average of 5.2 children, compared to four for non-displaced families (Comisión de Seguimiento, 2009). 18 per cent of the families registered in the RUPD has a family member with some form of disability, of whom 18 per cent have been disabled by the armed conflict. In January 2009, the Constitutional Court ordered the government to implement specific protection for displaced indigenous, Afro-Colombian, and disabled people; previous decisions in 2008 did the same on behalf of displaced women and children.

Physical security of IDPs and others affected by the conflict

Direct threats, violence including sexual violence, restrictions on free movement including though the deployment of landmines, and forced recruitment continue to threaten the civilian population and to cause new displacement. These violations are perpetrated by the rebel groups and by the new illegal armed groups which emerged after the militias of the United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia*, or AUC) were demobilised in 2006. The new groups continue to commit widespread human rights violations, sometimes with the acquiescence of state forces (OHCHR, 2008). Colombian NGO Indepaz estimates that there are at least 9,000 members of 76 groups in 25 departments throughout the country, giving them the same size and

reach 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.

The government, including officials at the highest levels, has continued to undermine the work of human rights defenders, including IDP representatives. During the Universal Periodic Review conducted by the Human Rights Council at the end of 2008, discrediting of and threats against human rights defenders and union leaders was a major issue of concern raised on several occasions by the members of the working group (UN HRC, January 2009).

IDP leaders and relatives who have received threats have been subsequently assassinated, despite an early warning response system established by the Ombudsman's Office (*Defensoría del Pueblo*). Victims have included a member of the family of a leader of the League of Displaced Women. Furthermore, regional officials of the Ombudsman's Office were themselves threatened in written letters (UNHCR, 2009). These and other attacks recently drove the Constitutional Court to issue a decision calling the government to effectively protect IDP leaders (Constitutional Court of Colombia, January 2009).

Finally, a systematic practice of extra-judicial killings and forced disappearances by government forces, which targeted youth in areas such as Soacha, a slum around Bogotá where many IDPs have settled, was recently exposed and condemned nationally and internationally (UPR, 2009; Special Rapporteur on extra-judicial executions, 2009).

Access of IDPs to basic necessities of life

IDPs throughout the country have been unable to meet many of their basic needs. Housing continues to be the most critical problem, and the one in which the government's response has achieved least progress, according to measurements both by the government and the Constitutional Court-mandated Civil Society Monitoring Commission (*Comisión de Seguimiento*). According to the Commission, only 5.5 per cent of the displaced population live in homes complying with standards on construction materials, available space, access to drinking water and sanitation, and stability of tenancy or ownership (Comisión de Seguimiento, 2009), while the figure is even lower at 3.3 per cent according to the government (Departamento Nacional de Planeación, 2009).

The lack of livelihoods for internally displaced families is also one of the most pressing problems. About half of the displaced population have lost agriculture and livestock-based livelihoods. The large majority of families that had stable and reliable forms of livelihoods have been made destitute because of forced displacement: according to the government only six per cent of IDPs are over the poverty line in 2009 (Departamento Nacional de Planeación, 2009). Roughly half had land before they were displaced, and 94 per cent of those families were forced to abandon that land. Likewise, about half had livestock and 92 per cent of them lost it (Comisión de Seguimiento, 2009). Up to ten million hectares of land (nine per cent of national territory) have been left behind by the displaced population (Comisión de Seguimiento, 2009), and land and livestock left behind have generally been appropriated by the agents of displacement, thus eliminating any option to receive income from it, despite projects to protect land left behind, such as those supported by the World Bank and the International Organization for Migration (World Bank, IOM, 2009). In the face of this, the recent failure to pass a "victims' law" which included an extensive reparations programme dashed the hopes of IDPs and other victims of violence (El Espectador, 2009; Semana, 2009).

The majority of IDPs do not enjoy food security. In a national survey, 68 per cent of respondents registered in the RUPD and 70 per cent of non-registered IDP respondents reported having experienced at least one of the three symptoms of insufficient food security during the preceding

week (Comisión de Seguimiento, 2009, p.151). According to the government, only half of IDPs have sufficient and adequate food, perceive that they have food security, and benefit from food programmes (Departamento Nacional de Planeación, 2009).

Access to health care has prevented the equitable access of IDPs. The majority of the displaced population is eligible for free public health care under a subsidised scheme for those without purchasing power, including IDPs, but their access to these services is limited. Firstly, IDPs can often not access to health care services as the affiliation to the system is linked to the place of residence and is not movable. Secondly, agencies continue to have difficulties in sharing the information needed to enable IDPs to access care: for example, health care providers sometimes lack access to the RUPD and so cannot quickly determine if a person is included (ICRC/WFP, 2007, p.50). Likewise, members of the subsidised scheme have had more difficulty obtaining services or have received services of lower quality than members of the contributive scheme (World Bank, 2008).

Furthermore, aerial fumigations with glyphosate for coca eradication in some departments have had a negative impact on health (Special Rapporteur on the right to health, 2008).

Government response

The 2004 ruling by the Constitutional Court that the widespread violation of IDPs' rights amounted to an "unconstitutional state of affairs" led to gradual improvements in the multi-level, inter-agency National System for the Integral Attention to the Displaced Population (*Sistema Nacional de Atención Integral a la Población Desplazada* or SNAIPD) including a national plan for IDPs, launched in 2005 and ongoing. The government's financial allocation for the SNAIPD has increased steadily from \$177 million (363 billion Colombian pesos) in 2004 to \$525 million (1,080 billion pesos) in 2008 (Departamento Nacional de Planeación, 2008).

Despite this significant increase in funding, the situation of IDPs has not changed significantly and in January 2009 the Constitutional Court declared that the "unconstitutional state of affairs" continued. One cause seems to be the failure of coordination between the different agencies and levels implementing the SNAIPD (Ibáñez, 2008). The national plan for IDPs, together with the national development plan for the period from 2006 to 2010, set forth a comprehensive response to internal displacement, including prevention, humanitarian support and post-conflict integration, to be implemented by a complex network of national and local bodies. As a result, it is not always evident where the responsibility to act lies, or the extent of that responsibility. For example, during the emergency response phase, both local committees and national institutions are charged with providing humanitarian assistance (Ibáñez, 2008, p.5). To overcome these barriers, municipalities have been charged with developing plans to improve coordination and assure a standard response. Nevertheless, to date, not all municipalities have drafted their plans, because of lack of capacity or of will (UNHCR, 2007; Ibáñez, 2008, p.9).

Humanitarian access and international response

Access is generally satisfactory in the towns and cities to which most IDPs have fled, as conflict zones are generally away from urban areas. Nevertheless, illegal armed groups in urban areas have directly threatened humanitarian agencies and human rights supporters including the Ombudsman's Office. Furthermore, it was recently revealed that the government's intelligence service has systematically wiretapped judges, human rights defenders, academics, and journalists (OHCHR, 2009).

For the rural conflict hotspots, access is generally obstructed by the intensity of the fighting. National and international aid organisations in 2008 could not access many newly displaced populations in the departments of Nariño, Valle de Cauca, Arauca, Antioquia, Chocó, and Norte

de Santander (USDoS, 2008). The remote location of conflict areas has also presented major logistical challenges to humanitarian efforts to reach affected populations and to humanitarian aid (Diálogo Inter-Agencial Colombia, 2008).

International NGOs and governments have continued to call attention to the situation in Colombia. 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 2008). Colombia is one of the countries in which the UN has implemented the cluster approach, and protection, early recovery, and assistance clusters have been rolled out as of July 2009. UNHCR is present in Bogotá and in 12 field offices, and has been supporting the efforts of government institutions to improve the response to comply with constitutional court rulings.

BACKGROUND AND CAUSES OF DISPLACEMENT

Background to the situation of internal displacement

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 forcedly 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 quasi-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 reinitiated 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.

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

Causes and agents of Displacement

The national survey of displaced persons conducted by the Civil Society Monitoring Commission in 2008 (for more background on this survey, including a brief description of its methodological aspects, please refer to the methodological note included in the Section entitled "Basic necessities of life," below) found that the following are the causes of internal displacement in Colombia, and also ranked them according to the amount of displacement they produce:

Direct threats from illegal groups, both guerrilla and new illegal armed groups. These actions account for 43,7% of internal displacement.

Massacres account for 11,7%.

Assassinations of family members are responsible for 11%.

Direct combats between the parties in the armed conflict displace 10,5% of the total IDP population.

Assassinations of neighbors or friends account for 7,4%.

Indirect threats for 6,5%.
Forced recruitment for 3,5%.

Furthermore, this survey found that the incidence of direct threats as a cause of displacement has increased in latter years, to the point that it has affected 56,9% of families registered in the National Registry for Displaced Population (RUPD) since 2005 (Comisión de Seguimiento, 30 April 2009, pp. 51).

Additionally, IDPs also identified which armed actor had caused their displacement, in the following order:

1. 32,6% of IDPs singled out paramilitary groups as the cause of their displacement.
2. 24,8% the Fuerzas Armadas Revolucionarias de Colombia (FARC).
3. 14,7% to a non-identified guerrilla group.
4. 12,5% did not know.
5. 10,9% identified more than one of the above actors.

From 2005 onwards, the order of the first two agents changes, with FARC being identified as the main agent of displacement with 32,8%, and self-defense paramilitary groups in second place with 22,6% (Comisión de Seguimiento, 30 April 2009, pp. 51).

IDP POPULATION FIGURES

Note on methodologies to gather IDP figures in Colombia

For more than a decade, there has been disagreement between the government and the civil society about the number of IDPs. The government created a system to count the number of IDPs in 1999, many years after the civil society, which started systematically counting IDPs in Colombia since 1995. The difference in the figures may be accounted, first, by the different methodologies used, and second, by the recognized under-registration in the government figures. Nevertheless, the difference in figures has historically not been extremely significant. In fact, as the graph below by the Consultoría para los Derechos Humanos y el Desplazamiento shows CODHES (CODHES, 22 April 2009), which compares IDP figures by the Government (red line for people who declared displacement) and by CODHES (green line), at points, the government's figures have been higher than CODHES's.



CODHES's methodology

CODHES, the Consultoría para los Derechos Humanos y el Desplazamiento uses a cross-referencing system to estimate the number of displaced persons. CODHES is able to gather information nationally thanks to its network of partners developed through the years, which includes Government human rights and monitoring bodies (Defensoría del Pueblo, Procuraduría del Estado), human rights NGOs, IDP organizations, academic institutions, local governments, and the Catholic church, which has national presence. The organization's researchers visit the sites periodically to contact their network of data sources. Additionally, CODHES conducts a daily, national review of local and regional newspapers and newsletters. In other words, CODHES gathers information from sources present on the ground across the country, cross-

referencing the data provided by all these sources to produce an estimate. CODHES registers intra-urban displacement (displacement within towns) and displacement caused by aerial fumigations for coca eradication. (the government does not.)

