

IDPs in Colombia: The necessary step towards effective protection*

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Introduction

Forty years of internal armed conflict

Colombia has a long history of socio-political violence marked, since the early nineteenth century, by violent confrontations between successively central authorities and local leaders,

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¹ Hernando Valencia Villa, *La justicia de las armas. Una crítica normativa de la guerra metodológica en Colombia*, Tercer Mundo Editores, Bogotá, 1993, p. 67.

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low income farmers and landlords, Liberals and Conservatives, and, today, between guerrillas, paramilitary groups and the regular army¹. These evolving but persistent tensions are, to a large extent, rooted in the economic marginalisation of small farmers and the very unequal distribution of land². Until now, serious agrarian reform, albeit necessary, has been blocked by a powerful clique of landowners, government officials and paramilitaries³.

The apparition of today's guerrilla groups can be traced back to the constitution of armed groups by liberal farmers to fight against the conservative government in 1949, after the assassination of one of their leaders, Jorge Eliecer Gaitán. While a constitutional reform, organised in 1957, after the only military dictatorship known in Colombia⁴, established a system of political alternation and parity between the Liberal and the Conservative parties, these rural guerrilla groups did not disappear⁵.

The political exclusion of the rural poor —marginalized by great social inequality, a highly concentrated pattern of land ownership and an inefficient justice system— created, to the

² 1,08% of the landowners own 53 % of the land while the other 98% own only 7% of the land.

³ Project Counselling Service, *PCS Internal, September-December 2004*, Bogotá, 22 December 2004, p. 3.

⁴ General Gustavo Rojas Pinilla (1953-1957).

⁵ United Nations Commission on Human Rights, *Report by the United Nations High Commissioner for Human Rights*, 9 March 1998, E/CN.4/1998/16, para. 12.

contrary, the conditions for further development of autonomous political movements and guerrillas continued to fight against the armed forces⁶. Meanwhile, the regular Army, with the support of large landowners, started to employ armed civilians to carry out attacks against farmers suspected to support the guerrillas. These other organised armed groups⁷ are deemed to be the first expression of the today's paramilitary groups.

Between 1964 and 1966, one of the liberal guerrilla groups, closely linked to the Communist Party, progressively emerged as the largest one. This group, which ultimately converted into the Revolutionary Armed Forces of Colombia (FARC), still constitutes the main guerrilla group in Colombia⁸. Under the influence of the Cuban revolution, another rural guerrilla group baptised the National Army of Liberation (ELN) appeared in the sixties⁹. While until the eighties the number of guerrilla groups continued to rise, the FARC and the ELN are now the only two remaining guerrillas fighting government's forces and the paramilitaries.

In 1968, the decree under which the State authorized that «[...] all Colombians, men and women, not included in the call to obligatory service,[participate] in activities and jobs with which they would contribute to re-establishing normalcy», including paramilitary activities, became permanent legislation¹⁰ and so-called «self-defence groups» were created with the support of the military forces and National Police. These paramilitary self-defence groups had ties to economic and political sectors in

certain parts of the country and were especially strengthened in the early 1980s¹¹.

After the *La Rochela* massacre perpetrated by paramilitary forces with the collaboration of State agents in 1987¹², the State began to adopt legislative measures designed to counter the armed control exercised by paramilitary groups in various parts of Colombia. However, the National Police and the Army maintained ties with these groups, encouraging them in certain regions to adopt a threatening attitude towards any person considered as a guerrilla sympathizer.

The State failed, until now, to take the measures necessary to prohibit, prevent, and duly punish their criminal activities, despite that it alleges having put an end to the official policy encouraging the formation of paramilitary groups. Around 1997, most paramilitary groups joined an umbrella organisation called United Self-Defences of Colombia (AUC) whose publicly-stated purpose is to act in coordinated fashion against the guerrillas¹³.

Increasing the complexity of the Colombian conflict, drug cartels, using violence to control politics and drug trade, emerged during the seventies. Both paramilitary groups and FARC developed close links with the illegal drugs trade, a great deal of which finances their war activities. Since the late 1990s, these groups even assume the business of controlling the initial phases of narcotics production¹⁴.

⁶ Economist Intelligence Unit, *Colombia: Politics - News Analysis*, 26 February 2002. Reproduced in Norwegian Refugee Council/Global IDP Project, *Global IDP Database, Profile on Internal Displacement: Colombia*, May 2005, p. 24.

⁷ For the purpose of the present analysis, the paramilitary groups and the guerrilla groups will be designated as «organised armed groups», this being the expression used in article 1 of the Additional Protocol II to the Geneva Convention Relating to the Protection of Victims of Non-International Armed Conflicts applicable in Colombia as well as by the International Committee of the Red Cross.

⁸ Eduardo Leon-Gomez Pizarro, «Los orígenes del movimiento armado comunista en Colombia: 1949-1966» *Análisis Político* núm. 7, Bogotá, 1989, p. 30

⁹ Victor de Currea-Lugo, «Un Intento Para Explicar la Violencia en Colombia: ¿Y Si No Somos Nación?», *América Latina Hoy*, number 23, December 1999, p. 3

¹⁰ Law 48 of 1958 «*Por la cual se adoptan como legislación permanente algunos decretos legislativos, se otorgan facultades al Presidente de*

la República y a las asambleas, y se introducen reformas al Código Sustantivo del Trabajo y se dictan otras disposiciones».

¹¹ Inter-American Commission of Human Rights, *Report on the Demobilisation Process in Colombia*, 13 December 2004, OAS/Ser/L.V/II 120, para. 51.

¹² Massacre of 19 traders travelling from Cúcuta to Medellín in 1987. The Inter-American Court of Human Rights found the State responsible for the event by reason of the legislation encouraging the formation of paramilitary groups in force at the time and of the direct participation of members of the armed forces to acts violating the Inter-American Convention of Human Rights. See Inter-American Court of Human Rights, «*19 Merchants*» Case, Judgment of 5 July 2004, Series C No. 109, para. 124.

¹³ Inter-American Commission of Human Rights, *Report on the Demobilisation Process in Colombia*, *ibidem*, para. 41.

¹⁴ See International Crisis Group, *War and Drugs in Colombia*, January 2005, Latin America Report No. 11, Brussels.

In the last twenty years, the warring parties, in particular the paramilitary groups and the FARC, distinguished themselves by widespread and serious violations of international humanitarian law in the conduct of hostilities. Massacres against communities assumed to support the enemy, often indigenous and afro-descendant communities; selective assassinations and forced disappearances of human rights defenders, judicial officers, trade unionists, social movement leaders, journalists, and candidates for elective office, recurrently designated as military targets; kidnappings; and the use of anti-personal landmines¹⁵ have resulted in thousands of civilian victims.

Internal displacement: major symptom of the humanitarian catastrophe

The major symptom of the «humanitarian catastrophe»¹⁶ incurred by this multifaceted conflict, though probably the less publicised, is undoubtedly the continuing phenomenon of forced displacement. Colombia is now the country with the second largest displaced population in the world after Sudan. Since 1985, over three million people have fled violence, gross violations of human rights and wilful material deprivation accompanying and resulting from the internal armed conflict¹⁷. While this tendency has accelerated during the eighties, forced displacement has been, from the onset, a characteristic of the four-decades-long conflict.

All the armed actors provoke forced displacement. Generally, according to the statistics published by diverse organisations

monitoring displacement and humanitarian law violations, the paramilitary groups are said to be the principal agents of displacement and the authors of most humanitarian law violations¹⁸. Albeit in lesser proportions, the guerrilla groups are also reported to provoke the flight of civilians. In recent years, State agents seem to be less and less designated as authors of displacement, in general, in less than one percent of the cases.

However, according to the High Commissioner for Human Rights, «the reduction in the number of cases attributed to State agents, taken together with a simultaneous increase in the cases attributed to paramilitary groups, suggests that several of these actions benefit from cover-up or connivance»¹⁹. This is confirmed by reports relating coordination between paramilitary groups and State agents, presence of members of the security forces among the paramilitary contingents or actions perpetrated by members of the armed forces without identification enabling to distinguish them from other armed actors²⁰.

Displacement is not solely a by-product of the conflict. It is widely employed as a war-strategy by the armed actors, notably the paramilitary groups and the FARC, in order to establish control over strategic territories, expand the cultivation of narcotics, or take possession of land and private properties²¹. The concentration of violence in certain areas appears to reflect strategic objectives of military and economic domination. Displacement, in such cases, results from the strategic alliance of large land-owners, drug leaders or multi-national and national economic powers with the armed actors.

¹⁵ Colombia is one of the few countries in the world where the use of anti-personnel landmines is increasing. Emergency Relief Coordinator, Press Briefing on Colombia, 10 May 2005, available at <http://www.un.org/News/briefings/docs/2004/OCHABrf.doc.htm>.

¹⁶ Upon return from an in-country visit in 2004, Jan Egeland, the UN Emergency Relief Coordinator admitted that Colombia was «by far the biggest humanitarian catastrophe of the Western hemisphere with the largest number of killings, humanitarian problems and the biggest conflict in the Western hemisphere». Emergency Relief Coordinator, *ibidem*.

¹⁷ Governmental figures vary greatly from Non Governmental Organisations figures. The United Nations acknowledges the existence of 2, 5 million IDPs in Colombia, which represents the third largest IDP population in the World.

¹⁸ In 2003, the paramilitaries were responsible for 30% of cases of forced displacement, the guerrillas for 14% and the State for less than

1%. In 52% of the cases two or more actors were involved. Colombian Commission of Jurists, *A Growing Absence of Guarantees - Situation of Human Rights and Humanitarian Law in Colombia, 1997-2003*, Bogotá, Opciones Gráficas Editores, 2003, p. 50.

¹⁹ United Nations Commission on Human Rights, *Report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, E/CN.4/2002/83/Add. 3*, 11 March 2002, para. 13.

²⁰ United Nations Commission on Human Rights, *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia, E/CN.4/2003/13*, 24 February 2003, para. 38, 58, 75.

²¹ «Displacement in Colombia is not merely incidental to the armed conflict but is also a deliberate strategy of war». United Nations Commission on Human Rights, *Report of the Representative of the Secretary-General on internally displaced persons, Profiles in displacement: follow-up mission to Colombia, E/CN.4/2000/83/Add.1*, 11 January 2000, p. 2.

Displacement rates have been considerably high in the recent years although a certain decrease has been observed since 2002, year where the number of individuals newly displaced was the highest²². This can be partially explained by the deterioration of the armed conflict marked by an intensification of the combats and an expansion of the areas under dispute, which extend now to urban areas. Such tendencies became particularly visible in 2002, following the failure of new peace negotiations between the then Colombian President, Andres Pastrana (1998-2002), and the FARC.

New strategies adopted in recent years by both State authorities to defeat the rebels, and the organised armed actors, have also contributed to a deepening of the crisis. The fumigation of illicit crops by governmental forces aimed at destroying the insurgents' economic base caused the flight of thousands of small farmers cultivating coca crops under pressure of the armed actors or in order to escape misery. The aerial sprayings, indeed, indiscriminately destroy coca crops and food, depriving poor cultivators of their basic means of survival.

On the other hand, the armed actors, including regular armed forces, have come to resort to embargoes in order to strip the enemy of its basic resources. As a result, entire villages find themselves under blockades which prevent civilians from accessing food, medicines or fuel and expose the populations concerned to constant harassment by the armed groups.

Provoking again an escalation of violence, the new President, Alvaro Uribe Velez, which took office in August 2002, launched a «Democratic Security Policy» intended to regain control over areas dominated by the organised armed groups. The measures adopted under this policy, based on the denial of the existence of

an internal armed conflict and which identifies guerrilla groups and paramilitaries with terrorist threats, consist primarily in involving the civilian population in the conflict and intensifying the fumigations of illicit crops. The Government also inaugurated in April 2004 «Plan Patriota», central element of the United States-funded Plan Colombia, with the aim to regain control over territories long held by guerrilla groups through largest military operation in all Colombian history²³.

Far from improving the living conditions of the citizens, these «security measures», by blurring the distinction between civilians and combatants established under international humanitarian law while increasing the intensity of the conflict, have prompted a worsening of the displacement crisis and of the general humanitarian situation, inciting more Colombians to seek refuge in other parts of the country or in the neighbouring countries²⁴.

Most of the individuals, who have no other option than to abandon their homes and areas of normal residence, do not cross an internationally recognised border and remain within Colombia. They become Internally Displaced Persons (IDPs). Not only are they exposed to hunger and diseases; not only do they lack adequate shelter; but they are also highly vulnerable to all kinds of human rights violations; suffer discrimination; and, above all, they are very often forced to move again to procure basic means for their survival or escape new threats.

The majority of the displaced join the ranks of the destitute population in the shantytowns surrounding the major cities, live in extremely precarious security conditions and lack access to basic services²⁵. Women, children and ethnic minorities, the so-called «vulnerable» sectors of the civilian population, are

²² See the Annex and CODHES, *Grafico de Comportamiento del Desplazamiento por año, 1985 - 1r. Trimestre 2005*, available at http://www.codhes.org.co/cifra/GraficoTendencias1985_2005.jpg.

²³ Colombia is the second largest recipient of US military aid after Israel, with a budget of \$600 million in both 2004 and 2005. See U.S. Department of State (U.S. DOS), *United States remains committed to aiding Colombia, Rice says*, 28 April 2005, available at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/EGUA-6BVPYP?OpenDocument&rc=2&emid=ACOS-635NUU>.

²⁴ «Although there has been a fall in certain indicators of political violence, such as kidnappings, cases of torture and “disappearances” have increased, as have reports of extra-judicial executions carried out by the se-

curity forces. More than 220,000 people were forced to leave their home last year, while hundreds of civilians have been arrested, often arbitrarily, by the security forces». Amnesty International, *Colombia: International community must demand action on human rights*, February 2005, available at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/MHII-6975GR?OpenDocument&rc=2&emid=ACOS-635NUU>.

²⁵ An estimated 40% of the total displaced population lives in the country's ten largest cities. United Nations High Commissioner for Refugees, *Campaña radial en Colombia informa a los desplazados internos de sus derechos*, 28 February 2005, available at http://www.acnur.org/paginas/?id_pag=3349.

disproportionately affected by the phenomenon of forced displacement and face serious protection problems, in particular in urban contexts. It is estimated that 6% of the IDPs are Indigenous and 18% are Afro-Colombians, in other words one-fourth of the displaced population, even though they represent together only 11% of the total population²⁶. Most of them have little chance to exercise their rights to health, food, education, housing, identity before the law and so forth²⁷.

The specific protection needs of Colombian IDPs

The extreme vulnerability of IDPs contrasts with the situation of refugees who, once the border crossed, normally receive assistance and protection from the United Nations High Commissioner for Refugees (UNHCR), a UN agency with a staff of approximately 5000 persons and an annual budget of 1,2 billion dollars²⁸, and are entitled to the refugee status, which guarantees the enjoyment of a range of economic and social rights and protects them against «refoulement»²⁹. As internally displaced persons, that is «persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border»³⁰, they are not entitled to international protection or to any internationally recognised status.

While, as long as humanitarian access is guaranteed, they will receive international relief assistance, in the form of emergency food, shelter and medical care; no international agency has mandate to offer them protection, namely, to undertake «all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law»³¹.

Admittedly, the State has the obligation to ensure that IDPs enjoy the human rights enshrined in the national Constitution, in the international treaties it has ratified and in international customary law. In the same way, IDPs caught up in internal armed conflicts are entitled to the protection conferred to the civilian population by international humanitarian law in the event of conflicts of a non international character, in particular Common Article 3 to the Geneva Conventions and Additional Protocol II to the Geneva Conventions³².

According to the International Committee of the Red Cross, the situation existing in Colombia presents all the constitutive elements of a non international armed conflict in which are applicable these two sets of norms³³. This obliges notably the armed forces and the organised armed groups to distinguish between those taking direct part in the hostilities and the civilian population, as well as between military objectives and civilian objects. Nonetheless, international norms leave gaps in the legal protection of internally displaced persons.

Confronted with an upsurge in the number of internally displaced persons after the end of the cold war —an upsurge of

²⁶ ICRC, WFP, *Identifying food and non-food needs of the internally displaced - A joint survey of internally displaced populations in Colombia*, Bogotá, 27 December 2004, p. 7.

²⁷ United Nations High Commissioner for Human Rights, *Report of United Nations High Commissioner for Human Rights on the human rights situation in Colombia, «Organization of Work»*, E/CN.4/2001/15, 8 February 2001, para. 78.

²⁸ David A. Korn, *Exodus within borders: An Introduction to the Crisis of Internal Displacement*, Washington D.C., Brookings Institution Press, 1999, p. 1.

²⁹ Convention relating to the Status of Refugees, adopted on 28 July 1951, reproduced in United Nations, *Human Rights, A Compilation of International Instruments*, vol. I part II, United Nations, Geneva, 2003, p. 629.

³⁰ Guiding Principles on Internal Displacement, contained in the annex of the Report of the Representative of the Secretary-General,

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Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39, E/CN.4/1998/53/Add.2, 11 February 1998.

³¹ Workshop on Protection for Human Rights and Humanitarian Organisations, *Doing Something About It and Doing It Well*, Report of the workshop held at the ICRC, Geneva, 18-20 January 1999, p. 25, reproduced in Inter Agency Standing Committee, *Growing the Sheltering Tree: Protecting Human Rights Through Humanitarian Action*, Geneva, UNICEF, 2002, p. 11.

³² Geneva Conventions, 12 August 1949 and Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977.

³³ International Committee of the Red Cross, *Informe de Actividades 2004*, Bogotá, 2005, p. 6. (28 p.)

such a scale that IDPs now outnumber refugees, with twenty to twenty five million of individuals affected by forced displacement³⁴— the United Nations, during the nineties, engaged a reflection regarding the legal framework applicable in situations of forced displacement, under the lead of M. Francis Deng, appointed by the UN Secretary General as its Special representative on Internally Displaced Persons in 1992.

Considering that promoting the adoption of a binding treaty specifically devoted to IDPs would probably prove difficult, the United Nations adopted in 1998 a set of Guiding Principles on Internal Displacement, which for the first time gave a definition of internally displaced persons and enumerated the rights to which the latter are entitled, developing and complementing to that end existing human rights and humanitarian law provisions where necessary³⁵. While the document in itself is non-binding, most of the principles it contains are obligatory as they reflect existing norms of international humanitarian and human rights law.

On the institutional side, having renounced to assign to one single agency the mission of protecting internally displaced persons and upholding their rights as stated in the so-called Deng Principles, the United Nations opted for a collaborative approach to IDP protection involving all UN humanitarian and development agencies susceptible to intervene in a context of internal displacement, under the supervision of the Emergency Relief Coordinator, focal point for the inter-agency coordination on displacement, and of the Inter-Agency Standing Committee, gathering the heads of the UN humanitarian and development agencies³⁶.

Despite the adoption of this new set of tools at the international level, the major impediments to genuine international protection of internally displaced persons remain. The applicability of human rights and humanitarian law provisions varies still largely according to the state of ratification of the relevant instruments and their status in national law, to the exception of

the few rules which are considered to form part of international customary law. Worst, their effective implementation depends entirely on State's ability and willingness to secure the rights of the displaced since international human rights and humanitarian law sorely lack effective implementing machinery.

In Colombia, the protection gap affecting the internally displaced population is not a normative gap. Contrary to most of the States struck by massive internal displacement, the Colombian Government took the initiative to create a legal and institutional framework for assistance and protection of IDPs as early as in 1997³⁷. It notably created a National System for Comprehensive Assistance to the Population Displaced by violence (NSCAPD)³⁸—a conjunction of public, private, and community organisations that conduct plans, programs, projects, and specific actions concerned with integrated assistance for the displaced population— managed since 1999 by the Social Solidarity Network (SSN)³⁹. Although this framework presented, and still presents today, a number of shortcomings, it is unanimously said to be the most elaborate and protective national framework regarding internally displaced persons, more protective in certain regards than the UN Guiding Principles.

Colombia has also ratified a large number of human rights and humanitarian law instruments, which enjoy constitutional value, alongside the fundamental rights contained in the Constitution of 1991. It is worth noting that the Colombian Constitutional Court interprets the provisions of Additional Protocol II to the Geneva Conventions in the light of other provisions of international humanitarian law, in particular, the far more elaborate and protective provisions of Additional Protocol I, only applicable to international armed conflicts⁴⁰. However, difficulties arise when one considers the implementation of these provisions.

Indeed the successive governments have until now failed to adopt policies allowing for adequate implementation of the

³⁴ See Roberta Cohen and Francis Mading Deng, *Masses in Flight: The Global Crisis of Internal Displacement*, Brookings Institution Press, Washington D.C., 1998, 414 p.

³⁵ Guiding Principles on Internal Displacement, *idem*.

³⁶ Francis Mading Deng, «The Global Challenge of Internal Displacement», *Journal of Law and Policy*, vol. 5, 2001, pp. 150-152.

³⁷ *Ley N.º 387 por la cual se adoptan medidas para la prevención del desplazamiento forzado; la atención, protección, consolidación y estabi-*

lización socioeconómica de los desplazados internos por la violencia en la República de Colombia, 18 July 1997.

³⁸ Article 4, 5 and 6 of Law 387 of 17 July 1997.

³⁹ Article 4, 5 and 6 of Law 387 of 17 July 1997.

⁴⁰ Constitutional Court of Colombia, *Sentencia C-225*, 18 May 1995.

national prescriptions guaranteeing the rights internationally recognised to the uprooted. Lack of adequate resources allocated to the organs in charge of protection and assistance, institutional failures, poor coordination, and general passivity of State authorities in front of abuses provoking displacement, have impeded effective displacement prevention; sufficient assistance and protection of the displaced; as well as the provision of durable solutions to displaced communities.

