

REPARATIVE JUSTICE AND FORCED DISPLACEMENT

**INTERNALLY DISPLACED  
PEOPLE IN COLOMBIA, VICTIMS  
IN PERMANENT TRANSITION**

**ETHICAL AND POLITICAL DILEMMAS  
OF REPARATIVE JUSTICE IN THE MIDST  
OF INTERNAL ARMED CONFLICT**

**SANDRO JIMÉNEZ OCAMPO (Coordinator)**

**MARTHA NUBIA BELLO**

**DONNY MEERTENS**

**FLOR EDILMA OSORIO**

**ROCÍO VENEGAS LUQUE**

**Edited by:**

Grupo de Investigación en Desarrollo Social – GIDES, Universidad de San Buenaventura-Cartagena, Colombia.

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**Authors:**

Sandro Jiménez Ocampo (Cordinator): Phd. (c), Master of Social Development. Professor - Researcher Universidad Central Bogotá.

(sanjulan@gmail.com)

Martha Nubia Bello: Social Worker, Master of Political Science. Professor - Researcher of the Universidad Nacional de Colombia.

(manubeal@gmail.com)

Donny Meertens: Anthropologist, PhD in Social Sciences. Professor - Researcher of the Universidad Nacional de Colombia.

(dmeertens@gmail.com )

Flor Edilma Osorio: Social Worker. Phd. in latin american studies. Doctor of Social Sciences. Professor - Researcher of the Universidad Javeriana

(floreedyosorio@gmail.com )

Rocío Venegas Luque Luque (Regional Case Coordinator): Doctoral Candidate in Social Sciences, Master

of Clinical Psychology. Professor - Researcher of the Universidad de San Buenaventura de Cartagena (rvenegasluque@gmail.com)

**Editorial Coordinator:**

Sandro Jiménez Ocampo

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# INTRODUCTION

Since the initial period of the «peace» negotiations between paramilitary groups and the Colombian Government from 2004 to 2007, forced displacement and the continuation of deaths associated with the armed conflict have not diminished. These events and the previous positions show that the political course to deal with conflict and victim reparation is subjected to the ambiguity of «peace» negotiations in the midst of conflict and the contradictions of an approach where the subjects of reparation are absent from the construction of these alternatives.

This document examines three core aspects to this investigation: the first discusses how the “transition” discourse is added to and used as a tool in the extensive development that war and peace discourses have undergone in Colombia; the second refers to the relationship between social practices and public policies as regards the recognition and protection of victims of conflict in Colombia, particularly internal forced displacement; the third deals with the concern for the new aspect that the dispute for the right to reparation adds to the political treatment of a possible end to the internal armed conflict in Colombia.

These questions are based on the idea that behind any discourse, policy and norm associated with the reparation of damage caused by political violence or armed confrontation, there are disputes for recognition, conflicting views of peace and war, and an economy of visibilities that guarantee care for a certain type of victims and the denial of many others. To this effect, it is important to describe the way that the reparation discourse

can be the legitimating base for transitional justice mechanisms<sup>1</sup>, and at the same time an illegitimizing mechanism, if introduced as a simple conflict management tool, which has been the case in Colombia's recent experience, starting with the negotiation with «paramilitary» groups and originated by the consequent approval of Law 975 / 2005 named by its proponents as the Justice and Peace Law.

Attempts are made throughout the text to show how the omission of the word Reparation from said Law has become an allegoric expression of social and political practices regarding the debate on the right to reparation, because a discussion on justice and peace that is not mediated by reparation presents as a background the place of the victim as otherness denied, whose recognition appears to be an irreconcilable, contradictory experience for the achievement of the "higher good" of peace

This scenario is inevitably aporetic, because peace is not on the horizon either, given the effect of armed confrontation hence, mechanisms and institutions of transitional justice wind up becoming the judicial resource to normalize the «state of exception» in dealing with the Colombian conflict, contrary to the normative intent of this discourse.

The discussion put forward herein is an attempt to integrate two fields of reflection, one theoretic and the other empirical. The purpose of the cross discussion is to recognize the complexity of the Colombian case and the

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1- The notion of transitional justice refers to the processes through which radical transformations of a social and political order are carried out, either by the passing of an internal armed conflict to a peaceful order, or the passing from a totalitarian political system to a democracy. While these processes seek the construction of a new social and political order, they must deal with mass, systematic violations of human rights and international humanitarian law committed in the previous system and, therefore, they must seek out a balance between the national and international legal requirements that protect the rights of the victims of said crimes, with the political need to achieve peace by awarding benefits that will be attractive for the victimizers themselves to decide to leave behind the previous system. Although Colombia's recent public policy as regards transitional justice has sought to settle the dilemma concerning paramilitary groups, the Colombian case is discussed as a transition that, at the most, will be fragmentary, because it will take place in a context where the armed conflict has given no signs of ending. This is why we say that in Colombia, we would be living processes of transitional justice without a transition. See Uprimny (2006) on the matter.

abundance of international discourse production on transitions. The discussion is not intended to review the reparation discourse in international tradition, genealogically speaking, or reconstruct the history of the Colombian conflict. What it is meant to do is unveil the link between circulating discourse and modes of intervention, as they both inevitably transform the practices and forms of political subjectivation as relative to war and peace in Colombia.

As regards the theoretic scope of Transitional Justice, this text will be focused on the specific aspects of dealing with the components of reparation. This emphasis on the debate of reparation does not ignore the importance of the components of truth and justice, associated with the international discourse of transitions; however documentary review for this research has led to the conclusion that these are the two components that have received the most attention, and consequently, the reparation of victims winds up being the measure of sacrifice in favor of reconciliation, as stated by Castillejo-Cuellar, transition for victims «is only articulated in the language of sacrifice»<sup>2</sup>.

In addition, due to special focus of this project on the victim the reparation of damages resulting from the experience of systematic violence and the condition of being displaced appears to be the most direct path to recognizing the damage. Again, the idea is to question how, in the context of the globalization of state functions as regards the protection of human rights and international humanitarian law, the notions of truth and justice have taken on central importance when legitimizing transitional processes to the international community; while reparation can be considered the main legitimating source for the victims themselves.

This argument is not meant to ignore the fact that victims also participate in the demands for truth and jus-

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2- Castillejo-Cuellar, Alejandro (2007: 14), uses this expression to question the emblematic character that has been given to the South African transition, no signs of this economy of value in the experiences and stories of the victims themselves. Unofficial translation.

tice, as members of a damaged society, but without reparation, the indirect paths of judicial truth and compensatory justice are not enough to account for the experience of embodied damage (on the mental, physical and social body) imposed upon the victims.

Last but not least, this entry or emphasis on reparation is meant to answer to the historic context where the discussion arose in Colombia, because as we mentioned earlier, neither reparation nor victims appear to be of core importance in the genealogy of a social demand, or in the introduction of the debate in Colombia by means of Law 975 / 2005. Evidence of this nature can be found in the privilege granted to the judicial formalization, which discusses whether the Colombian norm is similar to the international standard or not; thus draining of historic content the mediums to achieve peace, the politics of negotiations, and the specific social recognition of individual and collective damage.

In terms of the headings and structure of this text, it is important to point out that victims in transition is an expression meant to take into account the complexities of the struggle for the recognition of the subjects in the condition of displacement as victims of the internal armed conflict in Colombia and as political subjects of comprehensive reparation; the victims are faced with an ambivalent context between an armed conflict in progress - always in the process of transformation - and the post-conflict aspirations, formalized by the creation of regulations, pacification agreements – such as the demobilization of armed insurgent groups - and the implementation of the technological package of transitional justice.

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This expression in synthetic, but also comprehensive manner, described the principal dilemmas, tensions and paradoxes included in this text as a result of the research project on reparative justice and forced displacement in Colombia sponsored by the International Development Research Center - IDRC, in the peace, as part of the conflict and development program.

This research took as a starting point the need to take on the new scenario of the aspiration of conflict - post-conflict transition, not only based on the debate derived from the judicial and political issues associated with the Justice and Peace Law (Law 975 / 2005) and the consequent application of the normative technologies selected from the instruments of transitional justice but also to deal with the critical analysis of the complexity of the historic moment where transitionality is envisaged not as a way out of the domestic war, but as a project for pacification. The Colombian way to approach the transitional process posed the challenge of analytically questioning forced institutionalization and, - without the participation of society or the victims - of forgiveness, reparation and forgetting.

This approach led us to consider the sociopolitical aspects of the process, where certain criteria of differentiation became key analytical variables, such as: gender, ethnic group and region. Differentiation by gender came up as a base criterion for this research, not only because of its discursive importance in political analysis, but due to the population's personal experience in the situation of forced displacement - which comes from previous research - where you could see the deep disruption of the world of men and women, in which the first lost several sources of central family and social importance - their nature as providers and political representation, among others - while for the latter, historic discrimination was exacerbated and the scopes of responsibility were increasing, not only because they began to occupy the central importance in the public and private, but also because in many regions, women have exhibited greater capacity to transform their daily practices during the process of insertion into new urban or semi-urban fields. Based on these realities, which demonstrate the dual movement of exacerbated vulnerabilities and inequalities on one hand, and new horizons of citizenship on the other, we have undertaken the task to interpret the multiple meanings that reparative justice can take on through or within the gender perspective.

Several reasons have been pointed out based on the experiences of other countries, particularly the experience of Peru's Truth Commission and Guatemala's Historical Clarification Commission, for which it is imperative to employ a gender perspective in the analysis of conflict dynamics, in learning the truth, in the implementation of justice and therefore, in the subsequent possibilities and strategies for comprehensive, fair reparation. Employing the gender approach takes women out of the invisibility in which they have historically been hidden, even when they tell stories of violence suffered by their husbands and children, but neglecting their own. It also expands the concept of victim, suggesting that we reflect on the "non-official" methods of aggression employed in the armed conflict: they have been assaulted as wives or relatives of participants in the conflict; threatened as mothers with the murder of their children; sexually abused in the presence of their partners to inflict dishonor (shame?) on the entire community; used as domestic slaves by armed groups or restricted in the everyday exercise of freedom through the imposition of authoritarian and patriarchic forms of social control with the use of arms.

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This also makes us question the economic, social and cultural impacts on women, resulting from the decomposition of families, death or disappearance of the breadwinner or land owner - who many times is the only one who is socially (although not necessarily legally) recognized in terms of their property rights, and the ownership or possession of the land-. Last but not least, it enables us to distinguish women's new action perspectives, particularly through the framework presented in this book, to analyze victims in transition. Moreover, of utmost importance is how we seek to break the customary and historical silence shrouding this issue, to see the first responses of resistance to violence, the impact of women's own demands for justice, and the outcry for reparation appropriate to their needs (Mantilla, 2006: 422-425; Meertens, 2006: 43-48).

The second criterion of differentiation, that of ethnic group membership, was included in this research not only

for operational reasons, as a result of our having included Chocó (as one of the zones of study), but also because we are convinced that the ethnic aspect has two very important dimensions relating both to the issue of conflict dynamics as well as the reparation process. First, it is clear that indigenous territories and the use of the land have become a strategic target on the agenda of all armed groups, which is why, relatively speaking in terms of population, the native and afro-Colombian groups have been the most affected populations. Second, reparation scenarios characterized by criteria of ethnic differentiation make the liberal discourse of transitional justice even more challenging. As the collective perspective and vision of understanding social relations and the world, contradict the individualized criteria that frame and determine reparation technologies derived from the liberal consensus.

Last of all, differentiation by regions is proposed; this criterion is interpreted from two perspectives: the first has to do with the differences that the conflict itself exhibits depending on the territorial scope where it takes place. The second refers to the difference between rural and urban contexts, particularly in terms of the impact derived from the difference between these two ways of living. We also consider that the regional criteria may contribute to expand the scope of sensitive aspects for the development of public policies in Colombia, as the excessive centralization of conflict management and transition not only preclude any possibilities for more horizontal political action, but also ignore the fact that many of the agreements made at the central level are restricted in their application by the very real limits in state capacity and structure within the regional context.

The research used the following general framework of cities and towns as its starting point: Bogotá and Soacha, in the central region of the country; Medellín, Quibdó and Bojayá, in the Western region; and Cartagena, Carmen de Bolívar and Sincelejo, in the Northern region. Based on the above, the research created three distinct groups to develop effectively the differential criteria. Its

final **publication** brings together these regional analyses in three separate reports of regional case studies that are not included herein, but rather form a part of the general body of analysis and results of the research project. The publications include: a report on the sub-region of Medio Atrato in Choco, another on the sub-region Montes de Maria in Bolivar, and a third report on cities, including Bogotá, Soacha, Medellin and Cartagena.

In addition to the difference issues, , this research highlights upfront the importance of the combination of diachronic and synchronic analyses. This is why the historic inequality caused by the model of State and development implanted in Colombia were taken into account , along with additional inequalities resulting from the conflict, the forced displacement and the failure of the State to respond as regards the restitution of the victims' rights.

The reason for focusing this research on a certain type of victim, that is to say: people in the situation of internal forced displacement, was not based merely on the fact that this group has been the most typical type of victim during the last few decades of Colombia's internal conflict, but rather from the crisis that this phenomenon has helped to make evident within the structure of the Colombian political system for the protection of fundamental rights and the creation and implementation of public policies with differential criteria.

16 Finally, this research questions how the possibility of transition is configured discursively and politically towards the post-conflict in Colombia. In particular, in a case of internal armed conflict, where conflicting interests and forces extend beyond the country's borders, either due to the effect of the international forces of economic power in struggle – both legal and illegal -, or the globalization of numerous State functions, which is a condition that multiplies the type of agents associated with decision making and other actions aimed at protecting the rights of the victims of forced displacement.



## Research methodology map

The process of methodological development of this research was proposed based on a framework of analysis that would enable us to identify and engage with the complexity of the phenomenon in question. Three components of the analytical strategy were taken into consideration: facets, levels and processes. Within each of these aspects, several intertwining factors were taken into account.

When we talk about facets of analysis, we are referring to the monitoring of events in accordance with their transformations and changes in trajectory. Three facets or moments interact to outline the physiognomy of the events we observed and attempted to comprehend in a significant manner: History, Context and Situation.

With the *history* facet, we attempted to give an account of the simultaneous intertwining of the **timing of a situation** based on the text and the context, which, in this case, is not only how the Colombian conflict has evolved and mutated, but how it has been understood and haddressed.

The *context* facet is meant to recognize how different configurations of reality emerge at any given time. This view focuses more attention on the recent situation, particularly considering three milestones that can be framed as moments or intervals where new fields of political action appear: The first is associated with the formulation of Law 387/1997; the second with the implementation process of the National System of Attention to Displaced Populations - SNAIP, with particular attention based on the enactment of ruling T-025/2004 of the Constitutional Court; the last milestone is that in which the discourse of transition and reparation is consolidated legally in Colombia through Law 975/2005.

The last facet of analysis, *situation*, is meant to identify events, actors and actions **that exist for some**

**reason** which have come about due to the situation itself; in this research, it refers to the differential way in which the victims of forced displacement are affected, taking into account, their regions, concrete realities and subjective expectations.

The next component in the analytical strategy) represents the level from which the problems reviewed have been addressed; three levels have been put forward herein: macro, meso and micro. As regards the *macro level*, we focus attention on information and actors within domestic and international fields of action, national politics, and with global players, which for the purpose of this research are the Colombian Government, the High Courts, the Colombian Congress, international agencies, public control and protection of citizen rights agencies and domestic public and private organizations with interest and jurisdiction over this matter.

At the *meso level*, we focus attention on information and the events marked by territorial dynamics, differentiated according to the particular processes that take place at the various sites and towns linked to the study. Particular emphasis is placed on local players, intermediate institutions and the implementation processes of policies at the local level.

18 Lastly, the *micro level* is a close review of the cultural basis of the phenomena under study, the structures of subjectivity that define them, and the emerging singularities according to the criteria of differentiation defined for the research, which are gender, ethnic group and region.

The final component of the strategy focuses in the *monitoring* process, where we observe a set of events, actions and players on a permanent basis within the scenario of reparative justice in Colombia. This monitoring was carried out through the national and regional press, and participation in events analyzing and addressing the matter.

As regards the *systematization* process, the set of actions carried out by the different players on the situation under study were gathered, based on critical and systematic ordering criteria. Analysis of regulatory legal material was carried out, and information concerning State institutional mandates and actions for the displaced population was also collected in the regions. Interviews were conducted with certain public officials as well as with local authorities and representatives from decentralized State entities.

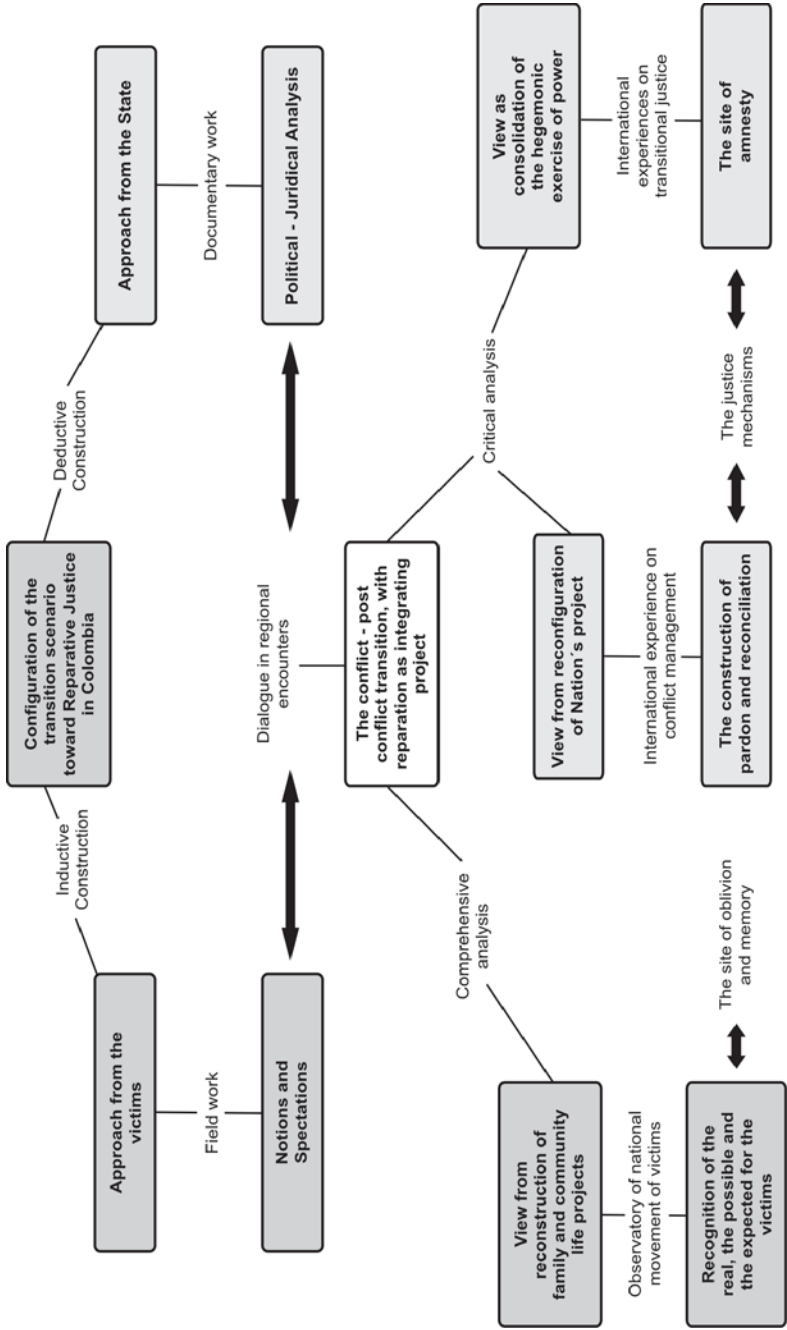
Finally, the *assessment* process was meant to determine the effects derived from applying instrumentation, plans and policies relative to the attention, reestablishment and perception of the reparation of victims of forced displacement among social players regarding demonstrations of political action for recognition of the victims as well as for the development of inclusive practices, open to the expectations of these victims of the armed conflict. In order to carry out this analysis, four regional and one national meetings were held, where academics, victims' organizations, NGOs - domestic and international - and State and international organisms, shared their evaluative positions and expectations on said scenario.

For the period of research, between 2005 and 2008, the in-depth analysis based on these components, their **agents**, and the possible relationships between them, enabled us to configure a state of affairs of the victims of forced displacement within the context of the reparation processes. For further methodological illustration, an outline is presented below giving an account of the relations studied along with the research processes that were implemented.

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## Structure of the text

Before getting started, we would like to present the structure of the chapters that define the text and the reasons or logic behind this.



Chapter 1 has been conceived as an exercise of contextualization of the issue of forced displacement in Colombia, representing a general framework to introduce and precipitate the specific debate on the reparation processes. This chapter has two key purposes: to identify the characteristic signs of forced displacement in Colombia. Although the analysis of the issue of forced displacement in Colombia presented in chapter one demonstrates that there exist a series of characteristics common to similar experiences in other regions of the world, it also becomes clear that in the case of Colombia there are important nuances that are not always comprehensible at first glance. The second important contribution of this chapter is that it provides a recent balance of the social and political dynamics of the phenomenon in a period where fundamental milestones have been achieved regarding the forms of comprehension of and intervention in the problem.

The second chapter presents an analytical framework of the Colombian conflict that has not until now been developed adequately: the emphasis placed on management devices implemented to establish this field of knowledge and political intervention. However, as will become evident in the second chapter, an integrating relation or central point has been proposed, which indicates how, over the last 25 years, the "state of exception" has been consolidated or normalized as government and public management of the various dynamics and challenges that the conflict has placed on State institutionality. In addition to this argument, it also presents with some detail the reasons for which we consider that the discourse of transitional justice is being established in Colombia, not as a mechanism of construction of means of putting an end to the conflict, but rather as a strategy of guaranteeing its regulated management and administration. This discussion is fundamental to understand the limitations for the discourses of reparation circulating in Colombia to fully include the victims of forced displacement as main figures of the process.

Chapter three goes back to the political analysis from a critical review to the discourse of reparations in general and the position assumed by Colombia's National Commission of Reparation and Reconciliation. The discussion is put forward in two directions; the first develops the importance of placing emphasis on reparation, along with a proposition for a conceptual entry meant to expand views on which the field of reparations has been weaved based on the hegemonic reading of transitional justice. At the same time, these concepts are used as a guide to understanding and rethinking the importance that the CNNR's stance has given the victims of forced displacement.

Chapter four, like chapter one, is meant to show the reader the state of affairs that distinguishes forced displacement from other types of grievances within the course of confrontation in Colombia; however, there is a one fundamental difference: eyes are on the more invisible dimension of the phenomenon, both nationally and internationally. Here we are referring to the experiences of being in the situation of forced domestic displacement or internal exile as referred to elsewhere (Castillejo 2000; Jimenez 2003). The journey presented in this section is an attempt to making the voice of the victims heard, so the narrative structuring the text follows a timeline that begins with the course of banishment and uprooting. To this effect, this chapter is different from the previous ones because the message that it seeks to present is not that of analytical distance, but rather the specific experience of women, men, indigenous peoples and afro-Colombians, victims of the crime of forced displacement due to political violence.

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Chapter five seeks to give an account of the implications and challenges which we would have to incur if we were to assume the ethical and political responsibility of giving reparations to the victims of displacement. This chapter then sets out the ambiguities in addressing this issue, not only with regard to the damage associated with forced displacement, but also the implications of repa-

ration for the case of systemic violations in a context characterized by extreme heterogeneity.

The last chapter shifts the emphasis on the *impact upon victims* to an approach toward the *social and political action* of the victims. We consider it fundamental to understand and recognize that the men and women affected by forced displacement are not just a label or category used in the administration of subjects within a "*condition of exception*", nor are they liabilities benefiting from benevolent charity given by domestic and international entities; on the contrary, these so-called *victims* represent a collective group of political subjects that has resisted and learned from their experiences of pain and marginalization, and developed forms of debate, interrogation and overcoming the limits of such labels imposed by the State. Such labels, as we will see from the actions of this important political subject, have attempted to reduce "victims" to the condition of incomplete citizens barely worthy of the logic of the minimum as the only possibility.

As a conclusion, we present a series of discussions that, more than summarizing the set of findings and their different levels of analysis in this research, focuses upon the implications of our conclusions to the agendas of public policy and academic research. To this effect, we have ventured to put forward proposals and suggest debates that recognize that the conclusion of this project is going through an open end stage, which is why these proposals will serve as an invitation to a more profound and long lasting dialog, not defined or trapped by an agenda that is excessively government driven. and disconnected from the debates that might give a comprehensive account of a transition process with the victims and the entire society.







# CHAPTER 1

## WALKING GOVERNMENTS

“We lost the right to have control over the territory inhabited, we lost the right to tell the truth, we lost the right to live outside the conflict and many of our friends were forced into war. Lost the right to decide where the community can move as we used to do. The commanders decided to close the road as long as they want. In particular, indigenous peoples have lost much robustness, communication between clans and the organization of our government and our laws. “

Photography: Rafael Guerra G.



# Armed conflict and forced displacement in Colombia: data, facts and tendencies as of the year 2000

Flor Edilma Osorio Perez<sup>3</sup>

Forced displacement in Colombia has stripped over four million people of their lands, territories and homes over the last 20 years. The last seven years have contributed to 43% of this figure<sup>4</sup>. Millions of women and men have suffered the pain and terror of war, which has left them sunk in poverty and total uncertainty to face their immediate future, amidst a society that ignores them when it is not looking at them with disdain and distrust. It has been said that displacement is not caused by war, but rather war is caused to generate displacement. Multiple players and interests of a national and transnational order have been revealed over the last few years interests, these had been very well hidden behind discourses of fratricidal wars, assigning them an exclusively ideological nature. This is used to confirm the functionality of this domestic war in sustained processes of forced modernization and accumulation of major capitals and strategic territories for the same purpose. There are many licit economic activities, besides illicit crops, which are imposed due to forced displacement, particularly in rural zones, usually legitimized as the road to modernization of the field and the country's access to major international markets.

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A stringent process of forced de-ruralization, which favors agrarian and productive restructuring and precarious urbanization, continues to take place in Colombia at a

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3- Professor Researcher. Department of Rural and Regional Development, Faculty of Environmental and Rural Studies. Universidad Javeriana, Bogotá. [fosorio@javeriana.edu.co](mailto:fosorio@javeriana.edu.co). This text was put together particularly for the study on Reparative Justice and Forced Displacement from a Differential Approach, and undoubtedly has indelible signs of the author's previous work.

4- According to the information provided by CODHES, between 2000 and 2007, there are nearly 1,719,785 people in the situation of forced displacement.

breathless pace, mostly due to the war. When rural inhabitants go to the city as displaced persons, they are more vulnerable and available to enlist in the dynamics of unstable employment, economic outsourcing and other practices of exploitation, which are highly functional for a system seeking the concentration of its capital. When these elements transcend the occasional aspects, as indicated by Fajardo, *"they are engraved in the essence of the relationships between those who control the funds for production and the world of workers, either in the rural society or in urban environments, and reveal the core of a system that has been successful in running major companies, as illustrated by the repeated figures of their annual balances, at the expense of the impoverishment of a growing part of the population"* (2006: 132). Therefore, forced displacement gives rise to situations of a structural order that involve many other factors. Therefore, *"the market conditions, which are always adverse for the weak and, particularly for peasants the irregular war, which does not let up and enables the accumulation of lands and economic benefits in cash the impunity and corruption associated with drug trafficking and the struggle against it are all associated forces that constitute the true matrix of the incessant displacement of the population"* (Molano, 2007: 236).

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Although arms consolidate the power of paramilitary as well as guerrilla groups, the dynamics of progress, consolidation and even legitimation have to do with the historic local and regional economic and political processes existing therein. According to Kalivas, *"war promotes interaction between players with different identities and interests. It is the convergence between the local motives and the supra-local imperatives that provide the civil war with its particular nature and lead to joint violence that floods the division between political and private, collective and individual"* (2004: 76). Local life undergoes severe, rapid transformation with the arrival and intromission of the armed players, regardless of their origin.

The structures of local power are readjusted, rearranged, strengthened or weakened regarding their tacit or explicit links with the different armies and interests that are proposed and imposed. The notions that represented the friend-enemy associations change, because the latter must be exterminated, *the place has to be cleaned up*, above and beyond any previously existing links. Relations of foreign domination and loss are imposed, along with the transformation of power of the population with its conventional dynamics of sociability, which range from the topics of conversation and the radio stations they tune into, to the criteria they use to assess situations of risk, trust and protection<sup>5</sup>. With different paces and scopes, by virtue of the historic process of each location, the war begins to play an active role in the daily life of the people.

From this perspective, we point out four tendencies that frame the development of the armed conflict and the dynamics of forced displacement in Colombia, with particular emphasis on what took place between the years 2000 and 2005, although linked with situations that occurred before and after.

## Progress and consolidation of paramilitary control

A tendency marking this five-year period we are discussing is paramilitary advance and consolidation in controlling land and territory in most of the rural and urban regions of the country, although the origin of this process in some regions dates from the early 1980s<sup>6</sup> or even earlier. *“What used to be merely the power of money would become a comprehensive power combining the domain*

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5- See the following, among others: Espinosa, 2006; Gonzalez, 2004; Herrera, 2005.

6- This is the case, for instance, of Puerto Boyaca, in the Middle Magdalena region, which saw the emergency of paramilitarism in early 1982, expanding in the mid 1990s. cf. Medina and Tellez, 1994. In Córdoba and Uraba the process dates back to 1987 Cf. Romero, 2003. Studies for Valle del Cauca refer to mafia organizations since 1975. Cf. Betancourt, 1998

*over economic production, the political game and even the sources of social prestige*" (Security and Democracy Foundation, 2006:5).

Based on the logic that legitimizes dealing with leftist guerrillas as the country's only enemy, regardless of its high ethical political cost, different sectors of the political, economic and social life became allies, made use of the power of paramilitary groups, while they contributed to their legitimating and strengthening, considering them part of the system or at least the lesser evil. This is where the *logic of the two demons* begins (Barrio, 2005), where the paramilitaries are seen as an inevitable consequence caused by the guerrillas, used as an exculpatory support at the service of our country. The declaration of certain detained paramilitary chiefs are constructed based on this logic: *"My truth is, above all, that of confrontation with the guerrillas and the liberation of the regions of the insurgent operation (...) I would like to be remembered (...) as the person who, one day, fought a war into which I was forced by the guerrilla's actions"*<sup>7</sup>.

30 The close link of paramilitary groups with drug trafficking and their armed role in the control over territories with coca and poppy crops, as well as the use of violence against leftist politicians and, in general, against the civil society leaders, *"has made the civilian population the favorite target of their strategy to oust the guerrilla from strategic territories or lands with economic potential, making them responsible for the humanitarian tragedy caused by displacement"* (Romero, 2004: 123). Their consolidation as *"entrepreneurs of coercion"*<sup>8</sup> has been ex-

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7- Taken from an advertisement paid for by the Villa de la Esperanza Foundation. "Carlos Mario Jimenez Naranjo, alias Javier Montanez or 'Macaco'". In: *El Espectador*, week from June 10 to 16, 2007. A few months after his surrender, Macaco began the process of extradition to the US because he *"continued running a parallel "drug and paramilitary" structure from prison"*. Cf., Paramilitary chiefs, to the extraditable block. *El Espectador*. Week from August 26 to September 1, 2007.

8- Understood as entrepreneurs specialized in the deployment and used of organized violence, merchandise offered in exchange for money or other valuables; thus, the author states *"the entrepreneurs of coercion should not be mistaken for ordinary businessmen and their companies, legal or illegal. They generate income by producing goods and services for the market; however, their*

plained by Romero as a reaction to processes of decentralization, political opening and peace negotiations with the insurgency from the central government, which took place around 1982, and express tension over the possible redefinitions of the structure of the consequent local and institutional power. This imposes the logic of "sub-national authoritarianism" a notion proposed by Gibson (2006) where the elite of the fringes of society accentuate authoritarianism and territorial control, and capture local power in moments of democratic transition at the central level.

Such processes in Colombia, although they had similar logics that led to numerous disappearances, murders, massacres<sup>9</sup> and forced displacement, developed diverse characteristics, in accordance with the existing productive structures, their relationships with local and regional elites, inhabitants in general and opposing armed groups.

Recent studies show the diversity of such dynamics<sup>10</sup>, which include the recognition of "*a series of micro-regions... that interact with and are modified by the armed competition*" (Bonilla, 2007: 347). In regions such as Meta and Casanare, a zone that has experienced a high level of confrontation between rival paramilitary groups, "*land, illicit crops, extortion and petroleum-based income explain the reason for the armed dispute between paramilitary factions of the Eastern Plains*" (Gonzalez, 347). In the Middle Magdalena Region, paramilitarism is building an alliance with the political class and the emerging class, which enables them to access public revenues for military expansion, client networks, the control of the legal system and local public forces (Bonilla, 2007: 326).

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administrators in general do not use violence, but rather pay those who are specialized in its deployment and use" (Romero, 2004: 115).

9- A total of 724 massacres and 4141 victims has been identified for this five-year period. Cf PNUD, 2006

10- We are referring to the book Parapolitics by the Nuevo Arco Iris Corporation, which gives an account of a very complex process that has been coming up since the year 2007 in law courts and which we will be referring to in other sections. There is also the text by Duncan, *The Warlords*.

In Bogotá and Soacha<sup>11</sup>, the establishment of the Capital Block in late 2000, besides its purpose to control the guerrilla militias and zones, was meant to “*acquire control over an urban base of funding with a considerable, stable flow, mostly related to illegal business*”. This was also aimed at taking advantage of the fact that the conditions of the peripheral areas were favorable for private justice by means of “security unions” implemented to settle problems of delinquency, drugs disputes over boundaries and lots in subnormal sectors (Perez, 2007: 62). In Medellín, the Cacique Nutibara Block has been constituted as a network woven by dense relationships of alliances, annihilation and domination in which four nodes come together: the urban self-defense groups, drug trafficking, gangs and paramilitary groups with military and counter-insurgent undertones. The authors show how, the discourses of the social pact and agreement on one hand, and the discourse of citizen security on the other, formed the citizen security policies in Medellín in the 1990’s based on the absence of the State in handling the conflict, producing “a model of permanent negotiation of chaos, marked by the preponderant role of the armed players” (Alonso et al, 2007: 109).

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In Bolívar, the actions of paramilitary groups are located particularly in Montes de María, a strategic sub-region that favors the route to the ocean for drug trafficking originated in the San Lucas mountain range. In addition, it also has “natural corridors, a rearguard and advance guard zone and enables the obtaining of economic resources using access to the farming and cattle raising centers in the region of the Western Highway used by 80% of the cargo transported to the central region of the country and the Caribbean coast” (Romero, 2007). In this region, 46 peasants were massacred in February 2000 in the village of El Salado; this was accompanied by torture, sexual violence and widespread abuse to intimidate the population.

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11- The section on cities contained herein provides a detailed analysis of the logics and tensions existing in these territories in view of the penetration by armed players and the subsequent struggle over exclusive control and domination.



For Chocó<sup>12</sup>, the department with the most critical conditions of inequality and exclusion in Colombia, inhabited mostly by afro-descendent and indigenous communities, *“the territorial dispute of armed players is associated with political and economic interests that create potentials of extraction for the development of major capital in the region”* (Florez and Millan, 2007: 38), given the regional richness as regards raw materials and biodiversity, making the region a strategic territory for the consolidation of different mega-projects. Therefore, *“the particular forms of possession of the territory associated with the identifying processes of these communities are violated by the wrongful occupation by settlers and the players of the internal armed conflict, the issuance of regulations that contradict the fundamental principles of law and the failure to apply the law on prior consultation with communities in the implementation of infrastructure projects and mega-projects that directly affect their setting”* (Ibid, 2007:38). The massacre of nearly 120 people took place in Bellavista, a town in this department, in May 2000 when the church where inhabitants sought refuge from crossfire between paramilitaries and guerrillas was attacked (Bello et al, 2007).

The conflict dynamics imposed on territories with different economic, political and social histories are unique yet similar, to successfully banish thousands of men and women, who by force increase the poverty belts of major and intermediate cities. The memory of massacres, tortures, disappearances and combats begins to blur amidst the national news avalanche, but is undoubtedly engraved in the individual and collective memories of those who have suffered first hand the humiliations of armed groups and their arbitrary persecution. The *“Condenados de la tierra”*<sup>13</sup>, the disinherited people of a country that ignores them, flee to cities in search of minimum security and possibilities as

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12- The regional texts on Choco, Montes de Maria, that form an integral part of the results of this research project, provide detailed analyses of the logics of armed confrontation and domination existing there.

13- We have taken up the title of one of the famous works of Frantz Fanon, 2002

regards a place to survive, a journey with no clear destination, because in every place they arrive, they are faced with the rejection of the residents, new forms of poverty and destitution which appear to go on indefinitely.

The paramilitary strategy of territorial domination and control, added to the strengthening and consolidation of drug-trafficking, constitutes an explicit process of land concentration with different expressions on almost all Colombian territory. The land concentration promoted by paramilitarism and drug-trafficking can be explained in function of its rural lineage, the stability of great ownership for money laundering and power offering the land at the regional political level (Molano, 2007). This confirms that *"the land is still a factor that generates economic income and, in turn, is a significant generator of political and sociocultural returns"* (Osorio, 2007: 3).

34 The scaling, worsening and complexity of the war in Colombia suggests, in the late 1990s and early 2000, a scenario of confrontation and domination, where forced displacement and land concentration are themselves manifestations of tension between different political projects. The population gradually becomes an instrument - collaborators or suspects - in the struggle for local political control and the displaced persons, those *"for whom there has been no such citizenship, those who do not know the notion of State, at least the social state of law, they are the social outcasts, recognized now to be asked for "co-operation, to join a political party, to provide support, to pay taxes"* (Bello, 2004: 22).

From this perspective, displacement is one of the most effective strategies for achieving the consolidation of regional political powers that reproduce traditional clientelist political relationships and subordinate and co-opt the population left behind using different mechanisms. The appropriation of local territory takes place either through military capacity or through the offers made to the local society in a dynamic of imposed citizenship (Duncan, 2006). The PNUD Report on Human Develop-

ment (2003) discusses six core offers that the illegal armed groups make to the population: security, cultural resonance and the administration of justice, citizen mobilization, protection from illegalities and social services and infrastructure. Many of them are the offers that are expected from the State, an important key to explaining the construction of processes of legitimacy granted to illegal armed groups. Territorial control at the same time assumes the strengthening of the market economy the rural **areas** through the reactivation of traditional sectors that includes extensive cattle raising and the implementation of agro-industrial crops - such as the extensive cultivation of palm trees - and mining<sup>14</sup>, boosted with foreign currencies resulting from drug-trafficking, thus finding a way to legalize these capitals in these economic niches.

## Continuity and worsening of forced migration<sup>15</sup>

Between the year 2000 and 2005, forced displacement increased 200% or more, considering prior tendencies. CODHES points out that between 1985 and 1999, that is to say 15 years, the number of displaced persons was 1,800,000, while during the 2000-2005 period, the same NGO calculated 1.189.181 displaced persons, while the SUR government system reports 1.668.506 persons in said condition. Forced displacement makes the survivors of the war visible and ranks the country in third place, following Sri Lanka and Afghanistan, in the world in terms of the humanitarian crisis.

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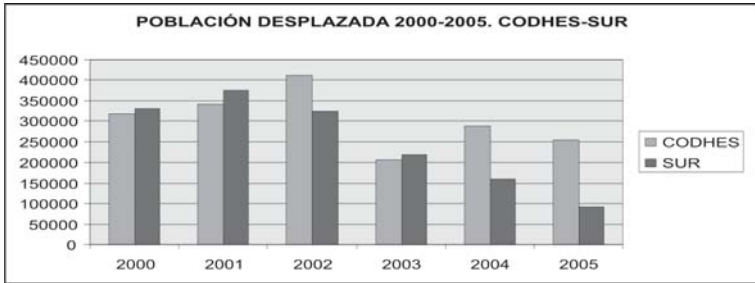
However, it is evident, the displacement dynamic - based on the figures available - is variable and tends to decrease starting in 2003. The analyses as regards this tendency represent two different approaches. While to

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14- This type of sufficiently grounded analysis can be found among others in Molano, 2007; Fajardo, 2007, Florez and Millan, 2007.

15- We have been keeping tabs on a section of Osorio's Postscript in *Territorialities in Suspense. Forced Displacement, Identities and Resistances*, forthcoming title.

Chart No. 1



Source: Colombian Episcopal Conference - CODHES (2006)<sup>16</sup>

the government the reduction of the figure confirms the success of its democratic security policy and, thus, the decrease of the armed conflict, CODHES points out other explanatory factors, related to the rejection of declarations of displaced persons that were not accepted in the system<sup>17</sup>, and reveals two new strategies of territorial control and domination: forced confinement or sedentarization and the intensification of cross-border migration.

Like displacement, confinement is a strategy of domination and control over the population in the war. It is meant to besiege the population, restrict their free mobilization around the territory, controlling their basic, everyday movements and practices of socioeconomic exchange and production (CODHES, 2005). In September 2004, the national press<sup>18</sup> recognized this phenomenon, pointing out the existence of 70 towns in the country that were cornered in, in zones where the conflict has been exacerbated, including Putumayo, Antioquia, Sucre, Magdalena, Casanare, La Guajira, Guaviare, Caqueta and Meta. The calculations of two NGOs reported 131 towns

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16- Since the displaced population can only declare the events that generated their expulsion one year later to the System for the Registration of Social Action (SUR), the figures presented herein are likely higher.

17- They represented 23% of the total claims made to December 31, 2003.

18- Cf "70 towns besieged by hunger". In *El Tiempo*. Sunday, September 19, 2004. Page 8. Bogotá, Colombia

confined between 2002 and 2004<sup>19</sup>. The war strategy to block the enemy by hunger has become more common, with the express aim of pressuring and subordinating the population and thus “avoid” and control supposed help for the enemy. Severe control over the shipping of food, fuel, supplies and medication is being exercised by the national army, as well as by paramilitaries and guerrillas, using safe-conduct for the entry and exit and control over consumption, according to the number of persons in each family, in clear violation of the right of free movement of people. Rural, indigenous, peasant, settler and afro-descendent populations have been affected the most. On one hand, this is assumed to be due to forced isolation from other communities and institutions, including state entities. This reveals the loss of collective, personal and family autonomy, because the activities of planting, hunting, fishing and caring for animals is modified substantially, along with those of commercialization and trade. The strategy of expanding territorial domination consists of establishing in residential areas and from there extend to the rural zones<sup>20</sup>.

With regard to forced cross-border and international migration<sup>21</sup>, it is important to point out a substantial increase, particularly to Ecuador and Venezuela and, to a lesser extent, to Panama. Emigrating to neighboring countries is mostly illegal, but there is also evidence of this in claims for formal asylum, which amounted to 54,239 applications between 2000 and 2006, which is 44.4% of the 1,122,000 reported by ACNUR worldwide<sup>22</sup>. These figures cannot be established accurately because, on one hand, traditional family and neighbor relations allow round trip

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19- CODHES and Project Commission, PCS.

20- In Caqueta, Choco and Bolivar, inhabitants refer to the control of villages, which has made it difficult and sometimes impossible to move about in their own town, because they are considered suspects. This is even more difficult when domination is divided within the town, inhabitants are pointed at depending on existing military control and, therefore, considered as real or potential enemies.

21- See Riaño and Villa (2007) for instance, with studies in Colombia, Ecuador and Canada. In the latter country, also see Osorio and Orjuela (2007).

22- 1.388 to Panama, 44.454 to Ecuador and Venezuela 8.397. Cf “When the only way out is asylum” (PNUD, 2007)

movement, depending on the circumstances of the war. Therefore, others decide to settle as illegal aliens. In these border crossings, abuse by neighboring authorities is common, along with labor and even sexual exploitation<sup>23</sup>. Cross-border migration expresses the expansive dynamic of the conflict *“as the application of the Plan Colombia, the increase of the presence and action of paramilitary groups, armed strikes and other forms of pressure by the guerrillas, have worsened the conflict and aggravated its regional intensity with the civilian population in the midst of the conflict and as the military target of combatant groups”* (Medrano, 2004: 98).

However, it is important to retrace this expansive dynamic of Colombia's internal conflict, evident not only in the increase in cross-border migration but, at the same time, in the type of political relationships, which are constantly redefined in the international sphere of action and definitely play a crucial role in internal military and political tension. A short time ago, an attack by the Colombian army on a Farc camp on Ecuadorian territory in March 2008, where “Raul Reyes”, an important commander of the guerrilla group, was killed along with some Mexican students, has generated a profound diplomatic crisis with the Ecuadorian government, which also included crises with the governments of Venezuela and Nicaragua. In addition, the controversy as regards the veracity of the information found on a computer recovered from said camp, shows evidence of the complexity of this international framework and its weight in the extremist constructions of friends-allies and enemies of Alvaro Uribe Velez' government, accentuating internal disputes and tensions<sup>24</sup>.

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Beyond the borders, it is important to point out the growing and evident weight acquired over the last five years by the international emigration of Colombians, which

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23- Cf, for instance, Camacho, 2005.

24- The same dynamic is reflected, for instance, in the discussions on the approval or not of the Free Trade Agreement with the US, where it is constantly stated that Colombia is the US' main ally in a region with increasingly generalized tendencies toward center-left governments.

is evident in the remittances made from abroad. It has been estimated that in Colombia "*remittances amount to 3.89 billion dollars in the year 2006, which is 2.312 billion dollars more than the year 2000 (1.578 billion dollars). This leads to the affirmation that remittances increased at an average annual accumulated rate of 14% during the 2000-2006 period*" (Andean Community, 2007: 2)<sup>25</sup>. According to the census conducted in the year 2005<sup>26</sup>, the number of Colombians residing abroad is estimated at 3,331,107. International migratory flows to the United States are very discernible, with nearly 2,500,000 Colombians now living there, followed by 673,194 in Venezuela, 530,000 in Spain and 500,000 in Ecuador. However, the international migratory dynamic is much more diverse. As regards these emigrants, we have to say that a large percentage is made up of applicants for asylum, adding up to 13,000 persons in 11 countries as of the year 2000. According to the figures, the largest number of applications for asylum has been presented in Ecuador (44,45454), followed by the United States (28,73030) and Canada (14,11414). The other countries, in order, are: Costa Rica, Spain, Venezuela, Panama, Chile, the Netherlands, Peru and Brazil (PNUD, 2007). As for Canada, there has been a clear increase in applications for refuge at the Canadian Embassy in Bogotá, going from 83 in the year 1990 to 3631 in the year 2004. In 1998, Colombia had a quota of 50 refugees per year, but in 2003, it became a priority country, with a quota of 1200 selected refugees at the Embassy, that is to say 16.4% of the 7300 refugees selected by Canada every year from all the source countries (Arsenault, 2007).

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Forced internal and international migration have been growing at the same pace, to the extent that the second serves as an option, after prior searches for security in Colombia's national territory. However, it is clear that access to the latter is much more exceptional and seems to

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25- Although figures vary according to the same source, the importance given to remittances in Colombian economy is the same. For other figures, see Guarnizo, 2004, for instance.

26- Consulted in: [www.presidencia.gov.co](http://www.presidencia.gov.co). February 12, 2007.

be more within the reach of the population from middle and higher social classes, particularly urban sectors of the population, who seek a response to the uncertainty resulting not only from the war, but also the widespread unemployment rate.

Displaced persons and refugees confirm that they are the ones who are the most impoverished and *“become human waste” or “the remains of globalization”* as pointed out by Bauman (2005:81). Therefore, within the genealogy of modern fears, either in their own country or abroad, they are all branded as dangerous, deported in outrageous ways and condemned to suffer the blows of an excluding globalization that replicates the systems of domination in multiple ways, in a global dynamic marked by the opening of frontiers for capital and merchandise, but closed for populations, in the midst of renewed signs of xenophobia and exclusion.

## Forced displacement, territorial control and land concentration

Although you can say that the main capital cities<sup>27</sup> of departments in Colombia have been receiving most of the displaced population, it is important to point out that starting in the year 2000, small towns have been receiving a large number of displaced persons. So for instance, El Carmen de Bolivar (Bolívar) received 15,372 people in the year 2000, which is equivalent to 19.5% of its population. The most critical point of this period was in 2002 when 982 of the 1119 towns in the country, that is to say 87%, experienced the significant displacement of their population, which was kept at 80% for the five-year period (Colombian Episcopal Conference - CODHES, 2006).

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27- For instance, in 2004, Bogotá received 15,270 persons according to absolute figures provided by SUR.



The magnitude of forced displacement, as regards the towns they are expelled from, as well as those that receive the displaced population, covers almost the entire country. Some regions increased the forced displacement of their population disproportionately, which has gone unnoticed when compared to the decrease in the national total in 2003 (See Chart No. 2). So for instance, Antioquia, a department with a total population of over three million and high expulsion rates, reports 2196 displaced persons in 2004, while Choco, whose total inhabitants amount to 251,000, tripled this figure that same year, that is to say 6469 displaced persons, according to SUR data.

