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Reparation for Especially Vulnerable Victims of the Armed Conflict in Colombia

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ABBREVIATIONS AND ACRONYMS

AUC	United Self-defense Forces of Colombia (<i>Autodefensas Unidas de Colombia</i>)
CAS	Country Assistance Strategy
DNP	<i>National Planning Department</i> (Departamento Nacional de Planeación)
FARC	Revolutionary Armed Forces of Colombia (<i>Fuerzas Armadas Revolucionarias de Colombia</i>)
FOREC	Fund for Reconstruction of the Coffee Region (<i>Fondo para la Reconstrucción del Eje Cafetero</i>)
FOSYGA	Security and Warranties Fund (<i>Fondo de Seguridad y Garantías</i>),
ICBF	Colombian Institute for Family Welfare (<i>Instituto Colombiano de Bienestar Familiar</i>)
ILO	Internacional Labor Organization
ICHR	Inter-American Court of Human Rights
ISHR	Inter-American System of Human Rights
JPL	Justice and Peace Law (<i>Ley de Justicia y Paz</i>)
NCRR	National Commission for Reparation and Reconciliation
NGO	Non Governmental Organization
SIPOD	Information System for Displaced Population (<i>Sistema de Información para la Población Desplazada</i>)
SUR	Unified Registry System (<i>Sistema Unificado de Registro</i>)
UN	United Nations
USAID	United States Agency for International Development

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CHAPTER I

INTRODUCTION TO THE STUDY

1. Background and Rationale

1. This study addresses issues of reparation of especially vulnerable groups of victims affected by the armed conflict. It focuses on an estimate of the size of the groups, their characteristics in terms of poverty and vulnerability, their access to services and reparation options. The key question addressed by the study is about the best options of fair, viable and sustainable reparation for these groups, in the framework of the principles and guidelines of the rights of victims of violations of the international norms on human rights, and of the international humanitarian law to make legal claims and obtain reparations.

2. The study is the second of the Peace Programmatic series of analytical works within the fourth pillar of the CAS, *Building Peace*. The first, completed during FY06 was an evaluation of the experience and results of the processes of demobilization and reinsertion of ex-combatants in Colombia. This second study focuses on especially vulnerable groups usually silent, without political voice or representation, and below the radar screen of public opinion: families who lost the main breadwinner, orphan children, people with disabilities, members of ethnic minorities and adults over 65 years old, all of them victims of the armed conflict.

3. The Peace Programmatic series of studies of the *Building Peace* pillar seeks to increase and share knowledge about the situation of groups of people who have been agents or victims of the armed conflict in Colombia. In this regard, it attempts to identify appropriate and effective ways to address their needs and to promote options, for the reintegration into civilian life in the first case, and to achieve the best ways of integral reparation in the second. The study formulates a series of hypotheses about judicial reparation of individual victims and about an administrative national program of integral reparation to address the rights of all victims.

2. Country Context, Government Development Priorities and Peace Policy

4. Colombia is a dynamic Middle Income Country (MIC) with complex development challenges that demand high quality and innovative services from the World Bank Group (WBG). In response to these needs, the WBG has been providing lending and non-lending assistance under the framework of the four pillars (Achieving Fast and Sustainable Growth, Sharing the Fruits of Growth, Supporting Quality Governance and a Quest for Peace).

5. Since the macroeconomic crisis at the end of the nineties, Colombia has been on a path of economic growth. Colombia's economy expanded steadily for decades until 1999, when a combination of domestic and international conditions triggered a severe crisis. The near stagnation of the economy during the four years prior to 2003 has since given way to a sustained economic recovery and a strengthening of consumer and investor confidence. The turnaround is partly due to the much improved global economic environment: world growth has accelerated, the cost of international credit has fallen, and the prices of Colombia's primary exports have risen. Domestic factors, particularly the improved security situation and stable macroeconomic policies, have also driven the country's recovery.

6. Solid macroeconomic policies combined with positive international economic conditions have boosted the economy. Reactivation has been most noticeable in the jump in private investment which rose from 8.6 percent of GDP in 2002 to over 15 percent in 2006 and real economic growth that accelerated from 1.9 percent in 2002 to over 6 percent in 2006. Colombia's unemployment rate dropped from over 17 percent in 2002 to close to 11 percent in December 2006 and inflation dropped from 7.0 percent in 2002 to below 4.5 percent in 2006.