Not only the number of displaced is in constant augmentation but people displaced still live, for years in certain cases, in very precarious conditions, face daily serious human rights violations and still move in mass to the poor neighbourhoods surrounding major Colombian cities with no prospects of reintegration. The inadequacy of the governmental response is such that in 2004 the Colombian Constitutional Court held in sentence T-025 that the lack of protection and attention given to displaced people and communities at risk of displacement constituted a serious and unconstitutional state of affairs.

One of the most significant conclusions reached by the Court is that beyond addressing the specific shortcomings of the policies targeting displacement, the government has to design a policy whose object and purpose is the realisation of the rights of displaced persons. Until now indeed the State has failed to protect and guarantee the economic, social cultural, civil and political rights of the uprooted and the populations at-risk of displacement. Worst, a number of new measures put forward by President Uribe since he took office in 2002 dangerously undermine existing legal protection of the displaced and more generally of the civilian population. Beyond their dramatic impact on the already critical situation of IDPs, these initiatives clearly demonstrate the unwillingness of the State to prevent displacement and adopt the protection of the rights of the IDPs as one of its priorities.

⁴¹ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongevej Working Papers, p. 34.

⁴² The World Food Program has been in Colombia since 1969 and the Pan American Health Union/World Health Organisation has been supporting public health in Colombia since 1954.

⁴³ The ICRC maintains a permanent presence in the country since 1981. See Frédérique Prunera, «Personnes déplacées en Colombie et per-

The international response

The international community, under the lead of the United Nations, progressively concerned itself with the plight of Colombian IDPs, as well as the situation of Colombian refugees in the neighbouring countries. If Colombia had previously little experience of development assistance compared to number of its neighbours, it is today one of the major recipient of relief and development funding⁴¹.

While some international agencies, such as the World Food Program and the Pan American Health Organization, have been present in the country for over two decades⁴², it is at the request of the Colombian government that most humanitarian organisations have engaged in assistance and protection activities in favour of the people forced from their homes by the protracted internal armed conflict, whether remaining within the state's internationally recognised borders, and thus joining the ranks of the internally displaced population, or seeking refuge in the neighbouring countries. Invoking their inability to face the magnitude of the humanitarian crisis, Colombian authorities have also in 1997 asked the UN High Commissioner for Refugees, which had already been working with the Colombians since the late eighties, to establish an office in the country.

Numerous international organisations present in Colombia have devised their programs to take account of the situation of massive nation-wide displacement: the International Red Cross and Red Crescent Movement, through the International Committee of the Red Cross, ICRC⁴³, and the participating national societies⁴⁴; the United Nations agencies, in particular those taking part in the Thematic Group on Internal Displacement⁴⁵ led by the UNHCR and supported by the Office for the Coordination of Humanitarian Affairs, OCHA; other

sonnes d'origine colombienne cherchant refuge dans les pays voisins», *Revue Internationale de la Croix Rouge*, vol. 83, No. 843, 2001, pp. 768-769.

⁴⁴ The Participating National Societies (PNS) collaborating with the ICRC through the delegation of projects are the national Red Cross Societies of Germany, Canada, Norway and Sweden.

⁴⁵ The Thematic Group on Internal Displacement was set up in 1999 to elaborate a joint-inter-agency coordinated action in favour of IDPs. It brings together twelve agencies: UNHCR, OCHA, the UN High Commissioner for Human Rights (UNHCHR), the World Food Program (WFP), the

international organisations⁴⁶; and several large international Non Governmental Organisations, most prominently Médecins Sans Frontières, Jesuit Refugee Service, the Project Counseling Service, OXFAM and World Vision, who have made responding to displacement a priority. While several governments contribute to projects for IDP protection or assistance, either directly, or, more often, through international and local NGOs, the two donors with significant IDP programs are the European Community Humanitarian Office, ECHO, and the United States Agency of International Assistance, USAID⁴⁷.

Despite their awareness of the urgent need for emergency and post-emergency relief of these populations, the representatives of the humanitarian community in Colombia, following global trends⁴⁸, have come to question the sufficiency of humanitarian «business as usual» as an answer to the violations of rights and disregard for the safety of civilians, often the primary causes of suffering.

As a description of the mandates and strategies of the major international institutions active in Colombia shall demonstrate, under the impulse of the United Nations, the latter reserve now in majority a space to protection related concerns in programming their operations (Section I). UN agencies notably adopted, in November 2002, a new rights-based approach to assistance

efforts in Colombia through the elaboration of a Humanitarian Action Plan (HAP).

A short review of the activities intended to enhance IDP protection shall highlight, however, the relative failure of the collaboration with Colombian authorities as privileged mode of action of the international community in order to secure State's compliance with its obligations under national and international law and strengthen national and local structures (Section II).

Despite a knowledgeable and thorough analysis of the most urgent protection needs of the displaced, the results of the new UN-led strategy, avowedly intended to foster application of the international and national normative framework in favour of the IDPs, remain indeed limited. The disappointing outcomes witnessed to date can be, in our view, attributed to the persistence of some organisational limits and major political obstacles to the international strategy (Section III).

Although relief and development work could probably offer greater relief from the effects of the armed conflict, displacement, discrimination and other violations of human rights, it should not be forgotten that protection strategies and programs cannot be a substitute for the necessary political will, both at national and international level, to deter and punish the intentional harming of civilians.

UN Development Program (UNDP), the UN Children Fund (UNICEF), the Food and Agriculture Organisation (FAO), the UN Dug Control Program (UNDCP), the UN Industrial Development Organisation (UNIDO), the UN Development Fund for Women (UNIFEM), the UN Fund for Population Activities, the Pan American Health Organisation/World health Organisation (WHO), the World Bank and the International Organisation for Migration (IOM). The ICRC, ECHO and the Joint Technical Unit of the Social Solidarity Network (JTU-SSN) take also part in the TGID as observers.

⁴⁶ Most prominently the Pan American Health Organisation/World health Organisation, the International Organisation for Migration and, more recently, the World Bank.

⁴⁷ For the purpose of our study, it will mainly be referred to the European Community Humanitarian Office, ECHO, and the United States Agency of International Assistance, USAID, as the two major donors. However, it is to be noted that the Spanish Agency for International Cooperation supports the Colombian Government micro credit programs for IDPs and that Japan supports social and socio-economic stabilization programs through the World Bank.

⁴⁸ Inter Agency Standing Committee, *Growing the Sheltering Tree: Protecting Human Rights Through Humanitarian Action*, Geneva, UNICEF, 2002, p. 2.

Section I. The acknowledgment of the international responsibility to promote the protection of the displaced

The recognition by the international institutions traditionally involved in humanitarian and development assistance of the potentially crucial impact of their activities regarding the prevention, interruption and prosecution of violations of international humanitarian, human rights and refugee law is relatively new. While their programmes may too scarcely be strategically designed to enhance the protection of civilians, it seems that the inextricable link between assistance —provision of food, medicine and shelter— and protection —understood as «all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law»— is gaining acceptance⁴⁹.

Concerning internally displaced persons, the progressive shift from a focus on meeting their needs to the defence and fulfilment of their rights can be traced back to the early nineties, moment where an explosion of civil wars and an upsurge in the number of IDPs shed the light on the intolerable lack of normative and institutional protection mechanisms for those fleeing their homes as long as they remained unable to cross an internationally recognised border⁵⁰. However, real progress only occurred once the rights to which the internally displaced are entitled had been identified and the requirements of protection clarified in the eye of the international humanitarian community, thanks to the adoption of the Guiding Principles on Internal Displacement in 1998.

⁴⁹ This recent trend is sometimes referred to by the scholars and the humanitarian community as the «new humanitarianism». See James Darcy, *Human Rights and Humanitarian Action: a Review of the Issues*, background paper delivered at a workshop convened by the IASC Sub-Working Group, co-hosted by UNICEF, the UNHCHR and ICVA, Geneva, April 2004.

⁵⁰ Underscoring the disparities in international treatment reserved to refugees and IDPs, the then UN Secretary General, Boutros Boutros-Ghali, observed that «From the human rights perspective [...] where the ultimate concern is the effective enjoyment of basic rights by all persons, without discrimination, this difference is viewed as an injustice which calls for the creation of a more effective system for the protection of the rights of internally displaced persons.» See United Nations, *Analytical report of the Secretary General on internally displaced persons*, UN doc. E/CN.4/1992/23 (1992), para. 9.

Before examining in the next section the actions led by the international humanitarian and development community to promote respect for and realisation of the rights recognised to the, it seems important to describe the space currently devoted by the UN and other major relief providers to protection related concerns. After a brief sketch of the protection mandate assigned to the UN, we shall emphasise the qualitative step towards a rights-based approach to humanitarian aid and assistance realised by the UN country team in November 2002 through the adoption of the Common Humanitarian Action Plan.

I. *The space devoted to protection concerns in the collaborative approach designed by the UN to confront internal displacement*

An «essential first step»⁵¹ towards an international institutional framework for the protection of the displaced has been achieved with the adoption, in December 1999, by the UN Inter-Agency Standing Committee of a policy paper devoted to this particular issue and through which the heads of the different UN agencies acknowledged that the protection of IDPs «must be the concern of all humanitarian/development agencies»⁵².

This policy paper, originating in discussions between three senior UN officials in the course of the year 1998 in order to enhance inter-agency collaboration in responding to the protection needs of the displaced⁵³, importantly confirms the innovative view that responses to crisis situations «must address not only assistance needs but also concerns of physical security».

⁵¹ The Representative of the UN Secretary General on Internally Displaced Persons, M. Francis Deng, quoted in Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, the Brookings-SAIS Project on Internal Displacement and the UN Office for the Coordination of Humanitarian Affairs Inter-Agency Internal Displacement Division, November 2004, p. 20.

⁵² IASC, *Protection of Internally Displaced Persons - Inter-Agency Standing Committee Policy Paper Series, No.2*, New York, United Nations (2000) 2, para. 2.

⁵³ The three Senior Officials referred to are the late Sergio Vieira de Mello, then UN Emergency Relief Coordinator (ERC) and Under-Secretary-General for Humanitarian Affairs; Francis Deng, then Representative of the Secretary-General on Internally Displaced Persons; and Mary Robinson, then UN High Commissioner for Human Rights.

thereby departing itself from past practice. Beyond seeking to clarify what is «protection» and which activities it encompasses, it also attempts to attribute responsibilities for undertaking protection related activities.

As to the definition of «protection», the paper does not innovate but rather strengthens an emerging consensus formulation. It endorses the one adopted at the third of a series of workshops organised by the ICRC between 1996 and 2000 and to which we already referred several times⁵⁴. In addition, emphasising the fact that, in the context of internal displacement, no single international legal instrument exclusively addresses the protection needs of the uprooted, it reiterates the relevance of national and international human rights standards as well as international humanitarian law, in situations of armed conflict.

More remarkably, however, it underlines the special importance to protection activities of the Guiding Principles on Internal Displacement which, by drawing on human rights law, international humanitarian law and refugee law by analogy, represent «the first comprehensive attempt to articulate what protection should mean for the internally displaced»⁵⁵.

This reference to the so-called Deng principles, one year only after their adoption, has important consequences when the policy paper comes to describe the activities potentially contributing to protection that humanitarian and development agencies should undertake in forced displacement situations. Indeed, the Principles highlight as much the need of IDPs for physical protection as the duty to secure them full enjoyment of a broad range of civil, political, economic, social and cultural rights. If international actors commit themselves to concretely protecting IDPs, they must thus, according to the Standing Committee, engage in three broad categories of

activities: environment building, responsive action and remedial action⁵⁶.

Environment building is here understood as the activities aimed at creating or consolidating an environment conducive to full respect for the rights of individuals. Responsive action, on the other hand, implies activities undertaken in the context of an emerging or established pattern of abuse and aimed at preventing or alleviating its immediate effects. Remedial action, eventually, refers to activities aimed at restoring dignified living conditions through rehabilitation, restitution and reparation⁵⁷. Without entering here in the description given by the IASC of the various activities included under these three headings, it is worth noting that, at first glance, the latter seem to expand considerably the traditional mandate of humanitarian and development agencies⁵⁸.

One of the main interests of the IASC policy paper is, in addition, to assign clearer responsibilities to UN agencies and staff and to define the institutional framework in which protection activities in favour of the displaced ought to be designed and initiated. It recognises, in accordance with the Guiding principles, that it is first and foremost the responsibility of the governments concerned to meet the assistance and protection needs of their displaced populations⁵⁹ and that the protection role of international agencies and NGOs should primarily involve «reinforcing national responsibility and supporting, not substituting for, the protection responsibilities of the competent authorities»⁶⁰.

The paper continues stating that all agencies providing humanitarian assistance to IDPs should be expected «to consider how the design and implementation of their assistance activities might best contribute to promoting [their] protection»⁶¹. While

⁵⁴ «All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law (i.e., human rights law, international humanitarian law, refugee law)». See further, Sylvie Caverzasio, *Strengthening Protection in War - A Search for Professional Standards*, Geneva, ICRC, 2001.

⁵⁵ IASC, *Protection of Internally Displaced Persons*, ibidem, para. 5.

⁵⁶ IASC, *Protection of Internally Displaced Persons*, ibidem, para. 5.

⁵⁷ Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, ibidem, p. 28.

⁵⁸ This is one of the critiques directed against the rights-based approaches to humanitarianism. For a discussion of the convergence of the human rights and humanitarian agendas. See James Darcy, *Human Rights and Humanitarian Action: A Review of the Issues*, background paper delivered at a workshop convened by the IASC Sub-Working Group, co-hosted by UNICEF, the UNHCHR and ICVA, Geneva, April 2004.

⁵⁹ Principle 3(1) of the Guiding Principles on Internal Displacement.

⁶⁰ IASC, *Protection of Internally Displaced Persons*, ibidem, para. 11.

⁶¹ Idem. See also Principle 27(1) of the Guiding Principles, according to which «international humanitarian organisations and other appropriate

some UN agencies and offices, such as UNHCR, UNICEF and OHCHR, have specific mandates and expertise in human rights protection, «it remains incumbent upon all agencies to incorporate human rights concerns into their work»⁶².

Concerning the institutional setting in which action in favour of the IDPs is to take place, the IASC, taking into account the «scale and multi-faceted nature» of displacement crises, opts in this policy paper for a «collaborative approach», involving, not a single agency, but a range of actors (government officials, UN agencies, international organisations, and local and international NGOs)⁶³.

The latter choice, destroying the last hopes for the creation of a new agency or the designation of an existing one, preferably UNHCR, to deal alone with the case load of the internally displaced, has been harshly criticized for dispersing protection responsibilities and creating a lack of leadership and accountability⁶⁴. In response, the IASC released in April 2000 its «Supplementary Guidance»⁶⁵, assigning clearer protection responsibilities to UN staff, both at headquarters' level and at field level. This constituting only policy guidelines, true concern for IDP protection and genuine coordination still largely depend upon field based agencies and their staff.

actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard.»

⁶² This responsibility was endorsed by the UN Secretary-General in his 1997 Program for Reform, which recognized that human rights protection is a concern that cuts across the entire UN system, entailing responsibilities for its various organs and agencies. See Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, *ibidem*, p. 30.

⁶³ IASC, *Protection of Internally Displaced Persons*, *ibidem*, para. 11.

⁶⁴ The U.S. Ambassador to the U.N., Richard Holbrooke, for example, during a Security Council session on humanitarian assistance to displaced persons in Africa in January 2000, expressed dismay at the lack of effective international response to the problem of internal displacement. He challenged the very distinction between a refugee and an internally displaced person (IDP) and made a controversial call for a single agency to take responsibility for providing protection to IDPs, citing UNHCR as the most appropriate choice. See Human Rights Watch, *Human Rights Watch's World report 2001*, Washington D.C., 2002.

⁶⁵ IASC, *Supplementary Guidance to Humanitarian/Resident Coordinators on their Responsibilities in Relation to Internally Displaced Persons*

II. A major step towards protection: the elaboration of a Humanitarian Action Plan

Few years after the beginning of the international community's involvement regarding IDPs in Colombia, the inadequacy of the humanitarian response in terms of protection became clear⁶⁶. The international efforts in favour of IDPs were perceived as dispersed and the overall international presence as small. The UN system, in particular, was criticized for its insufficient contributions in expertise and resources and for the absence of formal coordination between its agencies, beyond the certain level of cooperation achieved through the establishment of a Thematic Group on Internal Displacement⁶⁷ and a protection working group⁶⁸ at the initiative of UNHCR.

A Humanitarian Action Plan, led by UNHCR, and supported by OCHA, was launched in November 2002 to address these weaknesses⁶⁹. It aimed to move the system from «strategic coordination» to more «operational coordination» and focused on national institution-building, post emergency assistance and displacement prevention⁷⁰.

Recommending a rights-based approach in UN programs and components of programs in coordination with the other major

(April 2000). Reproduced as Annex B in IASC, *Protection of Internally Displaced Persons*, *ibidem*.

⁶⁶ See Consultoría para los Derechos Humanos y el Desplazamiento (CODHES), «Colombia puede convertirse en la crisis humanitaria más grave del mundo», 10 June 2003.

⁶⁷ As the lead agency for internal displacement in Colombia, UNHCR has promoted a better circulation of information on displacement and reinforced the collaboration of the different agencies and organisations providing assistance to the displaced through the establishment of a Thematic Group on Internal Displacement.

⁶⁸ UNHCR supported the creation of an inter-agency protection working group to provide leadership to the UN Country Team and facilitate coordination in this sector.

⁶⁹ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, November 2002, Bogotá, 38 p.

⁷⁰ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, *ibidem*, p. 4.

international organisations member of the Thematic Group on Internal Displacement, it represents the first comprehensive step to create an interagency strategic planning while giving greater attention to protection-related activities.

1. A COORDINATED AND RIGHTS-BASED STRATEGY DIRECTED PRIMARILY AT THE DISPLACED POPULATIONS

The UN Humanitarian Action Plan (HAP) is conceived as a three phase strategic framework⁷¹ targeting three pilot areas for implementation⁷². Primarily intended to address the problem of displacement, it draws on the Guiding Principles on Internal Displacement to define a strategy for the UN system.

The first merit of the HAP is to give to the displacement crisis the visibility it deserves. Recognising that internal forced displacement of the civilian population forced by armed groups is the most severe manifestation of the Colombian humanitarian crisis, this document states that «for the UN, the humanitarian crisis is circumscribed fundamentally to displacement, including communities that have already been displaced as well as communities at risk of displacement»⁷³. In order to address the needs of the most vulnerable sectors of the displaced population, the scope of the UN coordinated strategy goes beyond those officially registered as internally displaced by the governmental authorities and protected by Law 387/97 and its regulatory decrees.

Another major progress achieved through the elaboration of the Plan is the identification of common goals and strategies in addressing the displacement crisis. It contains in the first place an analysis of the situation on the ground, of the State's response to

the humanitarian crisis and of the challenges faced by the United Nations System, facilitating thus joint needs assessments. On the basis of this common diagnostic, the UN agencies define operational strategies to be implemented in their sectors of activity.

While State's institutions, major donors, governmental and non governmental organisations have been consulted throughout the HAP's elaboration phase, coordination and common strategic planning have been overall limited to the UN system, taking nonetheless into account the activities of its major counterparts, notably the domestic System of Comprehensive Assistance to the Population Displaced by Violence, the ICRC and ECHO.

Such initiative appears to be essential since a thorough analysis of the context in which humanitarian and development activities are to take place is an essential prelude to any protection strategy⁷⁴. In the light of their analysis of the situation, UN agencies in Colombia decided not to centre their action «on emergency attention or relief, but rather on the post emergency, with a marked prevention approach»⁷⁵.

The major qualitative leap performed with this HAP from a protection perspective consists in the adoption of a rights-based approach to the large range of assistance and development activities contemplated. As stated from the outset, «the general objective of the HAP is to contribute in ensuring respect for and access to enjoyment of human rights, as well as the basic humanitarian principles of the population affected by the humanitarian crisis, mainly internally displaced, caused by the armed conflict»⁷⁶.

⁷¹ The first phase, taking place in 2002, was devoted to the elaboration of local plans on the basis of the national plan, starting up of the Humanitarian Action Plan, the Rapid Response System and the Humanitarian situation Room. The second phase, in 2003, saw a move towards more operational coordination after a period for adjustments. The third phase, in 2004, was focused on the preparation and the reformulation of the Humanitarian Action Plan, according to the lesson learned from the first experience and the evolution of the crisis. United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, ibidem, p. 6-7.

⁷² Based on vulnerability criteria, 3 pilot areas were targeted for implementation: Magdalena Medio, Chocó and Valle del Cauca. See UN Office for the Coordination of Humanitarian Affairs (UN OCHA), *Update of the*

Humanitarian Action Plan 2002-2003 for Colombia: Summary, Bogotá, 3 June 2003.

⁷³ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, ibidem, p. 4.

⁷⁴ Mark Frohardt, Diane Paul and Larry Minear, *Protecting Human Rights: The Challenge to Humanitarian Organizations*, 1999, The Thomas J. and Watson Jr. Institute for International Studies, Occasional Paper series, Providence, p. 35.

⁷⁵ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, ibidem, p. 6.

⁷⁶ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, ibidem, p. 5.

Endorsing the State's primary responsibility for promoting security, protection and assistance for persons displaced by violence, in accordance with the Deng Principles, the HAP intends to foster a more effective application of the international and national normative framework in policy formulation and operative action.

2. AN ATTEMPT TO TRANSLATE PROTECTION PRINCIPLES INTO EFFECTIVE PROTECTION ON THE GROUND⁷⁷

In pursuance of its general objective to contribute in ensuring respect for and access to enjoyment of human rights, as well as the basic humanitarian principles, the HAP established five basic premises, which should be given specific attention throughout the entire execution of the Plan and are particularly relevant to protection strategies⁷⁸.