Chart No. 2



Source: Colombian Episcopal Conference - CODHES (2006)

It is important to point out that the year 2002 represents a significant increase in displacement, explained by different factors: of the rupture of negotiations with the Farc and the suspension of the demilitarized zone. Amidst this situation and in view of the coming presidential elections, political-military tensions over territorial control and dominion reach their highest level. In 2002, "90% of all towns, that is to say 923 towns, expelled population, which constitutes an expansion of the places in which the war and its degradation is already evident. *At least 152 of these towns reported a significant decrease in population, while 124 were subjected to atypical growth as a result of the untimely arrival of new inhabitants. In short, 276 towns, which constitute 25% of the entire country, are immersed in a process of forced demographic and social rearrangement due to the circumstances of the war. In the case of the expel-*

*ling towns, there were dramatic situations that took place such as in Bojaya (Department of Chocó), which witnessed the displacement of 68% of the total population in one single event” (CODHES, 2003: 2)*

That same year, the correlation of forces in the armed control and dominion of certain regions was quite evident. This was the case of Choco, where the Farc’s control over Atrato was in effect until April 2002, when a paramilitary and military force advance guard imposed their authority over the territory (Bello et al. 2007). Thus, an efficient strategy of territorial control has been implemented by means of legal and illegal single crop farming on indigenous and afro-descendant territories, causing not only the plundering of traditional forms of economy, socialization and wealth, but in turn imposes landscapes, social-labor and commercial relations, in an expansion of the productive frontier “along with the armed intervention by means of the use of paramilitary groups who act in coexistence with the state military forces” (Florez, 2005: 53).

This period puts us face to face with logics of domination installed at the expense of the autonomy and dignity of communities through the displacement and hegemonic control of inhabitants, brutally treating regions, territories and persons that have usually be marginalized and excluded from the hopes of development. How much land has been abandoned by those who have been displaced? Calculations are very contrasting: while studies contracted by Social Action report 6.8 million hectares, the Comptrollership say the figure is 2.9 million<sup>28</sup> and CODHES estimates 4.8<sup>29</sup>. On average, these figures exceed the number of hectares distributed in the different land reform processes. However, a little over half of the displaced persons had a close relationship and link with the land. According to the RUT system<sup>30</sup>, 50% of displaced families

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28- Florez, 2006.

29- CODHES, 2007b.

30- System of the Colombian Episcopal Conference

were land owners, 37.1% by means of individual ownership, 4.9% by collective ownership, 2.1% by settlement (Colombian Episcopal Conference - CODHES, 2006: 91).

This all confirms the role of the armed conflict and forced displacement in a strong tendency toward land concentration, which is equivalent to that of fifty years ago. It is important to remember that Colombia is in third place as regards the concentration of wealth, following Brazil and Chile (Perry, Arias, 2006). In Colombia, 56% of the owners with small lots of 3 hectares on average occupy 53.5% of the formally registered territory. On the contrary, 53.5% of the cultivable land belongs to 2428 owners, that is to say, 0.06%. Nearly 70% of the rural population in Colombia survives on one dollar a day, in absolute poverty, 30% of which are below poverty line<sup>31</sup>. National figures show major regional inequalities, where the high living conditions of some, comparable to the levels of countries like Switzerland, are opposed to supremely low levels of quality of life, generally rural, indigenous and afro-Colombian inhabitants, similar to those existing in the most depressed regions of Africa.

## Differentiated impact from forced displacement

The in-depth of the studies conducted in the country have highlighted the fact that the armed conflict and forced displacement have differentiated impact for the various people in the country. Being aware of the diversity of conditions and specific problems among displaced populations, the National Plan for integral Attention for the Displaced Population, by means of Decree 250/2005, incorporates a differential approach as the central point in the design of public policies in terms of gender, age and

31- Report by the Development Research Center, CID of the Universidad Nacional de Colombia and the General Comptrollership. June 2006.

32- The RUT has reported 50.5%, CODHES, 55% and the Government (Social Action), 51.6%.

ethnic origin, for the processes of protection and prevention, as well as for emergency attention, health care and psychological support. Despite progress in recognizing the heterogeneity of conditions of the displaced population by the government, the implementation of this notion is slow and deficient, in the conception of specific programs as well as in the allocation of the necessary resources. Some data confirming the main vulnerabilities, the disproportionate impacts of the conflict and the main discriminations according to gender, age and ethnic background in the country are spelled out below.

**Gender Differentiation:** Forced displacement not only accentuates conditions of discrimination, marginality and invisibility of women existing before displacement, revealing patriarchal relationships and structures of power, but also configures specific actions and logic toward them. These logics are developed in the new power scenarios based on arms, fear and coercion in conflict zones (Meertens 2006a: 43), as well as institutional, organizational and everyday scenarios following displacement. Thus: *“the violence exercised by all the armed participants in their different forms have expressions of contempt and disrespect for human rights to intimidate, degrade and destroy feminine subjectivity: their working conditions are affected because they have to deal with labor and occupational changes due to the effect of displacement: they are forced to give up their social connections: they are threatened for being mothers or wives; their demands are silenced; they are humiliated deep down by the sexual violence they are subjected to, as one of the most recurrent forms of violence”* (Villareal and Rios; 2006: 45).

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The different forms in which the women displaced by violence and displacement are disproportionately affected (Colombian Constitutional Court 2008) are expressed in several dimensions of the few disaggregated statistics available by gender.

All information systems report a larger proportion of women and girls in the displaced population, which amount

to over 50% in the different information systems<sup>32</sup>. However, this figure becomes even more relevant when we cross-reference it with age categories: among the displaced population in Bogota, for instance, the presence of 7% more women than men has been reported in the category from 18 to 45 years of age (Meertens 2008: 13). This oversample of adult women is connected with one of the most important and worrying tendencies, which has to do with women being the head of the household among the population in the situation of forced displacement. While women as heads of household on the national level represent 28.1%, this figure accounts for 46% of the women among the displaced population (CODHES, 2008:59). In addition, while the national rate indicates that widowhood takes place on average at the age of 50 for women, in the case of displaced women, the average age is 34 (Ibañez and Querubin 2004, cited in CODHES 2008).

The conditions to access formal employment are also differential, because while the unemployment rate for displaced men is 31%, it is 48% for displaced women. In turn, it is a well known fact that women are responsible for family survival when they reach the city, mostly doing odd jobs<sup>33</sup> - an activity assumed -. To this effect, when the process of reconstructing every day life begins at the new destination, men feel they are affected by the sudden loss of their traditional status as breadwinners, which noticeably impacts family violence among the displaced population (Meertens 2007 and Profamilia 2006).

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Given that the income of displaced households is under 27% of that reported by households of the equivalent social level in the place of arrival, and knowing full well that nearly half of the first are under the exclusive responsibility of women, the increased risk of instability and the extra burden assumed by them to guarantee care and economic survival is clear.

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33- Typical way in Colombia to refer to a lifestyle defined by the existence of uncertainty as regards possible jobs and the sources of funds, scenario in which every day seems to be a perverse lottery where the effort made to carry out a task does not guarantee equivalent retribution to maintain a family.

In terms of protection of patrimonial rights, displaced women are at a disadvantage. In fact, only 25% of the claimants of properties abandoned by force who have accessed the collective route of protection are women and, even so, they represent only 37% of the claimants with respect to property registration and protection<sup>34</sup>. Displaced rural women suffer a double disadvantage in multiple senses (Meertens 2006b) as regards the possibilities of protection or reestablishment of their lands, precisely due to the informality of the ownership<sup>35</sup> among the peasant population, particularly among women, and this situation in turn is added to the disregard or the low social appreciation of their rights to the land, the informality of their marital relationships, and the particular risks of revictimization (by different forms of gender violence against them) in the process of recovering their property or possessions.

Men mostly tend to report their situation (88%), while women point out, among other limitations for these procedures, "the imaginary of public servant(s), the requirements of the regulations in effect, the access to procedures, economic and affective dependency, and the lack of comprehensive protection (police, judicial and administrative)" (Codhes 2008: 61). In addition, being recognized exclusively from the family standpoint, as mothers, wives, widows or heads of households, prevents the incorporation of a perspective that would accept women as subjects with rights. (See Meertens, 2006: 58, among others). In any event, the actions of specific attention to displaced women who are heads of households are not only very isolated, but also limited to humanitarian emergency attention (or in the best of cases, to the extension of this stage depending on the vulnerability exhibited) and the rating for access to housing subsidies. This prevents the creation of more long-term programs that, aware

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34- This percentage is provided given that it was the only indicator available. However, these are recently applied procedures of a meager scope, because while 53,000 applicants were counted on the individual route, there are only 2045 people on the individual route. Figures of the Program to Protect the Lands and Patrimony of the Displaced Population closing on September 10, 2007.

35- Predominance of forms as owners, occupants or tenants, with no title deed.

of the specific needs of women, will enable and complement the process of reconstruction of their personal, family and collective lives, as faced in the midst of triple discrimination: being women, poor and displaced<sup>36</sup>.

**Age Differentiation:** nearly three million girls, boys and teenagers have grown up amidst the difficult conditions experienced by displaced populations, between 1985 and 2007. According to data provided by the RUT, 50.4% of the victims of forced displacement are under 18 years of age. According to the information system of the Colombian Episcopacy, *"41% of the entire displaced population is under 14 years of age at the time of the displacement. Only four out of ten have had access to education and less than one third has had health care. The main characteristic of housing has been overcrowding and (...) malnutrition is widespread. Psychosocial care (...) is scarce or non-existent, despite the fact that they were witnesses to traumatic situations of violence (Codhes, 2008: 108).*

Minors are also direct victims of forced, illegal recruitment, which is one of the main reasons that lead to forced displacement in Colombia (CODHES, 2007a). Although the Colombian Institute of Family Welfare, ICBF, has been specifically adjusting and incorporating the displaced population in its attention plans, there are certain limitations as regards the clarity in the care for this specific population that continues to be "classified" within a broader category, which is that of the vulnerable population. Thus, the specific needs of displaced minors, a social group on which there is scarce information as regards conditions and characteristics, are ignored.

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**Ethnic Difference:** we would like to focus upon two particular groups herein: afro-Colombians and indigenous peoples, whose conditions of marginality, structural discrimination and historic poverty are aggravated by their

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36- In Writ 092 / 2008, the Constitutional Court ordered the presidential office of Social Action to create 13 specific programs to guarantee the rights of displaced women.

forced displacement. Their invisibility starts by the record in Social Action, which only includes one question on belonging to an ethnic minority, without specifying it.

In the case of afro-Colombians, the national Government recognizes that “82 percent of afro-Colombians do not have the basic needs of running water, electricity, sewer system, etc. *In addition, the child mortality rate is 151 per 1000, while the national rate is 39 per 1000, 76 percent of afro-Colombians live in extreme poverty and 42 percent are unemployed*” (CODHES, 2008: 18). A study conducted by Ecodesarrollo<sup>37</sup> for the year 2005 points out the deterioration caused by displacement of the already scarce living conditions. *“Before this population was displaced, 60.2% had their own housing and following displacement, only 3.5% owned their homes, while 33.1% rented their homes. Before, factual occupation, referring to illegal occupation of property, was 2.4%, at present, it accounts for 10.6%* (CODHES, 2008: 19). Among the most relevant causes for the displacement of afro-Colombian communities are aerial fumigation<sup>38</sup>, the implementation of megaprojects<sup>39</sup> and the military operations of the army on their territories<sup>40</sup>. The displacement of the afro-Colombian population has increased, but while they represented 6% of the total displaced population in 2003, in 2007, they amounted to 14% of this total (CODHES, 2008). This significant increase is expressed dramatically in communities with collective land owner-

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37- Corporation for the Social and Business Development of Afro-Colombian People. Quoted in CODHES, 2008.

38- Aerial fumigations in general have been questions due to their indiscriminate effects on territories and populations on which they are carried out, represent, in the case of black communities, a flagrant violation of the right to prior consultation guaranteed by Law 21 / 1991, Law 70 / 1993, Decree 1745 / 1995 and Decree 1320 / 1998. (CODHES, 2008: 20).

39- Although the relationship between the implementation of mega-projects and paramilitarism is undertaken in this text, it is important to point out certain specific projects that affect afro-Colombian communities, including *“the tourist project in the port of Buenaventura, the development of tourist complexes in the Caribbean Region and mineral development on the Atlantic and Pacific Coast, as well as in the Cauca Valley and the Middle Magdalena Region”* (CODHES, 2008: 21).

40- For example, this is equivalent to what happened in El Charco in March 2007 *“where 1750 families (over 8500 people) were displaced due to the advance guard of Marine Infantry Battalion No. 10 with the objective of recovering the territories that had been taken over by Farc Front 29”* (CODHES, 2008: 21).



ship<sup>41</sup>, given that between 2004 and 2008, “79% of the total population officially recognized as afro-Colombian communities with collective property rights was violently displaced from their territories” CODHES, 2008. 25).

The limitations of public policy for the attention of displaced afro-Colombian communities stem from the inexistence of specific information in this regard, thus preventing a more accurate awareness of their needs and conditions. In addition, racial discrimination not only by receiving communities but also on behalf of officials makes access to programs of attention and reestablishment difficult, along with the reconstruction of social solidarity networks that enable the restructuring of their vital projects.

Indigenous peoples have been disproportionately affected a great deal by the armed conflict and forced displacement. On another note, the expansion of the armed conflict affects indigenous peoples in a very particular way. Out of 94 indigenous communities inhabiting Colombia, which occupy 30% of the national territory, 20 have experienced forced displacement and another 17 are in danger of extinction, as stated by the Colombian Indigenous Organization, ONIC (CODHES, 2008). Because they are victims of the struggle over territorial control by different participants, their social and cultural processes as autonomous peoples are weakened and broken. Forced displacement puts them up against social fragmentation in three spheres of action: banishment, which implies a sudden break from their land and view of the world; family and social uprooting with all the consequences on traditional sociability and respect for their authorities and their forms of justice. They are also subjected to distancing from their traditional culture and customs, placing their identity as indigenous peoples at risk (CODHES, 2007).

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41- The relationship between collective land ownership and forced displacement has been recognized by several agencies and NGOs. The coincidence of this event between 2000 and 2003, for instance, shows evidence that “in three years, the administration handed over 2,118,431 hectares to afro-Colombian communities in the Department of Choco, and contemplates with certain passiveness the forced displacement of 60,775 people belonging to the communities benefitting from this collective ownership” (CODHES 2008: 26).

Given the importance of their symbolic and material relationship with their territory, returning constitutes one of the urgencies for afro-Colombian and indigenous communities, but they have not had the priority, accompaniment or guarantees to do so. *"This type of return implies a repetitive cycle of displacement. Immersed in this state of instability, the community organization begins to weaken, its life plans stagnate and their members and traditional authorities fall into a state of despair when they see their autonomy destroyed"* (CODHES, 2007: 97). Their relocation in urban centers generally fragments their ethnic identity and deprives them of the minimal political, economic and social referents constructed around the collective territory.

The recognition of a differential impact on the displaced population requires differential treatment and response on behalf of the State. Despite their formal recognition, there is still a long way to go in order for there to be a correlation with the type of differential treatment required, bearing in mind that as a whole, the population in forced displacement is a social group subjected to high levels of vulnerability and exclusion, most of which is the result of deep, long-lasting historic roots.

## **The demobilization paradox amidst paramilitary domination and a functional discourse of truth, justice and reparation**

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The Ralito agreements<sup>42</sup> (2003) and the subsequent demobilization of some thirty thousand armed people thirty cast a shadow of doubt as to their transparency and effectiveness considering that *"only some 2500 paramilitary officers have accepted the offer of the benefits of*

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42- Agreement signed on July 15, 2003 between the administration of Alvaro Uribe Velez and nine paramilitary commanders on the concentration, demobilization and reincorporation in civilian life of its members and the beginning of the stage of negotiation with the government.

*the law: there are 3000 members of middle management who, according to the government, have been lost sight of, and approximately 5000 more individuals who, according to imprisoned paramilitary commanders, have taken up arms again for two reasons: first, because the government has not kept its part of the agreements altogether, and second, because the void left by the AUC upon withdrawing has enabled the Farc to go back to the zones"* (Molano. 2007: 232).

In addition to everyday violence and recruitment for its service, there are other less perceptible, but not less important costs to local societies, focused on women and the youth population: prostitution, single motherhood, a substantial increase in sexually transmitted diseases and drug addiction, and, in general terms, a series of risks that threaten personal and community security, because, as stated by an official "fear has not been demobilized" (Londoño and Ramirez, 2007: 120)<sup>43</sup>. Despite the apparent demobilization, the domination process of paramilitary groups has persisted in various regions. In several zones, control, political efforts and territorial domination are exercised in a coordinated manner, through the respect for and obedience to a 'leader'<sup>44</sup>. *"A series of violations of the demobilization commitments, as well as the breaking up and dismantling of the illegal armed structure"* have been identified, along with the *"appearance of new groups in the zone where the demobilized structures used to operate and are now in the process of expansion, and looking*

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43- A regional official explained the existence of "the prepaid girls, which are between 2 million and 30,000 pesos". This name refers to girls who come to Montería on weekends from different places around the country. Informal interview 2005. In Bojaya, now taken over by militaries and paramilitaries, several cases of young girls with HIV and drug addicts have been reported at a pretty high rate for a peasant population of 2000. Also see study by Barraza and Caicedo, 2007.

44- Apparently, in the demobilization, there is still the inertia of obedience and loyalty to supervisors, which is not exclusive of this case, but becomes quite dangerous given the state of war that continues, the inexistence of effective armed demobilization and the instability of these processes. According to one interviewee, while the government pays us 350 thousand pesos a month, the emerging groups are offering us up to one million to work with them. Cf Reintegration of ex-paramilitaries, 3 years behind. In: *El Tiempo*, Sunday, August 12, 2007. See different reports by the Mission to Support the Peace Process in Colombia (MAPP-OEA).

*to control illegal economies” (MAPP-OEA, 2007). Thus, new groups known as “Black Eagles”, “Leftovers”, the Ngo, have reorganized military and economic control (International Crisis Group, 2007).*

However, despite the fact that these organizations are made up of members from demobilized paramilitary groups, as well as those who did not do so in association with delinquent groups, *“a characteristic shared by them all is the fact that their motivation is tprofit from drug trafficking and make money off a large variety of illegal activities (...). In many zones of the country, you can see the emergence of pacts and alliances among these groups, aimed at benefiting from drug trafficking together. This has resulted in absolutely unexpected situations, such as the fact that in many zones, confrontations between emerging groups are much more common than those between these groups and the guerrilla (Security and Democracy, 2008: 1).*

52 The reinsertion processes of the bases of demobilized paramilitary groups are very fragile. Their distribution is already an indicator: 90% of the demobilized combatants are localized in just 11 of the country's 33 departments, and in Tierralta and the Department of Cordoba, they make up 3% of the population. A large portion of the bases of the United Self-Defense Forces of Colombia, AUC, has been situated in towns and the rural sector, with agricultural projects, due to the peasant origin of many of the combatants<sup>45</sup>. In some cases, properties seized by the National Drug Directorate or those of peasants or investors in the region are being used; for some observers, this constitutes a form of labor and a means of attracting new armies, whether as labor or as military, to serve the same interests of their former employers or associates. Productive projects are not very successful and are are not proportional in coverage and benefits;

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45- A study reports that 64% of the former members of armed groups up to 2003 were between 14 and 24 years of age, which means that nearly 24,000 youths are associated with the ranks of illegal groups, 79% of which are from rural backgrounds (Gomez, 2003).

moreover, it has been pointed out that the interests of the demobilized combatants have not been taken into account. This is clear in rural projects, where the interest of the ex-combatants of staying in the city, engaged in urban activities is ignored. In addition, the state's failure to keep its promises has been recurrent, which maintains a latent threat of protest and desertion. In view of the lack of concrete responses on the material level, there are permanent offers by drug trafficking and organized crime for these youths to join their private armies and those of other blocks who continue with their recruitment process.

This process is far from favoring an approach enormous differences are being created with respect to the budgets allocated for victims and victimizers. According to the Comptrollership, the socioeconomic impact for victims, just due to the loss associated with abandoning their lands and the decrease in income, can be calculated within a range from \$4.44 billion to \$9.93 billion. The same entity has compared the disparity between State investment on a displaced family, which averages \$2.3 million per year, and on a member of an illegal armed group, who on average receives nearly \$21.5 million per year (Florez, 2006).

This type of decisions sends distorted messages as they become an incentive for those who commit crimes. The discussion here has to do with what Springer calls the balance and usefulness of justice. The author suggests introducing a substantial change in the traditional approach, *"which adopts the combatant and not the victim and the decomposed society as the essential framework, and considers him a separate, uniform individual, with no nuances or contingencies"* (2006: 30). She carries on, *It does not seem logical - and the truth is that it is not - that the State does not protect its victims and, rather devotes a large portion of its precarious institutional assistance to the attention of victimizers, responsible for serious crimes, without the desire to back this assistance with minimum mechanisms of control"* (Ibid: 33). Intimidation is still exercised and the fear of being killed is

a fact, as there is no doubt that several leaders of victim organizations have been killed<sup>46</sup>. Thus, the right of victims and their survivors to claim and make demands in judicial processes is clearly questionable<sup>47</sup>.

The apparent - contradictory and ambiguous - demobilization proposed to the country and the international community as the beginning of the road to truth, justice and reparation, makes State terrorism invisible, by assigning exclusive responsibility of violence to illegal armed groups. One loses sight of records pointing out that *"over 750 people were supposedly killed by state agents in Colombia during the first four years of the current administration"* (Colombian Jurist Commission, 2006). In addition to the right to life, State organisms and agents have violated personal liberty with the arbitrary detention of almost seven thousand people, that is to say, five people a day on average. This all takes place in the framework of increasing impunity and evidence of serious problems of corruption and serious problems within the Armed Forces, due to errors caused by friendly fire, the infiltration of paramilitaries in the Administrative Security Department, the Army, the Police Force, the Navy and the Public Prosecutor's Office. The enormous concern regarding impunity in which said agreements are taking place has a bearing on this entire process, along with the major restrictions that exist to achieve the truth, justice and reparation necessary for a true process of

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46- This makes fifteen leaders of displaced organizations that have been killed. In February 2007, Yolanda Izquierdo, a leader of displaced persons who was claiming lands taken away from them by paramilitaries in Cordoba, was killed. Many others, nearly 160, have been threatened for testifying, or for insisting on the search for their loved ones. In fact, the murders and threats to Cf, for instance, Cepeda, Ivan. *The Realities of Displacement. El Espectador*, Week from January 21 to 28, 2006. *Victims, Pursued Again*. In: *El Tiempo*, Sunday, June 17, 2007.

47- According to accusations, 11,300 victims of Rodrigo Tovar "Jorge 40" have been reported, but this figure is exceeded by th13,000 victims of Diego Fernando Murillo, Alias "Don Berna". The latter is the leader of the Cacique Nutibara Block, which still has a bearing despite its apparent demobilization. According to the delegated official for human rights in the Medellin shanty towns, the *"guerrilla tax" is still alive. There is no war between the bands because the "para" structures has power over them.* Cf *"Victims of 'Don Berna' have already exceeded those of 'Jorge 40'".* *El Tiempo*, Sunday, July 15, 2007, Page 9.

reconciliation<sup>48</sup>. This general approach to the dynamics of the armed conflict and forced displacement in Colombia points out several significant tendencies that show the greating among the population in the situation of forced displacement, a fact that has been formally recognized by different agencies. In itself it is an achievement, but is unlikely to be translated into concrete actions by the State, and is far from having the recognition and solidarity of the Colombian society as a whole.

While the war and the processes of domination by different legal and illegal groups persist in regions and towns, the discourse on a central level persists, successfully assuming the processes of demobilization and military victory. This leads to ignore or underestimate the risk of inhabitants that continue to experience threats and displacement, while decisions are made and regulations are imposed, damaging collective interests and significantly changing the country's dynamics of development. As we are reminded by Bloch, *War and peace are not (...) opposing in the era of monolithic capitalism they both come from the same world, and modern war is derived from capitalist peace cloaked with the same dreadful features*".

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48- The criticism includes the Colombian Attorney General's Office, the Office of the UN High Commissioner, the academy and different political sectors and national and international NGOs. See, for instance, Opinions and Questions on the Justice and Peace Law. Source: Indepaz Investigative Unit. 2005-07-18. Means for peace. [www.mediosparalapaz.org](http://www.mediosparalapaz.org).







## CHAPTER 2

IS THIS A HOME?

“I lived with my family in my own home . . . they stilled our beds and burned all things, they took the crops and what is was left, also got lost.”

Photography: Rafael Guerra G.



# Transition discourses and victim attention systems as armed conflict management devices in Colombia

Sandro Jimenez Ocampo<sup>49</sup>

Proposing new discussions on the conflict in Colombia is a paradox at the least. First, because after 60 years of a highly mutant, dynamic confrontation, there have been many events and, to the same effect, multiple attempts at trying to explain this phenomenon. Second, how can you discuss conflict in Colombia, when we have gone through at least three or four major mutations of this conflict (see papers by Sanchez and Pecaut). Last, what relevance is there to expand on the narratives of the conflict without thinking of the post-conflict, but at the same time, what sense does transitional discourse have without being effectively involved in it.

The following reflection is an attempt to look at the conflict not only as a historic event, but also to focus on its effects and the way these are addressed from an institutional political action perspective. We are using this premise to rethink the conflict based on the manner it has been intervened (managed) at national and international levels, to be able to look at the post-conflict (the transition) or at least the political challenges of the always expected social peace.

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Political systems have turned out to be prolific under the protection of this discourse; as an initial reference, there are many examples that account for it; for instance, consider the strategy of the National Front<sup>50</sup>;

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49- Doctoral Candidate in Social Sciences, Professor - Researcher of the Institute of Contemporary Social Studies, IESCO, Universidad Central Bogota.

50- Period of alternation in power from one party to another, only applicable for the Liberal and Conservative parties between 1954 and 1978

the different tactics for conflict management, such as the theaters of operations<sup>51</sup>; the special powers of the President for matters of war and peace<sup>52</sup>; the demilitarized zones, amnesties and pardons, the curfew, the martial law, the war taxes, etc.

Futhermore, it is also important to point out the countless tools of the public policy to deal with the victims of violence: the National System for Integral Attention to the Displaced Population - SNAIPD, the displaced population registry, the national round tables of negotiations with victim organizations, the mobile units for attention to the victims of violence, the national reconciliation and reparation commission, the special delegations for human rights affairs, etc.

## PEACE IN COLOMBIA

Although during most of the 20th Century Colombia has lived more or less in peace, at war and in violence, they all increasingly seem to be the essence of our recent history. This perception arose particularly after 50 years of guerilla presence and the increase in the intensity of the armed conflict and all the forms of violence that the country has experienced since 1985, when the state's incapacity as regards the guerrilla, drug trafficking and delinquency became visible.

But many years of war have been accompanied by negotiations, agreements, amnesties, pardons and

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51- When a zone is declared a theater of operations, the civilian authorities - even those that have been elected - subordinate their authority to the military commander designated for the zone by the president.

52- Mechanism by means of which Congress grants full discretionality and power over matters relating to demobilization, peace agreements, amnesties, judicial orders and declaration of military clearance zones, among others.

other peace processes, from 1901 to the efforts of negotiated solution that, despite intermittent breaks, have been carried out incessantly since 1981. From 1954 to 1958, when guerrillas and government defenders were amnestied or pardoned, negotiated peace has always been evoked as the only right way out of the conflict.

However, the differences in these negotiations and the perceptions of what can or cannot be negotiated with rebels are profound. While efforts were made during the fifties to suspend the effects of the penal code on political delinquents and find reinsertion mechanisms for the amnestied, during the administrations of Betancur and Barco, negotiations began to include two new elements: the definition of favorable conditions to enable the guerrilla to be reinserted in society, seek the political support of the population, and the discussion of institutional reforms to democratize the policy.

Starting in 1991, negotiations became more difficult: after the political reform was made, not much could be offered to the Farc or the ELN, at least not while the hopes of reform subsisted. They did not last long: the 1991 elections, which practically liquidated the M-19, showed that old politicians were maintaining the loyalty of citizens, with the help of old vices, better than those who were aspiring to be their true interpreters. Many of the reinserted combatants wound up in anonymity, exile or the grave, victims of vengeance and persecution.

The government's weakness to negotiate, dramatically worsened by the lack of credibility of Samper's administration, was an essential factor in a subtle change in negotiations. Another was the strengthening of the guerillas capacity, which quickly filled the gaps left by the groups that had signed the

peace treaty, reinforced their strategy of local control and strengthened their economic capacity.

In essence, this change consisted of the abandonment of two principles that guided governmental negotiations up to the Gaviria administration. One was the idea that the goal of the negotiation process was to reincorporate the guerilla in a political system that, despite its limitations and defects, was considered legitimate and democratic, and the failure to determine, between the negotiators of the two parties at conflict, of a new social model. The other, in procedural appearance - the will not to suspend negotiations in any case, to negotiate amidst the war -, meant a substantial difference: it enabled the guerilla to maintain a simultaneous strategy of war and negotiations.

However, it is evident that rather than moving toward peace, Colombia seemed to be creating an odd form of permanent coexistence of war and negotiations, negotiations amidst the war, the war amidst negotiations. You try not to lose hope, but uncertainty and despair continue to grow, and most of the population, after declaring wishes for peace, shows sympathy with paramilitaries in the polls, and sometimes demands, when driven to despair by the war, that pacts be made with the guerilla at any cost, and when hopes are lost as regards negotiations, and the government shows its determination, defends the harassed citizens.

Bogotá, December 5, 1999.

Source: <http://www.lablaa.org/blaavirtual/revistas/credencial/prueba/guerra.htm>

Luis Angel Arango Library

This scenario in which the Colombian society and the State seem to be defined by their being-existing in a situation of confrontation has led us to propose the importance of identifying the integration of the political and cultural processes of Colombia's recent history associated with the armed conflict discovering at the same time, the blind spots inherent in the discursive considerations (Con Palti, 2003) used to manage said conflict and to consider the transition or the post-conflict.

From this standpoint, the ultimate interest is to tackle the problem in question - from its objectification as a field of knowledge and institutional political action - based on a gap from the system of contents that defines it to favor the look at the emergency of the space and the practices that foreshadow the management of the internal armed conflict. From thereon, the interest is focused on streamlining the effects on the manner of politically configuring and intervening specific realities, particularly that of the protection and reparation of the victims of forced displacement.

Before going into the details of the analysis, it is important to pinpoint the current status of the discussion on the conflict in Colombia. Over the last two decades, the changes of the Colombian conflict derived from changes in the geopolitics of the international management of internal armed conflicts have been highlighted. The struggle actors - in Colombia as well as at international level - have been a counterpart in the circulation of the discourses that dominate the political agenda worldwide and have been used as justification of a new state of affairs.

The long-standing nature of the Colombian conflict has enabled it to become a permanent reference to emergence, evolution, manifestations, experimental solutions and the new outbreak of this type of conflicts in the so-called international community, which in turn has become involved and influenced the typical characteristics of the internal armed conflict in Colombia. All this in the light of contemporaneous humanitarianism and, based hereon, with

the human resources, technical and financial tendencies of the machinery of development - of a type of a development, which is built on scenarios of institutional crisis and widespread violence-.

To this effect, the internal armed conflict in Colombia, from the beginning of the 1980s up to now, is that of armed confrontation in the context of globalization. In this new scenario, the conflict no longer responds nor is it based on the strict frameworks of the State-nation; and it is not explained exclusively by the grounds that gave rise to it, which is also motivated by international geopolitics as well as local, regional and national social factors.

The particular event that has the most bearing - besides the beginning of the era of the disassembly of the intervening State in the Neoliberalism framework - was the new outbreak of the confrontation resulting from the articulation of media and agendas of two existing participants in the conflict: the paramilitaries and the drug traffickers. But in order to go beyond the historic event and the debate over the confrontation dynamics, we have begun to discuss how the players have tried to intervene in the conflict politically speaking and show how the current transition and reparation discourses are presented as continuity in the partial responses in administrating the war.

## **THE LOGIC OF THE ACTION OF ARMED ORGANIZATIONS**

### **The guerrilla**

On one hand, there is the armed insurrection, which is open political delinquency that does not hide its aspirations to achieve power using arms to transform the current order. This armed insurrection



has led to a widespread contra-reaction, which becomes a favorable environment for the creation of self-defense groups. However, despite the use of terrorist actions, attacks on civilian populations and the kidnapping of individuals who are not involved in the conflict, etc., these groups with political objectives and subjected, to a certain extent, to criteria of political effectiveness: their acts, aimed at decreasing the legitimacy or power of the system, should seek the support of at least one part of the civilian population and have some political logic to justify them publicly. Therefore, the guerrilla often claim responsibility for their military, or even terrorist actions, as a legitimate part of a valid struggle. However, there is an upward tendency of several guerrilla groups to leave behind all types of "ethical-political" limitations.

### **Self-defense and paramilitary groups**

On the other hand, there are the paramilitary groups. They have emerged at times as self-defense groups, protected under the umbrella of legality granted to them by Law 48 / 1968 and with the open support of state and military institutions. Due to the logic of the events, they have become clandestine groups in most cases, which do not claim responsibility for their actions, and have some sort of military cooperation provided outside Army regulations, without the permission of hierarchical authorities, and therefore lack any compliance with ethical or political criteria other than that created by terror and the short-term effectiveness of their actions. Their political project is simply a question of "cleaning up" society or a specific region, from undesirable elements (guerrillas, sympathizers, opposing political activists, unionists, certain types of

delinquents), and since they lack public responsibility, they do not have to explain their acts to society: they simply appear to be delinquents, and the cruelty of their acts enables everyone to condemn them publicly, although in some cases, they are secretly provided with protection or help.

These groups cannot operate if it weren't for the support of economically powerful groups and the protection, help or at least tolerance of some representatives of authority or members of the Armed Forces. In many cases, ties between members of the Armed Forces and the paramilitary groups may be even closer, and there is evidence of active participation of the military in typically paramilitary actions; in other cases, members of paramilitary groups are thought to be civilians, but receive information and protection from members of the Armed Forces. In all cases, the presence of drug-trafficking groups with experience in recruitment and the use of hired killers, contributes to breaking any kind of restriction in the procedures that can be used against the guerilla and the groups perceived to be their sympathizers.

Source: <http://www.lablaa.org/blaavirtual/revistas/credencial/prueba/paras2.htm>

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## The armed conflict as a field of management

Starting in the decade of the 1980's, a turn in discourse and war rhetoric took place, where the narrative of peace was incorporated as a new resource for conflict management not because there was a clear commitment

to achieve civil peace, but because the resource of military victory came from the possible calculations for the political class.

To this effect, the appearance of the peace rhetoric as a strategic agenda for the national government attempts to distance itself from conflict management under the policy of the victor, typical of the State of Siege<sup>53</sup>, but maintaining the tendency, right in the middle of the consolidation process, of management using exception mechanisms in the administration of the conflict. Therefore, peace appears as another scenario for the explosion of said mechanisms. The first was the figure of amnesty, which arose as a first offer for peace, but was consolidated as a ruse of war (Pecaut, 1989: 349).

This way, peace is merely a consolidating debate of a state of affairs that goes no further than the defense of an idea of order that would supposedly be achieved simply by cutting off the producers of the "disturbances". This first forgive and forget offer for a transition collapsed at the beginning of the electoral period in 1982. After that, the elections became a part of the fields of exception on which the discourse of transition toward peace is constructed and deconstructed; this tendency has consolidated in all presidential elections since then, because no president has been elected without incorporating some version of hopes for transition or conflict administration.

This first try in the early 1980s opened a window that has characterized the way in which conflict management and the construction of peace in Colombia have been attempted. first, peace is considered a mere procedure of exception like amnesty. And second, peace is decreed by way of the legal technique and not constructed by political negotiation<sup>54</sup>.

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53- Policy to reduce civilian and political liberties as a war strategy implemented during the presidential period of Julio Cesar Turbay Ayala, 1978-1982.

54- Very detailed documentation as regards this phenomenon can be found in Gonzalo Sanchez in *On Amnesties*, and Vincent Fisas in *Culture of Peace and Conflict Management*

This again leads to an institutional practice and rhetoric for the sustainment of the exceptional treatment, of the conflict and also the peace processes. To this effect, like amnesty, truces and ceasefires are just another two manifestations of the consolidation of the tools of transition as a field of permanent exceptionalities, which lead to nothing else than the regulated sustainment of the conflict.

During the presidential period of Virgilio Barco (1986-1990), they tried a new conflict management strategy beyond the proposals of amnesty. In this period, the government made efforts to produce new exceptional mechanisms legitimated as a technical-legal package: the suspension of the extradition of Colombian citizens (fundamentally as a response to the pressure of drug-army forces); the presidentialization of political negotiation through the designation of a "counselor for reconciliation, normalization and rehabilitation" (it would be a good idea to ask what was assumed to be normal and abnormal for this conflict management strategy); and to top off this new package, the promotion of the "National Rehabilitation Plan", which assumed that once the objective reasons that justified the guerilla's rhetoric of struggle (poverty, economic exclusion, etc.) were deactivated, they would have no choice but to negotiate peace.

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The confrontation continued, side by side with this discourse, and pro-state, para-state and anti-state terrorism seemed to be the most comfortable procedure to give rise to the polarization of society and render those who did not want to choose between the two fields helpless: with the system or against it. So the combination of political calculations and criminal acts, the promiscuity of "paramilitaries", traditional elites and nouveau riche of drug trafficking, complicity between the forces of order and hired killers, can have no result other than the gangrening of political institutions (Pecaut, 1989: 417).

This pointed out by Pecaut seems to be characteristic of what Comaroff and Comaroff suggested when they

noticed a symbiotic relationship between legal and illegal: in the first place, violence does not appear to be a sign of rejection to legal institutionality or legality, but rather as strategies that take on their forms and reconstitute the substance of the latter, through said combination between political calculations and criminal acts. In the second place, the criminals - or criminalized participants - beside major fringes of society (entrepreneurs, politicians, impoverished youth) have created parallel methods for producing and obtaining benefits, sometimes as contributive and government systems, such that they establish simulated social order. (2006: 5)

## THE PRESIDENTIAL PERIODS OF THE GOVERNMENTAL ADMINISTRATION OF THE CONFLICT

*Julio César Turbay Ayala (1978-1982):* During his administration, he was known for the controversial Security Statute, called for to counteract violence due to subversion and drug trafficking, where reports of torture, disappearances and other human rights violations were common. In 1980, the M-19 guerrillas took over the Embassy of the Dominican Republic as a sign of its capacity for action. It came to a peaceful end through negotiations where the M-19 participants left Colombia to exile in Cuba.

*Belisario Betancur Cuartas (1982-1986):* His presidential mandate was characterized by substantial social work such as the boosting of public housing and a dramatic reduction in illiteracy, as well as the continuous search for peace, within which there was a negotiation process that took place with the Colombian guerilla, whose breach was used by the

guerrilla as an excuse to take over the Palace of Justice in November 1985.

*Virgilio Barco Vargas (1986-1990)*: Barco undertook the government-opposition proposal to do away with any traces of the Frente Nacional (National Front), where he had the support of only Liberal Party representatives of his cabinet. The central points of his mandate were the programs against poverty, dialog with leftist guerillas and the struggle against drug-trafficking. His peace negotiations pulled off the demobilization of the M-19 and the Population Liberation Army EPL; along with the demobilized combatants of the M-19, former President Misael Pastrana and the Seventh Ballot movement, he was one of the major promoters of the Constituent Assembly that was later installed in 1991.

*César Gaviria Trujillo (1990-1994)*: Gaviria instituted several reforms. In addition to the political reform reflected by the new 1991 Constitution, during his administration, reforms were promoted in social security and the labor system, financial and exchange reforms, etc. During his mandate, the Population Liberation Army demobilized, along with a fraction of the National Liberation Army, which contrasted with the breaking off of dialogs with the Farc and the siege of the "Casa Verde" (Farc base).

*Ernesto Samper Pizano (1994-1998)*: Due to US pressure, which took advantage of the accusation and proof of former opponent, Andres Pastrana, on the infiltration of money from drug-trafficking to support Samper's candidature; a struggle against the drug cartels was launched under his mandate. This struggle concluded with the disbanding of the so-called Cali Cartel, although drug-trafficking was not affected nor did it decrease due to the elimination of

said cartel, but there was a change in its geographic and political localization, as well as in the mafia hierarchies controlling said illegal trafficking within Colombia.

*Andrés Pastrana Arango (1998-2002)*: During his presidential campaign, Pastrana held conversations with the Farc guerillas and promised peace talks if he were elected. To carry out his campaign plan, Pastrana established a demilitarized area of 42 thousand square kilometers in November 1998, made up of the county seats of five towns in southern Colombia. On February 20, 2002, Following the controversial extension of its effect and several events such as kidnappings, murders and reports of illicit activities in the demilitarized zone, Pastrana informed the country that the process had failed.

*Alvaro Uribe Velez (2002- )*: As part of a security policy, Uribe established rules on the conditions to be met by the illegal groups in order to negotiate. These conditions have been rejected by the Farc, hesitantly met by the ELN and assumed by the AUC, opening the door for paramilitary demobilization in Colombia. The resulting process has been questioned by several critics fearing that the conditions are not enough to prevent a degree of impunity, which is unacceptable to them, surrounding matters such as crimes against humanity or drug-trafficking, as well as the reparation of victims, which has not been efficient, and some of those who have claimed reparation have been persecuted or killed.

Source: [http://es.wikipedia.org/wiki/Presidentes\\_de\\_Colombia](http://es.wikipedia.org/wiki/Presidentes_de_Colombia)

This progressive strengthening of the political sphere, beside the sustainment of the state of exception as the logic for the administration and normalization of the conflict, leads to a situation where politics are reduced to the technical-legal debate between stakeholders or closed - in many cases, secret - dialog between opposing participants, at the same time as they are assumed as the only opportunities possible to think and develop the transition toward peace. All as if it were an outside part of politics.

The arrival of the nineties, with President Cesar Gaviria (1990-1994) goes down in history as the period in which the mandate for peace was assumed (eight and a half million Colombians, motivated by the "seventh ballot" movement, voted for the consolidation of a true peace process.); the National Constituent Assembly was installed to establish the basis of a new state order that would guarantee the rights and be open to citizen participation (indeed, mechanisms such as the filing of complaints, class actions, the people's referendum, were created as constitutional norms; all of which are mechanisms to directly defend fundamental rights and constitutional rights), and the political acceptance of several insurgent groups was achieved, among which the most important was the M-19.

But at the same time as the above process, we saw how the norms relating to the States of Exception (Articles 212-215 of the Constitution of 1991) and the corresponding Statutory Law (Law 137 / 1994) recycled the structures of the "civilian dictatorship" that reigned in Colombia for 50 years under the figure of "martial law". This period wound up consolidating this strategy in which the general norm was excluded, which in the case of the constitution of 1991, is the guaranteeing basis of the social state of law, so the exception becomes a sort of exclusion of the fundamental rights in benefit of a security legislation understood only in military, not civilian terms (Giraldo, J: 1994).



This behavior reflects the paradox of exclusion as a strategy of inclusion unveiled by Agamben. This relationship seems to clarify a paradox in the states of exception associated with the management of violence in Colombia: in the first place, declaring "martial law", previously "state of siege", is a decision exclusive to the president who, upon assuming power as sovereign, denies the nature of the democratic state in defense of which it has been established. In the second place, after it has been established unilaterally - always temporarily and transitorily, in theory - the president and the "sovereign" may order the suspension of certain citizen rights in defense of the State of Law, that is to say, excluding in the gesture of including. (Agamben, 2003: 31)

After unprecedented outbreak of the armed confrontation in the early 90s, in 1994, during the presidential period of Ernesto Samper Pizano, a new phase was attempted in managing the conflict and developing mechanisms of transition as an aspiration rather than a practice. This is how, as a response to the international community, a set of legal reforms was promoted to humanize the war. Several provisions of the international humanitarian law were adopted, the most important of which included the legal recognition of the condition as a victim of forced displacement, by means of Law 387 / 1997 (the scopes of the law and its relationship with the systems of exception will be discussed further on). Nevertheless, the possibilities of constructing actual transition processes at this stage had to give way, not to treatment by exceptional means, but to the exceptionality of this presidential period, given the problems of political legitimacy of the government associated with the publicly recognized acceptance in the presidential campaign of money from drug-trafficking.

The 1998-2002 presidential period, of Andres Pastrana, will go down in history as the most audacious attempt of transition, demilitarization of a territory the size of Switzerland for the development of peace negotiations with no limits or conditions. At the same time, this mechanism

of exception is one of the failures that is still alive in the collective memory of the Colombian people. Rather than analyzing the causes of said failure, what we are interested in here is the discursive effect on political practices generated by this event. The most important was the fact that the 2002-2006 presidential campaign goes back to the rhetoric of the priority of security and the recovery of public morality of the Turbay Ayala period.

To this effect, the triumph of Alvaro Uribe in the first round, for the first time in the history of the two-round system in Colombia, is understood by the new ruler as a blank check to return to the central importance of militarizing the society to combat insurgent disorder. Like never before, the mechanisms to militarize the society and produce political technologies of exception were developed and strengthened: the first, the million peasant soldiers; this was followed by the informer network, professional snitches paid with wads of bills live and direct in front of millions of viewers. After that, there was the declaratory of the theaters of operation and the rehabilitation zones, spaces where the local civilian power was subordinated to a military commander, all under the criteria of exceptionality and transience while public order was recovered and sovereignty could be exercised - where the only sovereign was the president or the military commander-. So, the mass arrests of alleged guerilla collaborators, pointed out by the informer network, topped the agenda. Most of those under arrest were in jail for six months to a year with no charges filed against them, which for several social leaders and peasants was the beginning of the tragedy of the pointing and stigmatization, which in more than a few cases led to processes of displacement or exile.

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The original aspect of this tragedy is that a legal figure like the "Martial Law" was no longer needed to be able to deploy all these mechanisms to militarize society, because now there was the accumulation of duly institutionalized exception technologies integrated in the Colombian legislation.

The clearest expression of how a normalized relationship formalized with the state of exception turns the tools of transition into mechanisms of conflict administration is Law 975 / 2005, known as the Justice and Peace law. This instrument was proposed as a fundamental mechanism to provide a legal framework to negotiations with armed groups. What's remarkable about this is that the law comes up as a condition prior to negotiation for the demobilization of paramilitary groups and not as a result of the commitments taken on by the victimizers that would be the beneficiaries of said law. Finally, after much resistance from national and international human rights organizations and victim organizations (that were never consulted as regards their perspectives on the law), 975 was passed by Congress, sanctioned by the President and endorsed by the Constitutional Court, after a series of adjustments made by the latter.

When it was introduced, Law 975 / 2005 was arduously criticized by different sectors of the civil society and the international community because its declarations of principle did not come along with the proper mechanisms for the expected protection of victims' rights and, therefore, ran the serious risk of becoming mere rhetoric. The Justice and Peace law was lacking the "teeth" necessary to protect victims' rights in the long term, that is to say, its concrete institutional designs were not sufficient to materialize said rights nor to guarantee that the mass violation of human rights committed by the beneficiaries of the law would not occur again, so it could become, despite its important declaration of principles, an instrument of impunity and legalization of paramilitary organizations. (Uprimny and Saffon, 2006: 3).

It is important to point out that it is not whether said legal piece is complete enough in the light of international standards or not (its limits and scopes will be discussed further on), because what has been overlooked is that the law does not correspond to the creation of an alternative for the social peace of civil court, as it consolidates the system of exceptionality in dealing with the

conflict in Colombia. In the first place because the law is the result of conditionality for the demobilization of just one group (a demobilization that, up to now, does not guarantee the vanishing of the paramilitary phenomenon in the country), while the confrontation with the rest of the armed groups and the military investment in the war continues to increase.

To close this brief contextual description of the historic and political emergence of transitional discourse in Colombia, we can affirm that the common denominator is the excessive centralism and authoritarianism of the Colombian legislation, which allows the president to serve as a supreme ruler, by means of the quasi-permanent use of the figure of the state of exception over the last 60 years; this phenomenon causes what Agamben calls a relationship of exception, an extreme form of relationship that only includes something by means of exclusion. For the case under consideration, the figure would be more than the normalization of the relationship of exception, where what has been included is the regulated, militarized administration of the conflict, and what has been excluded is the possibility of the construction of civil social peace and not a central or militaristic government.

## **The policy of dealing with forced internal displacement and the administration of communities**

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Up to present, we have put forward the first thesis of this project how the mechanisms of armed conflict management in Colombia (including Law 975 / 2005) has consolidated a strategy of regulated administration of the conflict rather than alternatives for a way out of the conflict toward social peace. The second thesis is that the victims of this confrontation are not considered, rec-

ognized or treated as such, or as citizens worthy of the guarantee and enjoyment of the social and political rights of their fellow Colombians. To this effect, victims have received the same treatment as all the other dimensions of the conflict, that is to say, just based on mechanisms and instruments that turn them into subjects of exception reduced to administrable masses within a condition of permanent emergence and transition. The clearest, most potent example of this dynamic is the treatment of the internal displaced persons, which is the basis of the emphasis presented further on in this reflection.

## What have ten years of Law 387 / 1997 left us?<sup>55</sup>

If forced displacement due to political violence in Colombia appears as one of the dynamics constituting the social arrangement mediated by war, as shown by Jimenez, Osorio, Castillejo, Naranjo and others, what makes the last decade particularly important?

Before the milestone of the processing and passing of the law to deal with the internally displaced population (Law 387 / 1997), this phenomenon was not part of the system of visibilities associated with the conflict, and therefore, was not a part of the set of events considered of high political sensitivity in the country. In other words, it was only then that forced displacement in Colombia has been included in the historic and discursive narrative of the conflict that the constitution of the nation's project is going through. That was when a new field of political subjectivation, action and intervention was created. In order not to fall into the trap that the norm itself is the creator of realities, it is important to understand how we reached the fold of reality that enabled us to see those we did not want to see, "the displaced".

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55- This component was developed with the technical support of political scientist Giselle Serrano B.

In the nineties, the scenario in which forced displacement was recognized as a social problem, including it in the national public agenda, began to be configured. The following events are highlighted as regards that moment: The first was the sanction of Law 171 / 1994 (Approving the additional Protocol to the Geneva Agreements of August 12, 1949 - Protocol II). Although the intention of these norms was to establish certain limits for internal armed struggles, this led to the political analysis of the role played by the civilian population in the military strategies of opposing participants, and the state measures to protect the communities inhabiting zones in conflict.