7. The security conditions show impressive results in terms of lower indices of violence virtually across the board. Some of the most notable security gains reported for the 2002-06 period include a 40.3% reduction in the homicide rate; a 59.8% decline in households forcefully displaced; an 80% drop in kidnappings and a 62.9% reduction in terrorist attacks to towns and infrastructure. These gains are a result of the democratic security policy which combines economic, military and social development measures.

8. The National Development Plan 2006-2010 -*A Communitary State for All*- builds upon the social, economic, security and institutional gains of the previous four years. Its overall goal is the full recovery of the confidence in Colombia to be achieved through four strategic goals: peace and security of citizens, promotion of equity, high and sustainable growth, and a state at the service of its citizens. The National Development Plan -NDP- seeks to maintain in a sustainable way the economic growth recently achieved through productivity and competitiveness and to complement growth with an expanded notion of development. This expanded notion acknowledges that growth is necessary but not sufficient for development and thus greater emphasis must be given to equity, overcoming poverty, environmental sustainability and increased decentralization.

9. The strategic goal of peace and security of citizens will be achieved through the consolidation of the democratic security policy. The components of the policy are (a) control of the territory and defense of national sovereignty, and (b) displacement, human rights and reconciliation. The first component includes a series of actions and investment to combat illegal crops and organized crime and to guarantee citizens security. The activities of this component include the eradication of coca plantations, the control of money laundering, measures of counter-terrorism, policies to reduce domestic violence and increase public safety through improvement of traffic, urban design and policing.

10. The second component includes activities on displacement, human rights and reconciliation. The objectives are to (i) provide integral attention to the displaced population including humanitarian aid and socioeconomic rehabilitation; (ii) develop the

policy of fight against impunity of the violation of human rights and the violation of humanitarian law; (iii) advance in the area of reconciliation between victims and victimizers applying new strategies of social reintegration of the demobilized population and the integral reparation to victims. A key instrument in the promotion of peace and reconciliation is the implementation of the regional peace and development programs.¹

11. The peace policy also includes the continuation of the application of the 2005 Justice and Peace Law (JPL) as one of the instruments of the democratic security policy. This law offers a framework for the government to promote the demobilization of illegal armed groups and to guarantee the right to truth, justice and reparation for victims whose human rights have been seriously violated. In the application of the law there is a need to balance the social reintegration of demobilized ex combatants with the reparation to victims as complementary components of a comprehensive peace policy. Demobilization received considerable attention between 2003 and 2006; this year victims and reparation have received greater attention from government and public opinion highlighting the fact that the search for truth, justice and reparation is an issue of national interest today as demobilization was before.

3. The Study

Objective and Scope

12. The broad strategic objective of the study is to help the government and the National Commission for Reparation and Reconciliation (NCRR) strengthen the reparation of victims through the Justice and Peace Law and other instruments in ways that are fair, viable and sustainable. The study addresses some of the issues and challenges that the NCRR faces by (1) bringing to public attention some of the most vulnerable groups of victims of the Colombian conflict deserving priority attention, and (2) developing a model of integral reparation to these groups, consistent with international legal standards and proposing options that are implementable over time. The proposed model seeks a balance between fairness, viability and sustainability.

13. This study deals with five civilian population groups invisible to public opinion and grouped by conditions of especial vulnerability produced by the violation of their human rights. The objective of the study is to present a proposal for reparation with options that are fair, viable and sustainable, base on a perspective of rights to reparation and development to benefit such groups of victims. These are households who lost the breadwinner and are now headed by a woman, children orphan of both parents, persons over 65 years old, person with physical disability, and members of indigenous and Afro-Colombian groups. In order to do this the study (i) makes an estimate of the size of those groups in the population, (ii) provides information on characteristics, rights violated,

¹ The World Bank will provide support to the component of displacement, human rights and reconciliation through the continuation of the peace programmatic series of studies, support to the socio-economic stabilization of the internally displaced population, expansion of *Familias en Acción* to 300,000 displaced families, the intensification of activities in the protection of patrimonial assets and the second phase of the peace and development project.

poverty and vulnerability due to the conflict related violence; (iii) describes the kind of public support and services they are currently accessing, and (iv) presents options and costs of reparations using available parameters consistent with the JPL and international legislation and practice.

14. The recommendations of the study seek to support the government's policy on peace and reconciliation with respect to integral reparation of victims through the JPL and other instruments. It will present proposals for the government and the NCCR to carry out the individual reparations within the legal process of the law and to establish the parameters for a national reparation program consistent with administrative practices in transitional justice. In addition, it would help to establish priorities for the reparation of individual and groups of victims, taking into consideration that not all victims are equally affected or have equal needs regarding the components of reparation. The recommendations would also be of use to other interested national and international stakeholders.

