

Submission from the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC) to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007

Internally displaced people (IDPs) in Colombia

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1. *Colombia: government “peace process” cements injustice for IDPs, 30 June 2006*
2. *Resisting displacement by combatants and developers: Humanitarian Zones in north-west Colombia, November 2007*

I. Number and profile of internally displaced people in Colombia

1. The estimates of the number of internally displaced people (IDPs) in Colombia differ, depending on the source. National NGO Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) has recorded **4,247,882** IDPs from 1985 to the end of 2007 with **305,966** newly displaced in 2007; the government's registry of displaced population (RUPD) gives the number of **2,452,152**, with **288,406** displaced and registered in 2007 (data as of 31 March 2008).ⁱ

2. A majority of IDPs flee from the countryside, where they are engaged in small-scale farming as owners or as day-labourers, to the slums around larger urban areas. However, increasing control by paramilitary groups and violence related to organised crime force from 8 to 12 per cent of the IDPs to flee again within the urban areas, causing intra-urban displacement unrecognised by the government.

3. None of the IDPs in Colombia live in camps, but there are areas where the majority of the inhabitants are IDPs. 96 per cent of the country's more than 1,000 municipalities have experienced forced displacement, with Antioquia, Cesar, Magdalena and Putumayo departments particularly hard hit.

4. The IDPs in Colombia do not represent a homogenous ethnic, social or political group, though Afro-Colombian and indigenous communities are proportionally more exposed to conflict, violence, and displacement than other groups. Virtually all of the 84 indigenous groups living in Colombia have been affected by displacement. Yet, statistically indigenous groups are less exposed to forced displacement than afro-Colombian communities mainly as a result of peaceful and collective resistance strategies to resist in their territories.ⁱⁱ In both cases, the right to freedom of movement is seriously curtailed by the armed groups.

5. The Colombian government has prioritised return within the "democratic security" policy as a long-term solution to forced displacement, in many cases without guaranteeing the safety and dignity or voluntary nature of returns. The government's return programme has in any case not prevented continued massive displacements nor has it lead to significant returns. The 2008 report of the Monitoring Commission indicates that only 3 per cent of IDPs registered in RUPD have the intention of going back to their places of origin, the majority citing security reasons and lack of livelihood opportunities (69 per cent).ⁱⁱⁱ

II. Main subjects of concern

Lack of physical security and ongoing internal displacement - right to life, liberty and security of the person & freedom to choose one's residence^{iv}

6. In 96 per cent of cases, internal displacement in Colombia has been triggered by direct threats, violence and fighting.^v The current phase of Colombia's conflict started around 40 years ago and it involves national and international commercial interests, an internal war pitting the government and paramilitary forces against two guerrilla groups, the Colombian Revolutionary Armed Forces - People's Army (FARC-EP) and the National Liberation Army (ELN), and a related war on drugs. Control of land has, both historically and in the present phase of the conflict, been one of the primary objectives of the armed groups. As a result peasants and small-scale farmers have deliberately and systematically been forced from their homes by the armed groups.

7. All fighting parties have disregarded basic principles of international humanitarian law and are responsible for inflicting violence on civilians and uprooting people from their homes and land, including many paramilitary groups who were officially demobilised in 2006. In between the beginning of the demobilisation process on 1 December 2002 and 30 April 2007, the paramilitary groups were held responsible for the killing or forced disappearance of more than 3,000 people outside combat.^{vi} Both paramilitary and guerrilla groups routinely seek revenge on populations who remain in areas previously controlled by the enemy, with forced displacements and human rights abuses including killings, massacres and torture ensuing. The Colombian state

on the other of hand is held directly responsible for the extrajudicial executions and forced disappearances of a total of 955 people between July 2002 and June 2007.^{vii} Similarly, in 2002 the State was held responsible for 17 percent of all human rights violations, which increased to 56 percent by mid-2006.^{viii}

8. The current conflict has lasted for more than 40 years and many civil society organisations have distanced themselves from the armed actors, guerrillas and paramilitary groups alike by advocating for non-violence. This strategy undermines the legitimacy of the armed groups which often react with threats, assassinations and more forced displacement.