The second event was the visual occupation of the screens, squares, schools, State offices, that mass displacement due to paramilitary incursions generated in the national and international public opinion. The first political impact of this new image of anonymous masses in panic triggered a series of actions motivated by national and international social organizations promoting human rights and actions of assistance and protection for communities at risk of forced displacement.

Another element that played a significant role in this first recognition of the tragedy of forced displacement was the results, at least the initial results, of the negotiation, pacification and transition processes of Central American countries; in addition to the precedents established by the Inter-American Institute of Human Rights and the United Nations High Commissioner for Refugees (UNHCR).

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One of the precedents defined by the international community that had the most influence was the formulation and subsequent presentation of the Deng Principles<sup>56</sup>. The responsibility of a figure like this consisted of making records on the situation of forced displacement in countries with an internal armed conflict, which led to the

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<sup>56</sup> Francis M. Deng, representative of the UN Secretary General as Special Narrator to respond to the world crisis of internally displaced persons who, by definition, were beyond the protection of the UN Agency for Refugees.

formulation of the Guiding Principles of Forced Displacement. These principles were a milestone on the international level because they conjugated two hitherto unheard of facts: the existence of a special delegate of the Secretary General of the United Nations for Displaced Persons and, in the second place, the consecution of a consensus on the need to include the victims of forced internal displacement in the protection system of the United Nations High Commissioner for Refugees. These principles also had great impact on the national level, because unlike the binding incapacity of the declaration of the Deng Principles on the international sphere, in Colombia, the Constitutional Court raised said principles to the category of an integral part of the "block of constitutionality".

The civilian society also made its contribution in the visibilization of this problem with the creation of opportunities for discussion on the matter, such as the First Convention of Victims of the Dirty War in 1989; the Mission of the International Council of Voluntary Agencies, which published its first report in 1991; the National Forum Seminar on Internal Displacement in Colombia, whose memories were published in 1992; Study of the International Council of Voluntary Agencies on internal displacement and asylum in the Andean Region in 1993; the in situ Mission of Technical Assistance on Internal Displacement in Colombia, which took place in Lima in 1993 and requested by the Presidential Commission for Human Rights of the Colombian Government. This last report contains the definition of displaced persons approved in the Technical Encounter of the Permanent Consultancy on Internal Displacement in the Americas; and the Seminar on Comprehensive Policies for Internal Displacement in Colombia in 1994 (Osorio, 1993).

But with all this background, the mere formulation of the law integrates these different discursive platforms in just one force field. In any case, we cannot guarantee that Law 387 / 1997 can be considered the milestone that completes this genealogy of recognizing a new political category of victim of conflict. In this process, the legitimating interests of the different governments were also at

play, as they have always been, in an instrumental sense. For this particular period, it is important to remember that the government of Ernesto Samper Pizano (1994-1998) started off with the appointment of a High Commissioner for Peace and the announcement of a “comprehensive peace and useful dialog” policy, with the aim of surpassing previous policies circumscribed to the demobilization of guerilla groups and the reinsertion of its combatants. The proposal took as a starting point the recognition of the political character of the armed conflict and the guerilla organizations, which was important in view of the extended opinion of the purely criminal nature of the insurgents. The initiative established the willingness to negotiate amidst the conflict and with no prior conditions; it also proposed the active participation of the civilian society and a unified national negotiation (Villamizar, 1995).

This extensive approach would have been a major opportunity to recover the spaces of political negotiation and construct a civil peace, if it were not because said proposals were linked and deeply affected by the crisis of political legitimacy through which the entire Samper government was going through as a result of receiving money from drug trafficking to finance his campaign. In this scenario, the entire four-year period was spent seeking different sources of legitimation on the national as well as the international level. To this effect, you have to ask yourself whether the government at the time, as a response to the international community, decided to promote a set of legal reforms to humanize the war<sup>57</sup> to assume several provisions of international humanitarian law to help overcome the crisis of legitimacy. One of the most important provisions was the legal recognition of the condition of victims of forced displacement by means of Law 387 / 1997.

But the most important lessons of this law, which created this new legal category of internal displacement,

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57- It is important to point out that, at the time, the declared attempt to humanize the war was not aimed at creating mechanisms of transition, which appeared much later, followed by the failure of both.



did not come from its context of appearance, nor its declaration of principles, but rather from the practices developed around it. Two fields of this practice are crucial to complete this analysis: the logic of appropriation of the Executive and the local governments and the judicialization of the policy derived from intervention in applying the law by the Constitutional Court.

## What is forced displacement and a displaced person in governmental logic?<sup>58</sup>

The context of emergence and development throughout the last ten years of Law 387 enables us to get an idea of the type of notions that the government level<sup>59</sup> has constructed around the phenomenon of forced displacement and the victims. In the first place, the development of Law 387 was entrusted to a presidential office whose genealogy is also worthy of our attention. The Office of the President of the Republic for Social Action (hereinafter Social Action) was originated in attention to the victims of rural poverty in the zones marked by the conflict; which was the so-called National Rehabilitation Plan, which in turn was part of the strategy to legitimate state institutionality in the zones denominated as being under guerilla influence. During the nineties, it was transformed to deal with victims of terrorist attacks in the drug-war in cities; this took place during the administration of Cesar Gaviria (1990-1994). During the following administration, 1994-1998, it was turned into the Office of the National Plan for Disaster Prevention and Recovery. According to Article 1 of Decree 976 / 1997, the social phenomenon of the mass displacement of civilian population due to violence in its different expres-

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58- This component was developed with the technical support of political scientist Giselle Serrano B.

59- Government level is to be understood as the President of the Republic, its offices of special programs, the Executive's decentralized entities and the departmental and municipal elected governments.

sions is understood to be similar to that of disasters and calamities. Therefore, the program's new responsibility was to provide humanitarian aid to displaced persons and assist them in returning.

Based on Law 387, the Social Solidarity Network was created as the agency in charge of administrating the National System for Comprehensive Attention to the Displaced Population-SNAIPD, the entity that would change its name to Social Action with the government of Alvaro Uribe. The central point of this sequence of institutional transformations lies in the fact that the logic of the response to forced displacement is dealing with emergencies and disasters where there are only victims without a past and events without an established line of responsibility. Hence, the label of humanitarian emergency that appeals to solidarity and charity, and depoliticizes the origin and motivations of the emergency.

As a result, this sectorial public policy was constructed on the invisibility of the specificity of the problem of forced displacement in Colombia that, due to its particular dimensions, characteristics and effects, would require a special treatment in order to guarantee the victims' rights. With all these principles on the guarantee of rights, the law does not have a rights approach per se, but rather revolves around the State's special duties and obligations as regards the treatment of the displaced population (Uprimny and Saffon, 2006: 7).

*A sign of this is the fact that the only legal action provided for in Law 387 to claim the realization of the rights of the displaced population is the action of compliance with the law - designed to request public authorities to fulfill their legal obligations - and not, for instance, the filing of complaints - whose purpose is to protect the fundamental rights violated by the action or omission of the public authorities and certain individuals-. Sure enough, the law refers to this population as victims of forced displacement, but not victims of a determined human action that, in the con-*

*text of the armed conflict, caused this forced displacement. To this effect, the law does not recognize for displaced persons any rights typical of victims of an atrocious crime, such as the rights to truth, justice, reparation and the guarantee to prevent their reoccurrence, nor does it refer to other legal instruments that contain these rights. The law does not refer to the relationship existing between forced displacement and the armed conflict either, and much less to the implications that said relationship has in terms of identification of those responsible for the crime, and their consequent obligations to be subjected to justice, to tell the truth about what happened, to repair their victim and not to go back to crime, among others (Uprimny and Saffon, 2006:8).*

This minimalist administrative notion of solidarity and depoliticization has been extended throughout the country in the ten years that the law has been in force. Hence the documented behavior on negligence, lack of interest, postponement of the officials that, under the excuses of budgetary deficits, competency in the prioritization of some poor over others, or the idea of gifts in the delivery of services under the criteria of minimal and not rights, wind up consolidating a system of inclusion-exclusion.

These ten years of the State's reduced transitory response, always provided as an act of charity or good will by authorities and institutions, has created a response in the victims who view this assistance as an act of receiving, accepting and asking; this configures a condition of dependence and humiliation, not without resisting to be treated as opportunists by the officials, and not without exposing their private life to those who help them, with the "...intrusions, invasions and insults reserved specifically for the users of the assistance" (Sarat 2001:254).

This is the other side of assistance, the State's progressive incursion in the regulation of the private life and growth of social security bureaucracy, gradually outshining

the intimate sphere of the individuals. The policy of attention to the population displaced by violence is implemented in a context of reduction of the Colombian Social State, in which the health, land, housing and education programs are looked after by international cooperation and by means of reduced state subsidies. This occurs under a political model that considers the social policy as rights without duties, as a cause of irresponsibility and individual dependence, and is governed by the "meticulous control of decreasing social subsidies" (Pisarello, 2001:89) and functions without the need for the participation of the target group of intervention, as a technical system to maximize social resources, of social action planners, of "governments of no one" or "bodies of experts".

This enables the characterization of the system for the attention to the displaced population, viewed from the governmental logic, as a system for the administration of subjects of exception, or what Castillejo-Cuellar (1997) calls the Administration of Otherness. Therefore, Colombian's in the situation of displacement, although they are within the same territory, suffer from the state of exile, as exile involves the temporary suspension of citizenship due to the failure to keep the promise of sovereignty; which is nothing other than being outside, in the condition of exception. But how can this happen within the nation's administrative frontiers and within the limits of exercising the notion of sovereignty? To understand this governmental logic in a more analytical manner in view of the law to protect persons displaced by violence, we have attempted to unveil the logic of the system to register the displaced population as a technological policy for the administration of subjects of exception.

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The state of exception for those who are internally exiled today began about 20 years ago, and the configuration of their condition as characteristic of a system for the administration of communities (Guerrero, A: 2000, 2001, 2004) and not a system of protection, began with the legal system that includes the victims of forced displacement as victims of a complex emer-

gency<sup>60</sup>. What is paradoxical is that while this decision included them, it excluded them again, in two ways: first, because it created a particular legal - political, interstitial place for them, where their declaratory registration before the competent entity made them subjects with rights - which means all displaced persons without said registration are inside when it comes to nationality and outside the system to protect their rights, which should flatly be guaranteed because they are born citizens.

In the second place, they were excluded by the law to protect and provide attention to the displaced population, which became a technology for the registration and counting of the anomaly, of those who are outside but registered inside, detracting from its character as an instrument for protection. This assertion is based on several facts: the first is the under-registration of victims; the Social Action office that runs the system is estimated to have only recognized a little over half of all the victims of forced displacement in Colombia. Registration was used for a long time as a conditioning mechanism to access the enjoyment of their rights of protection and recovery, where the displaced population had to prove whether or not they were legitimate victims of forced displacement.

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60- Two approaches that frame this concept: Karlos Perez de Armiño and Marta Areizaga (<http://dicc.hegoa.efaber.net/listar/mostrat/85>) propose that the concept of "complex political emergency" (at present "complex emergency" is more common, sometimes using "complex humanitarian emergency") was coined in the late 80s by the UN to describe the differentiated character of the major crises that have proliferated since then, after the Cold War. This initially emerged in reference to the cases of Mozambique and Sudan, but its use soon expanded due to the proliferation of civilian conflicts and peace operations in the 90s, and thanks to the creation of the Department of Humanitarian Affairs in 1992 (see Ocah) (Munslow and Brown, 1999:209). As indicated by Paul (1999:1) and other authors, the concept is rather a euphemism to refer to what, in reality, is a mass, deliberate human rights violation. Its description as "complex" is based on three reasons: First, the multiplicity of its causes, which are found in the interrelations of diverse political, economic and socio-cultural factors. Second, the all-inclusive character of its impact, which, unlike the disasters triggered by natural catastrophes, seriously affect all orders of life, with a powerful destructive and badly structured effect. Third, the subsequent need for the international response to be based on a multiple mandate that will enable actions on several fronts. As for Forsythe (2000:179), he refers to the concept "complex emergency" as the vague term to mention situations where formal or regular authorities deny the existence of an armed conflict within the framework of international law, but where, despite this fact, civilians are at great need and public order has been altered.

In the third place, the system operates irregularly and erratically and only comes to provide support with the criteria of the basic minimum as the only possibility. It is to this effect that we point out the paradoxical statute of the system to protect the displaced population, when it comes to exceptions, because it has been configured, not as a system to guarantee rights, but as a political technology for the administration of communities as subjects of exception. This condition conjures up the mechanisms pointed out by Agamben as those located outside the normal legal system, but that does not make them just an outside space. What is excluded here is, according to the etymological meaning of the term exception, taken out, included by means of its own exclusion. But what has been incorporated this way, particularly in terms of institutional systems, is the state of exception itself. (Agamben, 2003:216)

That is why ten years after the Colombian State created the national system for the comprehensive attention to the displaced population, the conditions of internal exile are almost unmodified, because the internal displaced persons are registered outside due to their exceptional condition, and the only thing that keeps them inside is the figure of field of exception created by the same system of attention, applied as if the humanitarian emergency could be assumed as an exception, as the normal exception, that can be dealt with, maintained or denied, depending on the discretionality of the officials of the moment.

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The ambiguity of the system has led to many displaced persons refusing to end their experience of exile in an urban center where urban inclusion becomes the ultimate exclusion, because in just a short time, they go from the exceptional condition of displaced person to the natural condition of urban poor. A very clear example of this is the attempts being made by the President's office of Social Action - in charge of administrating the system - to transfer the displaced persons conceptually and politically from the system for victim registration and protection to the assistance and mitigation programs for the

urban and rural poor (Families in Action, for the first case; and Ranger Families in the latter); all without recognizing the damage and loss suffered by the displaced persons as victims of conflict.

Agamben describes this situation as a threshold, in which law is transmuted at all times into an event, and the event into a law, in which the two planes tend to become indiscernible. This is the result of a sovereign political decision that operates based on absolute indifference between event and right (Agamben 2003:218). The simple example of this sequence is that the Colombian State recognizes the right to the condition as a subject of special protection, after registration before the competent authorities of the condition as a displaced person, that is to say, the right is recognized; but in spite of this, the only thing guaranteed by this registration is that the person will be part of a system to administrate the subjects of exception - the displaced population registration system - because State action is incapable of guaranteeing the right, with the argument that the size of the field is so great that effective responses cannot be achieved because the defense of the nation's fiscal integrity will not allow it.

So, the state of exception, which was essentially a temporary suspension of the legal order, now becomes a new spatial and technical-political substratum, in which the particular expression of the bare life or *vida nuda*, internally displaced-exiled, resides, which clearly can no longer be registered in the ordinary legal order. This takes place when there is a growing disconnection between the condition of born citizen and thus belonging to a territory, and the condition of a subject of rights associated with a State-Nation. This is the new reality of the policy as a legal technology, which, inspired by Agamben, we call the field of administration of subjects of exception.

This field, which is precisely the origin of this separation, is the system for the registration of the displaced population. The registry becomes a legal order with no localization and no real capacity to protect people's rights.

Therefore, it is now the responsibility to localize a legal order that will de-localize and de-nationalize, thus turning registration as a displaced person into a permanent field of exception, and dealing with the emergency, in a permanent condition of existence. So our political system no longer orders forms of life and juridical norms in a determinate space, but rather contains within itself a dislocating localization that exceeds it, in which virtually every form of life and every norm can be captured. The camp, as a dislocating localization, is the hidden matrix of the politics in which we are living, the matrix that we have to learn to recognize it in all of its metamorphoses. (Agamben, 2003: 223)

## **Judicialization of politics: the Constitutional Court in the control and modeling of public policies.<sup>61</sup>**

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Colombia is defined politically as a Social State of Law. The description “of Law” implies that the political legislator (in the case of Colombia, we are referring to a two-chamber Congress) is legally and politically in charge of the creation and modification of public policies; and the administrative function (the President of the Republic) is in charge of implementing them by means of budget design, the exercise of the regulatory power and the management of technical-specialized entities. The political legislator would conduct the evaluation and control of the execution of public policies carried out by the administrative entities as a sign of its political control.

Although Colombian legislative and administrative entities accept this thesis, a review of a jurisprudential nature leads to the reconstruction of a constitutional doc-

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61- This component was developed with the technical support of attorney Ledis Munera.



trine that exhibits a situation to the contrary. This means that the Colombian constitutional judge is the organ that has taken on the functions of interpreting and modulating the way in which the public policies on forced internal displacement will be executed. In addition to assessing the implementation of the public policies. The constitutional judge has assumed functions that were transitionally performed by the political and public administration legislator. The decisions of the constitutional judge are binding because they have a constitutional hierarchy, that is to say, a higher rank than the acts coming from legislative and executive functions.

This phenomenon started in Colombia with Decision SU-1150 / 2000. This decision presented an accumulation of complaints filed by the Ombudsman as the representative of the different victims of internal forced displacement against Governors, Mayors and the Social Solidarity Network. It is important to point out that the judges of the first and second courts rejected the petitions to protect the fundamental rights of the displaced persons on the grounds that the policies for the attention to victims of forced internal displacement were the jurisdiction of the State administrative machinery and not the constitutional courts.

Although the Constitutional Court insists on core aspects of the law regarding the obligations of administrative entities relating to the attention of victims of forced internal displacement it directly orders the President of the Republic, for cases of petitions, to provide temporary shelter for the families and for them to benefit from the different programs that exist for assistance to those displaced by violence. In order to meet this objective, an unfailling term of three months has been established for the President to coordinate the steps to guarantee the right to shelter for the displaced families and the rights arising from all other welfare programs referring to the displaced population. Said steps must have been completed within the term of six months at most.

As you can see, the constitutional jurisdiction challenges the logic of the division of powers because it obli-

gates administrative entities - particularly the President - to execute the public policies contained in Law 387 / 1997. In this case, the constitutional court, which does not have the budget programming and technical units that belong to the administrative function of the State, defines the general framework of the public policies in Colombia regarding attention to victims of forced internal displacement. In this decision, the Constitutional Court evaluates the application of Law 387 / 1997, which lead it to the conclusion that there is disorganization in the National System for the Comprehensive Attention to the Population Displaced by Violence.

In line with this logic, Decision SU-1150 / August 30, 2000 does not present a simple reiteration of jurisprudence, but rather considers that the obligation of administrative entities as regards the execution of public policies has to be peremptory and effective. Therefore, the term from three to six months set by SU-1150 / 2000 for the President of the Republic has been shortened in T-1635 / 2002 to a term of no more than thirty (30) days to provide a definitive solution for the conflict that has been created. Making the President of the Republic and his Ministers directly responsible for the fulfillment of this obligation, not the Social Solidarity Network, under the surveillance of the Colombian Attorney General.

## **PETITIONS FOR THE PROTECTION OF FUNDAMENTAL RIGHTS**

A petition for the protection of fundamental rights is the guarantee offered by the 1991 Constitution of everyone's right to the immediate judicial protection of their fundamental rights. This has been

expressed in Article 86 of the Constitution: "Anyone can make a petition before the judges at any time and in any place, by means of a preferential, brief procedure, filed by the person or someone acting in his/her name, for the immediate protection of his/her fundamental constitutional rights, whenever they have been violated or threatened by the action or omission of a public authority".

These petitions involve the fundamental rights of persons; that is to say, all those that are inherent to the individual, existing before the State and are above any norm or law whether it recognizes them or not. According to the Constitutional Court (Decision T-451 / July 10, 1992), whether a right is fundamental or not can only be determined in each specific case, depending on the relationship between said case and any other fundamental right; that is to say, the Constitution cannot clearly determine what the fundamental rights are, so those numbered in Chapter II, Title II of the 1991 Constitution as such cannot be considered the only fundamental rights.

petitions for the protection of fundamental rights are:

- Subsidiary: That is, they are only applicable when there is no other means of judicial defense.
- Immediate: Their purpose is to serve as a rapid response to the protection being requested.
- Simple: Their application has no difficulties.
- Specific: They are only for the protection of fundamental rights.
- Effective: They require the judge to study the case in depth before issuing a verdict.

According to the above, petitions for the protection of fundamental rights can be applied when a fundamental right is threatened, either by a public authority or other individuals. In addition, these petitions can be used as a transitory mechanism to prevent irreparable damage to people. Petitions are settled by the judge in charge of the place where they occurred or where the events or actions that placed in danger or violated the fundamental right took place settles petitions. The ombudsman and the persons delegated by him (regional attorneys, spokespersons) can also file petitions for the protection of these rights, because people have the right to file these petitions through a representative.

Sources:

Colombian Political Constitution of 1991, Editorial Panamericana, Bogota, 2001.

President of the Republic, Petitions for the Protection of Fundamental Rights, Ombudsman, 1995

Constitutional Court, Decision T-451 / July 10, 1992.

In addition, it determines that the interpretation of the Social Solidarity Network and the different courts of the norms regulating public policies on forced internal displacement for their application must be flexible as regards the analysis of the particular situations of each displaced person (where substantial law prevails over forms) and the UN's Guiding Principles of Forced Internal Displacement must be taken into account. This treaty is part of Colombian Constitutional Law, makes up the block of constitutionality, and therefore, is mandatory for all state agents, including judges and administrative entities (prin-

principle of favorability in processing mass displacement). An example of this can also be found in decisions T-1150/2000, T-1635/2000 and T-327/2001, among others. There, the Court specifies the concept of internal displacement contained in Law 387 / 1997, indicating that the legal description of displaced person entitling individuals to benefits from the National System of Information and Comprehensive Attention to the Population Displaced by Violence is acquired *de facto* and not by a juridical declaration.

However, what has carried out actions, rather than evaluating the public policy on the matter is Decision T-025 / 2005, in which the existence of an “*unconstitutional state of affairs*” was declared as regards the situation of the displaced persons and, by means of a series of general orders to the authorities, defines the measures necessary to overcome the structural problem. This Decision came about following 1200 prior petitions for the protection of fundamental rights, all associated with lawsuits filed against the non-fulfillment of the State in development of Law 387 / 1997 (Uprimny and Saffon, 2006: 8-9).

This decision is characterized by a large volume of files accumulated on displaced persons located in different places in the country, most of which received some type of humanitarian emergency aid during the three months following their displacement, but the assistance was not provided to all, and it was not always timely and complete. The petition through a Guardianship Action for the protection of fundamental rights was filed against the Social Solidarity Network, the President’s Administrative Department, the Ministry of the Treasury and Public Credit, the Ministries of Health, Labor and Social Security (now the Ministry of Social Protection), the Ministry of Agriculture, the Ministry of Education, Inurbe (National Institute for Public Housing and Urban Reform), Incora (Colombian Institute for Agrarian Reform), SENA (National Training Service), town and department administrations.

It was considered that they were not fulfilling their obligations because they were not responding effectively

to the applications for housing, productive projects, health care, education or humanitarian aid. On many occasions, the response provided by entities only takes place after filing petitions and, in others, people are told that the entity in charge of processing their application is in the process of winding up. On another note, they just tell people that there is not enough budget appropriation to deal with their request and it will be processed as per the order determined by the entity, without any information on how long it may take. The situation of the displaced persons is never settled in depth.

The Court formally declared that these events constitute an “unconstitutional state of affairs” that is characterized as:

- “(i) the mass, widespread violation of several constitutional rights, affecting a significant number of people;
- (ii) the extended omission by authorities in the fulfillment of their obligations to guarantee people’s rights;
- (iii) the adoption of unconstitutional practices, such as the incorporation of petitions for the protection of fundamental rights as part of the procedure to guarantee the right infringed upon;
- (iv) the failure to issue legislative, administrative or budget measures necessary to avoid the violation of rights;
- (v) the existence of a social problem whose solution involves the intervention of several entities, requires the adoption of a complex, coordinated set of actions and demands a level of resources requiring a significant additional budget effort;
- (vi) the tendency that requires all the persons affected by the same problem to turn to filing petitions in order for their rights to be protected, which only

causes increased judicial congestion.” (HCC, Decision T-025 / 2004)

To this effect, in the event of administrative and legislative ineffectiveness, the constitutional court assumes political control over the Executive. When the Constitutional Court makes the formal declaration of the unconstitutional state of affairs, it acquires supra-legal juridical power to order national and territorial administrative authorities to carry out the acts necessary, as soon as possible, to guarantee the effective enjoyment of the displaced persons’ rights.

T-025 / 2004 is a milestone decision because the Court emphatically and with political authority defines a sub-rule of constitutional law. In this case, the sub-rule as regards public policies becomes mandatory for all future cases in which similar matters are debated. For the Constitutional Court, the State’s response to the problem of forced displacement does not provide the elements necessary to provide comprehensive care, resulting in the mass violation of fundamental rights. The sub-rule outlined by this constitutional court states that it cannot go in and solve all the problems caused by forced internal displacement, but it is rather a task for Congress, the National Government and territorial entities. Notwithstanding, in view of the mass violation of fundamental rights, the constitutional court has to take the measures necessary to overcome the unconstitutional state of affairs.

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This decision makes it clear that when the administrative, territorial and legislative entities do not fulfill their political obligation to effectively guarantee the fundamental rights of displaced persons by means of public policies, the constitutional court assumes said function. Therefore, the constitutional courts become the state entities that determine the interpretation, application and assessment of the public policies on attention for the victims of forced internal displacement in Colombia with legally binding effects.

In decision T-025 / 2004, the Constitutional Court issued two types of orders: simple execution orders (action or abstention of an authority without the participation of others), which are those aimed at responding to those who filed the petition, their cases and their specific complaints in this process. And a series of complex orders (actions or omissions of several authorities requiring coordinated actions). This type of orders cover the entire displaced population and are aimed at overcoming the unconstitutional state of affairs, and are meant for the state authorities, in the short and medium term, within the functions under their responsibility, to modify their performance as regards the SNAIPD to overcome the problems involving the insufficiency of resources and institutional precariousness in implementing the state policy to attend to the displaced population. The binding juridical line traced by T-025 / 2004 is followed in subsequent decisions such as T-175 / 2005 and T-086 / 2006.

Compliance with decision T-025 / 2004 in the regional and local contexts, particularly as regards the complex orders, has been slow, there has been progress, but it has required continuous orders, public hearings and the repeated control not only of the Public Prosecutor's Office but also of the national and international networks and organizations that deal with the problems of forced displacement; this situation has been expressed in writs 087/04, 185/04, 138/04, 176/05, 177/05, 178/05, 218/06, 218/06, 266/06, 333/06, 334/06, 335/06, 336/06, 337/06, 027/07, 058/07, 081/07, 082/07, 206/2007, 200/07, 207/07 and 2008/07, 052 and 092 de 2008 of the Constitutional Court.

Despite attempts by territorial entities to fulfill the complex orders of decision T-025 / 2004, these measures have been executed in the towns and districts in accordance with local political dynamics, which is a milieu of lacking information systems and characterization of the displaced population, precariousness in the coordination of policies, ineffective bureaucracies, budget crises, and clientelist political practices. These contexts assume up-



rooting as something ordinary in the form of settlement of cities, discourses of order, of the politics and justice established based on the relationships of power historically constructed in these communities. As an example, the displaced population continues to perceive, after T-025/2004, that state benefits are the result of good luck or the kindness of the attending official<sup>62</sup>.

The judicialization of the policy for the attention to the displaced population has been presented because the Constitutional Court seems to assume the political role of interpreter, designer, evaluator of the attention system, as well as agent of political control by judicial means of the national, municipal, district and departmental public administration. On the other hand, the Constitutional Court has been ambiguously related to the social sectors that defend the rights of the displaced population and the organizations that bring these victims together. On one hand, the decisions of the Constitutional Court are not only the result of the exercise to guarantee the human rights of the control agencies and territorial entities, but of the appropriation of the language of fundamental rights and the petitions for their protection by the organizations of the displaced population, that seem to find in this judicial strategy a form of collective action that not only complements the forms of political action on the Executive and the Legislature, but seem to be more efficient than they are.

By protecting the fundamental rights of the displaced population, the Constitutional Court reconfigures the impression of the social sectors as regards the policy and the way the Social State of Law and public administration should operate on all the levels, particularly because it seems to be the most efficient in the task of protecting the rights that have been violated by the entities that should be executing the policy. The constitutional court propagates the language of political modernity, whose exercise is not only judicial but also ideological, therefore

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62- Expression commonly repeated in interviews with victims of forced displacement.

permeating the collective actions of the organizations of the displaced population. This way, constitutional courts not only guide the state politics, but also influence the displaced persons and their social organizations, giving rise to redefinitions on the politics starting with the language of rights and judicial claims as a means of collective action, which seems to leave direct political action on the Executive or the Legislature in the background.

In this context, the judicial claim by way of petitions for the protection of fundamental human rights has become the safest way to demand the protection of the dignity of the displaced population, where the contentious action becomes a collective action of the organizations and social networks of the victims of displacement. When the lawsuits of a collective are incorporated in the political system by judicial means, like the Constitutional Court has done, these claims must adjust to the constitutional juridical model to be heard, otherwise they are dismissed.

This type of demands results in the unlikelihood of the processing of alternatives of justice and rights not considered fundamental by the constitutional model, at the same time as the questioning of the law in force penetrating the political system. Similarly, in order to protect the fundamental rights of the displaced persons and not go beyond its functional spectrum, the Constitutional Court radicalizes the meaning of the civil and political rights of the displaced persons to the maximum extent, through its connection with the minimal benefits necessary to guarantee civil and political rights. This means the social policies for the labor, economic, housing, educational and health stabilization of the displaced population are jurisdiction of the Administrative Power. In order to claim these social and welfare benefits, the displaced person must use the political, legal and judicial mechanisms of administrative law and political participation, other than litigation or the petition for the protection of fundamental rights.

But this predominance of the approach of human rights and the task of constitutional courts should take certain considerations into account. The dominant approach of human rights in the context is cut to fit a political liberalism that restricts concerns on guaranteeing civil and political rights, and in the best interpretations of this rights approach, to minimal humanitarian assistance. Although the defense of said rights contains an emancipating potential that brings with it claims of private life and political participation, these democratic political gains associated with the juridical forms of formal middle class law go into crisis when the material means of survival are limited to charitable minimums associated with the social humanitarianism of international cooperation or welfare subsidies of the Colombian Social State, such as emergency humanitarian assistance or housing subsidies for the displaced population.

This human rights approach does not question the violations of the individual and community life plans of displaced persons and ends up idealizing policies designed for times of peace, far from the particular historic contexts of these communities and subjects. So the response of inclusion and the recognition of rights have been restricted to the paradigmatic logic of the struggle against poverty. The limit of this thesis is found in the affirmation made by Sarat (2001: 252) that says "the regular, continuous contact of the poor that live on state assistance have with law does not mean that they are included, nor that they can be constituted as full participants in the construction of juridical meanings or the practices through which power is exercised and domination is maintained. Since this poor population is in a condition of continuous dependence, the battles for their voice to be heard and their interpretations of good and justice to be incorporated in the legal order must be fought against the current.

On the other hand, the human rights approach mobilizes collectives and individuals politically and judicially before the State, and the State responds in terms of the

same liberal legal order, which is why it is obvious that in the state's response, whether it is based on judicialized politics or the administration of services to attend to the displaced population, there is no valuation of the particular life projects of the individuals and their communities, their ethnic, gender or generation diversity; but rather their protection is limited to duplicating the ration of food for the Indians, adjusting evidentiary rules of middle-class law for ethnic minorities, welfare for minors and, the extension of emergency humanitarian attention or subsidies for women and the elderly. So what is differential is restricted to a reading of their particular condition as of Law 387 / 1997, which is why the world views on feeding, territory and development of the displaced population do not appear in the state's responses, particularly those of ethnic minorities.

To conclude, these ten years of interpretations by the Constitutional Court in the development of the system to protect victims of displacement leaves us with the fact that the Court does not stress the importance of the victims knowing the identity of those responsible and the beneficiaries of the crime of displacement, and for justice to be done in this regard. Nor does it refer to the importance for victims and society in general to learn the reasons and the circumstances regarding time, method and place that surrounded their forced displacement, or the relationships between this and other crimes. Last but not least, the Court does not mention the importance of clarifying the criminal logic and the political-economic structures on which paramilitarism was based to carry out the mass displacement of persons and the benefits it brought about, for the effects of preventing the re-occurrence of this crime. Said jurisprudence did not make substantial progress either as regards the articulation of the public policy with that concerning transitional - and reparative - justice. Therefore, these policies - of the system of attention and the reparation programs - continue to be isolated from each other, despite the multiple points they have in common and how nec-

essary it is for them to be articulated for the comprehensive, effective protection of the rights of the displaced population (Uprimny and Saffon, 2006: 10).

This being said, a preventive dose of suspicion on the recent concern regarding the articulation of Law 387 on internal displacement and Law 975 on demobilization and reparation (including their jurisprudential developments) is required, because it seems that both instruments lack in-depth political considerations (387 is predominated by ahistorical and politically neutral principles of contemporaneous humanitarianism and the technical-legal discourse of international humanitarian law prevails in 975), where articulation may lead to a measure of urgency as regards administrative efficiency, and not a true dimensioning of the political implications of the crime, damage and reparation processes associated with recognizing and overcoming the situation of being displaced. Perhaps an example that characterizes this concern very well is one discussed further on in the document when we present the discussion on the hasty way indemnification through administrative courts has been assumed as the only way out for victim recognition and reparation; so the Executive briefly and, almost anonymously decides who is a victim and who is not, and arbitrarily limits supportive retributive payments.

## **Conclusions of the analysis of the policies for attention to in the displaced population**

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Decision T-025 was the Constitutional Court's response following a series of petitions for the protection of fundamental rights filed by 1150 displaced families in the country, that give an account of the situation of the lack of protection originated during the change in government and the tendency to underestimate forced displacement as evidence of the armed conflict intended to be denied.

Given the Court's restrictions to settle the monitoring and verification processes, the Commission to Monitor

the Public Policy on Forced Displacement was created, consisting of several agencies and persons. In March 2008, the commission's first report was published; the commission conducted the verification survey (ENV) ordered by the Court on the population in the situation of forced displacement registered in the Displaced Population Registry<sup>63</sup>. The report, which maintains the perspective of rights, points out very upsetting situations, some of which we will discuss below.

- Although the survey is representative, it has been estimated that the universe is suffering from an exclusion in the registry base, which may exceed 50% of the population in forced displacement.

- The responsibility for the displacement is attributed 35.5% to paramilitary groups.

- There is a very low intention to return, merely reaching 3.1% mainly due to the lack of security.

- Displaced households are in a condition of great vulnerability due to their size, the high level of economic dependence, the larger proportion of women as compared to men, the high proportion of single parent homes, 78.8% of which are headed by females, high illiteracy rates, and the large number of handicapped, among others, all of which exceed the general tendencies of the national population.

102 - Emergency humanitarian aid has increased between 2004 and 2005 (64.6%), but decreased after 2006 (57.3%). However, the provision of this aid, which has different components<sup>64</sup>, favors food supplies, although their coverage only reaches four out of ten families.

- Family reunification, a frequent situation in forced displacement, because it involves one fourth of the fami-

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63- Conducted in the urban zones of 50 towns in Colombia, in a sample of 6616 homes, where at least one person included in the Registry resides.

64- The components are: Aid for rent or temporary refuge, seats at school, groceries or food stamps, clothing, emergency medical care and assessment, and potable water.

lies, is not applied for often (5.8%) due to the lack of information on the matter.

-As regards education, although coverage is almost the same as the general population, it exhibits serious difficulties in terms of dropping out after 15 years of age, and overage students in all the levels of schooling.

-As regards health, most of the displaced population is enrolled in the subsidized system (71.2%) and very few are part of the Contributive and Special System (7.5%) causing greater vulnerability, given that due to the precariousness of their situation, this population is also more prone to falling ill. It is important to point out here that there is a malnutrition rate of only 40.9%.

-As regards the right to housing, access to decent housing is very low (7.5%). As far as ownership, although there are some homeowners (45.3%), leasing is common, however both methods lack the formality required. In addition, the homes that have been assigned by subsidies activated in late 2007 do not meet the regulatory criteria to be assessed as decent housing.

-Although there is a significant level of labor access for the displaced population (45.2%), there is a pre-eminence of survivalist or subsistence activities consisting of precarious labor conditions, low remuneration, little or no contractual relationships and no social security benefits. In addition, just 2% of the homes have income over the poverty line.

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-Last but not least, the survey shows evidence that the overcoming of the vulnerabilities mentioned above do not improve over time in displacement, which indicates how far we are in the purpose of the socioeconomic reestablishment of displaced families.

In short, the gap for the public policy for displaced persons to be timely and efficient continues to be abysmal. The conclusions of this and many other studies before it greatly match the perceptions and valuations of

the population in forced displacement in different regions of the country<sup>65</sup>. In addition, the forced displacements continue to take place, showing the incompetence, in terms of prevention and continuity and the force of the armed conflict, that the government has tried to ignore, either by denying its existence or making it unmentionable<sup>66</sup>, or by means of declaring its end. However, it is important to point out the disparity of presence and institutional dynamic in the different regions, and the imbalance between capital cities and smaller towns. Therefore, it is also necessary to show the worthlessness of the response of territorial entities given to persons in forced displacement, which was made evident in the study conducted in the three regions (Choco, Bogota and Bolivar), contradicting the territorial approach pointed out in the National Plan for Comprehensive Attention to the Population Displaced by Violence<sup>67</sup>.

Decision T-025 has been a significant event, not only because of the legal and institutional impacts on state responsibilities, but also in the tuning and activation of the role and contribution of state control entities, certain international cooperation entities, such as NGOs and the organizations of displaced persons. So the ACNUR recognizes that the decision has impacted its efforts to the effect that it has led it to question its contribution, resulting in the expansion of its presence in locations with many more offices, as well as in the systematization of

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65- This was verified in the interventions of nearly 25 delegates from different departments of the country attending the 4th International Seminar, *Verifying the Observance of Rights*. CODHES, Commission to Monitor Public Policies on Displacement. Bogotá, March 13 through 15, 2008.

66- It even defined guidelines for the approach of international cooperation projects prohibiting the terms "armed conflict" and "armed actors" and indicated that the terms "community of peace" or "observatory of the humanitarian situation", among others, were ambiguous. Cf Document of guidelines for the approach of the international cooperation projects that was included with an undated circular issued by the office of the High Presidential Counselor for Social Action and the Director in charge of the Colombian Agency of International Cooperation. This missive was sent to accredited Ambassadors in Colombia, Representatives of International Organisms and Cooperation Agencies. May 2005. <http://www.dhcolombia.info>

67- Corresponding to Decree 250 / February 7, 2005



information and knowledge available, and the dissemination of information relating to this process<sup>68</sup>.

So it can be said that the decision made and the process generated based on it has been an important revitalizing factor for the NGOs that support the displaced population and their organizations, as the link to the construction and steering of public policies such as citizen participation, a very restricted field, becomes stronger. The appropriation of discourses relating to rights, the criticism of the state's response and the reaction of social recognition toward the Constitutional Court as the institution that has backed the claims made by displaced persons against a State they perceive to be deaf to their claims, shows a gap to generate progress between formal rights and their effective enjoyment. To this effect, Uprimny and Villegas (2003) point out that the Court's decisions may contribute to reactivating collective hope, "in other words, the Court is important for the political practices as, on one hand, it facilitates the emancipatory political consciousness of some excluded social groups and, on the other, it provides possible strategies of legal and political action to remedy the situation of those affected" (Uprimny and Villegas, 2003).

However, despite this favorable interpretation during the course of the last two years in monitoring the policy, it is important to stress again that the judicial means as the only way to access opportunities of political action may detract from major transformations that, in terms of the country's political and social structure, need to be undertaken in a real, sustainable process of recovery, reestablishment and reparation of the victims of forced displacement. This restriction comes from the fact that the discourse captured in the jurisprudence of the Constitutional Court only speaks and lets speak when the

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68- Balance made on February 5, 2008 by the representative of ACNUR in Colombia - Jean Noel Wtterland - in the Constitutional Court's public hearing on the policy for attention to the displaced population. In addition, during this hearing, the Presidential Agency for Social Action and International Cooperation, - Social Action -, and the National Planning Department - DNP, presented new indicators on the effective enjoyment of rights and a balance of the progress made.

debate is regarding what it calls the “minimum of constitutional rights”. Beyond that, neither the court nor the mechanisms promoted by it can incorporate the dimensions that would help restore citizen participation and autonomy of the displaced survivors.

It is very important to assume they are identical to litigation regarding political action, because this would put an end to emerging problems and needs, narratives and the other languages used to name, debate and construct what is public. Legal discourse is confined in its constitutional norms. Reducing political action to this discourse is legitimating it as a higher epistemological order in comparison with the narrative of the victims or the social discourse on which what is possible and what is desirable is constructed.

It is fundamental to understand that litigation, the process of law, is an exceptional path when you are trying to protect or prevent damage. If this winds up being the common, everyday solution, we will be contributing to the sustainment of this system that is obsessed and compulsive about the production of exceptional mechanisms that condemn all society, and victims in particular, to live in a permanent, inexhaustible state of emergency, the perfect justification to legitimate the permanent distance between legal discourse and political practice. In short, not only with laws will the victims be able to go beyond said condition.



## CHAPTER 3

### WITH GOD'S HELP

“Here we go with the help of God, but I think the restoration should look first the economic, although this is not truly reparation and secondly, the criminal actors should really pay for the damage they did, what they have done must be punished”

Photography: Rafael Guerra G.



# Reparation discourses: the political restitution of victims

Sandro Jimenez Ocampo<sup>69</sup>

Up to now, a juridical-political analysis has been suggested of the last few decades regarding the management of the armed conflict in Colombia stressing the place given to the victims of forced internal displacement. The journey presented has used the typical discursive structure upon which the systems of visibility and awareness of the problem has been constructed.

Complementary conceptual options will be incorporated in this final section, because we consider those that have a hegemonic character in this force field - international law, peace in the liberal sense of the word or transitional justice - are sufficient to try to give an account of the complexities to think of the processes for the reparation of the victims of forced internal displacement as a modification of an effectively transitional political order and as a horizon of possibility for political action, not of being displaced as an existential condition, but as the political subject who is the agent of his/her own story.

## The colombian conflict and the limits of the discourse of transitional justice

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Although transitional justice has been a field in development and expansion since the Second World War, it acquired its character as a hegemonic discourse for the construction of peaceful ways out of social and armed

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69- Doctoral Candidate in Social Sciences, Professor - Researcher of the Institute of Contemporaneous Social Studies, IESCO, Universidad Central Bogota.

confrontations of major intensity in the 90s, particularly in the so-called Underdeveloped World or in emerging democracies. Perhaps the icon of this hegemony is derived from the visibility and international status given to the South African experience, given the resonance of its Truth and Reconciliation Commission - CRV, installed in 1995.

On this matter, Castillejo-Cuellar (2007: 13) says that in the circuits of transitional justice, South Africa dwells on a particularly important condition as a point of reference, under the idea of a supposedly peaceful transition, which is a debated concept on the base level in South Africa with regard to the experience of the Truth and Reconciliation Committee - TRC; however, its social and reconciliation discourse always came up as a model. Since then, transitional justice has become more stable and has become the rule, rather than being assumed as the exception, and it has become a paradigm for the State of Law of democracies in construction amidst the conflict.

Discursively speaking, one of the subjects that appear as fundamental in discussions on transitional justice are victims, particularly when it comes to questions such as: How are these victims treated legally and politically? What losses and damages have they suffered? Are their losses susceptible to reparation? What type of reparation?

But in practice, the current models of transitional justice have been constructed on the casuistry of the experiences over the last few decades in countries that dove in and out of the so-called internal conflicts, in which the victims did not necessarily have a fundamental place, not even in the emblematic case of South Africa. To this effect, more can be said about what was prevented with them in terms of military confrontation, than what was achieved to transform the systems of political distribution and recognition of the damage caused to the victims. This leads to the belief that every experience of transition is a new opportunity to deconstruct and reconstruct this model, a scenario in which the Colombian case contributes recurrent contradictions, and

at the same time, new possibilities of analysis and political action. All this without losing sight of the fact that the introduction of these mechanisms in the Colombian case, have been marked by the contradiction of creating transition laws for a fraction of the actors in confrontation and with the conflict in full swing.

This particularity of the Colombian case, about using the mechanism of transitional justice without transition, which is an apparently contradictory manifestation, reveals that it is only thanks to the technological and standardized character that said discourse has achieved, that it can be applied with no major considerations as regards the historic contexts and the dynamics of negotiation or confrontation present in each society, which unequivocally ensures that transitional justice has become "the hegemonic transnational language" (Castillejo-Cuellar, 2007: 15) to talk about full scale political changes. Said transnational character has several implications:

- a. Subsidiarity is naturalized in the protection and reparation of victims and the trials against victimizers, that is to say, there is displacement in the central importance of the State's responsibility in favor of the intervention of international agents.
- b. The number and type of actors involved in political decisions on conflict management and political transitions is multiplied.
- c. Presenting reports on the type of model and transitional process assumed acquires more relevance, in the national order, and above all for the "international community".

For the Colombian case, this position has been translated in mechanisms of exclusively government-centered transitional justice, rather than those focused on the restitution of victims' rights. In other words, transition is only seen from a minimalist viewpoint under the aegis of the liberal consensus, which is characterized by the following regulatory principles according to Richmond

(2006:292, 298): democracy open to the market, systems under the State of Law logic, and the incentive of the mechanism of development. In a society like Colombia's, marked by a long standing internal conflict, this consensus discerns several critical problem points.

The first is based on the supposed existence and operation of the modern liberal state, in the sense of political modernity (Paris, 2006) in a homogeneous manner throughout the national territory. This position is clearly observed in the experience of the system to provide attention to the victims of displacement analyzed earlier, whose development programs have never considered the difference and the heterogeneity of the state's institutional capacity in each region.

The second is that the introduction of the Justice and Peace Law or the law of transition, as a tool to handle a fraction of the conflict, that of the paramilitary phenomenon, has led to assuming peace as a synonym of governance or governability (Richmon, 2006:299), ignoring the fact that the base of the conflict exists and there is a strategy of social control in force mediated by violence.

In the third place, it is clear that Colombia becoming a part of the world scenarios for the application of mechanisms of transitional justice, at the expense of the victims and unresolved political dilemmas, winds up causing the tendency to assume the concept of peace as ideal, of a regulatory, universalist character with false moral superiority.

Signs of this view in the case under consideration intensify the crisis of legitimacy, because this way of assuming transition confirms the disparity in applying resources to favor processes associated with the demobilization of armed actors, to the detriment of those destined for the social stabilization of victims (the ratio is US \$3500 per year per demobilized person from armed groups as compared to US \$350 per displaced family).



But perhaps one of the most contradictory effects is the increasingly common use of force for the implementation of consensus; the controversial effectiveness of the different actors (particularly international) in the performance of all the missions necessary to apply the programs to guarantee victims' rights; and the lack of knowledge of local capacities and the emancipatory sense of the construction of more civic, less militaristic transition processes.

To this effect, the agreements built on the transitional justice tools assumed in Colombia are partial and minimalist, because they arise as an agreement with just one of the parties in conflict and, therefore, they are assumed as a matter under debate between groups of interest - the Executive and the paramilitary forces in one line of negotiation, and the victims and human rights defenders in the other - leaving aside the need to integrate society in more comprehensive, sustainable processes working toward a true transition into the post-conflict.

Perhaps the most relevant aspect that has been overlooked in the processes to instrumentalize the mechanisms of transitional justice, is the fact that in the end, the victims of systematic human rights violations are the ones that wind up bearing the entire burden of the demands for peace, as a value greater than those of justice, truth and reparation. This is how Ernesto Verdeja (2006: 1) recognizes that very little attention is given to the victims' needs as the regulatory model of reparation required by each case is never discussed. (See discussions by Barkan, 2000; Biggar, 2001; Brooks, 1999; Cuneen, 2001; Zimmerman, 1994 on the matter)

As mentioned earlier, the notion of transitional justice refers to the processes seeking the construction of a new social and political order, reason for which they must deal with mass, systematic violations of human rights committed in the previous system and, therefore, they must seek out a balance between the national and international legal requirements that protect the rights of the

victims of said crimes, with the political need to achieve peace by awarding benefits that will be attractive for the victimizers themselves to decide to leave behind the previous system.

By proposing the above criticism, we are not assuming a simplistic position considering that the mechanisms of reparation and the priority of attention for victims are the only guarantees for the attainment of social peace. However, stressing the importance of reparative justice guarantees key aspects such as: a) the construction by victims of a sense of moral value and dignity; b) forcing society to rethink its forms of identification and acknowledgment; c) improving trust in institutions; d) decreasing the impact of perpetrator narratives by means of which they justify the atrocities committed; and e) promote the critical interpretation of the nation's history (Verdeja, 2006: 2).

But after this series of considerations on the methods and limits of this embryonic, contradictory discourse of the transition in Colombia, it is a good idea to try to undertake the analysis of the process in an affirmative sense. In order to do so, a path in two directions has been put forward: in the first place, present conceptual elements that will help expand on the inflexible outlines of the notions associated with this field; proposal of concepts that are not meant to redefine the regulatory criteria of the components of Transitional Justice, but rather take up other tools that will help propose the political dimension of these processes and, by doing so, balance the hegemony of the legal technique and the universal standard.

In the second place, these complementary concepts will be used to reread the positions assumed by key actors in the development of reparation policies in Colombia. Special attention will be given to the production of knowledge and the political guidelines developed by the National Reparation and Reconciliation Commission of Colombia - CNRR.

## Dealing with the damage and the victims in the transition policies: conceptual contributions.

Before presenting the specific manner in which the reparation discourse has been implemented in Colombia within the framework of transitional justice, I would like to set out certain notions that are complementary to the traditional ones of this field, such as those of compensation, preventing reoccurrence, justice and truth.

In the first place, we must recognize that the notion of reparation is associated with the four notions mentioned above, where the latter two are historically the most common in transitional processes, particularly because of the search of the supreme good of peace through reconciliation; or in Richmond's terms (2006) due to positions that sustain the concept of liberal peace as part of an epistemic community of a higher order. Because of this, the greatest developments directly articulated with victims' needs are those related with material compensation via indemnifications to specific, very limited groups of victims, and by symbolic means through public apologies and commemorations.