The first premise translates the Plan's focus on a rights based approach and its emphasis on prevention, protection and socio-economic integration of the affected population. The second expresses UN agencies' objective to strengthen the legitimacy of domestic institutions and the rule of law, by putting forward initiatives to complement, rather than substitute to, the actions undertaken by the Colombian State, Civil Society's organisations or grass-root organisations and communities. A third premise highlights the importance of the reconstruction of the social fabric, the rehabilitation of the individual and encourages the adoption of a «differentiated approach», taking account of the specific characteristics of the affected groups: gender, age, ethnicity and geographical status (urban or rural). The fourth recalls the primary responsibility of the government for securing protection and assistance to the displaced and the related objective

of promoting application of the national and international legal frameworks in favour of IDPs. At last, the importance of the security of governmental, non governmental and UN organisations for the viability of the HAP is underlined.

Each of these principles is crucial to a strategy aimed at promoting respect for human rights and humanitarian principles, be it through environment building, responsive action or remedial action⁷⁹.

Beside these general commitments, encouraging but still rather abstract, effective protection seems promoted by the sectoral components of the UN system's strategy.

Importantly, indeed, one of the five pillars of the HAP is devoted to «Prevention and Protection»⁸⁰. In addition, each of the five sectors of activity selected is explicitly targeted at the realisation of one of the Guiding Principles, so that the plan, if successfully implemented, should provide an integral and comprehensive response to the difficulties encountered by the displaced in the legitimate enjoyment of their rights⁸¹.

More than an attempt to address the three phases of displacement, in accordance with the Guiding Principles and the national legislation⁸², the Humanitarian Action Plan seem to embody the will of the UN system, and, more widely, the international humanitarian and development community, to bridge the gap between Law and reality; between, humanitarian and human rights standards, and the provision of assistance and relief.

In December 2004, a revised Humanitarian action Plan for the year 2005 was issued⁸³. The Plan was developed by the government of Colombia, NGOs, and the United Nations along criteria formulated by Thematic Committees, which included

⁷⁷ The Inter Agency Standing Committee's policy paper on IDP protection notes that basing protection on principles of law is not sufficient and that «action is required to translate protection principles into effective protection on the ground». IASC, *Protection of Internally Displaced Persons - Inter-Agency Standing Committee Policy Paper Series, No.2*, New York, United Nations (2000) 2, para. 5.

⁷⁸ United Nations, Thematic Group on Internal Displacement, *Protection of Internally Displaced Persons - Inter-Agency Standing Committee Policy Paper Series, No.2*, ibidem, pp. 17-18.

⁷⁹ See Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, the Brookings-SAIS Project on Internal Displacement and the UN

Office for the Coordination of Humanitarian Affairs Inter-Agency Internal Displacement Division, Washington D.C., November 2004, 96 p.

⁸⁰ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, ibidem, pp. 24-25.

⁸¹ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, ibidem, p. 22.

⁸² Indeed, the national legislation, just as the Guiding Principles, provides for assistance and protection of the civilians before displacement occurs (prevention), during displacement, and after displacement (rehabilitation).

⁸³ UN Country Team in Colombia, *Plan de Acción Humanitaria, 2005 Colombia*, 31 December 2004, Bogotá, 50 p.

representatives from civil society, government entities, and the United Nations. The new version of the HAP, more elaborated, was supposed to endorse the fundamental strategic choices made in 2002.

However, strong disagreements arose between the United Nations and the government of Colombia about the content of the HAP, mainly related to the refusal of the government to explicitly mention the ongoing armed conflict and the humanitarian emergency in the country. Moreover the previously agreed human rights focus of the Plan was removed. The plan was thus launched as a government document in early 2005, and is not officially endorsed by the UN⁸⁴.

This incident, which, it is worth noting, does not affect the various collaborations existing between Colombian authorities and UN agencies, mirrors the difficulties encountered by the International Community, and more specifically the UN system, in collaborating with a Government whose commitment towards genuine IDP protection and human rights and humanitarian law is ambiguous.

In spite of these difficulties, as it shall appear from the next section, protection related activities undertaken by the major international actors have been, to a large extent, circumscribed to strengthening the national framework of attention to the displaced population, generating thus very limited results.

⁸⁴ Norwegian Refugee Council/Global IDP Project, *Global IDP Database, Profile on Internal Displacement: Colombia*, as of May 2005, available at

Section II. Turning speeches into acts: promoting respect for the rights of the IDP's

Although the Guiding Principles on Internal Displacement lack formal binding force, they have gained broad consensus and support, notably within the UN system, not least because they provide solid guidance on the way protection activities should be oriented to be effective⁸⁵. Yet, the situation prevailing for the internally displaced in Colombia clearly demonstrates that basing protection on principles of law is not sufficient and that «action is required to translate protection principles into effective protection on the ground»⁸⁶.

As it has been briefly mentioned previously, protection activities, understood as any activity aimed at creating an environment conducive to respect for human beings, preventing and/or alleviating the immediate effects of a specific pattern of abuse and restoring dignified conditions of life through reparation, restitution and rehabilitation⁸⁷, can be classified under three categories according to their purpose: environment building, responsive action and remedial action⁸⁸. These goals can be, in turn, pursued by humanitarian and development institutions through actions designed either to secure compliance from the authorities, or through the provision of direct services⁸⁹.

Two modes of action are possible in securing compliance: denunciation and persuasion. The denunciation mode implies pressuring the authorities (whether State or non-State actors), through public disclosure, to take action to fulfil their obligations and to protect individuals or groups exposed to abuse. Such a strategy appears to be particularly suitable when the violations are deliberate and outside actors are ready to mobilise.

However, it can impede access to the affected population and reduce avenues for dialogue with the authorities concerned.

The persuasion mode, on the other hand, consists in convincing the authorities to take action to fulfil their obligations to protect individuals exposed to and affected by abuse. While it does not generate the negative consequences of denunciation, it may restrict their ability to speak out in favour of the victims⁹⁰.

Similarly, two modes of action are possible when one opts for the provision of direct services: substitution and support to structures. The substitution mode, which simply refers to the direct provision of goods or services to the population concerned, is obviously to be favoured in emergency situations and where the competent authorities are unwilling or unable due to resources constraints to carry out the latter activities. A substitution strategy has, however, only a short-lived impact.

Conversely, the support-to-structures mode of action entails cooperation with national or local structures to enable them to carry out their functions. It has the precious advantage to be empowering and to sustain local capacities where they exist. Nevertheless, implying close contacts with the authorities, such a strategy can be perceived as a form of political support, which becomes controversial when the authorities are involved in violations of humanitarian or human rights standards⁹¹.

Although some organisations may be more inclined and skilled to take on specific roles and activities, all four modes of action can be undertaken simultaneously if a collaborative approach, such as the one inaugurated in Colombia with the Humanitarian action Plan, is employed.

⁸⁵ Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, the Brookings-SAIS Project on Internal Displacement and the UN Office for the Coordination of Humanitarian Affairs Inter-Agency Internal Displacement Division, November 2004, at http://www.brookings.edu/fp/projects/idp/protection_survey.htm, p. 27.

⁸⁶ IASC, *Protection of Internally Displaced Persons - Inter-Agency Standing Committee Policy Paper Series, No.2*, New York, United Nations (2000) 2, at 5.

⁸⁷ Workshop on Protection for Human Rights and Humanitarian Organisations, *Doing Something About It and Doing It Well*, Report of the workshop held at the ICRC, Geneva, 18-20 January 1999, p. 25, repro-

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duced in Inter Agency Standing Committee, *Growing the Sheltering Tree: Protecting Human Rights Through Humanitarian Action*, Geneva, UNICEF, 2002, p. 11.

⁸⁸ See Part II, Section I (I).

⁸⁹ Report of the Fourth Workshop on Protection for Human Rights and Humanitarian Organisations, *The Challenges of Complementarity*, 16-18 February 2000, ICRC, Geneva, 2000, pp. 58-60.

⁹⁰ Inter Agency Standing Committee, *Growing the Sheltering Tree: Protecting Human Rights Through Humanitarian Action*, Geneva, UNICEF, 2002, p. 13.

⁹¹ Idem.

However, in reaction to the overall passivity of the Colombian Government in relation to the abuses continuously underwent by the IDPs, ranging from discrimination, harassment and forced recruitment, to starvation, assassination and further displacement, the representatives of the international community, in particular UN agencies, have widely concentrated their protection efforts on re-designing and reinforcing domestic mechanisms and structures for the protection of this highly vulnerable sector of the civilian population.

Prompted by the existence of an elaborate legal and institutional framework of assistance to the uprooted and in line with the primary responsibility of the Colombian State under International Law, this legitimate emphasis will be illustrated through a short review of the protection activities of the relevant actors. In the light of the few progress made in direction of IDP protection in practice, the adequacy of the said strategy, insufficiently supported by high profile advocacy and direct protection activities, can be doubted.

1. Dissemination, advocacy and empowerment efforts

While distinct these three activities, often intermingled, contribute to create an environment conducive to better respect for the rights secured to the IDPs in international human rights and humanitarian law.

Indeed, be it by disseminating the Guiding Principles on Internal Displacement, by stating publicly their concerns as to the abuses the displaced, and civilians in general, are facing; or by supporting civil society's initiatives in favour of the IDPs, the major international actors participate, directly or indirectly, in raising the profile of the displacement crisis, on both national and international political agenda, and foster the emergence of a culture of respect for the rights of the civilian population and the displaced.

Unfortunately, efforts in these directions have encountered important obstacles and have been, to date, blatantly insufficient to trigger real change in the situation on the ground.

1. RAISING AWARENESS OF THE PLIGHT AND THE RIGHTS OF THE IDPS

The common understanding of the word «advocacy» is «the act or action of supporting an idea, way of life, person, [...]», but in the humanitarian sphere, this expression has a more specific meaning. It describes the activities aimed at supporting and/or promoting respect for the rights of the individuals as well as the viability of humanitarian action, both in terms of access and protection⁹².

Disseminating international and domestic legal provisions and standards protecting the IDPs is generally, thus, considered as a form of advocacy. However, for the purpose of this analysis, dissemination is distinguished from other forms of advocacy, more intended to exert pressure on individuals or institutions in a position to promote a change in favour of the uprooted.

While the Guiding Principles on Internal Displacement have been, to a great extent, translated into Colombian legislation; while the Colombian Constitutional Court decided in 2001 that the latter should be the «parameter for any new legislation on displacement as well as for the interpretation of the existing IDP legislation, and the assistance to displaced persons»⁹³, further progress have to be made to promote awareness as to the plight of the displaced and their rights, both among State's officials and the affected population.

Among UN agencies, it is primarily the Office of the High Commissioner for Human Rights (OHCHR) and the UN High Commissioner for Refugees (UNHCR) which are engaged in such activities.

The OHCHR, entrusted with the task of monitoring the situation of human rights in Colombia, in particular in relation to internal displacement, has developed a public information and promotion policy. In this framework, it participates in numerous seminars, forums, workshops and conferences in order to enhance the level of knowledge of civil society organisations, civil servants and Colombian citizens in general concerning international human rights and humanitarian law, and the issues raised by displacement. Additionally, for working with the media, the

⁹² Víctor de Currea-Lugo, *Como Hacer Advocacy y No Morir en el Intento (una mirada desde las ONG humanitarias)*, 2003, on file with the author.

⁹³ Constitutional Court of Colombia, *Sentencia SU-1150/2000*, August 2000.

office has contracted a national public information officer and holds workshops and meetings with journalists⁹⁴.

UNHCR, whose mandate is primarily to strengthen national institutions and civil society through capacity building, in order to enhance IDP protection, implements also many training and dissemination activities regarding the rights of the displaced. Copies of IDP legislation, for example, are widely distributed⁹⁵. Reflecting the growing attention to the most vulnerable sectors of the IDP population, it has equally issued publications about indigenous rights and gender issues, jointly with advocates and other UN agencies⁹⁶. In addition, it has organised encounters, workshops and seminars, jointly with the ICRC and/or the OHCHR, for a wide range of actors in Colombian politics and society, increasing thereby the visibility of the displacement crisis.

To the same end, UNHCR launched a radio programme on the biggest radio broadcasting station «Caracol» to inform IDPs about their rights under Colombian law, including their right to assistance and practical information about where they can register, where and how can they get assistance⁹⁷.

Finally, in between dissemination and lobbying, UNHCR signed an agreement to strengthen the capacity of the Colombian Senate and Human Rights Commissions to legislate on IDP issues in May 2003⁹⁸.

It is worth noting that, through its support to civil society's organisations and its implementing partners, UNHCR further promotes dissemination of the international and national legal framework, notably among IDPs themselves. Within the UN system, hardly any other agency, except UNICEF regarding children rights, provides such rights-oriented type of information.

The ICRC, in accordance with its mandate, disseminates international humanitarian law and trains government authorities, the armed forces and the organised armed groups as well as other sectors of society. While this activity is not specifically targeted at displacement prevention, it is intended to prevent executions, disappearances of civilians, hostage taking, threats, and ultimately forced displacement.

International NGOs also contribute to disseminate international and domestic law standards relating to displacement, although they often opt for more assertive advocacy strategies.

2. ACTIVE AND ASSERTIVE ADVOCACY: A DELICATE UNDERTAKING

As mentioned previously, there exist various forms of advocacy. Importantly, this activity does not necessarily imply public disclosure and can be limited to quiet diplomacy. Considering, however, the inherent lack of publicity of such efforts, our analysis will be essentially limited to assess the overt pressure and denunciation strategies employed by the major international institutions in Colombia.

Leaving aside dissemination activities, such undertakings entail a certain level of risk for international actors present in the field, in particular humanitarian and development agencies. Assertive advocacy implies, indeed, giving the victims a voice and ensuring that humanitarian and human rights concerns are taken into account. Consequently, as any mode of action designed to secure compliance on the part of the authorities, it may reduce the possibilities for cooperation with the latter and endanger the access to the victims. Nonetheless, when exerted in a sustained and concerted manner such form of pressure can reveal itself particularly fruitful⁹⁹.

⁹⁴ United Nations High Commissioner for Human Rights, *Report of United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, «Organization of Work», E/CN.4/2001/15, 8 February 2001, para. 15.

⁹⁵ Joseph Merx, Esmeralda Francisco, *Evaluation of UNHCR's programme for internally displaced persons in Colombia*, May 2003, UNHCR, Bogotá, p. 8.

⁹⁶ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongevej Working Papers, p. 38.

⁹⁷ United Nations High Commissioner for Refugees, *Campaña radial en Colombia informa a los desplazados internos de sus derechos*, 28 February 2005, available at http://www.acnur.org/paginas/?id_pag=3349.

⁹⁸ *idem*.

⁹⁹ Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, the Brookings-SAIS Project on Internal Displacement and the UN Office for the Coordination of Humanitarian Affairs Inter-Agency Internal Displacement Division, Washington D. C., November 2004, p. 39.

The practice of the United Nations Country Team concerning high profile advocacy is mixed. While it cannot be said that concerns as to the situation of the displaced, or those at-risk to become so, are not raised, such public statements are limited to these agencies which have an explicit protection mandate¹⁰⁰, reflecting apparently a fear of possible reprisals which could hinder access to the affected populations.

Strictly humanitarian and development agencies, generally, only issue press communiqués to denounce various obstacles to the delivery of relief or assistance. Moreover, explicit support from UN headquarters has been to date very limited.

The OHCHR is naturally prominent in making public the lack of compliance by State authorities and the organised armed actors with humanitarian and human rights principles.

Among the wide variety of violations highlighted in its annual reports to the Commission on Human Rights since 1997, the High Commissioner invariably underlines the magnitude of the displacement crisis and the extreme vulnerability of the civilians affected. Moreover, through its recommendations, seeking to foster greater respect for the relevant international legal instruments, it contributes to preventing new forced displacement, rooted in the permanent disregard for the principle of distinction between civilians and combatants as well as in human rights abuses.

Further, the office presses for investigations of human rights violations and breaches of international humanitarian law, devises programmes and promotes ways to ensure effective implementation of its recommendations. The office communicates to the press, on a regular basis, its concerns and the major findings of its investigations, in particular its field visits¹⁰¹.

Unfortunately, these activities have not had yet any significant impact. Under the Presidency of Mr. Pastrana (1998-2002), bodies through which the OHCHR had been providing the State with support and advice for the promotion of activities and programmes aimed at facilitating implementation of international recommendations have been dismantled, sidelined by Government policies or assigned piecemeal to collateral effects of the major problems faced¹⁰².

Since President Uribe took office, the situation has worsened. The latter has indeed demonstrated certain hostility towards the positions taken by the High Commissioner's representative, in particular concerning the «Democratic Security» policy, which bears harsh consequences on the IDPs. While noting some progress, the High Commissioner deplored, in its 2005 report, the limited implementation of its recommendations, even more worryingly considering they were the same made in 2003 and in previous years¹⁰³.

In April 2005, the President has announced his intention to modify the functions of the OHCHR in Colombia. If no agreement is found with the United Nations' human rights office, the current administration could refuse to renew its mandate¹⁰⁴.

The UNHCR does not encounter similar difficulties in its relationship with the Government, most probably because its public statements are circumscribed to the displacement situation, voicing the immediate assistance¹⁰⁵ and protection¹⁰⁶ needs of the displaced, and do not approach politically sensitive issues.

The refugee agency devotes, notably, a non negligible part of its advocacy activities to emphasise the particular protection needs of those groups deemed to be particularly vulnerable:

¹⁰⁰ Organisations with a protection mandate include the ICRC, the OHCHR, the UNHCR and UNICEF since they are concerned respectively with the promotion and defence of international humanitarian law, international human rights law, refugee law and the Convention on the Rights of the Child.

¹⁰¹ See, for example, OHCHR, *Observaciones de la misión a Toribío, Cauca. Condena por ataques de las FARC-EP*, press communiqué, available at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/EVIU-6BNEVV?OpenDocument>.

¹⁰² United Nations High Commissioner for Human Rights, *Report of United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, «Organization of Work», 8 February 2001, E/CN.4/2001/15, para. 17.

¹⁰³ United Nations Commission on Human Rights, Report of the High Commissioner for Human Rights on the situation of human rights in Colombia, 28 February 2005, E/CN.4/2005/10, p. 3.

¹⁰⁴ El Tiempo, *El Gobierno busca redefinir papel de la oficina de la ONU en Colombia*, Bogotá, 10 April 2005.

¹⁰⁵ See, for example, UNHCR, *Desplazados colombianos necesitan ayuda humanitaria urgente*, Radio Naciones Unidas, 10 May 2005, available at http://www.acnur.org/index.php?id_pag=3600.

¹⁰⁶ See, for example, UNHCR, *ACNUR reporta situación cada vez más crítica en noroeste de Colombia debido a grupos armados*, Radio Naciones Unidas, 5 April 2005, available at http://www.acnur.org/index.php?id_pag=3498.

women, children and ethnic minorities¹⁰⁷. Endorsing this advocacy line, the High Commissioner for Refugees himself, after its visit to Colombia in early 2004, cautiously avoided political controversies and simply recalled the gravity of the displacement crisis, one of the three world largest in his view, and its disproportionate impact on afro-Colombian and indigenous communities¹⁰⁸.

Beside this communication policy, UNHCR tries also to increase the visibility of the problem of displacement, nationally and internationally. To that end, its representative for Colombia launched, for example, a «humanitarian alliance» for IDPs, on the world refugee day, at the World Social Forum held in Cartagena in June 2003, where 3000 experts and delegates of civil society movements from Europe and America were gathered¹⁰⁹.

Other UN agencies present in the field speak out, at times, to underline the existence of new assistance needs and to denounce the lack of access or resources necessary to carry out adequately their relief and assistance activities¹¹⁰, addressing in an indirect manner protection issues. However, these appeals are not part of any consistent protection strategy and are not primarily intended to promote a change in the behaviour of the warring parties. As to the UN Resident Coordinator, he has been criticised internally for its passivity.

Beyond the Country Team, one can assume that the regular visits and reports of the special rapporteurs of the UN Commission

on Human Rights contribute indirectly to make public different set of abuses underwent by the IDPs and put pressure on the authorities¹¹¹. It should be kept in mind that the themes they deal with are often only loosely related to forced displacement as such and that their influence on governmental policy is not greater than that of the High Commissioner for Human Rights.

The Special Representative of the Secretary General for Internally Displaced Persons, himself, during its two visits in 1994 and 1999¹¹², has not obtained from the then Governments the necessary reforms since the OHCHR in Colombia still prompts their implementation. Colombian NGOs have recently called for a new mission of the latter in Colombia in the hope of better results¹¹³.

Considering the protraction of major protection problems affecting the displaced population, support from headquarters, appears to be crucial to any effective UN advocacy strategy. However, few bodies have, until now, specifically concerned themselves with the protection of the civilian population and the displaced. Apart from the Commission on Human Rights, the sole significant endorsements of the UN Country Team's advocacy efforts came from the Emergency Relief Coordinator, as the UN focal point for IDPs, and the Inter-Agency Internal Displacement Division¹¹⁴. In the same way, donor governments could play a decisive role in terms of advocacy, the financial pressure they are in position to exert being potentially much

¹⁰⁷ See, for example, UNHCR, *HCR: les jeunes Colombiens déplacés particulièrement exposés à la violence*, Centres des nouvelles de l'ONU, available at <http://www.un.org/apps/news/fr/storyF.asp?NewsID=10384&Cr=HCR&Cr1=Colombie> and William Spindler, «Indigenous Colombians: "We are here today and tomorrow we disappear"», *Refugees Magazine*, Issue 132, 1 September 2003, UNHCR, available at <http://www.unhcr.ch/cgi-bin/texis/vtx/print?tbl=PUBL&id=4135ca574>.