9. Displaced communities' leaders, members of organisations of displaced people and human rights defenders who accompany them are often targeted with violence as a result of their work. Defending the interests of IDPs or other victims of conflict beyond a purely humanitarian response is often perceived as an attack on the perpetrators of displacements or other rights violations.

10. Thousands of farmers have been forced to flee their homes since 1999 as a result of a massive campaign of indiscriminate aerial chemical spraying of crops, particularly in the western Amazon region traditionally controlled by the guerrillas. Such spraying indiscriminately damages illicit crops, but also food crops, water sources and livestock, and thus threatens the livelihoods of affected populations. Moreover, the affected farmers are often perceived as collaborators of the guerrillas and reportedly treated accordingly by the local authorities or paramilitary groups. They are left with few choices: some continue planting coca crops in even more remote areas, others join the guerrillas or paramilitary forces or flee to urban centres where they live in violent slums.

Land grabbing - right to property^{ix}

11. Two to six million hectares of land are estimated to be controlled by paramilitary groups, which formally demobilised in August 2006, and their successors who grabbed large tracts from the IDPs.^x Different intimidation tactics have been used to make people give up their land, ranging from direct use of force through threats and intimidation to other forms of economic and social pressure (for more, see especially Attachment 2.) Colombia is also a resource-rich country in which timber, hydroelectric power, mines, and plantations of crops such as African palm, have attracted international investment from many of the largest companies in the world.^{xi} They have also attracted guerrillas to fight these companies and paramilitaries to protect their interests, which brought about more violence, fighting and displacement. The regions richest in natural resources and potential for agricultural development are thus the ones most affected by internal displacement and land-grabbing.

12. Violence and forced displacements increased significantly after the 1993 introduction of law 70 that granted Afro-Colombians organised into community councils the right to obtain land titles. Since then palm oil companies have intensified their pressure to gain access to Afro-Colombian land in the Chocó region and in the southern Nariño department. Strategies in the Chocó region included commissioning of paramilitaries who violently displaced, coerced, intimidated and fraudulently forced Afro-Colombians to cede parts of the collective territories to oil palm companies. Companies also took advantage of the violence, confusion and displacement generated by the internal armed conflict to take over vast territories. In some cases, the areas were repopulated with settlers from other parts of the country to work on the palm plantations. In other cases, people fleeing conflict in nearby departments fled to the land abandoned by others.

13. The living conditions of IDPs who set up humanitarian zones are often precarious. Not having enough land to cultivate for their own needs, they need to bring in all food and non-food items from the outside, which is deliberately made difficult by military and paramilitary groups controlling the area. The situation is generally more difficult in newly established humanitarian zones (see Attachment 2 to this submission).

14. In December 2007, the Attorney-General's office initiated formal investigations against 23 palm companies in the Chocó region on the basis of having contracted paramilitaries to forcibly displace communities and

subsequently established palm plantations on these communities' land. Since the announcement, only two of the 23 companies have been indicted.

15. In August 2007, due to pressure from the international community, mainly from the United States, INCODER, a governmental institution mandated to administer and implement land-laws, ordered that 18,000 hectares of land be returned to these communities. While the territories have formally been returned to their rightful owners, according to the authorities, palm companies continue to illegally operate in the collective territories and IDPs are still under threat to prevent them from returning as of June 2008.

16. Despite the positive legal developments and widespread recognition by the government that the IDPs are the rightful owners of these territories, the threats and attacks against the returnees are increasing. Community members are being subjected to threats against their lives, assassination attempts, their houses and properties burnt down and their food crops destroyed by cows set loose on their property. Paramilitaries or their successors continue to intimidate the civilian population in many parts of the country. In September 2007, paramilitaries shot two persons from the Curvaradó community in Chocó, leaving them critically injured.

