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ABSTRACT

The objective of this article is to understand the interaction between the United Nations High Commissioner for Refugees (UNHCR) and the Colombian government in their attempts to mitigate forced internal displacement, as well as the main challenges faced in addressing this problem. This article focuses on the interpretation adopted by the forementioned actors, who link this displacement to the armed conflict the country that has endured for more than forty years. Although this issue has been discussed for decades, the formulation of national policies intended to mitigate its effects came late, in the mid-1990s. Similarly, the UNHCR began paying more attention only in the late 1990s. The article concludes that there is a significant disparity between the development of norms regarding the internally displaced and the execution of such norms. For example, there needs to be greater coordination between national and local organizations, and national and international organizations. With respect to the prevention of internal displacement and the evaluation of the impact of these policies, the challenge is even greater; as such efforts are in the beginning stages. The UNHCR has used the same criteria as the Colombian government in executing its tasks; these criteria should be rethought and redefined in light of the High Commissioner's experience.

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INTERNATIONAL COOPERATION AND INTERNAL DISPLACEMENT IN COLOMBIA: FACING THE CHALLENGES OF THE LARGEST HUMANITARIAN CRISIS IN SOUTH AMERICA

Manuela Trindade Viana

1. A long-standing humanitarian crisis and late-arriving solutions

There are approximately 13.5 million internally displaced persons in the world today (UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES [UNHCR], 2007). Of these, three million reside in Colombia. Even though opinions diverge as to the number of displaced Colombians, there is agreement about the growing and alarming nature of the problem. In addition to having their political, economic, social and civil rights violated, internally displaced persons suffer the disruption of their social networks, and they consequently have a reduced capacity to build and sustain a life in the community.

There are several explanations for internal displacement in Colombia. For some authors, the violence caused by the armed conflict – understood as a clash between guerrillas and the paramilitary, and between guerrillas and the national government – only partially explains this migration. Indeed, this displacement began in the 19th century, when the independence wars, the struggle for power between the two traditional Colombian political parties and the colonization of newly discovered lands were largely responsible for the massive displacement of individuals.

While recognizing the relevance of several explanations for forced internal displacement in Colombia, this article will focus on the interpretation that *directly* links the evolution of forced internal displacement to the armed conflict that has beset Colombia. This is the perspective applied in the policies aimed at the displaced populations implemented by the national government and international agencies, actors who will constitute the focus of the present article.

It is worth emphasizing that the massive displacement of individuals only became a political priority late in the country's history, which resulted in the

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long duration of the problem over several decades and a significant increase in the number of people affected. The first normative outlines about this topic took place beginning only in 1997, the year in which Law 387, a reference on the subject, was promulgated. The contours of the debate about forced displacement in Colombia are defined by the delayed response by the government, which allowed this problem to reach alarming heights.

The deterioration of the humanitarian situation in Colombia, by the end of the 1990s, captured the attention of the United Nations High Commissioner for Refugees (UNHCR), which, at the request of the Colombian government, set up a satellite office in Bogotá. UNHCR's work takes place on two fronts: on the one hand, the training of government agencies; on the other, working with the victims of forced displacement.

This article seeks to analyze the main national and international initiatives – focusing on those of the UNHCR – regarding the population of displaced persons. As a result, a brief analysis will be presented about the characteristics of internal displacement in Colombia, where I will identify, in the section on government and UNHCR policies, whether the challenges related to this problem have been incorporated in the efforts to overcome it. I hope to offer an instrument capable of facilitating critical reflection in regard to the development of policies to overcome this problem and prevent it from recurring.

2. Conditions and characteristics of forced displacement in Colombia

The study of internal displacement in Colombia has focused on the approach that links it directly to the hostilities, threats and human rights violations arising from the armed conflict. This theoretical framework is questioned by authors who consider this interpretation remote from the complexity of the issue, as the variables affecting the issue shift throughout Colombian territory. These authors point instead to four factors responsible for internal displacement in Colombia: the armed conflict; the struggle to control territory of geostrategic importance; competition for land, resulting in a rearrangement of land ownership; and social motivations.

Above all else, it is important to highlight that no argument is being made asserting that the armed conflict does not reflect the complexity of the internal displacement phenomenon. Far from being a mere clash of ideology or of policy conflicts between the guerrillas and the national government, the conflict also shows a complex interaction between social, political, and economic variables, and has a significant impact on agrarian issues. In other words, the dynamic of the Colombian armed conflict encompasses many of the factors considered individually by the forementioned authors, such as the struggle to control territory of geostrategic importance and social motivations.

Although it has a strong empirical foundation, the critique of the direct and unilateral relationship between internal displacement and armed conflict ignores the fact that when it comes to *forced* displacement, the use of violence plays a significant role. The data compiled by the Consultancy for Human Rights and Displacement (CODHES,

acronym in Spanish) corroborate this argument: in the period from 2002-2003, threats accounted for 47.5% of the reasons cited for the occurrence of displacement; armed confrontations, 19.9%; and murders and massacres, 13%.

Defending a broader analytical approach to internal displacement calls attention, however, to some interesting points. The first concerns the participation of the state and economic groups in the dynamic of displacement. Indeed, academic studies and debates have evolved in that they explore the state's responsibility in the trajectory of the armed conflict, whether through a lack of planning in its operations, where bombings often strike non-combatants¹; or in its failure to guarantee the displaced physical and institutional protection.

The involvement of the state in causing internal displacement is even more notorious and direct in the case of fumigation. Indeed, in the first semester of 2008, the massive displacement of 13, 134 individuals was registered due to fumigations in the departments of Antioquia and Vichada (CODHES, 2008). Since the César Turbay Ayala administration (1978-1982), the government has used fumigations as the primary means of combating illicit crops. This strategy was adopted despite research studies showing the toxic effects of chemicals used in the fumigations (*paraquat* and *glifosato*) on human health and the environment. It is important to note, furthermore, that the fumigations continued to be carried out even in the absence of lasting results in reducing the area used for the cultivation of the coca leaf. If, in 1995, the cultivation of this raw material took up little more than 50,000 hectares, between 1997 and 2008, the smallest area recorded for such cultivation was 78,000 hectares² (UNITED NATIONS OFFICE ON DRUG AND CRIME [UNODC], 2009a, 2009b). The increase in militarization and fumigation has contributed to a situation of increasing insecurity and, consequently, to the displacement of populations in several of the country's regions.