¹⁰⁸ Radio Nederland, *Desplazamiento forzados in Colombia*, 30 January 2004. «La crisis del desplazamiento forzado en Colombia es una de las tres más graves del mundo y quizás la primera en cuanto a complejidad se refiere. Kamel Morjane, Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR), ha llegado a esta conclusión tras realizar una visita a Colombia».

¹⁰⁹ UNHCR, *Foro Social Mundial Temático: El ACNUR lanza una alianza a favor de los más de tres millones de desplazados colombianos*, 19 June 2003, available at http://www.acnur.org/paginas/?id_pag=1520.

¹¹⁰ In March, The World Food Programme, for example, appealed for new funds in order to face impending forced displacement in Northern Co-

lombia. See WFP, *WFP Operations in Colombia Hobbled as Fresh Violence Terrifies Population*, 20 December 2004, available at: <http://www.reliefweb.int/rw/rwb.nsf/AllDocsByUNID/9005548f8dde935b85256f70006b5457>.

¹¹¹ In 2003, the Ombudsman requested that the UN send a mission of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples due to the killing of 36 indigenous leaders over the course of the same year.

¹¹² United Nations Commission on Human Rights, *Reports of the Representative of the Secretary-General on Internally Displaced Persons*, 3 October 1994, E/CN.4/1995/50/Add.1, and 16 November 1999, E/CN.4/2000/83/Add.2.

¹¹³ The new Special Representative of the Secretary General for Internally Displaced Persons, Walter Kälin, has planned to visit Colombia in June 2006 but has still not been granted the necessary visa by Colombian authorities (footnote added on 12 March 2006).

¹¹⁴ See Part II, Section III, p.

more rewarding than all the recommendations of the UN human rights mechanisms.

While donor governments had conditioned their financial assistance to Colombia's compliance with the recommendations of the High Commissioner on Human rights and legal guarantees against impunity of the paramilitaries in the demobilization process at the London Conference in 2003, 34 donor countries, including the same governments, renewed their commitment to assist financially the Colombian Government in February 2005 in Cartagena. Yet, by reference to the last report of the High Commissioner for Human rights, the situation on the ground does not seem to have sensibly improved¹¹⁵. The displacement crisis has never been a priority topic on the agenda of such diplomatic conferences.

Thus, outside the UN, advocacy in favour of enhanced IDP protection quasi exclusively emanates from Non Governmental Organisations. The ICRC, of course, dedicates itself to promoting respect for international humanitarian law, but, following its strict understanding of neutrality, it favours discretion over public exposure¹¹⁶. Some international human rights NGOs, whose mandates go far beyond IDPs, such as Human Rights Watch and Amnesty International participate also, through their regular analysis and their annual reports, to making protection concerns public.

More importantly, some international NGOs intervening exclusively in favour of the displaced population, such as Refugee International or NGOs members of the DIAL group¹¹⁷, put themselves in front line in confronting the governmental policies disregarding IDP protection. Yet, a limited number of organisations operating in the field engage in such perilous undertaking. There are serious risks involved in advocating human rights or the kind of change which address the root causes of the conflict. Indeed, in the violent political environment prevailing in

Colombia, taking sides, even the side of the victim, can prove fatal, as illustrated by the numerous murders of human rights defenders and IDP leaders each year.

3. THE SUPPORT TO CIVIL SOCIETY ORGANISATIONS AND COMMUNITY BASED INITIATIVES

As part of their attempt to foster an environment more respectful of human rights and humanitarian principles, some international institutions offer support to IDP organisations as well as Colombian NGOs primarily through training and material assistance. These local structures are, in turn expected to undertake advocacy on behalf of the IDPs, to provide them with legal or more classical emergency assistance and to lead community-based development projects with a view to generate incomes and bring about self-reliance for the displaced population.

These empowerment strategies are part of the wider capacity-building strategy of the international community designed, among other things, to enhance the protection of civilians and IDPs through local means. As previously mentioned, this strategy seems entirely legitimate. However, owing to the continuous disrespect by the armed actors of such fundamental principles and basic rights as the principle of distinction between civilians and combatants, the right to life, the right to hold and express one's opinions, this mode of action has largely failed to ensure physical security and full enjoyment of their rights to the uprooted¹¹⁸.

Virtually all the international agencies and organisations work through national implementing partners, Colombian NGOs which receive funding to implement projects designed and supervised by their international counterpart.

UNHCR is particularly active in supporting NGOs involved in protection related activities such as displacement monitoring,

¹¹⁵ *El Tiempo*, «En un año, cambió el tono de 34 países hacia Colombia», Bogotá, 5 February 2005.

¹¹⁶ Víctor de Currea-Lugo, «Protecting the health sector in Colombia: A step to make the conflict less cruel», *International Review of the Red Cross*, num. 844, Geneva, December 2001, pp. 1111-1126.

¹¹⁷ Dialogo Inter-Agencial (Dial group) is an umbrella organisation which includes Save The Children, Oxfam, Diakonia, Christian Aid and the umbrella organisation Project Counselling Service.

¹¹⁸ See Víctor de Currea-Lugo, «Posibilidades y dificultades del derecho internacional humanitario en el caso colombiano», in Jose Luis Rodríguez-Villasante, *Derecho Internacional Humanitario*, Madrid, Tirant Lo Blanch, Valencia, 2002, pp. 473-500.

advocacy, legal advice to IDPs, technical and other support to IDP association and which maintain a presence among threatened communities.

While conscious of the major defects of their initiatives, due to poor coordination and fragmented actions, the agency has measured, from the outset, the very important protection role played by the church and local NGOs given the limitations of State response to displacement and the limited State's presence at local level in many areas. It now supports and works with 12 NGOs, both national and local, including some of the most important, like the *Consultoría para los Derechos Humanos y el Desplazamiento* (CODHES)¹¹⁹, the *Secretariado Nacional de Pastoral Social* (SNPS)¹²⁰ and the *Organización Nacional Indígena de Colombia* (ONIC)¹²¹.

Support to IDP communities themselves and to their initiatives is also an integral part of most international actors' programs, including international NGOs, in particular when involved in remedial and rehabilitation activities¹²². Communities resisting displacement by claiming their neutrality and refusing entrance of their territory to all the warring parties, often after a first displacement, have received non negligible support from agencies such as UNHCR as well as Non Governmental Organisations. Similarly, the European Union, through ECHO, devotes an important share of its resources to supporting so-called «peace laboratories» for communities who claim their neutrality.

As substitutes to State's incapacity or, more accurately, unwillingness to fulfil its obligations to provide physical security, adequate assistance and durable solutions to its population, in particular to the displaced, civil society's organisations have proved essential. However, the scale of their initiatives does not commensurate with the scale of the displacement crisis.

In the same way, their advocacy efforts only have a small impact in the national political arena and put their members at great risk. The fact that the Church closely cooperates with international organisations for protection, for example, has not prevented the assassination by armed actors of various church's members involved in charity and human rights work¹²³. Similarly, the so-called peace communities, small IDP communities proclaiming their neutrality to resist displacement in certain regions, are the object of regular attacks by the warring parties, leading sometimes to massacres¹²⁴.

Accordingly, relying on such organisations can only be, for the international community, a second option or an accompaniment solution. International agencies should remain themselves directly involved in activities aimed at preventing displacement and protecting IDPs during and after displacement and take the lead of any advocacy undertaking directed against the root causes of forced displacement.

II. Prevention and protection strategies

Displacement prevention is an essential element of any international protection strategy. While, dissemination and advocacy make an important contribution to displacement prevention by addressing its root causes, early warning mechanisms and the accompaniment of at risk communities are also critical in preventing civilians' flight.

Additionally, a prevention strategy consists in foreseeing displacement and adopting measures designed to limit the vulnerability of those whose flight could not be prevented, in order to avoid the classical «humanitarian catastrophe».

¹¹⁹ *Consultoría para los Derechos Humanos y el Desplazamiento* (CODHES) monitors and follows-up on internal displacement in Colombia.

¹²⁰ *Secretariado Nacional de Pastoral Social* provides IDP associations with technical assistance and training to support associative and participatory process among IDPs and to improve networking among IDP associations; works with ethnic minorities to strengthen their self-protection capacities to limit or prevent displacement (e.g. early warning systems, cultural resistance, etc.) and implements activities such as teacher-training and provides psycho-social attention to young IDPs. It acts as an umbrella agency for the implementation of projects with local Pastorals and Dioceses.

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¹²¹ *Organización Nacional Indígena de Colombia* (ONIC) protects indigenous IDPs and indigenous-at-risk of displacement.

¹²² For clarity purposes, this specific type of empowerment strategy (support to peace communities, community-based education programs and development projects, etc.) will be dealt with when examining the broader activity schemes of which they are part.

¹²³ International Crisis Group, *Colombia's humanitarian crisis*, Latin America Report No 4, Bogotá/Brussels, 9 July 2003, p. 19.

¹²⁴ Refugee International, «*Colombia: Rural Peace Communities Under Renewed Threat From the Armed Actors*», RI Bulletin, Washington D.C., 26 April 2005.

1. REINFORCING THE OMBUDSMAN OFFICE'S EARLY WARNING SYSTEM

In Colombia, such efforts are primarily led by United Nations agencies, seconded of course by international and national NGOs. These agencies, notably the OHCHR, UNDP and the UNHCR¹²⁵, while ensuring a limited field presence have mostly concentrated their activity on the strengthening of the national prevention mechanisms, by cooperating with the Ombudsman's Office's early warning system, the national registration Office and the land registration authorities.

Although facilitating a rapid response to new forcible population movement, these activities have not permitted yet to reduce in any significant manner the number of new displacements.

A logical step in trying to prevent forced displacement has been for UNDP and the OHCHR, in application of the Humanitarian Action Plan¹²⁶, to try to strengthen the Ombudsman Office's early warning mechanism, supposed to be activated when communities, due to a deterioration of the security conditions in the region or to direct threats by the armed actors, face a significant risk of displacement. Indeed, through the local Ombudsman, this Office is often the only independent State institution present in many conflict areas and, thus, able to give an alert in case of imminent displacement.

In spite of this attempt, the office remains critically under-funded and its alerts are usually not followed by any concrete action from the competent authorities¹²⁷. The early warning mechanism has been deprived of any effectiveness since the Government decided, in 2003, that early warnings could no longer be issued directly from the Ombudsman's Office to the pertinent civilian and military authorities¹²⁸, but had to go

through a bureaucratic process managed by an inter-institutional government committee (CIAT) composed by the Vice-President of the Republic, the Ministry of the Interior and the Ministry of Defence. In addition, the Government threatened recently to close several local offices, in particular in the areas most affected by the conflict, where indigenous and afro-Colombian communities face continuous threats¹²⁹.

Of the 90 proposed early warnings sent to the CIAT in 2004, only 18 were accepted and issued¹³⁰. The number of risk reports which did not give rise to an early warning by CIAT, but where the incident warned of took place, is very high¹³¹. The calls of the High Commissioner for Human Rights and the UNHCR for a more adequate response from the Government to such warnings, reiterated at UN headquarters' level, have until now failed to prompt any change.

2. ANTICIPATING AND PREVENTING DISPLACEMENT

Regrettably, the risk reports of the Ombudsman Office are not systematically shared with the UN Country Team. If they were warned, UN agencies could, indeed, take steps to avert displacement, such as increasing their presence in the region or interceding with the authorities.

To remedy this lack of information, the UN system set up, in application of the Humanitarian Action Plan, an inter-agency Humanitarian Situation Room to permit the collection, classification, analysis and dissemination of information on the humanitarian crisis, in close collaboration with other international organisations, NGOs and grass-roots organisations. Its tasks include notably the production and dissemination of technical and other documents to support agencies' field operations and the

¹²⁵ UNHCR is the UN agency with the largest field presence with 9 field offices.

¹²⁶ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, November 2002, Bogotá, p. 34.

¹²⁷ The Office of the Ombudsman has increased its assistance and protection in some areas of the country, as in the case of the communities at risk on the Pacific coast, and has made progress with the organization of the Early Warning System. Nevertheless, budgetary limitations prevent it from maintaining an effective presence in all areas at risk, or from following up upon the authorities' response to all incoming reports of imminent danger.

¹²⁸ See Part I, Section II (II).

¹²⁹ United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, p. 14.

¹³⁰ In 2003, in 10 cases out of 32 in which risk reports were not turned into alerts, the incidents took place (31 per cent). By August 2004, incidents occurred in 6 out of 13 such cases (46 per cent). United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, *ibidem*, p. 14.

¹³¹ UN Inter-Agency Internal Displacement Division, *Humanitarian Action Plan 2002-2003*, *ibidem*.

direction to the OHCHR of information regarding early warning. It produces each month a valuable Humanitarian Situation Report¹³².

While not specifically focused on protection issues, the report offers a wealth of information, by region or municipality, on new displacement, requiring emergency action from the authorities and the international agencies to assist individuals affected; on communities at-risk, demanding the adoption of immediate protective measures; and on the action taken by the national and international agencies to assist and protect the displaced and the populations at risk during the last month.

On the operational side, the Humanitarian Action Plan decided the expansion and reinforcement of the Rapid Response System tested in the Chocó region, with the goal of providing a rapid, effective and comprehensive response at the onset of a crisis situation¹³³. One of the specific objectives of such a system is to ensure an international presence in the zone concerned to help protect communities and prevent further displacement. Additionally, it is supposed to facilitate coordination and provision of technical assistance to governmental institutions (local and national), in order to ensure that the Territorial Committees of the National System for Comprehensive Assistance to the Population displaced by Violence, the UN system, NGOs and religious and grass roots organisations cover at least the most basic and critical needs in the medium term.

This promising project for an enhanced protection of the populations under threat or actually forced from their homes has not been concretised to date. The difficulty of ensuring an international presence in certain areas would, in any case, be an obstacle to its smooth functioning, at least regarding displacement prevention.

Establishing an international presence among the displaced and the populations-at risk is often a critical step towards effective

protection. Numerous international agencies maintain a certain physical presence in the field, additionally to NGOs and grass-roots organisations.

The ICRC, as one of the organisation with the most extensive field presence, is prominent in this domain. Within the UN system, although many aid agencies contribute to the security of threatened communities simply by securing regular visits for the provision of food and non food items, the UNHCR and the OHCHR are the only one to deploy international staff in the field.

In evaluating its programme for internally displaced people in Colombia, UNHCR noted the particular importance of providing «physical» protection by accompanying communities in areas controlled by one of the organised armed groups as well as the deterrent effect of its presence in processes of return or relocation¹³⁴. Working with NGO partners, it has established «protection networks» in order to broaden its coverage.

However, creating a humanitarian space in order to ensure access and protection to threatened communities proves hard and sometimes impossible. The blockades imposed by armed actors in certain areas of strategic interest hamper considerably the application of effective prevention and protection mechanisms¹³⁵. Indeed, such blockades, not only prevent the delivery of food and medicines, the warring parties using increasingly starvation as a method of warfare, but they above all prohibit entrance of the territories controlled to all humanitarian organisations, isolating thus completely several communities¹³⁶.

The humanitarian situation reports regularly voice concerns over the plight of communities, sometimes returning communities, under total siege for one or several years and exposed to the violence and reprisals of the armed groups. In such situations, the flight is often the only way to ensure the safety of civilians but is not always possible.

¹³² All the Humanitarian Situation Reports are available on the Relief Web website at http://www.reliefweb.int/RWSearch/Search?num_DES_FormID=1&num_DES_Browser=1&txt_DES_ShortSourceName=UNCT%20Colombia&num_DES_Operator=1&srchType=5

¹³³ United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, November 2002, Bogotá, p. 30.

¹³⁴ Joseph Merkx, Esmeralda Francisco, *Evaluation of UNHCR's programme for internally displaced persons in Colombia*, UNHCR, Bogotá, May 2003, p. 9.

¹³⁵ UN Country Team, *UN Humanitarian Situation Room, Colombia Report January 2005*, Bogotá, 31 January 2005.

¹³⁶ United Nations High Commissioner for Human Rights, *Report of United Nations High Commissioner for Human Rights on the human rights situation in Colombia, «Organization of Work»*, E/CN.4/2001/15, 8 February 2001, para. 119.

As mentioned previously, in order to protect themselves, members of minority groups or returned IDPs have formed «peace communities», which are committed to peaceful civil resistance and neutrality in the conflict. Nevertheless, being located in high tension zones, their security is not guaranteed. The armed actors do not respect their neutrality and authorities do little to prevent attacks, blockades and renewed displacements, presumably because of the Army's links to paramilitary groups and because it is equally refused access to their territory.

UNHCR, directly and in collaboration with specialized NGOs such as Peace Brigade International, tries to provide them with a measure of protection through international presence. Unfortunately, such attempts are not always successful and peace communities' members pay sometimes from their life their aspirations to neutrality.

In February 2005, for example, eight members of the San José de Apartadó peace community, in the Urabá region, were massacred, reportedly by members of the Colombian army, triggering the displacement of about 500 people¹³⁷. These murders are the latest in a string of attacks that the community says have left 154 of their members dead since 1997. During the last eight years, the Colombian state has not been able to undertake sufficient measures to protect and solve the problems faced by this community, although the Inter-American Commission for Human Rights requested special protection measures in 1997 and March 2004¹³⁸.

Faced in such a tragic way with their own impotence to protect more effectively the civilian population and prevent displacement, international actors, in particular the UN system, have developed strategies designed, at the same time, to reduce the risks of displacement and to ensure adequate assistance and remedies for the displaced.

3. PROMOTING IDP REGISTRATION AND LAND TITLING

Providing identification documents and registering lands in communities at-high risk of displacement protects the individuals concerned in a double manner. First, since the struggle over land is one of the major motives of the displacement strategy adopted by the organised armed actors¹³⁹, land titling operations can act as effective deterrents, ensuring the illegality, and correlative uncertainty, of the property acquired through forcible expulsion.

On the other hand, documentation campaigns in at-risks communities or immediately following displacement facilitate for the uprooted access to the governmental emergency assistance mechanism, those lacking identification documents being automatically refused registration as an internally displaced by the Social Solidarity Network and thereby refused access to food aid, education and health services. To register for government assistance, IDPs without documentation have even been asked to return to their original village or town to obtain new documents, a practice which places IDPs' lives at serious risk.¹⁴⁰

UNHCR, through the Joint Technical Unit assisting the Social Solidarity Network, has from the onset given priority to enhancing the IDP registration system. It is working with the Registry Office to provide IDPs with documentation. It promotes in particular the registration and documentation of Afro-Colombian and indigenous populations, notably women and girls, through sensitization campaigns and the training of local officials. Moreover, UNHCR deploys mobile emergency registration units to newly displaced communities. The refugee agency delivered, that way, documents to tens of thousands of IDPs¹⁴¹.

Despite the usefulness of this undertaking, many applicants have their case reviewed but are refused entry into the official registry system. In the Chocó province, more than half of the

¹³⁷ This Peace Community had received assistance and support from Peace Brigade International and OXFAM UK, the latter being implementing a comprehensive humanitarian programme in four communities of this kind. As demonstrated tragically, this does not avert massacres.

¹³⁸ United Nations High Commissioner for Refugees, «UNHCR condemns peace community massacre in Colombia», March 2005, available at <http://www.reliefweb.int/rw/RWB.NSF/db900SID/HMYT-6A3NRU?OpenDocument&rc=2&cc=col>.

¹³⁹ About half of the IDPs come from lands under paramilitary control according to CODHES and 60% according to the World Bank. Consultoría para los Derechos Humanos y el Desplazamiento, *La Tierra Para el que se la Quitaron*, Perfil No 75, Bogotá, 2 February 2005.

¹⁴⁰ Marie Stopes International, Women's Commission for Refugee Women and Children, etc..., *Displaced and Desperate: Assessment of Reproductive Health for Colombia's Internally Displaced Persons*, Bogotá, 28 February 2003.

¹⁴¹ UNHCR delivered documentation to 60 000 persons in 2003.

applicants were refused IDP status, according to the Government's own statistics.

Additionally, under the existing criteria, those displaced as a result of crop fumigations (amounting to an estimated 200,000 since 1999, according to CODHES), are not registered as IDPs. Likewise, victims of intra-urban displacement, that is those displaced from one neighbourhood to another due to progressive urbanisation of the conflict, are seldom registered¹⁴².

More generally, the registration process is considered slow and cumbersome and a large number of IDPs are never registered. Other IDPs lack confidence in government assistance programmes and do not want to be registered as they fear stigmatization¹⁴³. There are currently 1.7 million IDPs registered by the Government, while there is broad acceptance that there are a total of some 2-2.5 million IDPs, and even over 3 million since 1985 following CODHES¹⁴⁴.

Effective protection of the patrimonial assets of IDPs and persons under risk of being displaced is an important instrument for minimizing the risk of impoverishment of these communities. From a prevention perspective, the registration of assets helps to avert the IDPs despoilment of their property rights and is a possible deterrent to displacement strategies.

In order to overcome existing challenges to the enforcement of legal provisions protecting the patrimonial rights of the displaced, the Colombian Government received support and funding from the World Bank, the International Organisation for Migrations (IOM) and the Swedish International Cooperation and Development Agency (SIDA) to implement a project entitled Protection of the Patrimonial Assets of the Displaced Population¹⁴⁵.

The project's main objective is to design, test and implement a strategy to minimize the risks of displacement and to mitigate its effects by protecting patrimonial assets. Involving local and national, governmental and non governmental organisations as well as affected communities, it promotes the development of the necessary information gathering methodologies, the legal and institutional procedures and associated tools to take into account the broad range of ownership types present in Colombia¹⁴⁶.

While the project, as of November 2004, favoured the registration and protection of 8580 properties, governmental policies have continued to undermine the protection of the patrimonial assets of the displaced population¹⁴⁷.