Verdeja (2006: 9. unofficial translation) assumes a position that invites us to reflect on how the State can wind up using this discourse to promote policies to provide little benefits for surviving victims, but satisfy governmental objectives (whether they involve national and international legitimation or commitments of a fiscal-economic nature). According to the author, it is important to point out the meager attention given to these strategies to instrumentalize the transitional discourse in favor of restrictive government agendas. This typical silence is a topic to undertake, although it will not be discussed in this text because it is beyond its purposes; but we do recommend the exploration of more searching, in depth views on the regard of topics such as the extremely scarce reports provided associated with the forms, prac-

tices and results of the transition strategies developed for each case.

The demands of “social accountability” (Peruzzotti, 2006) or the public rendering of accounts in the broad sense of the word, are originated in general in the victims themselves, who argue that reparations limited to the symbolic aspect fall short in the recognition and dimensioning of the damage caused by the mass violation of rights, in addition to the fact that to them no recognition of this type can heal the damage of the past. In addition, things are also said in relation to the material reparations by way of indemnification, as a form of bloody money, where the State is freed from future responsibilities and its obligations before the victims, silencing and taking away the legitimacy of any future claims they make. (Verdeja, 2006: 12. Unofficial translation).

In addition to the above, the other big problem as regards reparation processes as such, which have been assumed up to now, is that there is no consensus with respect to the criteria of justice for mass damages. The need to build a conception that recognizes this type of damage raises significant challenges, even more so when most national and international institutions and organisms have a marked preference for individual compensatory forms of justice (this individualizes the responsibility and the calculation of the damages caused). Evidence suggests that collective reparation has rarely been considered or fully satisfied (De Greiff, 2006: 12. Unofficial translation). Forced displacement is an emblematic case of this limitation to transitional discourse.

So to assume an alternative to the simplicity and ambiguity with which reparation policies have been assumed in the discourses of transition, we hereby propose the following three concepts for your consideration: Political recognition, economic redistribution and political re-partition.

The notion of *political recognition* is assumed with Fraser, in the first place, in the sense of the representa-

tion of an increasingly broader field of political constellations and as a new dimension of social justice. In this point of view, recognition is no longer simply the demands of a class, disputes not include other central points of subordination: gender, "race", ethnicity, sexuality, religion and nationality. To Fraser, this represents clear progress as it incorporates matters referring to representation, identity and difference in the agendas. The result is significant advances in the paradigms of the reductionist economism that made it difficult to conceptualize well established damages, not in the political economy, but in the institutionalization of deeply hierarchical, asymmetric values (Fraser, 2001: 2). For the case under study, this first attempt to expand the horizons of analysis of the standardized mechanisms of transition may help make visible a depoliticizing tendency of the phenomenon of forced internal displacement, according to which the reestablishment and reparation of victims can be shrunk away to their inclusion in welfare programs for the rural poor or urban marginality, to which point displaced persons are devoid of political and social value as victims of the conflict and typecast in the category of new urban poor<sup>70</sup>. Fraser's clarifications also explain why many of the victims of forced displacement seem to be so reluctant to consider the history of their victimization settled by way of indemnification or they refuse to stand still when the argument of fiscal balance comes up in order not to respond to their claims.

The second attempt at this idea of political recognition has been proposed in a more phenomenological, anthropological sense, with deep rooted implications in the processes of political subjectivation that the victims build in the process of damage and recovery. We are referring to the appeal made by Castillejo-Cuellar (2007) to incorporate victims as agents in the story, where the restitution of victims' voices is understood based on the episte-

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70- As an example, see the policies of Families in Action, Forest Ranger Families and the RESA program of the Social Action office of the Presidency. [www.presidencia.gov.co](http://www.presidencia.gov.co)

mological and political assessment of their testimony as regards experience and narrative in exercise in the process of restitution of human dignity; thus distancing the predominant practices in transitional justice that favor the factual, forensic discourse of data and facts of anonymous victims, where there are only pale translations of reality represented in a controlled vocabulary and meaningless historic responses lacking in sense and political value in recognizing the damages.

Another important dimension regarding how to interpret political recognition is compensation, understood by Barkan as the notion that helps expand the scopes of transitional justice, because it takes as a starting point the fact that damage can only be confronted and overcome when the victimization infringed upon a group is assumed as the structural dislocation of society, rather than the reduction of individual damages and fragmentary reparations. Thus, a theory of compensation in the case of historic injustice and damage must incorporate not only the concerns about democratization, but also about a new morality that will assume the change in the contemporaneous moral philosophy of the classic notions of liberalism based on supposedly free individuals, to include the sociological teachings on the place of the community and the specific role of identity. (Barkan, 2006: 4,5)

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Barkan's proposal has two important implications; in the first place, it does not avoid the tensions between individual and group aspects, in fact, it has set out to overcome this dichotomy; in the second place, it reveals the contradiction upon which the discourse of transitional justice and the system to respond to serious human rights violations has been built, because both are constructed and developed based on individual rights, while in practice, these violations only take place in crimes against groups and collectives.

The other notion proposed herein is the complementary discussion on *economic distribution*. Fraser (2001)

warns us that a certain displacement of the struggles for redistribution in favor of the debates over recognition may be tricky. Tricky in the sense that this supposed conflict underlies a reification strategy of political cultures of identity that may tend to a certain repressive communitarianism. To this effect, she has set out not to develop agendas of struggle for the recognition of identity, but rather maintain the cross debate between distribution and recognition in search of promoting new dynamics of social justice throughout society.

When Fraser discusses displacement in the political agendas of the debate of restitution to encourage institutional responses in favor of recognition, he is advising us of the tendency to instrumentalize the discourse of recognition, subordinate it to the search for international legitimation on the supposed widespread commitment for the defense and protection of all victims, particularly the most vulnerable. This discursive strategy has profound effects on political actions in favor of reestablishing victims' full rights, as it reduces the discussion to the distribution of welfare services based on the criteria of the basic minimum as the only possibility, thus avoiding any major adjustments in the system of accumulation and distribution of wealth.

So for Fraser, the combination of recognition and redistribution mechanisms would enable the revaluation of marginalized identities along with the cultural products of the groups affected this way by institutionalized hierarchies of excluding cultural values, to be modified and transformed in the direction of a new symbolic order, at the same time as it will allow the deconstruction of the underlying status of differentiation and therefore, transform the social identity of all, not just the affected group (Fraser, 2001:5). In other words, reparation is not only important for the victims, but for the entire society, because at the base of recognition and redistribution, there is a deeply damaged social fabric that must be reconstructed with the participation and efforts of all.

To complement this point of view, we will go into the third concept proposed herein, *political re-partition*, which implies considering the symbolic dimension of redistribution. In order to do so, we have assumed the notion of politics of Rancière (1996), which invites us to think of the re-partition of politics. In his terms, politics must be self-defined as a specific way of acting, put into action by a specific subject that depends on a specific rationality. It is the political relationship that leads to considering the political subject and not the opposite (Rancière, 2006: 59). In the same sense, the political comes into play when you break away from the configuration of the sensible, where the parties are defined<sup>71</sup> or a party that has nothing to do with the matter appears. This division is expressed by a series of actions that represent once more the space where the parties and the absence of parties were defined. Therefore, political action will be understood as the action displacing the body from the place that was assigned or changing the destination of a place; it makes visible what had no reason to be seen, it makes heard a discourse where it could not be heard (Rancière, 1996: 45).

In the case of forced displacement, the reduction of politics to the governing and governed relationship has restricted the mediations upon which the sensible is defined. In other words, the only visible participation that can be discussed is the administrative-legal aspect, which is previously defined by a system of victim registrations and an emergency administration system that reduces politics to the mere administration of communities.

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71- Partition is understood as having a double meaning: community and separation; it is the relationship between the two that defines a partition of the sensitive aspect. This is fundamental in the understanding of what is political, because politics is, in the first place, the conflict regarding the existence of a common scenario, the existence and the quality of those involved in it. In addition, the speakers do not preexist the conflict they are discussing, of which demand to be counted as parties. (Rancière, 1996: 42). So the essence of the policy is to disturb the arrangement of the distributions of the sensible, supplementing it from one part of those that are not a part, identified as the community itself as a whole (Rancière, 1996: 71).



On another note, looking at the matter from the side of other Politics (Cf Rancière), the displaced population has deployed a significant number of demonstrations - seizures of public and religious entities, litigations by way of petitions for the protection of their fundamental rights, sectorial round tables, among others - which has broadened the system of visibilities and partitions that defined the order of public priorities associated with the problem. Thanks to this action, the Constitutional Court changed the constitutional tradition by means of a political decision as regards majority power - government and congress - declaring the General State of Unconstitutionality. This enabled the inclusion of the organizations of the displaced as speakers and forced the government to create new partitions and re-partitions of politics, where the victims went from being government subjects, to unofficial constructors of the visible and the speakable. An example of this is the public hearings summoned by the Court where the highest ranking government officials were required to sit in front of the organizations of the displaced persons and their representatives.

Unfortunately, the accumulated public experience on the creation of Law 387 / 1997 does not seem to have permeated recent discussions on reparation policies, because silencing of the victims of the forced displacement takes us back to where the policies of the attention system started. To this effect, we would like to question ourselves as regards the notions and programs associated with the reparation of these victims of the armed conflict in Colombia.

With these conceptual tools, we will go on to observe the model of transition assumed in Colombia with Law 975 / 2005 or the Justice and Peace Law and how the National Commission of Reconciliation and Reparation has developed this model. In both cases, we are interested in demonstrating the scope of reparation measures and the challenges and limitations to satisfy the right to reparation in the internally displaced population.

## Model of reparation in Colombia: the CNRR and its commitments

The Colombian CNRR is perhaps the most important institution created in the framework of Law 975 / 2005 or the Justice and Peace Law, because it is the only organization whose central purpose is to coordinate the reparation process within the framework of transitionality derived from this law. Although according to the Commission's plan, it also expects to make contributions to the construction of historic truth, the monitoring of the application of the law and contribute to the process of reconciliation and social reinsertion of former combatants.

When we say that the CNRR's main concern is the topic of reparations, it is not only due to the analytical and political position of this document, but rather because we find it very difficult to be able to make significant progress in the fields of historic truth and reconciliation in a country in an armed conflict in full swing, not only with the two most important guerrilla factions, the Farc and the ELN, but rather because of the sustainment of the paramilitary actions euphemistically called "emerging bands", which according to figures provided by Indepaz<sup>72</sup> already consist of 9000 men in 84 groups located in 26 towns; while official figures referred to in the eighth report by the OAS<sup>73</sup> mention 22 new structures consisting of 3000 members (CNRR-c, 21-22: 2007).

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So, without ignoring the pedagogical and perhaps political value (the lack of historic distance does not yet allow us to ensure the latter with certainty) to keep the issue of historic truth and reconciliation on the agenda of the contradictory transition discourse in Colombia; in the subsequent analysis, we will focus on the Commission's

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72- [www.idepaz.org.co](http://www.idepaz.org.co)

73- Mission to Support the Peace Process in Colombia, MAPP/OEA, report of February 2007.

priority role in the reparation processes. Particular emphasis will be made on the treatment given to the population in the situation of forced displacement.

The reference documents for this analysis have been defined by the CNRR itself as documents of strategic definitions, the waybill and the two-year management report presented by the CNRR to the Colombian Congress.<sup>74</sup> The course of the analysis will follow the sequence of the categories presented earlier. As mentioned earlier, the purpose of this document is to contribute new conceptual tools to expand that standard package of transitional justice, which by the way was assumed as a whole and with no modifications by the Commission<sup>75</sup>, and understand the actual possibilities of transformation of the state of affairs that the reparation programs are trying to work out.

## Considerations as regards recognition

### The recognition of moral damage as per the social value of the victims of FID

The objectives that have been declared as a top priority for the CNRR in Colombia include accompanying, helping and strengthening the victims and their organizations; at the same time as considering the opinion of the victims and the organizations that represent them, in order to design the Commission's actions by means of deliberative processes (CNRR, 2006: 2). This aspiration of deliberative construction is only made among equals in the use of their voice, a condition which is far from rep-

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74- See full text in the Documents of Interest section of the website [www.cnrr.org.co](http://www.cnrr.org.co)

75- On the matter, see the CNRR's extensive document on Reparation Criteria, which can be found in the Documents of Interest section of the website [www.cnrr.org.co](http://www.cnrr.org.co)

resenting the reality of the state of affairs for the displaced population. Let's remember with Uprimny (2006: 4) that the outlook is particularly discouraging for victims of the crime of forced displacement given that, due to the particularities of the situation, their rights to the truth, justice, reparation and the prevention of reoccurrence are restricted perhaps more than in the case of any other type of victim, and this specificity was not recognized by the law.

In fact, the Justice and Peace Law and, subsequently the CNRR, assume a victim perspective that clearly restricts the possibilities of reparation for the specific damage of forced internal displacement. In its document on strategic definitions (page 3), the CNRR says that consequently, Article 5 of the Justice and Peace Law defines a victim as "the person who has individually or collectively suffered direct damages such as transitory or permanent injuries that cause some type of physical, mental and/or sensorial (visual and/or auditory) disability, emotional suffering, financial loss or detriment to his/her fundamental rights. The damages shall be the result of actions that have transgressed the criminal legislation, carried out by organized armed groups outside the law".

This definition in the first place gives central importance to the damage or physical injury and its produces; and recognizes only illegal groups of armed insurgents as victimizers. In this context, the State's responsibility in preventing forced displacement or cohonestation with it is exceptionally vague, and it reduces, simplifies and makes the losses due to the uprooting and displacement invisible. In addition, there is tension here derived from what has not been said, that is to say, you have to be careful about the use of these discursive strategies where, by means of apparently secondary affirmations, an economy of visibilities of the conflict and the damage associated with it are hidden; affirmations like this imply the neutrality of the government mechanism in the course of the conflict and the generation of damages.

The fact that the Commission<sup>76</sup> is limited to this definition helps look carefully at the failure to recognize forced displacement as a crime of a mass, systematic nature, which has been possible thanks to complex, intricate political and economic logics, and it has a particular relationship with lands that no other crimes perpetrated by the paramilitary have (Uprimny, 2006: 4).

Subsequent allusions of government representatives and even the Commission itself on the displaced persons' rights to access the mechanisms provided by law, is nothing but rhetoric, because it fails to recognize that, although permanent reference is made to an image of the complexity of the forced displacement phenomenon, there is an aspect that is almost always overlooked, and it is the fact that the damage done to the persons affected by forced displacement lacks the recognition of the State's responsibility in protecting as it appears as a practice of violence on subjects and territories that do not count, politically speaking, and they are only important as a strategic war factor.

That is why the CNRR, by affirming that "two years after the process started, the issue of victims and their right to comprehensive reparation forms a part of the Colombian political agenda and has deeply impregnated public opinion" (CNRR-a)<sup>77</sup>, 2007: 7), is overrating the visibility of a type of victims and certain social claims, leaving aside the deep institutional disinterest in what is going on with the four million displaced persons.

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This disinterest is evident in its absence in the legislation, but also in the commitment of public opinion that has been so uniquely highlighted. A perfect example of this is the fact that the most important actions of the civil society remembered by Colombian history were those carried out on the occasion of the murder of the 11 congressmen from Valle by their kidnappers (July 5, 2007)

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76- Hereinafter, CNRR and Commission are to be read without distinction

77- Read CNRR as the National Reparation and Reconciliation Commission.

and the march against kidnapping in general and the Farc in particular (February 4 and July 20, 2008). Not even the marches after that in favor of the victims of State Crimes (March 6, 2008), the displaced persons were a reason for national assembly.

This is why we do not agree with the CNRR's statement in said document regarding the fact that in Colombian society today, the victims occupy a place of central importance and there has been social and political recognition of the serious human rights violations to which they have been subjected. This is definitely not true for the case of the victims of forced displacement, particularly when the Commission itself has said that "to be recognized as a victim does not necessarily mean being included as a beneficiary". In other words, the victim-beneficiary ratio will be the result of a formula between the social value of the victim and the legitimating interest of state institutionality, which according to the evidence collected over the ten years of legal existence of the displaced persons, the result does not seem to favor this population.

This is confirmed by the fact that, when the CNRR defines victim populations that represent higher degrees of vulnerability, it presents the following list:

*"The CNRR considers it necessary to establish an order of priority bearing in mind, in the first place, the provisions established in the Political Constitution, which stresses the need to provide special protection to women heads of household (Art. 43), boys and girls (Art. 44), the elderly (Art. 46), physically, sensorily and mentally handicapped (Art. 47) and indigenous and Afro-Colombian communities as regards their territory (Art. 63 and Law 70 / 1993). In the second place, the social reality demands giving priority to another type of victims, even though they are not particularly protected in the Constitution. This is the case of victims living in extreme poverty". (CNRR-DE: 4)*

Like many other passages of the documents studied, it does not mention or refer to forced displacement; it was only in later derivations and clarifications in media announcements that the argument of the likelihood of a displaced person being recognized as a victim was presented, as the subject of experience of previous damage and not as a victim of the crime of displacement.

The concern over the little social and institutional value assigned to this particular type of victims makes sense to the effect that, if the corresponding moral and political effort is not achieved as regards the mass, structuring damage associated with forced displacement, it will not likely be argued that the victims are the center of this pseudo process of transition.

A perfect example of the scarce social value of the victims has been recognized by the CNRR itself, when it states that two years after the Justice and Peace Law took effect, "there is a delay in the beginning of the reparations to benefit the victims individually and collectively... thus increasing the existing asymmetry between the benefits received by demobilized combatants and victims" (CNNR (a), 2007: 10).

However, it does not seem that the legitimacy crisis of the process by the actors involved in it is being recognized. In fact, it seems that the goal is not to question the supposed legitimacy that has been achieved based on the approval by the Constitutional Court and the endorsement of the international community, in order to guarantee the institutional reproduction of the mechanism associated with transitional justice. In short, recognizing the overall absence of examples of victim reparation vs. benefits already paid out in favor of the victimizers shows that the victims are not the center of concern at all.

These tendencies in the policies referring to the ratio of "victims of displacement and subjects susceptible to the right of reparation" have been a growing concern by

the Constitutional Court and they have also been expressed in the different reports by the Commission to Monitor the Public Policy on Forced Displacement<sup>78</sup>. Since the Government has the obligation to respond (in the form of comments) to the Verification Committee's reports and design actions to fulfill the Monitoring Orders for Decision T-025, the tensions of the official discourse surrounding the issues of victims of displacement and reparation have become more and more explicit.

In the framework of the above, it is important to point out that the rights to reparation of displaced women and ethnic groups are even further from being officially recognized, because they lack central importance, analysis, concrete measures, budget effects; and their data do not show up in the information systems. However, it is in the same dynamic that we mentioned earlier, between the Constitutional Court and the Executive, that displaced women exist again as the victims of multiple violations who require, according to Writ 092, a set of 13 programs ordered by the Executive, that cover from sexual violence and access to lands all the way up to comprehensive reparation. The question is whether these initiatives by the Judiciary Branch will be able to transform a public policy and a political will that has traditionally been reluctant to the long-lasting incorporation of a gender approach in its implementation. The importance of using a gender approach and explicitly including the rights of women in the transitional justice policies has been highlighted by several authors (See Rubio, Lira, Jelin).

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## Recognizing the story and social history in victims' narratives

According to the Commission and government agents, one of the reasons given for the reparation process moving

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78- See Commission to Monitor the Public Policy on Forced Displacement, 2008, *Final Report*, Bogota, February; and the six following thematic reports.



forward so slowly is the pace of the judicialization processes of members of the paramilitary groups. The CNRR says that "the momentum of the judicial process corresponds to the investigation stage carried out by the Colombian Attorney General's Office. This first phase, in the first place, enables victim participation through the channels of formal complaints; in the second place, the Attorney General's Office's receives the voluntary statements of the demobilized combatants, and last but not least, the processes and reports against them are collected in the different regional prosecutor's offices" (CNRR (a), 2007: 76)

It is unusual how, in the order of the the process, narrative, memory and historic truth are conditioned and reduced to a logic dominated by judicial truth, which is why we believe that the explanation of the need for additional resources - human and technical - to speed up the process, simplifies the fact that neither Law 975 / 2005 nor the CNRR seem to consider the topic of reconstructing historic, not forensic truth; wich means that the Attorney General's actions, no matter how efficient they are, are not guaranteeing this purpose.

However, with this position, we do not give in to the idea of a specialized, professional construction of historic truth, but rather that efforts are being made to show that the victims do not appear as agents of the story (Castillejo-Cuellar, 2007: 16), constructors of narratives and stories that provide public coherence for the experience, but as mere sources of data, information that is otherwise beyond the judicial processing capacity of the system created to guarantee certain reparation by means of the search for the truth. The CNRR itself says that the distance between the quantity and quality of the reports and the number of accused parties taken to trial has become more and more extensive.

Like the experience of the emblematic South African Commission, noted worldwide, the CNRR and the Attorney General's Office, with the intention of providing actual

truth to the mass of society (Castillejo-Cuellar, 2007: 16) it has resulted in the so-called “voluntary statements of paramilitaries” becoming the main spectacle to carry out said purpose; which has resulted in the voice and the accounts of damage, pain and frustration in the victims, giving way before the demands of this concept of legalist, forensic truth used to create this law, upon which the CNRR has placed its hopes for reparation.

In addition, the victims do not have the capacity to prove their condition either, which leaves us with the paradox of this legal mechanism that presumes the victimizer is innocent, which is why the State must prove he is guilty in record time (six months according to Law 975 / 2005); while the victims’ condition is presumed to be fraudulent. So the CNRR recognizes that “at present, the biggest problems faced by victims are those of filling out the application and filling the minimum requirements to accredit their status” (CNRR (a), 2007: 89).

Perhaps the most potent strategy of displacement of the victim’s voice and truth is the gradual exercise of ventriloquism that has been built around the victims of forced internal displacement. There are two events that are distinctive of this tendency: emphasis on institutional reproduction to fill all the spaces of victim mediation between the damage, their stories and reparation; in the second place, following the emphasis on forensic type truth, the technologization of the process that is translated in the demand for new expert mediation resources to be able to translate the memory and the experience into data and proof.

As regards the first case, the CNRR mentions the implementation of the “Inter-institutional Justice and Peace Committee, the Victim Reparation Fund, the National Registry of Victim Associations, the Inter-institutional System of Information on Victims, Beneficiaries and Assets, and the regional CNRR offices, among many other examples” (CNRR(a),

2007: 10), although not one reparation process has taken place in over two years. In fact, in said report, it seems that the most significant advance has been the reproduction of the bureaucratic institutional apparatus. This is characteristic of the history of execution of policies to protect victims in Colombia, with the medium and long-term problem that said apparatus is self-legitimated regardless of the results or purposes for which it was built (in this case, remember the experience analyzed in this text on the ten years that the National System for Comprehensive Attention to the Displaced Population has been operating).

As regards the second, the CNRR says that “despite the assistance of important human rights defense organizations, there is still much to be done to strengthen the presence of attorney organizations to join the cause to defend the victims’ rights. From this perspective and, given the magnitude of the processes, the victims of justice and peace are vulnerable and require the proper technical defense of their rights, facing processes they have never experienced before and, in general, residing in far away departments and zones, with no opportunity to meet with a defense lawyer” (CNRR(a), 2007: 84).

As pointed out by Castillejo-Cuellar (2007: 16) with respect to the experience of the South African Commission, this strategy represents a type of approach on the production of knowledge about the past, where victims’ testimonies are no longer useful to visualize the violence in reference and forced displacement in Colombia; to be replaced and silenced by the processes of factual recovery, measured and translated by the expert - attorney - a condition that shows how at the end, the victims’ testimony on the experience of the damage and potential for reparation, lacks the epistemological weight in the approach defended by the CNRR and the institutional apparatus associated with the Justice and Peace Law.

## Considerations on redistribution

### The Relationship between the In-group and the reparation of collective rights

In order to explain the complexities of repairing the victims of violence in Colombia, the CNRR takes as a starting point a thesis according to which “the sociology of the victims is enormously similar to those of Peru and Guatemala (except for their ethnic composition) and is very different from the victims from the Southern Cone. While in the latter case, the victims were mostly urban middle class, in Colombia, Peru and Guatemala, they are ordinarily from poor rural zones. Dealing with this universe of victims is infinitely more complex, as shown by international experience” (CNRR (b), 2007: 10).

Based on this thesis, the Commission assumes that “socio-cultural and socio-economic features” are factors that affect the effective participation of the victims in these processes. Although this affirmation is not absolutely clear, it does highlight this sort of naturalization of the marginalization and exclusion. Narratives of this kind make the universe of victims a mass with ambiguous identity, crossed by that common place that associates rural with poverty. This type of categories with a limited explanatory capacity, are the legitimating discourse for the programs to reestablish victims of forced displacement to be put on the same level of the strategies for the struggle against urban poverty or food safety programs in small rural-urban county seats.

To this effect, the predominant logic is not redistributive, but rather contributive or public-spirited. The distance from one to the other is that the first implies a comprehensive commitment of the State and society in the process of recognizing the damage and reparation, given that the effort will have to be shared by both. The

contributive criteria assumes that some actors, or a fraction of society, contributes out of solidarity or threatened by the State, to the differential, exceptional effort to solve a problem. This structure, which is characteristic of several social solidarity policies, is even scarcer in this situation because it seems that the contributive effort is being made by the victimizers, by way of reparation funds, while society and the State are freed from any responsibility or effort.

Hence one of the major concerns of the CNRR as regards the population in a situation of forced displacement is "How do you prioritize the expense on social programs without debiting the cost to other vulnerable sectors?" (CNRR (a), 2007: 134). This point does not question the redistributive sense of reparation. In fact, reparation is mistaken or subsumed within the programs of reestablishment. This is observable when the Commission, in referring to an expected "final order" by the Constitutional Court regarding the monitoring of decision T-025, affirms that the "CNRR shall verify the fulfillment of this decision, given that at least the "reestablishment" of the rights of the displaced population" depends on it" (CNRR (b), 2007: 131).

This contributive tendency, understood from the social solidarity standpoint, socio-economic reestablishment under the idea of basic minimums as the best offering, reparation resources conditioned to the victimizers' will to cooperate; lead to the absent debate over redistribution, along with the fact that the paramilitaries are not obliged to confess to the assets they have taken and the fact that their obligation to repair was limited to their illicit assets, was unlikely to enable the reparation of the victims of forced displacement. With Uprimny (2006: 5), we believe that if redistribution policies are not included for the victims of forced displacement, preventing the reoccurrence of this crime will be extremely difficult to guarantee, because the political and economic policies that have made it possible may remain intact along with the land reform situation caused thereby.

It is yet to be seen whether the announcement made by the central government and the Commission on formulating the institutional program in the short term for collective reparation and subjecting it to public debate, will actually entail redistribution criteria in favor of reparation processes that invert or modify the tendencies regarding possession and the use of lands derived from the war strategy mediated by forced displacement at first, and now, for a strategy to proletarianize the former owners who are now displaced (See Decree 1290 / 2008 on individual reparation through administrative courts).

The CNRR says that “the program will be aimed at repairing the damages suffered by collective subjects, such as peasant, indigenous and Afro-Colombian communities, and social organizations, as a result of the armed conflict. The collective reparation program will not replace individual reparation, nor will it prevent individual victims from claiming reparation by judicial means or through the National Reparation Program that the Commission will propose to the country in the medium term” (CNRR(b), 11). This proposal will have to deal with the results of the Commission’s polls regarding the state of development of the whole institutional apparatus of transition and reparation derived from the law, according to which a specific response has not yet been given on the type of collective reparation strategies for the affected communities that are already involved as possible beneficiaries 2007: 23).

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## **Reparation as per the dimension of social and state institutional effort**

To keep from getting trapped in the Commission’s notion according to which “the recognition of all the victims of the contemporaneous armed conflict constitutes an act of reparation in itself” (CNRR-b, 2) it is important

to point out that the mere inclusion of victims in the possible universe is no guarantee at all. That is why we consider it fundamental to evaluate the discourses of the level of social and institutional effort expected for the reparation processes.

Although the Commission assumes a broad criterion of the sense of reparation, as it affirms that “integrality means that reparation cannot and should not be viewed as isolated from the rest of the components of transitional justice and, therefore, it is not admissible to consider it something that can be exchanged for justice or truth. Similarly, the concept of comprehensive reparation means that the reparations cannot and should not be reduced to the material dimension, but rather they must include symbolic measures, for the individual victims, as well as for the social groups that have suffered human rights violations” (CNRR-b, 5).

However, this criterion is goes back on its far-reaching aspect because the comprehensiveness will be applied to the category of “victim-beneficiary”, not the victim universe. This position is later blurred even more so when the CNRR says that “The National Reparation Program is also justified by reasons of economic rationality, because although said programs have extensive coverage, the combination of symbolic and material, individual and collective measures establishes significantly lower amounts of compensation in comparison with those established by international courts for individual cases” (CNRR-b, 8).

Let us now take a look at how this criterion of economic rationality is developed as a category of a higher epistemic order as compared to others such as political coherence and social responsibility toward the victims. In order to do so, we have taken into consideration the two dimensions proposed by the Commission in its notion of Comprehensive Reparation: external comprehensiveness and internal comprehensiveness; in short, the first refers to the creation of institutional and political condi-

tions, so that the second - which alludes directly to the recognition and compensation of damages - is guaranteed and sustainable. For the sake of discussion, we have proposed the debate based on the external and internal coherence of said mechanisms, notions and policies.

In contrast to external coherence, the first thing that is patently obvious is the fact that the first significant priority institutional effort on behalf of the entities associated with the apparatus of transitional justice would be that of collecting, preparing and having all the information required to launch the reparation processes properly. The result is quite the opposite, because the Commission insists that "the absence of consolidated information in the entities and the lack of institutional systematization of the implementation and monitoring of the reparations process, in some cases prevented obtainment and comprehensive systematization for the set of indicators that were proposed to monitor the reparation processes" (CNRR-a, 2007: 18). This would seem like an acceptable or expectable situation given that said programs are in force for only two years. The problem is really serious because what it shows is that history repeats itself and the implementation dynamic of the system for the attention to the displaced population, SNAIP, which is already over ten years old, and the situation is still the same, thus justifying the parallel discussion between the implementation of one policy and the other.

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Another factor of external incoherence is the consideration on the possible origin of resources for the reparation processes. The Reparation Commission considers just two types of sources: that of the resources handed over by the paramilitaries in the judicialization process, and the second is from a general program of indemnification through the administrative courts, that is to say, based on the political decision by the Executive. one of the scenarios seems to be a sufficient guarantee to ensure the resources required for reparation. There is a predominance of justifications on the lack of cooperation from the victimizers and the pressing need for the gov-



ernment to “defend the nation’s fiscal integrity”. A fiscal balance where the defense budget is over 13 billion pesos, effectively executed, while the funds to deal with forced displacement and human rights is barely 2.5 billion, and the level of execution is deeply questioned by Colombia’s Constitutional Court (Data from the Long-Term Investment Plan and Alvaro Uribe’s Development Plan).

Last but not least, the increased lack of external coherence with the reparation of the displaced population is the fact that the restitution of proprietary rights, that is to say, going back to the possession and usufruct of the land as family or collective property, is one of the points with the weakest, most contradictory development. On one hand, the State has done nothing to solve the precariousness of the land registry system and the multiple legal operations of simulation, serving as a front for a criminal enterprise and money laundering carried out by the paramilitaries and their collaborators, and there is not even ballpark information available on the legal situation of Colombian lands (Uprimny, 2006: 5); and on the other hand, there are the multiple difficulties and restrictions imposed on the victims of forced displacement. Among other aspects, the Commission mentions: restrictive judicial interpretation (particularly in reference to the transactions at the Registry and Notary offices), which do not consider holders, tenants and occupants of lands as subjects with rights; informational difficulties; and informality in demise processes.

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In this regard, it is important to point out the interesting proposal to create a civil, not criminal system of “transitional justice as regards property rights”. This system would be in charge of recognizing that the ownership of the land was deeply affected by the conflict and, in order to change the situation, the requirements to access land restitution would have to respond to the evidence reality as regards land ownership by the displaced and peasant population affected by violence (CNRR-a, 2007: 112). An additional challenge in the framework of

this proposal is to design an affirmative action strategy for displaced women who have lost their lands and are currently at a double or triple disadvantage: due to the informality of land ownership, the informality of marital relationships, the social unawareness of women's rights to property and the increased risks of re-victimization in terms of general violence when they attempt to recover their property (Meertens 2006b).

## **Considerations on political re-partition**

### **Modification of the systems of visibility of displaced persons**

After over two decades where forced displacement has been used as a war strategy and ten years after it was legally recognized as a sphere of differential political action, this type of victims continues to occupy a subordinated place in the scheme of social and institutional visibilities. Even the Constitutional Court, with its leading presence in the control over the protection and attention to the population in the situation of forced displacement, was not explicit enough to locate the true dimensions of this phenomenon and its implications in the reparation process. In fact, Uprumny (2006, 6) has brought to light the fact that throughout Decision C-370 (the Decision that endorsed Law 975 / 2005), the Court made no reference to the character or the particular needs of the displaced persons as victims of the armed conflict, which implies that the legislature and the executive consider them as other victims of the Colombian armed conflict, with no specificity worthy of special treatment. The Court only refers to the specificity of the crime of displacement on one occasion, to illustrate the situation of destitution in which victims of the armed actors may be left as a result of the violence carried out against them.

To this effect, it is very difficult to think of a transition process that does not modify at the very least this order of visibility, where the population being left out is 10% of the nation's total, which has been affected by this strategy of systematic violation of rights and mass production of damage and loss. Naturalizing and keeping tangible this state of affairs, where none of the legal instruments in Colombian public policy on transitional justice refer to forced displacement as a special form of crime, nor do they refer to the victims as vulnerable persons with special needs in the transitional context, makes public politics an exercise of sectorial public administration that makes invisible the specificity of the forced displacement problem (Uprimny, 2006: 7).

This invisibility is not solved by producing references to possible interpretations of the regulatory structure in force or the proposal of mass, homogenizing reparation mechanisms, where discretionary power is assumed unilaterally and exclusively by the Executive. Hence we consider that the proposal of a reparation package by administrative action, such as that proposed by the CNRR, will only help deepen this invisibility and instrumentalize the government's legitimating eagerness through this mechanism that winds up "graduating from the system" the largest number of victims possible.

In addition, the proposal of a reparation package by administrative action does not go along with a reporting strategy to make sure the mechanism can actually guarantee the integrality, sufficiency and differentiability required by the victims of forced internal displacement. Reparation cannot repeat the simplistic, reductionist history of the SNAIPD, guided only by the administrative haste to unload the system, with the excuse of the structural problems of the country's state of development, which are nothing more than attempts to invalidate the political impact implied by thinking of a country that is actually committed to recover more than four million victims.

## Modification of agendas, scenarios and political actors

The final consideration regarding these criteria to complement the views on the strategy and reparation discourse deployed in Colombia based on Law 975 / 2005 and the implementation of the CNRR, is focused on what this document has put forward as the fundamental indicator of materiality and not the mere discursiveness of transition, seen from the reparation process standpoint.

If the systems for the recognition and redistribution as regards the victims of forced internal displacement are modified, the material consequence would be the emergence of new agendas, scenarios and political actors. Each of these concepts involves the generation of processes in which the displaced persons are given a role in decision making; the orders for deliberation are opened to public construction, not just the government centered approach; and political action would appear to be of central importance in the social reconstruction of the transition, unlike the technologization that has been predominant in this process.

Without these conditions, we cannot talk about reparation of the collective social damage and preventing its reoccurrence. Solving the problem does not only mean eliminating the mechanism of displacement with violence, but also preventing a violation of kind from leading to an accumulation of systematic damages either due to negligence, invisibilization, instrumentalization of the recognition of citizen rights; or the reduction to the character of subjects without a voice, subjected to the technical-juridical fields of community administration. It is essential to overcome the criteria of welfare and charity minimums, because they hide the perverse defense of fiscal and institutional stability and order, which in the first place is the source of much of the damage accumulated after the start of the internal exile of four million displaced persons in Colombia.

We cannot go on playing the game of recognition by judicial means that change permanently, with no lessons learned on what has been reformed unsuccessfully and requires adjustment. Institutional reform is not adding new information systems to track the victims either, because they only become a mere counting of the anomaly that is beyond order and institutional capacity. In this regard, we consider the CNRR has made a statement that seems to point toward this hope for a re-partition and modification of the system of political action as regards the victims of forced displacement:

*“Different forms of participation must be tried out, along with different deliberative mechanisms in function of determining variables that can be identified by consulting the affected parties, in order to then extend the radius of social consultation successively and make the process more and more inclusive, until it covers all the social sectors. This intention poses several democratic challenges for the Colombian State, which have not yet been generalized in the country as a political practice. Participation mechanisms, for instance, have rarely been put to the test in administrative processes, despite the proposition of participative democracy contained in the 1991 Constitution. Establishing democratic or administrative consultation mechanisms (voting, plebiscites, public hearings, polls, virtual debates, etc.) on the national, regional and territorial levels that will enable the effective representation of the different interests revolving around the programs of administrative reparations, is a general principle of action that should guide public and private proposals that go along with this process” (CNRR-IC, 2007: 110)*

This declaration cannot be merely a guiding principle, but rather the regulatory and political horizon that will define whether transition and reparation can be classified, materially, as such. As a result, we wonder: What normative challenges lie ahead to approach the need to restore the full exercise of human rights following periods

of mass violation and the legitimate aspiration of the construction of truly sustainable peace processes:

In the first place, there is the need to recognize that, unlike the social, economic, educational and other policies promoted by the government, requested by the population, the problems surrounding human rights, and even more, their violation, have not been tackled in a comprehensive, interdisciplinary and long term manner up to now. Despite the ratification of international treaties and conventions by the national States; these actions, which are often isolated, do not affect the state, much less the national community, in a global way (Molina 144: sf).

The second aspect in an agenda that links the two discourses in question is the need to overcome the transition strategies built only on principles of governability understood as the containment of conflicts. This perspective leads to the privatization of damages in human rights, as an issue of just a few, not society as a whole (Molina, 147: sf).

Last but not least, what the political agenda of the transition toward the full attainment of human rights must recognize, critically and reflexively, is that transitional societies cannot carry on taking root in the policy of possibility, of a linear view of history, where the only place you can look is forward. In this perspective, self-criticism is not assumed, nor does anyone show up to take charge of past mistakes (Contreras, 200: sf). This logic of possibility is, in turn, the impossibility of recovery as regards subjective and social damage, when there are hopes of going from the history of horror to a political history where the dignity and social value of the victims of human rights abuse are recognized.

## CHAPTER 4

### AND WHERE THE RIVER WENT?

“We had no health center but we were healthy, we were protected from disease. Today we have no assurance of the health service and is now when we are sick. We had no aqueduct ... but, we did not need it ... if we had the river and the water was clean. Now everything is money, even the water costs money”

Photography: Rafael Guerra G.





## Damage, loss and expectations of reparation: the victims' voices

Rocío Venegas Luque<sup>79</sup>

Like in previous chapters, the approach revolves around the impact of forced displacement, with explicit emphasis on the narrative of the victims themselves the interpretation leads to multiple possible truths, all as diverse rereading cycles from within the texts; hence we assume what Edgar Morin's model<sup>80</sup> defines as "the aspiration of permanent tension between the ambition for un-parceled, undivided, non-reductionist knowledge, and the recognition of the unfinished nature and incompleteness of all knowledge".

This also leads us to recognize that the rural population - who were the main negotiators to construct this analysis - handles its own mechanisms of understanding and intervention of the damage, and based thereon, they also display their own repertoire to represent the link between mental health and the administration processes of reestablishment within the micro-politics of State attention and the (im)possibilities of reparation. The bearing capacity and the resilience of the peasant as well as afro-Colombian and indigenous peoples show that the processes of reestablishment and reparation will only be possible as social practices in construction; however, they are also political and legal practices that, as a whole, should be integrated in a process of reparation-recognition of all the members of the communities affected by forced displacement, in order for changes to actually take place, and get the State policies to benefit from the local processes and the mechanisms of learning and readjustment deployed by the victims (Theidon, 2004: 265)

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79- Doctoral Candidate in Social Sciences, Researcher of the Social Development Research Group - GIDES, Universidad de San Buenaventura Cartagena

80- Morin E. Introduction to Complex Thought. Edit. Gedisa. Spain 1996.

With regard to this last point, our analysis takes fragments of testimonies interpreted from the context relationships arising from the narrations of displaced persons who are now living in the towns where field work was carried out<sup>81</sup>. In Choco, we interacted with displaced afro-Colombian and indigenous communities from Medio Atrato. In the case of Medellin, testimonies were taken from the afro-Colombian and indigenous population from the towns of Choco, and in the case of the Department of Bolivar, we spoke particularly to peasant, indigenous and afro-Colombian populations from the Montes de Maria region. In the case of Soacha, the accounts of people from different regions of the country were included.

A common element that must be taken into account regarding the people who shared their testimonies is that they all come from rural zones, all lived in places in which the forms of life are confined to the so-called territorial-type cultures. "Territorial-type cultures" are those that "cover the cycle of the everyday live life in a community" (Hannerz, 1998, 169). These cultures are closely linked to places that are intertwined to make up a territory, that have consolidated powerful common referents, have an "organized, identifiable set of meanings and therefore, share similar universes of meaning (world views) (Suarez, H. 2002).

Meetings were also held with community leaders and members of base organizations, particularly the town of Soacha, where the activist leadership of the people interviewed stood out.

Along with the interviews, workshops were carried out in which inquiries were made regarding loss and damage, with differentiated emphases depending on each region; in Choco, this was done with indigenous and afro-Colombian peoples; in Medellin: with indigenous communi-

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81- From the Department of Chocó (Quibdó and the Banks of the Atrato River), City of Medellin in Antioquia, people who live in the Department of Bolivar (Carmen de Bolívar, Turbaco, Arjona, María la Baja, Cartagena), Town of Soacha (As one of the towns that receives the most internally displaced people in the country)

ties and women; in Bolivar: afro-Colombian, indigenous, peasant peoples and women; while in Soacha, they were carried out with groups of leading men and women.

## Voices from the past in the everyday life of persons displaced people by political violence

### Life was brighter

What was everyday life like as regards the social representations of men and women before going through the experience of forced displacement? What were the aspects you told us about the individual and collective identity as men and women? How were the family and the community depicted?

*"I used to be a housewife"* (Expression of women interviewed, 2007)

Women talk about their role as housewives in which they describe activities such as taking care of the family, cooking, participating in field activities (crops, breeding animals). In general, they remember these activities as satisfying and, in accordance with the views of the peasant world, they do not define them as work. One woman said, for instance: "I used to be a housewife, because I didn't have a job, my husband was the one who worked". The depiction of the female's role is defined for the contexts of origin in direct relation to the performance of activities to take care of the husband and children. The conditions of housekeeping were considered in a similar manner, but the house did not only represent the home as a place to live, but rather the guarantee of safety in preparing and producing certain basic foods, so "housekeeping" is also looking after the animals and crops for the family to eat.

They admitted that the activities they carried out were physically very demanding, however, they meant higher levels of satisfaction given that, as they put it, "although it was tough, we had something", referring to the feeling of owning, performing their role in the family as a productive workforce as a constitutive element of their association with their spouse.

"I was with my husband and things were better, we were making progress and he and his children didn't want a party<sup>82</sup>" (Peasant woman, Montes de Maria, 2007). The women said that in this lifestyle, they had everything they needed and the husband's company was enormous personal support in raising and taking care of the children, as well as for financial stability. The depiction of family stability based on the man's role as the visible head, the provider, is a constant among the group of women.

They talk about their depiction as protective mothers, caretakers and role models for their children, their role is particularly defined by the support they provide for the actions of their spouse and caring for the children; in fact, many of them had no information on sexuality and even less so as regards birth control, reason for which they had so many children at such a young age.

As regards social relationships, the women spoke as mothers and wives who related to each other, especially to organize events associated with the celebration of religious and community holidays. In some cases, they participated in the community decisions related to school, church and health care.

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*"I got into farming at ten years of age"* (Expression of men interviewed, 2007)

The men are depicted in the past with reference to ownership of the land, the security and stability offered

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82- The expression "he didn't want people to make a party out of his children", she meant that no one would interfere in his children's affairs, because the father took care of them, protected them and represented them.

by farming and the definition of their life project based on their activities as farmers, fishermen or cattle-raisers. This is how they consolidated their identity as producers and thus, appeared to be subjects with autonomy and the capacity to establish negotiations and agreements among peers.

The basis of their decision to establish the family structure was also given by their representation as providers and protectors, in their own capability to provide guarantees of family sustenance. Housing construction, access to services such as health care and education, particularly for children, are described by the men as a basic condition that would provide the possibilities to work as farmers in their places of origin. Their economic independence and power of authority in the family was extended into their community activities where opportunities for social exchange were established by means of productive association in decision making and community leadership relating to their participation in community action boards. Leisure activities and relaxation are described by men in meetings with friends at the end of the work day, where they played traditional games, drank alcoholic beverages and talked.

*"We never felt like we were running short on money there" (Peasant, Bolivar, 2007)*

Both men and women said in their narrations that everyday life revolved around farming, fishing and hunting activities. Both especially referred to stability as regards food. This aspect is highly important, they described how they had abundant, varied diets that resulted from the diversity offered by their regions of origin.

They described how they established networks of exchange among the inhabitants and they could access meats and products derived from breeding animals, crops such as plantain, yucca, rice, yam, fruits and in some cases, vegetables. Most people talk about how they had small and medium sized farms, on which they carried out

productive activities that enabled them to sustain themselves and trade on the small and medium scales. This condition was mentioned repeatedly with an emotive nature. You can say there is a widespread feeling of nostalgia here referring to aspects such as the enjoyment of abundance, wellbeing and dignity. The depiction of economic stability they had included housing conditions, access to lands for farming and animal breeding, goods and services, particularly health care and education.

*“The assistance we provided was not financial, but it contributed to human processes”* (Young black man, Bolivar, 2007)

Young people talk about how they regularly cooperated with family activities relating to production and, although they clearly established that it was not necessarily a job in itself, their participation represented a contribution to carrying out the family project. Similarly, they spoke of their involvement in community processes as active agents in the organization of different types of cultural events and community development.

*“Our land gave us everything we needed”* (Men from the different regions under study, 2007)

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There is a past laden with the feeling of longing, which is common to all the men in women in presence and depth, although specific referents may be different for men, women, indigenous and afro-Colombian people. There is a common past that reminds brings them an image of happy life in the country, in contact with nature, with the rivers, the mountains, the forest, animals, the land. Similarly, they feel nostalgic about how their relationship with the environment guaranteed the enjoyment of water sources and other natural resources, and they enjoyed the space and mobility they had there.

Family and community outings and celebrations are a cause of nostalgia for young people, adults and the elderly.

*“When I was a little girl, we didn’t know what war or the guerrilla were, nothing. I didn’t even know what the army was, either”.* (Indigenous woman, Choco, 2007)

Without a doubt, the group of indigenous people (from the northern region as well as from Choco) refer to their past in direct association with the territory and reveal a complex set of depictions in which they define practices and rituals associated with each place they lived as a physical space equipped with significant symbolic content and thus, in relation to the routine character of their chores, all of their actions were endowed with a relationship with the spiritual sphere.

Similarly, they represent a past in which the family and community unit were characterized by principles and forms of self-regulation in which individual and collective identity determined roles and functions for men and women, young and old. Particularly the adults and the elderly consider the past as stable and harmonious and, although happiness is not a category in itself, the lifestyles appear in conjunction with their symbolic frames of reference. Many of them had not had contact with other, more urban cultures.

## The dark episodes of the conflict

How did the conflict come about? How did the men and the women experience it? What were the situations, according to the women and the men, that gave rise to the displacement?

To everyone, the conflict was configured with the appearance of actors that were foreign to the communities, by the presence of armed men who began to define ways to act, guidelines to control certain territories and actions against the inhabitants.

A woman defined the situation as follows: “The truth is that since this town had no government before, but rather the *itinerant governments* that were passing

through, they were the ones who took advantage of the zone later on. They swore they were going to do away with us, but they found out for themselves, because they crowded us all together and started to look and realized that there was no one from the government in the houses; the only thing they found was the machetes that belonged to the peasants, the simple peasants who were there" (Peasant woman, Bolivar, 2007)

This repeated depiction - shared by men and women, young people and adults, and by people from all ethnic backgrounds - regarding the presence of the armed actors with no clear identity and the absence of the state, reveals the conditions of context in which the events associated with the displacement took place. The places appear as isolated zones in which State presence is scarce or non-existent and it is therefore convenient for the armed actors to implement their strategies of control.

The displaced women from Riosucio (Choco) told of the tough journey of displacement through the jungle, where several pregnant women died. And in the narratives of Soacha, there are parents, grandparents and sisters in law, elderly in general, who, in view of the grief after losing a child or relative, grew ill and in the end, passed away. Another case is the orphan girl in the El Salado massacre, who is taken to the hills to be rescued but died of thirst there. These narrations tell of the diversity of the forms of victimization and make visible the different situations of vulnerability, but also tell of the initiatives and responsibility of the women. They are, to this effect, the trustees of the memory of communities that, in the strict sense of the word, have disappeared due to the ravages of the armed conflict and the political and geographic dispersion of displacement.

In the women's representations, the conflict is described from the scope of the immediate relationship with the specific actors in the zone, they tell of specific moments and events and use metaphors to reveal the consequent expression of their feelings.