The displacement can also occur through the influence of economic groups. At the same time there is a need for planning and an analysis of their impact on the local population and environment, interests tied to commercial agriculture and the implementation of mega-projects contribute to massive population displacement. The case of pipelines built in Antioquia, Urabá chochoano, Nariño, Cundinamarca, Norte de Santander and Arauca are emblematic examples of this practice. Internal displacement is, thus, aggravated by the logic by which economic interests tied to extensive livestock farming, agribusiness, the exploitation of natural resources and drug trafficking cooperate with or finance paramilitary groups who see forced displacement as the cheapest and most efficient method of gaining control of new territory.

In addition, the latifundio regions are attractive to drug trafficking groups that want to expand their crops, set up laboratories, build runways or develop further channels of trade. Other armed groups also have interest in occupying certain territories, for the continuation and strengthening of their armed initiatives, since control over territory implies control over important geostrategic resources that help finance the war.

The department³ of Chocó, where one could observe a high level of displacement in recent years, constitutes an emblematic example: although it is one of the poorest regions in the country, its strategic position for drugs and arms trafficking – close to both the Pacific Ocean and the Caribbean Sea – and its richness of mineral resources,

appealed to the economic interests of armed actors. The same phenomenon occurred in the region of Bajo Putumayo (near the border with Ecuador), scene of clashes between the Revolutionary Armed Forces of Colombia (FARC) and paramilitary groups, as they competed for resources for the development of their illicit activities.

Generally speaking, the populations that have most been affected by internal displacement are peasants; according to the Ombudsman's Office of Colombia, the expulsion of individuals who inhabit rural areas of the country accounts for 63% of individual displacement (OMBUDSMAN'S OFFICE OF COLOMBIA, 2003, pp. 25-6). However, within this vulnerable population, there are two groups that are particularly vulnerable to being displaced: the Afro-Colombian and indigenous communities⁴. Between January 2000 and June 2002, 17.72% of the displaced population was black (OMBUDSMAN'S OFFICE OF COLOMBIA, 2003, p. 26) and 3.75% was indigenous. When viewed proportionally⁵, the rate of forced displacement is ten times greater amongst these populations than in other populations.

The means of expulsion within these communities involves murdering their leaders and forcibly recruiting young persons and is directly related to the existence of strategic resources in their territories⁶. It is important to highlight that, "due to their particular worldview and their daily practices in regard to land, [...] displacement generates loss and absence with respect to place, autonomy within their territory and food, as well as identity, history, spirituality and its forms of social organization as peoples, etc." (JACANAMIJOY, 2004, p.206)⁷. Land constitutes the *locus* of the social and religious rituals of the community, so that the dispersion arising from forced displacement affects the group's ability to pass on customs and traditions. Because of the motives explained above, these groups often choose to resist displacement, rather than abandon their lands.

Interestingly, although one might assume that cities would afford displaced families greater protection or, at least, anonymity – which would make them feel safe from threats – in addition to more information and social services in comparison with the areas from which they were expelled, the displaced are unfamiliar with the services offered and are unable to access the opportunities for individual progress offered by these cities. Still, while 20% of the displaced population fits into what could be considered "massive displacement" – more than ten households⁸ or fifty persons – 80% fall into the category of individual displacement and arrive in these cities with little or no social support network. In other words, although the data show that the internally displaced migrate from rural areas to the cities, and specifically, from regions that are less developed to big cities, this change does not manifest itself as an improvement in the lives of the displaced.

Moreover, there are two characteristics worth paying attention to: the large number of municipalities affected by forced displacement and the decreasing rates of return. In 2008, 785 of the 1,140 municipalities in Colombian territory (that is, 68.86%) were affected by the expulsion or receipt of the internally displaced (CODHES, 2008), a number considerably higher than the 480 municipalities affected in 2000 (OMBUDSMAN'S OFFICE OF COLOMBIA, 2003, p.36).

With respect to the rate of return, in 2000, it was 37%; in 2002, in contrast,

it fell to 11% of the total displaced population. Given that returning to one's place of origin depends fundamentally on the guarantees offered by the state for the permanent protection of populations threatened by different armed groups, the decreasing rate of return, coupled with the territorial expansion of internal displacement, can contribute, first, to overcrowding in the cities, the primary destination of these populations; and, second, to the deterioration of the humanitarian situation – already assessed as quite grave – in Colombia.

It is interesting to observe that the same threat manifests itself in different ways depending on the territory in which it takes place. In other words, the same threat can produce different quantities of displaced persons. This difference can be attributed, amongst other factors, to the distance between the municipality where the threat was issued to the capital of the department; to the level of poverty in the rural zone of the municipality where the threat took place, relative to the level of poverty of that department's capital, one of the more common destinations; differences in the quality of life between the municipalities from which the populations depart and those to which they travel; the level of institutional presence⁹ (the municipalities that are responsible for approximately 97% of the displaced have a level of institutional presence lower than or close to the national average; in contrast, the 20 municipalities that receive 66% of the displaced individuals have a level of institutional presence far higher than the national average); social capital¹⁰ lost and sought after by the displaced.

In these places where the state's presence is weaker, one's needs are managed in a pre-institutional manner, normally some form of informal association, as the displaced make use of the few available resources (labor, fallow land, wooded areas, etc.) By being forcibly displaced, these communities lose the ties of interdependence that were so critically linked to their opportunities for progress, a process that scholars call “the tearing of the social fabric.”

As has already been stated, a large part of the discussion will take place in terms of the interpretations offered by governmental and international agencies, which links *forced* displacement to the *violence* of the armed conflict. It is not the aim of this article, however, to close the door on a broader approach to the problem. After all, “the mismatch between social and political relations in the recent past was too pronounced to believe that violence could disappear simply based on the decision of the organized actors (PÉCAUT, 2006).” On the contrary: based on the issues raised here, there is a need to develop a body of norms that adopts a more comprehensive approach when trying to understand internal displacement, taking into consideration economic and human development policies in the regions that are characterized as “expellers” of Colombians to the cities.

