

**Assisting the Internally Displaced in Colombia:
Humanitarianism and Intrastate Conflict**

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Title of Chapters

The Colombian Conflict and Forced Displacement

Democratic Security

Paramilitary Demobilisation

An Illiberal Democracy

The Greatest Need

IDPs and International Law

Deng's Guiding Principles and the evolution of Sovereignty

Uneasy Partnerships

IDP Return Within the Democratic Security Framework

Negotiating Humanitarianism

Conflict in the Pursuit of Peace

Addressing Underlying Inequality

An International Commitment

Introduction

Today, as never before, civilian populations are victims of an increasingly violent world that has witnessed the proliferation of intrastate conflict and the decline of the nation state since the end of the Cold War. Internal conflict invariably causes population movements as people are forced to flee their homes as a consequence of war. As such, the world's internally displaced population (IDP) has risen concurrently. Today some 23,700,000 people are displaced by violence and persecution within the national borders of some 50 countries throughout the world, (IDMC 2005) the Secretary General of the United Nations concluding that globally there was a *"growing problem of internally displaced persons"*. (Annan, K, 200, para 209)

Sudan, Colombia and Uganda constitute the lion's share of displacement hosting 5,355,000, (IDMC, April 2006), 3,662,842 (CODHES, May 2005) and 2,000,000 (OCHA, May 2006) IDPs respectively. The plight of these populations has been given only scant attention by national authorities and the international community, this, in spite of a recent escalation in the violence in Colombia, that has perpetuated displacement over the nation's 40 year conflict. During 2004 alone some 290,000 people were displaced within the nation's borders. (Global IDP Project, 2005) For combatants who only rarely confront each other directly; the forced displacement of the civilian population in serves as a means of securing military advantage, to gain access to agricultural land and natural resources, (Azam and Hoefler, 2002) Annually between 4,000 to 8,000 people die as a result of hostilities. (Norwegian Refugee Council, 2005) The plight of civilians caught up in Colombia's increasingly violent conflict constitutes a humanitarian crisis.

In the search for a durable solution to the conflict, the Colombian government (GoC) has engaged the left-wing Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN) guerillas and the right-wing United Self-Defense Forces of Colombia (AUC) paramilitaries in peace talks. To date, the government has successfully demobilised 24,000 of the estimated 27,000 to 29,000 paramilitaries, (ICG, 2006) a process achieved by affording amnesty, to the detriment of human rights. Concurrently, after the failure of negotiations with the main rebel group FARC in 2002, authorities in Bogotá launched the largest military operation in Colombian history against the guerrilla group, stepping up efforts to end the conflict by military means, under a policy of 'democratic security'. In the search for an outright military victory, President Uribe's offensive has intensified the levels of displacement whilst furthering the militarization of the nation.

Such side effects may be reasoned as unfortunate consequences or necessary concessions along a path that will lead to the long-term establishment of internal order and a durable peace. However this assumption will nonetheless be drawn against the principles of

humanitarianism, where rights remain intrinsically non-negotiable. Where does this leave the internally displaced in Colombia? In spite of undeniable obstacles; the uneasy relationship of politics and humanitarian principles; issues of state sovereignty and international responsibility; a lasting solution to the crisis of internal displacement and the wider conflict and others like it throughout the world will only be achieved through the concerted effort and action of a wide range of humanitarian, developmental and political actors that address the underlying causal factors that drive conflict. Success will be measured against the assistance rendered to those that have the greatest need, the internally displaced.

The Colombian Conflict and Forced Displacement

The Colombian State has been marred by violence since its' independence from Spain in 1819. First from 1899 to 1903 during the 'War of the Thousand Days,' where some 100,000 Colombians died, (Gutierrez, P, 1999) and during the decade of 'La Violencia' between 1948 and 1958, which claimed the lives of 300,000 Colombians. (Azcarate, C, 1999) Waged between liberal and conservative political factions, the bi-partisan conflicts were fuelled by access to land title. The 1958 power sharing agreement of the Partido Liberal (PL) and the Partido Conservador (PC) and the de facto exclusion of other parties, sparked the formation of the left-wing Revolutionary Armed Forces of Colombia (FARC), the military wing of the Colombian Communist Party and the Marxist National Liberation Army (ELN), formed in the 1960's as populist movements to wage a guerilla conflict in response to the political exclusion, marginalisation and poverty imposed upon Colombia's rural poor by the Spanish political elites. The FARC has currently an estimated 17,000 personnel, (IMDC, 2006, 10) working towards a ten-point programme that calls for land re-distribution, social benefits and political power for poor and landless peasants. Today it remains questionable whether the social contract of the group can be maintained, considering the methods used to achieve these ends, which include a dependence upon the drugs trade, massacres of civilians, assassinations, kidnapping for ransom or political gain, torture, extortion, forced confinement and forced recruitment. In tandem, the inability of the State to counter the activities of the guerilla factions gave rise to the paramilitary militias, who in 1997 formed under the umbrella of United Self-Defense Forces of Colombia (AUC), the organization considering itself a counterinsurgency force protecting its supporters and sponsors from guerilla actions which include kidnapping, murder and extortion. The organization is nevertheless similarly dependent upon drug-related earnings and is equally, if not more culpable for the human rights abuse that it is supposed to deter.

Forced displacement has been an consistent feature of the Colombian civil war over the last 40 years with 3.5 million of the nation's 40 million population having been forcibly displaced during the last two decades (CODHES, 2005) The government of Colombia (GoC) places the figure at only 1.8 million, mainly because systematic registration of the IDP population only

began in 2000 with national authorities not recognising the figures compiled by the Colombian NGO CODHES between 1985 and 2000. In recent years, the conflict has witnessed growing levels of violence that has been marked by the increased targeting of the civilian population and subsequent rise in forced displacement. Throughout its recent history, great suffering, imbedded violence, political, economic and social exclusion is a reflection of this deeply divided state. Massacres, attacks and the intimidation of the local population by paramilitary and guerrillas groups, predominantly affect the rural areas, continuing a cycle of displacement that aggravates the humanitarian crisis affecting the country.