17. In an attempt to hang on to their land and to increase their chances of staying out of the armed groups' attempts to implicate them in the conflict, some Afro-Colombian and indigenous IDPs in the Urabá region have established "humanitarian zones" on or near collective land from which they have been forced to flee. For example, in November 2006 there were five humanitarian zones in the districts of Jiguamiandó and Curvaradó in Chocó Region, hosting an estimated 400 out of the 2,125 people who lived in the two districts before the counter-insurgency operation began in 1996. In 2005, there were more than 50 humanitarian zones or similar initiatives in Colombia^{xii} (for more on humanitarian zones, see Attachment 2 to this submission).

*Lack of socio-economic security –
right to adequate standard of living, to work and just conditions of work^{xiii}*

18. The conflict has generated a protracted humanitarian crisis which affects the majority of the internally displaced people in Colombia. They are the poorest of the poor in a country where more than around 45 per cent of the population lives below the poverty line, and 12 per cent in extreme poverty in 2006 according to National Planning Department.^{xiv} To escape immediate threats to their safety, the majority of them look for refuge in areas of big cities where they often do have poor access to food, water, shelter and public services such as health care.

19. In 2008, in a contribution to the Constitutional Court's initiative to verify the enjoyment of rights of displaced people, the Commission Monitoring Public Policy on Forced Displacement published its first report, based on survey of registered IDPs. These IDPs, as the report says, may constitute around only half of those *actually* displaced.

Socio-economic indicators give the following picture:

- the situation is "critical" in terms of **food** sufficiency with 59 per cent showing some indications of insufficient food intake in the week preceding the survey, and 27 per cent of children under five diagnosed with malnutrition;
- only eight per cent enjoy adequate and dignified **housing**;
- 21 per cent are not covered by the public **health** care system (SGSSS);
- in terms of **income generation**, while 45 per cent have access to labour markets, the majority do not receive adequate remuneration nor do they work in dignified conditions. Only 12 per cent earn the equivalent of the minimum legal wage and only two per cent have income higher than the poverty line.^{xv}

Internally displaced children - protection risks and limited access to education^{xvi}

20. More than one million Colombian children have had to flee their homes with their families. The report of the Monitoring Commission says that 54 per cent of the registered displaced population are children and youth below the age of 20, 41 per cent of the displaced are below 15. Children in areas of displacement face serious protection threats such as family separation, forced recruitment, and land mines as well as can experience or witness violence, including sexual violence.

21. Some 20 per cent of children of school age have either dropped out of school or have never started. Costs of the materials required, such as school uniforms, school books and transportation are a major impediment to a higher percentage of school attendance.^{xvii} According to the Prosecutor General's Office, regardless of the method of measurement adopted, the rate of exclusion is appalling: the Ministry of Education's figure for the number of displaced children who go to school (114,044), compared with the number of displaced people under 18 years old (645,612), gives the percentage excluded as 82 per cent of the displaced; if we compare it with the displaced population between five and 17 years old, the exclusion rate is 75 per cent; and finally if we compare it with the Ministry's own estimation of the displaced population of school age (342,274), the exclusion rate is 67 per cent.^{xviii}

Insufficient assistance^{xix}

22. The government's policy to IDPs restrict humanitarian assistance to the first three months after registration, prolonged in exceptional cases to six months, was declared unconstitutional by the Constitutional Court in 2007.^{xx} Yet the Monitoring Commission states in its report of January 2008 that the provision of immediate assistance is low. 81 per cent of registered IDP families did not receive such assistance and only 0.2 per cent (one in every 500) received all of its elements (temporary accommodation, emergency medical care or medicines, food, potable water, clothing). 39 per cent of families registered as displaced did not receive emergency humanitarian assistance, 61 per cent received at least one of its components (assistance with rent, medical coverage, school entry assistance, food or food vouchers, potable water, training) and practically no family received all of its elements. Moreover, a downward trend in provision of such assistance has been noted.^{xxi}

Lack of adequate protection and effective remedy^{xxii}

23. Impunity and limitations of access to justice^{xxiii} are among principal impediments to a long-term solution for displaced people. The Representative of the Secretary-general on the human rights of IDPs noted in his report following the mission to Colombia that:

Although forced displacement is a crime under Colombian law, allegedly less than 1 per cent of all criminal cases are prosecuted under this crime. In most cases, it is examined in connection with other crimes under Colombian criminal law and not on its own. The Representative felt that this practice disregards the fact that there are many IDPs who did not suffer additional human rights violations, other than being forcibly displaced. The Constitutional Court in sentence T-025 of 2004 declared that individuals forcibly displaced, in addition to other remedies for human rights violations, had rights to truth, justice and reparation as victims of the crime of forced displacement under Colombian law.^{xxiv}

24. More than 120,000 victims of crimes committed by members of paramilitary groups have registered their claims to be compensated within the framework of the "Peace and Justice" law^{xxv} at the Attorney General's office, but little progress has been made so far, with no indictment issued in 2007.^{xxvi} The challenges are daunting: some victims claiming compensation for loss of land have been killed, while others have received death threats. Similarly, of the more than 600,000 forced displacements, sanctioned as a crime against humanity in law 589 of 2000, only 6501 cases were registered by the Prosecutors Office, 32 of them went to the courts, were 13 sentences were carried out against 15 persons in a two year period from 2004 to 2006.^{xxvii} This account for an efficiency rate of approximately 0,002% (for more see especially Attachment 1 to this submission).

III. National response and assistance to IDPs

25. Colombia is host to the second-largest IDP population in the world and has at the same time adopted one of the most advanced legislations to address their protection and assistance needs. However, practically all reports on internally displaced people in Colombia, including by the Constitutional Court, emphasise the staggering discrepancy between the expressed intentions of the government and the effective enjoyment of the rights of the IDP

26. The body charged with responding to internal displacement at national level, as established by Law 387 (1997), is the National System of Attention to People Displaced by Violence (SNAIPD). It is composed of 14 government ministries and other public, private, and community organisations covering various areas such as agriculture, social security, health, and education. The Social Solidarity Network, created in 1999 and renamed Social Action in 2005, manages the SNAIPD, coordinates and oversees assistance to IDPs and those at risk of displacement, and plans and delivers services to IDPs officially registered.^{xxviii}

27. In January 2004, the Constitutional Court concluded^{xxix} that the lack of protection and attention given to displaced people and communities at risk of displacement was unconstitutional. This ruling has made the court the most important and authoritative supervisor of the government's compliance with its own policies and laws and may be used as an example for other countries. The ruling reflected serious structural deficiencies attributable to state bodies, based on lack of compliance with the 1997 Law 387, the high number of complaints brought before the Courts by IDPs, and the deterioration of their situation due to omissions in public policy, all of which resulted in the violation of their rights.^{xxx} The Court ordered the government to reformulate its public policy, to assign adequate resources to the maximum of its capacities, to take concrete action to prevent forced displacement, and to guarantee protection of the rights of IDPs.

28. In response to the Court verdict, the National Plan of Integral Attention to People Displaced by Violence was launched in February 2005, through Decree 250 (2005). The plan outlined the government's strategy to prevent displacement and to assist about 1.5 million officially registered IDPs in accordance with Law 387. Also in November 2005, the government committed the equivalent of more than \$2 billion to the protection and assistance of IDPs for the period from 2005 to 2010. A number of agencies and ministries have submitted their reports to the Court which is, as of May 2008, in the process of evaluating the government's compliance with Sentence T-25.

IV. Recommendations to the Government of Colombia

- *Fully implement the measures set out in the Constitutional Court's decision of January 2004 to prevent internal displacement, protect and assist IDPs during displacement and provide durable solutions, including ensuring the protection of civilians from arbitrary displacement and other human rights violations in line with national legislation, international human rights standards and international humanitarian law*
- *Ensure that effective mechanisms as dictated by Law 975 are put in place for the restitution of land and assets illegally seized by paramilitary groups and their successors, or ensure that adequate compensation is provided to internally displaced people and other victims of conflict if restitution is not possible*
- *Engage internally displaced people and civil society organisations in a dialogue on peaceful means of ending the conflict.*