Government's methodology

The government's methodology is a 'quasi-census' in the sense that it relies on individual head counts of the people registered in the Unified Registry of Displaced Population (RUPD). Because of its nature, this methodology provides a figure that is accurate down to each person, just like a census provides an exact population count. That is, however, the principle. In reality, the government RUPD does not reflect the real number of IDPs because of enormous under-registration. In other words, the situation resembles to that one of an inaccurate, incomplete census that for various reasons (discussed below) fails to count the entire population.

Rules on IDP registration and their impact on official IDP figures

Law 387 of 1997 (Congress of Colombia, 1997), which was the first statute focusing on the protection of displaced persons, established, in its article 32, the principle that displaced persons have the right to assistance after rendering a simple statement before the authorities. If, afterwards, it was determined that the facts rendered in the statement were not true, the article determined that the person would lose benefits. Therefore, according to Law 387, registration came first—opening the possibility to accessing assistance—and evaluation of the veracity of the declaration came afterwards.

In 2000, the Government passed decree 2569 (Presidente de la República, 2000) which regulated Law 387, restricting its application. Firstly, this decree established the opposite principle, i.e., that evaluation of the veracity of the declaration was to come first, and registration afterwards (article 9 and following.) Secondly, Article 8 of the decree set a deadline of one year after displacement for rendering the declaration. Follow-up reports by the Procuraduría General de la Nación, the highest control body, showed that, after that decree was implemented, 40% of the requests for registration were turned down. (Procuraduría de la Nación, 2007).

This decree (or the relevant articles from it) was invalidated by the Consejo de Estado (the highest Administrative Court) in June 2008. With this decision, the one-year limit was eliminated, opening the possibility for people that were displaced in preceding years to request registration.

The Constitutional Court, for its part, in January 26, 2009, handed down a decision, Auto 011, (Constitutional Court, 2009) on the issue of the registration of displaced persons. In this decision, the Court established that a) important deficiencies with the registration system persist, resulting in significant rates of under-registration; b) that displaced persons have the right to be included in government information systems for displaced persons, through what it called positive or additive *habeas data*—*habeas data* is generally understood as a complaint that can be filed to find out what information is held about the plaintiff in government information systems. c) The Court ordered the Government to register people displaced before 2000, and between 2000 and 2008.

Current IDP figures

Internal displacement currently affects **6 to 10%** of the national population. According to CODHES, in 2008, 380,863 people were newly displaced, adding to previous displacement to create a total number of 4,628,882. 2008 thus brought an increase of 24,47% compared to 2007, and the rate of displacement per 100,000 inhabitants increased from 713 in 2007 to 888 in 2008.

The Government figures for 2008 have a slight variation, registering 372,333. The total figure varies significantly, with 2,977,209. The 2008 government figures are of course influenced by the decision of the Consejo de Estado that invalidated Decree 2569 of 2000, and by the Constitutional Court's Auto 011. What is not clear at present is exactly what percentage of the requests for registration came from displacement that happened in 2008, and what percentage from displacement that happened in previous years. The government argues that, in general, the very high figures for displacement in 2008 do not reflect displacement that actually took place in that year, but are the result of the requests for registration by people that had been displaced in previous years.

Nevertheless, currently, the rates of under-registration are substantially high. The national-survey by the Civil Society Follow-up Commission showed that the 65,7% of IDPs are registered in the RUPD, and the rest (34,3%) is not. Of the not-registered IDPs, 72,8% did not declare its situation of displacement to the relevant authorities, and 26,2% declared but was not included in the Registry (Comisión de Seguimiento, 30 April 2009, pp. 50).

Number of IDPs disaggregated by gender, age, ethnicity, and disability

Women comprise 52% of the total displaced population. 43,4% of IDP households are female-headed households (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 30 April 2009, pp. 66). Internally displaced families included an average of 5.2 children, compared to four for non-displaced families. Of the total number of displaced women between 12 and 49 years of age, 4,7% were pregnant when the data were gathered. This rate was slightly higher for women not registered in the RUPD: 5,1%.

65,5% of people registered in the RUPD are under 25 years of age. The average age of the displaced population registered in the RUPD is 21,9 years. Those not registered are in average one year older. More than 50% of the displaced population is under 18 years of age.

23,7% of the total IDP population belongs to an ethnic group. 16,6% of the total IDP population is afro-Colombian. The number of displaced afro-Colombians has increased steadily over time: in 2003, 6% of the displaced population was afro-Colombian, and in 2005, according to the Government census, this group made up 10% of the displaced population. Likewise, in 2008, 6,5% of the total IDP population belonged to an indigenous group, compared to 3,4% in 2005.

17,5% of the families registered in the RUPD has a family member with some form of disability, out of which 18% have been disabled by the armed conflict. These numbers are significantly higher than those reported by the Government, according to which only 0,64% of the people displaced in the RUPD are disabled. The difference is explained by the Constitutional Court by the large under-registration levels in the Government registry.

Locations of Displacement

Locations of Displacement

Internal displacement occurs in all of 6 of Colombia's regions. The hotspots of displacement are the Pacific Coast departments of, from North to South, Chocó, Valle del Cauca, Cauca and Nariño); the Caribbean departments of César, Magdalena, and Bolívar; the Andean departments of Antioquia, Tolima, Cundinamarca; the Amazon departments of Meta, Caquetá, Putumayo. The table below, drawing on data from Acción Social (government agency for internal displacement) updated to March 31, 2009, (Acción Social, 25 June 2009) shows the departments with the highest accumulated numbers of IDPs, both for departments where displacement originates (left side), and departments receiving IDPs (rights side).

Departments of Expulsion		Departments of Reception	
Department	# of IDP	Department	# of IDP
Antioquia	473,838	Antioquia	453,337
Bolívar	254,309	Bogotá D.C	172,709
Magdalena	219,128	Valle del Cauca	197,199
César	170,376	Bolívar	93,102
Chocó	152,478	Magdalena	117,401
Caquetá	147,596	Sucre	85,376
Tolima	143,072	Santander	72,081
Putumayo	126,513	César	179,473
Valle del Cauca	126,256	Córdoba	70,192
Cauca	122,604	Nariño	119,378

For 2008 alone, the departments with the highest numbers of reception of IDPs were Bogotá with 56.087 IDPs; Antioquia with 51.918; Valle del Cauca with 31.527; Magdalena with 27.256; Nariño with 24.662; Meta with 16.370; Cauca with 16.344 and Córdoba with 12.879 personas. (CODHES, 22 April 2009, pp. 4) For maps showing displacement by department of arrival; for municipalities (political divisions within departments) of arrival, and others, see CODHES, 22 April 2009, pp. 12 onwards.)

IDP POPULATION MOVEMENTS AND PATTERNS

IDP Population Movements and Patterns

Mass vs. individual displacement

Individual displacement, or displacement *gota a gota* (drop-by-drop) continues to be dominant pattern of displacement in Colombia, accounting for 89% of displacement. Mass displacement accounts for the difference. Throughout 2008, there were 82 cases of mass displacements in 19 Colombian departments. The departments most affected with mass displacement were Nariño (bordering with Ecuador to the South) and Chocó (Pacific Coast) (CODHES, 22 April 2009, pp. 4).

About 13,500 indigenous peoples were displaced in 2008, accounting for 3,5% of the total IDP population in the country (CODHES, 22 April 2009, pp. 4).

Displacement from Rural to Urban areas is the dominant pattern

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 small and mid-size towns. 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. IDPs arriving into the large cities of Bogotá, Barranquilla, Medellín, Cali and Cartagena, end up in the slum areas. (Departamento Nacional de Planeación, 30 June 2008). Displaced populations are dispersed throughout 1,023 of the 1,098 municipalities in the country.

More detailed data from the Comisión de Seguimiento de la Sociedad civil shows slightly that 63% of families registered in the RUPD have been displaced from rural areas, 21,4% from small towns, and 15,6% from larger towns (cabecera municipal) (Comisión de Seguimiento, 30 June 2009, pp. 50).

Multiple displacements

Most IDPs included in the RUPD have been displaced only once (86,2%). However, a still significant proportion—13,8%—has suffered more than one displacement. Within that group, 12% has been displaced twice, while 1,8% has been displaced more than twice. The average number of displacement per family is 1,2 (Comisión de Seguimiento, 30 June 2009, pp. 45).

PHYSICAL SECURITY AND INTEGRITY

Physical Security and Integrity

Extrajudicial killings, forced disappearances, direct threats, landmines, sexual violence, and forced recruitment continues to haunt both the IDP and non-IDP population. Stigmatization of human rights defenders, including IDP leaders, is a common practice, even at the highest levels of government. During the Universal Periodic Review conducted by the Human Rights Council at the end of 2008, stigmatization of and threats against human rights defenders (and union leaders) was a major issue of concern, raised on several times by the States in the working group (UN HRC, Report of the Working Group on the UPR, 9 January 2009).

According to *Acción Social*, the government agency for IDP policy, FARC and the guerrilla 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. The national verification survey 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 a la Política de Pública sobre el Desplazamiento Forzado, 4 June 2008).

In past months, threats and attacks targeted at IDP leaders, which were identified by the Defensoría del Pueblo's Early Warning System, were not swiftly dealt with, resulting in assassinations. Of special concern is the assassination of a family member of a leader of the League of Displaced Women. These and other attacks recently drove the Constitutional Court to issue a specific decision calling the government to effectively protect IDP leaders. (Constitutional Court of Colombia, Auto 009, 26 January 2009).