Methodology and Sources of Information

15. The target groups of the study are by no means the only especially vulnerable groups affected by the conflict and deserving reparation. Others include all the internally displaced population, the population of rural areas and small towns trapped in the middle of armed confrontations and besieged in their place of residence, and soldiers who fought the illegal armed groups and left the army with physical, moral or emotional injuries.

16. The decision to focus on the five groups was made on practical considerations. The first was that consultations with relevant stakeholders about especially vulnerable groups showed full agreement, without any controversy, that these five groups are silent victims deserving priority attention. Second, focusing on specific groups makes it more realistic to estimate costs for specific aspects of reparations. Third, in the view of the NCCR, it is important to establish priorities with respect to reparation of groups based on need taking into consideration what the State can realistically do and the sequence in the allocation of resources. Fourth, members of the armed forces have special legal and institutional arrangements and thus the study deals only with civilians.

17. The study used a combination of methods for the collections and analysis of information. These included secondary data analysis relying on existing data sets and statistics, special reports, articles and essays on the relevant themes produced by government agencies, the NCCR, non-governmental organizations, UN and bilateral agencies, the media and specialized analysts. In addition, the study collected primary information from interviews with relevant government and non-government stakeholders, leaders of groups of victims, executives and staff from organizations providing specialized services to victims and from case studies. Finally, the study reviewed the jurisprudence of the specialized international judicial bodies on reparations to provide a comparison with Colombian legislation as well as to establish parameters for the model of integral reparation.

18. Estimating the total population size of each of these groups proved particularly challenging. The main reason for this is that traditional data-gathering instruments such

as census surveys, household surveys, and the like do not attempt to collect information on whether a particular status was a result of the armed conflict. The exception is the population with disabilities due to the conflict. The 2005 census includes violence from the armed conflict as one of the options for the cause of disabilities. However, beyond the overall size of this population, information on its characteristics is still not available. The procedure used to gather the information for each of the target groups is outlined in chapter II.

19. The next section of this chapter presents the conceptual framework and key definitions used by the study underlying the discussion of reparation options for the groups of victims. Chapter two presents the assessment of each of the groups in terms of size, characteristics, poverty and vulnerability compared with members of other groups of similar poverty and vulnerability conditions but less affected by the armed conflict, the description of the access to State services and any special conditions of each of these groups of victims. Chapter three presents the proposal for fair, viable and sustainable reparation to these groups in the framework of their rights to integral reparation and to development. Finally, chapter four presents the conclusions and policy options of the study.

4. A Conceptual Framework for Reparation in Colombia

20. The study uses several concepts to guide the discussion and analysis of reparations in Colombia. These concepts are the notion of victim, beneficiary, integral reparation, rights-based approach and transitional justice. In addition, the framework discusses legal, economic and political issues raised by a reparation program and introduces the concepts of fair, viable and sustainable reparation as a way to address these issues in a judicial or administrative program.²

The Definition of Victims and Beneficiaries

21. One principle of international law defines victims as “people who, individually or collectively, have suffered damage including physical or mental injury, emotional suffering, economic loss, or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws ... including criminal abuse of power.”³ The victim is the affected party; that is, the person who directly suffers the consequences of the violent acts and, consequently, is entitled to reparations. The JPL takes into consideration this definition of victims. However, it states that harm or damage must be a consequence of actions by illegal armed groups in violation of criminal law (Article 5), which limits access to victims of other actors. The JPL recognizes as victims the person that was killed, disappeared or incapacitated, the internally displaced

² The conceptual framework is based on the background report prepared for the study on reparations in Colombia by Verónica Hinestroza and Tatiana Olarte.

³ United Nations, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Article A, 2005.

population as well as the spouse, the permanent partner, dependants and first-degree blood relatives of a direct victim who has been killed or has disappeared.

22. The beneficiaries are those who receive the benefits of reparation. These benefits may be derived from the victimization of another person. One example is compensation received by the immediate family for the death of the husband or father. Another is compensation for direct loss or damage suffered by the person, as in the case of an individual who suffers direct physical, economic or psychological damage stemming from harm inflicted by a perpetrator. However, there are factors that condition the definition of the benefit and the beneficiary, such as the span of time when reparations start or end, the agents who perpetrated the violation, and the kind of harm recognized by the law. For example, the NRRC established the year 1964 as the start of armed conflict and therefore the year of eligibility for reparations; and the JPL limits the benefits to those directly affected by illegal armed groups.