3. Domestic Policies Concerning the Displaced Population

Internal displacement has grown acutely in Colombia: in 2002, due to the resurgence of armed conflict, 411,779 people were affected by displacement, 20% more than in 2001. Although there were no numbers of this magnitude in subsequent years, they increased between 2003 and 2007, as the number of affected individuals grew from 207,607 to

305,966 (CODHES, 2003; 2007). This situation, considered grave by many national and international agencies, represents violations of fundamental social, economic, and cultural rights enshrined in the Colombian Constitution. One of the most important rights being violated is the right to physical protection, which the State must enforce indiscriminately for every citizen (Article 13)¹¹.

Although internal displacement spurred by the violence of the armed conflict has been considered a systematic problem since the 1980s, it was only in the 1990s that the Colombian state started to develop a body of norms dedicated to solving the problem¹².

CONPES 2804¹³, approved in 1995, sought to define those internally displaced with whom the state would work, as well as to outline strategies of prevention, protection, humanitarian and emergency aid, and access to government programs. In 1997, the government approved CONPES 2924, which defined a new institutional structure integrating all public and private organizations charged with serving populations displaced by violence. In addition, this document proposed the creation of a National System of Integrated Support for Persons Displaced by Violence (SNAIPDV, its acronym in Spanish), a National Plan, a National Assistance Fund for Displaced People, and a National Information Network.

In the same year, the government approved Law 387, a normative instrument frequently referred to when discussing displacement in Colombia. Its importance is derived from the fact that it is largely responsible for inserting the subject of internal displacement into the Colombian regulatory framework. According to Law 387, the Colombian state defines the *internally displaced* as “all people forced to migrate within the national territory, abandoning their place of residence or habitual economic activities because their lives, physical integrity, security, or personal liberty were made vulnerable or were directly threatened due to any of the following situations: internal armed conflict, internal disturbances and tensions, generalized violence, massive human rights violations, infractions of international humanitarian law, or other circumstances emanating from the abovementioned situations that cause potential or actual drastic alterations in public order.” (Law 387, Article 1).

Law 387, approved in 1997, expressly recognizes the rights of the internally displaced and, for the first time, makes the State responsible for formulating policies and adopting measures for displacement prevention¹⁴, as well as for providing for the care, protection, consolidation and socio-economic stabilization of the displaced population. Since the promulgation of the law, the internally displaced are protected by the rights enumerated in Article 2, including: the right to access a definitive solution to their situation; the right of return to their place of origin; the right to not be subjected to forced displacement and to not have their freedom of movement unlawfully restricted.

To achieve these ends in a manner consistent with the recommendations of CONPES 2824, the government created SNAIPDV (National System of Integrated Support for Persons Displaced by Violence) and the National Council for Integral Support for Persons Displaced by Violence (CNAIPDV, its acronym in Spanish). Created by Law 387 (Article 6), the Council emerged as the institution responsible for policy formulation and budgeting for programs serving the displaced population. These programs, in turn, are implemented by SNAIPDV (created by Article 5 of the

same law), the institution responsible for the *execution* of policies meant to serve the displaced population.

On December 12, 2000, the Colombian government issued Decree 2569, which consists of regulations related to Law 387. The Decree also named the Social Solidarity Network (RSS, its acronym in Spanish) as the agency responsible for national, departmental, and municipal coordination of SNAIPDV programs. The Social Solidarity Network is an agency within the Colombian social welfare system for which the President of the Republic has direct responsibility. The RSS has the capacity for action on the national level and coordinates the social, economic, judicial, political, and security measures adopted by the government in its efforts to overcome and prevent internal displacement. It should be noted that the Decree also created a Unified Registration System for Displaced People (SUR, its acronym in Spanish), which will be discussed in more detail below.

Decree 2569 also specifies the criteria that constitute an end to the condition of displacement. According to Article 3, the Colombian state will no longer recognize an individual as displaced once he or she complies with one of the following conditions: return¹⁵, resettlement, or relocation, accompanied by access to economic activity (“socio-economic stabilization,” under Law 387); exclusion from the Unified Registration System for Displaced People (SUR), in conformity with the conditions listed in Article 14, or by request of the interested party.

There is a specific policy formulated by the Colombian government that merits special attention. It concerns emergency humanitarian aid: temporary and immediate assistance aimed at the rescue, care, and support of the displaced population through the provision of food, healthcare, psychological care, housing and emergency transport. The displaced have the right to emergency humanitarian aid for a maximum of three months, which can be renewed for the same length of time. The value of transitional housing, food assistance, and personal hygiene items is limited to 1.5 times the minimum wage (Articles 20 to 24).

One institution that has played a relevant role in defending the rights of internally displaced people is the Ombudsman’s Office of Colombia, which has an office dedicated exclusively to the displaced population. With the help of the UNHCR, the Ombudsman’s Office implemented the “Community Defense” project, which is especially active in areas with a high concentration of indigenous people (such as Bajo Atrato, Medio Atrato, the Cacarica Coast, Costa Vallecana, Costa Nariñense, Tierralta, Sierra Nevada de Santa Marta, Catatumbo and Northeast Antioqueño). The objective of the project is to strengthen the presence of the Ombudsman in these areas and, through such presence, prevent forced displacement with an *in locus* implementation of prevention policies.

The Attorney General’s Office, the body with the greatest control over the exercise of public power, has also acted to safeguard human rights and intervene in defense of the public interest. The Attorney General’s Representative for Prevention in the fields of human rights and ethnic affairs, through the coordinating body for forced displacement services, has created a Monitoring and Evaluation Model for the agencies and service providers that form part of SNAIPDV. The prosecutor has developed software that is

used to assist in the prevention and monitoring of the activities of those directly involved in policies meant to assist the displaced population.

According to evaluations by the Ombudsman's Office and the UNHCR, the laws aimed at mitigation and prevention of forced displacement that were implemented during the 1990s in Colombia were comprehensive. The adopted legislation conforms with the principles of international humanitarian law and refugee law, promoted by entities like the UNHCR and the International Committee of the Red Cross (ICRC). However, there were fundamental structural flaws in the implementation process¹⁶. Particularly, institutional design and execution were evaluated as poor by the Ombudsman and by the UNHCR. It is precisely this asymmetry between advances in the body of norms and the deficiencies observed in the implementation of the policies serving the displaced population that led the Constitutional Court to vigorously assert its position on January 22, 2004. In its T-025 judgment, the Court held that several inconsistencies observed in the policies serving the displaced population constituted what the Court called "an unconstitutional state of things" (COLOMBIA, 2004).