Also alarming has been the extrajudicial executions by government armed forces. This practice, which in Colombia became known by the somewhat obscure name of "false positives", was first reported to have taken place in Soacha, a slum around Bogotá where thousands of IDPs settle after being displaced. As the UN Special Rapporteur on Extrajudicial Executions, Philip Alston, in his preliminary statement, puts it:

"The phenomenon is well known. The victim is lured under false pretenses by a "recruiter" to a remote location. There, the individual is killed soon after arrival by members of the military. The scene is then manipulated to make it appear as if the individual was legitimately killed in combat. The victim is commonly photographed wearing a guerrilla uniform, and holding a gun or grenade. Victims are often buried anonymously in communal graves, and the killers are rewarded for the results they have achieved in the fight against the guerrillas." (UN Special Rapporteur on extrajudicial, summary or arbitrary executions, 19 June 2009)

The Special Rapporteur continues:

"But while the Soacha killings were undeniably blatant and obscene, my investigations show that they were but the tip of the iceberg. I interviewed witnesses and survivors who described very similar killings in the departments of Antioquia, Arauca, Valle del Cauca, Casanare, Cesar, Córdoba, Huila, Meta, Norte de Santander, Putumayo, Santander, Sucre, and Vichada. A significant number of military units were thus involved."

Additionally, the new illegal paramilitary armed groups, which emerged after the completion of the Autodefensas Unidas de Colombia demobilization in 2006—a process that was flawed both substantively and procedurally, and was regulated by Law 975, a statute whose articles were declared unconstitutional by the Constitutional Court in Decision C-370 of 2006—continue to commit widespread human rights abuses and threatening the population, sometimes with the acquiescence of the State forces (UN HCHR, 31 December 2008). 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 Platforms, 31 July 2008). Some of the more notorious groups are the *Aguilas Negras*, *Organización Nueva Generación* (ONG), *Rastrojos*, *Traquetos*, *Machos* and *Mano Negra* (ICG, 10 May 2007). These groups operate in departments that were traditional AUC strongholds, including Norte de Santander, Nariño, the Atlantic Coast, and Medellín. Recently, these groups sent death threat letters to human rights leaders, including IDP leaders, and to officials at the Defensoría del Pueblo (ombudsman office) in Bogotá and other departments. (UNHCR, 22 May 2009).

Further, as the UN Secretary-General's Representative on the human rights of IDPs 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 (UN GA, 24 January 2007).

Landmines continue to be used by the illegal armed groups throughout the country. According to Handicap International and the Presidential Program for Integrated Action Against Antipersonnel Mines, PAICMA, created in 2007 by upgrading a previous mine action body), 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, 31 October 2007). According to the Landmine Monitor Report for 2008 (International Campaign to Ban Landmines (ICBL), 31 December 2008), there were 193 people killed by mines in 2007, and 702 injured. The largest proportion of these victims are civilian. (OCHA, 18 February 2009; Landmine Monitor, 2008).

PROPERTY, LIVELIHOODS, EDUCATION AND OTHER ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Work and livelihood opportunities and coping strategies

Further specifying the general non-discrimination clause included in Principle 1, Principle 22 of the Guiding Principles on Internal Displacement determines that IDPs shall not be discriminated in the enjoyment of certain individual rights. One of those rights, spelled out in letter b), is the “right to seek freely opportunities for employment and to participate in economic activities.”

In order to verify if the right to food is effectively being enjoyed by the IDP population, the Constitutional Court of Colombia adopted a set of indicators. In turn, these indicators were used by the Civil Society Monitoring Commission in its national survey of the IDP population to determine the enjoyment of this right. The results of the survey were then transmitted to the Court. The indicators were:

The family has at least one autonomous source of income and this income is above the indigence line.

The family has at least one autonomous source of income and this income is above the poverty line.

Additional complementary indicators aimed at evaluating the *length of the work day, nature of the work relationship (formally employed vs. informally employed), access to social security in the workplace.*

These indicators were in turn used by the National Verification Survey to measure the enjoyment of this right. Two findings show how precarious the situation of IDP families is when it comes to the right to work and income generation, and the low degree of realization of this right. First, the percentage of IDP households working in the informal labor market reaches an astounding 96,6%. Second, pertaining income, 98,6% of IDP families has income below the poverty line and 82,6% has income below the indigence line. (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 2009, pp, 206.) These indicators are significantly different to those enjoyed by the general Colombian population.

The situation of households headed by women is even more worrisome—and it must be noted that *more than half* of IDP households are headed by women. For these households, indigence levels reach 86%. It is also noteworthy that the low enjoyment of this right does not improve with time: even for families that were displaced 8 or 9 years ago, indigence levels still near 79%. (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 2009, pp, 206.)

Land and Property (arbitrary deprivation, inheritance, restitution, and compensation)

Scale of Land and Property abandoned as a result of displacement

Estimates of **land** abandoned as a result of internal displacement in Colombia vary. The most conservative estimate places the number at 1,2 million hectares (**Ibáñez, Moya y Velásquez**). At

the other end, the National Movement of Victims estimates that 10 million hectares have been abandoned (Movimiento Nacional de Víctimas, Catastro Alternativo, 14 August 2007). CODHES' estimate is 4,8 million hectares. Acción Social, the government agency for displacement, has a higher figure, 6,8 million hectares (For a full reference of estimates, see Comisión de Seguimiento, Reparar de Manera Integral del Despojo de Tierras y Bienes, 30 April 2009).

Beyond land, an even higher number of families abandon housing. "More than 40% of the families declared having abandoned land [...] [However] the evidence shows that in all cities, the number of families that declare having abandoned housing is higher than the number that declared having abandoned land." (ICRC/WFP, November 2007. IDMC translation). Further, half of the families who abandoned property did not declare the abandonment with an official entity because of lack of knowledge of the procedures, lack of title, or fear. (ICRC/WFP, November 2007).

Relationship between displacement, appropriation of land, and concentration of ownership

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 (Universidad de los Andes, CEDE, Acceso a tierras y desplazamiento forzado en Colombia, 31 May 2004). In addition to this, institutional weaknesses prevent notaries and cadastral registrars from verifying that land sales by them registered are not forced, false, or have unreal prices. (**El paramilitarismo en Colombia: un caso complejo de incumplimiento de normas", 2006**; Universidad de los Andes, CEDE, Del campo a la ciudad en Colombia: La infiltración urbana de los señores de la guerra, 31 January 2005). There is an apparent relationship of association (causality not shown) 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. (**Fajardo, 2002, Fajardo, 2002, cited in Comisión de Seguimiento, 2009**)

According to the National Geography Institute, the Instituto Geográfico Agustín Codazzi (IGAC), 94% (3.346.445 owners) of land owners in the country holds only 18.7% of the total extension of land, while 1.4% (48.212 owners) of land owners holds 65.4% of the total land extension. (Instituto Geográfico Agustín Codazzi, in Comisión de Seguimiento, Reparar de Manera Integral del Despojo de Tierras y Bienes, 2009).

Protection of land and property left behind

With the support of international institutions including the World Bank and IOM, the government's Acción Social has, since 2003, been implementing a program for the protection of land and property left behind by IDPs. The program aims at protecting land that is or was collectively owned; individually owned; and the land of ethnic minorities. (Acción Social, 26 June 2009).

According to the Government's goal-fulfilment tracking system (SIGOB), in 2008 2623 hectares of land were legalized for IDP families, which benefitted 248 families. (graphs 1 and 2 below, Government of Colombia, Indicadores SIGOB, 29 May 2009).

Hectares of land legalized for IDP families:



IDP families benefitting from legalization of land:



The program is an important effort to protect the property of IDPs. However, as shown by the results, more needs to be done. Furthermore, cross-referencing between the Registry of IDP population (RUPD) and Registry of Abandoned Property (RUPTA) shows that an estimated 7,6% of IDPs who abandoned land benefited from programs to protect land abandoned by IDPs (Comisión de Seguimiento, Reparar de Manera Integral del Despojo de Tierras y Bienes, 2009, pp. 86)

Failure to adopt a legal framework for reparations

In June 2009, the Colombian Congress repealed the so-called “Victims Law”, which included a reparations and property restitution plan for the victims of violence, including IDPs (El

Espectador, 18 June 2009). This bill had been promoted by liberal representatives, by victim's organizations, and by national and international NGOs. This law would have given full implementation to the Constitutional Court's decision of 2007 which ruled that victims right to reparation and property restitution had to be fulfilled. (Constitutional Court of Colombia, Sentencia T-821, 5 October 2007). The pro-government's argument was that the law would have been impossible to implement because of the amount of funds required. An incomplete framework for reparations exists, Decree 1290 in April 2008. It created a program for individual restitutions through an administrative procedure. This program is insufficient as it does not contemplate tailored-made mechanisms for restitution to IDPs, instead drawing on general existing rules on property, and it uses a partial housing subsidy as a reparatory mechanism. (Comisión de Seguimiento, Superar la Exclusión de la Población Desplazada, 30 April 2009, pp. 31.)

Education and educational programs

Guiding Principle 23, drawing on applicable and binding human rights law, re-states the right of every human being to education, which shall be compulsory and free at the primary level, and shall respect cultural identity, language, and religion, and shall also assure equal participation of women and girls.

In order to verify if the right to education is effectively being enjoyed by the IDP population in Colombia, the Constitutional Court of Colombia adopted, in 2007, a set of indicators, which were then used by the Civil Society Monitoring Commission in its national survey of the IDP population to determine the enjoyment of this right. The results of the survey were then transmitted to the Court. The indicators pertaining education were:

- 1. The percentage of displaced children registered in the Unified Registry of Displaced persons that are currently receiving education at a government school.*
- 2. Percentage of children that benefit from additional support measures to assure that they continue with their education.*

October 10, 2008, when evaluating the overall enjoyment of rights of IDP children, the Court also dealt with education, and found that "serious problems in education, especially pertaining to reach and access, permanency, flexibility, and adaptability of the system" (Constitutional Court of Colombia, Auto 251, 6 October 2008). The Court ordered the Government to adopt a variety of programs to address the special protection needs of displaced children, especially access to education.

Thus, other components (in addition to access) of the enjoyment of this right evaluated by the national survey conducted by the Civil Society Monitoring Commission were quality, availability and permanency. (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 2009, pp. 122).

The survey found that 82,6% of displaced children and youth between 5 and 17 years of age are registered and attend classes at a formal education centre. This reflects progress in the accessibility of education for the displaced population. (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 2009, pp. 141). These data need to be contrasted with the official registries held by the government.

Pertaining additional support measures to assure that children and youth remain in school, the outcomes are not as encouraging. Only 10,7% of students receives books, supplies, and transportation to attend school.

Additionally, comparing displaced children and youth's access to education, 50% IDP youth has access to secondary education, vs. 63% for non-IDP youth. Furthermore, over age in education is problematic: 17% of non-IDP youth between 12 and 15 years of age are in grade school, while for IDPs it is as high as 34%.