*"When those people came, it wasn't just a few of them, they were thousands; they destroyed everything; in other words, the population left, it got dark, it became a dark zone. It was horrible and the earth shook"* (Black woman, Choco, 2007)

The earthquake, and particularly *the darkness*, constitute overwhelming, recurrent metaphors that are used to express the emotional state of - literally - bewilderment felt by the victims of the acts of violence and eviction. In general, they are used by women. There are details in the accounts that describe how the violent acts took place, although many times they do not clearly identify the perpetrators. Similarly, they often omit events relating to sexual violence. There is an important reflection to be made on this last aspect as regards three mechanisms - psychological and social - to deal with the memories<sup>83</sup>: in the first place, *forgetting* as a way to avoid the emotional commitment of the memory of traumatic events; in the second place, *the shame* instilled by the social setting and particularly the men in the family and the community, and last but not least, *the fear* that the victimizers will repeat their actions if they are reported, particularly powerful in the cases where the victims have to coexist with the armed groups, although they have been formally demobilized in their communities (Barraza and Caicedo 2007, Londoño 2007).

*"I was waiting for my husband, who they had taken away, and sometimes those people came over to sleep, so that was very difficult for me... There were times when a dark-skinned man would come over and ask me what I was doing alone; he would ask whether or not my husband was coming back and why I wouldn't take him as my husband, so I thought: this is going to get complicated and I was so scared, so one*

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83- Broadly referred to in national and international literature on sexual violence amidst the conflict, see for instance Amnesty International 2004; Meertens 2005; National Union of Guatemalan Women 2006; Theidon 2004 and 2008; Sideris 2001.

*day, I told the co-worker who was living next door what was going on so he would give me some money, there was corn and plantain to pick..." (Peasant woman, Bolivar, 2007)*

The vulnerability of these women is palpable, they pay for their safety and integrity at the high price of leaving by force, abandoning their place in the world and their belongings.

*"They tricked us in the most despicable way because they said they were from the Marines and they were coming to protect the town... then everyone left... I stayed behind with my six children... I was waiting for my husband to come home from work at six in the afternoon... about four or five days later, they told me to look for another husband because mine had been massacred... after that, they made me cook for them and everything, they told me you know who you are dealing with... the "Head Cutters", the paramilitaries. That is a threat. Violating the law, raping me, and I did everything they told me to, I don't want to remember that because it was awful for me, it was tough for me and my children, I worked hard because they made me work for them, cook for them, wash, everything". (Peasant woman, Bolivar, 2007)*

154 The tricks, the subjection by force, the threat and fear of imminent death, such as in the case of this woman's account, who was forced to do "chores" and "given suggestions" to look for another man, also clarifies the implications that, in the case of women as victims, intensify the historic patterns of inequality and reveal - at times very clearly and at others, implicitly - the presence of sex crimes against women. In these cases, personal liberty and dignity is deeply violated and this violation extends into three temporary spheres: victimization at the time of the violent act that involved humiliation, shame and fear (experience referring to the past); reliving the event by remembering it at present and, in turn, the alteration of

the person's projection into the future, even more so when, like in this and other testimonies, impunity is a permanent characteristic. Therefore, these three spheres are often characterized by a common denominator: *silence*.

The testimonies quoted here show us how the women have gone through multiple, diverse manifestations of gender violence reported by other sources, such as rape or sexual and domestic slavery, and also more subtle manifestations such as the imposition of norms for social control, curfews and rules of conduct, intervention in family and community conflicts and the application of punishments that may at times be cruel and degrading (Meertens 2006a).

To this effect, sexual violence is perhaps the most complex, the most intimate and the most silenced issue, and at the same time, the one that most needs to be made public, in order to prevent its reoccurrence, as an individual and collective element of justice toward women. Silenced damage continues to do harm, as we have mentioned earlier. The risk of re-victimization (new mistreatment, abuse, humiliation and stigmatizations suffered by the displaced on behalf of officials, authorities, communities of destination or processes of return or claiming of rights) is particularly prevailing in women who have undergone some sort of sexual violence, precisely because the factors that impose silence reinforce their subordination to the victimizer and make it difficult to report or document.

Some studies on violence in the fifties and the most recent case of the armed conflict in Guatemala have attempted to classify the motives for exercising sexual violence: it is like a punishment and an expression of domination, a mechanism of intelligence, a strategy to cause terror, the subjugation of women who are considered transgressors in the prevailing patriarchic model, a warning to the leaders claiming full citizenship, and also for women (National Union of Guatemalan Women 2006, Meertens 2005). In Colombia's history of political struggles, it ap-

pears as an expression of hatred toward the enemy, which has to be eradicated “to the seed” (Meertens 2005) at times as an expression of racism (“whitening” by white men raping black women) or “ethnocide” (doing away with indigenous populations by crossbreeding through rape). Sexual violence has been reported in the Colombian case in publications of the Woman and the Armed Conflict Round Table, in the Report by Amnesty International, in the Report by the Inter-American Human Rights Commission for Colombia and other publications<sup>84</sup>.

*“My niece was like a sister to me, they raped her, she was 18 years old, they raped her and then they cut her throat. Then they went into the last room to my brother in law, they tortured him in front of my sister, sticking him in the head with ice picks and after they killed him, they raped her and then cut her throat.”* (Young peasant woman, Bolivar, 2007)

This narration shows the horrifying cruelty and the intentionality to mutilate specifically women’s bodies: not only do they torture them, but they rape them and cut their throats, all in the presence of men and children. The female body operates, in these cases, as a symbol of contempt for *women* on one hand, and on the other as a symbol of punishment and humiliation for the *community associated with the enemy*.

Based on all the above, and despite the testimonies quoted herein, it is well known that silence will prevail in this research like others. Because in the data produced by the field work in general, sexual violence constitutes an issue that could only be articulated by crossing information or the dense interpretation of hints, but not as a data emerging with force in the interviews held with the women.

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84- The Woman and the Armed Conflict Round Table has published eight reports between 2001 and 2007 on sociopolitical violence against women and girls in Colombia. See: [www.mujieryconflictoarmado.org](http://www.mujieryconflictoarmado.org). Also: Amnesty International, 2004 at [www.amnesty.org/actforwomen/reports](http://www.amnesty.org/actforwomen/reports) p. 9. and Inter-American Commission for Human Rights –CIDH-, 2006.

*“What did I lose?... Everything. My self-esteem and everything. My body and everything”* (Young black woman, Chocó 2007).

Although it sounds contradictory, it appears by absence, camouflaged through other expressions; other times it is referred to in a minimizing manner, such as in the cases of the village of El Salado<sup>85</sup>, where the events narrated during the interviews did not take up the violent act, or it is discussed in a reduced fashion, mentioning the event as a single case of sexual violence, or naturalizing the abduction of a teenager who was later returned to her parents, without being considered of any importance. What is striking about the events narrated this way, omitted or denied when asked directly, is that when talking to agents who work in the zone, specialists in the treatment of sexual violence against women in the conflict, and even when referencing official reports of the facts (Corporación Sisma Mujer 2007: 102-123) and turning to sources of press chronology, evidence has been found that horrible sexual crimes against a large number of women have been reported *as soon as the facts were known*. This silence defines a tacit collective agreement, perhaps to forget, or conceivably as an act of respect for the deceased victims and a measure of protection for the surviving victims.

The vulnerabilities of the men are located on the plane of the confrontation; they have been the main victims of recruitment, disappearance, murder and threats, particularly the young ones. The places where they have been affected most are the crop zones and on roads. However, their own homes have also been the scenario of crimes and humiliation, although to a lesser extent.

*“I was afraid of the soldiers, when they arrived you would feel that you were in danger. They would ask you a question and you had to answer, at least tell a*

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85- El Salado: Village in the town of Carmen de Bolívar in the Department of Bolívar.

*lie; if not, they would threaten you. The massacres wouldn't stop, it was every day, if anything it would stop for about a week, they would kill four, up to seven at a time. Some friends were killed in the violence. The leaders, some neighbors, many neighbors"* (Young peasant man, Bolivar, 2007)

The men describe the conflict and the facts of displacement in a general manner, without giving any specific details, but providing clarity regarding the actors and the general context of the situation in the local order and, at times, on the national and international level, particularly if they have held a position of leadership in the communities.

The men's situation, on many occasions, has forced them to leave their places of origin first, not only because they are the direct object of the threats, but also because they are socially defined as "head of the household"; they are expected to evaluate the situation in the possible places of destination. Therefore, they sometimes leave their women and children alone, which in many cases has led to the families being the first direct victims of the crime, although it has also resulted in the men, upon returning, being murdered or disappeared. In other situations, they have been persecuted and threatened, detained or forcibly recruited into the armed groups, having to leave their places of origin, their family and social ties behind forever.

## **Voices from the present: experiencing displacement**

What are the depictions of the victims at present? What has affected them, what damage and loss have they suffered, as identified by them? What particulari-

ties show up in their depictions from the ethnic and gender standpoint?

As regards the effects of displacement, as stated by displaced persons, it can be said that in the first place, they refer to the effects themselves of the violent events that led to the displacement, which are related to specific loss such as that of human life, but there are also damages caused directly by the event of displacement; the latter are usually less visible but not any less important.

Some of the victims suffered the violent events directly on themselves (torture, personal threats, massacres, witnessing murders and humiliation), in addition to the displacement. Others went through more generalized situations (collective threats, of the risk); what is common about them is that they are all victims of forced displacement and, to this effect, we will discuss these affectations in particular.

## Being helpless

Death, disappearance, broken families and communities have left signs of pain in men and women of all ages and ethnic groups. To women in particular, the disappearance, murder or separation of their spouses is a very powerful emotional situation, not only because of the affective link, but rather because of what man represents for the family as regards support for bringing up children, financial stability and the social role he plays. Women were traditionally taken as wives and mothers, the presence of the husband meant protection to them, upon losing him, the feeling of helplessness has become a permanent element. Without a doubt, many of them have faced the situations and overcome all kinds of social and economic obstacles, but the figure of their men who are missing always causes nostalgia, pain and the burden of being a woman on her own.

*"They could have taken everything, leaving me with the clothes on my back, but not my husband, not my children"* (Black woman, Choco 2007).

Similarly, losing their children occupies a special place in women as mothers; many of them say they have lost, with their children, the confidence and security for the present and the future. Children represent to the women the possibility of old age in peace, with the confidence of a reward for their efforts in the satisfaction of a prosperous life for their children and hence, for them. This depiction limits the sense of work in the present and fills it with despair.

In addition, some of the older women were left in charge of the orphans; this responsibility represents additional pain; they describe it as a difficult task; they feel tired and incapable of responding to their own needs, the requirements of the food, health care and education of the minors; much less do they feel capable of providing care and support in the medium and long term. They see enormous difficulty here, because in the new contexts, access to employment is determined by great physical effort due to the extension of household chores, double work shifts and requirements such as knowing how to read and write (which is not common in older women).

The loss of relatives and friends also represents their helplessness; many people talk about this feeling when they refer to the protection they sensed by the support of their communities, particularly those of indigenous ethnic backgrounds, for whom the community constitutes the affective and social ties par excellence.

To peasant, racially mixed, afro-Colombian and indigenous peoples, the community represented ties of solidarity and support, which they do not have in the contexts they are living in now; also, they do not have the confidence to establish new ties and particularly, they have not reconstructed ties for the collective project, except in the cases where they have returned with relatives from the same origin.



Giving up their land is being left helpless to men; the land represented their access to work and productivity; not having it means losing your own capacity to cover the basic needs, take care of your family, access goods and services. The present without land is difficult to work out; you start working at odd jobs day to day with no clear project of wellbeing. Helplessness also occupies a special place where the State is concerned, despite the importance of Law 387 / 1997; the people's depictions of the State's role coincide in a feeling of abandonment.

According to the discourses, just a few people were cared for effectively by the institutions in charge of assuming the humanitarian aid in the different phases (prevention, emergency, reestablishment). Many of the communities received threats that were not dealt with in time by the Government and the official military forces, where they could have prevented massacres and displacement.

In the emergency phase, no one received comprehensive assistance and at present, just a few have been beneficiaries of indemnification; in fact, there are very few processes in which land has been reestablished, because some communities like El Salado in the town of Carmen de Bolívar, are examples of returns with scarce institutional assistance.

In the case of Choco, the intervention of national and international organisms has been significant; however, the general feeling of the victims is that they have not been heard, their particular needs have not been dealt with and they are subject to the implementation of measures that differ from their own cultural models.

Indigenous communities in this field feel completely defenseless; they mention the State's negligence in providing protection for its communities, lands, traditions and legacies, in clear disrespect for the national and international agreements, treaties and pacts for the conservation of their territories and communities as heritage of humanity (See more detailed discussion in the regional reports associated with this research).

## Back to square one

Depending on each case, material losses consist of goods and chattels, home, barns and other constructions, yards and lots, farms, work equipment (farming, cattle-raising, fishing), vehicles, machinery, farm animals to be used for food and cattle production, crops and farming supplies. Businesses, shops. In short, the assets that have been consolidated and maintained by working in the family tradition generation after generation or as a result of the conquests earned by the nuclear family and individual effort.

All these elements not only have great economic value, but they also have significant symbolic value. To the extent corresponding to each person, family and community, the economic losses at present constitute the rupture of an economic process that, at the time of displacement, represented stability for these people; today, everyone says their quality of life has deteriorated, they have less income and lower capacity to acquire goods and services.

Starting over again speaks of the necessary redefinition of personal, family and community projects and includes the forced adjustment to the possibilities of the context. Displaced persons lost all their referents of survival due to the change in the economic and social models. Production networks and forms of trade are not the same, and they have to commit to accepting new practices by force. In addition, the expectations as regards their own capacities, developed throughout their personal history through the everyday activities carried out, are reduced in the face of the new demands. A constant complain is that they cannot understand that goods such as water and other natural resources have to be paid for. They cannot get used to the idea of having to buy all their food at such a high price when life in the country was a guarantee of variety and quantity.

In the case of the women, they have to redefine the organization of their work, because before, in the country, they did several things at the same time - domestic and productive tasks, and now, the worksites are separate and distant from the home. This new element, facing the challenges of working outside the home, along with the traditional household chores and bringing up the children, indicates an exacerbation of the historic inequalities between men and women. To this effect, and although many of them acknowledge they feel more independent and integrated in the productive system, having access to better education and health care services, they also say they are more anxious, with an extra burden in the present and major distrust as regards the possibility of the achievements they had planned for the future.

This situation is particularly important to the men; their economic projects and plans were ruined altogether; their hopes for the following harvests, the purchasing of supplies and any possible business were destroyed; their expectations of a future filled with progress, for themselves and their family, the dreams of making it possible for their children to get a higher education collapsed. This situation, in an urban setting at present, in which they cannot cover their basic needs, with nowhere to apply the skills of farming work, their development capacity is reduced. A sort of future suspended in the present<sup>86</sup> is brought about in their lives; they must solve the problems at hand and wait for the possibility to access their lands again to reconstruct the economic project, while the feeling of frustration and despair as regards recovering what has been lost becomes stronger and stronger.

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Another important aspect that may be located in the light of this category is housing. Most people, regardless of gender or ethnic background, but particularly adults, had consolidated stability in terms of housing. After their displacement, they refer to the housing issue as "starting

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86- Also see the idea of "nostalgic future" (Meertens 2000).

all over again, after selling for a million, having to start at square one". Without a doubt, this point generates uncertainty, unease and despair, especially because state aid for this purpose puts up enormous obstacles, disqualifies many cases and, at the end, if it offers any benefits, it does so in co-funding agreements (which require scheduled savings by the displaced persons), particularly in public housing projects that do not always meet the conditions required by displaced families.

The indigenous communities do not agree with this image altogether; they depict time and life based on world views that integrate their relationship with their ancestors, with origins that are intimately linked to the territory, so the continuity of their project is broken not in time but in their detachment from the space, as the impossibility to recover their places appears (understood as sacred places, sites where tradition, the wisdom of time without time lies, because the past, the present and the future are condensed in these territories). In any case, in the current situation, the indigenous peoples show a high level of commitment in their personal and community efforts to recover their lands, while they deploy different forms to adjust to the contexts of temporary settlement.

## Feeling afraid as a “symptom” and keeping quiet as a representation

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*“No, for instance, like I said, we were a case in which we couldn’t report anyone; we could not say so-and-so or it was them, because if we did, they would come and kill us, so that is not reported at all. I never filed a report, in fact I... preferred not to report it ever. So silence is best...”* (Black woman, Bolivar, 2007).

Fear is a reiterated symptom and it has been consolidated as the most powerful strategy used by the perpetrators to get everyone to abandon their territories in the

past and at present, many of them do not even dare to go back. Fear shows up at night when the violent events are remembered, when the beloved and the murdered leaders are brought to mind. This device acts in the order of subjectivities, but also on collectivity.

Thanks to fear, people do not dare file reports at the ombudsmen's offices and therefore, many of them are not registered in the State database, do not receive aid and do not even dare to mention the origin of their arrival in towns and cities.

This feeling inscribed as a sign of the living the experience of violent acts paralyzes individual action today in the attempt to reestablish positions of leadership, express differences, openly report victimizers, show identity and file reports on the violent events before the divisions of judicial investigation.

The situation as surviving witnesses in some cases combines this emotion with guilt, and somehow has different impacts on men and women, perhaps regarding the situations in which they feel more vulnerable differentially speaking.

In particular, the women who return say that they have never slept well again and nighttime became especially terrifying. The feeling of fear prevents them from walking at night, even near their homes, either because of the danger posed by the armed actors or the presence of the souls of the dead. So fear persists over time, altering meeting dynamics and spaces. In Choco, it is mainly the women who mention fear as a restriction to their mobility and hence, their autonomy, which is closely related to the spaces of the farm, nature, the river. On another note, the men reported the fear of going to their plots, the hills or taking paths because that is precisely where other men have been victims.

In Medio Atrato, Choco, as well as Montes de Maria in the Caribbean region, the presence of the armed actors has continued to the present day, imposing orders and

countermands, so in many places, actions continue to take place determining a feeling of confinement or, as some have put it, "displacement in your own land". In Choco, people reported that they could no longer walk in the jungle, fish in the early morning, visit their family in other villages, transport large quantities of food, or distribute supplies to community shops whenever needed, but rather whenever it is allowed. In the cities, on the other hand, the urban guerrilla or paramilitary militias establish desirable or undesirable conducts, curfews and routines that affect mainly women as regards their freedom and movement. Therefore, people are driven to regulate their presence, participation and work to what seems to be proper to the prevailing order, because the standing orders and control continue to be installed under the premise of fear of punishment by death or a new episode of "having to flee".

To this effect, the most significant loss for everyone is that of liberty, autonomy and freedom of movement. The feeling of loss of liberty and personal security is linked to the domineering arbitrariness of the armed actors that govern - or pass through - the zone, their control over typical everyday activities is given by what a woman from Montes de Maria defined as the *Itinerant Governments*, that is to say, it is in the hands of the armed actors of the moment in that location.

*"...Fear is not just one of the explicative factors of displacement; it is a feeling that accompanies the population in the situation of displacement throughout the journey in search of a new physical, social and symbolic place; that is intensified in the receiving population upon their arrival, activating old social fears, and directly affecting the hopes, the social practices and policies that favor or restrict processes of social inclusion" (Jaramillo et al. 2005: 16).*

Fear also interferes with the mourning process in the case of loss of human life. Impotence in the event of disappearance, which prevents carrying out death rituals, or the impossibility to attend a funeral due to the risk of

becoming the next victim, are feelings expressed insistently by women, although some leading men also refer to them. In Choco, this situation is described as the content of the depictions based on the absence of a funeral and carrying out death rituals, preventing the dead from playing their historic role: becoming protective ancestors and, instead, they have become lost souls, claiming the actions required from their relatives to move forward on the path and begin to take their place. This is how women put it; to them, the dead act as the spiritual guardians of the community and, to this effect, they are responsible for the rituals and tradition.

*"A boy watched as they killed his father, they killed his mother, they killed the neighbors, there was lots of blood, and they did not understand what was going on; that damage is psychologically irreparable; there is no psychologist or anything in the world that is going to erase that memory, that was done, for instance by the paramilitaries; they came and killed part of the family and the others had to keep quiet because they could not report it, they couldn't cry, because the chief (paramilitary) didn't like it, so pick him up and go bury him, and they killed them in their presence and they had a week to get out, or he would give them time to bury him and leave, with no rights to anything, or to claim anything or say anything; all that had to go unpunished" (Young peasant woman, Bolivar 2007).*

Silence is the result of fear, when the aggressor does not allow the expression of feelings during the violent acts, such as in this case and massacres such as El Salado, when contrary to mourning and tears, they forced the people to eat and dance; they leave the identification of the direct victims in the psyche of the witnesses, and the horror from the suffering prevents the reaction. The subjugation and incapacity to respond to the victimizer are perpetuated, and this now goes almost unnoticed, because the current action is predetermined in the history that holds the preferential place of oblivion. This is how

the witness-victims avoid the moral confrontation of the pain for not having been able to prevent the violent act and restrict the future pain in silence as a "guarantee of not reoccurrence".

*"In the massacres, they killed people who were political leaders, so let's just say that we try not to get too involved in that"* (Peasant, Bolivar, 2007).

Thus, fear takes the place of the symptom, conduct is regulated thereby as a subjective experience, and the distance of the victims as regards the possibilities of occurrence of violent acts is established in merely behavioral terms, the source of aggression is avoided. So, silence acts as a consequence of the cognitive production of fear, as a collective depiction that offers survival in interaction, which again strengthens the power of the armed groups. Selective murder, for instance, becomes a "sufficient event" to maintain the domination of a group; a massacre terrorizes the entire community. They both silence a society. The level of individual action transcends the social plane, because the terror statute is applied on those who speak up, those who talk and report. *"So silence is the best way"*, a silence not only meaning quietness, but also the act of fleeing, of not facing, of obeying, of forgetting.

This silence as a portrayal can be understood beyond the direct victims when the receiving communities, as stated by the displaced persons, view the newcomers with suspicion, when the authorities prefer to avoid the responsibility of dealing with them and make the problem invisible in order not to generate the "demand for services", when a society in general does not recognize forced displacement as a crime and the social manifestation of a humanitarian crisis.

In the case of Colombia, the reign of terror and fear has particular consequences with an eye on reparation, because impunity is fed with the silence of the victims that have not guarantees, with the continuity of the conflict and the precariousness of the judicial processes, as



well as a reparation system based on processes of amnesty and forgiveness of the victimizers.

## Being displaced

In Choco and other regions, such as some towns in Bolívar, men and women who have stayed in zones near their regions of origin, or who have returned, feel and think today, even several years after the events, like “displaced persons on their own land”, due to the presence and current control of different armed actors.

*“It is a feeling of destitution”, “I lost my self-respect, my self-esteem”... “In Salado, they did not go back because they wanted to, but rather because they felt the obligation, they are not used to getting that bag of rice, they are not used to begging in fact, they were the ones who used to give, so it is something very difficult to assimilate, my father cannot assimilate, he has never done anything to receive, it is like the dignity of a human being that has been hurt and the view of a displaced person...”* (Young peasant woman, Bolívar, 2007).

The condition of material vulnerability that the displaced persons are exposed to forces them to occupy, at least at a given time, a position of assistance by the organisms in charge; their condition of autonomy and independence in satisfying their basic needs is now replaced by the definition of the entities or persons based on the aid provided. Through the intervention of the agents (government or non-government, and event family and friend networks) displaced persons find themselves in the condition of receiving, accepting and asking for basic things that they had before, food, clothing, protection, for instance, placing them in a relationship of dependence which is experienced as a humiliation.

People recount certain acts of solidarity by the receiving populations (friends, relatives and neighbors), and in some cases, view the assistance provided by the state

through its institutions as an act of charity or good will by the authorities and institutions, “the may who finally helped us with...” , so in many cases, this is also an attitude that goes against the actual recognition of their situation as victims in the legal and political sense. This latter aspect lies the foundation for the possible construction or reproduction of clientelist forms in the relationship between the victims and the institutions.

As regards their relationships with officials from State agencies that form a part of the SNAIPD<sup>87</sup>, displaced persons refer in general to the negative bias of the officials to give credibility to their condition, to understand their situation and act efficiently.

*“... they see me dressed like this and they think I am not displaced, and I am, you see. They think displaced people have to smell bad, dress bad, be a destitute person. No, you don't look displaced. I go to the governor's office and they tell me I don't look displaced, but the fact that I am displaced doesn't mean that I do not value my dignity as a human being. I have values, they are authentic, my parents brought me up this way and I respect them and follow them”* (Young peasant woman, Bolivar, 2007).

The image of the “displaced person” as directly associated with the situation of conflict has been socially constructed; displaced persons say that receiving populations and the officials of the institutions in charge of assistance handle different readings; although in some cases they are viewed as victims that require support and assistance, and at times, they are even classified as handicapped or invalids; in other cases, they are considered “collaborators of armed groups” or “opportunists”. So displaced persons define these readings as follows:

*“What changed, I would say what changed is the way they look at you when you are displaced, they think*

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87- National System for the Comprehensive Attention to the Population Displaced by the Internal Conflict in Colombia

*of you as less, that's the way they see you...*" (Young black man, Chocó 2007).

Displaced persons talk about being pointed out, false accusations and stigmatization; they say they have lost their right to intimacy, decent treatment, the right to a "good name"; according to them, they have suffered damages to their honor and good faith.

*"We have been pointed out at times by the people from the community: they think we are accomplices of the bad things that are happening". "They accuse us of cooperating with the groups"* (Young peasant man, Soacha, 2007).

In the receiving populations, displaced persons perceive that they are stigmatized as "dangerous", as "participants in the conflict"; these depictions are fed by the repeated occasions in which they have been labeled as insurgents; there have been illegal detentions, or civilians have been killed in confrontations, attacks or other military actions, which later define the association of the victims to illegal groups to avoid responsibility for their errors resulting from the actions of conventional forces.

As regards labor activities, displaced persons are not only subject to unemployment and a lack of opportunities, but also to the recurrent confrontation of the knowledge and skills acquired in the past that are not always useful in their new context.

There are situations that also represent a confrontation to their self esteem and dignity when they have to endure what they define as ill treatment and humiliation resulting from the labor relations where, due to their condition, they are subjected to long work shifts, overloading of tasks and heavy chores, little pay and dealing with authoritarianism and discrimination.

In extreme situations, due to the lack of work and the search of immediate solutions, these people turn to begging, such as in the particular case of the women in

Medellin, who go to the local market as a routine practice to pick up leftovers of the food sold there, which is painful and infuriating to them. Similarly, the risks of prostitution are also reported, particularly in women who are on their own with children and the younger women. In many cases, little girls and teenagers have to carry out parental roles, where the lack of schooling and abuse by the stepfathers constitute significant risks.

*"You feel like they've taken away your strength, as a person, as a man. Now we're not independent, they boss you around; there were friends who wanted to die or went crazy, but if you don't want your children to suffer, you have to do what ever comes your way"* (Peasant, Soacha, 2007).

To the men, work is their *raison d'être*; they consider it is difficult for them not to be productive, not to be owners, not to be independent enough in handling their time and money, of their own things; this also leads to a change in family relations, expressed as regards the spouse and authority over the children.

In the men's depictions, they said that the change from farming activities to working in construction or street vendors is not only difficult because they are not familiar with the tasks, but also because it is highly competitive and therefore, there are not many opportunities; they find jobs on occasions in farming or construction activities in sectors near the places they live and, in many cases, are paid considerably low wages.

*"That's the way it is, you work two weeks, one week, and that's it; you're done for three or four weeks until they call you again. You go out to look for something but nobody knows you, you can't find anything because the first thing they ask you for is references, and who can recommend you? It's the same story for buying on credit, they always ask for references. And not to mention when they ask you if you finished high school. When they ask you what you know how to do, all we know is how to use a hoe"* (Peasant, Soacha, 2007).

Working in the fields used to establish the relationship between present actions and the future result of the crops; you could find meaning in working for the result, today's actions settle the day to day issue and, due to their temporary nature, they do not allow you to consolidate a project.

In the social connotations, being displaced is often associated with belonging to an armed group or, more generally, with the equation "uprooted" is equal to "culturally impoverished", "demoralized" (Malki 1992, quoted in Meertens 2000), a being not worthy of trust, void of the rights and duties of citizens. The men suffer acute stigmas from the discrimination in the labor field, and the women in the community sphere.

According to their accounts, teenagers and children started working early in their places of origin and they were always under the care and training in the trade of their parents. The legacy of the vocations is broken in the cities and towns and the children and teenagers start working just as young, but now with the commitment of productivity and broader contexts, which in many cases are adjacent to life on the street (assistants at market places, loading sites, helpers on buses); this work is not only harder, but it also reduces the possibilities of an education and represents significant risks such as access to criminal groups (gangs, illegal armed groups), and the possibility of the use of alcohol and other substances. Similarly, the risk of being victims of sex crimes, prostitution among others, also increases.

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*"When I got here, I lost contact with my community; I was taking course and community projects there; I was a leader in my community. Nobody knows me here, here I'm no one"* (Peasant. Bolívar, 2007)

Another element associated with being displaced is revealed by leadership, which is established in direct relationship with the social group the people are a part of, constructed based on the link between individual interests and shared interests. Trust is deposited and inten-

tions are conjugated in the leader; it is through the leader that collective action acquires the personification of the action and the expectations for tomorrow are made viable. This is how, in traditional societies where most of the persons interviewed used to live, the men were the ones who were called on to be community leaders in harmony with the functioning of the family; their role of authority and decision making was also extended to the public field.

The change in the dynamics of family life, particularly the breaking of social ties, leaves many leaders with no foundation. Those who have become a part of protest causes as displaced persons, due to their stronger personal condition, have reconstructed their place of leadership by participating in organizational scenarios on this level; in few cases have they easily become a part of more generalized community processes.

*"My position in the community was that of a leader; I was known as a good leader; here I... well, it has been different, leaving my people, my community, leaving it all behind, coming to a place I was not familiar with, where I had no friends; we're not even from the same ethnic background" (Indigenous man. Bolívar, 2007)*

The case of indigenous and afro-Colombian people is similar; their leadership processes were frustrated in many cases, or they had to take the ethnic cause more seriously, in order to include the displacement issue. Their identities as leaders are more linked to the particular character of defending ethnic principles where displacement is a devastating situation of cultural and independence aspects, mainly the right to property and community territory.

People in Soacha have revealed a special situation, where the groups included in the study were characterized by the presence of female as well as male leadership, which was described before as well as after the displacement. The leaders in Soacha, men and women, like in other regions, mention the psychological damage caused

by the conflict and displacement, which is expressed not as a trauma, but rather as having lost happiness, peace and tranquility. However, they see exercising leadership as a possibility to transform the damage, and this becomes a possible source of resilience, as a peasant put it, highlighting the strength of the women and describing the situation as a man.

*"I think it is easier for women to recover because it is easier for them to feel pain, sadness; and because they are more hardworking, more involved in overcoming the situations they are faced with. Men feel more embarrassed about many things; they are fearful and introverted and that gets to you... leaving the place where I saw my relatives killed, the fact that I am leading community processes has enabled me to see the pain of others, to be able to accept my own and recover from it" (Peasant. Soacha, 2007).*

Two tendencies have been detected in leadership development: leading men are affected more by forced displacement than women. The men have displayed more of a process that goes from strengthening and recognition before displacement to a life of repeated fleeing and anonymity after the event, which winds up affecting their spirit to reconstruct their life project. It has also been noticed that in men, the pressure of displacement and persecution deeply affects their private life, filled with breakups, paternity claims and resentment, because politics was always more important than any family or emotional tie. On the other hand, the women who were leaders before the displacement and after are qualified, empowered and display personal transformations in the face of the difficulties experienced, leading necessarily to changes in spousal relations.

There are cases where the "reversal of roles" after displacement only lasted until the man found a job and the woman stopped working... however, she took advantage of this circumstance to become fully involved in community and organizational work. So it can be confirmed that, in

certain conditions (in this case when there is prior experience of leadership or at least activism) displacement generates possible horizons of empowerment and transformation in gender relationships on the level of the couple.

It can also be stated for this study that among the displaced population there has been a significant increase in females at the head of the household due to the violence, such as the case of widows; or because of broken families caused by the uprooting, tensions in anonymity, going into hiding or the new dynamics of major cities. According to the statistics of Social Action, women are heads of 49% of the displaced households and, according to data provided by the International Red Cross, this figure is more concentrated among the families that left their homes in scattered displacement (the "drip" of families or individuals to major cities)<sup>88</sup>.

The organizations of the displaced population that have emerged over the last few years in urban contexts have been characterized by exclusively male leadership, particularly in Bogota (Meertens 2002). The participation of displaced women in executive positions or as spokeswomen with the State has been minimal.

Men and women have different perspectives as regards the "options" (real or desired) for returning, rural relocation or urban integration. Women prefer urban integration over returning much more than men and, in general, only 11.3% of the displaced population wanted to return according to a study by Pastoral Social in 1998 (Meertens and Segura 1999). Based on their everyday experience, women do not cling to a perspective of returning that will not guarantee their personal security or ac-

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88- Social Solidarity Network (2001) *Attention to the Population Displaced by Violence in Colombia. January 2000 - June 2001 Management Report*. Bogotá. The RUT system used by Pastoral Social reports a lower percentage (37%), which may be affected due to the fear of moral repudiation toward this condition by the Church. This is probably about an overestimate made by the Social Solidarity Network, because females as heads of households are mistaken at times when the women are the ones who file the declaration. Also see Meertens, Donny (2002) *Encrucijadas Urbanas* [Urban Crossroads], Bogotá, ACNUR.



cess to jobs or property and, instead, will remind them of the painful times, fear and, particularly for the widows, the processes of mourning that have been generally postponed in view of the imminent needs of survival.

All these differentiated impacts of displacement on men and women are not caused only by displacement itself, and not only on displacement; they refer to typical situations of before; they refer to pre-existing, asymmetric gender relations, to constructions of femininity and masculinity that legitimate exclusion and violence, to the traditional roles played by men and women (maternity, household chores, the role of the provider, the differential relationship with the public sphere, the geographic mobility differential) that have provided them with different vulnerabilities, and they also refer to pre-existing, habitual, structural forms of violence.

Forced displacement thus constitutes a particular opportunity for the reproduction of the historic discrimination that affects women by means of existing authoritarian and patriarchic social structures and, at the same time, aggravates them in new scenarios of power based on arms, fear and coercion.

## **Voices of the future: regarding the reparation of damage and life projects**

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In order to discuss the depictions of the notion of "reparation" among the displaced population in the different regions and to identify the practices that somehow relate to a project to repair the damage suffered, it is worth to establish certain characteristics of context of the time during which the exchange with the actors took place. These characteristics give meaning to the observations in the different regions and with the different populations.

As analyzed in Chapter 3 on “Reparation Discourses”, the framework of the Justice and Peace Law and the first products of the National Reparation and Reconciliation Commission indicate “how things are supposed to be” as regards the actions of reparation by the State and society. However, in practice and despite the establishment of territorial offices for the Reparation and Reconciliation Commission and the registration of over 150,000 victims, when we conducted the field work for this research in 2005 and 2006, the detailed implementation of the judicial processes had not yet been regulated sufficiently. There were no formal processes of reparation of victims in any individual or community cases covered by this study. In the case of Choco, we observed actions resulting particularly from processes to deal with victims, but they were not registered in the formal reparations process in the framework of Law 975 / 2005 either. What is more, most of the people interviewed were not aware of the reparation process and they were just beginning to understand its connection with the Law.

In the national and regional order (particularly in Antioquia), there have been discourses promoted by the different victim movements<sup>89</sup>, which have consolidated opportunities for reflection and impact in articulation with organizations of the displaced population and other actors on the local level. The dialog scenarios with victims in the framework of this research also became pedagogic encounters that illustrated contents and debates on the matter.

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## Reparation is like a shadow:

*“To me, reparation is like a shadow. A shadow is something you assimilate but you are not familiar with, because you don’t know if it is big or small,*

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89- National Movement of Victims of Crimes of State; Association of Mothers of Candelaria, Caminos de Esperanza and others.

*noisy or silent; all you know is that it is similar to something that is unrecognizable” (Black woman. Choco, 2007).*

It is unmistakable that most people define the concept of “reparation” at first with the colloquial idea evoked by the word and link as the first points of reference to the issues of human and material losses. To this effect, it is clear that we do not have sufficient bases of knowledge on human rights and there are no clear expectations as regards the reparation process (political, judicial, administrative) in the country, as regards content, mechanisms or effectiveness in the short or medium term, nor in special reference to the crime of forced displacement.

*“As far as the loved ones we have lost, we have yet to do something, because we had no idea it could be repaired as that idea is not going to change. No matter what they do, there are some things that just cannot be repaired, so perhaps, in the community, we didn’t know nor did we have the intention to seek reparation” (Black peasant. Bolívar, 2007).*

Some of the people interviewed, particularly the leaders, show a depiction that is closer to its contextual meaning and, in any case, they have a comprehensive definition that recognizes material and symbolic damages. The closest relationship is established on the issue of indemnification for the loss of human life, particularly of persons close to family.

*“I asked my children the same question you are asking me. My slipper was coming apart and I told the children: do me a favor honey, my slipper is coming apart here and I need to fix it to see if it will look the same as this one. They said: yes mom, if you fix it, it is going to look like the other one; a little ruined, but it is going to look the same. (...) Then I said: so when something is broken, you have to have it fixed? And they said... Yes, because if you don’t it is going to get worse. (...) And how do I buy glue if I don’t have a job? And the little girl said: Well, you’ll have to find*

*someone to help you... get a job. And that is how you wind up, you're not good, but if there is reparation, the damages are fixed, they hurt less" (Adult peasant woman. Soacha, 2007)*

There are some aspects that can be derived from this metaphor: reparation cannot make things the way they used to be; something lost will never be the same (in the symbolic as well as the material order). You need help; accepting and seeking help is essential, and that help, as revealed by the discourse, is constituted by practical elements, which is a way to relieve past and present pain.

*"What we are seeing now, in the process being carried out with the groups outside the law, more specifically the paramilitary groups that have been demobilized, is the new law passed by Congress; many citizens are hoping that the victims will be repaired for the human and material losses, and for the victimizers to pay judicially, legally" (Peasant. Bolívar, 2007).*

In this expression of the depiction as stated by a leader, there is content of familiarity with the conditions in which reparation can take place; perpetrators that can be referred to as paramilitary groups appear; however, the victims do not know the specific actors (specific names and, in some cases, they cannot even remember their faces). Similarly, the categories of loss of human life and material damages are identified, by symbolic damage is not taken into consideration. There is also reference to the issue of victimizer responsibility, additionally evoking the component of justice in the victim-victimizer relationship. In general, it mentions the system based on which the reparation process has been established.

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## **Reestablishment is mistaken for reparation**

In general, people find a clear connection between reparation and aspects related to indemnification and, to

this effect, there are coincidences with the actions linked to the response of the National System of Attention to the Displaced Population (SNAIPD).

The SNAIPD has been consolidated under the concept of emergency, and it is inspired in the model of attention to disaster victims, which has been the case in many experiences that provide humanitarian emergency aid to populations at risk of natural disaster, the situation becomes a complex matter when the structural phenomena of the social system are committed in the possibility of offering conditions of reestablishment to the beneficiaries of the program, without considering that the number of people not only exceeds the capacity of the funds, but also that the armed conflict is still in force in the region and the situation of emergency is not transitory, and this does not clearly allow the realization of actions such as returning and reestablishment.

When inquiring the depictions of reparation of the displaced persons, it is easy to find that they intermingle discourses put forward by politicians in the scenario of attention and reestablishment, which is why it is easy for them to describe actions associated with the process to implement the policy derived from Law 387 / 1997, institutionalized in the National System for Comprehensive Attention to the Displaced Population (SNAIPD) whose model is based above all else on humanitarian assistance to the population affected by disasters, as if they were actions to be repaired. It is important to point out that this is not only the case with the victims; many of the officials in charge of the displacement issue in the official sector handle the same definitions and insist on it, on the importance of transferring the databases in order to take only the "real beneficiaries" into consideration, providing them with the aid available and quickly reduce the list of persons registered in the official registry.

*"My daughter was given 11 million pesos for her husband, but she didn't get anything else; they gave the money to her children, I got nothing because they*

*gave it to them to pay for their clothing because we had to leave everything behind, all we had was their shorts, and we had to buy them everything” (Peasant woman. Bolívar, 2007).*

In this case, once again, reparation is mentioned with reference to what is provided by the Program for Attention to Victims, implemented by the Office of Social Action. In this system, the direct damage represented in human loss is assessed. The issue of displacement in itself, as a crime against humanity, in practice is left out of the definition of victim and, therefore, receives “attention” rather than “indemnification”.

Although money has been given to widows and, in some cases, they have participated in programs of lands for displaced women at the head of the household, these actions have not constituted reparation, because many widows have even fallen in debt due to the land they had to pay for (under the concepts of Law 160 of the land reform)<sup>90</sup>. As regards the displaced population registered in the official system<sup>91</sup>, Social Action, as the agency in charge of coordinating the public policy for the displaced population, began to consider that the families who have received the benefit of housing had already been “reestablished” and they should no longer be kept in the registry, because their condition as displaced persons had already ceased to exist. These decisions caused major confusion among the communities, because not only is this not reparation, but the mere provision of housing is not a sufficient measure of reestablishment.

This situation is still not clear even for the officials of Social Action, and it represents a point of questioning in the operation of the System of Attention because, undoubtedly, the displacement issue cannot be solved by a program designed based on the model of humanitarian aid and emergency response. The displacement issue requires

90- See Meertens 2006a

91- Displaced Population Registry - RUPD - (previously SUR)

improvement in defining the situation in the scenario of complex emergencies.

The victims' depictions lead to the recognition of the fact that there are even some cases in which "there is so much conformism and weariness in displaced population that there are people that are taking whatever they can get because, in the end, it is better to get anything than to keep waiting and get nothing in the end".

The road to providing aid by the institutions, according to the design of the SNAIPD, is described based on its inoperative character, difficulty and inefficiency. As you will see further on in this document, getting benefits is a difficult result to obtain, not only as regards immediate aspects such as food and temporary housing, but particularly those that, in theory, would give rise to the condition of reestablishment, as stated by the set of regulations in effect in Colombia.

In this situation of benefitting from the attention based on good fortune or the kindness of officials, social representations are also revealed, sustaining the idea that certain leaders of organizations have received benefits from the Office of Social Action in order to silence the collective voices that are complaining, which contributes to new breaks in the communities due to suspicion and distrust, and once more the rumor causes confusion as regards information on the conditions of confidence in the State. To this effect, the institutions appear to be related to each other with the clientelist handling of relationships with each other, community leaders and organizations.

*"No money can pay for a life or get it back" or "the dead have no price". (Black woman. Choco, 2007)*

The indemnifications obtained for human losses, provided particularly to women, such as in the case of Bojayá, or the massacres in the village of El Salado, they have been purely individual and they have caused fragmenting, conflict and division in the community. Surviving women

express their feelings of guilt as regards their deceased relatives, because it infers comparing the value of the life lost with a sum of money. Receiving money contradicts the repeated affirmation relating to the symbolic value of the victims and repudiation for material payment.

To this effect, indemnification constitutes a sort of “betrayal” against the deceased, expressed by some as “those who receive money are going to live at the expense of the dead”. The women’s right and the need to cope with the loss in the material sense, sees in indemnification a contradiction with the people’s “obligation” to hold on to their memories of the dead and the consideration, which should incidentally be public, of the irreparable and unforgivable character of what has occurred.

An important issue that is repeatedly mentioned, particularly in the groups from Soacha, is the recovery of lands as part of the reparation. “Because simply put, it is ironic, initial reparation is giving people back what was taken away, yes, give them at least that, the piece of land where they used to live”. But the idea of just reparation, which is based on returning what was lost, finds multiple obstacles in practice, because up to now, none of the programs has contemplated the restitution of property<sup>92</sup>. Displaced women suffer most from this situation because they, although less than the men, do not have any record of their rights over the land, because they are not culturally recognized as the title holders of the property or the ownership of assets and, to this effect, they have what in other parts we have called a double disadvantage to be able to make any claims because, from the outset, they have to struggle for the official recognition of their losses (Meertens 2006<sup>a</sup>).

*“In recognition (the State) of what we actually lost, of taking our word for it, of believing in what we were saying, if I had such and such in so and so (...) if I*

92- Decree 1290 / 2008, which regulates the individual reparation of victims, leaves out reparation for crimes committed against the legacy assets of the displaced population.



*don't show the record of my cattle, then I have nothing... at least in my case, where I had no land, I had no deed because' I lived on the farm of my in laws, but I did have heads of cattle, I had lots, I had other things in which I lived, but since I can't prove it, I get nothing."* (Peasant woman. Soacha, 2007)

The desire for the restitution of lands as a central point of reparation is in turn a part of the displaced population's struggle to be recognized as victims.

## The displaced are victims

*"I consider myself a victim, because I had to move (...), they made an attempt on our lives too... (...) victims because we wound up losing a lot of what we had. I think all of us who had to leave our ranch, our house, all those things, are victims. Who was not a victim? Those who were in the confrontation, the armed actors... everybody else is a victim. Even those who have returned but have not had a decent reestablishment, they are still victims"* (Peasant woman. Soacha, 2007).

The crime of displacement must be understood in all its magnitude. Some people only recognize associated crimes and if they have not gone through experiences of human loss, they do not feel worthy of reparation. On another note, many public officials do not attach much value to displacement. In fact, this issue was much debated within the National Reparation and Reconciliation Commission.

*"Another kind of damage is when you have to depart your place of origin and leave everything behind. When you try to go back, when you go down to pick up what you left behind, it's not always there. You lose a lot like that. That is one of the damages caused by displacement. Another factor is the social fabric, because you are living in an environment and you lose*

*it. There is also socio-economic damage due to the economic shortcomings involved. There is also damage for those who owned their home and lost it. (...) Some things are reparable, such as the housing factor. I don't see anything else that is reparable... nothing else. Because the psychological part is still affected... Oh, maybe the economic aspect, because if you are going to create a company, you are going to improve your income. But the loss of a relative or the social element would be difficult to repair. I think if the government perhaps took social justice into consideration, implementing serious, wide-ranging projects, the material aspect would begin to be repaired. But the social damage is just too difficult"* (Peasant woman. Soacha, 2007).

There are repeated narratives regarding what has been damaged and lost. However, it is important to point out the irreparable aspect of the ruptures in emotional and social networks. Although not everyone lost loved ones, those who remember members of their community who are gone, not only because they were murdered or disappeared, but also because displacement has led them away, have grown apart in everyday life in the collective construction of affection and meaning.

*"In order to recover, for instance, the way we were organized, the unity we all shared, recovering all those things we lost, which was mainly our land, because with our land, we had everything, with just our land we had health, education, food, that is our common objective: getting back together to recover what we used to have"* (Young native, Bolívar, 2007).

Opening the possible panorama for the reparation of social networks and cultural construction would perhaps mean to them the reunion of the communities in their places of origin, or at the very least, collective relocation.

*"All I need is for them to find me a job, or a place to put my things. Come and get me so I can live with my children and work"* (Black woman. Bolívar, 2007).

Some people want nothing from the past. They have lost all hope that anything could be recovered, and the present demands constitute the priority upon which they define their expectations for reparation, so the past is articulated as necessary for the recovery of the present and the possibility to construct future plans.

The loss of their status as providers affects men hard (as mentioned earlier), so this estimation is confirmed, and based on the positions expressed by a certain group of men, these damages should be paid for with special reparation for them. According to their testimonies, it has been revealed that the men think “everything is easier for women”. In these words, read in context, you can see the recognition of their own limitations as compared to women. Some of them feel they have been passed over in the case of the assignment of benefits and productive projects that give priority to women, so they say they have not had much institutional support, and they even feel discriminated because their testimonies have been questioned more often given the stigma of deceitfulness, opportunism, and even an alleged association with the armed actors that has fallen on the men.

*“The women have more possibilities. It is easier for them to adapt, recover, work, do a lot of things, because men are limited to what they know and they are not given many possibilities. There would have to be a difference, considering perhaps the activity we carry out as men, to put us to work, to make us useful in companies, in factories, in stores, anywhere you can solve basic problems” (Peasant. Soacha, 2007).*

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## **Who’s responsible. The state has to repair**

As regards the responsible parties, it is typical that people cannot clearly identify the perpetrators of the

crimes; but it is also possible that the current conditions do not yet enable these people to easily mention those who they have to report, due to the fears associated with the past and the present as a threat as regards their security and life itself.

*"There was never a penalty, not one, it was left at that, not one"* (Black woman. Bolívar, 2007).

Impunity has been the most outstanding characteristic in the definition of the responsible parties. People sometimes say they had masks on and remembering the faces that appeared in the middle of the night is just not possible or, although they saw them, they do not know their names or where they came from. In some cases, the people can identify the groups they know were passing through the region, and in other cases, the victimizers identified themselves as being from a group as part of the strategy for territorial control.

*"I wish I knew who they were, the guys who came to our town, but we just don't because they had uniforms on and we don't know who they are. We do know they were paramilitaries because they cut people's heads off, pushed people around and cut people's throats, so we ran away and they probably caught anyone who stayed behind". "It was massive; we all left as a whole, so we don't know what happened to some people. We haven't heard of any actions taken where the responsible parties were located. We haven't heard of any penalties either. It doesn't seem like anything has been done about it here"* (Peasant woman. Bolívar, 2007).

Despite the reports filed and declarations made by some of the victims, there are no clear processes or monitoring of the judicial proceedings on the part of the victims. They are unaware of the status of any possible investigations because they have not returned to their places of origin and, in many cases, because they have lost the papers, they have been sent to other cities and,

as a last resort, they have found no concrete results as regards the complaints filed before the authorities in charge.

The contextual and informative content of the depiction expressed by this phrase shows elements that associate the power (of the hands that acted on the town) that wore uniforms similar to those of the official military forces (which is why they do not know who they are), but it also clearly defines the identification of a group (the paramilitaries) because of the actions they usually carry out in the region and show up repeatedly in interviews and workshops (cutting people's heads off, pushing, cutting throats... forcing people to flee and control whoever stays behind by death or by fear).