23. Eligibility for and applicability of benefits has been a subject of jurisprudence. In effect, inter-American jurisprudence says that, in certain cases, the dependants and other relatives of the affected party can be beneficiaries because they are considered indirect victims. Indeed, it is argued that the human rights of the victim's relatives or dependants can be violated as a result of the original violation. The right to personal integrity is one example, specifically when they have suffered intense pain due to the actions perpetrated against a loved one. Another is their right to access judicial resources when they have been denied effective and impartial justice involving a serious investigation of such violations and those responsible.⁴

The notion of integral reparation

24. The notion of integral reparation has emerged as a result of international application of legislation derived from case law. This notion implies a combination of material, non-material and symbolic measures. They include *compensation* for the economic loss deriving from physical, mental or moral damage; *restitution* measures to re-establish the victim's condition prior to the violation of his/her rights; *rehabilitation*, which includes measures such as medical and psychological care as well as legal aid and access to social services; *moral satisfaction* consisting of symbolic non-pecuniary measures aimed at compensating for the moral damage inflicted; and a *guarantee of non-repetition* intended to eliminate the capacity for a repeat of those violations, to fight impunity and to ensure the victims' personal safety. The JPL adopted this international notion of integral reparation to be applied to victims of violence in Colombia (Art. 8).

25. Annex 1 summarizes the relationship between inflicted damage or loss and expected reparation. Inflicted damage is material damage and includes emergent costs caused by an external factor and loss of profit. Non-material or moral damage, on the other hand, includes non-pecuniary alterations of life that are caused by a violation of rights, but can be assigned an estimated pecuniary value. Therefore, integral reparation

⁴ See ICHR. Aloeboetoe Case and Other Cases. Reparations. September 10, 1993 Decision. Paragraph 68.

involves compensatory damages and measures aimed at restitution, rehabilitation, satisfaction, and guarantee of non-repetition.

Rights based vs. needs-based approaches to reparation

26. The study addresses the issue of integral reparation using a perspective of rights rather than of needs or humanitarian assistance. In other words, it suggests that actions for integral reparation should be conducive to re-establishing the victims' right or rights violated as a result of violence generated by the armed conflict. This rights approach to reparation can be seen in the broader context of the rights to development as conceived in the declaration adopted by the United Nations General Assembly. The Declaration states that "development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized."⁵

27. Said approach expresses the duty of every society to enforce the inalienable rights of all individuals, without being limited to meeting their basic needs. Therefore, it seeks to empower all individuals to demand the full enjoyment of their rights, going beyond mere humanitarian assistance. It also supports the moral basis of communities to request international assistance if required⁶. The relevance of this approach led to the commitment of the United Nations System in 1997 to adopt it for the design and implementation of its policies⁷, and nowadays is the foundation for a great majority of human rights and development programs.

28. The new 2006 - 2010 National Development Plan includes elements of a rights perspective in its democratic security policy chapter, and more specifically in the section on displacement, human rights and reconciliation.⁸. This contrasts with the fact that Colombian administrations in the past never adopted a rights-based approach to development as a core element in the design of their government policies. It is to be expected that the design, planning, implementation and monitoring of projects inspired by a rights-based perspective derived from that section of the plan would be adopted progressively in other areas of the National Development Plan.

29. A rights-based approach differs from a needs-based approach. The reason is that the rights approach promotes the idea of a transition from the individual as a recipient of decisions made by others to one who is an actor in development and an active citizen in the construction and implementation of his/her life plan. It assumes a change from an assistance-based approach to development to one where the population is empowered, so

⁵ UN Declaration on the Right to Development, 1997 (Declaration Number ..) and UN-World Bank, 2002 Guidelines for a Human Rights Approach in Strategies for the Reduction of Poverty.

⁶ Ljungman, Cecilia, 2004. Applying a Rights Based Approach to Development: Concepts and Principles; Conference Paper: The Winners and Losers from Rights-based Approaches to Development .COWI

⁷ International Human Rights Network, 2006. *Human Rights Based Approaches*, in: <http://www.ihrnetwork.org/hr-based-approaches.htm> (queried on November 2, 2006).

⁸ For further information see Chapter 2 "Plan Nacional de Desarrollo "Hacia un Estado Comunitario" 2006 – 2010 in: http://www.dnp.gov.co/paginas_detalle.aspx?idp=890 .

the results of increasingly autonomous social investment projects and programs are multiplied.