Between 1997 and 2004, the Constitutional Court issued 17 judgments with orders directed to the entities responsible for implementing the policies serving the displaced population, orders that did not help the displaced population¹⁷ to become less vulnerable and more easily vindicate their legal rights. The Court grounded its reasoning in the insufficient protection given to the displaced, due to: i) the extreme vulnerability of the displaced population and, specifically, the grave deterioration of the situation in regard to food and health care; ii) the failure of the responsible authorities to protect the displaced population in an effective and timely manner¹⁸; and iii) the lack of results with respect to the health care policies of the displaced population as well as to access to education for displaced youth (COLOMBIA, 2004, pp. 24-6). In the Court's understanding, this situation was the result, primarily, of insufficient resources, which did not increase as the phenomenon became worse, and of the Colombian state's institutional inability to respond efficiently to the needs of the displaced population, factors which incur the Court's demands in the face of responsible authorities. Accordingly, the Court ordered the national and local authorities in charge of serving the displaced population to ensure consistency between their obligation and the amount of resources allocated to the protection of the rights of the displaced (COLOMBIA, 2004, p.89).

In August 2006, the Constitutional Court concluded that:

"despite the fact that important advances have been communicated to the Court in areas critical to the well-being of the displaced population, it has not been demonstrated that the unconstitutional state of things – declared in Judgment T/025 of 2004 – has been overcome, and neither have the advances been moving quickly enough and in a sustainable manner in that direction" (COLOMBIA, 2006, p. 3).

This position is maintained in File 008 of January 26, 2009 (COLOMBIA, 2009). In addition to vehemently criticizing the content of the reports¹⁹ sent to the Constitutional Court by the entities in charge, in response to Judgment T-025,

the Court identified ten areas in which the state failed to adequately protect the displaced, including: i) the lack of planning in the system meant to assist the displaced; ii) problems in the proper recording and classification of the displaced population; iii) an insufficient budget to implement policies to assist the displaced population; iv) the lack of specificity in the policies designed to assist the displaced population, in its different manifestations; v) the lack of protection of indigenous and Afro-Colombian groups, which have been particularly affected by internal displacements in recent months; vi) little security provided to displaced persons as they return to and settle on their original lands; and vii) the absence of a focus on prevention in policies to assist displaced persons, particularly in the security operations conducted by the state. Below, we will direct our attention to some of these points in particular.

Decentralization – certainly one of the central pillars in the policies to assist the displaced population – is directly linked to many of the items above. This is because decentralization improves the state's ability to respond to the complex situation of forced displacement, which has manifested itself differently throughout communities across Colombian territory. In addition, the decentralization of the public policies in question would permit the local authorities and departments to collaborate with the national government to offer greater protection to the populations most affected by forced displacement, by sharing and utilizing technical information of great precision.

However, as noted by the Constitutional Court, the disorderly way in which decentralization has been executed results in a situation of political fragmentation, which impedes its consistent implementation and the evaluation of the results of such policies, thus preventing further development thereof. In large part, this is due to: (i) a lack of political will on the part of local administrators and departments in assisting the displaced population, whose situation becomes even more grave given the emergency nature of the problem; (ii) a shortage of resources on the sub-national level for specific programs dedicated to assisting displaced persons, as well as a general lack of resources to overcome the problem; (iii) the hierarchical nature of decentralized national entities, whose actions are determined more by agency mandates and the actions of the central government than by regional needs; (iv) the exclusion of civil society from policy formulation and evaluation; and (v) a lack of technical knowledge concerning the problem, as well as a lack of clarity regarding the function of each entity, amongst local committees and departments (OMBUDSMAN'S OFFICE OF COLOMBIA, 2003, p. 112-3).

One of the effects of the weakness inherent in policy decentralization is a lack of programs aimed at strengthening communities' self-sufficiency. The shortcomings mentioned above weaken programs dedicated to building social capital, which increases these communities' dependence on state-sponsored social programs.

Law 387, as well as many decisions of the Constitutional Court, recognizes the exceptional vulnerability of the displaced population. Even though the Court recommended special policies and dedicated resources toward assisting displaced people, the government has remained reticent toward the idea. According to the Ombudsman's Office, the Special Program is limited to humanitarian assistance coordinated by

the Social Solidarity Network and to the regulation of the homes and lands of the displaced – neither of which is being implemented (OMBUDSMAN'S OFFICE OF COLOMBIA, 2003, p. 104).

This conduct only exacerbates the problem by incorporating the internally displaced into existing government-sponsored social service programs. As mentioned in the previous section, those internally displaced persons who arrive in cities (about 80%, according to the Ombudsman's Office) – some of whom lack documentation – are isolated from the social support networks available to them in their places of origin, are unfamiliar with information and service systems that operate in the urban centers and cannot compete with the local poor for resources.

Reintegration into a productive life -- one of the basic conditions for return or resettlement of the displaced – becomes increasingly more difficult as a person remains displaced for long periods of time, far from his or her place of origin. More importantly, a displaced person has the right to choose where he or she wishes to live. In the case where the person would like to return to his or her place of origin, the state is obligated to offer information about the security situation there and offer protection to the displaced person in question.

Although there are legal provisions that assign responsibility to national and local entities in the resettlement of the displaced population²⁰, there are still no regular and clearly-defined programs within their institutions dedicated to solving the problem.

A clear example of this is the lack of regulations to address compensation for human rights violations, a point directly related to the conditions and possibilities for return of internally displaced populations. In Colombia, there are no laws punishing those responsible for forced displacement, nor is there jurisprudence related to material and moral²¹ reparations for those displaced by violence.

In addition to the faults mentioned above, there are no mechanisms in place to evaluate the programs currently serving displaced populations. In the words of the Ombudsman, "they are very worried about the products, but not worried about the impact" (2003, p. 113). On this point, the Constitutional Court expresses a concern about the existence of several sets of indicators in each of the entities that are part of the SNAIPDV. It is believed that such a deficiency can be overcome through greater participation of local agencies and departments in its development, which relates to the deficiencies in the decentralization of policies that assist the displaced population.