In any case, there is an attitude of nonconformity with the current situation. In fact, although many people are just getting to know the Justice and Peace Law as the generator of the reinsertion process and understand the dynamics underlying said judicial principle, the presence of the "demobilized" paramilitary groups can be observed in these territories and this is considered a situation of injustice.

They condemn impunity directly and they find Government measures uncomfortable and despairing, because they always establish criteria of comparison, in which the victims in general, and particularly those of the displaced, have been treated unfairly and the ones who are now receiving benefits are those who gave rise to the violent events.

One parent said: "You tell me. How am I going to tell my son not to get involved with the people from the gangs if the other day he asked me what good would come from being nice like me if, at the end, those who forced us to leave our lands were walking around like they owned the place. The other day he saw so and so walking out of one of the houses in the neighborhood, very well dressed with the latest shoes and plenty of money and, on the other hand, he had nothing".

What is striking about this phrase is that it reveals the construction of a subject who is immersed in this scenario filled with contradiction, asking himself about morality and equality, and the consequences of good and bad actions. Being good is located in the hierarchy of values underneath the actions of the evil, who are rewarded with money and tranquility (which is what he referred to as walking around as if he owned the place). Being bad is rewarded, while being good is winding up "screwed", completely damaged. Society represented in the State seems to be endorsing violence as a valid means to an end and, not just because actions are controlled by the use of force and power, but because the State seems to be giving out "rewards", benefits on account of the violent conduct by means of reinsertion with the guarantee of wellbeing.

Although the depictions of reparation are deficient as regards informational content, the context of the depictions as a framework for the definition of the core action of response makes the State responsible for assuming the damage; as the guarantor of preventing recurrence and enforcing the sanctions to be stipulated in the judicial proceedings. However, the lack of credibility as regards the fulfillment of these functions by the State is unmistakable, which is why this petition is made in many of the testimonies.

*"I think, I mean it has always been my idea, that the State should take responsibility for all this, in the sense that it has the duty, the commitment to protect the civilian population. When we are displaced, it is because the government has failed, directly or indirectly, in some regard, so the government is responsible for making this type of reparation. I don't know what it would have to do, but I think that, instead of spending so much money on war, which generates more war, more violence, it should not invest so much on that but rather realize that there has been damage caused and take these funds to re-stabilize the populations*

*that have suffered the damage. I think the State has the commitment of repairing” (Peasant. Bolívar, 2007).*

There are cases in which people have lost so much confidence in the State and their depiction of the Government that, as regards the issue of justice and truth, they only believe in justice as a divine plan and in truth as something that cannot be spoken.

*“Look how great God is. On day, they asked me whether I was going to do something about it or not. They said the man who killed my brother was there, and I should take advantage. I said no, I’m not going to do anything else, and the next day, there was a thunder storm and the lightning struck him, the one who killed him. I know God punished him with that kind of death. That was the way it was supposed to be. That’s why I haven’t thought of doing anything about it. God knows and he will give everyone what’s coming to him” (Black woman. Bolívar, 2007).*

Contrary to what the social depictions of other actors consider a “violent” subject, there is a “moral” subject of another order here. A subject that delegates the action they cannot control. In despair, frustrated by unsuccessful attempts, tired of the bureaucracy to get true responses in the judicial processes and farm from taking “justice into their own hands”. This subject decides to delegate the qualities of punishment for the responsible parties in the “supreme” power. This idea, which is quite common among the followers of certain religions, has begun to be established as people’s “consolation of lost causes” in the individual dimension. And it is translated, as illustrated in the quote, into a certain passiveness in social and political action.

*“As a young man, I had plans on how I was going to bring up my children. I was going to give them the education I didn’t get. Maybe I had plans to live a different lifestyle and not have so many needs. I think that is reparable” (Young black man. Bolívar, 2007).*

The symbolic place of reparation alludes to the damage caused as regards the future that had been dreamt of, the relationships planned in the context of origin, as they were associated with the resources available and the challenges based on the baseline available as an action plan. Some people want nothing from the past. They have lost all hope that anything could be recovered, and the present demands constitute the priority upon which they define their expectations for reparation, so the past is articulated as necessary for the recovery of the present and the possibility to construct future plans.

## Institutional assistance

*"Nobody worries about that here. Leaders are not concerned about what can happen to a displaced person. They use political maneuvering more than anything else"* (Black woman, Choco 2007).

There is confusion that continues to be important and may be related to how interviewers tackle the question, and also how people take on the issue of reparation. Humanitarian aid appears in the definition and there is a clear relationship on establishing the ways in which they have been the object of benefits on the part of institutions. The condition of assistance in different areas and, to this effect, the absence of comprehensive support and the temporary nature of isolated actions prevails.

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The concept of reparation as a judicial process has not been internalized, and expectations are defined as of the subjective condition based on incomplete, fragmented discourses with no significant mediation by means of concrete information or the actual appropriation of rights discourses.

*"We have received food assistance, but we have gotten nothing else and the training they provided has not been of much use". "They took care of us here for about three months They gave us some grocer-*



*ies and things, but that was it...*" (Peasant woman. Soacha, 2007)

Phrases like these make you want to ask again about State intervention. Again, it is easy to see how people talk about the actions of emergency humanitarian aid, especially for the first three months, and intervention as regards psychosocial support, training and, in some cases, productive projects. Similarly, some people say they never got this kind of aid either. As regards the way they were eligible, they mention the displaced population base organizations as the source of information and the intervention of national and international non-governmental organizations.

*"We have gotten no support, no support have we gotten".*

Psychosocial intervention appears to be a consequence of the interventions of different actors, particularly the non-governmental organizations, and it is included in the natural processes of redefinition and reconstruction carried out by people and families to get through the crisis and deal with the emotional consequences of the damage caused by the violence.

*"There was a time when a psychologist helped us. As far as the family is concerned, we have learned to control ourselves a bit as time goes by". "Thank God we have had a lot of support, so there will be a better future. They have defended the town. Among other things, they have helped us with training, a psychologist, a social worker, who have helped us through the process of recovery of what happened to us"* (Black woman, Choco 2007).

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## **Practices associated with the social concept of reparation**

The following does not constitute a set of practices derived from the reparation process undertaken as a measure established by means of specific policies derived from

the Justice and Peace Law. Instead, it constitutes the depiction of the ways in which the victims have experienced the recovery processes of people, families and communities in their own attempt, constructed based on unstructured mechanisms in their ways of assuming life after violent acts.

## Mourning practices

The practices of mourning that in many cases has been caused by the spontaneity of people and communities as a part of their natural process are important, and they have been engraved in the cultural legacy. In addition, these actions have been encouraged through the intervention of governmental and non-governmental institutions that have become involved as regards humanitarian aid. However, these practices are not the result of reparation processes in the judicial sense.

Most of the actions mentioned by the people interviewed have been close to the events and those that are due to more widespread socio-cultural religious practices continue to be in force.

*"We pray for those who died. A mass is offered in their name". We talk when we get together with our friends and, well... not mass. We didn't have a mass because he was evangelical, so not mass" (Peasant woman. Bolívar, 2007).*

Exercising certain practices is directly due to the subjective point. That is where the typical conditions of the affective sphere and the particular ways of commemorating the deceased begin to make sense.

*"Yes, I remember my husband all the time, day and night. I sometimes tell my children or I get together with them in the afternoon and I say... if your father were here how nice it would be when early in the*

*morning you would say good morning Dad. I remember him all the time and they say, you're right mom, when dad would get up, the first cup of coffee was for him. We would talk all the time, I will never forget that man. We go to mass, and on the first anniversary of his death, we will have a very special commemoration for him and will pray for peace. We will pray that it never happens again and nothing ever happens to us because we have been through a lot"* (Peasant woman. Soacha, 2007).

The community actions mentioned in the interviews cannot be defined as reparation actions because they are associated with unprompted social actions not establishing any kind of relationship with the processes and interactions as a true judicial space would imply for the reparation of rights. Actions such as commemorations and the declaration of cemeteries have been associated with the processes accompanied by churches and other human rights organizations, but they are established as mechanisms that have enabled members of communities to return to the scenes of the incidents, adapt to the new situations, mourn or file complaints by way of ordinary justice before the organisms in charge.

The case of El Salado, for instance, constitutes an experience where the activities that began in 2001 in an annual commemoration, whose purpose in the words of Father Rafael Castillo is to "preserve the memory, generate public rejection and mourn", can be defined as a symbolic element of reparation. Thanks to this formal procedure and with the assistance of NGOs, some government entities, churches and international organisms such as the ACNUR, we laid the foundations for the Regional Reparation and Reconciliation Commission to attend the commemoration service in 2007, the tenth anniversary of the first massacre. However, in itself, it does not constitute sufficient guarantee of comprehensive restitution of rights so that, in effect, it can be considered an act of reparation.

In Choco, there are processes of “territorial healing” in concrete actions to recover control, clean and provide care, which are charged with a particularly spiritual content, which is how women intend to recover their mobility and autonomy to be at peace with the dead and with nature. This is a more heartfelt, comprehensive version, where there is no calculation of damages but rather the hope of what in terms of transitional justice would be known as “preventing reoccurrence”.

*“We have symbolic wakes in memory of all the victims. On May 2, we have a mass and a march to remember the massacre. We do all this on the level of those of us who are displaced here”* (Black woman, Choco 2007).

In addition, in Choco, the practices have a double meaning. On the one hand, there are symbolic, ritual and cultural exercises aimed at paying tribute to the victims, fulfilling the postponed duties to the dead and processes meant to reestablish emotional wellbeing and the mourning of those who have been affected. On the other hand, there are practices aimed at generating conditions to return, relocation by their own means or by means of the restoration of rights before the authorities.

The women in Choco, like in other places, are more related to memories: they have reconstructed the history of tragedy and loss in songs that usually go along with the rituals and commemorations but they also play an important role in resistance.

Resistance means the decision to live and die in the territory, and in order to do so, you must combine different strategies: defensive action in the face of aggression or attempts of murder or recruitment: in this case, it is all about collectively dealing with any kind of threat, surrounding the body of the threatened person and prevent his/her murder or separation from the community; collective marches of women against the armed actors claiming their recruited husbands or children, the writing of state-

ments to be presented to the national and international community; persuasive dialog with the armed actors.

The men are more linked to “self-reparation”, processes in an intimate relationship with the restoration of rights and the search of decent living conditions. In Soacha, where we interviewed men and women with different leadership experience from Choco, los Llanos, Boyacá and Huila the rejection of individual economic reparation is taking place all over again:

*“The economic aspect may not solve anything for us. It would rather offend us because the loss of life cannot be repaired by anyone. It might be satisfying to have social reparation that will begin to provide assistance to sectors that have been subjected to violence, which in this case has involved paramilitary groups more than anything and, to this effect, recover the living environment that has been lost”* (Peasant woman. Bolívar, 2007).

In the broader community scenario, some of the people have attended processes summoned by the Reparation Commission on the regional level and they have filed statements before the Prosecutor’s Office. Commemorations have been sponsored as a result and some monuments to honor the victims have been put up. The communities of El Salado and San Onofre have been an example of these cases. However, this situation requires a more specific approach, given that the continuing nature of the conflict, the presence of illegal actors and the lack of guarantees for victims’ security in this region have resulted in selective murders and other criminal actions added to the theft of databases of the statements filed before the Prosecutor’s Office.

In the specific case of indigenous communities, some practices seem to be incorporated in the cultural legacy of their people, in which reference is made to ancestral and religious beliefs as well as to the value represented by the people who have disappeared and have been murdered, and by abandoned lands.

*"We create memories that lead us to our comrades, to our leader. We have a sort of sculpture that represents of our friend. We use it every time we go out to other communities and we put ourselves in his hands so everything goes well wherever we are going". (Young peasant, Bolivar, 2007).*

The cases of mass violations that involve the crimes of torture or murder have become stronger in terms of victim initiatives, in some cases supported by human rights organizations that have taken interest in establishing scenarios for recognition, memory and preventing reoccurrence. However, they do not clearly recognize forced displacement as a crime either.

*"Every year on February 18, there is a commemoration ritual. We call it a cemetery, where common graves were made to bury the heads and legs of everyone they killed, and the ritual is held for them every year. In El Salado, there is a town square that has been chosen to make a monument to the victims. The foundation stone was laid there and the names of all the people who died in the two massacres are there".*

## Social resistance

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*"There have been plenty of protests in Medellin and Cauca. They have protested the cases. We never file petitions for the protection of fundamental rights and we never carry out marches or protests. My children and I never liked those things. We get together like that sometimes. We all get together with the people from Mampujan to talk about what we lost, what we no longer have" (Black man. Bolivar, 2007).*

In the northern region (particularly Montes de Maria), the actions that can be defined as resistance have been

carried out as regards the proposals for communication developed by young men and women, the women's networks and the actions to strengthen community organizations by the parishes (in Carmen de Bolívar, for instance). However, it is interesting to point out the fact that this region has had powerful peasant movements in the past, which have been broken up precisely due to the violence. The presence of armed actors in the region, who continue to have certain control, have also contributed to this situation, along with the frequent confrontations between them and the army in nearby areas.

In Choco, on the other hand, massive processes have taken place, not only because people were displaced in complete blocks and within the same geographic regions, but also because the communities have become stronger as a group of relevance. So displacement did not split the communities as bad, but rather the return and relocation processes have been associated with intense processes of community organization supported by their cultural resources as afro-Colombian and indigenous ethnic groups.

## Complaints and legal proceedings:

*"They filed complaints about what happened in El Salado with the Prosecutor's Office and the Ombudsman. All these agencies were there"* (Peasant woman. Bolívar, 2007).

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The key here is to recognize that the complaints are associated with the loss of human life due to murder. There are no descriptions regarding complaints due to displacement or the expropriation of properties and lands. The reparation issue is circumscribed to the question about reparation as far as the loss of human life and maintains two scenarios: 1. That of the necessary pronouncement of the facts as a citizen obligation when murders are committed, 2. The search of indemnification as victims of the conflict.

*"Since I've been here for a while, I don't know whether or not these complaints or petitions for the protection of fundamental rights are doing any good. I have no contact with them. Well, each family was put in contact to see if anyone was killed, but no paperwork was filed for the people who made an attempt on their lives went to court or paid for it"* (Black woman, Soacha, 2007).

It is clear in the depictions that the processes are long and, quite often, the people get tired and do not stay abreast enough to have clarity as regards the facts and for the pertinent measures to be taken.

The condition of punishing those responsible is barely visible for the case of the massacre in El Salado (village in the town of Carmen de Bolívar). A process of collective awareness, with the purpose of establishing responsibilities and making sure reparation commitments are fulfilled, is clearer here. However, the importance of displacement is not recognized sufficiently and more priority has been given to other crimes.

*"Nobody could file a complaint because it was too dangerous. But I don't know about now. I've been displaced for quite a while, so I don't know if my comrades have filed any complaints"* (Peasant, Bolívar, 2007).

Although people understood the importance of filing complaints, either as a citizen responsibility or in search of indemnification for the damage, many of them did not do so right after the events, and they have not done so up to now, because of the fear caused by the impact of the incidents, because the threats continued and the conflict in the region continue to the present day. Similarly, there is a tendency to forget over time and the routine character required to deal with the present begins to close the space for preoccupation about the past. This is even more so in the case of what happened in acts of sexual violence during the El Salado massacres (it has



been revealed by the press and also by the contents of the judicial files that there were rapes and they made the women dance naked while they killed the men)<sup>93</sup>, regarding which time has intensified the silence (as analyzed in previous chapters), while the perpetrators insist on evading the topic in their confessions.

So the report in itself places the victim in a possible place of re-victimization and the guideline established by fear is silence, complemented with the sequence of impunity.

*“My sister got a lawyer, but then, after people said it was not a good idea, because we know who was operating in that area on that day, that is to say, here it is part of the government, so they scared us too. That’s why we didn’t do anything, because we’re afraid there may be reprisals against the people carrying out that type of actions, manifestations or protests”* (Black man. Bolívar, 2007).

Any attempt to implement mechanisms of enforceability of rights is limited by reprisal by the armed actors. What is more, people perceive that control from within the government institutions themselves.

## All the paperwork... and why do something about it?

The victims who at any given time used mechanisms for the recognition of the events by filing complaints, found and still continue to find obstacles for due process. This situation not only generates the so called double victimization, but also provides a space for distrust in State efficiency and effectiveness and an additional contribution to despair. It is even more serious when they say “we did what we had to and it did us no good”, because the paperwork takes too long, because the agencies do

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93- See Amnesty International 2004 and references by the Colombian Attorney General in the closing of the International Seminar The Legacies of Truth, Bogota, February 2007.

not do anything about it and because, ultimately, no actual reparation of the damage is achieved.

*"I went and filed the report at the Prosecutor's Office here in Carmen. I filed it on March 3 that same year, 2000. There, they told me that the reports had been sent to Bogota. Then, on June 17, I got the order. I went there and they told me it was still pretty bad there and I couldn't go, because if I went to look, they could wind up losing, they said... four of us will go along with you and your brother' There would be six of us losing our heads to get one out. In the end, I didn't do anything for my husband. So I was recently at the Prosecutor's Office again asking for a copy of the report and they said it was in Bogota and another part was in Cartagena. So I made the effort and went, but they id didn't show up. So I wrote a letter to the Mayor and he said I had to deposit \$100,000 in the bank if I wanted those papers, but he didn't say which bank or account number. Then I went and filed a petition for the protection of fundamental rights. I filed it against the Mayor and I gave him 48 hours, without paying a cent. I have those papers now. I have them here with me". "I have the report. The package of papers with all the responses they have given me is this big (pointing to the measurement of her forearm)" (Peasant woman. Bolívar, 2007).*

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The narrations of the women from the community of El Salado regarding the paperwork filed to achieve actions to search for their disappeared husbands are no different than many of the cases reported in Choco or different regions in the country. They also reveal the bureaucratic obstacles and the corruption that, although the victim got the documents she required in the end, the time it takes for the paperwork, the efforts and the necessary use of judicial measures to overcome the ineffectiveness of the administrative organisms reveal that social action as a participative process has found an enormous gap in the actual application of the public policy for the attention to victims of the political conflict.

*"I filed the petition. They sent me to the criminal judge. I have all the papers. I went and they asked me to file the report again. I told them I had nothing more to say because I had already done my part. If they are looking for me to file the report again, they will have to write up a death certificate, which is what I am looking for to see if I can get back something of my husband's, for my children's education. They said it couldn't be that way, so I have nothing to say. What I want is for them to look for all the paperwork I already gave them"* (Peasant woman. Bolívar, 2007).

## Collective action

*"We have been recognized on the national level, because we are an organized group of women. We were not organized before. Now we are. Now we know why it happened and what we can do about it"* (Women, community of El Salado. Bolívar, 2007).

Dealing with individual needs and turning them into collective needs has been the initiative of many of the victims that have become associated through organizations. The individual problems and strategies used by isolated subjects have become elements of association and undoubtedly establish relationships that involve solidarity and associative struggle as a form of recognition and social pressure for the enforceability of their rights.

Some victims have earned representativity and there have been attempts to generate spaces for the recovery and handling of emotional and affective processes in the personal, family and social spheres, such as the case of women from El Salado who are grouped together under what is known as "United Women of El Salado", which constitutes an arm of the Asodesbol (Association of Displaced Persons from El Salado, Bolívar) Organization.

Actions of solidarity and strengthening of the support networks constitute an important element for com-

munities that, following the massacres in the villages of El Salado, Bojaya and Bella Vista in Choco and Mampujan in Bolivar, have decided to return, in the case of the first, or relocate in an effort to prevent the family and social structures from coming apart again. In the case of many communities, the situation has been the result of the effort of the victims of displacement themselves, with no systematic, committed assistance from State entities.

*“The women have generated meetings here in El Carmen, here in Colectivo, to remember times. Those times have gone and they were beautiful. We start to pray for the disappeared and we have masses and all that. As a group, we try to take care of everyone else and, if any of us has a problem, we go and talk about it and give each other advice. The experience of solidarity in our community, with the families of the victims... we work as a group. We help them with groceries, some money, food, building a home, transportation if they have to move around. We help each other a lot like that”. (Peasant woman. Bolívar, 2007).*

In principle, all these organizations have worked to deal with situations involving the lack of basic resources and have evolved over time to claim social and economic rights and recovery as victims.

*“We have meetings every week where we work as a community. We encourage each other to survive, to sustain ourselves, because two displacements have already taken place and we could not stay in the towns. We had to go back but now we are strong and we have to stay there because that is where our land is and we need it to grow our crops. So we are determined, no matter what, we are staying on our lands and that is the encouragement we offer each other” (Black man. Choco, 2007).*

Contrary to what has been said based on the discourses of officials or the population in general regarding the victims' dependence on welfare and passiveness, the

mobilization characteristic in the depictions of some people and displaced communities reveals the attempt at self-management and civilian resistance in facing a government apparatus and a State that seems to be absent as far as the protection from and prevention of new displacements, on the alert for the expropriation of the territories of peasants, indigenous and afro-Colombian peoples, and oblivious to the tendencies of the conflict that continues to the present day in different regions. Victims' stories suggest that the communities that have managed to become stronger as a social group are not interested in facing the experience of poverty, marginality and exclusion.

As mentioned earlier, the collective issue of displaced groups with an ethnic condition finds support in other struggles as such, because particularly indigenous and afro-Colombian peoples would have, at least in theory and legally, basic constitutional backing.

*"Well, as far as reparation is concerned, when you are black, your culture is different from that of the rest of the country, and I think you have to salvage the cultural ingredient. As a displaced person, you are also losing your land and as blacks, we have Law 70, and also because we are falling into the hands of groups outside the law"* (Black man. Bolívar, 2007).

## **No truth, no Justice and far from reparation:**

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As regards the expectations of reparation, it can all be summed up in the following phrases:

*"The reparation process has been misapplied. It has all been a trick". "Now the paramilitaries, who are the ones who did the damage, walk around well dressed with pay for having committed the crimes like they did. It's just not fair". "How can I tell my son not to be a part of those gangs? The other day he*

*said that the ones who made us leave with all their evil deeds are being paid by the government. They are driving around the neighborhood in cars and with the latest shoes” (Black man. Bolívar, 2007).*

All the “displaced” persons we talked to, ask themselves why the victims are still in such a bad situation, while the so-called responsible parties, the victimizers, are now enjoying these privileges. The credibility and confidence in the State has declined. Impunity and the momentum gathered by the demobilized groups of paramilitaries, as well as the criminal activities of the guerrilla groups, and the distrust in armies that “force the girls and boys in each battalion into prostitution”, have become determining factors for people to be able to take a step toward the search for truth and hope in justice.

When you hear displaced persons talking about how they have managed to go past the barrier of horror and pain, and how they have defined new struggles and new projects, you find that, on one hand, they believe that “no support was provided for reestablishment” and “there is nothing left to repair because nothing can repair what has already been lost”. However, they do expect to be provided with the conditions to carry on. They have confidence that the national agenda will again take up matters such as the land reform. They expect to “be allowed to work”. Some of them say, “I had no time to mourn, but what I am concerned about now is getting through the crisis.

*“In El Salado, there are no families in charge of enforcing the law, but there are institutions that have perhaps played a role in making this happen. In any case, it is uncertain. There is still no guarantee that the people who made attempts against the lives of so many will be punished the way they deserve” (Peasant. Bolívar, 2007).*

It is clear how more and more people have started to put up walls between the past and the present, because

this relationship only obstructs and ignores the present condition and future projections. It is not useful in the practical sphere. It is not functional for a context that does not recognize the social damage and does not guarantee opportunities of truth, justice or reparation. People face a contradictory situation in which, on one hand, the discourse offered by government divisions maintains an invitation to the processes, but on the other, offers no guarantees and the victims continue to have security issues; threats against community leaders, control mechanisms based on fear, while the conditions of indifference and impunity carry on to the present day.

## To close: the voices of desire

This section requires no comments by the researchers. Here, we will read excerpts of the victims' accounts. In honor of the victims, all you have to do is listen to their voices, hear what these men and women, afro-Colombians, indigenous peoples and peasants want; imagine what their dreams are and where their hopes have been placed. These dreams perhaps arouse certain reflections in us. They will probably launch us into uncertainty. They ask us about democracies, social justice and, above all else, they open the window to recognizing the direct impact that political violence has had and continues to have on nearly four million people in Colombia. It incites us to make noise, to put on the amplifiers and find alternatives so these citizens, and other inhabitants, can leave their future generations with something more than resentment and despair.

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*"The most important thing for me is, the day I die, for my girls to have a place to sleep. That's all. Because you can't turn back. (Peasant woman. Bolívar, 2007).*

*"They are giving out apartments, but they're too small. They have two little bedrooms and we are such a big family. Even if it were not new, a house*

*would be good. Anything... a lot for us to build on"* (Peasant woman. Bolívar, 2007).

*"I want to be with my children somewhere I can work"* (Peasant woman. Soacha, 2007)

*"I would like a small house, because I have nowhere to keep my grandchildren. My only hope is to leave them a place to live, because at my age, I could die tomorrow or the day after that"* (Peasant woman. Bolívar, 2007).

*"The government should do its part, because it has devised the processes of justice based only on the side of the victimizers and the victims have been neglected"* (Indigenous man. Choco, 2007).

*"I think the government should think about what it is investing in the war. Why don't they think of the damage they may cause, when they want to recover a so-called red [guerrilla] zone? In order to recover the territory, they are destroying everything in their path, paying no mind to what has taken us a lifetime to build, because there are more peasants who have nothing to do with the conflict in the zone that they are supposedly going to recover"* (Peasant. Bolívar, 2007)

*"I think it is important for the institutions to respect us and believe us. They should recognize our rights"* (Black man. Choco, 2007).

*"What we want is to be able to go back and reunite with our families and our community"* (Indigenous man. Bolívar, 2007).

*"What we dream of us getting our land back, along with our rivers, our homes and our crops. We want to be able to go to our lots and get back our jobs as farmers"* (Black man. Bolívar, 2007).

*"We want our children to be able to go to school"* (Parents from all the regions)



*"What we would like is for them to give back our territories, to hand over our lands and let us keep our culture, respect the legacy of our ancestors"* (Indigenous man. Bolívar, 2007).

*"Demand answers from the groups in charge of investigations (Prosecutors Offices, Ombudsmen)"* (Black man. Bolívar, 2007).

*"We want them to give us information on the processes to access what reparation is supposed to provide"* (Indigenous man. Choco, 2007).

*"Reaching truth amidst the conflict is complicated due to the fear of suffering more damage. We want the conflict in the areas to stop and we want to find the truth. We want justice to be served and we want those who have to pay, to pay"* (Peasant. Bolívar, 2007)

*"We want the State to recognize the truth of the victims"* (Peasant woman. Soacha, 2007)

*"The mechanisms and the authorities to guarantee the declaration of the truth should be created"* (Peasant. Soacha, 2007).

*"We want to learn the deepest interests that have generated the events. We want all of society to learn them and for the true responsible parties to pay. We want the entire country to know the truth and we don't want the search to cease"* (Peasant. Bolívar, 2007).

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In order to observe the depictions of the actors, we have tried to recognize in them, simultaneously, what is remembered and what is forgotten, according to Elizabeth Jelin (Jelin 2002). This moment on the timeline "makes sense in the link with the present, in the act of remembering/forgetting" and in accordance with the text "it is a subjective process; it is always active and constructed in a social sense, in dialog and interaction". This leads us again to think that the events take sides

and therefore, as mentioned earlier, constitute experiences that are activated in the act of remembering, according to Jelin “due to the desire or suffering that sometimes go along with the intention to communicate”. Similarly, the context in which these memories are brought to mind or, on the contrary, in which certain facts are omitted, constitute the present as a common place to analyze the sense of the crime of displacement, which is narrated based on the link of the memory of the past, making action possible as a project. It is important to point out that, according to this author, there are at least two types of memories: habitual memories and narrative memories, of which the narrative memories are pertinent to the sociopolitical scenario of displacement. They associate emotions and feelings, which are communicable in the narrations in which we got together with the victims. There, the men and the women we spoke to enabled us to see this relationship of the senses given to the past, where you can simultaneously read the memories as well as the silence, as statements of pain, fear or the simple oversight of what certain events represented and still represent.

210 All the persons involved in the investigation experienced, through body, mind and feeling, the event of displacement. In general, they received threats and faced situation such as the murder of their relatives, friends or members of their communities, physical violence, the recruitment of their children and the uprooting from their lands. To this effect, they constitute the direct source of a collective construction of the memory of the conflict, as narrators of a past that establishes the shared cultural experience. It is through these people’s language that the typical interpretations of the impacts are revealed, mediated by the feelings and emotions they evoke in the personal history, but also revealing the social and political implications thereof. As stated by Lira (2001):

*“The emotionality that tinges the memory bears the intensity caused by one or many experiences perceived to be threatening and with the risk of death,*

*and those associated with other experiences of loss or the fear of losing significant persons or relationships. Since we are dealing with situations that are linked to politics, the ideas and projects at stake are marked by an emotionality connected with the fear of death and threshold experiences. The memory of the past synthesizes and condenses these experiences, along with the suffering and loss, giving a particular meaning to the past and to loyalties involved for the individuals and groups that experienced it analogously. The social possibility of resolving this past implies recognizing it as a matter that is not only private and typical of individual biographies and stories, but an issue that also concerns the social and public sphere of action. Similarly, as stated by Lira further on, "the socially shared past will never cease to have a private and personal dimension, when the same social and political events have modeled a set of traumatic experiences for thousands of people, it marks social relationships and has to be thought out on both levels".*

Forced displacement in Colombia, to this effect, has not only been a crime that, as an event, constitutes a systematic strategy applied against specific persons or particular populations; it has also become an indicator of a social catastrophe due to the collective suffering involved, the causal factor it alludes to, and the consequences for the social group, which is why it is so important to deal with its political considerations.

The timeline therefore enabled us to observe the elements of history that have been meaningful (based on remembering or forgetting) and as such, it is useful in the understanding of what can be built in the future, not based on the aspiration of predicting or anticipating what can be expected next, but in the desire of a call for collective consciousness, to take the everyday experiences of social and political occurrences from the private sphere to the public sphere, to reveal the historic patterns of political violence in all its dimensions, in all its differentiated im-

pacts of gender, ethnic background and age, that have been present in previous texts, in order to learn and transform the obstacles to live together in equality.



## CHAPTER 5

### EVEN THE VIRGIN HAD LEFT

“We have lost our Customs of harmony and Solidarity, lost confidence in the others. Lost collectivity, we used to get together at the parties and have sancocho and dance our music . . . in all festivals and carnivals . . . our relatives would died old.”

Photography: Rafael Guerra G.



# Challenges for the reparation of victims of forced displacement

Martha Nubia Bello<sup>94</sup>

*“Reparation is the generic term that includes the different ways a State can tackle the international responsibility in which it has incurred. The specific forms of repairing vary depending on the injury caused: it may consist of the restitutio in integrum of the affected rights, a medical treatment to recover the physical health of the injured person, in the State’s obligation to withdraw certain administrative measures, in returning the honor and dignity that were illegitimately taken away, in the payment of an indemnification, etc.”<sup>95</sup>*

Adhering to the international treaties and regulations, and even the internal legislation itself, the victims of forced displacement are people to whom the State did not guarantee the protection of their life, assets and physical and moral integrity. Due to the State’s failure to protect them, it is bound to repair, indemnify or return to them the damages and losses caused and, from a broader perspective, guarantee their rights and the exercise of their citizenship in conditions of security, liberty and dignity.

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Their condition as victims of political violence gives displaced persons a status that differentiates them from the poor and vulnerable population, as well as other types of migrants. That is why this population should be dealt with as a priority in a all-inclusive manner.

Claiming the right to reparation requires people in the situation of forced displacement to first specify and claim

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94- Master of Political Sciences, Professor - Researcher of the Universidad Nacional de Colombia

95- Garrido and Baigorria - reparations, paragraph 41.

the condition of victims of political violence and/or the armed conflict, because this is a legal and political status that entitles them to said right.

Displaced people's condition as victims is due to the fact that they have been affected by a crime, that has also been classified as a war crime and a crime against humanity. On this matter, the ACNUR suggests: "Due to its characteristics, it is a crime that takes place because the State could not guarantee the protection of these people and prevent their displacement. It has the condition of a mass crime due to the number of victims. It is systematic because its execution has carried on over time. It is complex due to the multiple infringement of civil and political rights, as well as economic, social and cultural rights. And it is continuous, given that their violation persists over time until their reestablishment can be achieved. For the above reasons, and in accordance with international principles and standards - in addition to the country's regulations - the right to the truth, justice and reparation of the displaced population, as the victims they are, should be recognized"<sup>96</sup>.

## Forced displacement and social damage

The right to reparation is related, among others, to the estimation and valuation of the losses and damages deemed to have caused the displacement. In this regard, it is important to clarify that not all loss causes damage, because some may lead to changes that are not always unfavorable. However, in the case of material losses, it is clear that most of them represent and cause overwhelming economic, moral and psychological damage.

The losses generated by the actors of violence and their meaning to the victims determine, to a large extent, not only their rights, but also their expectations and demands as regards reparation.

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96- Meir, Julio Roberto. Why the displaced are victims. In journal *Hechos del Callejon*, PNUD. NO 23. P 12.



*"The paramilitaries in Llano came to the region and stripped all the peasants of their belongings, the cattle, the horses, the tools... they took everything they could, and the people were left with absolutely nothing at all. They killed a lot of the peasants, and the others were disappeared".* (Displaced community leader in Soacha)

From the legal perspective, it has been established that victims can suffer material, extra-patrimonial and psychological and/or moral damages and losses. In the first case, the losses of material assets such as housing, furniture, livestock and lands are recognized.

In the case of displacement, the damages that are more obvious or recognized more clearly and, at times, almost exclusively, are those generated by the loss of assets, particularly land and properties. This is accounted for by the express concern of the United Nations stated in the Guiding Principles of Internal Displacement, Principle 29, Paragraph 2, which reads: "Competent authorities have the duty and responsibility to assist returned or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation or provide assistance for them to do so"<sup>97</sup>.

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Similarly the UN's most updated tool on the matter is the "Projects of Principles on Refugee and Displaced Person Housing and Property Restitution"<sup>98</sup>.

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97- United Nations. Economic and Social Council.

<http://www.acnur.org/biblioteca>. Virtual Library United Nations High Commissioner for Refugees

98- As far as these projects are concerned, it is important to point out item 6 in Section II on "the right not to be a victim of an arbitrary deprivation of your possessions", and item 10 in Section III that discusses the appeal against Human Rights violations. The right to an appeal includes, among others, indemnification for damages suffered, which should be proportional to the seriousness of the violations and the damages suffered. Last but not least, Section IV, which is the guarantee of the right to the restitution of housing and possessions.

Land, in these assessments, is void of other meanings, other than material. These meanings, in the case of peasant, indigenous and afro-Colombian communities, have powerful repercussions on the feelings of stability, self-awareness, belonging, which all constitute individual and collective identities. The plundering of their land represents the loss of a lifestyle, community and family ties, productive, social and cultural practices, which in practice, is translated into the destruction of cultural patrimony and the dramatic alteration of individual and collective life projects.

To this effect, and after analyzing the different cases studied in this research, we can affirm that the most crushing, profound damage to be contended with forced displacement is the damage to people's life project, which changes a person's existential direction, compromising their entire existence.

*"Life project is the name given to the direction or destination a person gives to his/her life, that is to say, the existential sense derived from a previous valuation. The human being, as an ontologically free creature, decides to live one way or another. He/She chooses to experience, preferably, certain values, choose a specific job activity, strive for certain valuable objectives. This all makes up the "life project". What a person decides to do with the gift of his/her life"<sup>99</sup>.*

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To Fernandez, the damage done to a life project affects the subject's liberty to fulfill himself in accordance with his own decisions. It is damage of such great magnitude, therefore affecting the way the subject has decided to live, that it mutilates the person's destiny, which makes him lose the sense of existence. It is therefore continued damage, which generally accompanies the subject during his entire existence as it radically compro-

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99- Fernandez Sessarego, Carlos. Notes on bodily harm. In [http://dike.pucp.edu.pe/bibliotecaautor\\_carlos\\_fernandez\\_cesareo/articulos/ba\\_fs\\_4.PDF](http://dike.pucp.edu.pe/bibliotecaautor_carlos_fernandez_cesareo/articulos/ba_fs_4.PDF). Pag.26.

mises his peculiar and unique “personality” (Fernandez, sf: 27). It is not just any incapacity, nor is it transitory, but rather a damage whose consequences have a bearing on something that is even more important to the subject, which is his own vital purpose, that gives reason and meaning to his life. The damage done to a life project is a definite, future damage, which is generally continued or successive, because its consequences accompany the subject, as we have mentioned earlier, during his vital existence<sup>100</sup>. This damage deeply and seriously affects the subject’s liberty to be “himself” and not “another”, affecting him in what is known as his dynamic identity; that is to say, the deployment of his personality (Fernandez, 1996: 26).

*“I wound up in hiding. I could not go to town, although I was a Colombian citizen with no legal problems. I mean, I owed nothing to the law. I wound up being politically persecuted and I could not show my face to the police, or the army or anybody else. So I had to look out wherever I went and whenever I saw them, I had to hide as if I were a delinquent”* (Displaced community leader in Soacha.

Collective and individual life projects have been clearly affected by the armed conflict, forced displacement and the impacts generated by one and the other, which mean to the communities starting a life sealed by threat, fear, the loss of autonomy and the transformation of historic and habitual forms of production, circulation, use of territory and social practices.

Although the communities affected by the armed conflict were part of a “nominally” poor, excluded collective, the years prior to the “arrival of violence” have been described and mentioned as happy times, the good life, because according to them: “You could walk around the area with no restriction. There was food and work. You

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100- Fernandez Sessarego, Carlos. (1996) “Damage to a life project”. Journal of the School of Law of the Pontificia Universidad Catolica, No. 50. Lima. Page 28.

lived a good life in the family and in the community". The war they go through has the capacity to destroy a "possible future" for communities, so families accelerate the mechanisms to take their children to nearby cities and begin to dismantle their collective and family projects rooted in their region.

The image of the possible future is also affected because war and armed disputes mean changes in the use of the territory and social practices. On one hand, the restrictions or impossibility to walk freely, grow crops and fish, go into the jungle to plant and harvest production, alter the possibilities to carry out the activities that guarantee food safety and physical survival, at the same time as it prevents the development of skills and abilities that make up the identities and socio-cultural assignments established for men and women. On the other hand, being watchful for the boys, girls and teenagers to protect them from the danger of the arms and forced recruitment, following orders from strangers and the presence of armed and institutional actors, with all types of offers and behaviors, generate the feeling that their territories are "violated" and disrespected, losing what was once a reason for peace and pride.

*"After all the pressure you feel, when you go into the stage of indecision and uncertainty, in which you become oppressed as a result of all the problems, your mind goes blank and, like I said at some point, you can talk about the past that is affecting you, the past that hurts, but... it is very difficult to think about your future, everything is erased, it is all left at that... from then on you don't know anything, anything at all".* (Interview with a displaced community leader in Soacha)

The killing of figures who mean a great deal to the communities are hard blows used to give warning of the brutality of war and its mortal scope for those who promote a language that demands respect and rights; this is how it begins to constitute a mechanism that is capable of silencing people. The war, however, can reach the per-

son who is least involved or has anything to do with it: a merchant, a sawyer, a peasant, also indicating that no one is exempt from its scope and inhabiting a place becomes a permanent risk.

To complement the judicial perspective, it is necessary to show the moral and psychic damage, along with the damage done to the people's life projects, generated by forced displacement. The moral damage is the people's suffering and pain and it involves their affective and spiritual realm. It is damage of a subjective order that, for the case of those who were uprooted and now live in cities, is caused by the loss, abuse and violations in the context of war. It is expressed as the suffering generated in facing a painful experience in the past that carries on and, at times, becomes worst in the present. As a result, the suffering results from the acts of violence that generated the displacement, but the suffering, rage and impotence brought about by the stigmatization, social rejection, dependence and uncertainty as regards daily survival has, at times, an even greater impact.

Different studies have recounted the pain and suffering caused by the loss of family members, the expropriation of the belongings and significant, beloved spaces; the absence of rituals and celebrations, the abandonment of cultural practices and the broken social networks caused by the displacement. However, in association with the experience in the city, it can be suggested that the undesired transformations in social roles, the deterioration of identity and the loss of sources of honorability and stability, can be identified as the main causes of the moral damage (suffering and pain); along with the affectation, at times, of people's good name, when they are pointed out as responsible for their own displacement or as disturbing agents that come to alter the planning and threaten the security of major cities.

*"If we wanted to go back, my children wouldn't even know how to handle a canoe or fish or hunt for animals."* (Displaced indigenous man in Quibdo).

The past filled with loss and violence, along with scarcity, uncertainty, revictimization and fear in the city, usually cause psychological damage, expressed as personality disorders and the detriment of the capacity to face up to changes and everyday situations. So, reference to disturbed and scarce sleep patterns, or insomnia, depression, rage, anxiety, addictions to alcohol or psychoactive substances, inhibitions and other symptoms described by the displaced give an account of the profound damage on their mental health, which are worsened in view of the absence of comprehensive, timely policies and programs for psychosocial care.

### **Loss of material assets: between financial and symbolic plundering**

The loss of homes, furniture, crops, animals and other belongings are listed among the things that cause the most sensitive damage to displaced families, because these assets represented the effort of generations and expressed the realization of individual and family dreams and aspirations.

Material assets were a part of the personal and family identify, so based thereon, it was possible to recognize people's capacity of work and effort, responsibility and honorability. So their loss not only implies the detriment of financial capital, which in itself is significant and important, but also the symbolic capital that, in the experience of displaced persons, means the plundering of dreams and efforts and the loss of their source of dignity, respect and social recognition.

As thousands of displaced persons arrive in the cities, with scarce or no economic resources at all, they are placed in an even more vulnerable situation, leading them to experience feelings of loss of dignity when they find themselves in the obligation of depending on charity and the generosity of others, which sometimes is accompa-

nied by insults and being pointed out as “opportunists” and “lazy”. Lacking possessions therefore takes away their status to be recognized as “decent” people to guarantee respectful treatment by others. As a result, along with the physical suffering entailed by the shortage of food and the lack of decent housing, there is also moral and psychological distress, which adds to the inventory of damage and loss of displaced families.

The material damage is unquestionable, and thus, the need and the right to material reparation expressed in indemnification and restitution. However, the complexity of the situation and what makes the experience even more dramatic is the moral and spiritual damage, which on many occasions is invisible in comparison to the material losses and changes that have taken place due to the displacement. In fact, and given the particular link of these communities with their lands, uprooting is experienced as an especially painful loss. The abandonment of their lands, crops, animals, the river and all the relationships constructed around them is referred to as one of the chief damages as it represents not only the deterioration of their quality of life, but also a separation from their ancestors, the loss of a cultural legacy and the impossibility to maintain and reproduce their culture.

On another note, the indigenous communities have said that one of the critical damages has been the damage to their wisdom. Indeed, the assassination of indigenous leaders, and particularly some of the Jaibanas (spiritual leaders) represents the disappearance of an aggregate that is deposited in certain specific members of the community. In general, when these people have been killed, not enough time has passed and not enough processes have taken place for their wisdom to be bequeathed and transmitted to others, so they are lost “secrets and wisdoms”. The loss of wisdom is experienced as serious damage to the culture and an attack on the forms of survival and balance learned for generations. The knowledge acquired on how to diagnose and cure illnesses, weather behavior, planting and animals, among others, that have

been accumulated and perfected for hundreds of years, are gone with the dead, stripping communities of the main resources to face their survival and guarantee their continuity as a culture.

Although the amount of the economic damages is important and their reparation is inescapable, the meaning of said losses for people must be measured in terms of their identity and their role in the victims' vital projects. This proposal is not meant to affirm that there was a past in bountiful, abundant conditions. "... The displaced do not become poor in the places they move to, that is to say, their living conditions do not change drastically when they are displaced. It is evident that there is a powerful drop in the living conditions of the families when they are displaced, but this does not mean, per se, that the economic, social and political conditions in the places they have left behind were the best, or superior to those that can be reached in the receiving location"<sup>101</sup>. Therefore, we refer not only to going from rich to poor, but to a process that strips those who have been historically excluded of their sources of dignity and any significant assets that could enable them to take on their present and plan for their future.

## **The victim status for displaced persons: between doubt and denial.**

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Despite international regulations and the evidence of the loss and damage caused by displacement, the status of the displaced as victims is continuously played down. The following different types of situations contribute to discrediting this condition and making it invisible:

**1. The lengthy character of the phenomenon.** Different analysts and historians say the forced displace-

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101- Castillo, Maria del Pilar and Salazar Boris. Urban poverty and social exclusion among the displaced. Work Document No. 106, August 2007, pag.22. Consulted in October 2007 In: <http://socioeconomia.univalle.edu.co/nuevo/public/index.php?seccion=CIDSE&>.



ments due to armed conflicts have been recurrent and permanent throughout the country's history, from the period of the Conquest to the present time, to the point that extensive regions have been settled and resettled by means of displacements. This prolonged character enables a certain naturalization of the phenomenon, to the point that being displaced is not socially viewed as a tragedy and, therefore, whoever experiences it is not taken into account as a victim. Displacement is not considered an exceptional or dramatic condition, but rather as a problem, along with many others, which may even be more serious, that has just recently been "named". The generalized idea is that displacement forms a part of the normal way in which the country is inhabited and those who have suffered it did not need to be called displaced or victims, and much less cared for or repaired by the State, but rather "managed to get by" on their own means and resources to deal with the situation.

**2. The massive character of the phenomenon.** The enormous number of affected persons is directly related to the previous aspect. As mentioned earlier, displaced persons have existed since the Spanish Conquest, but it was only until the mid 20<sup>th</sup> Century that they were legally recognized by Law 387 / 1997. Ever since we began to keep data and official records, the number has not stopped growing. This massive character also contributes to the naturalization of the phenomenon and is one of the main arguments to deny their status as victims. There are too many of them, complain State officials. If their status as victims is recognized, where are we going to get the funds to repair them?

**3. The Multiplicity of Associated Factors that Cause Displacement** It is a well-known fact that the people who are displaced are usually victims of several types of violence that are conjugated to force them to decide to migrate. One of them is the so called structural violence, expressed in the difficult socioeconomic conditions of the families and referred to permanently in the dreadful services of education, health, housing and oth-

ers and, therefore, in the precarious possibilities of social development. This violence is used as a backcloth that pressures displacement. To this effect, the population is viewed and assumed in cities as the rural poor who arrive in search of services and for whom, in the end, displacement constitutes an “opportunity” for them to reconsider and rebuild their lives rather than the violation of their human rights. The political causes of displacement are subsumed or made invisible after the economic and poverty based explanations that, at a given time, may favor the families’ decision to flee.

**4. Social Polarization and the Deterioration of the Internal Armed Conflict.** The country’s current situation of polarization, expressed in radical discourses, the defense and exacerbation of military offensives, the pointing and, more specifically, the scarce recognition of and respect for the population that wants to stay out of the armed options or assume neutral positions as regards the war, leads to victims being socially and politically blamed for their situation, and even discredited and stigmatized. “They had to do something to be expelled like that”, “it happened for a reason”, are the most common expressions used to refer to displaced persons and, as a result, to deposit the blame in them and, at the same time, exonerate and release the victimizers from responsibility.

**5. Displacement, a “lesser evil”?** In the face of so many horrible events that take place in the country on a daily basis: Massacres, disappearances, tortures and kidnapping, displacement is not viewed as a “serious” situation: Displacement in itself does not seem to represent an experience difficult enough to deserve to call those who experience it victims and, as a result, for them to require reparation. In order to do so, displacement has to take place along with a worse drama, which is: Displacement and having lost family members in a violent event, or having suffered serious physical injury, or having survived a massacre. It is no coincidence that the government entities themselves accept the situation in such a way, as there is no other way to explain the existence of two

agendas within the presidential Social Action program: one to care for the displaced and the other to care for victims of violence.

Among others, these situations make the victim status of the persons affected by forced displacement to be discredited or denied and, even the displaced themselves have serious difficulty considering themselves victims and therefore demanding state action for the reparation of their rights.

## The complexities of reparation and displacement

*“When we got to town, we ran into many peasants armed with machetes, sticks and shotguns prepared to keep us off the property because they still couldn’t believe that we had gone through the consequences of the country’s internal conflict, and had to leave our regions of origin and, unfortunately, many peasants who have not experienced it do not believe or know the story, much less understand it”* (Interview with a displaced community leader in Soacha)

Reparation processes for people in a situation of displacement have several complexities to be contemplated, if we want to think of a comprehensive policy, at least in the sense of national and international justice agreements. Below is a series of aspects that are particularly important in terms of constructing a policy that will cover the differences and multiple expressions of the phenomenon

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## The different durations of displacement

*“At the time (1995), the attention to the displaced population did not exist and was not yet regulated; they talked about displaced persons, but there was no law, or anything to use as a guide. It was still all up in the air”* (Displaced community leader in Soacha)

This is said referring to the time that has gone by between the time of the displacement and the possible access to reparation. As mentioned earlier, displacement is a historic event that has been around for decades. Even if we go back to the first official records dating from 1985 or Law 387 / 1997, we are talking about people who have been recognized as having this status for at least 23 years. It is important here to point out several questions as regards the considerations and procedures of reparation.

Government entities have established a series of criteria to determine when a person's status as a displaced person is terminated. These criteria have been strongly criticized considering that the aspects taken into account in humanitarian assistance and subsequent actions included in the "socioeconomic stabilization" phase bring to an end the responsibility by government agencies. In this regard, it is clear that access to these services is far from making it possible or creating the conditions established by the law:

Status as a displaced person will be terminated and, along with it, the person's recognition by the State, in the following situations<sup>102</sup>: In the event of returning, resettlement or relocation of the person subjected to displacement, thus enabling him/her to access an economic activity in his/her place of origin or the place of resettlement. In the event of exclusion from the Displaced Population Registry, in accordance with the grounds provided in Article 14 of Decree 2569 / 2000<sup>103</sup>. If requested by the interested party.