Forced displacement itself is not primarily an unfortunate side effect of the on-going civil conflict, but rather a war aim in itself as combatants seek to dislodge peasants and small farmers from their lands in order to secure access to agricultural resources, such access the driving force behind the violence that has enveloped Colombia over the last two hundred years. In recent decades the conflict has been further amplified by a struggle to secure international commercial mineral interests and to control, or nullify an illicit drugs trade. During 2000 paramilitary groups were responsible for 48% of displacements, with 29% the action of rebel groups, and 16% by unknown perpetrators. (UNCHR, 2003) For civilians to reside within a particular region or zone confers sympathy towards their combatant hosts, whilst flight suggests sympathy for the opposition. The merger of a clear distinction between combatants and non-combatants has also done much to break down social relations through the increase in criminality, the corrosion of traditional hierarchies and the proliferation of a climate of fear and intimidation.

Democratic Security

Promising to curb the cycle of violence upon his election in 2002, President Uribe began the implementation of his Democratic Security Policy. (DSP) With the support of the US backed 'Plan Colombia' counterinsurgency program, national authorities have sought to strengthen formal security structures, to counter the threat of insurgency forces. Although promoted by the US State Department as a means to assist the Colombian government in "*its efforts to fight the illicit drug trade, to increase the rule of law, to protect human rights*", (Bureau of Public Affairs, U.S. Department of State) in reality of the \$3 billion dollars in aid given since 2000, 80% has supported military anti-narcotic efforts. The fumigation of coca crops has been reasoned by the State as a means to deprive armed groups of a source of finance. Yet, small land-hold farmers who have cultivated a coca crop out of the necessity to survive or under the direction of armed actors are denied their basic means of subsistence without providing alternatives, whilst the process of airborne spraying itself arbitrarily destroys food crops as well as the illegal coca crops.

In 2006 the US State has sought 641.15 million in military and police aid for Colombia. (CIP 2006) Overall, there has been a notable improvement in the security situation in Colombia since 2000, at least within urban centers and along main roads, where nearly three-quarters of Colombians live, reflected in President Uribe's landslide election victory earlier in the year. However, this has not been extended to the rural areas where generalized insecurity remains, in spite of being the focal point of military operations. Importantly, efforts to retake territory have been solely military in nature, lacking the necessary civilian government involvement and assistance in reconstruction and development efforts. Consequently, *"Prioritising military spending and debt payment at the cost of assigning more resources to social sectors has led to rising levels of poverty and inequality."* (Norwegian Refugee Council 2005, 8)

Additionally the Colombian government has established a peasant militia or *soldados campesinos* composing of 15,000 men and a network of over one million informants as part of the broader framework of regional security. However, this policy has not resulted in an improved security situation in areas of displacement. (UNHCR, 2004) The policy has contributed towards the further blurring of a clear distinction between combatants and non-combatants by involving civilians in counter-insurgency activities, furthered the militarization of society, involving civil society more actively in the conflict, (Robinson, M, 2002) drawing civilians deeper into the conflict and undermining their basic freedoms; ignoring core principles of international humanitarian law. In November 2002, the Constitutional Court ruled that anti terrorist legislation passed by the Colombian State as part of measures to tackle illegal armed groups in the country were unconstitutional. This included the granting of judicial powers to the armed forces, restricting freedom of movement, simplified arrest procedures, interference with privacy and allowing systematic searches. Between July 2002 and June 2003 4,362 civilians were arbitrarily arrested on charges of collaborating with the FARC. This being 50% more than in the previous six years combined, the vast majority of whom were subsequently released. (CCJ 2004) It would be right to note that after 40 years of internal conflict, such distinctions are inherently difficult to discern given an imbedded culture of violence and social fragmentation. However, the importance of such a distinction remains a central tenant under international humanitarian law, the GoC has a responsibility to uphold the laws of war, which seek to protect civilian life in the midst of armed conflict. Furthermore, the policy itself does not provide a durable long-term solution to the inherent weaknesses of state protection mechanisms within the rural areas, whilst historically providing illustratively problematic strategy, being the pretext for the rise of paramilitary activity in the country.

Central to the Democratic Security Policy (DSP) is the "Plan Patriota" offensive initiated after the failed peace accords with the FARC in 2002, seeking to achieve an outright military victory through the largest military campaign in Colombian history. Consequently, the Colombian Army has been successful in claiming guerrilla-controlled areas, placing ever-

larger swathes of territory under military control, particularly within the former demilitarised zone in central Colombia. This nonetheless has been achieved at the cost of civilian lives and freedoms and intensified levels of displacement. Newly released government figures for 2005 show around 160,000 people newly displaced in 2005 while CODHES recorded over 300,000 newly classified IDPs. (Global IDP Project, 2005) Despite the inconsistency between the figures they are nonetheless indicative of a significant escalation in the conflict since 2002. The number of people newly displaced is widely believed to be under-reported, due to fear of persecution and the fact that many find it difficult to access official registration, notably those forced to flee due to the fumigation of coca crops and those displaced within urban areas. Consequently many IDPs are denied the limited assistance offered by the state. Still, both CODHES and the national authorities confirm that almost one million Colombians have been forcibly displaced since the inception of the DSP. (Global IDP Project, 2005)

Paramilitary Demobilisation

Although peace negotiations with the FARC stalled, talks between the Colombian government and the AUC have continued. Following negotiations in context of the Ralito I (July 2003) and Ralito II (May 2004) peace accords, to provide framework for demobilisation, agreement was reached, to complete the bloc-by-bloc demobilisation of over 29,000 AUC members by April 2006. To date the government has successfully demobilized some 24,000 paramilitaries, (Global IDP Project, 2005) this including some of the organisation's most notorious commanders, using a 2002 law, which authorises pardons for rebellion and sedition. In July 2005, President Uribe enacted the Justice and Peace Law (JPL), providing a legal framework for demobilisation, but implementation remains outstanding. The National authorities, perhaps wary that implementation may endanger demobilisation of the remaining 5,000 paramilitaries if they witnessed an early demonstration that the JPL was being applied stringently. Currently the names of 2,180 paramilitaries have yet to be submitted to the attorney general's office for prosecution. (Global IDP Project, 2005)