The information above is fully referenced in and drawn from:

- The IDMC's online database: www.internal-displacement.org
- The IDMC's reports (attached to this submission):

1) *Colombia: government "peace process" cements injustice for IDPs, 30 June 2006*

2) *Resisting displacement by combatants and developers: Humanitarian Zones in north-west Colombia, November 2007*

- ⁱ More on the numbers and the discrepancy between NGO and Government estimates on the [Colombia country page](#) on the IDMC's online IDP database
- ⁱⁱ Foreign Policy Studies, 8 June 2005; A/HRC/7/39, 29 February 2008, paragraph 56; A/HRC/4/38/Add.3, 24 January 2007, paragraph 11; IDD, 9 February 2005.
- ⁱⁱⁱ *Proceso nacional de verificación de los derechos de la población desplazada. Primer informe a la Corte Constitucional, Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado*, Bogota, 31 January 2008, p.131.
- ^{iv} UDHR, Article 3, 5 & 13.1; ICCPR Article 6, 7, 9 & 12.1; Common Article 3 of the Geneva Conventions and humane treatment-provisions of Additional Protocol II, as well as relevant customary rules relative to the protection of civilians.
- ^v MSF, April 2006; Contraloría General de la Nación, December 2004
- ^{vi} CCJ, 30 April 2007: http://www.coljuristas.org/documentos/documentos_pag/pop.htm
- ^{vii} "Latin America Working Group and others. "U.S. groups, alarmed by increase in extrajudicial executions in Colombia, urge stricter enforcement of U.S. human rights conditions.", 18 October 2007
- ^{viii} Adam Isacson, 'CINEP: Colombia's Conflict Is Far from Over,' Center for International Policy, April 10, 2008.
- ^{ix} UDHR, Article 17, ICCPR Article 17.
- ^x *Revista Semana*, "Los señores de las tierras," 5 de junio de 2004; Contraloría Delegada para el Sector Defensa, Justicia y Seguridad, Dirección de Estudios Sectoriales. Luís Bernardo Florez, Vice-Controlor General de la Nación, *Desplazamiento Forzado: Un impacto territorial*, 2005.
- ^{xi} Coinvertir, December 2005
- ^{xii} Comisión Intereclesial de Justicia y Paz, October 2005, p.95, La Red de Iniciativas por la Paz, 1 March 2005.
- ^{xiii} UDHR, Article 25.1; ICESCR, Article 11, 6 & 7.
- ^{xiv} World Bank Country Brief, accessed 14 June 2008
- ^{xv} Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, pp. 130-138.
- ^{xvi} UDHR Article 26, ICESCR Article 13, CRC, in particular Article 28 and 38
- ^{xvii} Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, p. 84
- ^{xviii} Prosecutor General's Office, Sixth report on the compliance of the orders contained in the Constitutional Court Sentence T – 025 of 2004 and Autos 176, 177 and 178 of the 29 August 2005 and 218 and 266 of 2006.
- ^{xix} UDHR Article 25.1; ICESCR Article 11 & 9.
- ^{xx} Constitutional Court ruling C-278/2007
- ^{xxi} Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, 47-51.
- ^{xxii} UDHR, Article 8; ICCPR, Article 2; Customary law – Rules 149 and 150 on responsibility and reparation (Rules as defined by the Study on Customary International Humanitarian Law, International Review of the Red Cross, Volume 87, Number 857, March 2005).
- ^{xxiii} A/HRC/7/39, 29 February 2008, paragraph 4, 12.
- ^{xxiv} A/HRC/4/38/Add.3, 24 January 2007, paragraph 40.
- ^{xxv} Law 975/2005
- ^{xxvi} A/HRC/7/39, 29 February 2008, paragraphs 17-20.
- ^{xxvii} UNHCR's Balance 2004-2007: pp 141-143
- ^{xxviii} UNCHR, 24 February 2003, pp. 90-92; 1 December 2004.
- ^{xxix} Sentence T-25.
- ^{xxx} ODHACO, 28 January 2005.