The issue of reparation for the harm caused to the victims of acts of violence and displacement, including control over lands, does not appear to be adequately addressed in the context of the negotiations with the paramilitary groups, though the latter control illegally as much as 6 millions hectares¹⁴⁸. Illustrating the unwillingness of the Government to truly question the counter-agrarian reform achieved by paramilitary groups and their allies, the decree regulating the implementation of the Peace and Justice Law —adopted in June 2005 to allegedly prevent impunity of former members of paramilitary groups— excludes the so-called «testaferros» from its scope¹⁴⁹ (GoC, 20 December 2005). Indeed, third persons who have participated with the «illegal armed groups» to the illegal acquisition, possession or transfer of goods will only be subjected to an investigation under the peace and justice law if the prosecutor consider it relevant, in application of the principle of opportunity¹⁵⁰ (*El Tiempo*, 3 January 2006; OHCHR, 6 January 2006).

¹⁴² UN Inter-Agency Internal Displacement Division, *Report on the Mission to Colombia*, 16-27 January 2004, available at www.reliefweb.int/idp/docs/reports/2005/Colombia%20January%202005.pdf.

¹⁴³ Cohen, Roberta and Sanchez-Garzoli, Gimena, *Internal Displacement in the Americas: Some Distinctive Features*, Occasional Paper, The Brookings Institution, Washington D.C., May 2001.

¹⁴⁴ Germán Piffano, *Desplazamiento Interno Forzado in Colombia: el Falso Debate de las Cifras*, CODHES, 2005, 18 p.

¹⁴⁵ World Bank, *Colombia: Protection of Patrimonial Assets of Internally Displaced Population Project*, November 2004, 5 p.

¹⁴⁶ These forms of ownership include notably the different forms of possession and traditional collective ownership, widespread among indigenous and Afro-Colombian Communities.

¹⁴⁷ World Bank, *Colombia: Protection of Patrimonial Assets of Internally Displaced Population Project*, *ibidem*, p. 4.

¹⁴⁸ Semana, *Bomba de tiempo*, 17 September 2005, Bogotá.

¹⁴⁹ Government of Colombia, *Decreto 4670 por lo cual se reglamenta parcialmente la Ley 975 de 2005*, 20 December 2005.

¹⁵⁰ *El Tiempo*, «Fiscalía no investigaría a testaferros de “paras” según reglamentación de Ley de Justicia y Paz», 3 January 2006, Bogotá; OHCHR, *Colombia: La reglamentación de la «Ley de Justicia y Paz» no logra establecer adecuadamente el respeto por los derechos de las víctimas*, 4 January 2006, Bogotá.

III. *Enhancing the national and local capacity to secure and protect the economic and social rights of the displaced*

As defined in the academic and humanitarian sphere, protection implies the fulfilment of all the rights of the individual, including economic and social rights. While in the phase preceding displacement, the emphasis lays naturally more on the need to avert violations of the humanitarian principle of distinction and of the rights to life, personal security and freedom of movement of the civilians, which are seen as the primary causes of displacement¹⁵¹, during and after displacement, the socio-economic situation of the displaced matters as much.

In that perspective, the delivery of emergency assistance and free access to basic services, which secure a minimal enjoyment of the right to food, health and to an adequate standard of living, is an indispensable first step. However, more sustainable solutions have to be found in order to promote the reintegration and rehabilitation of IDPs, ideally through return or resettlement. Finally, it is equally important to enable the victims of displacement to obtain adequate reparation for the losses and the suffering underwent by establishing effective legal remedies.

International assistance and development institutions carry out programmes in these directions, seeking in particular to prompt better implementation of the relevant domestic laws and overcome their weaknesses, but governmental policies and priorities invariably undermine these efforts.

1. SECURING UNIVERSAL ACCESS TO ASSISTANCE AND BASIC SERVICES: THE JOINT TECHNICAL UNIT AND THE COLLABORATION WITH THE SSN

A number of international agencies acting in Colombia are engaged in assisting the Social Solidarity Network (SSN), entrusted with the task of supervising the provision of emergency and

longer term assistance to IDPs, to carry out its functions in a more satisfactory manner in their particular area of competence.

In pursuance of that general objective, UNHCR established in 1999 the Joint Technical Unit (JTU) to support the work of the SSN through capacity building, monitoring and evaluation of the state response to the displacement crisis. In addition, the SSN and UNHCR have set up Working Groups with Displaced Populations¹⁵².

The ICRC and the World Food Programme coordinate their efforts in order to offer relief assistance to the displaced within the three months following displacement and during the transition phase from emergency to rehabilitation¹⁵³. While the ICRC focuses its activities on covering the basic needs left uncovered by the SSN during the first period, notably in rural areas where this institution is not represented¹⁵⁴, WFP operates, in collaboration with the SSN and the Colombian Institute for Family Welfare, an Operation for Extended Relief and Recuperation designed to help IDPs to move beyond direct relief assistance to greater economic security¹⁵⁵.

Since serious planning is unrealistic as long as the concerned populations neither return to their homes nor resettle, the programme focuses on short projects contributing to communities' self sufficiency and stability, notably vocational training and short-term agricultural projects. This effort is complemented by the ICRC's Quick Impact Projects, tailored to help building small infrastructures, such as schools or health clinics.

Owing to the fact that the displaced are exposed to a prolonged period of food insecurity between four months and two years after displacement, WFP has oriented programmes towards pre-school children and pregnant women. WFP programmes are all co-financed by the government or an international agency¹⁵⁶. The SSN has encountered difficulties to pay its share due to insufficient Governmental funding.

¹⁵¹ It is worth remembering that violations of economic and social rights often accompany the said violations and participate in provoking the flight.

¹⁵² Joseph Merx, Esmeralda Francisco, *Evaluation of UNHCR's programme for internally displaced persons in Colombia*, UNHCR, Bogotá, May 2003, p. 7.

¹⁵³ WFP operates its relief assistance programme under a joint agreement with the ICRC.

¹⁵⁴ It provides items as, food, hygiene kits, utensils, bedding and clothing for periods of three months, six in exceptional cases.

¹⁵⁵ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongejev Working Papers, pp. 39-40.

¹⁵⁶ UNHCR and IOM have executed joint projects with WFP and it has collaborated with UNICEF and PAHO. Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, ibidem, p. 40.

In the field of health care, PAHO/WHO works through the Ministry of health and advises the SSN¹⁵⁷. However, the agency does not limit its activities to registered IDPs, considering the flaws of the national registration system.

Beyond emergency health care, which is equally guaranteed by the ICRC through mobile health units and Ngos such as MSF, PAHO/WHO concentrates on medium-term attention. It seeks notably to strengthen the response capacity of municipal and departmental public health facilities in the areas that have received large numbers of displaced persons and to improve the skills of health care workers. Moreover, the social security system having been decentralised, it attempts to build capacity among clinic and hospital administrators in budgeting and billing through the complicated national administrative mechanisms. Finally, PAHO/WHO supports efforts to educate the population on healthcare and other rights in order to empower those denied services to demand government's compliance with Law 387 and other legal provisions.

It should also be noted that in the sensitive field of reproductive health, the UN Fund for Population Activities (UNFPA) has undertaken capacity building initiatives and direct assistance activities, targeting particularly adolescent girls.

Meanwhile it collaborates with State's institutions in order to promote policies taking into account the specific needs of displaced children, UNICEF focuses on those established in a fixed location and supports primary school health, psychosocial attention, education and community development projects¹⁵⁸. It collaborates with PAHO, the ICRC and the local church dioceses.

Although incomplete, this description illustrates clearly the attempt of humanitarian and development organisations to stimulate the national and local capacities to fulfil the needs of

the IDPs, in particular in the post-emergency phase. This strategy has only had until now disappointing results primarily because the socio-economic status of the displaced population is not a priority for the Government.

As far as emergency assistance is concerned, insufficient resources have been allocated to the SSN¹⁵⁹. Although emergency assistance is the most developed and efficient part of the response carried by the SSN and the ICRC, it only covers mass displacement and only 50% of registered IDPs received emergency assistance between 2002 and 2004¹⁶⁰.

On the other hand, the government dismantled the special system of attention to IDPs financed by a special fund, FOSYGA, which gave direct and unlimited access to health services anywhere in the country. IDPs are now assisted through the General System of Social Security in Health under the decentralised responsibility of municipalities and departments¹⁶¹.

Considering that, due to the failure of the central authorities to reimburse automatically the expenses incurred by IDPs' health care, certain institutions refused to provide them with free services, as stipulated by the law, decentralisation is likely to further undermine access to health facilities.¹⁶² Moreover, the authorities still have not adopted the necessary differentiated approach regarding medical attention. The government has indeed until now failed to define a group and gender specific differentiated approach to assisting IDPs, notably in reproductive health and children psycho-social needs.

Despite all this, it is generally agreed that the area where a clear governmental policy is lacking the most is that of longer-term stabilization. Post-emergency response is weak and uncoordinated with the emergency assistance. The efforts of the Joint Technical

¹⁵⁷ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement in Colombia: National and International Responses*, ibidem, p. 42.

¹⁵⁸ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, ibidem, p. 43.

¹⁵⁹ «Between 1995-2000 some US\$ 70 million were made available, in 2001 US\$ 66 million and in 2002 US\$ 67.5 million (planning figure). The funds made available are not always spent due to slow implementation and budget deficits. Most of the funds are used for emergency assistance, but only 43 per cent of the total number of registered IDPs received relief

items». Joseph Merckx, Esmeralda Francisco, *Evaluation of UNHCR's programme for internally displaced persons in Colombia*, ibidem, p. 8.

¹⁶⁰ United Nations High Commissioner for Refugees, *Balance de la política pública de prevención, protección y atención al desplazamiento interno forzado en Colombia, agosto 2002 - agosto 2004*, Bogotá, December 2004, p. 6.

¹⁶¹ Idem.
¹⁶² 30% of the population affected by displacement refused access to health compared to 10% of the general population. See WHO, PAHO, *Salud y desplazamiento en Colombia*, Bogotá, 7 April 2005.

Unit at the local level to strengthen the Committees on Care for the Displaced Population have been significant.

However, owing to a lack of political will and of awareness of mechanisms, as well as other difficulties, many mayors have not taken the necessary steps to obtain funding at the national level¹⁶³. While there is a serious lack of return and resettlement opportunities, the Government widely favours return and micro-credit projects and neglects other options¹⁶⁴.

2. THE SEARCH FOR DURABLE SOLUTIONS: REINTEGRATION AND REHABILITATION EFFORTS

The reintegration and rehabilitation of the internally displaced implies return to their place of origin, when the security conditions permit, or resettlement in another area of the country with governmental and other assistance, or finally integration within the receptor community and their new environment. Genuine rehabilitation also implies effective reparation for the losses suffered consequently to displacement.

International actors encounter particular difficulties in promoting durable solutions. On the one hand, the persistence of potential threats to the security of the displaced often renders return options hazardous. On the other hand, the Government does not offer any significant resettlement opportunities to the displaced, the progress of the agrarian reform being extremely slow and land ownership extremely unequal.

Moreover, the number of displaced growing continuously, displacement prevention and emergency or immediate post-emergency assistance have received more attention than the necessity to promote re-integration of the displaced within their new environment.

While other organisations have integrated the promotion of longer term solutions to their programmes, such as the ICRC

with its Quick Impact Projects or WFP with «food for work» or «food for training» projects, IOM is one of the only agencies to target its activities almost exclusively to longer term rehabilitation in operating a Post Emergency Assistance Programme for Displaced Group and Receptor Communities in Colombia¹⁶⁵.

Starting from the premise that government's weak response is due in large part to the institutional flaws at the local level, it has initiated projects that provide both incentives and technical assistance to municipal offices to develop projects benefiting the displaced. It has negotiated agreements with the SSN and other relevant State's institutions to produce requests for housing subsidies in favour of IDP communities and is committed to pay 10% of each project. IOM also finances micro credits and income generation projects largely oriented towards capacity building.

Besides, in accordance with their protection-oriented mandates, UNHCR and OHCHR have undertaken various activities in order to enable people affected by displacement to enforce the rights recognised in national law, in particular their right to property restitution, also enshrined in Guiding Principle 29.

The OHCHR contribution consists mainly in the strengthening of national institutions in the judicial and law enforcement sectors, primarily by training officials. At the practical level, UNHCR has, for example, established a network of free legal aid centres, in partnership with the Ombudsman's Office and various universities¹⁶⁶.

Although justice requires that all properties acquired through violence by organised armed groups and drug barons be confiscated, the guilty punished and properties returned to their original owners, it is yet far from being the case. Few IDPs were in fact issued formal land titles and the legal provision freezing transactions in conflict areas has never been implemented¹⁶⁷. In addition, as mentioned earlier, the legal framework adopted in relation to the demobilisation of paramilitary groups at the initiative of President Alvaro Uribe does not guarantee the restitution

¹⁶³ United Nations High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, E.CN.4.2002.17, 28 February 2002, para. 238.

¹⁶⁴ United Nations High Commissioner for Refugees, *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, *ibidem*, para. 242.

¹⁶⁵ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement in Colombia: National and International Responses*, *ibidem*, p. 41.

¹⁶⁶ Joseph Merkx, Esmeralda Francisco, *Evaluation of UNHCR's programme for internally displaced persons in Colombia*, UNHCR, Bogotá, May 2003, p. 10.

¹⁶⁷ Project Counselling Service (PCS), *PCS Internal, September - December 2004*, Bogotá, 22 December 2004.

of properties to the displaced. Similarly, the Commission of Reparation and Reconciliation created under the Peace and Justice Law—in the event it would consider as IDPs as victims—will be unable to offer them effective reparation¹⁶⁸.

Drawing on the experience acquired in the field of refugees' return, UNHCR evaluates conditions for return and only assists returns when they are deemed to be safe, voluntary, dignified and sustainable. The ICRC also sometimes facilitates the return of displaced people to their homes, most of the time on an individual basis, after negotiation with the armed actors.

Between August 2002 and December 2004, the government accompanied the return of about 73,622 people, about 58% of the target of 30,000 families planned for 2006¹⁶⁹. However, the voluntariness of some of these returns has been questioned by the High Commissioner for Human Rights¹⁷⁰.

According to the ICRC, indeed, only 11 percent of IDPs individually displaced wish to return, while over 46 percent want to stay where they have settled and almost 19 percent would like to be resettled in other areas¹⁷¹. Nonetheless, many IDPs who settled in urban areas, given the precariousness of humanitarian assistance, the criminalization of IDPs, the crudeness of urban violence and the lack of economic opportunities (which is closely connected to the stigmatization of IDPs), voice a desire to return to their rural centres¹⁷². Sub-human living conditions prompt some to return while their safety cannot be guaranteed. In such cases, whether or not to facilitate return is a controversial issue.

Such a dilemma, well illustrated by the cases of recurrent abuses committed against members of returning Peace Communities¹⁷³, is emblematic of the dead end in which the inter-

national humanitarian and development agencies seem to find themselves in Colombia.

As shown through this brief review of their activities in the field of protection, they have until now heavily relied on the sophisticated domestic legal system and the elaborate institutional framework to secure, to the displaced and the populations at risk, full enjoyment of human rights and respect of the humanitarian principles. However, this strategy largely fails on the ground to provide effective protection to the affected populations.

A number of State institutions have shown concern for the plight of internally displaced persons and have courageously confronted Government's policies when the latter disregarded their rights. A striking example is the recent sentence T-025 of the Colombian Constitutional Court¹⁷⁴, by which it reiterated the obligations of the state towards IDPs and ruled that State authorities must better implement the law. The Court also ordered the government to investigate the magnitude of internal displacement and present proposals and budgets to guarantee adequate state response.

However, the Government did not adequately respond to the injunctions of the highest Colombian judicial authority. It failed to pledge adequate resources to respond to the plight of IDPs in 2004 and to present its programme of action and timeframe for implementation by December 2004 as ruled by the Court¹⁷⁵.

The gap between what ought to be done to prevent and respond to forced displacement, according to international and national legal standards, and what is done in practice remains. After almost ten years of action in favour of the displaced in Colombia, time has come to identify the reasons of this setback.

¹⁶⁸ International Commission of Jurists, *Colombia: Socavando el Estado de Derecho y Consolidando la Impunidad*, Geneva, September 2005, pp. 63-72; Radio Nederland, *Reparación a lo paramilitar*, 5 October 2005.

¹⁶⁹ Government of Colombia, Republica de Colombia, *Ministerio de Relaciones Exteriores, Dirección de Derechos Humanos y Derecho Internacional Humanitario*, 11 April 2005, DDH No.18296.

¹⁷⁰ United Nations High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, ibidem, para. 241, 242.

¹⁷¹ ICRC, WFP, *Identifying food and non-food needs of the internally displaced - A joint survey of internally displaced populations in Colombia*, Bogotá, 27 December 2004, p. 9.

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¹⁷² Project Counselling Service (PCS), *PCS Internal, September - December 2004*, ibidem.

¹⁷³ See Part II, Section II (II) (2).

¹⁷⁴ República de Colombia, Corte Constitucional, Sala Tercera de Revisión, Sentencia N.º T-025 de 2004, 22 January 2004.

¹⁷⁵ Consultoría para los Derechos Humanos y el Desplazamiento (CODHES), *Seguimiento a la Sentencia T-025 de 2004, Documentos*, Bogotá, 10 March 2005.

Section III. Bridging the gap: limits and challenges to the international strategy

Admittedly, at the institutional level, the efforts of the international community to reinforce the national capacity to cope with the internal displacement crisis have prompted certain improvements. By contrast, on the ground, the situation of the uprooted remains unchanged or worsens, the lack of reintegration and rehabilitation opportunities maintaining over three million individuals in extremely precarious and unsafe living conditions.

As demonstrated previously, the reason of this persisting protection gap—persisting because Colombian legislation regarding IDPs, despite some defects, was already one of the most protective in the world before the intervention of international institutions in favour of the displaced—resides in the absence of political will on the part of the different Governments to make the protection of the civilian population and of the displaced a priority.

In spite of their efforts to impress respect for international humanitarian and human rights law standards upon the successive Governments, international human rights, humanitarian and development organisations have obtained little more than small formal legal and institutional adjustments. Worse, while allegedly determined to address the question of displacement, the current Government has adopted in the last years various measures severely detrimental to the protection of the uprooted and of communities at-risk, undermining thereby the work of these organisations to prevent new displacement and alleviate the sufferings of IDPs¹⁷⁶.

Besides, international organisations and international NGOs, have provided little direct protection to the civilian population and the displaced. Undeniably, their work in the field of emergency and post emergency assistance has shielded numerous individuals from hunger, diseases and abandon, but they have been unable to make any significant difference as far as the security of the Colombian population and the IDPs are concerned.

By the same token, they have failed to foster sustainable solutions for displaced communities. Considering the scale of the Colombian humanitarian crisis, their efforts might be described as «a drop in the bucket»¹⁷⁷.

Although disengagement has not yet been envisaged by the international actors, such inefficiency and the ambivalent behaviour of the authorities confronts them with a dilemma: to continue assisting and collaborating with a Government who unquestionably is not willing to comply with its international obligations towards its population, in particular the displaced population, providing thereby a measure of legitimacy to its policies, or to disengage, at least partially, leaving thus Colombian IDPs, unprotected and insufficiently assisted, at the mercy of the armed actors.

In order to escape this dilemma, it seems necessary to assess the degree of adequacy of the activities led by the United Nations and the major international institutions in Colombia. The question is indeed whether there exist an alternative to disengagement, whether the international community could possibly obtain better results by revising some aspects of its intervention.

Following our review of the activities of the major international actors involved, several factors frustrating the efficiency of their protection strategies can be identified. In the first place, some difficulties and inconsistencies can be pointed out in the attribution of responsibilities and planning regarding protection. Further, the international efforts to trigger better implementation of the legal prescriptions protecting IDPs have been, until today, considerably hindered by the absence of accountability of those responsible for the said implementation. Finally, and above all, the advocacy efforts of the major international actors appear to be broadly insufficient to prompt genuine change. The ambiguity of the discourse of the international community, primarily the donor community, is indeed, in our view, the principal obstacle to respect and enforcement by Colombian authorities of the fundamental rights of the citizens and the internally displaced population.

¹⁷⁶ See Part I, Section II (II) (2).

¹⁷⁷ This is how the majority of the international staff in Colombia perceives their work. See Patricia W. Fagen, Amelia Fernandez Juan, Finn

Stepputat and Roberto Vidal Lopez, *Internal Displacement in Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongevej Working Papers, p. 36.

I. *From planning to implementing protection activities: difficulties and inconsistencies*

Although a number of organisations have made a pledge towards respect and promotion of international humanitarian and human rights law, protection-related activities still lack attention and resources. Additionally, humanitarian and development institutions have failed to address some of the major distinctive features of the displacement phenomenon in Colombia, partially owing to the mentioned lack of resources. It is particularly true as far as individual or «drop by drop» forced displacement is concerned. The long lasting consequences of the displacement phenomenon on the Colombian social fabric seem also to have been overlooked.

1. THE LACK OF NECESSARY MEANS TO PROVIDE EFFECTIVE PROTECTION

As it has been mentioned previously, a broad range of international humanitarian and development institutions have understood the necessity of ensuring the protection of the displaced and at risk populations they assist. Many of them have thus adopted a rights-based approach to their activities or, at least, paid some attention to the impact of the latter on the targeted groups and the effective enjoyment of their rights, a position illustrated by the rights-based approach adopted by UN agencies and partner organisations in the 2002 Humanitarian Action Plan. However interrelated factors such as the agencies' mandates, manpower's availabilities, and financial resources' allocation limit considerably the scope and, thus, the impact of protection activities in Colombia.