Consequently the perpetrators of forced displacement and other war crimes may go unpunished, endangering the rights of IDPs to regain lost property and land titles, an essential component in successful return and reconstruction. There is concern amongst human rights groups that Uribe's administration prioritises the quick fix removal of paramilitaries from the conflict without seeking to establish the historical truth, administer justice and uphold victim's rights to fair treatment and resettlement. Such an approach by national governments is not, however uncommon in broader terms. A peace process that encompasses a lengthy rights agenda is often uneasily received, as former adversaries during the conflict may subsequently represent key allies in the formation of a lasting peace. Indeed, the amnesty afforded to paramilitary groups in 2002, was mirrored by events in Sierra Leone during the 2000 Lome Peace Accords, where Revolutionary United Front (RUF) combatants escaped punishment

over human rights abuses to ensure demobilisation. The sidelining of a human rights agenda along the road to peace was noted in a 2005 report by UNHCHR, commenting that during 2004, *“the AUC was responsible for 342 cases of violations of the cessation of hostilities. These include the presumed reincorporation of demobilized persons into its ranks, massacres, forced displacements, selective and systematic homicides, kidnappings, rape, disappearances, threats, intimidation and lootings.* (UNHCHR, 2005) However, this nonetheless represents a marked reduction in human rights violations pre 2003. (Isacson, A, 2005 147)

It is a fundamental error of thinking when negating human rights principles in the service of a secured peace, as it will inevitably create underlying obstacles to long-term post-conflict reconstruction. The *“assumption that individuals or groups who have been the victims of hideous atrocities will simply forget about them or expunge their feelings without some form of accounting, some semblance of justice, is to leave in place the seeds of future conflict”* (Kritz, N, 1996, p 127) In the search for long-term solutions to the conflict and subsequent displacement it would seem prudent that any peace process would be best served through a process of restorative justice; a cooperative process that includes all stakeholders that reestablishes mutual responsibility in the process of reconstruction, whereby a balance is drawn between the needs of the victim, the wrongdoer and the community at large restoring the displaced and those that have caused displacement into whole contributing members of society.

Similarly, prioritizing the removal of paramilitary structures on the field to the negation of broader developmental and reconstruction concerns, has left the group's local socio-economic structures, powerful organised drug and crime networks and political power structures largely untouched in many parts of Colombia, This consequently, will place longer-term burdens upon the state as it seeks to re-integrate former paramilitary members into society; which will be a large contributing factor in any durable peace process. For many poor people, with scant options for making a living, life within a paramilitary or guerrilla is a tempting survival strategy. A reason consequently, why peace has so far proved so illusive. Realistically, without associated external support across the relief to development divide, the Colombian government may face the reality of removing one combatant of the country's 40 year civil war, only to see it replaced by an equally de-stabilizing criminal threat.

An Illiberal Democracy

Although in broad terms the Colombian State can be viewed as a democratic system, in reality the nation has never known true democracy because of the absence of the rule of law, being one reason why peace has been so hard to achieve. Since independence, the Colombian State has never been strong, with large tracks of the country beyond the reach of

State institutions. To its credit, the GoC has arguably the most advanced legislation in the world to protect IDPs, the authorities having also made progress in the development of a 'normative framework', yet there remains a huge chasm between policies and implementation on the ground; the nation host to one of the largest IDP populations globally. Dr. Walter Kälin, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons after an official visit to Colombia in June of this year, at the request of the Colombian Government, asserted, "*Colombia is a country with commendable legislation and a far-reaching policy framework on internal displacement. However, there is a clear gap affecting the human rights of many among the up to 3 million displaced persons between what the law says and what is implemented at the regional and local level.*" (UNHCHR, 2006)

Fundamentally, impunity remains the largest obstacle in resolving forced displacement in the country and undermines reintegration processes and property compensation. Only 5% of denounced cases of forced displacement have been filed for the dispensation of justice, and only one case is known where a sentence was manifest. (CCJ, 2005) The nation's military has been successful in integrating international human rights law into their doctrine, training and operations. Yet if a soldier faces little chance of punishment for committing an abuse, will simply the comprehension that such action constitutes a wrong be enough to prevent any such action? Since 1958 the Colombian military has maintained a high degree of independence when responding to circumstances of internal public disorder, underpinned by a series of endorsements that place it beyond civilian control. For its part the Colombian State claims that it alone can implement legitimate use of force, whilst at the same time admitting its' failure to contain one of the world's highest murder rates. (Bejarano, AM and Pizario, E, 2005, 236) Indeed, the Colombian State has been referred to as an '*illiberal democracy*' (Collier, D and Levitsky, S, 1997) due to its inability to maintain the rule of law. By definition liberal democracies are classified by their ability to institute well-established and accessible procedures that protect the liberties of individual citizens.

The inability to protect is reflected in the country's IDP population. The scale of the problem constitutes a humanitarian crisis. However, the Colombian State has been slow to admit to the scale of the problem, denying that there is a humanitarian crisis, and subsequently failing to tackle and prioritize the internal displacement phenomenon. Recommendations by UNHCR and CODHES to the GoC in 2005 have concluded that although sections of national authority have been forthcoming in accepting human rights and international humanitarian law commendations, the Colombian State has so far failed to take the necessary measures to implement such policies. This is of particular concern, as they constitute the same recommendations that were made in 2003. (UNHCR 2003 / CODHES 2005) When responding to the needs of the country's IDP population, prioritizing the needs of the population as a whole in the wider struggle against the guerrilla insurgency could be seen as a limited priority. The lot of the nation's displaced population may be viewed as a side issue

that will be solved in the longer term upon establishment of durable peace, particularly considering the fragmented nature of Colombian population. Indeed 75% of the Colombian population live within urban areas, displacement manifest mainly within rural areas. Nevertheless, In January 2004, the Colombian Constitutional Court concluded in its T-25 ruling that the lack of protection and consideration given to the displaced and communities at risk of displacement was unconstitutional, ordering the government to reformulate its public policy, assigning adequate resources to take direct action to prevent forced displacement, whilst guaranteeing the right of internally displaced persons. In response, the state in November of 2005 has allocated more than \$2 billion for the protection and assistance of IDPs over the next five years. Yet many IDP organisations, together with UNHCR who have broadly welcomed this development, being keen to point out that response strategies are still directed largely towards emergency response, to the negation of post-conflict efforts, a human rights agenda and the search for durable solutions that address structural injustices at the route of civilian displacement. (UNHCR, 2004)