It is equally worrisome to note the lack of political attention paid to the development of programs to prevent displacement, which would guarantee both its mitigation and of the suffering and trauma that result from displacement. The Constitutional Court emphasizes that even the security operations or fumigation undertaken by the Colombian government is accompanied by preliminary analyses about its possible impacts on the local population. Until recently, the Early Warning System, a project of the Ombudsman's Office of Colombia that allows the government to detect early on potential cases of displacement, was also not functioning adequately, in large part because of its dependence on the successful decentralization and coordination of policies assisting the displaced population. According to the Ombudsman's Office of Colombia, the country needs a group with

technical expertise in crisis management, capable of assessing and evaluating on a daily basis, the implications of armed operations – including those of the Armed Forces – involving the civilian population.

In regard to the registry of the displaced population, there are presently two separate systems that organize information within the National Information Network: the SUR and the System for Estimation through Alternative Sources (SEFC, its acronym in Spanish). The SUR quantifies the *demand* for Colombian government programs aimed at displaced peoples in terms of territory and population. Only those who register within one year of the event that forced their relocation are counted as *internally* displaced within the SUR. The SUR is the *only* channel through which displaced people have access to government-sponsored programs.

On the other hand, the SEFC is a global model of displacement that registers information at the national level according to events of expulsion, arrival, return, and resettlement in the 35 territorial units delineated by the RSS. The SEFC seeks to record the *total* number of people displaced by violence, regardless of whether they request assistance from the state.

The figures released by these governmental systems – according to which 2,649,139 Colombians had been displaced through August 2008 – differ greatly from those released by the UNHCR, which reported that three million Colombians had been displaced through December 2007, and those released by non-governmental organizations such as CODHES, which reported 4,361,355 displaced Colombians through June 2008. Amongst the factors explaining this difference, it is noteworthy that the figures released by the government are cumulative since 1999 – in contrast to the CODHES figures, which are cumulative since 1985 – and that intra-urban displacement and displacement resulting from fumigations were not included. Still, since the displaced have one year after their displacement to register, this period constitutes a gap in the government's data. More than fundamental divergences in how the calculations are made, it is particularly problematic that there are systems of registry in non-governmental organizations where the statistics about the internally displaced are greater than those released by the government by hundreds of thousands of individuals. It is thus evident that the SUR underestimates the size of the humanitarian crisis in Colombia, which directly affects the formulation of national policies about the issue. The Constitutional Court affirms this point: “As a consequence, the public policies formulated to assist the internally displaced are based on assumptions that do not correspond to the actual size of the problem to be addressed” (COLOMBIA, 2006, p.9).

4. Cooperation with international agencies

Protecting the victims of armed international conflicts has been a concern of International Humanitarian Law since the decade of 1970, when Protocol II to the Geneva Conventions (1977) was adopted. With the aim of protecting non-combatant populations, Article 13 sets forth that “the civilian population as such, as well as individual civilians, shall not be the object of attack” and that “acts or threats of violence the primary purpose of which is to spread terror among the civilian population

are prohibited.” It is evident that the forced displacement of populations in Colombia violates this and other principles of International Humanitarian Law.

Although during this time the gravity of the problem of internal displacement was already known, it occurred in the absence of a human rights treaty or convention that *explicitly* guaranteed the rights of the internally displaced. As Kalin highlights, “naturally, as human beings, the internally displaced do not lose their rights when they are displaced, but it was not clear what these rights would mean specifically in the context of displacement” (REVISTA MIGRACIONES FORZADAS, 2005, p.4).

At the beginning of the 1990s, this concern brought about a more targeted approach. In 1992, the Commission on Human Rights of the United Nations created a position known as the Representative of the Secretary General on Internally Displaced Persons²² and appointed Francis Deng to the post. One of his first tasks was to design a study on the causes and consequences of internal displacement in the world, a statute for internally displaced persons in accordance with international law, the institutional arrangements aimed at dealing with the problem and the best mechanisms to protect and offer assistance to these populations.

From this analysis, Deng sought to develop appropriate institutional and regulatory frameworks for the protection and assistance of the internally displaced. The result was a document entitled *Guiding Principles on Internal Displacement*, which constitutes “a tool of persuasive force that provides practical guidance and is, at the same time, an instrument of political education and awareness”²³.

A first look reveals that the promotion of *Guiding Principles on Internal Displacement* finds one of its first examples of success in Colombia. The dissemination of *Principles* occurred not only between organs of the national government, but also between local governmental bodies, in addition to non-governmental organizations, some of which were managed by the displaced population. The impact of this can be seen in some recent cases before the Constitutional Court of Colombia, which considers such principles to be part of the body of norms that gives a constitutional dimension to the case of the internally displaced. Decision T-327 from 2001, for example, is clear in this respect:

The interpretation that is the most favorable to the protection of human rights renders necessary the application of the Guiding Principles on Internal Displacement (...), which are a part of the supranational body of norms that is integrated into the constitutional law of this case. Consequently, all of the parties involved in dealing with the displaced (...) should alter their conduct to conform to, in addition to the constitutional norms, that which is set forth in the forementioned Principles. (COLOMBIA, 2001, p.17).

It is relevant to note, however, that the success of the implementation of such norms depends on the state’s organizational structures. Frequently, these problems emerge due to the state’s institutional fragility, as we saw in the case of Colombia. In addition, the Colombian state plays a critical role – in some cases, by asserting itself; in others, due to its absence – in the development and aggravation of this situation. Therefore, in addition to formulating such principles, in many cases it is patently clear that there is a need

for international cooperation in the attempt to combat forced internal displacement.

In light of this, the Colombian state sought, in 1997, the technical and humanitarian assistance of the UNHCR. With the consent of the Secretary General of the UN, a UNHCR office was set up in Bogotá in June 1998²⁴ that became responsible for the training of state agencies and non-governmental organizations and for technical assistance related to all phases of displacement, including prevention policies. Furthermore, in accordance with the UNHCR's mandate, the office "will provide the government with experience and knowledge in regard to protection, humanitarian resources and long-lasting solutions that have proven themselves to be effective in other forced displacement contexts" (UNHCR, 1999, p.2).