Protection-related activities as such, remain mainly the concern of organisations with a protection mandate, be it human rights organisations, the ICRC, UNHCR or UNICEF. Admittedly, UN humanitarian and development agencies, in accordance with

the guidelines received from headquarters, take, to a certain extent, into account the protection needs of the IDPs and the general population. Nonetheless, this takes mainly the form of protection mainstreaming rather than that of strategic planning.

If one the sectoral component of the UN Humanitarian Action Plan regards protection and prevention, the activities deriving therefrom fall, in majority, under the responsibility of protection mandated agencies, principally UNHCR and OHCHR¹⁷⁸. Concerning international humanitarian and development NGOs, it is worth mentioning that, while they tend to integrate protection components within broader programmes, one can witness a certain reluctance to undertake overtly protection activities, considering the risks that it entails for their staff¹⁷⁹.

It cannot be said that other UN agencies have not given any attention to protection. WFP, for example, has favoured food distributions in schools as an incentive for the communities to send children to school and in order to promote education and avoid recruitment of youngsters by organised armed groups. PAHO/WHO has provided legal advises, so that people displaced avail themselves from their rights and demand compliance from State authorities. Yet, such initiatives seem to be punctual rather than part of a comprehensive plan of action in order to address adequately the problems pertaining to protection of the displaced and vulnerable sectors of the population. Protection mainstreaming cannot indeed replace appropriate coordination, planning and strategising¹⁸⁰. Even the creation of a protection working group has not prompted an inclusive and coordinated response to the protection needs of the displaced.

Additionally, the absence of training in protection activities for the staff of humanitarian and development organisations without specific protection mandate constitutes an important obstacle to effective protection, albeit relatively easy to overcome¹⁸¹. This becomes evident when assessing the attention

¹⁷⁸ See United Nations, Thematic Group on Internal Displacement, *Humanitarian Action Plan 2002-2003*, November 2002, Bogotá, pp. 23-25.

¹⁷⁹ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongevej Working Papers, p. 44.

¹⁸⁰ Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, the Brookings-SAIS Project on Internal Displacement and the UN

Office for the Coordination of Humanitarian Affairs Inter-Agency Internal Displacement Division, Washington D.C., November 2004, p. 9.

¹⁸¹ The Inter-Agency Internal Displacement Division during its visit to Colombia recognised that «there is a need to train UN agency staff who are not familiar with the content and use of the Guiding Principles on Internal Displacement». UN Inter-Agency Internal Displacement Division, *Report on the Mission to Colombia*, 16-27 January 2004, available at www.reliefweb.int/idp/docs/reports/2005/Colombia%20January%202005.pdf.

given to the specific needs of women, children and ethnic minorities. While efforts have been done and programmes have been specifically targeted at these groups, some major issues remain largely unaddressed, such as reproductive health, psychosocial attention to children and culturally acceptable forms of assistance for ethnic minorities.

In the same way, although a form of monitoring and reporting system has been established through the creation of the Humanitarian Situation Room, the quasi-absence of information collection about cases of sexual and gender-based violence¹⁸² or concerning particularly vulnerable individuals—such as community leaders, heads of displaced persons associations and human rights defenders—impedes the development of effective protection strategies and demonstrates a lack of adequate training among humanitarian workers.

Another limit to effective international protection in Colombia derives from staff restriction and concentration. While international presence can be a decisive deterrent to human rights and humanitarian law violations, the international staff present in Colombia is reduced and often concentrated in certain areas.

One of the criteria applied in deciding the adequate location for the implementation of a project is the presence of other international organisations in the area¹⁸³. Thus, excepting the ICRC which is generally present in rural areas where no other international organisation has access, the territorial coverage of the international agencies is constrained. The UN has quadrupled its presence in Colombia since 2000. Twelve UN agencies now operate 25 projects in 38 regions¹⁸⁴. Owing to the trend above mentioned, however, some conflict areas and high-risk

regions have been neglected, such as Catatumbo (Norte de Santander), Caquetá, Cauca, Nariño and Putumayo, leaving more than a small percentage of the population without adequate assistance and protection¹⁸⁵.

Some places of high concentration of IDPs where substantial protection problems are reported, mainly urban areas, lack also attention. This is in particular the case of shantytowns surrounding Bogotá and other large cities such as Medellín and Cali, though international agencies are now more aware of the extreme vulnerability of IDPs in such environments.

Additionally, the over-reliance on protection mandated organisations, limited in number and size, to undertake protection activities has a bearing on the number of international staff available to carry out the activities in question. The consequences are particularly important as far as «physical» protection is concerned. UNHCR and OHCHR are indeed the only organisations having deployed international staff in the field. Consequently, other UN agencies can only contribute to a limited extent to the accompaniment of threatened communities, national humanitarian workers being far more vulnerable to threats and abuses by the armed actors than international staff. Considering that many communities are besieged or under blockades and that even trucks transporting food and non food items are not permitted access to such communities, there is little avenues for direct protection¹⁸⁶.

Most importantly, certain reluctance among the donors, primarily ECHO and USAID, to fund activities directly targeting protection can be observed. International donors are generally reluctant to invest in Colombia, since it is not considered as a poor country¹⁸⁷. This lack of funds is further increased by the fact that

¹⁸² Displaced women's groups regret the lack of efficient investigations into such cases and urge the UN to do more. UN Inter-Agency Internal Displacement Division, *Report on the Mission to Colombia*, ibidem.

¹⁸³ See Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongevej Working Papers, p. 36.

¹⁸⁴ Emergency Relief Coordinator, Press Briefing on Colombia, 10 May 2005, available at <http://www.un.org/News/briefings/docs/2004/OCHABrf.doc.htm>.

¹⁸⁵ International Crisis Group, *Colombia's Humanitarian Crisis*, Latin America Report No.4, Bogotá/Brussels, 9 July 2003, p. 24.

¹⁸⁶ «The closure of humanitarian spaces had a significant effect on the implementation of prevention and protection actions for at-risk populations in [some] regions, due to the impossibility of entering these areas for humanitarian organizations». UN Country Team in Colombia, *Plan de Acción Humanitaria 2005*, Bogotá, 31 December 2004.

¹⁸⁷ Opinion expressed by M. Francis Deng, former Representative of the Secretary General on Internally Displaced Persons, at the occasion of a workshop co-chaired by the Norwegian Refugee Council and the Norwegian mission to the UN in Geneva. See, Global IDP Project, *Internally Displaced Persons: Accountability, coordination and protection seen as challenges*, Act of the Conference, Geneva, 29 April 2003.

Colombia is not part of the Consolidated Appeals Process¹⁸⁸, usually used in crisis of that scale, as the government refuses it. Thus, the Humanitarian Action Plans are used as appeal documents. Nonetheless, the Humanitarian Action Plan only received about 20% of the funds needed for its implementation¹⁸⁹ while, according to the Emergency Relief Coordinator, it is not one of OCHA's biggest appeals¹⁹⁰.

ECHO and USAID are the biggest donors with regard to programmes directed at IDPs. Since 1994, ECHO has allocated more than 100 million euros in humanitarian assistance to Colombia and the European Commission adopted in 2004 a new 8 million euros aid plan¹⁹¹. On the other hand, USAID launched in 2001 a five years assistance programme targeting IDPs, amounting to 173 million dollars¹⁹². While ECHO's main partners are the ICRC, UNHCR, various European NGOs and the Colombian Red Cross, USAID supports primarily the activities of the SSN, American NGOs, IOM, UNICEF and UNHCHR.

However, following an increasingly generalised practice, donors like ECHO and USAID earmark a large share of their contributions to international organisations and NGOs, meaning that the funds are only allocated for the implementation of specific projects or the realisation of specific goals. In earmarking funds, donors largely favour activities pertaining to emergency assistance and economic stabilisation over protection-related projects.

Indeed, the funds allocated by the donor community, for the implementation of the Humanitarian Action Plan, only covered 16% of UN agencies' requirements for their activities in the sector called «Protection/Human Rights/Rule of Law» while the requirements for projects grouped under the heading «Food» were 100% met, and were even exceeding the requirements¹⁹³.

The sector entitled «Coordination and support services», which includes number projects of training and technical assistance both for grassroots organisations and State institutions, has equally been considerably neglected, with only 21% of the requirements met, including a UNDP project for strengthening the SSN.

Sectors such as health and education also appear to be seriously under-funded. This is particularly true of the activities specifically targeted at women, which, albeit present in nearly all the sectors of activity mentioned in the Plan, hardly received any funding. The Inter-Agency Division on Internal Displacement was recalling recently the desperate need of funds for UNFPA activities in the area of sexual and gender-based violence.

Following this rapid review, one can assume that purely organisational and technical changes in the way protection activities are carried out, and above all greater support from donors for protection-related projects and activities, are likely to bring about some improvements in the situation of IDPs on the ground. Without adequate funding, indeed, even providing training and technical advice to State institutions proves impossible.

However, it seems also necessary for international humanitarian and development agencies to take into account some of the distinctive features of forced displacement in Colombia if their action is to be more profitable.

2. IMPORTANT ASPECTS OF THE DISPLACEMENT PHENOMENON REMAIN UNADDRESSED

The first step in a successful protection strategy consists in a thorough assessment of the needs of an endangered population for protection, in order to ensure that future planning

¹⁸⁸ The Consolidated Appeals Process (CAP) is a programming process through which national, regional and international relief systems are able to mobilize and respond to selective major or complex emergencies that require a system wide response to humanitarian crisis. See IASC, CAP Sub Working Group, *Decision Matrix for when to have a CAP or a CHAP*, 30 July 2002, available at <http://www.who.int/entity/hac/techguidance/tools/CAP%20decision%20matrix.pdf>.

¹⁸⁹ The total requirements amounted to 79 million dollars and in April 2005 donors' contributions only reached 15.7 million dollars. OCHA, Financial Tracking Service, *Colombia (HAP) 2003, Total Contributions per Donor*, 22 May 2005, available at <http://www.reliefweb.int/fts>.

¹⁹⁰ Emergency Relief Coordinator, *idem*.

¹⁹¹ European Commission, *Commission adopts a new plan to deliver 8 million euros in humanitarian aid to victims of internal conflict in Colombia*, Brussels, 2 April 2004, available at <http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/04/447&format=HTML&aged=0&language=EN&guiLanguage=en>.

¹⁹² This has to be compared with the 1, 350 million dollars earmarked by the US for military equipment and assistance in a coca eradication programme.

¹⁹³ OCHA, Financial Tracking Service, *Colombia (HAP) 2003, List of Projects (grouped by sector) with funding status of each*, 22 May 2005, available at <http://www.reliefweb.int/fts>.

and implementation will be adapted to the situation¹⁹⁴. While the policy documents of the different organisations, as well as the humanitarian Action Plan, contain in majority sharp analysis of the Colombian conflict and the needs for physical safety and human rights guarantees of the civilian population, some major features of the Colombian displacement crisis have been neglected when implementing humanitarian and development projects, partially because of the lack of human and financial resources emphasised in the previous section.

Even protection mandated organisations, such as UNHCR or the ICRC, have been unable to respond to the phenomenon of individual displacement. Similarly, the international actors have not addressed adequately the long terms effects that forced displacement has on the Colombian social fabric and the resulting long term protection needs of the displaced.

In Colombia, few people flee their homes in mass, in other words, within a group of more than fifty individuals. Most forced displacements occur individually or in small groups, which usually include close family relatives¹⁹⁵. This trend, which has increased in the last years, would result, according to some experts, from a strategy of the armed actors to privilege selective killings over massacres of civilians in order to decrease the visibility of displacement and humanitarian law violations¹⁹⁶.

This strategy seems to be successful since victims of the so-called «drop by drop» displacement rarely register as internally displaced and hardly receive any governmental assistance. Although humanitarian organisations and NGOs have become aware of this situation, they have encountered major obstacles in reaching this category of displaced.

The ICRC, better placed than any other organisation to assist victims of individual displacement considering its wide territorial

coverage, manages to a certain extent to compensate the lack of State's assistance in those cases¹⁹⁷. However, its assistance is limited to three month and at the end of this period, often, the individuals and families concerned disappear within the poor population of the municipal capitals, making it particularly difficult for other organisations to identify them.

Even though this pattern of displacement is not particularly recent, international organisations still have not found real solutions to these difficulties. Beyond the problem it poses for the provision of assistance, it constitutes a major obstacle to any protection strategy. It is indeed difficult to ensure the physical safety of unidentified individuals, notably because some want to keep their anonymity and go unnoticed as they believe this to be the only way to guarantee a certain degree of security.

The problem is even thornier when individuals are specifically targeted by the armed actors because their activities are perceived as threatening their interests. Regularly, IDP community leaders, human rights defenders, but also trade unionists, members of social organizations and public officials responsible for the promotion and protection of human rights are exposed to murder, attacks, harassment, forced disappearances and hostage-taking, in particular when they refuse to flee their place of residence after threats¹⁹⁸.

In such cases, protective measures should be taken to avoid displacement and human rights abuses. Government's programmes for the protection of witnesses and threatened persons under the Ministry of the Interior are manifestly ineffective and insufficient. However, international organisations and UN agencies, UNHCR and OHCHR in particular, have not shown significant efforts to provide direct protection to these individuals, many being ultimately displaced or killed¹⁹⁹.

¹⁹⁴ Mark Frohardt, Diane Paul and Larry Minear, *Protecting Human Rights: The Challenge to Humanitarian Organizations*, 1999, The Thomas J. and Watson Jr. Institute for International Studies, Occasional Paper series, Providence, pp. 32-33.

¹⁹⁵ According to government figures, 1,370,027 people fled individually and 35,824 fled in mass (groups of over 50 people) during 2003. Government of Colombia, *Registro Único de Población Desplazada por la Violencia Acumulado Hogares y personas Incluidos por Departamentos como Receptor y Expulsor hasta el 15 de Diciembre del 2003, Desplazamientos Masivos e Individuales*, Bogotá, 15 December 2003.

¹⁹⁶ Consultoría para los Derechos Humanos y el Desplazamiento, «Against whom is this war?», Bulletin Number 43, Bogotá, 18 November 2002.

¹⁹⁷ See, for example, ICRC, *Annual Report 2003: Colombia, Latin America & Caribbean*, Geneva, June 2004, pp. 182-186.

¹⁹⁸ United Nations Commission on Human Rights, *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, E/CN.4/2003/13, 24 February 2003, para. 102-103.

¹⁹⁹ UN Inter-Agency Internal Displacement Division, *Report on the Mission to Colombia*, 16-27 January 2004, available at www.reliefweb.int/idp/docs/reports/2005/Colombia%20January%202005.pdf.

The second major loophole of the international protection strategy in favour of IDPs concerns the long lasting effects of displacement on the Colombian social fabric. International agencies have indeed overlooked the importance of assisting the displaced even long time after their displacement. Once displaced, individuals are more vulnerable to human rights abuses of all kind and their situation rapidly worsens when they do not receive long term assistance and integration opportunities, especially because return and resettlement are not available options.

IDPs, after having fled their place of residence, often move from an administrative centre in their municipality to another one in their province (*departamento*) and from there to a big city because of the lack of resources, employment opportunities, assistance and absorptive capacity at the local or municipal level²⁰⁰. Moreover, the increasing presence of the armed actors in the major Colombian cities as well as the presence of organised crime networks exposes the IDPs to new threats in their places of refuge, such as forced recruitment, homicide and kidnapping, this generating in turn intra-urban displacement²⁰¹.

Considering that the conflict is not about to end and that the forty percent of IDPs living in major urban centres are likely to remain, there is an obvious need for support from the international community.

In spite of this, the activities of international organisations oriented towards integration of the displaced within their new environment and development projects including the receiving communities are still scarce²⁰². This is particularly true in the major cities where the services provided, when they exist, are most of the time limited to medical care and soup kitchens.

There is thus an urgent necessity to devise projects promoting integration and development in urban areas with high IDP concentration surrounding the major cities. The latter should be targeted at both urban poor and IDPs in order to avoid further stigmatisation of the displaced who already suffer distrust and

discrimination from the general population. Such programmes should as a matter of priority pay due attention to the specific protection needs of the displaced in such contexts. The ICRC and WFP are currently assessing the needs and possible interventions in this sector²⁰³.

There seems to be room for improvement of the action carried out by the humanitarian and development organisations. In that sense, the renewed call of the Inter-Agency Division on Internal Displacement for an external evaluation of the humanitarian activities so far carried out by the Government, the UN system and NGOs should be strongly supported. However, revising the programmes in favour of IDPs would not suffice to ensure their protection. What is needed in the long run is a State policy commensurate to the scale of the displacement crisis and a move towards more humanity on the part of the armed actors.

Unfortunately, the success of the strategies adopted by the organisations acting in the field has been limited by external factors: principally, the insensitivity of the armed actors to their calls for respect of human rights and humanitarian principles and the lack of assertive political advocacy.

II. *The lack of incentives to respect the civilian population and protect the rights of the IDPs*

The efforts of international organisations and NGOs to advocate for respect of the fundamental principle of distinction between civilians and combatants and for respect of internationally recognised human rights have proved ineffective. Violations of the basic principles of international humanitarian and human rights law, including forced displacement, are still widespread, although, according to the Government, rates of homicides, massacres, kidnappings and forced displacement diminished in 2004²⁰⁴. These abuses are the first and the most direct causes of displacement.

hood of Bogotá with high IDP concentration. Some international NGOs, such as PCS, have also given attention to this need.

²⁰³ UN Inter-Agency Internal Displacement Division, *Report on the Mission to Colombia*, ibidem.

²⁰⁴ Although according to governmental figures the rates of grave human rights abuses diminished in 2004, the High Commissioner on Human Rights noted, for example, an increase in reports of extrajudicial executions

²⁰⁰ World Food Programme (WFP), *Protracted Relief and Recovery Operation in Colombia 6139.00, Assistance to Persons Displaced by Violence in Colombia*, WFP/EB.3/99/7-B/3, Rome, 8 September 1999, para. 7.

²⁰¹ Project Counselling Service (PCS), *Deteriorating Bogotá: displacement and war in urban centres*, Bogotá, 31 December 2002, p. 4.

²⁰² IOM is involved in community based development projects and UNHCR has launched an education programme in Soacha, a poor neighbour-

In the absence of serious incentives to modify their behaviour, both for the State and the warring parties, abuses will continue and the number of displaced will increase.

Beyond the impact of the governmental «Democratic Security» policy which gravely blurs the distinction between civilians and combatants²⁰⁵, several factors can be put forward to explain why the armed actors, on the one hand, and State authorities, on the other, still resist the application of international standards, though incorporated into national law, and neglect the rights of the displaced.

Owing to the climate of impunity existing in Colombia regarding human rights and humanitarian law violations, the armed actors have little but moral reasons to respect the humanitarian principles of distinction, proportionality and to refrain from using prohibited methods and means of warfare. As to the Government, its passivity in front of the impending displacement crisis and the extreme vulnerability of the displaced can be partially attributed to the weakness of the international enforcement mechanisms. Yet, as it shall be emphasised in the next subpart, the lack of sustained political pressure to secure compliance of the State with its international obligations towards IDPs and the overall population constitutes the first explanatory factor of the negligence shown to date.

1. THE LARGE IMPUNITY OF THE WARRING PARTIES, ESSENTIAL OBSTACLE TO THE PROTECTION OF THE CIVILIAN POPULATION

The violations of international humanitarian law committed by the parties to the conflict, including the armed forces, are multiple, ranging from hostages taking, kidnappings and the use of prohibited weapons, to direct attacks against the civilian population, including selective assassinations and massacres.

committed by members of the security forces and other public officials. In general human rights and humanitarian law violations are still considered alarming. See United Nations Commission on Human Rights, Report of the High Commissioner for Human Rights on the situation of human rights in Colombia, 28 February 2005, E/CN.4/2005/10.

²⁰⁵ See part I, Section I (l) (1).

²⁰⁶ In 2002, the government still acknowledged a degree of impunity of 97 %, United Nations High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on the human rights situation in Colombia*, E/CN.4/2005/10, 28 February 2002, para. 319.

Although Colombia has ratified the Geneva Conventions and their additional protocols, as well as all the major human rights treaties, the latter are neither respected nor enforced. Indeed, rare are the cases in which violations of human rights and humanitarian law are investigated, prosecuted and tried²⁰⁶.

On many occasions, various human rights monitoring mechanisms, including the Commission on Human Rights following the reports of the High Commissioner, underlined the obligation of the Government to put an end to this climate of impunity. However, the creation of a programme within the Vice-President's Office to combat impunity and of a Special Committee for the promotion of investigations into human rights violations and breaches of humanitarian law have not had the impact expected. Abuses attributed to members of the military, police forces, paramilitary and guerrilla groups remain, to a very large extent, unpunished²⁰⁷.

As far as the members of the armed forces are concerned, in the few cases where alleged violations are investigated and tried, jurisdiction is often attributed to the military Courts. This impedes the good functioning of Justice since the latter lack manifestly independence and impartiality.

In 1997, the Constitutional Court established the criteria to determine the ambit of military criminal jurisdiction, restricting the latter to crimes strictly related to service and excluding explicitly human rights violations²⁰⁸. In case of doubt, the Court affirmed that the case should be handled by ordinary Courts. Yet, military unit commanders with judicial duties continue to provoke collisions of competence in cases under investigation by the Attorney General's Office²⁰⁹. In a number of instances, the military criminal justice is assigned competence over the case. Even cases where the Inter-American Commission of Human Rights has established State's responsibility are tried by military Courts²¹⁰.

²⁰⁷ Idem.

²⁰⁸ Constitutional Court of Colombia, Sentence C-358, 5 August 1997, quoted in Colombian Commission of Jurists, *A Growing Absence of Guarantees - Situation of Human Rights and Humanitarian Law in Colombia, 1997-2003*, Bogotá, Opciones Gráficas Editores, 2003, p. 41.

²⁰⁹ Colombian Commission of Jurists, *A Growing Absence of Guarantees*, ibidem, p. 41.