The Greatest Need

The protection of people displaced and those at risk of displacement has not improved since 2002. Internal displacement disproportionately affects Afro-Colombians and indigenous people, who are among the country's poorest. According to figures from the Norwegian Refugee Council and Human Rights Watch, indigenous and Afro-Colombian people make up approximately one quarter of all internally displaced people, though they represent only 11% of the country's overall population. (ICRC, 5-05-2005) For indigenous communities, whose way of life is strongly linked to their ancestral lands, forced displacement can be particularly detrimental, causing irreparable damage to social and community ties. This group also composes the highest level of poverty and social economic marginalization within the country. Demographically there are regions where the majority of the population are internally displaced. Usually, they flee from rural areas to urban slums on the edge of major towns, unable most of the time to find work to support their families. IDPs earn only 61% of the Colombian minimum wage. (WFP, ICRC, 2004) It is estimated that around 44% of the displaced are children between the ages of 5 and 14 and that most of these never return to school. (ICRC, 5-05-2005) Some 210,000 IDPs live in the slums of Bogotá. (UNHCR, 2004) Circumstances of mass forced migration by sections of the nation's population will inevitably compound national economic frailties, by weakening still further services in the major population centres. This makes the importance of finding durable solutions particularly important as extra burdens placed on weak infrastructure and services is stalling progress towards achieving the nation's Millennium Development Goals. Medecines Sans Frontieres consultations in Altos de Cazuca, an urban slum south of the capital Bogotá, concluded that the overcrowded, precarious and marginalized situation in which the displaced lived contributed towards high levels of malnutrition, (29% of the children under 5 suffering from

chronic malnutrition, with 6.1% suffering moderate acute malnutrition) reparatory infections (26% of patients seen and 43% among children under 5) and infectious and parasitic diseases (22% of the consultations and 32% among children under 5). (MSF, 2004) Rates of morbidity amongst IDP populations are six times that of the national average. (WFP, 2003)

As the Colombian State peruses its policy of 'democratic security' in the aim of securing the welfare of *all* its citizens, those with the greatest needs are being largely overlooked. Whether the military emphasis in securing a durable peace will address the route cause of displacement is noteworthy and will be discussed later. In the first instance what remains indubitable is that this process will take time. In this regard the dispossessed of Colombia will continue to look to the international community for the protection and assistance afforded to them under international law.

IDPs and International Law

The Guiding Principles on Internal Displacement define internally displaced persons as "*Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.*" Although IDPs, unlike refugees, are either unwilling or unable to cross an international border, they are forced into flight as they are unable to obtain the security and well-being they seek from their own government and consequently turn to the international system which in theory, is charged with affording them assistance.

Although not rendered any specific protection under international law and lacking a dedicated UN body that is mandated to ensure their welfare, the internally displaced are subject to assistance under broader human rights and humanitarian law, particularly concerning the protection of civilians in armed conflict. However, the responsibility of realising such protection primarily rests within nation states themselves, under the principles of sovereignty and self-determination. However, in many cases it remains the state itself that may indeed be the instigator of the displacement of their civilian population. Internal conflicts are also symptomatic of a crisis in national identity, where the benefits of nationhood are only conferred upon certain groups to the negation of others.

The four Geneva Conventions signed in 1949 constitute the most universally accepted (bar very few signatories) instruments found within International Humanitarian Law. The laws, binding upon all states, underscore the responsibility to protect civilians in times of conflict. Specifically within Article 3 of all four conventions where it states that '*in the case of armed conflict not of an international character occurring in the territory*' of a party to one of the

Geneva Conventions, each combatant is to observe minimum standards. Individuals not taking part in the conflict are to be treated humanely; execution, torture, mutilation, hostage taking and humiliating and degrading treatment are forbidden. However, there remains an absence within the convention as to what specifically constitutes '*conflicts not of an international character*', which affords contracting states some scope for interpretation. (Meron, T, 2000, 239-78) Seeking to mitigate attention from domestic concerns, governments may prove reluctant to confer combatant status to groups they would prefer to recognise as perpetrators of domestic criminal disorder, as traitorous rebels or terrorists. The Colombian State views its internal conflict as merely a problem of terrorist insurgency, rather than an armed conflict, seeking to evade its international obligations to protect the civilian population from being involved in the conflict, negating the application of international humanitarian law, which contributing towards undermining the accountability of armed non-state actors.

In 1977, Additional Protocol II was added to the initial 1949 framework to institute greater protection for victims of non-international armed conflict. The protocol improved upon Article 3s by increasing the scope of humane treatment for non-combatants. These included stronger child protection, enhanced prosecution and punishment, standards of conflict associated criminal offences and the outlaw of attacks, violent threats, the deliberate starvation or the forced displacement of civilian populations. The additional Protocol, in a similar fashion to the original 1949 conventions remains vague concerning the enforcement of such statutes, lacking any reference to extradition issues or possible surrender to international criminal jurisdiction. This, remaining at the discretion of the state in spite of numerous instances where officeholders not only fail to live up to their protection responsibilities, but further, have been culpable in wider crimes against humanity, including genocide. Still, although envisaged to complement individual states laws, the newly formed International Criminal Court (ICC) represents an encouraging development in enforcement, invested with the authority to exercise its jurisdiction if national courts, are unwilling or unable to investigate or prosecute individuals for genocide, crimes against humanity, and war crimes, under the 1998 Statute of Rome; to which the Colombian State is a signatory.

There remains a debate in some quarters as to whether IDPs should be viewed as a unique category under international law and of humanitarian concern. The International Committee of the Red Cross by example, aims to assist *all* civilian victims of conflict, providing assistance to where there is the greatest need. In this respect a 2005 SIDA evaluation concluded that to give IDPs their own distinct category under International Law could result in a position where the internally displaced were 'privileged' over other at risk groups. SIDA (2005) pp. 14-15 Nevertheless, it would also be fair to conclude that IDPs '*have different, and often more urgent, material needs*'. (Tauxe, J, 2000) 70% of IDPs have two or more unmet basic needs (including housing, public services, living conditions, educational enrolment and economic dependency, compared to 10% amongst the poorest urban dwellers (WFP, ICRC, 2004 p.10)

Whilst the nutritional status host populations is considerably better than that of IDPs, despite being among the nations poorest. (WFP, 2005)