102- Presidential Agency for Social Action and International Cooperation. <http://www.accionsocial.gov.co>.

103- The grounds that have been provided include: 1. It has been established that the facts declared by someone alleging his condition as a displaced person are not true, subject to the criminal penalties applicable. 2. In the opinion of the entity in which registration has been delegated, in accordance with the paragraph of Article 18, Law 387 / 1997, it is demonstrated that a displaced person has failed to cooperate or has been repeatedly unwilling to participate in the programs and actions carried out by the State on the occasion of the improvement, reestablishment, consolidation and stabilization of his situation. 3. The displaced condition ceases to exist.

At least two questions are raised based on this situation for a reparation policy: Is it possible to repair those who have already been excluded from the official records and, therefore, are no longer recognized as being displaced? And how do you repair someone who was never included in the registry nor certified their condition although they have been displaced?

In any case, status as a displaced person cannot be subject to a period of time established by a rule; its purpose is determined by the fulfillment of several processes: Having the required, sufficient productive capacity for him and his family group to guarantee on their own not only their subsistence, but also the formulation of a feasible life project; the exercise of their individual and collective social and political rights, that is to say, being an active, participative member of the community and the country; having economic, social and spatial stability necessary to be socially recognized by others and be identified as part of a community. Displacement ends, therefore, when the displaced individual or family can plan their future with possibilities to improve their living conditions and sustain these conditions over time.

*“At the time (1995) you didn’t go out and file a report, and when the issue of attention to the displaced population was regulated, you would go to the registry that the Ministry of the Interior had opened; but this was done through an organization, and the organizations where you were registered submitted the list of families and the Ministry of the Interior would include them in its registry”* (Displaced community leader in Soacha)

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Durations and needs have to be analyzed carefully, because these people have been victims at different times in their lives. If we go back to 1985 when the Colombian Episcopal Conference began to provide the first data on forced displacement in Colombia, let’s say 1985 through 2007, 22 years have gone by. And what has happened to

those who, in the year 1985, were displaced as boys and girls, who are now between 30 and 35 years of age? What happened to the people who were born when their mothers and fathers were dealing with the situation of forced displacement? There is an entire generation born as displaced or whose mothers or fathers experienced forced displacement. Many of them are no longer children. They are adults now. So how do you assess the damages and how do you repair such complex matters as suspended schooling?

The ethnic and cultural differences of the victims. The assessment and meanings of the damages and losses are mediated by culture and ethnic background. To this effect, a reparation policy should take these differences into consideration.

For indigenous communities, for instance, reparation would require a series of actions to retrieve the damage caused to the territory. To this effect, diverse actions and processes are required, all depending on the finalization of the armed conflict and respect for the rights of the indigenous communities to the land. Reforestation is, in the words of indigenous communities, one of the first actions for reparation; the land needs to be planted and cultivated and the care and rituals required have to be carried out.

*“Because the Embera law of origin says that anyone who commits a fault has to be punished. That is what the Embera law says. When Carabay applied justice, he forgave no one. He punished everyone so there was no excuse for anyone to take revenge or do anything because of resentment; because the pain has to be included in an agreement. That’s why Carabay did that. Carabay is the God of Embera. Ancore is the god of the Embera people. Carabay is the one who came to create. He created the land, created man, the rivers and seas, he created the forest”.* (Indigenous leader)

From this perspective, reparation makes it an obligation for those who left to return, for the lands that were seized to be returned, for the people to be provided with economic resources to be able to grow crops, security to carry out their farming and hunting activities and to bring in and take out products. Reparation would fundamentally have to do with returning in the international senses: Security, intention and dignity.

To indigenous communities, reparation is also understood as “reconciliation” and this, in turn, depends on justice. There is resentment if there is no punishment, so punishment is a necessary condition for “healing”. However, punishment and justice are also notions built in specific cultural contexts, so many times, they do not necessarily match the notions contemplated in formal codes and regulations. In these cases, each person’s rights must be known, validated and respected. However, the issue proposes a quite complex situation because, although indigenous communities want to apply their own forms of justice, the victimizers are not indigenous and they have the right to be punished under the formal legal systems of the Colombian State.

It is important to point out that the ideas of reconciliation, punishment and justice, among others, in most cases do not match those established in official policies and discourse. This situation must be taken into account in order not to incur in “forced” processes of reconciliation and pardon that will later aggravate the damages and conflicts.

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## **Age and gender differences in reparation**

In addition to the differences and heterogeneities of the population in the situation of displacement indicated earlier, it is essential to recognize that the impacts of forced displacement vary significantly depending on whether the victims are men, women, adults, children or adolescents, and the actions aimed at reparation will lose

effectiveness if these differences and specificities are not taken into account. What's more, ignoring the age and gender differences in the assistance processes may contribute to intensifying violations and exclusions or maintaining and reproducing them.

It is clear that reparation is a set of actions and processes that should contribute to the victims' achievement of conditions that will enable them not only to "recover" what was lost, but to find a place and have the guarantees to exercise their rights, which refers to building scenarios of democracy based on personal and collective empowerment that implies settling historic debts of exclusion and violation, and implementing effective actions of positive discrimination.

In Writ 092 / 2008 referring to the fundamental rights of displaced women, the Constitutional Court recently stated that the impacts of displacement and all its inhumane manifestations on the bodies, the faces and the life projects of women are differential and specific because they are worse in this group of the population due to their condition as females in the framework of the internal armed conflict. The Court recognizes 18 gender issues in forced displacement; these gender factors can be grouped together in two main categories:

- The patterns of gender discrimination and violence that, in itself, preexist in Colombian society and are exponentially intensified due to the living conditions of displaced women as well as because of the differential impact aggravated by the faults of the official system of attention to the displaced population for women. These include the accented risks that displaced women are exposed to as victims of structural patterns of gender discrimination and violence such as sex abuse and violence, including forced prostitution, sexual slavery or white slave trade for purposes of sexual exploitation; family violence and gender-based community violence; the disregard and violation of their right to health care and particularly their sexual and reproductive rights on all levels, which is par-



ticularly serious in the case of girls and teenagers, but also exists in pregnant women and nursing mothers; women assuming the role as heads of the household without the minimum conditions of material subsistence required by the principle of human dignity, with particular complications in cases of women with young children, women with health problems, women with disabilities or elderly women; increased obstacles in accessing the educational system and reinsertion in the economic system and access to job and productive opportunities; domestic and labor abuse, including white slave trade for purposes of economic exploitation; increased obstacles in applying for ownership of their land and the protection of their properties in the future; particularly in return and resettlement plans; the signs of acute social discrimination of displaced indigenous and Afro-Colombian women; violence against women who are leaders or those who acquire positions of public visibility due to their participation in social, civic or human rights activities; discrimination in their inclusion in public and political spaces, with special impact on their right to participate and the outright disregard of their rights to justice, truth, reparation and the prevention of reoccurrence as victims of the armed conflict.

- The specific needs and problems of displaced women as such, which are not experienced by women who are not displaced or by displaced men. The special requirements of psychosocial assistance and attention of displaced women have been included in this category because they have not been met; specific problems of women in dealing with the official system to register the displaced population, as well as the characterization process; women's problems in accessing the system of attention to the displaced population; the high level of frequency of officials who are not trained in dealing with displaced women or are openly hostile and insensitive to their situation; the often "pro-family" approach of the attention system that neglects a very large number of displaced women who are not the head of the household; and the structural reluctance to grant the extension of

Emergency Humanitarian Attention to the women that meet the conditions to receive this assistance.

The argumentation of the Constitutional Court, the grouping and systematization of the different gender factors have been a step forward in thinking of what comprehensive reparation with a gender perspective would imply, in favor of women's rights as well as their specificities regarding age and ethnic background. Some primary observations can be made on the aspects to be taken into account. In the first place, and based on the Writ's recognition of the existence of "historic discrimination" against women, the reparation criteria should consider the habitual invisibility of the damages caused to women as a historic constant that tends to repeat itself, even in the process of compensation. As suggested by Jimeno "if reparation does not lead to a change in the conditions that recreate discrimination toward women in any condition, either during war or at times of peace, there will be no comprehensive, thorough or lasting reparation or reconciliation in Colombian society as a whole" (Jimeno 2008: 108).

Translating this general approach into the reality of a "halfway" transitional justice process, that is to say, amidst an unfinished conflict and demobilization processes that have been transformed in the appearance of emerging groups, not only requires the application of international guidelines and the review of all the dimensions and durations of affectation, but also special attention to the particular vulnerabilities of women during their search for justice and the prevention of reoccurrence. To this effect, for instance, the experiences of the truth commission in Peru and historical clarification commission in Guatemala have taught us many lessons. This is how we know the importance of recognizing (judicial recognition as well as recognition by the State and public opinion) all the damages inflicted upon women<sup>104</sup>. It will also be

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104- In Colombia, *gender indicators* have been established in the Early Warning System of the Ombudsman's Office.

essential to improve women's access to justice, among other things. In reparation processes by judicial means, there will have to be specialized female personnel to investigate cases of sexual violence to prevent revictimization and blame and reestablish the dignity of female victims. (An article to this effect has been included in the Justice and Peace Law by pressure of women's organizations, but little or nothing is applied). In the so called "Motion for Reparation" - moment in the judicial process of transition in which the victim is brought face to face with the victimizer-, this confrontation should be done away with, given the enormous discrepancy in power between the two and the affectation of the female victim's dignity.

In a program of reparation by administrative means, that includes the issue of restitution of assets<sup>105</sup>, recognizing women's situation before displacement would lead to establishing measures to counteract their double advantage as regards their right to ownership, as analyzed earlier. However the reparation measures that truly point to a future with gender equality must include all the guarantees to prevent reoccurrence, including institutional reforms and legislation to eradicate all forms of violence against women, actions to grant land ownership titles to women as a top priority, etc.<sup>106</sup> Although 70% of the victims in Colombia that have registered at the Prosecutor's Office in the Justice and Peace process is female, no differential approach has been applied to produce concrete measures in favor of their rights. In addition, it is important to point out that many of these women have a double or triple status as victims because they are family members of people who have been killed or disappeared, or because they have lost their material belongings and they have been displaced. It is precisely in the latter situation that the concept of differential reparation is again diluted<sup>107</sup>. So as a woman in

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105- To this effect, a Victims' Bill (157 / 2007) is currently being studied by the Colombian Congress.

106- See Jimeno 2008: 114-116 for formal considerations on reparation for cases of women belonging to ethnic communities.

107- Although Writ 092 has created a new situation.

Choco put it, displaced women continue to limp around with their unrepaired slippers.

## The concurrency and complementarity required in actions of reparation

As is the case for victims of other kinds of violence, reparation has been conceived as a comprehensive process that simultaneously requires actions of justice and truth. However, and due to the difficulty mentioned earlier to recognize the status of victims in the case of displacement, the data as regards justice are truly disgraceful, because the victimizers use and enjoy expropriated lands, even under the protection of new decrees and laws that have led to the legalization of ill gotten lands and possessions<sup>108</sup>. This aspect, for instance, causes deep moral wounds on the displaced, because they reveal how, while they wait so many months for a loan to buy a humble home in the city, their lands have not been subjected to effective processes of confiscation and are kept under the control and enjoyment of those who forced them out. The compensatory actions are altogether disproportionate and with a deficient if not contradictory meaning to the displaced.

For the case of displacement, the data as regards justice are truly limited. "In Colombia, there is a universe of victims of over five million people, as compared to a little over 31,000 demobilized paramilitaries. Only 3100 of them are on lists to benefit from Justice and Peace Law

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108- One of the most controversial articles is 122 - 157 in the original project - which, according to its defenders, benefits those who have not been able to legalize their lands. Although the article has undergone modification - upon which the Government has agreed - to prevent the lands from going to those who have invaded them violently, it continues to generate controversy on whether or not it leaves a door open for these lands taken from peasants by armed groups outside the law to be legalized in favor of the latter. The article reads: "Establish an acquisitive principle of domain in favor of anyone who occupies for five (5) years straight in the terms of Article 120 of this law land owned by others that has not been exploited by their owner during the time of occupation, or included in the development reserves in accordance with the same article, thinking in good faith that they are badlands. In: Land for whom. Journal *Hechos del Callejon*. PNUD. No 23, 2007: 7.

975 because they are considered to have committed crimes against humanity or war crimes that cannot be tried by Decree 128 or Law 782, which pardons them without any obligation to give their version of the punishable acts incurred to at least contribute to clarifying part of the truth. Four and a half years after the demobilization of paramilitary groups began, only a small number of the applicants to the benefits of the law have been imprisoned, just a few of them have given voluntary declarations, and the number of properties handed over is absurdly low, which would increase the illegitimacy of the process: On one hand, because of the few assets handed over to repair the victims, and on the other, due to the sluggishness of the investigations and the low level of possibility that, by judicial means, the damage caused to many victims can be repaired.

It is not feasible to seriously assume reparation if the land issue is not taken into account, given the large number of displaced persons and the number of hectares estimated to have been taken away (between 4 and 6.8 million hectares). Talking about reparation without the restitution of lands limits the scope and legitimacy of any process. At present, the demobilized paramilitaries have not provided complete information regarding possessions and much less those who have been stripped of them<sup>109</sup>, the properties handed over by the paramilitaries have turned out to be a fiasco up to now. "The former AUCs have given the Victim Reparation Fund only 25 properties, 10 vehicles, 4566 heads of cattle, 739 million in cash and other minor possessions that Social Action has valued at 9 billion pesos"<sup>110</sup>

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Similarly, the truth continues to be a publicly manipulated, scarcely mentioned matter. The reasons that led to the displacement and, in particular the entrepreneurs, politicians and other social actors that have ben-

109- BALBÍN, Jesús. "Individual reparation by administrative means (on the subject of Decree 1290)". Popular Training Institute (IPC in Spanish). Medellín. <http://www.ipc.org.co>.

110- *El Tiempo*, Sunday, April 20, page 10. Quoted by: BALBÍN, Jesús. "Individual reparation by administrative means (on the subject of Decree 1290)". Popular Training Institute (IPC in Spanish).

effitted from the displacement continue to be anonymous to the victims and, when they are known, they have been publicly exonerated.

It is important to mention that there has been a great deal of pressure by national and international non-government to assist, attend and repair the victims. However, there is little effective action and pressure as regards the punishment of victimizers. Both the displaced persons and society as a whole should and have the right to know who have displaced them and, above all, to learn the economic and political models that, by name (companies and groups) have used displacement as a functional, lucrative strategy. If impunity is not stopped, no reparatory policy will be comprehensive or sustainable.

### **Reparation amidst the armed conflict.**

Perhaps one of the most complex matters that, for the same reason poses more challenges to the reparation policies, has to do with the fact that it should be carried out in a context of the continued nature of the armed conflict. This means, among other things, that the illegal armed actors and the economic groups that have promoted displacement are still active and control extensive networks of local, regional and national power. This situation not only constitutes a serious obstacle for the population's return processes, which on many occasions they refuse to carry out in view of possible new acts of violence and new forced expulsions, but it maintains and creates a context of permanent risk and threat that prevents any intention of stabilization.

The continuity of the conflict is also blossoming as a serious threat to the displaced who attempt to get together and claim their rights, continuously provoking new forms of violence, which condemns the displaced to isolation, immobility and anonymity. Human rights organizations have condemned the assassination of a significant

number of leaders and threats to the organizations, which considerably increases intra-urban displacement and, in practice, deny any possibility of reparation.

## Repairing amidst poverty and exclusion

Possibilities of reparation are also affected by the widespread conditions of poverty in Colombia, in that there are debts to guarantee the economic, social and political minimums for a large part of the population to be recognized as citizens. Most of the displaced population is from very rich regions, with awful socio-economic conditions for their inhabitants and they turn to the marginalized sectors of the cities. The likelihood of survival and adjustment of the displaced depends to a great extent on the size, scope and job conditions of the social networks they belong to. Networks with high unemployment rates, low levels of schooling, high levels of informal employment and scarce or no job information will lead to odd jobs, unemployment and even more poverty than when these people were living in the country.

Attempts to generate sustainable economic alternatives in impoverished scenarios turn out to be highly improbable and the risks of forced recruitment, the performance of illicit activities for survival, and natural disasters, among others, deteriorate people's quality of life more and more, so reparation requires scenarios of socio-economic transformation, capable of generating sustainable local and regional conditions of development.

For thousands of displaced persons to become citizens who can fully exercise their rights, it is undoubtedly necessary to make a drastic transformation to the conditions that have generated not only the displacement but also the poverty of nearly 70% of the peasant population and the destitution of at least 28% of them. This, therefore, means subjecting the interests of national and international persons and groups who have depended on displacement, poverty, environmental deterioration to increase their riches and power, to purposes aimed at the con-

struction of a more democratic, sustainable country where everyone is accepted and taken into consideration. As a result, the displaced population cannot be repaired without seeking transformations for the conditions that caused the problem, because this would mean leaving the population in the same situations of marginalization, exclusion and poverty that they have lived in for decades and thus, exposed to new forced migrations. You cannot, for instance, seek to restitute lost land amidst models and structures that were already impoverished, and have somehow contributed to the occurrence of the displacements<sup>111</sup>

In addition to the aspects mentioned earlier, it must be taken into account that displaced persons have to deal with other circumstances and diverse realities, which have a bearing on the complexity of the reparation processes, such as: The multiplicity of actors causing the displacement and undergoing displacement more than once and due to the action of a different armed group. These aspects have deep repercussions on the application for the right to reparation because of how complicated it is to create a coherent version to accredit them as displaced persons, as well as due to the dynamism in the population's expectations and needs, which makes their demands change every so often depending on the circumstances.

## **Confusion between repairing, stabilizing and reestablishing**

It is clear that neither humanitarian emergency attention nor the State's regular attention programs should be understood as mechanisms of reparation. This has been pointed out by the Inter-American Court of Human Rights and the Colombian Attorney General's Office, given that they were created by virtue of the State's obliga-

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111- Bello, Martha Nubia. Forced displacement and the historic problems associated with the land. Commented on Dario Fajardo.



tion to care for people who require special protection and not in development of the obligation to repair the damage caused by its failure to protect each and every Colombian citizen<sup>112</sup>.

The relative nature of the victim status of displaced persons, the underestimation of their losses and their quick placement as urban poor or uprooted migrants, lead to them being considered “beneficiaries” of several processes or phases that have been established in the attention policies.

In addition, the massive character of the phenomenon has enabled the actions of the State and even those of international cooperation to be focused on and assumed as a “humanitarian, emergency” affair, and the invisibilization, postponement or denial of subsequent actions that should give rise to stabilization and, of course, reparation. That is why a complex series of terms used in the process of attention to displaced persons winds up confusing people and being used incorrectly, leading public officials and the displaced persons themselves to understand and accept that certain services provided in the phases of attention constitute reparation, when they are actually far from it.

Reestablishment is one of these terms and, according to the previous Social Solidarity Network, it “... will be carried out by means of the return to their place of origin, or their relocation, either at a new location after displacement or elsewhere”<sup>113</sup>.

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To the government, reestablishment “is the process that begins with humanitarian attention and ends when the conditions that provide the displaced person with viable alternatives to reconstruct their life and their social and economic systems have been generated”<sup>114</sup>. In different documents, the government has suggested that

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112- Why the Displaced are Victims. In *Hechos del Callejon*. No. 23. March 2007. <http://www.mediosparalapaz.org/index.php?idcategoria=2735>

113- RSS -Social Solidarity Network. Attention to the population displaced by the armed conflict. Compendium of policies and regulations. Bogotá, 1999.P 107

reestablishment is a right “of the displaced person who receives it in reparation of the personal damage as well as that to their properties and rights... the relationship between the economic value of the losses and the value of the services, goods or projects aimed at reestablishing the displaced population has not been expressly established in the State’s regulations and policies to date”<sup>115</sup>. Reestablishment is therefore a mechanism of reparation and a series of actions and processes that make it viable. However, up to now, truth and justice, which are complementary aspects that constitute the action of repairing, have not appeared.

The term “reestablishment” is incomplete first of all because it is based on the idea of before and after. It suggests that the previous condition was good and it does not have to be overcome. It hides the fact that the displaced person is coming from violence and poverty and that condition should not be reestablished. It is a term that refers to a process that begins and ends. It is generic and refers to rights that have been violated, but not to properties and opportunities. Second, because it is not associated with aforementioned processes of truth and justice. To this effect, knowing the truth, for instance, more than being an important step, is fundamental to begin any other type of action to morally, economically and psychologically satisfy victims of forced displacement, who were once victims of other violent events, as made clear by organizations of the displaced population: “Establishing and knowing the truth to seek justice and reparation is a painful individual and collective process. Violent schemes and conscience. It breaks institutions. It uncovers half truths and prestige. But it is absolutely necessary to heal the wounds suffered by people, organizations and towns (...) In order to do so, it

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114- “Comprehensive Attention to the Displaced Population Reestablishment” in [www.red.gov.co/Programas/ProgramasAtenciónPobDesplazada.html](http://www.red.gov.co/Programas/ProgramasAtenciónPobDesplazada.html). sf, spi.

115- Social Solidarity Network. President of the Republic. Report for Congress. January 2001 - February 2002. Bogota. 2002.

is essential to know who is responsible for the situation. To know their names”<sup>116</sup>.

Resettlement goes along with reestablishment. It alludes to recovering what was lost by the displacement, including legal and psychosocial aspects, but it excludes reparation. Resettlement suggests changes in living conditions and sustainability over time.

Because of the similarity in meaning, resettlement and relocation have been used indiscriminately. The second part of the definition of the first has even been made: Relocation is understood as “the process of resettlement in a place other than that of origin or residence, which necessarily implies the population’s adjustment to new spatial, cultural, social and economic conditions. Relocation may take place in the initial place of refuge or reception, or any other; it may be an urban location in department and/or municipal seats or rural; and individual, family or collective”<sup>117</sup>. In other words: What is resettlement to the UN is relocation to the SSN, when, in essence, it is the same process.

Socioeconomic stabilization is one of the concepts that appear to be linked to reestablishment, and it is essential for the displaced population to obtain basic levels of development and standard of living. “The socioeconomic stabilization of the population displaced by violence is understood as the situation by means of which the population subjected to displacement accesses programs to guarantee the satisfaction of basic needs as regards housing, health, food and education by their own means or through programs developed by the National Govern-

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116- ANDAS - National Association of Public Spirited Assistance-, CND- National Displaced Coordination-, CPDH - Permanent Committee for the Defense of Human Rights, Jose Alvear Restrepo Collective Attorney Corporation and HVCI - Humanidad Vigente Corporación Jurídica. Forced displacement in Colombia. Analysis and proposals of the Coordination of Displaced Persons and Human Rights NGO. Collective Publication, First Edition, Bogota 2001.

117- “Comprehensive Attention to the Displaced Population Reestablishment” in: [www.red.gov.co/Programas/ProgramasAtenciónPobDesplazada.html](http://www.red.gov.co/Programas/ProgramasAtenciónPobDesplazada.html). sf, spi. Op. cit. Decree 2569 December 12, 2000, in ANDAS, op. Cit. P 72.

ment for this effect, and the territorial authorities, in the scope of their competencies and in accordance with the budget availability"<sup>118</sup>.

The SSN's definition of socioeconomic stabilization contains an important warning: not to be confused with welfare. "Socioeconomic stabilization and durable, sustainable subsistence for displaced people, families and communities, within a non-welfare conception is based on the identification and strengthening of their own capacities, and is aimed at strengthening the human and social resources of the displaced population and the generation of productive alternatives for them to guarantee their own forms of subsistence.

Socioeconomic stabilization is directly related to the possibility of the displaced population becoming a part of the productive system after solving their basic need for shelter, thus guaranteeing spatial stability and taking up residence in a certain place. Stabilization means a lifestyle has been shattered. Although the lives of displaced persons cannot be given back to them or rebuilt, they can be stabilized by generating security and confidence for them. This is how opportunities are created for those who have undergone displacement. However, it is a fragile term and it is threatened by new displacements.

Economic stabilization is criticized because it appears to be limited to having a productive project. According to Gallon, in addition to the productive project, you have to guarantee economic and social sustainability for the person. Therefore, stabilization must be linked to a project "to guarantee permanent, stable and lasting economic income for the victim to be able to cover his/her basic needs and those of his/her dependents. The government has the obligation to provide advice to people in the process of economic stabilization."<sup>119</sup>

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118- Decree 2569 December 12, 2000, in ANDAS, op. Cit. P 72.

119- GALLON G, Gustavo. Concept of the Colombian Jurist Commission on Proceeding T366.589. Undated.

Despite the importance of the terms mentioned above, it is important to point out that not only do they confuse, but they also hide the complexity and all-inclusive nature that should be underlying the reparation processes and, what is worse, as limited and incomplete as they are, they have not even been implemented as defined by the policy, making it clear that in Colombia, the displaced population not only cannot access truth or justice, but the minimums of attention established by the Court for this population "in the condition of obvious vulnerability, are not guaranteed either.

## The absence of reparation and revictimization

So-called revictimization, which constitutes additional damage referring, on one hand, to new mistreatment, abuse, humiliation and stigmatizations suffered by displaced persons at the hands of officials, authorities and host communities and, on the other, due to the impunity and, on occasions, the exaltation and public recognition of victimizers.

In the first place, people miss decent, respectful treatment by the officials in charge of dealing with them. They have said that in most cases, they are attended to with despise and indolence, they are insulted, pointed out as lazy and impostors, and they are repeatedly blamed for the situation they are going through.

*"One of the things that... most stood out for me is that they do not treat you that well. Because you go to certain offices and they treat you... Oh... that displaced person. These displaced persons just have to be everywhere! There are others that really treat you like a dog, starting out with the Solidarity Network. They said we were impostors, opportunists. They treated us whichever way they wanted. When we got together... Since we were disorganized, when we got organized... They said we were not displaced... They treated us like dirt. And what about the injuries we had on our bodies, how did we do that if we*

*weren't displaced? (Adult displaced woman in Quibdo, April 2004)*

On the other hand, revictimization has to do with impunity, contemplated as a natural event that cannot be modified due to the systematic absence of justice in the regions and the corruption of the entities in charge of enforcing it. Therefore, people and communities feel that the damages they have suffered and continue to suffer do not deserve recognition, or the proper attention by the authorities and, as a result, the guilty persons, sometimes known and others unknown, will not be punished.

During the course of the investigation, there was repeated reference by displaced persons to the Justice and Peace Law and the demobilization and reinsertion processes of the paramilitary groups. This law, which was conceived by the government as the law of transition, has been reported by analysts and social organizations as a law of impunity, as it grants benefits to victimizers, without guaranteeing relevant confessions or the return of any significant assets for the reparation of the victims. On the other hand, public hearings were interpreted by many as opportunities for the victimizers to justify their actions at the expense of denigrating the victims. In this scenario, the discourse on the rights to truth, justice and reparation have earned more approval by the displaced, who, when comparing the services and benefits received by victims and victimizers, not only observe the inequality and injustice therein, but also feel violated all over again.

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This violation comes from the feeling of being slighted by the government and the victimizers, from not getting the proper social and political recognition from the State, the victimizers and society as a whole and, of course, from continuing to face their difficult living conditions, without the so called transition process doing any good.

A series of activities related to the process of the Justice and Peace Law, such as the public hearings, the

exhumations, the confiscations and the press coverage of the process, has ignored the impact that the statements, the findings of bodies, the confessions, etc. has had on the victims. Impacts of a psychosocial order because they are faced with remembering and reopening painful processes, when confirming suspicions regarding the destinies, the whereabouts and the circumstances of their dead or disappeared relatives. Impacts due to the lack of social recognition and even because they are described as maximalist in their aspirations of justice and reparation, and therefore, as obstacles for the peace process.

*"It is not easy to get over experiencing or seeing your children going to bed with nothing to eat, seeing your children go hungry, not because you are to blame, but because of the situation you have had to go through. In cases like this, it is not easy to recover from the situation, after being a productive person, used to living by your own means, having to come and ask for something to eat just to get by. And if there's something Colombian peasants are known for, it is that, despite the crisis and abandonment, we have learned to live by our own means. It makes you feel lowered, you feel like you're nothing, approaching people to beg for food and they give you something that is not even good enough for a dog. And what can you do? You have to eat it".* (Displaced community leader in Soacha)

On another note, the shortage of resources for survival (job sources, utilities, housing) forces the displaced to try to extend their formal condition because this will guarantee aid that would not be available if they were just any poor, unemployed person. This dynamic generates an attitude of mendacity that seems to be reinforced in some of the displaced by the welfare of state and other institutions that provide attention. So they also go through a process of revictimization that, along with the preceding impact of displacement and violence, strips them of the proactive capacity or sufficient drive to restart life elsewhere in different conditions. Therefore, some

people wander from entity to entity. "The welfare generates dependence, reinforces a universe understood in terms of immediacy and transience (...) it generates societies that do not practice self-management, where consistently the concept of "short or medium term" does not exist. In this universe, marginality is but one of the consequences and corruption is the most evident sign"<sup>120</sup>.

## Displacement, social damage and damage to the nation project

Although the multiple losses are obvious, it is clear that government actions are not even close to the minimal level of proportionality between damage and reparation. This is explicit in the existence of an attention policy focused on humanitarian, emergency and transitory actions that correspond to typical responses in the event of natural disasters, but ignore the all-inclusive nature and meaning of the damage.

A more comprehensive look at forced displacement would lead us to argue that the damage goes beyond the already serious and significant damages suffered by families and individuals. To this effect, a reparatory policy should include preventive actions and structural responses to prevent and turn around the dreadful consequences that the phenomenon has caused on individuals, families, communities and all of society.

1. Displacement has negatively altered the patterns of land use and ownership. Displacement favors the monopolistic concentration of land, places the country's food safety at risk, and generates incalculable environmental damage and impact as a result of the change in the use of the soil and the motivation of single crop farming.<sup>121</sup>

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120- CASTILLEJO, Alejandro. Poetics of Otherness. An anthropology of war, solitude and internal exile in Colombia. ICAN. Ministry of Culture, Colciencias. Bogotá, February 2000.

121- Wilson Herrera. <http://www.contraloriagen.gov.co>. Consulted in November 2005.



2. Displacement splits and destroys social fabric and causes the loss of valuable social capital by encouraging relationships of distrust. It is hard to calculate the impact on society caused by the destruction of trust, which is expressed in relationships of solidarity, communication, transaction, affection, etc. and favor not only the conditions of material existence of communities, but also configure and build dynamics of limitless social and cultural value.

3. Displacement goes against collective identities and leads to the disappearance of a valuable heritage of cultural and ethnic diversity, given that uprooting progressively leads to the abandonment of basic productive and cultural practices for the survival of mainly indigenous and Afro-Colombian ethnic groups. In this regard, it is also important to point out the capacity of displacement to affect the population's organizational processes, which is an important aspect in its identities and autonomies. Among the displaced persons and populations, there is a significant number of social leaders and organizations with political participation, that were persecuted, threatened or expelled due to their activities, used on many occasions to confront or resist the powers that were attempting to control or expropriate their regions. To this effect, displacement to some people also means the loss of organizations and exercising leadership. For those who found this activity to be significant, uprooting also means the stripping of their leadership capacities and the abandonment of projects for social cohesion and the socio-cultural development of their communities.<sup>122</sup>

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4. The practices and strategies used to cause displacement and the State's little or no capacity and will to punish this crime against humanity undermines the legitimacy of institutions, deepens impunity and, therefore, does not make the construction of institutionality and social relationships with a democratic vocation very viable.

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122- GALLON G. Op. cit.

5. Displacement consolidates and intensifies practices of denial as regards political participation and instilling a sense of citizenship. The interpretation according to which displacement is a process of violation of a person's rights, which causes the loss of the victim's citizenship, has been refuted by those who say most displaced persons are historically excluded and invisibilized on a cultural, economic and political basis.

Those who say most displaced persons are historically excluded and invisibilized on a cultural, economic and political basis have refuted the interpretation according to which displacement is a process of violation of a person's rights, which causes the loss of the victim's citizenship.

Displacement has even been analyzed as a phenomenon that accounts for precarious democracy and the incipient, sometimes null processes to instill a sense of citizenship in numerous regions of the country. On the political level, rural communities, which have been affected most by this phenomenon, have been used, coopted and pressured using different mechanisms, such as political clientelism, intimidation or exchanging favors, making them deliberative participants of politics, but as "bases of support" that, on occasions, electorally back the administration of the moment and accept and tolerate its action.

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To this effect, rather than causing the loss of citizenship and, more specifically, preventing political participation, displacement deepens and delays the country's historic tendency. Displacement depletes and annuls the political capital of the communities by punishing and imposing ideological positions and political practices. By disabling leaderships and preventing organizational processes whose bases have been and will be the defense of autonomies.



## CHAPTER 6

IT IS JUST US:

“We have lost the right to education and health. There we had electricity, aqueduct and medical personal and medicines... now there are no access roads and they had occupied the school and left it broken”.

Photography: Rafael Guerra G.



# The collective actions of the displaced population

Martha Nubia Bello and Flor Edilma Osorio

We will stop in this chapter to analyze the collective dynamics of the country's population in the situation of forced displacement<sup>123</sup>. We assume that there is a significant force rooted in the losses, the pain and the search for dignity, that manifests itself in a different way and has scopes and purposes of a very different order, and although it has its own particularities and dynamic, it is also articulated with other social processes of struggle and vindication in effect. We understand collective action as a relationship of sociability, through which people create, renew and mobilize different material and symbolic resources used to make up their own social heritage, in a given time - historicity - and space - territory-. It was conceived in a broad sense and it includes, in the tiniest form, the activity of a formal group, formal or informal, that may reach the largest, most complex dimensions that, on occasions, may be used as social movements. Collective action involves will, decision and need, which are not always conscious and voluntary, to work with others toward common purposes. It requires interrelation with others, as far as everyday life and proximity are concerned (Santos, 1999).

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Taking up Maffesoli (2000) again, you could say that the sociability recreated based on displacement as a private experience constitutes a scope of a political order that is diffused in the public sphere. Each collective action involves re-identification with other displaced persons, perceived as a group or movement, or not, which enables you to recognize others you can trust in, build with, give to and receive from. In this process, the feel-

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123- We have taken up previous discussions put forward in Osorio 2005.

ings of pain and indignation from experiencing similar suffering are essential and, beyond the economic aspect, they affect how collective and allied actions are constructed for their cause. So the relationship between the aesthetics of feeling<sup>124</sup> and the ethical experience of collective action comes from opening up to others, which takes place in the proximity where common fate is at stake (Maffesoli, 2000).

However, in addition to being a path to obtaining responses to their material situation, collective actions meet the identitary need of differentiation, amidst the social category of "displaced" that homogenizes them. In record time and with institutional pressure to become united groups that legitimate their character as collective actors, sociabilities are stepped up and agreements are approved forced by the urgencies of the resources and the requirements of the bureaucratic paperwork. In addition, slower and more ambiguous, a notion of potential citizenship begins to be recovered, which implies their condition as subjects with rights - although they do not enjoy them -, a perception of the State as the "adversary" before whom they file the claims - although it does nothing about them - and a sense of belonging to a larger national society - even if it rejects them -.

*The memory of common, similar stories of looting and uprooting builds narratives and discourses to give an account of a reality, report it or talk about it publically, generate alliances and neutralize opponents. So the explicit or implicit justifications are set up to form the actions and employ certain repertoires. The collective memory is a social representation of the stories and experiences people have gone through, a sort of construction of shared depictions that can be used as collective action and identitary referents. The links of sociability and solidarity, conflict and con-*

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124- The author has a discussion about the emotional community, based on the proposals of several authors, including Weber and Durkheim, to insist on the value of the emotional dimension in social configurations and the need to recognize it without comparing it to a pathology.

*troversy are connected based on this memory. This is where the arguments used to justify and legitimate their existence as social actors come from. The memory helps interweave the symbolic resources put forward by the leaders, being who they are particularly because they personify the depictions that reach consensus within the group. In the case of displaced persons, this of course includes their reading of the armed actors and their own experience amidst the war. But it also has to do with the assessments regarding other displaced persons, the State, their rights, the officials, the entities that provide assistance, etc. The perspective of future and collective life project is also constructed based on the memory as an experience. "If the collective memory can be used to establish the identity of the groups, it is also presented as a political instrument of recognition to introduce a relationship of power between social groups" (Viaud, 2002:29).*

The collective actions carried out by displaced persons are created and recreated due to so many pasts still in effect in their lives as well as the new challenges and conditions that arise because of their undefined present. So we find referents of collective identity strongly marked by the memory of common territories, prior experiences as peasants, inhabitants of the same place, afro-Colombian and indigenous peoples, but also by referents of their territories of arrival. Collective denominations marked by particular demands regarding matters such as land or housing are a burden, at the same time that new referents surface, characterized by the searches beyond their own needs, for ideals of peace, justice and solidarity. This progressively produces what Cefai calls "*the grammar of public life*" (2001: 82), based on which the reports, the vindications and the justifications of the actors acquire a sense that transforms the experiences of the main figures and the configuration of their public and private worlds. The repertoires are conceived based on preexisting cultural codes; that is "*not only what people do when they*

*are at conflict with others; it is what they know how to do and what others expect them to do"* (Tarrow, 1997:66). Each organization has an inheritance of repertoires that is transformed and updated, and they are used as an option in the face of different negotiators and adversaries, to achieve the expected results.

Below we will characterize two scopes of collective actions carried out by displaced persons, which are very associated with each other. On one hand, we have the collective dynamics resulting from the situation and position of the displaced persons, in despicable living conditions, seeking an institutional response to their demands and the responsibility that is under the jurisdiction of the State. And on the other hand, we have the victims, which involve a deeper, more long-term look to take a position as regards the victimizers, the State and the national society as a whole. We will reflect on each of these contexts, pointing out the most significant tendencies of these processes.

## **Settling the difficult recommencement together**

In view of the situations and dynamics described herein, and the multiple needs and uncertainties, the displaced population has carried out and continues to generate different forms of joint action. The collective responses of these people form a strategy for different purposes. This is the commitment to make a political impact on the government agencies and national and international NGOs to vindicate their rights and reveal their existence. This is somehow the way that they exist with increased visibility, strengthening their demands, in the threshold conditions they are living.

In addition, it gives an account of the degree of weakness or strength as a civil society and based thereon; they become a part of the pressure dynamic and social



movements as actors thereof, to create alliances that not only work in their favor, but also lead to deeper, less sectorial structural impacts. Moreover, it is a resource on which the entities that provide attention insist, as based on organizational processes - visible, endorsed and legitimated by their institutionality - the improved channeling of the existing services is guaranteed. For the field work of this study, the displaced organizations were the spaces that enabled us to call for and carry out the enquiries required. We also suppose that its force will enable advancement in uncertain processes of truth, justice and reparation, in a national context where indifference regarding displaced persons and their threshold situation is still far from achieving general solidarities.

The obvious link between forced displacement, rural population and land in Colombia, has revealed the marginality of the population and rural territories, among other things, given the processes of modernization, that seek support in farming activities based on the model of maximizing capital accumulation, not only in economic production but also in the symbolic and societal dimension. As Salgado<sup>125</sup> put it, in Colombia, although the land is at the core of the armed conflict, there is a devaluation of rural communities in the imagination of society, which continuously demerits the role of the rural population in the food and agriculture industry, economic, sociocultural and political development and in the country's general stabilization.

The tendencies reported in the collective processes of the displaced population constitute a replica of what is going on in Colombia's civil society. However, its problems are often frowned upon, ignoring the fact that these actions take place in threshold conditions amidst the greatest uncertainties as regards the minimum guarantees for individual and family survival. Below we will indicate five significant tendencies in the collective dynamics of the displaced population.

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125- Participation in the 4<sup>th</sup> International Seminar, verifying the observance of rights. CODHES, Commission to Monitor Public Policies on Displacement. Bogotá, March 13 through 15, 2008.

## The collective actions of the displaced take place constantly although they are not always visible and quantifiable

Despite the existence of an important dynamic of collective actions and organizations of displaced persons, its quantification is highly inaccurate, which leads to a certain invisibilization. In regions like Boyacá, for instance, part of the silencing<sup>126</sup> of the phenomenon is due to the absence of organizations to position the displacement problem in the region, thus bringing the almost marginal institutional attention face to face with these populations. As regards the collective actions, their different types must be taken into account. These include formal and informal organizations that come about due to displacement itself, as well as existing organizations that redirect their efforts to provide responses for the armed conflict and forced displacement, as well as many other collective expressions that are not identified as such, in order to protect themselves in many cases.

Those who go through forced displacement continue to establish formal organizations and, this way, move forward in their association as collective subjects. Many of these formal and informal organizations are created by groups of displaced persons who know each other either because of their current location, neighborhood or city, their places of origin, or due to their objectives and purposes. The Codhes sources point out nearly 548 organizations located in all the departments in Colombia except for San Andres and Providencia, where Cesar is the department with the largest number, totaling 62 organizations. It is clear that they are most visible in the most central cities and towns of each department, which is explainable only because these are the scenarios where

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126- The cause of this silencing and the lack of organization is due, among others, to the active presence of armed powers that intimidate and enforce their threats on those who attempt to confront their powers and claim their rights.

most of the displaced population arrives, and also because this is where government as well as private agencies providing attention to the displaced population are located. The other existing figures correspond to the Social Action Technical Unit and indicate a smaller number that only amounted to 155 organizations located in 25 departments. These records show the greater presence of these organizations in the Department of Antioquia. A more detailed look based on the practices of an NGO<sup>127</sup> that supports these processes provides a more accurate account of the organizations that actually exist in six regions<sup>128</sup>. This is how we found that there were 141 organizations in 42 towns, with 110,000 members, which correspond to 27,000 families. 26 of these entities have more than 1000 members and only 12 have less than 100. Six intermediate cities have nearly half, 76, where two towns have up to 20 organizations each. It is evident that collective dynamics are moving at very different paces that can unlikely be trapped in the figures, which, in turn, may reflect their evolution.

The focus of these organizational processes are variable, and the condition of most members as displaced persons stands out as referents of the organizations<sup>129</sup>. However, their places of origin, ethnical background and their condition as women that are head of the household are also becoming more and more noticeable. The emphasis on organizations that tend to generate processes of an economic order, such as farming, business, and arts and crafts activities, and urban and rural housing, is relevant.

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But in addition to the existence of these groups, efforts have been made to create regional and national organizations, which have not been able to continue in a sustainable manner. The *Mesa Nacional de Fortalecimiento* made up of 20 representatives from different regions has

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127- Corporación Opción Legal. Project to strengthen OPD. Coverage for the year 2007. Document.

128- The regions are: Middle Magdalena, Atlantic Coast, Antioquia, Choco, Nariño and Putumayo.

129- Referents taken from the names of the organizations.

been operating to date, but it still has not managed to have enough national representation. There is also the CND, National Coordinator of Displaced Persons, the Displaced Population Organization for Independents, the National Association of Displaced Persons in Colombia, Andescol, the Displaced Afro-Colombians Association, AFRODES, the National Grouping of Organizations of Displaced Persons, and the Organization of Displaced Indigenous Persons. Bogota is the city with the most visible confluence of national organizations, amounting to 12 organizations registered there.

Similarly, the territorial organizations that already exist such as Town Councils, Community Councils for indigenous and afro-Colombian persons, Community Action Boards, Unions and peasant and settler organizations are devoting time and specific actions to respond to the demands of their displaced members, without changing their name. On many occasions, the rearrangement of priorities has led to the postponement of demands for land and territory to focus on the efforts of emergency attention that arise based on displacement.

The growth of displaced organizations in their different forms must undoubtedly be recognized. The process is still embryonic, fragile, and often replicates problems of corruption, clientelism, authoritarianism, that prevent moving forward in processes that are more associated with the social movement. But in addition, in local contexts of false democracy and pacification using war<sup>130</sup> as a means, the hidden texts are expanded, as the explicit texts are conditioned and reduced. These formal collective spaces have often been preceded by emergency actions, such as the so called "community pots" and have been created, in many cases, sponsored or suggested by NGOs. In several cases, this is how international support networks are put together.

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130- To the extent in which the so called pacification often refers to the control of paramilitary groups in the regions, with the consent by action or omission of sectors of the State's Armed Forces.

## Heterogeneity in the actions and repertoires used by organizations that defend the interests of the displaced and populations dominated by the armed conflict

What type of vindicating actions are carried out by these organizations? A study by Ortega (2007) indicates that between 1995 and 2004, 112 collective litigations filed by displaced persons were identified, mostly in Bogota 26 and Antioquia 25. These are followed by Santander, with 14 and Choco 9. They have been reported with less frequency in other departments, with a total of 7 cases for that decade. The most common repertoires were the taking of institutions (59), public protests (16), massive invasions (16), lawsuits (12), marches (6) and blocking highways (6). These public expressions constitute more evidence of the specific capacity to protest of the population in forced displacement, in addition to their capacity associated with more extensive social protest processes where it is common to find displaced groups that participate actively.

In addition to the litigations mentioned above, those living in forced displacement have turned to petitions for the protection of fundamental rights more and more often, with more force and greater success. A sign of this has been the emblematic ruling issued by the Constitutional Court in Decision T-025, which covers 108 proceedings filed by 1150 families in different parts of the country. This decision has been crucial in terms of confronting the State regarding the fulfillment of its responsibilities with the forcibly displaced. In terms of State responses for the forcibly displaced population, Ruling T-025 became a qualified evaluation, with sufficient legitimacy, authority and precision for a series of administrative actions. Without a doubt, the decision in itself does not generate any major changes, but it does favor the discussion regarding the issue, calls on diverse interested organizations, positioning a debate that has often been discredited, despite the fact that it has already been put forward in other scenarios. The decision affirms that the

*"rights to a decent life, personal safety, equality, work, health care, social security, education and the vital minimum"* of the displaced population has been violated in a massive, prolonged and reiterated manner. 16).

From another perspective and dynamic, it is important to point out the experiences of explicit resistance by means of the consolidation of peace communities. This is the case of the communities in San Francisco de Asís, Natividad de María and Nuestra Señora del Carmen, in Bajo Atrato, Choco, constituted as of October 1997 in order to define their collective position as regards the neutrality and autonomy toward the armed actors, to guarantee the safety, immovability, and continuity of the return to their places of origin, after the mass displacement to Mutata that same year. The process involved the creation of clear internal rules regarding their autonomy as regards any armed actor, whether legal or illegal, affirming the community's capacity to work on and settle its conflicts, as well as the creation of a series of demands for the armed actors as well as the State. As to the first, they have been asked to respect the housing and work areas, the right to move about freely, the ceasing of restrictions on foods, the prohibition of armed political proselytism, respect for the non-violent option, the principles and the autonomy of these communities, and the creation of a humanitarian truce, among others (ATI and others, 2004: 205).

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As for the State, the requirements range from the recognition of the peasants from these communities as citizens, the guarantee of their safety and protection, the non-armed presence of the State in rural zones where they are located, to the fulfillment of the agreements made, which revolve around three points: The ownership of lands, safety and the return; the latter is the central point, the transversal purpose of these communities (Ibid; 2004: 206). As regards ownership, they have demanded the recognition of collective ownership contemplated in Law 70 / 1993: *"In May 1997, the community councils were legalized and the technical visit and topographical survey were carried out to issue deeds by basins. It*

*seemed that once this was done, the process was going to be quick, but it wasn't until May 21, 2002, following the Bojaya tragedy, that these deeds were issued, and the peasants, represented by the dialog and negotiations committee of the Peace Communities had to file an applicability action before the enforcement action" (Ibid.; 2004:210).*

Processes like these are a vital commitment to deal with the consequences of displacement and the actions of armed groups; at the same time, they constitute a community option to consolidate social relationships and non-excluding, non-homogenizing processes of development. The peace communities *"not only resist the war and outrages committed by the armed actors, whether they are legal or illegal, but as an ethnic group, they also resist the economic emporiums that want to make these territories mediums of production to enrich major capital, struggling against the people of bad faith who want to snatch away their lands and against any policies meant to overlook cultural, social and economic particularities"* (Ibid.; 2004:214).

The experiences known by some authors as non-conformist, rebellious and other denominations are highly diverse: The processes of the Nasa people in Cauca with their indigenous guard, the Embera-Katio of the High Sinu, the Community Councils of the Pacific, such as that of the Yurumangui River in Buenaventura, the Cacarica communities in San Jose de Apartado, the Constituent Assembly in Tarso<sup>131</sup>. Similarly, there are also the diverse experiences of women, such as the Displaced Women's League in Bolivar and the International League of Women for Peace and Liberty, Limpal, which brings together five local organizations<sup>132</sup>, the People's Female Organization, OFP, and the Pacific Women's Route, among others. You can see the search for the configuration of territories of emancipation, in many of these processes, where the decisive factor *"is the social relations that are built on the*

131- These have been studied by the Ombudsman, 2005.

132- Cfr. Tradition, seeds and construction. Woman and Armed Conflict Round Table, Unifem, 2005.

*reappropriation of the land and the means of production*", as mentioned by Zibechi (2008: 35).

In order to do so, it is essential to take a territorial look that may make up the concrete processes in their historic dynamics. Multiple interactions ranging in intensity and clarity in accordance with the correlation of existing forces, relationships of alliance, negotiation, subordination and protest with diffused, non-exclusive frontiers, that combine partial expressions in their public and hidden texts, acquire greater, deeper dimensions in contexts of armed domination such as in the case of Colombia (Osorio, 2008) <sup>133</sup>.