²¹⁰ Colombian Commission of Jurists, *A Growing Absence of Guarantees*, ibidem, p. 42.

Finally, the limited number of cases transferred to ordinary jurisdictions do not reflect the most widespread patterns of human rights and humanitarian law violations attributable to combatants and only involve low-ranking military personnel (from soldiers to captains)²¹¹.

Guerrilla members and members of the paramilitary groups are also scarcely sentenced for infringements of international humanitarian law and human rights standards. The various Governments have indeed privileged the demobilisation of paramilitaries and guerrilla members, often negotiated against guarantees of impunity, over truth and justice for the victims.

Decree 128, for example, permits a demobilized combatant to be exempted from prosecution if he has no legal charges outstanding. However, this does not ensure that the individual concerned has not committed a war crime²¹². Decree 128 is being widely applied to demobilised paramilitaries while only few will be prosecuted under the deficient Peace and Justice Law. Despite the fact that the crime of forced displacement has been introduced in domestic criminal law in 2000, this provision has almost never been enforced²¹³.

The degree of impunity enjoyed by the members of the paramilitary groups is even wider considering their historical and links with the military and their connections within Public Administration²¹⁴. While these links have been widely criticised by

human rights monitors, at national and international level, they are extremely resilient and members of State Administration still make public declarations supporting actions of the paramilitary²¹⁵.

Increasing again the perception that committing war crimes in Colombia is not subject to any sanction, the current process of demobilisation of the paramilitaries, engaged in 2002 and supposed to end in 2005, does not give any guarantees as to the right of the victims to truth, justice and reparation and genuine dismantlement of paramilitary structures. Although paramilitary units do not respect the cease fire declared in 2002 and continue to be involved in violations of human rights and humanitarian law, it is reproached to the Government to neglect the question of investigation and prosecution of such abuses²¹⁶.

Under international pressure, it has accepted to put in place a legal framework ensuring that at least the most serious breaches of international law would be sanctioned, but the law «Peace and Justice» adopted on 22 June 2005 does not contain appropriate guarantees as it qualifies the acts committed by members of paramilitary groups of political offences, subjected to very light penalties²¹⁷. It not only grants impunity to war criminals—the paramilitaries are said to be responsible for over 17 000 war crimes— but also allows paramilitaries to maintain control over assets acquired illegally, notably properties left behind by internally displaced persons when fleeing atrocities²¹⁸.

²¹¹ Colombian Commission of Jurists, *A Growing Absence of Guarantees*, *ibidem*, p. 42.

²¹² Project Counselling Service (PCS), PCS Internal, September - December 2004, Bogotá, 22 December 2004.

²¹³ «Based on a study done by the General Controller's Office of the Republic, only 5% of the forced displacement denunciations presented to the National General Prosecutor's Office are filed for administration of justice and only one case is known where an ordinary sentence was pronounced». Colombian Commission of Jurists, *Aplicación de los Principios Rectores en Colombia: no se puede aplazar más el respeto por la dignidad humana*, Seminario Regional sobre desplazamiento interno en las Américas, México D.F., 18-20 February 2004, p. 11.

²¹⁴ «The impunity still enjoyed by the paramilitaries and the public officials with ties to them reveals the limitations of the State's response». United Nations High Commissioner for Human Rights, *ibidem*, para. 319.

²¹⁵ The High Commissioner on Human Rights in her last report notes that the acquittal of Carlos Castaño, former leader of the AUC, accused of having masterminded the homicide of a senator, «stands out in terms of

the problem of impunity prevailing in the country». United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, E/CN.4/2005/10, 28 February 2005, para. 56.

²¹⁶ Human Rights Watch, *World Report 2005, Human Rights Overview- Colombia*, January 2005.

²¹⁷ Colombian Commission of Jurists, «*Stop being the lover and become the wife*» - *The law of impunity is the engagement ring for the institutionalization of paramilitarism*, Bulletin number 7, Bogotá, 1 July 2004.

²¹⁸ After the completion of this research, the Colombian Government undermined again the prospects of effective reparation for the property losses suffered by IDPs by adopting a regulation excluding by principle investigations against front men, or «*testaferros*», from the scope of the Peace and Justice Law. Paramilitaries usually indeed appropriate IDPs' lands and properties through third persons, who are not formally part of the paramilitary groups. See Republic of Colombia, *Decreto 460 por el cual se reglamenta parcialmente la Ley 975 de 2005*, 30 December 2005.

As stated earlier, paramilitaries are deemed to control 6 million hectares of land, the majority belonging to IDPs.

In any case, impunity is likely to remain as long as judges, lawyers and witnesses attempting courageously to bring perpetrators to justice are not adequately protected and the threats and attacks they are facing are not effectively investigated and sanctioned. The dismissal without apparent legitimate motives of several prosecutors in 2004 does not, unfortunately, illustrate the willingness of the State to face this challenge²¹⁹.

The passivity of State authorities in front of the various violations of humanitarian and human rights law, including forced displacement, obviously ruins the efforts of international agencies and NGOs to foster an environment more conducive to respect for these basic norms and prevent forced movements of civilians.

Unfortunately, due to their inherent weakness, human rights monitoring and enforcement bodies have been, until now, equally unable to crystallise the attention on the plight of the uprooted and to compel the Government to engage a policy in line with its international obligations.

2. THE WEAKNESS OF THE INTERNATIONAL MECHANISMS TO SECURE COMPLIANCE WITH INTERNATIONAL HUMANITARIAN AND HUMAN RIGHTS LAW

In the same way as Colombia has an elaborate legal framework for protection and assistance of IDPs but Colombian Governments never designed an appropriate policy to secure its implementation, the latter have successively ratified all the major human rights treaties, in addition to the Geneva Conventions and their Additional Protocols, without ever prioritising their enforcement.

While, within the United Nations and the Organisation of American States, specific organs have been entrusted with the task of supervising and securing compliance by States parties with their international obligations, the absence of genuine enforcement mechanism at the international level constitutes a great obstacle when it comes to confront a Government whose

commitment towards the fundamentals of the international legal order is limited.

First, as mentioned before, the UN High Commissioner for Human Rights opened an office in Bogotá at the request of the Colombian Government in 1996. Expected to monitor the human rights situation in the country, make recommendations and provide technical assistance to the authorities to foster improvements, the Commissioner's representatives and the successive High Commissioners, in their annual reports, have been extremely critical regarding Colombia's compliance with international human rights instruments as well as international humanitarian law, notably with regard to the impending crisis of internal displacement.

The UN High Commissioner, since 2002, formulates 27 concrete recommendations in her report and follows up from year to year their implementation. Among these, a number concerns the specific protection needs of the displaced and communities threatened to be displaced. However, the recommendations remain identical every year since they never have been properly executed²²⁰.

Even the Chairperson's statements of UN Commission on Human Rights, following the annual reports of the High Commissioner, never had a real impact on Colombian Governments' policies, in particular concerning IDPs. Yet, such statements by the UN human rights statutory body composed of State representatives, solely issued with regard to situations considered to be alarming, carry usually certain political weight.

It is worth noting that, sometimes closer to political than legal statements, the intensity of the criticisms expressed by the Commission is lower than that featured in the High Commissioner's reports and that, in spite of the calls of numerous NGOs²²¹, the Commission does not directly oppose the Government's refusal to recognise the existence of an internal armed conflict, although it insists on the importance of respecting international humanitarian law²²².

²¹⁹ United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, ibidem, para. 57.

²²⁰ United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, ibidem, para. 24.

²²¹ Amnesty International, «UN Commission on Human Rights: The UN's Chief Guardian of Human Rights?», 1 January 2005, available at <http://web.amnesty.org/library/index/engior410012005>.

²²² UN Commission on Human Rights, «Commission adopts chairpersons statement on Colombia», 22 April 2005, <http://www.reliefweb.int/rw/RWB.NSF/db900SID/HMYT-6BPKRP?OpenDocument>.

The so-called UN treaty bodies which monitor States' compliance with different treaties —such as the Human Rights Committee supervising the implementation of the International Covenant on Civil and Political Rights and which examined Colombia's periodic reports in 1997 and 2004²²³— also voice regular concern over the human rights situation in Colombia and formulate recommendations. Unfortunately, their visits are not regular enough and some pay insufficient attention to the problems linked with forced displacement. Their prescriptions go usually unheeded.

The Inter-American Human Rights system has also concerned itself with the Colombian crisis, notably by monitoring the human rights situation through periodical or thematic reports.

The Inter-American Commission and the Inter American Court of Human Rights have been several times seized of complaints against the Colombian State for violations of the rights contained in the Inter-American Convention of Human Rights. The Court condemned the State on three occasions²²⁴ and it shall, in the coming months, issue a sentence in relation to the State's failure to duly investigate and prosecute members of the paramilitary units responsible for the Mapiripán massacre²²⁵.

In spite of the substantial reparation the State is compelled to offer to the victims when it is found in incompliance with its obligations, judicial condemnations have not triggered any meaningful reaction from the successive Governments. Similarly, the precautionary measures ordered by the Inter-American Commission to avert perpetration of human rights violations, in cases of serious threats against a particular community, have never been satisfactorily implemented.

This continuous disregard for international recommendations has been illustrated recently again with the massacre of eight members of the Peace Community of San José de Apartado²²⁶ and the execution of a member of the Kankuamo tribe²²⁷, two communities subject of precautionary measures by the Inter-American Commission.

The resistance of Colombian authorities to the implementation of international human rights is thus clear. International judicial and monitoring mechanisms seem unable to improve the situation of the civilian population and to limit the occurrence of forced displacements. Nonetheless, the ratification of the Statute of the International Criminal Court by the Colombian Government raised some hopes concerning the fight against impunity and an effective punishment of individuals responsible for displacement.

Forced displacement is indeed a war crime in the law of international armed conflicts as well as non international armed conflicts. It falls under the jurisdiction of the ICC by virtue of article 8 paragraph 2 (e) of the Rome Statute. Moreover, the Court can be seized of a number of other war crimes commonly committed in Colombia which provoke the flight of civilians from their homes²²⁸. Efficient obstacle to impunity, the Court can deal with cases which have not been investigated or prosecuted or have not been tried in an independent and impartial manner.

Yet, hopes have been destroyed by the reservation the Government made to the jurisdiction of the Court over war crimes. As a result, war crimes committed in Colombia or by Colombian nationals are excluded from the competence of the ICC for a period of seven years, that is until 2009. According to President

²²³ Comité de Derechos Humanos, *Observaciones Finales del Comité de Derechos Humanos - Colombia*, CCPR/80/COL, 2004. Reproduced in Coordinación Colombia-Europa-Estados Unidos, *Boletín Informativo No. 15*, Mayo 2004, p. 51.

²²⁴ On the 21st of July 2004, the InterAmerican Court of Human Rights held the Colombian State responsible for violations of the rights to liberty, physical integrity and life in a concerning the homicide of 19 shopkeepers, presumably committed by the paramilitaries, in Puerto Boyacá in 1987. The State will have to pay 6,5 million dollars to the families of the victims. *El Tiempo*, «Gobierno Colombiano aceptó su responsabilidad en la masacre de 40 civiles en Mapiripán», Bogotá, 22 May 2005.

²²⁵ *Idem*.

²²⁶ United Nations High Commissioner for Refugees, «*UNHCR condemns peace community massacre in Colombia*», March 2005, available at <http://www.reliefweb.int/rw/RWB.NSF/db9005ID/HMYT-6A3NRU?OpenDocument&rc=2&cc=col>.

²²⁷ United Nations Commission on Human Rights, Report of the High Commissioner for Human Rights on the situation of human rights in Colombia, 28 February 2005, E/CN.4/2005/10, p. 38.

²²⁸ Statute of the International Criminal Court, Rome, 17 July 1998, reproduced in United Nations, *Human Rights, A Compilation of International Instruments*, vol. I part II, United Nations, Geneva, 2003, p. 689.

Uribe, it constitutes «an open window» to an eventual peace process²²⁹. Here again, impunity is perceived as the legitimate price of peace, and human rights and humanitarian law remain hostages of the political agenda of the Government, in spite of the efforts made by the above mentioned international bodies to impose as a matter of priority respect for basic principles of international law.

The casualness of Colombian authorities in front of these insistent demands is disconcerting. However, going beyond legal considerations and approaching politics offers a better understanding of the situation. Such behaviour appears indeed to be fed by the absence of political incentives to enter in compliance with the law. Pressures to prompt the Government to respect civilians and protect the displaced population on the part of human rights and humanitarian organisations do not suffice and need desperately headquarters' support and political backing to be effective.

Therefore, the disinterest widely shown for the plight of the displaced, both at national and international level and the failure to oppose the Government's anti-narcotic and counter-terrorism policies, while they largely contribute to aggravate the displacement crisis, have encouraged Colombian authorities to persist in neglecting human rights and the rights of the uprooted, wrecking thus the efforts done by international agencies in the field. In the absence of more assertive advocacy from UN headquarters and the donor community, no significant improvement in the protection of IDPs and the general population can be reasonably expected.

III. *The absence of strong political stance in favour of the uprooted, a serious limit to advocacy efforts*

As observed when reviewing the protection activities undertaken by the major international actors in favour of IDPs, certain field based agencies with a protection mandate, principally the UNHCR, the OHCHR and the ICRC, have devoted an important share of their efforts to advocacy. Considering that in Colombia the main hindrances to effective protection of the civilian population and

the displaced derive less from the incapacity of the State to secure their rights and to fulfil its correlative duties, but rather from a reluctance to make it a priority, advocacy constitutes indeed an essential component of a successful protection strategy. However, the absence of political mobilisation around the cause of the displaced appears as an insuperable obstacle to these efforts. The large indifference to the displacement crisis on the national political scene and in international diplomatic circles allows to a great extent the Government to neglect its responsibilities.

In addition, field-based agencies, their headquarters and the major donors cautiously refrain from addressing certain issues, regarded as politically sensitive, while the latter are of utmost importance when it comes to effectively protect endangered communities and prevent displacement.

If the protection of at-risk populations and the displaced in Colombia are to become finally effective, senior officials of protection mandated organisations, in particular UN agencies, UN headquarters officials and the community of donors have to resolve upon confronting Government's counter-terrorism and anti-narcotic policies, as well as raising protection issues in the context of potential peace negotiations.

1. THE NEGLIGIBLE POLITICAL WEIGHT OF THE ISSUE OF FORCED DISPLACEMENT

As explained earlier, some international agencies have, from the onset of their intervention, laid emphasis on the Government's duty to provide protection and assistance to victims of forced displacement. However, their efforts to advocate for the rights of the displaced have had only limited results. Indeed, the non compliance of the Government with its international and domestic obligations towards the displaced population never prompted any political sanction at national or international level.

On the national political scene, forced displacement is not an issue of primary importance. Colombian citizens suffer daily the consequences of forty years of internal conflict which have severely affected the Colombian social fabric as well as the economy. Kidnappings, murders, drug trafficking and death threats are not exclusively imputable to the armed actors but also to ordinary delinquents. Thus, the principal aspiration of the general population is the end of the conflict and the return to a form of stability.

²²⁹ Colombian Commission of Jurists, *A Growing Absence of Guarantees - Situation of Human Rights and Humanitarian Law in Colombia, 1997-2003*, Bogotá, Opciones Gráficas Editores, 2003, p. 44.

In such a context, little attention is being paid, even in the press, to the plight of the internally displaced, in spite of the sensitization campaigns led by some Colombian NGOs and supported by UN agencies as well as the few protests organised by the IDPs themselves²³⁰.

Moreover, the uprooted are perceived with certain distrust by the general population. They are seen as a potential threat to public order and often assumed to entertain links with one or another organised armed group. The displaced are blamed for crime, environmental degradation and for lowering the living standards of the population in places where they settle²³¹. Consequently, Colombians, which generally are not aware of the sufferings incurred by the experience of forced displacement, do not sympathise with the cause of the displaced.

While the total number of IDPs amounts to two or three million individuals, depending on the source, their impact on the outcome of local or national elections is negligible. Lacking documentation, their voting rights are often restricted²³². Moreover, a consequence of their suffering and isolation is a loss of trust and confidence in their country's social, legal, and political institutions and apathy about participating in politics²³³. Considering that the displaced themselves tend to deny their condition, - in order to avoid prejudices and stigmatization, the problem of displacement and the difficulties the uprooted encounter lack considerable visibility.

The current Government benefits of wide public support owing to its relative military successes and President Alvaro Uribe

Velez obtained a legal reform enabling him to run a second time for the presidential elections²³⁴. In such a context, adequate assistance and protection of the uprooted is not a burning item on the national political agenda.

At international level, the Colombian humanitarian crisis is not well-publicised. While the country receives a large amount of attention from the United States and is sometimes spoken about in the media, it is usually only in the context of drug control and violence²³⁵. After the issue of internal displacement came into the limelight in 2002, year where the rate of displacement reached a peak, international attention decreased.

Admittedly, as shown by the large number of international agencies present on the ground, the crisis is given a certain attention in diplomatic circles. However, the quasi-absence of public mobilisation around that topic does not favour assertive actions on the part of foreign governments. Foreign aid addressed to the displaced is thus limited to avert a spill-over of the crisis beyond Colombian borders and an upsurge in the number of Colombian refugees.

According to ECHO's ranking of the world's humanitarian crisis, Colombia is only one point below the level at which it would be regarded as a «forgotten crisis»²³⁶. The issue of displacement and humanitarian needs are rarely raised in the international press, except in Spain, and few donors contribute in assisting the uprooted apart from ECHO, USAID and the Spanish cooperation agency.

²³⁰ «In 1998 and 1999, displaced persons temporarily occupied the offices of the Defensoría del Pueblo (Human Rights Ombudsman) and UN-HCR. A group of about 60 displaced persons occupied the office of the ICRC in Bogotá in December 1999 and remained there throughout 2000.» U.S. Committee for Refugees, Country Report: Colombia, June 2001, available at http://www.refugees.org/world/countryrpt/amer_carib/2001/colombia.htm.

²³¹ Patricia W. Fagen, Amelia Fernandez Juan, Finn Stepputat and Roberto Vidal Lopez, *Internal Displacement In Colombia: National and International Responses*, Working Paper 03.6, 2003, Copenhagen, IIS/GI. Kongevej Working Papers, p. 7.

²³² United Nations High Commissioner for Refugees, *Balance de la política de atención al desplazamiento interno forzado en Colombia 1999-2002*, Bogotá, October 2002, para. 114.

²³³ Liliana Obregón and Maria Stavropoulou, «In Search of Hope: The Plight of Displaced Colombians», in Roberta and Francis Deng (eds.), *The*

Forsaken People - Case Studies of the Internally Displaced, Washington, D.C., Brookings Institution Press, 1998, p. 423.

²³⁴ The constitutionality of the law adopted in 2004 is still examined by the Constitutional Court. United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the situation of human rights in Colombia*, 28 February 2005, E/CN.4/2005/10, para. 4.

²³⁵ European Commission, Humanitarian Aid Committee, *Humanitarian Aid for Internally Displaced People, Refugees and Other Vulnerable Groups in Colombia and Neighbouring Countries. Global Plan 2005*, Directorate for Humanitarian Aid - ECHO, February 2005, ECHO-SM/BUD/2005/01000, p. 9.

²³⁶ European Commission, Humanitarian Aid Committee, *Humanitarian Aid for Internally Displaced People, Refugees and Other Vulnerable Groups in Colombia and Neighbouring Countries. Global Plan 2005*, ibidem, p. 9.

In that regard, the position of the United States is peculiar. Colombia is the second largest US military aid's recipient after Israel. While 129 million dollars have been earmarked for IDP's assistance²³⁷, the Colombian Government received 3 billion dollars in support of its counter-insurgency operations and anti-narcotic measures under the so-called Plan Colombia between 1997 and 2004²³⁸.

Although 25 percent of the security assistance included in this package is formally subjected to human rights conditions, the conditions have not been enforced²³⁹. The full amount of aid continues to flow to Colombia in spite of the poor record of the Government in protecting human rights, in particular the rights of the displaced. Such a military support to a Government whose security policy consciously blurs the distinction between civilians and combatants and whose anti-narcotic operations, in the first place the fumigations of illegal crops, provoke further displacement is highly controversial and has been widely criticised²⁴⁰.

This quasi-indifference from the international community, notably from donor countries, does not encourage the Government to take up its responsibilities and to confront the displacement crisis. The political cost of neglecting the welfare of the civilian population is low.

2. THE OVERALL SILENCE IN FRONT OF THE PRESIDENT'S COUNTER TERRORISM RHETORIC AND THE EFFECTS OF PLAN COLOMBIA ON THE CIVILIANS

In an effort to regain control over territories held by organised armed groups, prominently the FARC, President Uribe launched a «Democratic Security» policy when he took his function in 2002. This policy —officially, a framework for anti-terrorist operations rather than for a military offensive— is aimed at defeating insurgents by increasing the military presence in the country, involving the civilian population in the conflict and intensifying the fumigation of illicit crops in an attempt to destroy the insurgents' economic base.

In spite of the positive results put forward by the Government, the new measures adopted raise serious concerns as to their compatibility with international humanitarian law and human rights standards.

On the one hand, various laws and regulations adopted in the framework of that policy have been declared unconstitutional by the Constitutional Court because they violated fundamental freedoms and undermined basic judicial guarantees. On the other hand, the constant denial by the Government of the existence of an internal armed conflict, and the correlative affirmation that organised armed groups constitute instead terrorist threats, seriously impedes the application of international humanitarian law and the armed actors' accountability.

This policy not only provokes new forced movements of population, since it denies the distinction between civilians and combatants established under international humanitarian law, but it also increases the stigmatisation of the displaced, assumed to sympathise with the so-called «terrorist groups». However, to the exception of a number of Colombian and international Non Governmental Organisations, few voices were raised to denounce the harm caused by the measures at stake to the civilian population and their negative impact on displacement.