The Government, through Acción Social, has been implementing the program Familias en Acción (Families in Action), which is a subsidy for education (and nutrition) for displaced families. (The program also benefits the non-displaced poor). The graph below, by the Government of Colombia's System for Follow up of the National Development Plan shows the number of families that have benefitted from the program.

Full information on the impacts of Familias en Acción is available: (Government of Colombia, 19 May 2009).



BASIC NECESSITIES OF LIFE

Methodological note and data sources for this section

The deficient governmental response to the situation of the internally displaced population—despite the existence of a domestic law for the protection of IDPs, passed in 1997—led the highest Court in Colombia, the Constitutional Court, to declare in 2004 that the government's response to internal displacement amounted to an “unconstitutional state of affairs” (Constitutional Court, Sentencia T-025, 2004). 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.

To overcome this situation in which the entire IDP population's rights are not duly realized, the Constitutional Court ordered the government to produce outcome indicators to evaluate its response and to allow the Court to determine if the structural inadequacy of the response has been overcome. The Court emphasized 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. The Court adopted a final set of indicators on May 2008 (Constitutional Court, Auto 116, 2008), which were to be used to measure the situation of IDPs.

This launched a follow-up process known as the “verification process.” The relevant government agencies were charged with producing accurate data on the situation of the displaced population using the set of indicators, and, additionally, the Court mandated a civil society body, the Civil Society Monitoring Commission (Comisión de Seguimiento de la Sociedad Civil), with evaluating the situation of IDPs using the indicators and reporting back to the Court. The government's control entity, the Procuraduría General de la Nación, was also due to report back to the Court.

The Government and the Civil Society Monitoring Commission and the Government reported back to the Court in 2008. In January, 2009, the Court found, based on the data brought back by both parties, that IDPs could still not fully enjoy their rights, and thus sustained the “unconstitutional state of affairs.” (Constitutional Court, Auto 008 of 2009). Reports by the Government's control agency, the Procuraduría General de la Nación, found that the government had not fulfilled its obligations in the protection of the displaced population (Procuraduría General de la Nación, 21 November 2006). Thus, the Court gave a new term for the Government to adjust its policy and for a new evaluation exercise, which is ongoing.

This section on basic necessities of life of IDPs is based on data gathered by the Civil Society Monitoring Commission and by the Government within this process. These data constitute the most accurate, up-to-date indicators of the situation of IDPs in Colombia. Both the Commission and the Government conducted national-level surveys on statistically generalizable samples, in addition to using other sources of data (such as the 2005 census data). Other sources of data are also used when available and relevant.

At the beginning of each sub-section, the indicators that were used by the verifying entity will be transcribed, and the section will reference the information on the enjoyment of rights based on these indicators, as reported by the Civil Society Follow-up Commission and the Government. Additionally, each section will offer a comparison, when data are available, between the enjoyment of rights by the displaced population and the non-displaced population.

Right to Food

I. Enjoyment of the Right to Food

Guiding Principle 18, drawing on applicable and binding human rights law, determines: “1. All internally displaced persons have the right to an adequate standard of living. 2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: a) Essential food and potable water.”

In order to verify if the right to food is effectively being enjoyed by the IDP population, the Constitutional Court of Colombia adopted a set of indicators. In turn, these indicators were used by the Civil Society Monitoring Commission in its national survey of the IDP population to determine the enjoyment of this right. The results of the survey were then transmitted to the Court. The indicators were:

- 1. The family has available edible food and has access to enough quantity of it.*
- 2. All children in the family who are not under and adult's care have access to food programs.*
- 3. Number of families in which all family members are able to eat three meals a day.*

The Commission's survey found that the food security situation among the adult IDP population is critical. 67,6% of the IDP population registered in the Unified Registry of Displaced Population (RUPD), and 69,9% of the IDP population not registered in the RUPD, declared having experienced at least one of the three symptoms of insufficient food security during the week preceding the survey (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 30 April 2009, pp. 151).

Likewise, the Commission noted that women showed the highest symptoms of insufficient food security as defined in the three above indicators in comparison to men, particularly in the group not registered in the RUPD. While 68,1% and 71,5% of women registered and not registered in the RUPD, respectively, declared having experienced at least one of the above food security indicators, 67,1% and 68,3% of men registered and not registered in the RUPD, respectively, experienced the same situation (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 30 April 2009, pp. 151). Furthermore, it was found that the overall food security situation of non-registered population in comparison to RUPD-registered population was worse. The Commission also points out that the food security situation of IDPs worsened in 2008 in comparison to 2007. This worsening is due to the inflation in food prices in 2008.

When the results are disaggregated by age groups, it is found that the right to food for children and old people is also severely unfulfilled, albeit less than for the adult population. 52,3% of the RUPD-registered children and 56,8% of the non-registered population declared experiencing at least one of the situations described in the three indicators. For the population over 60 years of age, an alarming 73,4% (people between 60 and 64) and 72,5% (people over 65) declared experiencing at least one situation of food insecurity. Likewise, their situation worsened in 2008 (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 30 April 2009, pp. 153).

The Government's survey's results are comparable. It found that 55% of the displaced population have adequate enjoyment of their right to food. This is a global indicator comprising three components: adequate food consumption, food security, and access to food programs (Departamento Nacional de Planeación, 2 January 2009).

For its part, the World Food Program, which operates large-scale emergency food assistance in Colombia estimated that

“In the larger cities, 60% of all displaced households are food-insecure or at risk of food insecurity. Food consumption patterns among displaced households show low levels of dietary diversity and limited frequency of consumption. Ninety percent of households reported that they purchase almost all of the food they eat. Lack of proteins and nutrients may have adverse consequences among women and young children.”

“Data from a study of smaller cities and municipalities covering six sub-regions were analysed in order to better understand the relationship between food security and nutrition. Approximately 71 percent of IDP households sampled were food-insecure or at risk of food insecurity. These figures indicate that displaced people in smaller towns seem to be worse off than their larger-city counterparts.” (WFP, 2008)

II. Governmental Programs to Fulfill the Right to Food

In addition to adopting and using indicators to determine the actual enjoyment of the right to food, the Constitutional Court also adopted indicators to evaluate governmental programs aimed at fulfilling this fundamental right. These were:

1. *Number of adults receiving food complements.*
2. *Pregnant or breastfeeding mothers receiving food rations.*
3. *Children between 6 months and 5 years receiving food rations.*
4. *Children under 6 years receiving breakfast.*
5. *Children benefiting from school restaurants.*

An important first finding by the Commission’s survey is that only 4,6% and 2% of the RUPD-registered and non-registered population, respectively, received emergency or humanitarian food relief. Additionally, it must be noted that the emergency food relief provided by the government is only given to the registered population. Thus, relief aid for non-registered population must come from other sources, and needs to be dramatically increased.

Beyond emergency food distribution, the Commission’s survey found that 64% of the RUPD-registered population and 45% of the non-registered population was included in the *Familias en Acción* program. This program delivers a school subsidy and a nutritional subsidy for twelve months. For children between 0 and 17 years of age, the Government’s survey reported that a low 17,2% are part of food programs. (Departamento Nacional de Planeación, 2 January 2009).

Beyond *Familias en Acción* subsidies, programs that hand out food ready to be prepared in general have very low coverage. Only 7,9% and 4,2% of the registered and non-registered IDP population, respectively, benefited from these programs.

Right to Health

Guiding Principle 18, drawing on applicable and binding human rights law, determines: “1. All internally displaced persons have the right to an adequate standard of living. 2. At the minimum,

regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: d) Essential medical services and sanitation.” Guiding Principle 19 reflects both humanitarian law and human rights law in establishing that “All wounded and sick internally displaced persons, as well as those with disabilities, shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.” Further, paragraphs 2 and 3 of the same Principle establish the need for special attention to the health needs of women, including reproductive health, and to the prevention of contagious diseases, including AIDS, among IDPs.

In order to verify if the right to health is effectively being enjoyed by the IDP population, the Constitutional Court of Colombia adopted a set of indicators. In turn, these indicators were used by the Civil Society Monitoring Commission in its national survey of the IDP population to determine the enjoyment of this right. The results of the survey were then transmitted to the Court. The indicators were:

1. *Percentage of people included in the Unified Registry of Displaced Population (RUPD) that are affiliated to the General System for Health Social Security (SGSSS).*
2. *Percentage of people included in the Unified Registry of Displaced Population (RUPD) that receive psycho-social support.*
3. *Percentage of children included in the RUPD with access to all required vaccines.*

Additionally, the national survey conducted by the Civil Society Monitoring Commission looked into the actual state of health of the IDP population, as well as the levels of impacts of various diseases.

Mixed results were found in relation to the realization of this right. A positive result is that the majority of the displaced population is affiliated with the SGSSS under the subsidized scheme—69,7% for the RUPD-registered population and 57,4% for the non-registered population. The IDP population affiliated to the contributive health scheme (not subsidized) is only 6,7%. While it is encouraging that most of the IDP population has access to subsidized health care, this is also an indicator of the low and unstable income of the IDP population, which does not allow it to switch to the contributive scheme (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 30 April 2009, pp. 119). According to the Government, the percentage of affiliation to the public health system is 77,8%, 60,3% of IDPs receive psycho-social support, and 6,8% of IDP children have been fully vaccinated (Departamento Nacional de Planeación, 2009).

A gap remains between registration in the public health system and access to services. Firstly, an unjustifiable problem is that the affiliation to the system is linked to the place of residence and *is not* movable. This renders access for IDPs entirely ineffective, as, by definition, IDPs are forced to leave their place of residence. Additionally, other sources have identified coordination problems between agencies: for example, entities providing health services sometimes lack access to the RUPD. Therefore, they can not quickly ascertain if a person is in fact included in the RUPD. This has a negative impact on displaced families’ access to health services (ICRC/WFP, 2007, pp. 50). Another study also found that members of the subsidized scheme have had more difficulty obtaining services or have received services of lower quality as members of these schemes (World Bank, September 2008).

Pertaining the health condition of IDPs, the Commission’s survey found that 23,9% of the IDP population registered in the RUPD was sick sometime in the 30 days before the survey. 86% of children under 5 years of age has been vaccinated with the first dose of the NMR vaccine, a level

significantly below the 95% threshold of impact for vaccinations (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 2009, pp. 115).

In addition to the shortcomings identified by the Survey, aerial fumigations with glyphosate for coca eradication 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 (United Nations Human Rights Council (UN HRC), 4 March 2008). Colombia is the only country in the world using aerial spraying for the eradication of coca.