Deng's Guiding Principles and the evolution of Sovereignty

The steady rise in the global IDP population since the end of the Cold War illustrated the inherent gaps within an antiquated post-1945 international system when seeking to afford an effective measure of assistance to this new group. In the search for some degree of response the United Nations opted to establish the post of the Special Representative of the UN Secretary General for the Internally Displaced in 1992. One of the most important contributions of the first appointee, Francis M. Deng and the Scholar Roberta Cohen was the development of *The Guiding Principles on Internal Displacement*. Certainly a triumph of diplomacy and compromise, the principles were derived from establishing international protection statutes, providing states with a framework to facilitate greater assistance and protection without challenging national sovereignty. Although not legally binding, the principles are consistent with international humanitarian, human rights and refugee law, which are binding. The principles outlined the rights of IDPs and the responsibility of national governments, insurgency groups and other non-state actors to ensure the protection and assistance of those displaced by intra-state conflict, persecution or natural disasters. To this end, although built upon the notion of state sovereignty, the international political system today is evolving towards an acceptance that in broader terms sovereignty is guaranteed in the first instance through responsibility.

The Secretary-General's report on the reform of the UN acknowledged that the "*responsibility to protect*" must defer to the international community when state systems prove unable to provide for the wellbeing and safety of their citizens, Annan, K (21 March 2005) para 135 this, a reflection of the prevailing neo-conservative world-view that has driven foreign intervention in recent years. A State's action in its internal conflict has traditionally been viewed as a circumstance in which the international community should not meddle. However, the prevailing view within the UN deems that in principle sovereignty could not be interpreted as a barrier when the safety and wellbeing of those internally displaced by intrastate conflict was at risk. The International Commission on Intervention and State Responsibility's (ICISS) 2001 report *The Responsibility to Protect* furthered the sentiments of Deng, asserting that if sovereign states were unable or unwilling to protect their citizens, sovereignty should be deferred to the international community's responsibility to afford protection. To this end sovereignty, responsibility and intervention are complementary values that serve to protect humanity, and as such '*no one is prepared to defend the claim that states can do what they want to their own people, and hide behind the principle of sovereignty in so doing*'. (ICISS Report, 2001, 75) Despite this the responsibility to protect is realistically translated into firm action at an international level remaining unclear, fragmented and inconsistent.

In the longer term the international community may seek to reinforce IDP protection with a legally binding framework based upon the Refugee Convention model. However, the development of such a structure did not gain a significant level of support at a governmental level during the 1990s, the Nordic nations the notable exceptions. Here, the internally displaced find themselves placed between two ideologies that are the antithesis of each other. Humanitarians work towards advancing the well being of humanity as a whole. The fundamentals of human rights defines individuals as inherently members of a world citizenship, as apposed to national citizenship, where the nation-state remains the fundamental unit for social human life, taking precedence over any other social and political principle. Humanitarianism will necessarily challenge the hegemony of the nation-state. Furthermore, it is worth noting that the development of any such treaty may take years, if not decades to develop and ratify. In the first instance, strengthening the acceptance and implementation of the Guiding Principles internationally and more importantly, establishing systems of monitoring and enforcement that which uphold existing humanitarian and human rights laws held within the guiding principles constitutes the most pressing areas of concern. Indeed, if existing Humanitarian and Human Rights Laws are not upheld, then they cannot realistically be referred to as law; laws that are not enforced remain merely idealized principles.

This assertion is particularly relevant when considering the Colombian State. It has one of the most advanced legislative systems in the world in terms of IDP protection, being swift in fully integrating Deng's Guiding Principles within its' domestic law. In spite of this progress, such achievements have meant little coherent action on the ground; the governments having remained relatively slow in the implementation of preventative, protection and resettlement programs, despite the proliferation of displacement within the country. According to a study undertaken by the Brookings Institute, the vast majority of human rights violations that resulted in displacement had been anticipated and could have been prevented. Further, the Colombian Ombudsman's Office reported that more than 50% of the registered massacres in 1998 were actually announced beforehand. (Bagshaw, S and Paul, D, 2004)

Uneasy Partnerships

While the Guiding Principles are useful in providing states with an operational framework under which responses to IDP assistance can be rendered, the international community must, necessarily, provide associated financial support to facilitate this process. The Colombian government's response to the problem of IDPs has been widely criticized for remaining insufficient and under-resourced; yet the international humanitarian response has similarly not been commensurate with the scale of the crisis. In response to the upsurge of violence in Colombia from 2002, the UN sought to promote an inter-agency coordinated response to

IDPs with its' Humanitarian Plan of Action (HPA), with a meagre budget of \$80 million. The plan fell short of raising the expected support. The T-25 pledge by the GoC to dedicate \$2 billion dollars over the next five years to IDP assistance, provides a useful opportunity for the international community to pledge additional funds to bridge the gap between emergency response measures and long-term development to address the underlying causal factors of displacement. However, the route towards a unified response is far from clear, recent attempts at collaboration between humanitarian organisations and political institutions are illustrative.

A second HPA was developed between the United Nations, Colombia's civil society and the Colombian Government in 2005. However, although projects are currently underway, with an initial budget of \$185 million during 2005, the plan was launched as a government document, not officially endorsed by the United Nations. Disagreements about the content of the HPA arose, due to the GoCs unwillingness to be specific about the ongoing armed conflict and associated humanitarian crisis, referring only to a situation of 'terrorist violence', whilst rejecting a previously agreed human rights focus for the plan. Further, the GoC has also sought to control the language used by international agencies themselves, sending guidelines to representatives of foreign agencies in June 2005, discouraging the use of certain language in official circles including 'armed conflict', 'humanitarian space' and 'civil protection'. (El Alto Comisionado para la Paz, 2005) The control of language is important as it serves to divert international attention away from the underlying causes of the conflict.