More specifically, the UNHCR works in four areas: (i) the dissemination and updating of the legal standard for protection; (ii) the promotion of strong institutions and sound public policies; (iii) the promotion of social organization, training and the participation of displaced populations in defending their rights; and (iv) the promotion of strong national oversight mechanisms. Recently, the UNHCR developed a "cluster approach" that involves coordinating the efforts of several agencies specializing in areas such as water, food, health, and logistics²⁵.

The activities designed in the areas outlined above are undertaken in conjunction with national and international actors. On the national level, the UNHCR's principal partners are: the Presidential Agency for International Cooperation (Social Action), the Ombudsman's Office of Colombia, and the federal Attorney General's Office. In general terms, the coordination of activities between the UNHCR and these partners takes place through the Joint Technical Unit (JTU), created in 1999, in the Memorandum of Understanding signed by the UNHCR and Social Action. The primary function of the JTU is to provide support to these governmental entities in the systematization, analysis, monitoring and dissemination of public policies concerning the displaced population. Moreover, it is expected that the JTU will work together with organizations comprised of displaced individuals to strengthen their participation at the CNAIPDV and to formulate systems of representation at the local level.

In regard to the cooperation between ACNUR and Social Action, it is worth highlighting the project "The Protection of Land and National Heritage," financed by the Post-Conflict Fund of the World Bank, the Swedish International Development Cooperation Agency, the International Organization for Migration and the governments of the departments of Norte de Santander, Bolívar, Antioquia and Valle. This project seeks to promote the protection of peasant and settlers' land rights, as well as the territories of ethnic populations at risk of being displaced, with the goal of effectively implementing the protection measures outlined in Decrees 2007/01 and 250/05.

The UNHCR has an interesting project, entitled "Implementation," aimed at training the Ombudsman's Office in the defense of the rights of those at risk of being displaced, on the national, regional and local levels. In this project, there are systems and tools to measure, monitor and evaluate the workshops conducted by the Ombudsman's Office, with the objective of evaluating how effective it is in promoting and protecting the rights of vulnerable populations or those excluded from programs aimed at the displaced population, including women, children, the indigenous and Afro-Colombians.

In addition, the UNHCR assists the Attorney General's Office in disseminating the software that implements the Models of Monitoring and Evaluation, which are presently being implemented in the ten departments with the highest rates of expulsion and receipt of the displaced population. This monitoring program permits the development of analyses regarding the evolution of prevention policies and the attention given these populations.

The constant transformations undergone by the displaced populations show the critical importance of an ongoing monitoring mechanism so that the policies produce positive results. Some new characteristics of forced displacement, however, deserve greater attention. One emblematic example is the temporary crossing of borders in search of protection. Recently, it was observed that many Colombians who live near the Venezuelan border work during the day on a plantation in Colombia and, at night, cross the border in search of greater tranquility. What legal status do we assign to these individuals? The most appropriate response, which combines policies protecting displaced populations with international principles relating to refugees, appears to reside in the so-called "tri-partite conventions," established by the countries involved in the flux of these populations and by the UNHCR. According to the Ombudsman's Office, "although the consolidation and development of this mechanism has undergone many highs and lows [...], it constitutes the ideal instrument – and perhaps the only one – capable of dealing with the reality of the movement of these border populations" (OMBUDSMAN'S OFFICE OF COLOMBIA, 2003, pp.40-41). The UNHCR's work in Colombia focuses on the weaknesses of the national policies aimed at the internally displaced population. The support given to the Ombudsman's Office and local and regional offices on the level of the SNAIPDV, for example, aims to decentralize these policies. With a greater presence in Colombia, the UNHCR looks to facilitate the inclusion of the displaced populations by consulting them in the formulation of policies meant to prevent internal displacement.

The UNHCR has shared its know-how for the purpose of developing, in partnership with governmental and non-governmental organizations, monitoring mechanisms for use by the Colombian government. As we have seen, this has been a central aspect of the criticism directed towards the formulation and implementation of policies aimed at the displaced population. The Ombudsman's Office has been the most vocal in making these critiques.

In response to Judgment T-025 of 2004, the UNHCR identified budget constraints as the primary reason for the difficulties encountered by the High Commissioner and the federal government in the execution of public policies to assist the displaced population (UNHCR, 2005). In its Review of the Public Policy of Prevention, Protection, and Care of the Forcibly Displaced in Colombia (August 2002 to August 2004), the UNHCR declares that the jurisprudential advances developed by the Constitutional Court and, in particular, by Judgment T-025 of 2004, were critical to the development of parameters to evaluate the results of public policies (UNHCR, 2005, p.2). In addition, according to the UNHCR, Judgment T-025 produced a number of positive impacts on the policies protecting the displaced population. Judgment T-025 caused the government to, among such impacts, make the issue of displacement a priority

and commit itself further to managing the humanitarian crisis, aside from instigating initial advancements with local authorities (UNHCR, 2005, pp. 3-13).

Because the presence of the UNHCR in Colombia is recent, it is difficult to critically assess the impact of its work. At any rate, the lack of an evaluation policy is a *structural* flaw in the way the government designed its policies, which has been treated without due urgency. Logically, the gravity of the humanitarian situation in Colombia demands efficient responses, which leads us to believe that the challenges related to internal displacement are necessarily tied to questions of *coordination*.

5. Final considerations

Coordination, decentralization, monitoring, prevention, procurement and allocation of resources are the themes that permeate the discourse surrounding the development and review of policies meant to address internal displacement in Colombia.

Although the debate on displacement is just over ten years old in the country, consistent evaluation, monitoring and review of programs are still important practices. As this article has shown, the phenomenon of displacement is a result of long-term historical processes. More recently, the lack of responsiveness by the Colombian government has led displaced persons to increasingly seek their own solutions. Consequently, there is a constant transformation in the characteristics, destinations, and victims of migratory flows.

In addition, many of the Colombian government's approaches to resolve the armed conflict are problematic, as they have exacerbated the problem of internal displacement. Increased militarization and disproportionate fumigation, often associated with a lack of strategic planning, have relegated what is conveniently referred to as *human security* to the background. As a result, the State's actions often violate the non-combatant population's right of neutrality. This occurs far from any possibility that the state will offer physical or institutional protection to these individuals, even though it is understood that the state should guarantee fundamental rights and access to the basic services guaranteed by the Constitution.