Right to Shelter and Housing

I. Enjoyment of the Right to Housing

In order to verify if the right to housing is effectively being enjoyed by the IDP population, the Constitutional Court adopted a set of indicators. In turn, these indicators were used by the Civil Society Monitoring Commission in its national survey of the IDP population to determine the enjoyment of this right. The results of the survey were then transmitted to the Court. The indicators for the right to housing were:

1. *Legal security and stability pertaining to owners' rights.*
2. *Availability and closeness of services, materials, facilities, and infrastructure.*
3. *Sustainability of expenses.*
4. *Habitability of housing.*
5. *Accessibility of housing.*
6. *Location of housing.*
7. *Cultural sensitivity of housing.*

The Constitutional Court declared that, pertaining the IDP population, the right to adequate housing is fundamental because IDPs have been forced to abandon their own houses and consequently experience inappropriate housing conditions in their places of displacement. According to the data gathered by the Commission and the Government, housing for IDPs is precisely the area with the worse situation.

A *dignity of housing* composite index comprising all the above indicators shows that only 5,5% and 6,9% of IDP families registered in the RUPD and not registered, respectively, enjoys a *dignity of housing* living situation (Comisión de Seguimiento, 30 April 2009). Consequently, the right to housing among the IDP population in Colombia is far from being realized (Comisión de Seguimiento, 30 April 2009, pp, 174). In general terms, these findings were corroborated by a previous survey conducted in eight cities by the World Food Program and the ICRC in 2007 (WFP/ICRC, November 2007). And the data gathered by the Government shows even a more dire situation: 3% of the IDP population has adequate housing (Departamento Nacional de Planeación, 2 January 2009).

An overall finding pertaining to stability of ownership rights is that only 16,4% and 14,9% of registered and non-registered population, respectively, enjoy legal safety in the ownership of their homes. 58,6% of those who own their homes claim to have fully paid for it but do not have a registered legal title. The most common arrangement for IDP families is through verbal rent

agreement, which, according to Colombian law, must be renewed every month, which causes high instability. Finally, 11,1% of the IDP population live in housing occupied *de facto*, i.e., without any legal arrangement (Comisión de Seguimiento, 30 April 2009, pp, 174).

Pertaining the other indicators which comprise the composite indicator, the Survey found that among the IDP population, 3,2 people share a bedroom, a number above the indicator used to measure crowding, according to which crowding occurs when more than three people share a bedroom. Pertaining materials of housing, 73,3% and 76,6% of registered and non-registered IDP population, respectively, lives in housing built with adequate materials, percentages that are lower compared to the 90,98% registered for the general population. 16,5% of IDP RUPD-registered families live in locations declared as high-risk, and 11,9% in areas that have been affected by some form of high-risk event.

II. Governmental Programs to Fulfill the Right to Housing

In addition to adopting and using indicators to determine the actual enjoyment of the right to housing, the Constitutional Court also adopted indicators to evaluate governmental programs aimed at fulfilling this right, considered fundamental in view of the fact that IDPs were forcefully abandoned their own housing arrangements. These indicators were:

- 1. Number of families granted subsidies out of families requesting subsidies.*
- 2. Number of families to which subsidies were paid out of families granted subsidies.*
- 3. Number of families given support to improve their homes.*
- 4. Head-of-household women benefiting from rural or urban subsidies.*

The bulk of the government's response to IDPs' housing needs is implemented through partial subsidies. 56,4% of the families registered in the RUPD requested a housing subsidy, and 24,8% of these families received the subsidy. For the families not registered in the RUPD, a lower 15,1% requested the subsidy, and 14,8% of those families were given the subsidy. Of the families registered in the RUPD, 42,1% were given the subsidy for the purchase of a new home, and 26,7% for the purchase of a used home. These numbers show the overall limited reach of the housing policy for IDPs.

FAMILY LIFE, PARTICIPATION, ACCESS TO JUSTICE AND OTHER CIVIL AND POLITICAL RIGHTS

Documentation and Citizenship

In view that most human rights instruments do not adequately protect the right to identity documents, the Guiding Principles on Internal Displacement devote a full paragraph to specifying the importance of this right and the obligations of states under it. Principles 20 paragraph 2 thus determines that IDPs shall be issued the documents necessary to the enjoyment and exercise of their legal rights. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost during displacement, without imposing unreasonable conditions, such as requiring the return of one's area of residence to obtain the required documents.

As part of the verification process led by the Constitutional Court, described in Section 5.1 above, it was found that in Colombia 96,4% of displaced children between 0 and 6 years of age is registered in the civil registry, 62,4% of displaced children and youth between 7 and 17 years of age has an identity card, 96,2% of displaced women older than 18 has an identity card, 79,6% of displaced men in the same age group has an identity card but not the required military document, and 16% have both. Thus, the group in the worst situation is men of 18 years of age and older that do not have both an identity card and the military document (84%), as *both* of these documents are generally required to have formal employment and to exercise citizen rights. This may be one of the causes why so many displaced men are employed in the informal labor market (Comisión de Seguimiento, Garantizar la Observancia de los Derechos de la Población Desplazada, 30 April 2009, pp. 97).

Public Participation

The right to effective and free public participation by IDPs—and by any other group or individual—set forth in Guiding Principle 22.1—is fundamental for the fulfilment of other rights. In this sense, it is a cross-cutting or transversal right. Through effective participation, IDPs can set forth mechanisms for the representation of their interests in political, economic, and social decisions. A survey by the Brookings-Bern Project on Internal Displacement further specifies the *reasons why* public participation is fundamental for IDPs. These include: "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" (Brookings-Bern Project on Internal Displacement, 30 September 2008).

As far as how this right can be operationalized in Colombia (and elsewhere), the Constitutional Court of Colombia has determined that the right to effective participation must *at a minimum* entail: spaces where such participation can be made concrete; basic conditions allowing for

participation; basic guarantees; adequate, understandable, accessible and timely information; and the systematization and evaluation of the observations made by the displaced population.”

Furthermore, the government must promote public participation by IDP associations, which are the main channels by which participation by IDPs can happen. It shall a) provide support to organizational processes; b) allocate funds for logistical support; c) facilitate education and training for IDP leaders; d) guarantee their safety and security; e) respect their autonomy (Comisión de Seguimiento, Aplicar Políticas Públicas Idóneas y Eficientes, 30 April 2009, pp. 115).

With this normative framework as the basis, evaluations found that the right to participation for IDPs is far from being fulfilled in Colombia, both nationally and locally. An assessment 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. Another characterization using a different method, placed real and day-to-day participation by IDPs at the lowest levels. It was found that participation occurs only *passively*, this is, through massive events to gather the opinion of IDPs (Comisión de Seguimiento, Aplicar Políticas Públicas Idóneas y Eficientes, 2009, pp. 123).

Access to Information

In its landmark decision of 2004, the Constitutional Court of Colombia identified that one of the problems with the governmental response to the situation of displacement was that the displaced population did not had “timely and complete information about their rights, institutional benefits, procedures to access them, and institutions responsible for such benefits.” (Constitutional Court of Colombia, Sentencia T-025 of 2004, pp. 52) In its recent decision of 2009, pertaining the right to access information or *habeas data* (Constitutional Court, Auto 011, 2009), discussed in more detail in this profile’s section entitled ‘IDP Population Figures and Profile,’ the Court identifies this as a persistent problem.

One of the aspects of the right to access information is to be able to know where and how benefits offered by the government may be accessible. (The other aspect is the right to have one’s information included in public information systems). For example, the IDP population must know about the institutions providing services, the procedures to access those services, the rules and mechanisms for demanding such benefits when they have not been provided, etc. As the Civil Society Follow-up Commission notes, “various assessments have shown that the displaced population is not aware of the mechanisms to access services and benefits, does not know which are the institutions responsible,” and do not clearly understand their rights as displaced persons (Comisión de Seguimiento, Aplicar Políticas Públicas Idóneas y Eficientes, 30 April 2009, pp. 30). Additionally, many public employees themselves are not aware of the system for the protection and attention to IDPs, and therefore lump the IDP population with the rest of the poor population, placing burdens and requirements that limit the access to benefits from IDPs.

Access to justice and legal remedies

The right to recognition as a person before the law, set forth in Guiding Principle 20, implies the right to justice and, more specifically, the right to equal treatment before tribunals and all other organs administering justice. In Colombia, access to justice and judicial remedies by IDPs has been effectively guaranteed, at least at the highest judicial level.

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. It was precisely the involvement of a high court, the Constitutional Court, which led to an improvement of the response to IDPs.

Justice through an exceptional, constitutional claim

This Court decided on the situation of the displaced population and the governmental response through an appeal of a *tutela* action brought by a group of IDP. A *tutela* action, established in Article 86 of the Colombian Constitution, is a claim that may be brought by individuals to demand the “immediate protection of their constitutional rights, when they are violated or threatened by action or omission of any public authority.” (Colombian Constitution, article 86.) The *tutela* brought by a group IDPs was appealed and came to the Constitutional Court for judgment.

Subsequently, the Constitutional Court declared in 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.

The involvement of the Court for the protection of IDPs rights not only has been a fundamental way to guarantee IDP rights, but has resulted in effective judicial review of government policy, throughout the subsequent involvement of the Court. It has resulted in significant financial increase for IDP policy, the development of IDP-specific programs, among others.

Paramilitary demobilization and justice

The paramilitary demobilization process which ended in 2006 failed to effectively bring justice to the victims of paramilitary abuses. The proceedings did not effectively guarantee the right to justice, truth, and reparation, but left human rights abuses unpunished (IACHR, 2 October 2007).

The Justice and Peace Law of 2005 (Ministerio del Interior y de Justicia, 24 January 2008), was flawed both substantively and procedurally, and several of its articles were declared unconstitutional by the Constitutional Court (Constitutional Court of Colombia, 18 May 2006). The government then issued various decrees that confounded and sometimes contradicted the Court’s mandate, making impunity possible and violating victims’ rights. The Court also issued, within the process described above, Auto 116 of 2008 declaring that the right to justice needed to be addressed decisively by the Government (Constitutional Court of Colombia, 13 May 2008).

Throughout the Justice and Peace proceedings, the victims were not able to effectively participate, bring evidence, or be directly heard (IACHR, 2 October 2007). For example, 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 (Colombian NGO Platforms, 31 July

2008). The first decision condemning a paramilitary member came only in June, 2009 (Saffon, Maria Paula, 23 April 2009).