"The Government has sought to silence international organisations voicing concern over the consequences of its policies on the civilian population... international organisations and in particular UN organisations and representatives, have been threatened with expulsion or revocation of their mandates" IDMC (2006) 30-31 The mandate of the UN Secretary-General's Special Envoy, James Lemoyne, was illustratively not extended in 2005 after his criticism of the states security policies. The focal point for the UN system in Colombia, Lemoyne was tasked with mobilising international assistance for social, human rights, humanitarian and peace building activities in the country. It is worth noting however, that the existence of such a 'focal point' is not to suggest that the UN system itself speaks with a common voice. Indeed, although a unified, co-ordinated response will remain key to any concerted engagement with the GoC, there remain deep divisions amongst the respective UN agencies. OCHA, a division of the International Secretariat and the main advisor to the Secretary-General on humanitarian issues and policy development is charged with the co-ordination of humanitarian assistance in the event of natural disasters and during complex emergencies. However, its co-ordination role is slight, principally as a result of budget limitations and wariness among the lead agencies over any potential infringement upon their supposed areas of enquiry. Although the lead agency in Colombia, UNHCR's ability to operate within a limited humanitarian space in support of the internally displaced, will

potentially be challenged by the International Organization for Migration. (IOM) The agency recently receiving a \$100 million dollar grant from USAID for the provision of assistance to IDPs and other at risk groups over the next five years. The increased funding allocated to the IOM for humanitarian response, has been seen as route to diminishing the lead agency proposition of UNHCR, whilst sidelining the politically antagonistic nature of the agency's protection mandate.

IDP Return Within the Democratic Security Framework

The deep-rooted nature, extent and duration of violent conflict in Colombian social life make it a great challenge to determine the priorities and most appropriate sites for humanitarian action in the field. In its' own efforts to assist the internally displaced the Colombian State, in collaborated with the Colombian military, has favoured a policy of return to the point of first displacement. Incorporated within the governments DSP framework, return has been facilitated within paramilitary or former paramilitary zones since the peace process of 2002 and newly controlled regions secured during the Plan Patriota offensive. Between 2002 and December 2005, the government has facilitated the return of over 70,000 people, 58% of the targeted 30,000 families planned between 2002 and 2006. (GoC, 2005) Yet this has been done with little recovery assistance, where in many cases, *'the conditions are not conducive to sustainable re-integration. Though the government's policy envisages the provision of housing subsidies, income-generation activities, vocational training and land titles, these are rarely made available to returnees.'* (ICRC, WFP, 2004, p 9)

Furthermore, returns have been undertaken without adequate guarantees of security. To be effective, any program of return must be accompanied by the provision of effective protection during the return process itself and as part of resettlement, mitigating the chances of future displacement. This is particularly pertinent as the majority of State-assisted returns take place within the first three months of displacement, consequently the circumstances that resulted in displacement in the first instance are more likely to remained unchanged. The Colombian Army's ability to assist returning IDP population is hindered in part by a lack of resources, to both effectively flight the military campaign whilst affording protection across 74% of Colombia's municipalities that are either expulsion or reception sites. (RSS, 2002) Consequently, once the military withdraws, armed combatants simply re-enter the zone, bridging the security gap and facilitating further displacement. It is within this context, that there remains the largest gap in assistance to IDPs, without effective protection; many returnees are forced into flight once more.

Here, UNHCR, as the United Nations lead agency, has an important role to play. However, collaboration with the GoC in this process is far from clear-cut, initially when seeking to maintain its principle of a voluntary return process. Under the DSP policy government

initiatives have drawn criticism for their coerced nature and against the principle of non-refoulement, (Refugees International 2005) Importantly, whilst working in close collaboration with the state affords the agency the opportunity to help fill the gaps in IDP assistance and to respond to some of their needs, yet engaging with the DSP framework confers support for the GoCs misuse of the civilian population as part of its wider military strategy against the insurgency and also serves as an operational straitjacket. A collaborative approach limits the organization's ability to operate effectively in areas beyond government control; to reach displaced populations in guerrilla controlled regions, whilst also aligning the organization with one of the military protagonists of the Colombian conflict. In spite of this, under the DSP framework the agency can nonetheless encourage and support the development of non-military institutions within these regions of IDP return, encouraging national authority engagement, whilst helping to facilitate the development of civil society based peace and development programs that merge development programs with local conflict resolution.

Though return remains the favoured preferred solution to displacement for the State, without adequate reconstruction assistance and protection upon return, local integration (an option often favoured by IDPs who fear further displacement upon return) must also be given consideration. An ICRC/WFP survey concluded that only 11% of individuals displaced wish to return, while 46% wish to settle where they have fled, with 19% desiring to resettle elsewhere. (ICRC/WFP, 2004) In this respect assistance to IDP communities may be best served through a broader process of urban slum regeneration and development, thus mitigating the likelihood of favouring one at need group over another when providing assistance. UNHCR must be commended for recently expanding its presence in the slums surrounding the capital Bogotá, one of the main destinations for the internally displaced, ensuring a degree of independent humanitarian response. The emphasis on return has undermined the implementation of policies and programmes in support of what is the preferred solution of many IDPs: local integration.

Negotiating Humanitarianism

UNHCR's ability to respond effectively in its assistance to IDPs in Colombia presents undeniable challenges. Despite growing international acceptance of the concept that sovereignty entails a responsibility to protect citizens within national borders or to accept international intervention on their behalf, in reality national authorities are nonetheless inclined to define to an operational framework for humanitarian organisations, routinely denying access to enter sensitive regions or restricting external aid, perceiving it as interference in the nations internal affairs. The refugee agency's primary mandate is to protect refugees from despotism. This routinely requires the agency to confront state authorities, placing the institution in a conflicting relationship with nations. However, at present without a direct mandate to assist IDP populations, the agency's ability to respond with vigour and authority

remains uncertain. In spite of this the principles of humanitarian action are based on the hypothesis that all people have equal dignity and right to assistance by virtue of their membership of the global community. Humanitarian organisations are equally, at least in principle, duty-bound to provide humanitarian assistance wherever it is required. (Terry, F, 2002, 19) Humanitarian values are theoretically apolitical and essentially partisan, at least by definition, working to assist those who are in need in spite of the indifference of others to their suffering. Humanitarian assistance takes *“the arbitrary and radical decision to help the people society has decided to sacrifice”*. (Bradol, J in Weissman, F, 2004, 7)

However it also would be accurate to acknowledge that there will remain limits to the application of a human rights agenda in the context of internal armed conflict. Championing the ideals of universal morality and humanitarianism within the political arena necessitates compromise; addressing the needs of all stakeholders to the conflict, alongside the need of the internally displaced themselves. A hubristic attempt by human rights groups and humanitarian organisations to impose their values and priorities upon the political decision makers in Colombia will not serve the interests of the internally displaced. These sentiments were surmised by the former UN High Commissioner for Refugees, Sadako Ogata in 1997, who affirmed that the best the agency could pragmatically do was to follow the *“least worst”* option that makes possible the rendering of humanitarian assistance. (Ogata, S, 1997)