This article's analysis of internal displacement concentrates on interpreting national policies addressing the phenomenon of *forced* displacement *resulting from violence*. The limited focus of this analysis implies that a broader approach to the problem is unnecessary. On the contrary, this article promotes the development of policies that recognizes the complex issues presented by internal displacement.

It is not difficult to conclude that the actual state of internal displacement in Colombia and the ways in which the government has tried to address it fall far short of the integrated approach promoted by the *Guiding Principles* and the cooperative approach promoted by the UNHCR. While national and international actors have praised the development of the normative framework meant to address the problem, implementation and evaluation of policies assisting the displaced population have not evoked the same response.

On the one hand, the formulation and implementation of programs assisting the internally displaced, as well as cooperation with the UNHCR, are a relatively

recent phenomenon. On the other hand, there are various structural weaknesses that may threaten the overall development of policies addressing this issue. This is the case with the weakness of decentralization, which has been an issue for the UNHCR. Decentralization is an essential characteristic in the treatment of forced displacement, given how the armed conflict manifests itself heterogeneously in different regions of the country. Decentralization was also considered a tool in helping the state better respond to the needs of vulnerable populations, such as indigenous and Afro-Colombian people, both of whom are especially vulnerable to the humanitarian crisis. If a mechanism existed that provided for effective consultation with these communities, policies could better reflect and meet their specific needs. While the UNHCR and the Ombudsman's Office of Colombia have dedicated themselves to strengthening decentralization over the past few years, it is still too early to critically evaluate whether their efforts have been successful.

Certainly, the participation and assistance of international agencies in addressing the problem of internal displacement has been of fundamental importance in that it has complemented the efforts of the Colombian government with expertise and resources. According to the Ombudsman's Office, however, the UNHCR has employed the same criteria as the state in implementing its tasks, while these criteria could be reassessed and redefined in light of the High Commissioner's experience.

In this sense, the technical and humanitarian assistance provided by the UNHCR could be better utilized by the Colombian government in certain areas, such as in designing a mechanism to evaluate the efficacy of policies addressing internally displaced people. As discussed in the previous sections, the UNHCR is developing such a mechanism in conjunction with the Ombudsman's Office and the Attorney General's Office. However, it is important that similar evaluation mechanisms are also utilized by agencies working under SNAIPDV.

Decentralization must also be incorporated into the process of creating efficient evaluation mechanisms, in that closer observation of and consultation with local populations can help determine the broader impact of policies. In addition, it is necessary that the principal actors involved in formulating and implementing internal displacement policies make an effort to improve and strengthen the channels of communication and coordination.

Prevention policies are in their beginning stages, so any evaluation of them would be premature. It is important to emphasize, however, that prevention is an urgent necessity, as the phenomenon of forced displacement, far from being mitigated, has shown itself to be worsening, and as there were a growing number of internally displaced persons between 2003 and 2007. Developing a policy of prevention is directly dependent on Colombian politicians' broadening their analysis of the problem of internal displacement. As soon as politicians recognize displacement as the result of complex and variable factors – not only those derived from the armed conflict – then human security can become a fundamental part of policy formulation.

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NOTES

1. In the period between 1984 and 1994, the Armed Forces (including the police) were responsible for 25% of those who were internally displaced. For more information, see Prada (2007, p.131).
2. In light of these observations, it is worth noting two important moments. First, the period between 1999 and 2001 was critical, when the area used for cultivation of the coca leaf was about 150,000 hectares. The second moment relates to the report published by the United Nations Office on Drugs and Crime (UNODC, abbreviation in English) in 2009, which, for the first time, reports that, in 2008, the total area in the world used for the cultivation of the coca leaf diminished by 8% due to a significant reduction in Colombia of 18%. For more information, see UNODC (2009).
3. The departments constitute federal units analogous to the states in Brazil.
4. From 2002 to 2008, the displacement of 52,000 indigenous persons was recorded. In July 2008, the National Indigenous Organization of Colombia (NIOC) warned about the possibility of the extinction of 32 indigenous communities due to armed conflict (CODHES, 2008, p.3).
5. According to the 1993 Census, these groups represented 3.34% of the Colombian population.
6. To cite a few examples: corebajú (Caquetá), puinaves (Guaviare), emberás (Alto Sinú, Chocó and Antioquia), paeces, yanacunas, guambianos, amongst others in Cauca, tules (Chocó), kankuamos (Sierra Nevada), different peoples in Putumayo, awás (Nariño).
7. In the case of indigenous communities, this excerpt also reveals some of the rights guaranteed not only by the Colombian Constitution, but also by the Universal Declaration of Human Rights. Forced displacement of indigenous communities thus directly involves the violation of collective, nationally and internationally recognized rights, for example: (i) the right to territory; (ii) the right to autonomy; (iii) the right to cultural identity; and (iv) the right to security and the protection of the state (JACANAMIJOY, 2004, p.206).
8. Article 12 of Decree 2569 of 2000 defines "household" as a group of persons (not necessarily related) who live under the same roof, share food and are forcibly displaced by violent means. The concept is, therefore, intimately linked to the individual's "social support network."
9. More than the absence of the state, it is the failure of state institutions that allows space for private agents to defend their interests without encountering resistance from the institutions that are known to represent the collective interests of the region. It is important to note the relationship between institutional presence and rates of impunity: the municipalities to which the displaced individuals travel have, on average, 59% more institutional presence than the municipalities from which these same individuals leave. In addition, the latter have an average rate of impunity of approximately 33%. See Murcia (2003, p.71).
10. Social capital can be roughly defined as one's subjective disposition to relate to others in a productive manner.
11. To name a few: Article 24, concerning freedom of movement; Article 40, concerning the right of political participation, which is affected when identity documents are abandoned by those fleeing; Article 44, concerning the rights of the child (48% of those displaced are minors); Article 49, concerning the state's obligation to provide access to health care and sanitation; Article 51, concerning the right to decent housing; Articles 58 and 59, which guarantee the right to private property; and Article 64, concerning the ownership of land (these last three will be discussed in greater detail below).
12. It is interesting to note that, even in academia, a focus on internal displacement only came about relatively recently. The first national seminar on the subject occurred in 1991. This initiative allowed participants to identify the principal theories and analytical positions describing the origins and patterns of displacement. Only in a 1997 seminar did academics make a significant breakthrough in building the theoretical framework around internal displacement. According to Murcia, "[a]fter this and other efforts, such as the meeting organized by CISP in Antioquia, the Seminar on Displacement, Internal Migration, and Territorial Restructuring (1999), and the International Seminar on Displacement, Conflict, Peace and Development, held in Bogotá in May of 2000, a hypothesis began to emerge that recognized displacement as part of a battle strategy effectuated by armed actors contained political and economic elements" (MURCIA, 2003, p. 29).
13. CONPES is the abbreviation given to the documents produced by institution of the same name: the National Political, Social, and Economic Council.
14. For more details concerning the required elements of prevention programs, see Articles 20 to 24 of Decree 2569/2000.
15. Articles 25, 27 and 28 define the terms with which policies are developed regarding the return of the displaced population.
16. This is a partial explanation, as the armed conflict intensified during the latter part of the 1990s, which directly impacted the problem of forced displacement.
17. In particular, the National Council for the CNAIPDV – composed, amongst others, of the President of the Republic, the Ministry of Finance