After demobilizing, 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 demobilized paramilitaries have re-armed, vie for power and control of the drug trade, and target the civilian population, causing new displacement. As the Organization of American States' Mission to Support the Peace Process in Colombia wrote in its last report:

"This does not mean that this process has come to an end, since other illegal groups that are a product of demobilization remain, along with other unresolved problems, which affect the stability of the limited peace achieved with the disappearance of the AUC" (Organization of American States, 2 February 2009).

Furthermore, the recent failure by the Congress to adopt a new Victim's Law, which would have provided redress and reparations for the victims of violence, came as a blow to the access to justice for the victims. **(On this, see Section 6.1.)**

PROTECTION OF SPECIAL CATEGORIES OF IDPS (AGE, GENDER, DIVERSITY)

Background and methodological note for this section

As explained in section 5.1 above, the governmental response to the situation of the internally displaced population—despite the existence of a domestic law for the protection of IDPs, passed in 1997—led the highest Court in Colombia, the Constitutional Court, to declare in 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.

As part of the process of verification, the Court acknowledged the special situation of vulnerability in which many segments of the displaced population are, including women, children and youth, indigenous peoples, afro-Colombians, and the disabled. Thus the Court issued follow-up decisions (*autos*) for the protection of this particularly vulnerable segments of the IDP population. Through these decisions, the Court ordered the Government to implement *differential* programs to protect people differently situated, i.e., people that were in an added situation of vulnerability. The sections that follow, draw on the contents of these decisions, the results of the evaluation of the levels of enjoyment of rights by these populations, and other information.

Gender

Normative Protection and Policy Development

While internal displacement generally has a negative impact on enjoyment of rights in general, it is the case that women generally bear a heavier burden as a result of displacement. Displacement may enhance already existing differences in gender roles and already existing patterns of discrimination against women, such as limited enjoyment of sexual and reproductive rights, lower rates of access to education, less opportunities for work, to cite a few.

Aware of this, the Guiding Principles on Internal Displacement incorporate a number of provisions aimed at diminishing the negative impact of displacement on the situation of women. Two issues guide the protection of women in the Guiding Principles: protection from gender-based violence, and assuring their access and full participation in assistance programmes (IDMC, available at www.internal-displacement/thematic/women). Guiding Principles including gender-specific provisions are: 4.1.(non-discrimination); 4.2. (protection and assistance to female heads of household); 7.3.d (involvement in planning and management of planned relocation); 11.2.a (protection against gender-specific violence), 18.3 (participation in the distribution of basic supplies); 19.2 (special attention to the health needs of women), 20.3 (Equal rights for women and men to obtain documents); 23.3 (full and equal participation of women and girls in education programmes); 23.4 (access to education and training facilities).

In Colombia, as part of the verification process started by the Constitutional Court, this body ordered, in Writ 092 of April 14, 2008 (Auto 92) the Government of Colombia through its relevant

agencies to adopt thirteen specific, tailored-made, *differential* programs to protect displaced women from these risks, i.e., programs to effectively guarantee their rights. Subsequently, in Writ 237 of September 19, 2008, the Court declared that the Government of Colombia had not fulfilled the orders handed down in Writ 92. In this remarkable decision, the Court ruled that given that the Government had not been able to come up with the thirteen programs to protect displaced women, and that civil society organizations working for women's rights had, the programs suggested by the latter would become the mandatory programs for the former. (Constitutional Court, 19 September 2008, pp. 21). The Court then gave a new term for the creation and implementation of the programs.

Human rights violations and abuses

As part of this same verification process led by the Court, the Civil Society Follow-up Commission, mandated by the Constitutional Court, conducted two national-level surveys to evaluate the effective enjoyment of rights of IDPs. The surveys found that women make up 52,3% of the displaced population in Colombia, while women make up 51,2% of the total population in the country. Additionally, female-headed households make up 43,4% of the displaced households.

Women in the midst of the Colombian armed conflict continue to be victims of sexual abuse. As the Constitutional Court of Colombia puts it, "the list of sexual crimes committed recently in the Colombian armed conflict about which repeated testimonies have been made [...] is long and cruel (Constitutional Court of Colombia, 14 April 2008, pp. 25. IDMC translation). Such heinous crimes have been committed as part of military operations and violent attacks, but also individually by members of the armed groups. They include rape, rape followed by assassination, torture and sexual mutilation, forced prostitution, sexual slavery, forced public nudity, individual and collective sexual humiliation, sexual violence as a mechanism to obtain information, threat of sexual violence to women and girls in front of their families [...] and acts heinous acts such as dismembering, in many cases of pregnant or women still alive. (Constitutional Court of Colombia, Auto 092, April 14, 2008, pp. 26. IDMC translation).

Pertaining their basic necessities of life, only 8,8% of displaced women who are breastfeeding do not receive food support. Pertaining access to health, women have a higher rate of affiliation in the public health system than men, but displaced women that are not registered in the Government's Unified Registry of Displaced Population (RUPD) have a significantly lower rate of affiliation (Comisión de Seguimiento, *Superar la Exclusión Social de la Población Desplazada*, 30 April 2009, pp. 78). 40% of the surveyed displaced women declared having been sick in the 30 days prior to the survey, while this percentage was 23,9% for men. On the contrary, men are at loss as far as literacy rates are concerned, with higher illiteracy rates.

Pertaining access to work and livelihoods opportunities, 60% of IDP women are inactive, compared to 35% for men. Of the 40% working, 60% informal, and 20% works in domestic work, with the attendant lower benefits and longer hours. 32% of women active, work for longer hours than those allowed by labour laws (Comisión de Seguimiento, *Superar la Exclusión Social de la Población Desplazada*, 2009, pp. 84).

Boys, girls, and adolescents

Normative Protection and Policy Development

Acknowledging the particularly vulnerable situation of displaced children and youth, the Guiding Principles on Internal Displacement contain a variety of articles that elaborate on their rights: First, the Guiding Principles should be applied without discrimination on basis of age 4(1); Children and unaccompanied minors are entitled to protection and assistance required by their condition and to treatment that takes into account their special needs 4(2); Prohibition on gender-specific violence (11a); Prohibition on contemporary forms of slavery, including sexual exploitation and forced labour of children 11(b); Prohibition on the recruitment, participation and condoning of the participation of children in armed hostilities 13(1); Right to family unity and responsibility of authorities to facilitate and accelerate family reunification when children are involved 17(3); Right to recognition before the law and the authorities' duty to provide personal identification documents, including birth certificates 20 (1) (2); Right to education and responsibility of the authorities to ensure free and compulsory education at the primary level 23(1) and (2); Special efforts should be made to ensure the full and equal participation of girls in education programmes 23(3); Access to educational and training facilities, particularly for adolescents as soon as conditions permit 23(4). (For specific resources on children, see IDMC's page on displaced children, www.internal-displacement.org/children)

In Colombia, the rights of displaced children have been advanced by the differential approach established by the Constitutional Court in Auto 251 of October, 2008. In this decision the Court declared that displaced children's and adolescent's Constitutional rights were not being realized, and that they were not receiving the priority and differentiated protection they required. The Court thus ordered the government to adopt a differentiated policy for the protection of displaced children, including a) prevention from the risks faced by children, and b) integral attention and support with special focus on critical areas.

In this crucial decision, the Court found that displaced children in Colombia face eight types of enhanced vulnerabilities or risks, including risk to their physical security (violence, exploitation, trafficking); hunger and malnutrition; preventable health problems; loss of education; psychosocial trauma.

Children's safety and other rights

Children make up about half of the IDP population in Colombia. In 2005, when the last census was conducted, this rate was significantly lower: 37%. Complicating the situation of displaced children is the fact that 8,3% of them do not live with their parents.

Forced and voluntary recruitment by armed groups continues in Colombia. Children are used by combatants by these groups, used to lay mines and explosives and to carry other military tasks (Coalition to Stop the Use of Child Soldiers, 31 December 2008, pp. 99). The government does not officially recruit children under 18 years of age, but has repeatedly used captured children for intelligence gathering, despite the legal prohibition of the practice (Child Soldiers, Global Report, pp. 101). Additionally, after the demobilization process which ended in 2006, children were believed to remain with some of the partially-demobilized groups. (Child Soldiers, Global Report, pp. 102). Girls have been victims of sexual abuse, including rape and forced abortion.

The Committee on the Rights of the Child, in its 2006 review of the report submitted by Colombia, expressed its concern "at the continuously high incidence of children victims of extrajudicial killings, homicides and massacres as a consequence of the armed conflict. Children continue to be victims of disappearances and social cleansing, in particular due to their stigmatization as displaced" (Committee on the Rights of the Child, 8 June 2006, para. 40). The Committee further noted that it "is concerned over numerous instances of violence by the regular military forces whereby children have been killed, including cases where children have been falsely reported as killed in combat by the army. Finally, the Committee notes with concern the unbroken pattern of impunity and the continuous tendency to refer serious violation of human rights to the military

justice system.” (Committee on the Rights of the Child, 8 June 2006, para. 50). UNHCR, for its part, has stated that “in the context of the Colombian armed conflict, boys and girls are victims of anti-personnel mines, sexual abuse and exploitation, trafficking, kidnapping, they are used as servants, they are tortured, mistreated, and subjected to forced labor. They are also used in the production and commercialization of drugs, and linked to the armed conflict as combatants, informants, and carriers of weapons and ammunition.” (UNHCR, cited in Constitutional Court, Auto 251, 6 October 2008, pp. 34. IDMC translation).

Access to education is worse for pre-school children and adolescent youth, with 50% and 40%, respectively, not receiving education at all. A comparison between school attendance for IDP and non-IDP children reveals that pre-school children and adolescent youth enjoy lower access to education. 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.

Indigenous peoples and afro-Colombians

Normative Protection and Policy Development

The Guiding Principles on Internal Displacement contain various articles spelling out the protection of minorities. First the Guiding Principles are to be applied without discrimination of any kind, including on the basis of race and ethnic or social origin (4.1). Furthermore, Principle 9 declares that states are under a *particular obligation* to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists, and other groups with a special dependency on and attachment to their lands. Additionally, principle 6 re-states that minorities shall be protected against displacement when based on policies of apartheid, ethnic cleansing or similar practices aimed at/or resulting in altering the ethnic, religious, or racial composition of the affected population.