## **Times of booms and latency in organizations and collective actions of the displaced**

The pace in organizational dynamics of the forcibly displaced population is not constant, which leads to the sometimes mistaken perception of the fleeting existence of the collective experiences. However, a detailed look at the organizational processes enables us to account for certain elements to be taken into consideration in this analysis. On one hand, the collective actions in threshold conditions are, in turn, a greater force, but they also constitute an effort that not only lacks material support for continuity, but it is also affected by the context of polarization and threat. Let's not forget that the displaced have a high level of uncertainty that generates mobility due to the lack of territoriality, which is a level of roaming that also affects organizations and collective actions.

Similarly, the political and social biographies of the individuals prior to displacement play an important role in the initial motivations of the displaced population. In fact,

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133- Further development of these processes have been attempted in Osorio 2008. Armed domination and local life. Report presented in Quibdo. 5<sup>th</sup> National Seminar Redif.



the experiences of sociability, leadership, proximity, distancing from community and organizational spaces before displacement mark the nature of the initiatives that arise, although they are often born from inexperience and need. The force of the identitary referents, whether they are ethnic, territorial or have to do with interests and needs, preexisting the displacement or born with it, begin to play an important role in the configuration of collective actions.

On another note, it is important to point out that the type of displacement whether it is individual-family or massive, somehow affects the dynamics and emphasis on the actions that are undertaken. For instance, in the case of the peace communities mentioned earlier, one of their members says that *"the 18 months that we stayed in Payarando marked a milestone not only as regards the transformation that we went through, but also because we were forced to think of a way to organize that would respond to the humanitarian emergency, guarantee our safety and protection, and help us find ways to return"* (ATI and others, 2004: 208).

Thus, sharing a common history - displacement - as well as the links prior to this state, are not lost, but rather reinforced by the new situation, enabling and facilitating the organizational process, at least temporarily and spatially, by profiling common agreements and pacts that placed the return in the center of the collective actions and demands.

The characteristics and traumas of the armed conflict, the place of arrival and its proximity or distance from the place left behind and the expectations of the return are factors that begin to play a random role in the searches and sense of belonging to the existing organizational spaces or those that may arise. So, different logics and meanings can be given to the collective action. They range from those that, with the return in mind, generate actions to guarantee this goal, to those that, contemplating the impossibility of returning to their places of origin, focus their efforts on constructing alternatives on different levels to

rebuild their lives. This, the actions go from vindication and recognition of their rights as a displaced population to the consolidation of long-lasting, sustainable options.

In the case of Bogota, Arias (2004) points out that some organizations<sup>134</sup> are playing an important role in the political impact on the vindication of rights, as well as on the construction of medium term options and the management of national and international resources. Of course these processes are full of contradictions and ambiguities where the formal and common objectives do not always match, but the significant activities, bonds and solidarities and the instrumental dimension *"become one of the core elements of cohesion and continuity in the organizations as a collective incentive"* (Collective Subjects and Actions Research Group, 2008:152) as pointed out in a study conducted in Cali with four organizations<sup>135</sup>.

These spaces for the meeting, action and organization of the displaced population begin to build a sense of belonging and identity, not only based on the experience of collective action, but also because these are vital, everyday scenarios to share experiences, memories, nostalgias and sorrow, that can unlikely be socialized in other contexts, as well as the collective solidarities that are often consolidated based on the needs and problems of their members.

Different meanings are interweaved in the experiences of collective action, because *"although the top priority of the organizations is to seek mechanisms for people to access better living conditions, other conditions are also provided that lead to the reinforcement of the collective identity. So, for instance, given the economic instability of most of the people, there are many cases in which there is a chance for them to share what little they*

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134- The author is referring to the National Displaced Association (Ande), constituted in 1993, the Solidarity Union for Colombia (Uscol), 1997, the Organization of Displaced Families (Orfades) and the Organization for Peaceful Coexistence (Adescop), both created in the year 1999.

135- Movement for Afro-Colombian Dignity, Right to a Decent Life Association, Leaving Footprints of Peace Association and United Coexistence.

*have, or to share the tragedy they were victims of; at other times, in the event of a catastrophe, there are shows of affection and solidarity that later strengthen the bonds with the organization; there are also spaces to generate very close ties, either through the celebration of birthdays or other special occasions. In many cases, this type of events and actions unite much more than the central purposes sought by the organization" (Arias, 2004: 175).*

### **There is significant distance and tension between the spaces of institutional participation on the local and regional level and the specific interests and searches of the displaced population**

The displaced population has difficulty becoming organized and viewed as subjects with specific rights, as mentioned earlier, and this is added to the fact that the local spaces designed for their participation in the construction of plans for comprehensive attention face serious obstacles preventing their realization. In fact, it has been observed that between the 2000-2005 period, there was no explicit emphasis on municipal development plans for attention to the displaced population, which generally - and in the best of cases - has been "mentioned" among the vulnerable population of the towns. The displaced, as a specific and legitimate "category" to be considered in the public policy, have had to travel a long way in this sense. The actions undertaken, for instance, lead to the visibilization of their specific problems and particular demands, at the same time that processes of social identity are consolidated, where "being" displaced acquires subjective as well as collective meanings that promote and define horizons of vital reconstruction and action.

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Although there are not many specific studies on the matter, it is important to highlight the deficiencies in the

development and action of the Municipal Committees for Attention to the Displaced Population. On one hand, these spaces are not separated from the traditional local political logic and, therefore, tend to be activated depending on certain functionalities, strengthening the referent of the institutional aspect as an excluding, clientelist and corrupt space. As stated by a displaced person in the Coffee Growing Region in reference to the little participation of his organization in these scenarios: *"They have not invited us often. We have to go there because, no matter what, they do not take us into account knowing that we have already established an association"* (Testimony quoted in Lopez, 2007: 21).

According to Lopez' study (2007), when these committees have the attendance of the displaced population, their participation is not constant, as the displaced population attends only at the beginning of the displacement, as the valid (perhaps only) scenario to interact with local instances of attention to make their specific, immediate demands viable, reinforcing the emphasis of emergency attention on the displaced. This generates and strengthens assisting approaches and relationships of dependence that do not allow the potentialization and organized projection of these populations. But in addition, it generates the exclusion of the population that is in the process of becoming organized, as the priority is initial individual and family attention for a very short time. This, the welfare road is chosen. It is much easier to operate and has a more efficient image as a service, than in the support and facilitation of social processes that are much more demanding and longer lasting. Improvised, inadequate administrative decisions, the deaf ears of local officials, including ombudsmen, and the insistent denial of the armed conflict and displacement in their jurisdiction, seem to be constants in the local and departmental instances<sup>136</sup>.

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136- Observation by Osorio in departmental meetings with ombudsmen in Nariño and Magdalena in 2006, and the 4<sup>th</sup> International Seminar, verifying the observance of rights. CODHES, Commission to Monitor Public Policies on Displacement. Bogotá, March 13 through 15, 2008.

The perceptions of officials regarding the displaced population begin to play a dominant role in these decisions and their specific relations with the displaced. A study conducted with public officials in Medellín shows six predominant images: peasant, parasite, barbarian, predator, problem and war proof subject (Jaramillo et al, 2004). In Bogotá, there is often the perception of the displaced population as lazy, "expecting everything to be given to them", and a permanent distrust of the so called "professional displaced", which is assumed disproportionately as if, indeed, the mere registration as a displaced person granted a series of material aid that could compensate the stigmatizing looks they have to deal with (Osorio, 2005). This was verified in the nine towns where the research was conducted with no major differences between what is going on in the cities where officials are expected to be more trained and responsible; and what is going on in smaller towns with less institutional and information resources.

For the regional studies of this research, it has been clear that the institutional instances and programs under their responsibility have had major difficulty as the programs have been carried out in a fragmented, irregular and clientelist manner. The testimonies collected tell of the actions of officials that distribute the resources meant for the displaced population at their own convenience and will: *"I told him (...) that the aid was for the people from Bellavista. We were the ones who experienced the violence first hand and we weren't entitled to anything and (...) he said 'because I feel like it'"*<sup>137</sup>.

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Similarly, it is clear that the displaced community is impotent when it comes to monitoring the resources given to them in a real and timely manner. So the difficulties associated with including the displaced persons in the SUR Registry are mostly due to the subjective interpretations of the regulations by officials, when they refer to the Regional Ombudsman in Choco by saying *"the registration of a person or family is not carried out diligently,*

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137- Testimony of the regional study of Choco. Page 45.

*even if they take their statement from the Ombudsman or the District Attorney's Office, or the courts, under the subjective pretext that they are not considered displaced, then they can afford to turn people down; this is very serious and it has led to certain precautions by the Solidarity Network itself, which is now Social Action, the interpretation of the regulations, in my opinion, is too subjective, too arranged, too particular (...)*<sup>138</sup>.

On another note, the confusion between the attention and reparation systems generates institutional logics that reinforce all these stereotypes and clientelist practices regarding the management and distribution of resources: *"The situation of benefit from attention based on good luck or the kind service of an official, also reveals social depictions that support the idea that some leaders of organizations have received benefits from the Social Action office to silence the collective voices, which contributes to new fractures in the communities due to the suspicion and distrust (...) To this effect, State institutions appear to be related to the clientelist handling of relations between them, community leaders and the organizations"*<sup>139</sup>.

270 This type of everyday tension between the displaced population and local institutions reflects the state's political incapacity to generate processes and instances of actual decision and participation by the communities in general. This difficulty is revealed dramatically in the case of the displaced populations given the situation not only of vulnerability but also of loss and forced uprooting. On the other hand, since these instances are a part of the institutional "machinery", they retread old practices in new scenarios, leading to the exhaustion of the displaced population.

The frailty and State's unwillingness to assume responsibility in regional as well as local territorial instances, has led to Writ No. 052 / 2008 of the Constitutional Court

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138- Ibid page 46.

139- Regional study of Bolivar. Page 66.

in which it requires Colombia's governors and mayors to answer a series of questions aimed at establishing the strategy to coordinate territorial actions for the attention to the displaced population with a view to ensuring coherence between obligations and resources in the territorial agencies.

The organizations and collective actions of the displaced are associated with the growing international cooperation in Colombia and form a part of the chain of dependencies and assistance, and of course the decisions, goals and priorities of financial backers.

The 2000-2005 period explicitly illustrates a process of internationalization of the armed conflict on several levels. On one hand, there are the clandestine connections of all the armies with weapon trade and drug trafficking. But there is also the increasingly explicit, forceful and multifunctional intervention of the United States, justified by the fight against drugs and terrorist; as well as the European Union, which has fought for its placement in an apparently less interventionist dynamic, although it has undoubtedly maintained its own interests, which vary among the countries of the community.

On the other hand, international presence is a demand in terms of the different dialog processes and the government's support and legitimation on the internal level and in the difficult relations with neighboring countries. Last but not least, there is the increasingly stronger presence of international NGOs of humanitarian aid and development that include Colombia in their programs, in many cases upon request by domestic NGOs that seek solidarity, political pressure and surveillance to protect the social dynamics that are constantly threatened by war. So the conflict in Colombia is framed within a *glocal* type process, which globalizes the local and localizes the global (Santos de Sousa, 1999).

The temporary convergence of the increase in forced displacement in Colombia, with the construction of the

transnational category of displaced person, has led to the simultaneous association between domestic processes and international dynamics. The high rates of murders, massacres, kidnappings and human rights violations are a phenomenon that increasingly involves many other countries on different continents in different ways<sup>140</sup>. In the international scenario, these situations reveal the severe effects and impacts of the armed conflict on the civilian population.

The presence of international NGOs generate a series of relationships between national, regional and local instances, as well as the particular processes of displaced organizations. Places, types of population, situational analyses and prioritized goals, visibilize and ignore at the same time, generating a significant conditioning of the course and practices of attention for forcibly displaced populations. In this process where there are undoubtedly constant internal assessments, but little public, open and compared critical discussion, an intricate network has been configured, without ignoring the amounts invested and the concrete achievements, it is highly unlikely that they will generate coordinated actions to potentiate sustainable processes with more social impact and durability over time<sup>141</sup>.

It is important to point out that the national Government has an almost consolidated tendency to get all funds from international cooperation to be deposited through the Presidential Agency for Social Action and International Cooperation, which is how it monopolizes access to these funds making it highly complicated to generate autonomous spaces outside government decisions and interests.

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140- So, for instance, the recent discussions on the approval of the FTA with the United States went through questioning to the reiterated murder of union leaders, among other aspects. The unsuccessful processes for the liberation of hundreds of people kidnapped by the Farc, some of which have been in captivity for ten years now, have been removing commissions from many countries, including Venezuela and France. The crisis in relations with the governments of Venezuela and Ecuador provoked the revolt of several Latin American governments and continues to stir up different opinions on the international level.

141- Cfr., for instance, Osorio et al. 2005, *International Cooperation and Forced Displacement*. AVImpresos, Sincelejo, Colombia.



International cooperation has undeniably positioned itself, based on its extensive heterogeneity, as another actor in the context of the armed conflict and has begun to play a different role on the national as well as local level. In addition to the economic aspect, this also involves symbolic and human resources of international solidarity that are frequently play a role in legitimating and supporting these social processes. Intervention, usually carried out using intermediation systems, reinforces and reproduces inequitable relationships of power between donors and receivers. The collective actions of the displaced form a part of this international humanitarian device that has been constructed, in which legitimacy and resources are exchanged.

## **Reparation: perceptions and possibilities as of the organizational processes and collective actions**

In this section, we will give an account of some of the tendencies regarding the perceptions of the forcedly displaced population and its practices with a view to find processes to attenuate or contribute to handling the pain and the consequences of the situation.

### **Diffused Use of the Definition of Attention and Reparation**

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*“The only thing I can say about reparation is that the emotional aspect can never be repaired. You can only repair visible things, not the invisible, what you have in your heart. Because if they kill your husband or a child, you can be indemnified and survive, but you cannot repair the pain” (Displaced woman in Quibdo, Choco).*

Reparation as regards forced displacement has different meanings and is understood differently by communities and the persons affected by the situation. In fact, it has been observed that the discourse has been handled and adapted by community leaders and NGO members, who work for it to be understood by the base communities and for actions of vindication to be taken on. However, the people's expectations depend on or are conditioned, to a great extent by real, everyday situations faced in terms of state responses and the capacity to meet their needs.

The reparation discourse is not a result of the dynamics of the people affected by the conflict. It is a discourse that comes from outside, caused by the situation generated by the debate over the Justice and Peace law nationwide and the work carried out by human rights organizations to suggest the impunity provided by the law and the victims' need to make themselves visible and claim their rights.

As illustrated earlier, although the collective actions of the displaced population suggest a political side that favors the transformation of the situations of exclusion and violation that they have been subjected to and the construction of a society that can beat corruption, clientelism and authoritarianism, they have focused on the search for effective responses to survive and live in conditions that will enable them to rebuild or create new life projects. A large part of these collective claims that have arisen in view of the State's lack of attention, even in basic, minimum matters with regard to emergency and humanitarian contexts.

The demands for reparation are not on the list of vindications and purposes of displaced organizations, initially, for several reasons:

- **Prior instability** for the displaced population to access and exercise their rights. This has to do with the absence of notions of citizenship, which have been translated into historic situations of exclusion and poverty. In

this context, vindication is focused on the search to recover what was lost (what already existed) and obtaining conditions to survive and settle down in their new contexts. Reparation alludes to the States' obligation not only to return what people had (restitution) but also to settle historic debts that led to the exclusion and vulnerability and, to this effect, create guarantees for them to fully exercise their citizenship. This notion is far from being understood and assumed by State officials and also by the displaced persons themselves.

The fact that displaced persons are demanding reparation therefore has to do with the construction of a clear awareness of their condition as victims and the understanding of the rights contemplated for them, and this is not an automatic result of having experienced displacement. Rather, it results from a process of contextualization of the situation, interaction with others, leading them to identify the powers and interests that cause displacement and the responsibilities and obligations that arise for the State. As a result, the *demand for reparation must be made*, that is to say that the displaced population has to become a political actor as a victim as well as an active subject with rights.

- The **heterogeneity of the displaced population and their diffused identity**. Victims' rights to reparation have been clearly assumed by the family members of the disappeared, by the relatives, sons and daughters of political activists and leaders who have been assassinated, and this may be due to the clear political identity built by these groups in terms of recognizing the victimizers and identifying the political contents that serve as the base for the crimes that have taken place. There is an extensive, wide-ranging list of victimizers for forced displacement (paramilitaries, armed forces, guerrillas, groups of economic power, political party bosses, etc.). In addition, the times, conditions and losses are different, so the experience is undergone and, indeed, causes damage to those who suffer it in different ways. This situation has an effect, on one hand, on the difficulty to identify the

damages and losses, and what the reparation requirements should be; and on the other, on the restrictions for them to build solid identities that will enable them to be considered a group or collective with rights.

- The **confusion and ambiguity** that surfaces and is transmitted in the institutional language. On one hand, as regards the specificity of humanitarian aid, the attention programs and the measures of reparation, and on the other, as regards the meaning of solidarity and that of responsibility or mandatory nature. In the first aspect, it is clear that the programs and services available to guarantee access to the minimums established by the Constitutional Court are named and provided as part of what is called reparation. Thus, the minimum services that correspond to the State's responsibility of attention as regards any of its citizens (education, health care, housing), appear to be reparatory actions, leaving the political character of forced displacement invisibilized and neglected, and situating the displaced as part of the "urban poor". In most of the interviews conducted, it was evident that these services are considered equivalent to reparation to officials as well as the displaced population.

In the second place, it is increasingly common for officials to describe the services as aid, bonuses or social support; this language, again, is meant to dodge the responsibility of state action and build the image of a generous, charitable State that acts out of compassion, not obligation.

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### Skepticism as regards the effectiveness of state action

*"... They said our children would have an education, but if we don't pay for their enrollment, they have no class. They have not kept their promises as regards health care either. Everything they promised is up in the air. The support we get is our own, when we go to work as maids... last year, they took us to a piece*

*of land and told us to water it to plant yucca and rice. They said we would start working in January and up to now, there has been nothing. When we ask the people from the RED, they say they don't know anything. The State takes advantage of these institutions to lie to us".* (Displaced woman in Quibdo).

The reparation discourse seems ironic and utopian to the displaced communities, particularly because they are still applying for and waiting for the humanitarian aid and, in general, the attention and responses by the State. The scarce attention therefore limits their expectations, so reparation, in most cases, is at best considered aid for housing and productive projects, health care and education, that is to say, basic attention.

Therefore, the demands and expectations of the forcibly displaced population are focused on seeking attention to the everyday problems that restrict their survival. So the demands are aimed at recovering what was lost, going back to being and living like before, particularly in indigenous and afro-Colombian communities.

The problem is critical and widespread. The Monitoring Commission's study puts it when it points out a *"profound lack of knowledge on the matter"* (CSPPDF, 2008: 54). Hence, 82.8% of the family groups interviewed are not familiar with the concept of the right to reparation. 80.7% of those who are familiar at all consider that the State's assistance *"does not repair the damage and the pain caused by being displaced at all, and 18.1% of said assistance has repaired them only partially. Only 1.2% of those who are familiar with the right consider they have been repaired altogether"* (Ibid.: 55). Only 23.2% who are familiar with the right have turned to justice to claim reparation. In a nutshell, the document says, *"it shows the existing confusion between a policy to restitute the rights that were affected by means of subsidies in health care, education, etc., and a comprehensive reparation policy by means of the mechanisms of justice, which has not been materialized for any family group"* (Ibid.: 55).

This is due to the lack of dissemination of these rights, with a view to the victims recognizing themselves as affected persons subject to said rights, as well as the absence of more clarity regarding the State's responsibility.

## **Reparation: meanings and expectations**

Reparation is a term that is loaded with very diverse senses and meaning. The term is likely to be absolutely unknown to most people in the situation of displacement, because it is clear that many peasants, indigenous people and Afro-Colombians come and stay in cities without even knowing that they are called displaced persons and they have certain types of rights. The prior conditions of exclusion mentioned earlier, as well as the situations of horror and fear that led to the exodus, force these people to enter and remain anonymous in cities, isolated and uninformed of the institutional and social networks and, for the same reason, marginalized from the services and possibilities to act individually and collectively in function of the claims for attention and reparation.

However, and particularly on the urban level, you can see the progressive qualification in the discourse of people and organizations as a result of the different dynamics. Some have to do with the visibilization of the displaced in the media, with the action of formation and information deployed by human rights and international cooperation organizations, with the control exercised by certain state entities (Attorney General's Office, Prosecutor's Office, Ombudsman's Office) and also the conclusive decisions made by the Constitutional Court. In addition, there is the obvious incidence of the actions of victims movements, raising questions for the displaced and leading them to claim their status and rights as victims; in this regard, the organized mobilization and action of the displaced in the assemblies of the National Movement of Victims of Crimes of State, to carry out national marches, legal proceedings and public statements since 2007 and 2008.

On another note, the consolidation of organization processes on the regional and local levels have qualified the demands of the displaced population and, at the same time, increased the number of people recognized as such. In part, the process of qualification of the organizations takes place when they identify their rights more clearly and, to this effect, when they go from demands for survival to demands for truth, justice and reparation. The local and regional processes also show evidence of the particular cultural and political dynamics, which have begun to have a bearing on the meanings and expectations constructed as regards reparation.

This research shows that there are diverse perceptions and positions about reparation, mainly marked by ethnic background, rural or urban location and the time between the displacement and the present time. This gives an account of the validity of the frameworks as structures of interpretation and expectations, based on experiences and changing in function of the new encounters.

To Afro-Colombian and indigenous communities, reparation is compared to returning, going back, recovering what was lost. War and displacement are lived as an experience that causes uprooting, the loss of peace, tranquility and the fundamental ties to the land and their ancestors. Above all, displacement represents a threat to the survival of the culture, their practices, rituals and wisdom. Therefore, the act or process most similar to the idea of reparation has to do with the possibilities of going back to life the way it was. This means recovering their land and autonomy over the territory with guarantees for security.

Reparation suggests the possibility of returning to what represents peace and happiness to the displaced. As a black woman put it: *"...repair, if we could only go back to walking unafraid at night under the moon, repair if we could sleep without waking up startled, if we could go back to having intimacy with our husbands, if we could go out into the woods to go hunting without getting shot*

*in the process*". These possibilities of going back to the way things were before have little to do with the inclusive actions carried out by the state, with its active presence or the deployment of its security measures. There is a claim here for the autonomy and even the right not to be included in political and economic logics that have little to do with their histories and world views.

Given that the State and the legal and illegal armed and power groups enjoy illegitimacy and are a synonym of hostile, threatening invaders, although reparation contemplates a demand for effective actions as regards health care, education, housing and utilities, it is also far from the claims for public presence on their lands or the application of formal justice.

In this order of ideas, the governor of an Indian reservation suggests: *"To us, reparation is for them to leave the territory, all of them. Why ask them to respect the land? You have to ask them to go... That is reparation to us. They should leave us the way we were before, even if we don't get anything ..."*

*"The State is responsible for giving back the tranquility and security for peasants to go back to working in the fields, we don't want to depend on a few groceries any more, and we don't want to be subjugated and turned into helpless beings. We have the capacity to work and we need security to go back to the country to produce the basics and what we have always lived on"* says a peasant woman.

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From this perspective, reparation alludes to a series of actions intended to bring the conflict to a stop and ensure decent living conditions for the future. There are no calculations of the historic damages to be repaid. The claim expresses a sort of exhaustion that leads communities to demand the minimum and, at the same time, the most significant element that resembles autonomy to them: *They should all go away (armed groups, State entities, NGOs), we are better off without them.*



The historic absence of the State in the indigenous, afro-Colombian and peasant communities, the permanent mistreatment to which they are subjected by civil and military authorities, the connivance of State organisms with paramilitary groups, in plain sight of inhabitants, the looting and scarce attention, have led to the construction of an image of the State linked to the powerful, an abusive, arbitrary entity from which these people have to protect themselves from, not from whom they will receive protection. What may come from the State is therefore buried in deep skepticism, resulting from political realism, so the notion of reparation has little to do with the effective possibilities of justice and indemnification.

In addition, the incredulity due to state's responses as regards reparation arises from the certainty that their ills are derived from the richness of their territories, the interests that the powerful sectors have in them, and the armed dispute that continues to take place over said resources. So, while the presence of armed actors and external interests are not controlled effectively in the zone, reparation will be just a discourse.

In the case of the indigenous communities, the skepticism regarding the State is even more relevant. To the indigenous people, the State is not a higher entity or a neutral organism. In its discourses, it is compared to the guerrillas or the paramilitaries. It is repeatedly said that the State - on occasions reduced and compared to the army or certain local authorities -, the guerrilla and the paramilitaries are the causes of their tragedies, they have been abused, humiliated and mistreated by them all, and they have all failed to fulfill the obligations to respect the rights and autonomy of the communities. From this perspective, reparation is an issue that should come from each of those involved, everybody has to do it; and reparation is understood as respect, as the possibility for those who have caused them damage to stop doing so and hereinafter recognize their rights and autonomy. In this case, it is assumed that the damage has already been done. It is irreparable and the most you can hope is for it not to happen again.

## From the Reparation Demanded from Others to Self-managed Practices

The State's lack of legitimacy and skepticism regarding the probabilities that their rights can actually be realized leads people and communities to create strategies to gain stability and control over their individual and collective projects again. In this regard, self-managed actions are common, in the sense of being constituted as mechanisms to rebuild and deal with the damages caused by the war, by displacement and by the impunity of the crime. These actions are basically symbolic as they mainly seek the reconstruction of damages related to the loss of confidence, the breaking of emotional ties and solidarity, and the destruction of referents of protection and identity.

This form of independent management of the damage involves actions of reconciliation with the territories and ancestors, and the reconstruction of roles, trades and status that have been decomposed and altered by external armed powers. In this order of ideas, the reparation of communities is related to the possibility of staying on the territory of ancestors, residing in the routine in accordance with the time and pace that have constructed the setting and respecting the difference that exists between the place of the living and the dead, the place of myths and beliefs, the place to "bury your navel".

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*Taking into account the fact that the dignity of the living is recovered with the dignity of the dead, that is to say, for the dead to be at peace. Making the meeting of the extensive family possible, the communication with networks of relatives in other villages on the river banks and respect for the tradition of the elders. Allowing us to live in houses that can be taken apart and adjusted to what is conveyed by the surroundings, being on the river banks, watching the boats go by, playing bingo, domino and being able to dance for three days. Being able to plant, fruit, sawing, fishing at night, going to the swamp.*

*Organizing ourselves again through relative networks to have the wake, celebrate a baby being born, the Virgin of Carmen holiday. Based on this logic, articulating the specifics of the organizational process with long term planning, into the future, in the direction of the life plan<sup>142</sup>.*

Reparation practices have to do with two aspects. On one hand, symbolic, ritual and cultural exercises aimed at paying tribute to the victims, fulfilling duties to the dead, and processes that seek the reestablishment of emotional wellbeing and the mourning of those that are affected.

In the communities that have gone through these massacres, the effort to appeal to cultural resources is clear, in order to fulfill certain rituals that have been altered by the war and deal with the mourning and other emotional impacts, in order for the chants, praise and rap songs to flourish. Women have recreated the stories of tragedy and loss in chants that usually accompany rituals and commemorations.

*"It all happened on May 2, all of Colombia shuddered, because they killed my beautiful people who were living in peace in Bojaya. It was May second when it happened, all of Colombia was in great pain, because ignorance silenced a beautiful people, irreplaceable people. Oh! what I like and what gives me peace is that they are all gone and they are at God's side. Oh! you left me and you went without saying goodbye. At God's side, that large cylinder that exploded inside the church, at God's side my little cousin was taken away, at God's side"<sup>143</sup>.*

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*"The drums roll to "chigualiar"\*, it is for a dead child that we are going to sing our "bundes"\* here in the*

142- Systematization of the workshop on returning, carried out in Bellavista, June 2004.

143- Excerpts of musical performance composed by youths in Bellavista - Choco.

\* Chigualiar: Performing the Gualí. Ceremony from Chocó, at the Colombian pacific region to commemorate the dead of a child.

\* Bundes: The raining dance

*country; the drums roll to "chigualiar", his mother is mourning, his godmother is singing the "bunde"; the drums roll to "chigualiar", he won't make it to limbo because the people are dancing; the drums roll to work for the dead children, for the Bojaya massacre; the drums roll to work, for all the dead, all the dead..."<sup>144</sup>.*

In Bojaya for instance, in the context of the annual commemorations of the massacre, different expressions have been worked on to try to relieve the pain of the living and seek the rest of the dead. The "Guali" rituals for children and the "anniversary of the dead" for adults on the first anniversary, the processions through town visiting each of the houses of the victims and blessing them with holy water; the walks to the church represent the steps taken on the day the fighting began until the tragic ending on May 2. The painful walks to the cemetery to cover the final steps of their dead relatives, or to visit the graves and mark those that have been identified with their respective name. The vigil singing praise by candlelight where the violent event took place, the day of *mourning with no music and no liquor in town*.

Similarly, the names of the deceased have been embroidered onto a colored blanket with a place for each. The cloth was embroidered by the women in an attempt to preserve the memory of the victims and give them a specific place in the absence of a grave. The cloth is made up of 14 rows of six names each and measures 6 m x 2.5 m.

The young people who lost family members and friends, several of which have physical injuries, have worked on plays that express situations relating to the massacre, such as the one called "The dead can talk", or "The endless story, history repeats itself", which alludes to the invasion of the oil palm crops on their territory and the violation of rights by legal and illegal armed groups.

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144- Excerpts from religious music (musical composition) of the women in Bellavista - Choco.

*"We are signing because our dead want us to sing... we are acting because our dead want us to act. Although history repeats itself in the hearts of our people, we will continue with our weapons of gesture, voice, paintbrush, guitar and the drums, and any other element that will project an echo and color with a creative force and soul, calling for a general strike... calling until we are free..."* (Fragment of the play "Endless story, history repeats itself").

These practices enable them to transmit their pain and reconcile with their dead in order for them to take the path and cross over and not wander around the world of the living claiming their space. Independently and with their own resources, the community remembers, relives a painful experience and allows itself to express its feelings. This is how it carries out mourning "work" to help get over their traumas.

In their symbolic actions, those that apply their own punishment are particularly relevant, which have an incalculable value for the reestablishment of the order required to coexist. These actions involve ritual practices that include specific actions such as carrying out "work" to torment the conscience and mind of the victimizers, and the acceptance and reaffirmation of their beliefs and gods, who will be entrusted to apply effective justice that will not be applied by state authorities.

In addition to the symbolic actions, there are also practices aimed at generating conditions for returning or relocation, by their own means or through the vindication of rights before the authorities. However, many communities refuse to abandon their territories and despite the difficulties, they decide to stay there. This permanence is known to them as resistance exercises. So when the indigenous people are asked about the meaning of reparation, it is not odd for it to be associated with resistance. As mentioned earlier, the long story of aggression against their communities and the failure to fulfill the agreements made with institutions and armed groups, reaffirms the belief that

they can only protect themselves from displacement through actions of resistance. This means union, organization, dialog and negotiations with armed groups, reporting and making visible each aggression against them.

Resistance means the decision to live and die on their territory and they have to use different strategies in order to do so. On one hand, there are the defensive actions against the aggression or murder attempts or recruitment, in which case they try to deal with any treat collectively, surrounding the person who has been threatened and preventing his/her assassination or separation from the community. There are also the collective women's marches before the armed actors, claiming for their children or husbands who have been recruited, writing statements to be presented to the national and international community and persuasive dialogs with the armed actors.

The words of an Embera indigenous leader in Choco give an account of the rich meaning and context of their notion of resistance:

*"Well, resistance is a process that we have been developing in the communities and all the towns, in fact among those who were the owners of the properties, and on the other hand, it has to do with how to get them to stop displacing and expropriating our lands, our territory and our natural resources. That is a decision of political positioning to prevent them from invading our land. Here, there is no other choice but to stay and not abandon the territory, because if we do, the owners of the war will take over. So what we are trying to do here is bring things under control and stop these policies and practices of the market economy that use violence and weapons to expropriate the rights of a town or a family. That has always been like a law that is made up by people who have economic interests, particularly the investment companies that want to take over the lands. So that's what resistance is. It means not running anymore but rather seeing what we can do here. We don't*

*know how many people are going to die. We understand it is not going to be easy. People are going to die. It isn't easy, but it would be worse if we fled because we could die culturally. We want to try to survive as a culture, many or few, but we will still be Emberas, we will still be indigenous people on a territory that will guarantee it. So that's what resistance has to do with it as a political position that has to deal with a permanent struggle for the armed actors or economic policies to stop carrying out their missions. That is a mission they have had for a long time; to take over all the riches of the indigenous peoples. So, to this effect, resistance also has to do, not only with the armed conflict, but also with all the acts or policies that go against the cultural and territorial integrity of the communities, against anything that puts cultural and territorial integrity at risk.*

## **For communities located in urban contexts**

Cities concentrate displaced populations coming from different regions of the country, expelled for different reasons and by different actors. They are also a heterogeneous people due to their social possibilities, economic and political activities. To this effect, it is hard to talk about common, generalizable realities in terms of loss, damage, transformation, expectations and reparation practices. Perhaps the circumstances faced by the displaced are conditioned not only due to their previous experiences and possessions, but also by the characteristics and dynamics of the urban settings they arrive at. To this effect, the contexts analyzed herein reveal a series of characteristics that have a powerful effect on what people validate and understand as losses and also their expectations as regards reparation.

The encounter and the insertion processes in cities imply a rough confrontation between the displaced population and unknown realities in conditions of great hostility.

Living in the city changes the meaning and the assessment of the losses and, of course, the expectations as regards reparation. In the city, the losses associated with people's lifestyle in their places of origin take on more meaning. The space, the work, the activities, the objects, the relationships are experienced with great nostalgia and enormous pain in the city. Aspects like drinking water from their fountains, taking a bath in the river, the daily walk in the country, the type of food they ate, are missed and claimed in view of the inclement metropolis where everything is scarce and everything costs money. The extension of the time in the city, the insertion of the members of families in different activities and relationships in the city, and the persistence of the armed conflict, little by little force them to give up the idea of returning and aim their demands and vindications toward a stable life in the metropolis. To this effect, work and housing become the aspects claimed most, and the most powerful expectation associated with reparation.

Although there is a higher level of information provided in cities regarding the rights of the displaced population, it is also clear that the scarce living conditions of the displaced and their skepticism regarding the effective attention processes begin to diminish the expectations of reparation. So the claims are focused on the search for education for their children; productive projects or jobs to guarantee their survival and housing for them to overcome the feeling of transhumance and overcrowding. The idea of reparation is associated with the conditions that enable them to overcome the extreme situations of vulnerability, instability and risk that most of them feel day in and day out.

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Without a doubt, the Diaspora caused by displacement, which breaks up preexisting collective processes, constitute a constant factor in cities. This physical dispersion begins to cause symbolic dispersion, which weakens and often does away with the spaces for encounters, sharing and also for common memories and collective history, one of the most valuable heritages upon which the notion of a "we" has been built in the case of peasant settlers.



# CONCLUSIONS



## Conclusions and recommendations for the development of reparation policies

In this reading on forced displacement in Colombia, we consider that the reparation policy has been combined and made indifferent in the police system, the Registration System and the Emergency Attention System. This has led to the predominance of the priorities of the government's public administration over those for the development of a true Reparation Policy, where the latter is reduced to a mere technological expression. Rating the reparation programs up to now only listed as a technological policy, is due to the fact that the process that has been implemented tends to standardize, normalize, divide and transfer principles, practices and programs to deal with a complex emergency and a social and institutional crisis, where the policy is reduced to mere criteria of governability or governance, and expertise and technical superiority are assumed as self-referenced to their own mechanisms of generation and expansion.

When this strategy is part of establishing a social order that is already excluding, through the application of specific power mechanisms, it leads to a policing scenario of the policy, in which you can respond to the complexity of the phenomena that have been intervened only by replacing one technical-legal package with another, where public deliberation or political discussion is exclusive and excluding certain stakeholders or the team of experts, which reduces the displaced subjects to subjects of exception, who are on neither side, who are included by means of a gesture of exclusion.

The main symptom of the policing system in treating the forcibly displaced is associated with the system for the registration of the displaced population, given that although the SUR was created under the idea of making visible and including the citizen rights protection systems

- expanding the field of the sensible and including them in the partition of the rest; in the end, the system wound up becoming a system to administrate the populations and regulate the type of applications they could file before the State or the Government.

Thus, the displaced were not included in the community of interests of the Colombian State in Law 387 / 1997 or 975 / 2005, and a system was created to list the priorities and needs of these citizens of a minimal degree, as compared to those of the general community where the condition of a full fledged citizen appears in benefit of the victimizers rather than the victims. In other words, the recognition only gave rise to the condition of citizen administered by dispersed state entities and the world of the NGOs. Thus, the legal systems that recognize the crime of forced displacement in Colombia are reduced to a police mechanism that created an administrative partition within the State where the displaced are included in the condition of domestic exiles.

In a matter of forced displacement, the reduction of the policy and the governing and governed relationship has led to the minimalization of mediations upon which the visible and the invisible are defined, which in this case is limited to the discussion of applying Law 387 or not; or whether or not they are potential beneficiaries of the reparation programs by administrative action. In other words, the only visible participation we can discuss is the administrative-judicial participation, which is previously defined by expert logos and not by the demands for social transformation that would make this a hope for transition toward social peace, with the victims as essential beings of central importance in said change.

As we move forward on the long road we have to travel for the public policy toward the displaced population to actually give rise to decent living conditions from a comprehensive rights perspective, Law 975 / 2005 and its implications constitute one of the events associated with the Colombian conflict that has had the most national and

international attention over the last few years. In addition to the criticism due to the short sentences for those responsible for genocides and inhuman crimes, and the weak demands in terms of truth regarding the events and contribution toward reparation with their own assets<sup>145</sup>; it is clear that this process is surrounded by the marginality of the victims. In the heterogeneous group of victims, displaced people constitute a sector that is highly relegated by public institutions as well as by the movements that recognize and support them. In the meantime, the crime<sup>146</sup> goes absolutely unpunished.

Right after the National Reparation Commission was created, the Director - Eduardo Pizarro - came forward to point out that the displaced would not be included in this agency's field of action, but would rather continue to be dealt with by the existing policies. Although the exclusion was reconsidered some time later, it shows the confusion generated by estimating State assistance associated with the displaced in the attempt to consider these basic actions, and sometimes compare them to reparation. In addition, the number of displaced, over four million people, as well as the diversity and complexity of their losses and damages, constitutes an argument to address the reparation process in a limited manner, which leads to the discriminatory treatment of the victims of such crime.

A short time ago, Decree 1290 defined amounts for direct administrative reparation, where the victims of a homicide, injury with permanent disability and torture, will be repaired with 40 minimum monthly wages in each case.

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145- See for instance the article « Human Rights Watch questions the regulation of the Justice and Peace Law », *El Tiempo*, Bogotá, January 19, 2006.

146- It is important to remember that forced displacement has been recognized as a crime against humanity according to the Rome statute created by the International Criminal Court, which recognizes in Article 7, the deportation or forced movement of the population as a crime against humanity when it is committed as a part of a widespread or systematic attack against the civilian population knowingly. In this case, "forced deportation or movement of the population" is understood as forced displacement, within or outside the country, of people affected by expulsion or other coercive acts from the zone where they are legitimately residing without motives authorized by international law (Art. 7, Section 2, Letter d). In addition, Protocol II of the Geneva Convention, in reference to internal armed conflicts, presents different regulations as regards the protection of victims.

Injuries involving temporary disability are repaired with 30 minimum monthly wages; rape with 20 and displaced families are repaired with 27 minimum monthly wages, which must be use for new or used housing, although if the family prefers, they may receive the money in cash<sup>147</sup>. According to the source, the decision was consulted with 5000 victims, the courts and the Reparation Commission, and it defines the creation of a fund with seven billion pesos from the national budget in order to avoid the delay in paramilitary trials that can take years<sup>148</sup>.

Despite the figures, one context that continues to be avoided in the recognition processes has to do with the individual and collective right to land and territory for the rural population, given that a large slice of the displaced, 75.2% comes from the rural areas of the country. Now then, recognizing the impact of forced displacement on land ownership and use, different figures are used as regards the number of abandoned properties. The Colombian Treasury Inspector's Office, an institution that has very conservative figures, estimates that 2.9 million hectares have been abandoned during the 2001 to 2006 period. On the other hand, Social Action estimates that the area of property abandoned during said period was 6.8 million hectares according to research conducted by the OIM and RSS (2004).

So according to the Monitoring Commission, the distance between the displaced population with rural property and its access to mechanisms to protect their assets is latent. Thus, the report mentioned earlier says *"according to the consolidated figures on protection presented by the Project to Protect the Land and Assets of the Displaced Population (PPTPPD in Spanish), by the end of the second quarter 2007, 52,465 properties were protected by means of the Collective Protection Route and*

147- See "\$18 million per person killed by the conflict", in *El Tiempo*, Sunday, March 16, 2008.

148- For further analysis on this decree, see for instance, Jose Alvear Restrepo Collective Attorney Corporation, 2008. Decree on administrative reparation, another sham for victims? May 13. In: [www.colectivodeabogados.org](http://www.colectivodeabogados.org). Consulted on May 15, 2008.

*9153 properties were protected using the individual protection route, for a total of 61,618 properties. Altogether, these protective actions covered a total area of 1,705,357.53 hectares" (Ibid.: 59).*

In the same line, the report says, *"48,970 people were protected using the collective route, and 7,799 people did so by means of the individual route, for a total of 56,769 people protected; that is to say, 2.4% of all the people registered in the Displaced Population Registry (RUPD) at December 31, 2007 (2,359,838)".* When these figures are broken down by gender of the applicant, the percentages become even smaller and the inequity even more evident: Women make up only 31% of the applicants of the individual route of protection and 37% of the collective route, which are below the percentages of heads of household among the displaced population.

These are just some of the figures that document the complexity of a process for truth, justice and reparation, where the affected population still does not have full access due to the lack of information or the restriction of the mechanisms for the protection of their assets. And again, as pointed out earlier, displaced peasant women have a whole series of additional obstacles to be able to effectively access a mechanism of justice.

Furthermore, as we mentioned earlier and as analyzed in the studies conducted on the matter, awareness of the right to reparation by the displaced population is still incipient, and there are multiple, contradictory meanings taken on by the process for each person who has had to leave everything behind to safeguard their life. One of the greatest risks has to do with the confusion, among the displaced as well as attending officials, that may be created between the attention policy for the forcibly displaced population and the reparation required as victims. These are different processes that cannot be included in just one, and they necessarily go through different dynamics for the restitution of seized assets and violated rights, indemnification for the damages caused,

rehabilitation, moral compensation or satisfaction, and the prevention of reoccurrence<sup>149</sup>.

*There are many roads to travel in order to reach a scenario where truth and justice, as part of the reparation of victims of the armed conflict in Colombia, is a fact. Many of the paths made up by populations to man - age to position their rights, their memory, their roots and world visions, amidst the correlation of political forces, as an important part of the permanent construction of our nation and its history. These steps are necessary on the road to peace that, beyond the silence of the guns, merges with scenarios of life that are satisfying and heterogeneous, where the wellbeing of the communities take precedence over the stability of political and economic systems that disregard the action, voice and memories of the majority, the ones from the bottom. In the displaced world today, uncertainty, loss and pain seems to weigh more than their capacities and collective action potentialities. However, it is a good idea to remember with Reyes Mate that.*

Seeing the damage from this perspective, the preventive actions and those for reparation should be focused on:

1. Policies to redistribute the land and land reform policies that will cut down on the monopoly, single crop farming and anti-ecological and illicit practices. It is clear that if the land is not included as a core issue in reparation, the victims will have no possibilities for their decent, sustainable return and the actions will turn out to be functional for the practices of violent expulsion of the population.

In this regard, reality is obstinate. The Incoder has reported giving out 19,600 hectares benefitting 2400 families during the 2000 - 2004 period, that is to say, it has

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149- Cfr. *Basic Principles and Guidelines for Reparation* (E/CN.4/1997/104), United Nations.



only covered 1% of the total population of families that abandoned their properties in the same period. Merely 3400 of the total hectares correspond to confiscated properties handed over to Incoder definitively by the National Narcotics Directorate. To the same effect, by October 2004, only 5257.4 hectares had been given to Incoder for land reform purposes, assuming that each family would be given five hectares as a family farming unit, benefiting 1051 households by awarding these properties; this figure is far from the total peasant and displaced population standing by waiting for access to land ownership.

2. Judicialization and Punishment for those Responsible. Reparation is incomplete, to say the least, while the crime of displacement goes completely unpunished. Any attempt at return or reestablishment will be seriously threatened if the masterminds and the actual perpetrators go free carrying out their criminal actions; even the solitary efforts of victims to be inserted in the city turn out to be prevented by the persistent threats of old and new armed structures, who force them into a permanent, exhausting nomadic life even in the cities, apparently far from the conflict.

3. Comprehensive actions of reparation must contemplate economic strategies aimed at sustainable local and regional development. This requires reconstruction and investment plans that will get involved in the dramatic socioeconomic conditions of a large slice of the population. The context is even more complex when you think that, in a certain way, re-stabilization should be the beginning of an economic and social scenario for the post-conflict. That is to see, you need objective economic and social conditions of a structural order and beyond individual or institutional volition.

To this effect, the proposal by the Constitutional Court mentioned earlier takes on even more meaning: "the shape that will be taken on by the country in the future" depends on how you deal with the problem now. "The displaced population is entitled to the Government developing me-

dium and long term measures and actions in order to general conditions of economic and social sustainability for the displaced population in the framework of voluntary return or resettlement in other rural and urban areas. Therefore, the Government has the duty to develop programs relating to productive projects, the national land reform system and rural peasant development, encouraging small businesses, training and social organization, social security in health care, education, and rural and urban housing; attention to children, women and the elderly, as well as the development of rural and urban job plans”.

4. The displaced have to be recognized as individual and collective political actors. They cannot be treated as welfare recipients. Participation involves the protection of the organizations and their leaders, and their recognition as negotiators in the design, execution and assessment of policies for attention and reparation. The behavior of the displaced as political actors is not just because they are offered information and training processes; it depends more than anything on the guarantees of security that should be provide by the State and they will be effective on one hand, when there are true processes of demobilization and dismantling of the armed powers on the local, regional and national level, and on the other, when actions are carried out to judicialize the victimizers.

The political status of the displaced is conditioned to recognition by the State and society as a whole regarding the brutality of the phenomenon, and the potential and the contribution made by this population to the country and the need to transform the economic and political conditions that make displacement possible and have not ceased to exist.

To bring this series of conclusions and recommendations to a close, we would like to propose a series of aspects that may work as contexts for the development of policies, questions for future studies and reflections in an agenda that will assume reparation in Colombia with long term criteria, in its most important challenge, which

is that of providing proper, decent responses to the dimensions taken on by the drama of forced displacement.

- The first aspect is the importance of keeping track of the mutations of violence and the actors involved, because this has and will continue to have fundamental effects on the mutations of the ways of doing damage. We think the confinement and frontier migration is a problem that has been absolutely invisibilized and disguised in the figures showing decreases in domestic displacement and displacement between regions.

- The demobilization of paramilitaries was constituted as a media spectacle that eclipsed all of Colombian society. The social processes of forced reintegration of the demobilized militias in the communities affected by their own actions or in new communities were in the dark zone of this eclipse. The new phenomena of social control, intimidation or retaliation that are at stake are the aspects that should come to light.

- The experiment of a single peace - defined by the president of the moment - and just one negotiation scenario - the national stage - is still in crisis, because even the supposedly successful demobilization process of 30,000 paramilitaries is far from consolidating peace scenarios in the regions, because new or old strongholds of mob power continue to scare populations or dispute power by fire and sword with their former partners. To this effect, it is time to consider more plural scenarios of negotiation, in the scale - to include the regional aspect - as well as in the type of actors involved. In other words, the central government peace will be nothing more than fleeting pacifications with electoral purposes, in this country whose history is full of examples.

- It is clear that a country like Colombia has two enormous debts with the vast majority of its fellow countrymen to solve the problems of economic exclusion and put a stop to the processes of victimization and revictimization in unending cycles of violence and coer-

cion. But considering these aspects indifferentiated, or putting them up against each other, only leads to the trap of the instrumentalization of poverty to neutralize the political damage, at the same time as it gives rise to the depoliticization of the ways to treat the effects of the conflict. In other words, the agendas of poverty cannot be included in agendas for the recognition and reparation of victims of violence.

- The models of attention to victims in Colombia, considered the most developed in the world, must go beyond the development of mere systems for counting and administration of victims. The registration systems for the displaced or the universe of possible beneficiaries of reparation cannot be the Epiphanic expression of victim recognition and reparation systems; these systems are just instruments and in the strict sense of the word, they are neither the policy nor the response to the complexity of the problems to be dealt with.

- It has been repeatedly suggested that the intervention of the Constitutional Court in the processes of political control for the development of public policies on forced displacement was a turning point and the opportunity to give accounts and the enforceability of rights by victims. One detail that has been overlooked is the fact that litigation is very limited in scope because it can only be used to apply for the minimum benefits pre-established in the laws and codes. To this effect, litigation cannot go beyond political action, because the creases, what's new, the rearrangement of social life, only takes place as a political occurrence that transforms what has been established.

- The rights discourse as the central point of vindication of social agents in an attempt to challenge the State to undergo debate itself, because in the first place, the discussion must go beyond the minimums of classic liberalism on civil and political rights and incorporate the demands for cultural recognition, economic redistribution and the inclusion of reparation in the structure of fundamental rights.

- If what is at stake is an idea of peace for all of society, the logics of recognition and visibilization should be changed from placing emphasis on the victimizers and their story, to focusing on the victims and their experience. In this order of ideas, specific spaces should be created for the victims to dialog with all of society, because the task does not only have to do with the reparation of victims' life projects and development, but the reconstruction of the project for society.

- The historic memory of social damage and conflict should overcome the aspirations of construction of a truth of experts or procedural purposes, to give an account of the memories of the social and cultural heritage that have been affected, which are in danger or built on the experience of surviving victims in their processes of resistance and reestablishment.



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