The recent designation of UNHCR as the lead agency for the coordination for assistance under the UN’s collaborative approach represents an important step towards a more effective response to the problem of displacement. Yet this must be viewed within the will of its donor governments. Its engagement in Colombia reflects in part an aspiration to maintain a degree of distance from the larger problems of displacement, seeking to contain the problem; whilst mitigating the perceived burdens migration would place on neighbouring states. That said, if such policies confer greater efforts to assist internally displaced populations, one may argue that such considerations are secondary. However, it is unacceptable that donor hegemony should be able to determine where or what constitutes the greatest humanitarian need. In this respect UNHCR will only be able to respond effectively if donor states are willing to pay. The lack of direct protection and assistance afforded to Colombia’s IDP by UNHCR itself would suggest there is a lack of concerted willingness; being largely limited to a facilitator role. Nevertheless, a principled approach to protection requires a more proactive reaction that extends beyond an engagement with national authorities.

Conflict in the Pursuit of Peace?

Despite embracing a military solution to the conflict since 2002, Colombia is no closer towards realising a durable peace, whilst having witnessed an acceleration of internal displacement within the country, where one million Colombians have been forced to flee their homes since

the DSP's inception. On the one hand, the Colombian government has concluded that its military push against the FARC has been successful, between 2002 and 2005 its' endeavour has reduced the yearly numbers of forced displacements from 424,000 to 160,000. (GoC, 2006) Yet, in its' 2006 annual report, UNHCHR commented that it was "*unable to adequately identify indicators*" used to generate the statistical data. (UNHCHR, 2006) On the other hand, the Colombian non-governmental organisation CODHES, which monitors displacement and associated human rights violations, reporting that almost one million people have been forcibly displaced since 2002, 300,000 people in 2005 alone as the conflict has escalated. (CODHES, 2005) Whilst FARC itself has been keen to point out that the state's military strategy has been unsuccessful, with most of the guerrilla groups' military capability remaining intact. Subsequently, heavy fighting has been reported in many regions of the country that has resulted in pervasive breaches of international humanitarian law. (UNHCHR, 2006) The intensity of fighting in rural areas between the GoC and the FARC is a reflection of the capabilities of the oldest and strongest guerrilla armies in the world, having functioned as a state-within-a-state, controlled some 40% of the nation's territory over the past 40 years.

With the end of conflict in Colombia seemingly no closer and high levels of displacement serving as a barometer of internal disorder, a clear link emerges between humanitarian concern and legitimate regional security issues. Although the conflict is positioned as an intra-state conflict the recent escalation of violence within Colombia since 2002 has actually spilled over its borders enveloping its regional neighbours as clashes between guerrillas, paramilitaries and the army have spread unabated along its national borders. The number of those seeking asylum in the Venezuelan capital Caracas doubled in 2004 compared to 2003 due to war along Colombia's border region. In total some 25,000 Colombians have crossed their national border in 2004 to seek protection. 20,727 people were displaced along Colombia's borders in 2003 and 47,375 in 2004. (IDMC 2005) In March of 2003, the Venezuelan president ordered bombing raids along its border frontier following incursions that forced between 200 and 600 Venezuelan civilians and indigenous Bari to flee to Rio de Oro in the North West of the Country. Similar security treats along the Ecuadorian eastern border since November 2002 has necessitated the establishment of a 15,000 strong garrison. (CODHES 2004)

The proliferation of conflict in this region of Latin America, underpins the importance of a forceful stance when engaging the GoC in the search for durable solutions to conflict. Inaction will inevitably disrupt stability, turning other states into breeding grounds for anarchy and terrorism and threatening regional and global security. The UN system is authorized to intervene in Colombia, if required to secure international peace and security as specified through Articles 2(7) and 25 alongside Chapter VII of the organisations charter, where member States of the UN agreed to defer their sovereignty to the Security Council. What remains problematical nonetheless is whether the idealism of the UN Charter extends beyond

the intention to be concerned about a state's internal affairs with its own citizens, and translates into meaningful action. As far back as September 1999, the UN Secretary General Kofi Annan raised within the general assembly the need to develop a framework that permitted humanitarian intervention in spite of a lack of consensus from within the Security Council. However, 6 years later any such framework seems no closer to being realised. United Nations General Assembly World Summit Report of 2005 adopted the concept of UN protection, but any intervention was to be assigned on a case-by-case basis. (UN, 2005, 139) Yet the development of such a framework will be essential in the long term to ensure that humanitarian intervention remains appropriate to needs, whilst guarding against misuse. Amongst the 2001 ICISS Report policy recommendations was the suggestion that the UN General Assembly define by declaratory resolution an upper threshold, under which protection claims must meet before military intervention can be authorised in response to large-scale loss of life or ethnic cleansing; curtailing misuse and assigning resources to where they are most needed. This, being similar to the emergency threshold currently used to categorise famine of two deaths per 10,000 persons per day.

Addressing Underlying Inequality

Upholding the rights of the internally displaced in Colombia presents undeniable challenges when confronted with the need to find durable solutions to the root causes of displacement. Fundamentally, when seeking to secure a lasting resolution to the intrastate conflict in Colombia and the resulting IDP crisis, deep-rooted problems of persistent inequality and mismanagement of diversity must be addressed alongside any military strategy to secure peace. (Deng, F, 2000) The pervasive inequality that originally fuelled revolt and attracted people to the revolutionary movements of the 1960's has changed little. The ELN and FARC in the first instance were formed in response to the political exclusion of the rural poor who are marginalized by great social inequality, a highly concentrated pattern of land ownership that has benefited the nation's land-owning elites, and an inefficient justice system. Globally, Colombia has one of the most unequal systems of land distribution (which has been amplified through recent displacements). 0.4% of landowners own 61.5% of rural land. (PCS, 2004) The victory at all cost approach favoured by the Colombian State will do little to achieve a lasting peace, without concurrent social reform. 25% of Colombia's population of 44 million, mainly drawn from indigenous and African descent live in absolute poverty. (Gidley, R 2005) 8.2% of Colombia's population lives below \$1 a day, whilst 22.6% live on less than 2% per day. (1990-2003) (UNDP, 2003) More than 50% of the population lives below the poverty line, according to government figures, with rural areas particularly hard hit. (WB, 2006) The Spanish descended political elite has consistently blocked comprehensive agrarian reform, which would improve their situation. Conflict itself, in part, is a consequence of, and means to, a perpetual state of under-development, creating a cycle of continuing violence. However the development of a post-emergency stabilisation project that integrates accompanied IDP

return with the strengthening of the local and rural governance, greater rural infrastructure investment, alternative development, small farmer agricultural credit, marketing and technical aid, off-farm income and employment generation programs strategies, would prove a useful route towards tackling these deep-rooted problems.