In Colombia, the rights of displaced ethnic and racial minorities have been advanced by the differential approach established by the Constitutional Court in decision 004 and 005 of January 26, 2009, taken as part of the process of verification of rights launched after the declaration of the ‘unconstitutional state of affairs’ caused by the precarious situation of IDPs. In decisions 004 and 005, the Court declared that indigenous and afro-Colombians, respectively, have been affected by the armed conflict in an enhanced manner. It ruled that indigenous groups ‘are in danger of being culturally and physically exterminated by the conflict, and have been the victims of very serious violations of their individual and collective rights and of International Humanitarian Law, all of which has resulted in their individual and collective forced displacement.’ (Constitutional Court of Colombia, Auto 004 of January 26, 2009. pp. 35. Translation is ours). Likewise, in decision 004, it ruled that “the fundamental rights of [afro-Colombian individuals and communities] are being massively and continuously ignored.” In both cases, the Court ordered the government to implement specific plans to protect these groups.

Profile of the displaced indigenous and afro-Colombians; Causes of displacement.

There are about one million indigenous persons in Colombia. Almost the entirety of the indigenous populations in Colombia has been a victim of forced displacement. (UNHCR, 8 August 2008). The smallest groups are in risk of disappearing. Currently, between 16,6% and 22,5% of the entire displaced population in Colombia is afro-Colombian (Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado, 4 June 2008). The number of displaced afro-

Colombians has increased steadily over time: in 2003, 6% of the displaced population was afro-Colombian, and in 2005, according to the Government census, this group made up 10% of the displaced population. Likewise, in 2008, 6,5% of the total IDP population belonged to an indigenous group, compared to 3,4% in 2005.

Displacement is used as a mechanism to appropriate their land: armed groups use indigenous territories for their purposes because of the location of those territories (Inter-American Commission on Human Rights, 29 December 2007). Indigenous territories also affected by development projects. (OHCHR, 2008) Moreover, indigenous communities are displaced because of armed confrontations, forced recruitment and minefields (Minority Rights International, 11 March 2008).

Inadequacy of the Governmental response

In its decision related to the response for displaced **afro-Colombians** (Constitutional Court of Colombia, Auto 005, 26 January 2009), the Constitutional Court of Colombia wrote “[...] to date, a policy focusing on the special needs of the displaced afro-Colombian population is missing: attention to this population is limited to programs and policies designed for the displaced population in general, and, to make matters worse, the afro-Colombian displaced population has a marginal access to this attention” (Constitutional Court of Colombia, Auto 005, 26 January 2009, para. 132. IDMC Translation). Likewise, ruling on the response for displaced **indigenous groups** in Colombia, the Constitutional Court of Colombia wrote (in auto 004): “in view that the state response to the situation of indigenous peoples has been merely formal and has meant the release of policy documents with no practical effects, the Constitutional Court concludes that the Colombian State has gravely ignored its constitutional duties in this respect” (Constitutional Court of Colombia, Auto 004, 26 January 2009, pp. 38. IDMC Translation). Consequently, the Constitutional Court ordered the Colombian government to design and implement ‘Programs to Guarantee the Rights of Indigenous Peoples affected by Internal Displacement.’

Safety and Security of person and subsistence rights

The conjunction of afro-Colombians’ special attachment to their land, and the ongoing violence in the ancestral territories by them inhabited, has created a situation of particular risk for their **security of person**. In 2006, the UN Office of the High Commissioner for Human Rights in Colombia wrote ‘ethnic groups, in particular (...) afro-Colombians, have been the victims of extra-judicial executions, assassinations, threats, illegal arrests and sexual violence, actions attributed to illegal armed groups and, on occasion, to members of the Public Forces’ (UN Office of the High Commissioner for Human Rights, 20 January 2006, Para. 84). In addition to the ongoing violence against them and their leaders, many of them who have been threatened, attacked, or murdered, (for a full reference of the known cases of threats and assassinations of leaders, see Constitutional Court of Colombia, Auto 200, 13 August, 2007) the collective ownership of land has been disrupted by re-arrangements of land collectively-owned by afro-Colombians, caused by large-scale mono-crop projects. *Supra* note 6, para. 91 (Constitutional Court of Colombia, Auto 005, 26 January 2009, para. 132. IDMC Translation).

Albeit having its own particularities, the situation of indigenous Colombians is roughly similar. Their leaders continue to be targeted, and displacement continues to threaten their way of life, dependent on their attachment to land.

Data show that afro-Colombians experience a lower enjoyment of the **right to work** than the rest of the displaced population. 68,9% of heads of household reported that they had been working the week before a national survey was administered, compared to 72,2% of the rest of the displaced population. Only 11,4% of the displaced afro-Colombian population earns the minimum salary or more. When gender is factored in, the situation of afro-Colombian women is even more

precarious: only 5,3% of them earns minimum salary. For indigenous displaced persons, the right to work shows higher levels of fulfillment than for afro-Colombians, the most important gap being gender: the rate of women that are working is 30% lower than that of men. (The data in this paragraph and following paragraphs, unless otherwise noted, come from the '**V Report to the Constitutional Court**' by the **Civil Society Commission for the Monitoring of Public Policy on Internal Displacement**, *Comisión de Seguimiento a la Política Pública sobre Desplazamiento Forzado*).

Pertaining the **right to housing**, afro-Colombians live in housing of lower quality and have less access to services than the rest of the IDP population. For instance, only 35,7% has access to services, compared to 50% for the rest of the displaced population. Only 4,5% of the displaced afro-Colombians live in housing complying with minimum standards (stability of ownership title, materials, services), compared to an already low 5,5% for the rest of the displaced population. Members of indigenous groups also show a worrisomely low enjoyment of the right to housing: only 2,5% of those displaced live in housing complying with minimum standards, compared to the 5,5% for the rest of those displaced.

Pertaining **health**, displaced afro-Colombians, especially those not included in the registry for displaced persons, have an affiliation rate to the public health system of 60%, compared to 75,3% for the rest of the population. Likewise, beyond displacement, afro-Colombians in general have lower affiliation rates than the rest of the Colombian population (Observatory on Racial Discrimination, 31 December 2008, pp. 48). The precarious access to health by afro-Colombians is paired with the more precarious determinants of health faced by IDPs in general, stemming from their proximity to violence and their being forced to flee. For their part, indigenous IDPs not registered in the Registry of Displaced Persons show the lowest rates of affiliation to the health system (67,6% for men and 66% for women).

Rates of access to **education** for displaced afro-Colombians are equally despairing: afro-Colombian displaced people over 15 years of age have higher illiteracy rates than the rest of the displaced population (22,4% vs. 20%). This is merely a reflection of the larger gap between literacy for afro-Colombians in general and the rest of the Colombian population, which is about half. (Observatory on Racial Discrimination, 31 December 2008, pp. 48). It is encouraging that no significant gaps are found in the enjoyment of this right to education by indigenous IDPs and the rest of the IDP population.

There exist marked disparities in the enjoyment of rights between afro-Colombians and indigenous peoples, on the one hand, and the rest of the displaced population, on the other, disparities that are largely related to widespread discrimination. Complicating the situation of these groups, judicial remedies to combat discrimination and unequal enjoyment of rights are next to inexistent in Colombia. There are four rules against discrimination included in the Criminal Code and other codes, but none of them provide a legal channel for complaints. Thus most complaints come via the exceptional or subsidiary constitutional *tutela* complaint—this is precisely how the Constitutional Court came to declare the unconstitutional state of affairs in the response to internal displacement, referred to above. Thus, complaints against discrimination have not adequately redressed rights. (Observatory on Racial Discrimination, 31 December 2008, pp. 60)

Right to Consultation

ILO Convention 169 on Indigenous and Tribal peoples establishes the right to consultation when decisions that affect the rights of these peoples are going to be taken. The violation of this right clearly increases risk of displacement. As reported by a platform comprising hundreds of NGOs to the Universal Periodic Review conducted by the Human Rights Council of the United Nations, this right has not been respected, as recently adopted rules affect indigenous populations,

restricting the growth of "resguardos" of Wounáan, Embera, Eperara y Awá indigenous groups (Colombian NGO platforms, 31 July 2008, Report for the Universal Periodic Review of Colombia, July, 2008).

DURABLE SOLUTIONS (RETURN, LOCAL INTEGRATION, SETTLEMENT ELSEWHERE IN THE COUNTRY)

The Framework on Durable Solutions

The **Framework on Durable Solutions** suggests that, to determine if durable solutions have been reached, it is necessary to examine the

“*processes* through which solutions are found and the actual *conditions* of the returnees and those persons who have integrated locally or settled elsewhere in the country. In general, it is important to consider whether 1) the national authorities have established the conditions conducive to safe and dignified return or settlement elsewhere; 2) formerly displaced persons are able to assert their rights on the same basis as other nationals; 3) international observers are able to provide assistance and monitor the situation of the formerly displaced; and ultimately, 4) the durable solution is sustainable.”

Pertaining process, IDPs should be able to make an informed decision about whether they want to return, and their decision must be taken into account by the government. In Colombia, “78,7% of displaced families do not want to return while the conditions of insecurity prevail and while socio-economic opportunity is inexistent in their places of origin. Only 2,9% would like to return to their municipality of origin. 10% would like to resettle in a different municipality, 6,2% have not made a decision, and 2,2% would like to leave the country” (Comisión de Seguimiento, 30 April 2009, pp. 57. IDMC translation).

The government policy for solutions has centered squarely on returns under its view that there is no armed conflict as such. There are no accurate estimates of the numbers of IDPs that have returned. The returns that have occurred, have taken place without providing enough guarantees for their integration and subsistence. As CODHES puts it, “returns without guarantees produce new displacement. Facilitating returns without security and in poverty will produce new forced displacement. Under the view that the armed conflict has ended and that the Armed Forces have gained control, returns have been promoted in departments including Chocó, La Guajira, Nariño, Antioquia y Sucre.” (CODHES, 30 September 2008. IDMC translation).

Additionally, municipalities are overwhelmed to adequately manage returns. “municipalities and humanitarian agencies’ economic and logistical capacities are overwhelmed, and they admit that they do not have enough resources to guarantee safe conditions for return and full restitution of rights that were affected during displacement” (Instituto Popular de Capacitación, 22 April 2008. IDMC translation).

NATIONAL AND INTERNATIONAL RESPONSE

International Human Rights and Humanitarian Law Framework. References to the Guiding Principles

Colombia has a progressive legal framework when it comes to the incorporation of international law into the national legal framework. The Constitution of 1991 adopted the system of direct incorporation of international law, by which international law duly signed and ratified by the Country is part of the national legal framework (Congress of Colombia, 6 July 1991, Article 93). Not only that, the Constitutional Court ruled in 1995 that international law in fact prevails over ordinary laws, placing international law at the same level as the National Constitution—the Court coined the term *constitutionality block* to describe the incorporation of international human rights and humanitarian law at the Constitutional level. Thus, all human rights and humanitarian law treaties signed and ratified by Colombia are part of its Constitution and are used as references for its interpretation.