International organisations and UN agencies present in Colombia conscientiously avoid approaching the issue. For example, UNHCR, though denouncing regularly the violations of humanitarian law perpetrated by the guerrilla groups and the paramilitaries, remained until now silent concerning the threats to the safety of the civilian population caused by the Government's large scale military operations. Similarly, the refugee agency does not publicly denounce forced displacements induced by crop fumigations, these fumigations constituting the major tool of the President's fight against narco-traffic.

Admittedly, there is a risk for field-based organisations to directly confront governmental policies. The Office of the High

²³⁷ Government of Colombia, *Plan Colombia ha prestado atención a más de 2 millones de afectados por desplazamiento*, 9 December 2004, available at <http://www.reliefweb.int/w/rwb.nsf/6686f45896f15dbc852567ae00530132/499771a65a52b54ac1256f6600469c6d?OpenDocument>.

²³⁸ Consultoría para los Derechos Humanos y el Desplazamiento, *The «Patriot Plan»*, Bulletin No 50, Bogotá, 31 August 2004.

²³⁹ Human Rights Watch, *World Report 2005, Human Rights Overview-Colombia*, January 2005, available at <http://hrw.org/english/docs/2005/01/13/colomb9847.htm>.

²⁴⁰ Human Rights Watch, *World Report 2005, Human Rights Overview-Colombia*, ibidem.

Commissioner for Human Rights has been the only UN agency to adopt publicly a principled stance towards the new counter-terrorism rhetoric, the measures threatening the citizens' basic freedoms and the increased involvement of the civilian population in the conflict through the constitution of an informants network and the recruitment of so-called peasants soldiers and it suffers the consequences of its temerity.

Various government officials made declarations accusing the Office to serve the interests of «terrorist groups» with such criticisms and, as mentioned earlier, the Colombian Vice President, Francisco Santos, met twice the High Commissioner, Louise Harbour, in the beginning of the year 2005, in order to renegotiate the mandate of her office in Colombia, his objective being to circumscribe its function to the provision of technical assistance to the Government²⁴¹.

Admittedly also, public disclosure is not the only way to practice advocacy. The ICRC has been at times very successful in raising issues pertaining to the protection of civilians behind closed doors. However, UN agencies are not compelled to adopt such a strict approach to their neutrality. Taking publicly the side of the victims, IDPs and the civilian population, is not a breach of neutrality but can be perceived as a sign that the agencies concerned refuse to become accomplice of violations of humanitarian and human rights law²⁴².

Considering moreover the risks assertive advocacy entails for national and even international humanitarian NGOs, both in terms of access to the populations in need and of staff security, the UN could take the lead in facing the Government and provide in this way a more secure environment for the latter to raise human rights concerns.

Colombian NGOs, IDP organisations and some international NGOs have been recently particularly threatened by the repeated declarations of Government officials accusing them to support the guerrilla groups, the «terrorists» according to the official terminology²⁴³. Human rights defenders and leaders have also been victims, in recent years, of large scale surveillance and information gathering, violations of their freedom of expression, threats, harassment, arbitrary arrests, abusive judicial proceedings and violations of the due process, in addition to homicides.

The passivity of State authorities regarding these abuses and the lack of support from UN agencies in their advocacy efforts might ultimately discourage them to manifest their indignation in front of the detrimental consequences of the Government's policies, notably regarding displacement prevention and the personal security of the uprooted.

Consequently, it can be regretted that, except the OHCHR, neither the UN agencies, nor the Resident Coordinator openly criticized the Uribe's Administration position. If the UN is to appear as the guardian of international human rights as the ICRC is the guardian of the Geneva Conventions, it should speak out²⁴⁴. Generally, the risk of expulsion or serious reprisals by State authorities seems to be overestimated. International humanitarian and development assistance is crucial for the Government and a virulent reaction from his part would be particularly unlikely if these organisations formed a united front and faced the authorities to prompt a policy change.

Such cautiousness is above all problematic since it largely prevents international organisations, and in particular UN agencies, from making contacts with the organised armed groups to negotiate fundamental issues, such as humanitarian access²⁴⁵.

²⁴¹ *El Tiempo*, «El Gobierno busca redefinir papel de la oficina de la ONU en Colombia», Bogotá, 10 April 2005.

²⁴² «Neutrality and impartiality are about taking a principled approach, ensuring that actions by all parties conform to international human rights and humanitarian standards». Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, the Brookings-SAIS Project on Internal Displacement and the UN Office for the Coordination of Humanitarian Affairs Inter-Agency Internal Displacement Division, Washington D.C., November 2004, p. 43.

²⁴³ *El Tiempo*, «El riesgo de los señalamientos (Atando cabos)», Bogotá, 26 March 2005.

²⁴⁴ Diane Paul, Simon Bagshaw, *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, ibidem, p. 43.

²⁴⁵ «It is critically important that humanitarian actors are able to freely make contacts with non-state actors and to negotiate such fundamental issues like humanitarian access, regardless of relationships between the State and the rebel groups.» UN Secretary General, *Report of the Secretary General to the Security Council on the protection of civilians in armed conflict*, UN doc. S/2002/1300 (2002), para. 19.

The President made indeed clear that it is expecting the UN to define its position towards the organised armed groups. In the words of the Colombian Peace Commissioner, Luis Carlos Restrepo, «The United Nations cannot maintain neutrality vis-à-vis terrorist groups in the hope of scoring points with them»²⁴⁶. Such an injunction should normally prompt a strong reaction from the headquarters in order to impress upon Colombian authorities that field-based officials have mandate for establishing contacts with all the parties to the conflict.

However, at headquarters level, the problem posed by President Uribe's counter-terrorist policies remains very delicate to address. While some high-ranking officials have tried to emphasise the responsibility of the Government towards the displaced and while the UN never subscribed to the affirmation that the situation in Colombia do not constitute an internal armed conflict, no one publicly condemned the consequences of the «Democratic Security» policy has on the civilian population and its most vulnerable sector, the displaced.

This behaviour is well illustrated by the report drafted by the Inter-Agency Internal Displacement Division following its visit to Colombia in February 2005²⁴⁷. Although it gives a comprehensive overview of the existing loopholes in relation to the protection and assistance of IDPs —both in the domestic and the international response— and formulates valuable recommendations, it fails to call the Government to respect the fundamental distinction between civilians and combatants and to shield as much as possible civilians from the effect of the conflict and of the fight against narco-production.

Similarly, the Commission on Human Rights voiced several times concern over the wide range of human rights violations and

breaches of humanitarian law witnessed in Colombia without reasserting firmly the existence of an internal armed conflict or urging the Government to reconsider its policy.

In comparison, the Emergency Relief Coordinator has shown greater independence. Quite unusually, he held a press briefing in Geneva after his four-day visit to Colombia in May 2004. Acknowledging the impact the repeated offensives of the army have had on civilians —provoking notably their flight or blocking humanitarian access to endangered communities— he affirmed that a procedure had been established in consultation with the President whereby he would meet with the High Commissioner for Peace to discuss how to undertake humanitarian diplomacy either with the armed actors or through the Church in order to «try to humanise this very dirty conflict»²⁴⁸.

Nevertheless, when asked how the increased presence of United States troops and activities had impacted the humanitarian situation over the past years in Colombia, he only answered that it was a politically sensitive issue. The almost unconditional and considerable support provided by the United States to President Uribe's «Democratic Security» policy seems to be the key of UN officials' reluctance to openly criticise the latter²⁴⁹.

Turning to the donors, one can easily understand why, in such circumstances, their stance regarding the human rights and humanitarian situation in Colombia remains unclear: criticising too firmly the new Government's measures would amount to criticising the United States' foreign policy. Colombian guerrilla and paramilitary groups have indeed been added to the US Department of State's list of terrorist organisations, which offers apparent legitimacy to the «anti-terrorist fight» led by Uribe's Administration²⁵⁰.

²⁴⁶ Agence France Press, «Colombia asks UN to define stance toward armed groups», 27 April 2005, available at <http://www.reliefweb.int/rw/rwb.nsf/0/d6b9fe5b2d1fb05b49256ff100043e15?OpenDocument>.

²⁴⁷ UN Inter-Agency Internal Displacement Division, *Report on the Mission to Colombia*, 16-27 January 2004, available at www.reliefweb.int/rdp/docs/reports/2005/Colombia%20January%202005.pdf.

²⁴⁸ Emergency Relief Coordinator, Press Briefing on Colombia, 10 May 2005, available at <http://www.un.org/News/briefings/docs/2004/OCHABrf.doc.htm>.

²⁴⁹ It could be regretted that the ERC did not take advantage yet of the possibility to bring situations of particular concern to the attention of

the Inter-Agency Standing Committee to the extent that an official statement from the latter, formed by the heads of the major UN humanitarian agencies, would probably carry more weight and allow for greater independence vis-à-vis political constraints.

²⁵⁰ The Revolutionary Armed Forces of Colombia-People's Army (FARC-EP) and smaller Army of National Liberation (UCELN) guerrillas appeared on the first American list of foreign terrorist organisations in 1997. On the 10 September 2001, Washington added the United Self-Defence Groups of Colombia (AUC). Robin Kirk, «Colombia and the "War" on Terror: Rhetoric and Reality», *The World Today*, March 2004.

While, making a positive move, a group of twenty four donors adopted in 2003 the London Declaration²⁵¹ by which, among other things, they conditioned their assistance to respect by State authorities of the recommendations of the High Commissioner for Human Rights; they did not fulfil this commitment.

In February 2005, indeed, thirty-four donor countries this time reasserted their engagement to assist the Government, though the reports of the High Commissioner still illustrate the alarming human rights situation in the country and the resilient unwillingness from the authorities to implement her recommendations²⁵². They also reaffirmed the necessity to comply with the said recommendations and to ensure respect for truth and justice in relation to the demobilisation process currently negotiated with the paramilitary groups. However, in the light of their past behaviour, President Uribe has all the reasons to believe that such support is not going to be withdrawn.

Hence, beyond ensuring the viability of the «Democratic Security» policy with impressive flows of financial and material assistance, regardless of the consequences for the civilian population, the United States protect Uribe's administration against eventual sanctions from the community of donors and the international community, at large. The incentive for the present Government to recognise the existence of an armed conflict, secure application of international humanitarian and human rights law, and duly protect victims of forced displacement, as requested by all the human rights organisations and monitoring bodies, is null. Without the necessary political backing, the action of human rights, humanitarian and development assistance organisations is condemned to fail in trying to provide effective protection to civilians and to Internally Displaced Persons.

This is being once again demonstrated by the current demobilisation process negotiated with the paramilitary groups. While various sectors of the international community have voiced fears as to the impunity of demobilized paramilitaries, a number of them being responsible of war crimes and crimes against humanity, the Organisation of American States —contrary to the UN which estimated that the guarantees given by the Government are insufficient— accepted to supervise the process and received financial support from various Governments including Sweden, Ireland and The Netherlands.

This decision is highly criticisable considering that the so-called demobilisation process seems rather meant to recycle members of the paramilitary groups into civil society without ensuring truth and justice for their victims, notably the IDPs despoiled from their lands, and that the paramilitaries do not respect the cease fire and continue to perpetrate numerous breaches of humanitarian law.

In lending legitimacy to the actions led by a Government who seems little concerned by the well-being of its population, donor Governments and Member States of international organisations not only seriously impede the efforts done by human rights, humanitarian and development organisations to bring some relief and uphold the rights of the displaced and endangered populations, but also deprive these efforts from their essential moral and legal groundings. International agencies are not mandated for and should abstain from ensuring the sustainability of policies widely detrimental to the basic rights of the population and the uprooted by providing remedies which —though insufficient— avert strong public discontent and political troubles for the Government.

²⁵¹ *El Tiempo*, «En un año, cambió el tono de 34 países hacia Colombia», Bogotá, 5 February 2005.

²⁵² Cartagena Declaration, Cartagena de Indias, 3 and 4 February 2005, available at <http://www.embajada-colombia.de/paginas/cooperacion/>

Conclusions

Deeply rooted in the conflict over land and power affecting Colombia for more than four decades, forced displacement is the clearest manifestation of the protection needs of the civilian population. Civilians are attacked either directly or indirectly; either because they live in cross-fire zones or because they constitute an obstacle to the realisation of the strategic goals of the armed actors and their powerful allies, be they large landowners or drug traffickers.

Displacement is the first of a long series of human rights violations endured by those forced from their homes by violence. As indicated, forty percent of the uprooted ultimately joins the ranks of the urban poor in shantytowns located at the periphery of Colombia's major cities, where they remain unable to exercise their rights to health, food, education, housing, identity before the law and so forth. They are additionally increasingly exposed to the insecurity arising from the common delinquency and the progressive urbanisation of the conflict. Due to a persistence, or intensification, of the conflict in rural areas and an absence of resettlement opportunities, the displaced are compelled to accept such miserable living conditions.

Ironically, internally displaced persons enjoy in Colombia the widest legal protection in the world. The flawed implementation of the provisions protecting the rights of the displaced population results less from the inability of the State to comply with its international and domestic obligations than from its unwillingness to consider protection of civilians and IDPs as a priority. This has become evident since President Uribe took office. Devised to restore State's control over territories held by the organised armed actors, its «Democratic Security Policy», grounded in the denial of the existence of an internal armed conflict, seriously undermines the protection of the civilian population, contributes to aliment continuous flows of IDPs and has proved extremely harmful to the security of the uprooted. In addition, recent reforms and budget restrictions have, in the first place, affected existing institutions and mechanisms for the protection of the displaced population.

Alerted by the impending displacement crisis, now the second largest worldwide, international humanitarian and development agencies have progressively concerned themselves with the problem. In rupture with past practices, international organ-

isations and NGOs, beyond protection-mandated organisations, have progressively acknowledged the sore protection needs of IDPs. Culminating in the adoption of a rights-based strategic framework for assistance to the displaced by the UN Country Team in 2002 —the Humanitarian Action Plan— this tendency has led international agencies to emphasise State's primary responsibility to assist and protect internally displaced persons rather than attempt to palliate its passivity.

As illustrated through our broad review of the activities of international agencies in favour of IDP protection, the latter have until now privileged activities pertaining to advocacy for the rights of the displaced and to «capacity-building» targeted at State institutions, civil society organisations and IDP organisations in order to promote better implementation of the existing legal framework. These strategies have unfortunately failed to guarantee better displacement prevention, emergency assistance and socio-economic stabilisation and reintegration opportunities to the uprooted.

On the one hand, insufficient budget allocations and measures adopted by the two last Colombian Governments, especially by the current Administration, have continuously undermined the efforts made by the international community. On the other hand, calls and recommendations in favour of respect, protection and fulfilment of international humanitarian and human rights law standards remained in wide majority unheeded.

As evidenced in our previous developments, such inefficiency of international undertakings on behalf of the displaced population is only partially attributable to field based agencies. Admittedly, actions of the international community in the field of protection are impeded by insufficient strategising of protection activities, in particular as far as non protection-mandated agencies are concerned. Humanitarian and development organisations have indeed largely limited their protection efforts to so-called «protection mainstreaming», useful in order to duly consider the impact of their activities on the enjoyment of human rights, but incapable of replacing adequate planning and strategising as well as activities exclusively aimed at ensuring the protection of civilians at-risk of displacement and IDPs.

Staff restrictions and concentration in certain areas also limit the extent to which international agencies guarantee the physical safety of communities at-risk, while international presence in

areas where government forces do not have access or are unwilling to provide protection is crucial. Additionally, international actors largely failed to adequately address some of the specific features of internal displacement in Colombia such as its mainly individual or unfamiliar character and its long lasting effects on the Colombian social fabric. The lack of funds in support of the general activities of international agencies in favour of IDPs and the reluctance of donors to finance protection related projects, such as those grouped under the heading «Protection/Human Rights/Rule of Law» in the Humanitarian Action Plan, explain to a great extent these limitations.

Another factor limiting the impact of dissemination, advocacy and capacity-building initiatives of international agencies in favour of IDPs and, more generally, of the civilian population, is the lack of incentive for combatants and the State to respect and ensure respect for humanitarian and human rights law standards. Given the climate of impunity prevailing in Colombia, indeed, members of the guerrilla groups, and, a fortiori, paramilitaries and members of the armed forces fear little the consequences of committing war crimes. Considering, in addition, the reservation Colombia made to the Statute of the International Criminal Court and the current peace process engaged with the paramilitaries, which ensures almost total impunity to the latter for the crimes committed in the course of hostilities, the perspectives of behavioural changes on the part of the combatants are meagre. At the other end of the spectrum, the weakness of existing international mechanisms to secure State's compliance with international humanitarian and human rights law and the absence of international enforcement mechanism seriously reduce the impact of monitoring, reporting and advocacy activities of international organisations such as the UN and the OAS.

Finally, and above all, the failure of advocacy efforts and the persistent unwillingness of the Colombian Government to secure implementation of the rights of IDPs and protect the civilian population are largely explained, as we argued in the final section, by the negligible political weight of these issues. While undeniably alarming, the displacement crisis does not constitute a burning item on the Government's political agenda. Both at national and international level the humanitarian situation in Colombia and the phenomenon of forced displacement lack considerably visibility, allowing thus the Government to neglect its obligations to prevent displacement and protect IDPs. Worst, to the exception of the High Commissioner for Human Rights and its repre-

sentative in Bogotá, field-based senior officials of the United Nations, UN headquarters' officials and donor Governments have attempted to de-politicise the issue of displacement, limiting their advocacy undertakings to questions relating to humanitarian access, respect and implementation of the Guiding Principles on Internal Displacement and impunity for war crimes. They consciously avoid approaching what they deem to be politically sensitive issues and, in particular, to oppose overtly Uribe's Administration's counter-terrorism rhetoric and policy, while the latter bear harsh consequences for the civilian population and the displaced.

If related for field-based agencies to a fear of reduced access to threatened populations or expulsion from the country, such an over-caution on the part of UN headquarters and donors has more to do with the almost unconditional financial and political support provided by the United States to the Government of Alvaro Uribe and its policies. This is highly regrettable insofar as headquarters' support is essential to any advocacy effort. Moreover, financial pressure and incentives on the part of the donor community, in particular ECHO and USAID, would be undoubtedly more successful than the dozens of recommendations issued by the High Commissioner for Human Rights in order to prompt sustainable policy changes.

This evidences how in Colombia the classical dichotomy between protection and assistance transforms into a dichotomy between different models and levels of advocacy. What is needed is indeed high profile and assertive advocacy. Advocacy has to move from the humanitarian arena to political and diplomatic circles.

The ambiguity of the discourses of international agencies and donor governments towards the Administration in place in Colombia puts field-based agencies in a difficult position. While disengagement from Colombia is not officially considered, contradictions between the terms of their mandates and the activities they are able to undertake confront international agencies with a serious dilemma. They might choose to persist in collaborating with a Government who is obviously unprepared to comply with its international obligations towards its population, including the displaced, and thereby become accomplice of its passivity, or prefer to stop collaborating and withdraw partially their services, abandoning thus civilians and displaced in the hands of the warring parties, without assistance beyond a minimum level.

In our view, in the absence of any reaction from headquarters and of effective pressure exerted by donor governments, international agencies—in particular protection mandated agencies cooperating widely with the Government such as UNHCR and OHCHR—should speak up and maybe reconsider the nature of their involvement in Colombia. At variance with their mandates and the fundamental goals of international assistance and cooperation, they are for example prohibited from establishing contacts with non-state actors or forced to accompany or support returns of «peace communities» to unsafe areas due to the absence of opportunities for socio-economic stabilisation and reintegration. Despite this, they continue to cooperate with the Government. In the light of the most recent developments, the situation appears hardly sustainable.

In June 2005, President Uribe sent guidelines to foreign ambassadors, representatives of international agencies and cooperation agencies in Colombia enjoining them to refrain from using terms such as «armed conflict», «non state actors», «civil protection», «peace communities», «peace territories» or «humanitarian space», judged ambiguous and inappropriate. In addition, international agencies are prohibited to «undertake so-called “humanitarian activities” implying to establish contacts with organised armed groups». According to domestic observers, after the non replacement of James Lemoyné to the post of UN Secretary General’s representative in Colombia in 2005, this circular is the preamble to the exit of other agencies, among which primarily UNHCR, OHCHR and OCHA, three agencies particularly concerned with protection of internally displaced persons.

The months following the completion of the present research confirmed these assumptions. IOM announced in October 2005

that it would, in partnership with the Pan American Development Foundation, provide assistance to Internally Displaced Persons and other vulnerable groups in Colombia for the next five years. This decision, motivated by the allocation of a 100 million dollars grant from the United States Agency for International Development, is likely to coincide with the progressive disengagement of UNHCR as the refugee agency did not receive the necessary funds to implement its programmes in favour of IDPs. Unfortunately, IOM does not have the same experience in IDP protection and cannot be expected to take principled stances regarding the Government’s policies.

Annex: Newly displaced people in Colombia yearly

Year	CODHES	GoC SUR
1985-94	720,000	No info-94: 4786
1995	89,000	247
1996	181,000	2,570
1997	257,000	11,099
1998	308,000	34,460
1999	288,000	29,139
2000	317,375	329,981
2001	341,925	373,663
2002	412,553	422,957
2003	207,607	219,431
2004	287,581	145,995
2005	252,801	106,000
Total Cumulated	3,650,041	1,700,743

Sources: Norwegian Refugee Council/Global IDP Project, Global IDP Database, Profile on Internal Displacement: Colombia, as of October 2005.

Notes: Table based on estimations realised by the Colombian NGO *Consultoría para los Derechos Humanos y el Desplazamiento* (CODHES) and the Government of Colombia through the official Single Registration System (GoC SUR).

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