An International Commitment

Finding durable solutions to the problem of internal displacement will necessitate a long-term commitment from donor organizations and governments, one that engages national authorities in developing a new balance between the President's favoured security policies and the social and economic measures needed to get at root causes. International support must also be rendered towards the expansion of an inclusive civil society, alongside the development of an effective humanitarian space. Co-operation at an international and local level will remain fundamental in achieving peace and greater security and the only viable long-term strategy to avoid the return to conflict, where the local population is allowed to participate significantly in the political decision-making process, encouraging transparency and accountability; negating the causes of forced migration. In spite of obvious security risks local human rights, humanitarian organisations and the Catholic Church have been increasingly active in support of IDPs through the provision of food and medical assistance, legal advice, psychosocial support and capacity building. Nevertheless, the impact of this important work is limited by a lack of funds, attacks and intimidation and support from the state authorities; to this end the international community must act. The European Union in this respect has begun to make some useful contributions, taking the lead in the development of early warning systems to alert communities to displacement treats and to aid with emergency planning. With the support of the European Community Humanitarian Office (ECHO) the Human Rights and Displacement Consultancy (CODHES) has made use of 'sentinel sites' used to asses indicators suggesting the likelihood of displacement.

In spite of this, securing funding in the transition from short-term relief to longer-term development remains notoriously difficult. Though humanitarian assistance aid retains a degree of independence and neutrality, most notably in the work of the Red Cross and medical relief organization Medecines Sans Frontieres, development is necessarily political. Consequently, the scale and nature of developmental assistance is dependant upon broader political considerations that are increasingly integrated into global security concerns, which today are part integrated into the 'war on terror'. Although, the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN) and the United Self-Defense Forces of Colombia (AUC) appear upon the US, UN and EU directory of terrorist organizations none have radical Islamic affiliations or have shown any willingness to attack the interests of the international community outside of Colombia itself. Consequently, and considering the long-

running nature of the conflict, firm action to assist Colombia's displaced population may constitute a lesser priority internationally.

Part of any international commitment to address the humanitarian crisis in Colombia will inevitably necessitate supporting a resumption of peace negotiations with the FARC, a political solution remaining essential in finding a durable resolution to the conflict. There remain deep rooted reservations among the guerrillas about any likelihood of resolving the conflict through political channels. This conclusion was fuelled by events after 1985, where in response to attempts by President Belisario Betancourt's government to engage in talks with the guerrillas, FARC supported the foundation of a political party, "*Union Patriótica*". However, some 3,000 party members or affiliates, including two Presidential candidates, were killed by paramilitary groups, with the support of the army and sections of the political establishment. Consequently international mediation would be a pre-requisite in this process.

Conclusion

The shortfall of assistance in Colombia is endemic of a global trend that chooses to ignore the plight of those with the greatest need. Indeed, the failure to effectively protect those who are internally displaced by war reflects the broader deterioration of refugee, humanitarian and human rights laws. The internal displacement of people within nations illustrates the shortfall in relation to the international community's own responsibility and that of nation states themselves. At present '*Given the continuing intrastate violence in many parts of the world, coupled with the growing readiness of states to close their doors to asylum-seekers, the number of the people forcibly displaced and trapped within their own countries can only be expected to increase.*' (Loescher, G, 2001) 373 The international community will inevitably be forced to address the underlying causal factors of the conflict. Humanitarian concerns will inevitably merge with wider security concerns. The Colombian State needs to engage IDP and other Civil Society Organizations in constructive dialogue to search for a peaceful end to the conflict.

Assistant High Commissioner Judy Cheng-Hopkins was prudent to point out, during a recent visit to Colombia in June of this year, that although circumstances in Colombia constitute a grave humanitarian tragedy that currently shows "*no sign of abating*", there was on reflection cause for optimism when assessing the Colombian government's *capacity* to ease the suffering of its displaced population with the assistance of the international community. The conclusion was that Colombia is a middle-income country with strong institutions, (as compared to the Sudan and Uganda who both suffer high rates of displacement) an indication that "*Colombia has the means to get out of this humanitarian tragedy that has gone on for so long*". (Cheng-Hopkins, J, 2006) Such a conclusion is certainly relevant when reflecting upon the role and authority of the Constitutional Court that has done much to instil within the GoC a

sense of responsibility towards its internally displaced population. Such responsibility, however, cannot be limited to responding to the circumstances of displacement itself, in the provision of emergency humanitarian assistance, but must also entail long-term social and economic development that addresses the nation's underlying poverty and land inequality. Here the international community has a pivotal role and must not shrink away from its responsibilities. Upholding international human rights and humanitarian law, inevitably confers the responsibility to address the causal factors that give rise to breaches of such laws.

The reform of the UN will remain central to encouraging greater international responsibility and concurrent action in the field, in response to the growing crisis of internal displacement; in the first instance advocating the rights of internally displaced persons within the UN system will further the awareness of this growing area of humanitarian concern, in particular through the promotion of the Guiding Principles of Internal Displacement and expanding the mandate of UNHCR to incorporate IDPs. Concurrently, a legitimate process of decision-making concerning enforcement actions for humanitarian protection and assistance will equally strengthen the UN system in its capacity to ensure the physical protection of people uprooted within their own nation alongside alleviating the suffering of civilians that are forced into fights amid the turmoil of civil conflict. When working with the Colombian state it is important that members of the international community illustrate solutions beyond mere military objectives that will not solve the underlying causes of conflict. Meeting the needs of the internally displaced will be inseparable from processes of democratisation that confer justice, tackle impunity, facilitate decentralization and social and economic development, that will not only benefit the displaced, but also Colombian society at large.

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