The Guiding Principles on Internal Displacement, not a binding instrument of international law, are not open for ratification. However, Colombian statutory law, case law, and administrative law references the Guiding Principles repeatedly. Virtually all Constitutional Court decisions pertaining to internal displacement reference the Guiding Principles. (For example, Constitutional Court Decisions T-025, Auto 092 of 2008, Auto 004, 005, 006, 008, 011 of 2009, reference the Guiding Principles).

The Legal Database on the Guiding Principles is a useful tool including references to the Guiding Principles globally and other resources. (Georgetown University, 2009)

National Response

National Policy for Internal Displacement.

National policy for the attention to displaced persons is shaped by various laws, decrees, and policy documents. The first statute on displacement was adopted in 1997 (law 387 on internal displacement.) This statute created the National System for the Integral Attention to the Displaced Population (SNAIPD), which comprises 18 government agencies at different levels. The SNAIPD, after Constitutional Court decision T-025 of 2004 (see below), designed the National Plan for Attention to the Displaced Population, the single national-level policy document containing the government's strategy. The Agency coordinating the SNAIPD and the National Plan is Acción Social, which is not an independent ministry, but is ascribed to the office of the President. Other policy instruments that have set forth policy for internal displacement are the National Development Plan—a four year national plan (2006-2010)—and the decisions issued by CONPES, the Social and Economic Council, which is in charge of drawing the budgetary needs for the implementation of the Plan.

At the local, departmental, and district level, municipalities, departmental governments and districts are responsible for implementing the contents of the National Plan through ad-hoc Committees for the Attention to the Displaced Population, and for drawing local plans of attention (Unified Integrated Plans, PIU). (UNHCR, Balance de la política pública para el desplazamiento, 2007, in print only; Brookings, 2008). [For a detailed description and analysis of the public policy

for displacement, see UNHCR, 'Balance de la Política Pública para la atención integral al desplazamiento forzado en Colombia,' 31 August 2007. In print only].

Evolution of the Response

The creation of the sophisticated SNAIPD, over the years, did not translate into an effective response to the displacement crisis. Thus the 2004 T-025 decision by the Constitutional Court, declaring that the widespread violation of IDPs' constitutional rights amounted to an unconstitutional state of affairs, led to gradual improvements and adjustments to the multi-level, multi-agency SNAIPD, including the design of the National Plan for the Attention of Displaced Persons. For starters, financial allocation by government increased steadily from \$177 million (363 billion Colombian 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 displaced women, children, indigenous, afro-Colombians, and the disabled, and ordering the adoption of differential programs for their attention.

Role and participation of the Colombian civil society in the evolution of the response.

The Colombian civil society has had a fundamental role in advancing the public policy and response for the displaced populations. IDP organizations, together with human rights organizations, universities, and academics, have taken key actions that have resulted in a better response. First, civil society organizations brought or sponsored many of the claims before the Courts, particularly the Constitutional Court, which have so positively impact displacement policy in the country. Colombian NGO also engage at international fora. They have brought petitions and requests for precautionary measures at the Inter-American Human Rights system. Additionally, Colombian NGO work very well in coordination. For instance, over one hundred NGO drafted a single submission for the Human Rights Council's Universal Periodic Review of Colombia, which took place in 2008.

Problems with on-the-ground implementation

While the impact of the policy on the ground has improved, it has not reached adequate levels, as declared by the Constitutional Court in January 2009 after its latest evaluation of the governmental response (Constitutional Court of Colombia, Auto 008, 26 January 2009). The crux of the problem seems to lay in coordination and articulation problems between the different agencies and levels comprising the SNAIPD. (Brookings, 2008) The SNAIPD's National Plan, together with the National Development Plan for the 2006-2010, set forth a comprehensive response for IDPs, including prevention, humanitarian attention, and post-conflict integration. The implementation of those plans, however, takes place through a complex network of entities at the national and local level. As a result, it is not always evident which level holds the responsibility to act, and the extent of that responsibility. For example, during the emergency response phase, both the local Committees for Integrated Attention to People Displaced by Violence (local level) and the national level institutions are charged with providing humanitarian assistance. (Brookings, 2008, pp. 5). Precisely to overcome coordination barriers, the Unique Integral Plans, which were to be developed by the municipalities, were intended as a tool to improve coordination at the two levels and to assure a similar response across different localities. Nevertheless, to date, not all municipalities have drafted their Plans, both because of lack of capacities and lack of will. (UNHCR, 2007; Brookings, pp. 9).

The Ministry of Interior and Justice was, until 2008, charged with coordinating local implementation and the drawing of the PIU. Law 1190 of 2008 passed transferred that responsibility to the National Council for the Attention to the Displaced Population. Currently, the

Ministry of Interior and Justice, Acción Social, and the National Planning Department are responsible of assuring that local governments draw their PIUs in a uniform manner.

Lack of accurate and consistent information on the response given by each municipality to internal displacement is a pervasive problem. The Constitutional Court 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 (Constitutional Court, 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 time-bound goals, as a mechanism to improve coordination. Nevertheless, more recently, the Constitutional Court issued another decision aiming at involving municipal, departmental, and district governments more actively in the implementation of the National Plan for the Attention to the displaced population (Constitutional Court of Colombia, Auto 007, 26 January 2009). This decision establishes responsibilities to prioritize certain municipalities more affected by displacement, and directly calls upon local governments to take a more active role to meet IDPs needs.

Other criticisms to the National Policy

From the civil society, a variety of criticisms have been leveled at the national response, while progress has also been acknowledged. Some of the problems with the response identified by various actors are synthesized by the Civil Society Follow-up Commission as follows:

“[...] it does not clearly accept the existence of the conflict; it has a generalized focus on social assistance, emergency attention, and anti-poverty programs that do not guarantee an adequate standard of living; it has a limited differential focus [...]; there is low coordination and inter-dependency of public policies and institutions [...]” (Comisión de Seguimiento, 30 April 2009, pp. 27. IDMC translation).

Pertaining its application, the Civil Society Follow-up Commission also maintains that:

“there is no effective participation; actions are scattered and not integral; powers and responsibilities between institutions and sectors are not clearly shared; there is no disaggregated information on the institutional offer and management; problems with the information system for registration have not been overcome, which limits effective enjoyment of rights; and there is a large gap between resources, on the one hand, and needs on the other, in addition to the absence of funds for reparations and property restitution” (Comisión de Seguimiento, 30 April 2009, pp. 28. IDMC translation).

UNHCR’s compilation of all legal documents related to internal displacement in Colombia is useful for in-depth research, as it contains all legal norms related to displacement in Colombia.

Colombian legislation relative to internal displacement is available at:

<http://www.acnur.org/secciones/index.php?viewCat=77#833>

Colombian case law is available at:

<http://www.acnur.org/secciones/index.php?viewCat=97>

The Government of Colombia’s System for Follow up of the National Development plan contains data for the implementation of programs benefitting IDPs: (in Spanish).

<http://www.sigob.gov.co/pnd/?id=874>

Humanitarian assistance and International Response

UN presence in Colombia

The United Nations has a strong presence in Colombia. UN agencies with offices and programs in Colombia are UNHCR, OHCHR, UNICEF, UNDP, UNIFEM, UNFPA, WFP, HABITAT. The focus of the UN system is on prevention and post-emergency assistance:

“With the presence of the Office of the United Nations High Commissioner for Refugees (UNHCR), the Office for the Coordination of Humanitarian Affairs (OCHA), UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and other agencies and programmes, United Nations activities related to displacement focus on prevention and post-emergency assistance to complement government programmes. In addition to its refugee mandate, UNHCR works to increase the capacity of Colombian institutions and civil society to strengthen IDP protection and raise standards through technical assistance” (WFP, 16 January 2008).

Emergency humanitarian assistance is provided by the Government of Colombia in coordination with the ICRC and other agencies, notably WFP. (Presidente de la República, 12 December 2000; National Plan for Attention to the Displaced Population). The ICRC has been providing assistance for 12 years. “A total of 70,000 people (18,000 families) were assisted in 2008. Of these, 80% had been displaced on an individual basis, primarily as a result of death threats, psychological ill-treatment or fear of forced recruitment. Massive displacement mainly occurred as a result of death threats, psychological ill-treatment, armed clashes or the death of a family member in the conflict.” (ICRC, 2009).

Humanitarian Coordination

The humanitarian reform process to improve response is being implemented in Colombia. Three thematic groups or clusters are already implemented: protection, early recovery, and basic services.) “UNICEF, the World Health Organization (WHO) and WFP co-lead the basic services group, with an emphasis on displaced populations, and are working on health, education, nutrition and food security issues. International NGOs participate actively in the IASC thematic working groups.” The protection cluster is co-led by UNHCR and NRC.

Other agencies including IOM and the World Bank also work for the displaced population. The former implements projects in a variety of areas, including education, health, livelihoods, etc. Both agencies have funded and participated in project for the protection of land left behind by IDPs, which is implemented by Acción Social (Acción Social, 2009). This project has protected 2,9 million hectares of land left behind by IDPs. (IOM, 2009)

Furthermore, the situation in Colombia continues to warrant 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 (IACHR, 29 December 2008).

The Commission wrote:

“As in previous years, the situation in the Republic of Colombia in 2008 falls within the framework of the criteria set forth in the introduction of Chapter IV of the Annual Report of the Inter-American Commission on Human Rights (IACHR). In the case of Colombia this framework is relevant in particular as regards to the continued existence of circumstantial or structural situations that, for various reasons, seriously and gravely affect the enjoyment and exercise of the basic rights enshrined in the American Convention on Human Rights.”

Recommendations by International Human Rights bodies

OHCHR's page for Colombia contains all the recommendations by UN treaty and charter-based bodies, as well as the annual reports by the OHCHR. The page is available at <http://www.ohchr.org/EN/countries/LACRegion/Pages/COIndex.aspx>

Additionally, UNHCR Colombia's online library has a database including recommendations and decisions by UN human rights bodies and the inter-american human rights system. Available at <http://www.acnur.org/secciones/index.php?viewCat=27>

Finally, the **Report of the Working Group on the Universal Periodic Review of Colombia**, issued in January 2009 after the Review of Colombia, and including several references and recommendations related to internal displacement, is available from the link below.

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