and the Social Solidarity Network – and municipal and departmental governments.

18. According to the reports attached to the decision, 57% of the individuals deemed displaced did not receive humanitarian emergency aid; and 80.5% had no access to income-generation programs that would allow them to subsist with dignity and autonomy.

19. Regarding the reports, the Constitutional Court's principal critique is that the entities in charge claim as progression the implementation of policies that, in reality, are ideas, plans and programs that have not yet been developed, in addition to being only partial fulfillments of the legal and constitutional obligations set forth in Judgment T-025.

20. See Law 387, Decree 2569 and some decisions relating to guardianship, such as SU-1150/00, T-1635/00, ACU-1662/01, AC-4279/01.

21. Another weakness in the policies designed to help displaced peoples is the lack of psycho-social treatment offered to the population.

22. Walter Kälin replaced Deng in September 2004. At that time, the name of the position had been changed to Representative of the Secretary General on the Human Rights of the Internally Displaced. In an interview for *Revista Migraciones*

Forzadas, Kälin affirms that "the change in the name of my position suggests that the idea of the human rights of the internally displaced is, at least in principle, accepted by the international community and suggests a certain change in direction in the focus of my mandate, since it places a greater emphasis in the protection of the human rights of this group." See *Revistas Migraciones Forzadas* (2005, p.4).

23. It is important to highlight that the document does not have a binding effect, so that each state must decide whether to adopt its recommendations. See United Nations Economic and Social Council (1998).

24. As it favors a territorial decentralization of the policies and the inclusion of vulnerable populations in the formulation of policies regarding the displaced, the UNHCR opened satellite offices as well in Apartadó, Barrancabermeja, Barranquilla, Bucaramanga, Cúcuta, Quibdó, Mocoa, Pasto and Soacha.

25. Along these lines, the Thematic Group on Dislocation (TGD) was reactivated, which, under the leadership of the UNHCR, seeks to coordinate the efforts of UN agencies to offer approaches to the theme of internal displacement that are more in touch with the needs of this population.

RESUMO

O objetivo deste conflito armado vivenciado pelo país há mais de quarenta anos. Embora trate de um problema observado há décadas, as formulações políticas nacionais com vistas a abrandar esta prática surgiram tardiamente, em meados da década de 1990. Da mesma forma, a atenção do ACNUR para o problema foi intensificada somente em finais da mesma década. O artigo conclui que existe uma grande assimetria entre o desenvolvimento normativo dado aos deslocados na Colômbia e a execução de tais normas. Falta coordenação entre entidades nacionais e sub-nacionais, assim como entre as nacionais e as internacionais. No que diz respeito à prevenção do deslocamento interno e avaliação do impacto das políticas para a migração é compreender a interação entre o Alto Comissariado das Nações Unidas para Refugiados (ACNUR) e o governo colombiano nos esforços de mitigação do deslocamento interno forçado, bem como os principais desafios enfrentados na abordagem do problema. Este artigo privilegia a leitura adotada pelos atores mencionados acima, a qual vincula o deslocamento interno forçado ao desafio de sua prática o desafio é ainda maior, uma vez que são embrionários os esforços neste sentido. Sustenta-se, ainda, que o ACNUR tem empregado os mesmos critérios que o governo colombiano na execução dessas tarefas, quando poderia repensá-los e redefini-los à luz da experiência do Alto Comissariado.

PALAVRAS-CHAVE

Deslocados Internos – Colômbia – ACNUR – Conflito Armado – Crise Humanitária.

RESUMEN

El objetivo de este artículo es comprender la interacción entre el Alto Comisionado de las Naciones Unidas para los Refugiados (ACNUR) y el gobierno colombiano en los esfuerzos de mitigación del desplazamiento interno forzado, así como también los principales desafíos enfrentados en el enfoque del problema. Este artículo privilegia la lectura adoptada por los actores antes mencionada entre el desarrollo normativo de atención a los desplazados observado en Colombia y la ejecución de tales normas. Por ejemplo, falta coordinación entre entidades nacionales y subnacionales, la cual vincula el desplazamiento al conflicto armado por el que atraviesa el país hace más de cuarenta años. Aunque se trate de un problema observado hace décadas, las formulaciones políticas nacionales con miras a su mitigación surgieron tardíamente, más precisamente, a mediados de la década de 1990. De la misma forma, la atención del ACNUR al problema no se intensificó hasta fines de esa misma década. El artículo concluye que existe una gran asimetría, así como también entre las nacionales y las internacionales. En lo que atañe a la prevención del desplazamiento interno y a la evaluación del impacto de las políticas, el desafío es todavía mayor en la medida en que son embrionarios los esfuerzos en este sentido. Se sostiene que el ACNUR ha empleado los mismos criterios que el gobierno en la ejecución de sus tareas, cuando estos podrían ser repensados y redefinidos a la luz de la experiencia del Alto Comisionado.

PALABRAS CLAVE

Desplazados internos – Colombia – ACNUR – Conflicto armado – Crisis humanitaria.