30. Table 1 shows the differences between a needs-based approach and a rights-based approach. A rights-based approach follows principles of fairness, transparency, participation, accountability and non-discrimination, as defined in the international legislation on human rights.⁹ Although there is no one-for-all formula for the adoption of a rights-based approach applicable to all cases, it does promote the principles of universality, inalienability, indivisibility and interdependence of civil, cultural, economic, political and social rights.

31. A rights-based approach demands a legal and moral responsibility on the part of the State to respect, protect and guarantee the rights of citizens. Moreover, this responsibility should be evident in the design of mechanisms for accountability and reparation in the event of abuses. However, it also points out the moral obligation of other actors, both as individuals and organizations, to respect and promote the Universal Declaration of Human Rights.

Table 1. Comparison between the rights-based approach and the needs-based approach

Area	Needs-based approach	Rights-based approach
Purpose	Providing only basic, short-term or emergency assistance to lacking populations.	Individuals and communities working together to enforce their rights in the short term and define long-term objectives.
Focus	Responds primarily to immediate causes of problems.	Focuses also on structural causes of problems.
Motivation	Offers charitable and assistance based answers.	Considers charity an insufficient mechanism, even to satisfy immediate needs.
Responsibility	Considers a moral duty to help the neediest.	Legal and moral obligation to guarantee all individuals the complete enjoyment of their rights.
Perception of the poorest	Considers beneficiaries as defenseless subjects of humanitarian aid.	Considers individuals as active subjects of rights
Empowerment	Not needed for the objective of satisfying needs.	Exercising rights can only be satisfied by empowering the individual.
Participation	An option.	A right.
Discrimination	Faced with insufficient resources, some may be excluded from aid plan.	All individuals are entitled to enjoy their rights.

⁹ Rights and Humanity, 2006. Rights Based Approaches, in: <http://www.rightsandhumanity.org/randhd/?ID=32> .

The Challenge of Defining Adequate Reparation for Victims

32. The rights-based approach to reparations seeks to empower victims to overcome their current levels of vulnerability and to construct a longer term plan for their lives. The goal is that the victims be repaired of the injustices derived from the violations of their rights, that they progressively reduce their vulnerability and move in the direction of the fulfillment of certain rights that will provide them with a minimum of conditions for material security, that is, a basic level of wellbeing. This level of wellbeing that goes beyond humanitarian assistance or mitigation of poverty and vulnerability implies the definition of criteria and indicators for the reparation program.¹⁰

33. The definition of criteria and indicators is a real challenge given the lack of tradition and experience in this area in international and internal practices. At the present, the Constitutional Court and the Colombian government, with the assistance of international cooperation agencies, are working towards the establishment of such criteria and indicators. The objective of the project is the development of a system of sectoral indicators to estimate the level of social and economic stabilization of the internally displaced population. Nevertheless, the definition of universal standards aside from difficult it is not easily applicable in judicial terms. This is due to the fact that in judicial reparation the judges decide on a case by case basis the reparation measures based on the merit of the case. Notwithstanding this limitation, establishing target levels of basic wellbeing that operationalize basic rights is useful as a reference.

34. The study presents in Chapter 3 reparation options for each of the target groups that would create conditions for them to overcome their vulnerability. The proposed reparation measures aim not only to recover the living conditions before the violence occurred but to move beyond. That is, the program for the individual, group or household would be accompanied by other collective interventions aimed at providing an opportunity to move out of poverty in specific areas. It is worth clarifying that the proposal to use the reparation of victims as an opportunity to overcome vulnerability is a proposal of the study and does not derive from traditional reparations programs. The expectation from the perspective of reparations practice is to guarantee the reestablishment of the victim to the level previous to the violation of rights.

35. In the light of overcoming vulnerability some of the individual or household measures of integral reparation defined and quantified in Annex 6 intend to achieve satisfactory conditions for the victims in key areas for a basic wellbeing. These areas are, among others, adequate housing for the family, food security for children and adults, affiliation of all members of the household to the general system of social security in health, the achievement of basic education -9 years- for all children, functional literacy of adults with little formal education and acquired job skills, reliable employment for the

¹⁰ This is the intention of the ruling of the Constitutional Court regarding “especial measures in favor of the displaced that would facilitate for them to become less vulnerable....and orient themselves to effective enjoyment of certain rights of minimum wellbeing that constitute the basis for their autonomy and self-sustenance....” (Constitutional Court T- 602-2003). This project is one of several activities the government has undertaken to comply with Sentence T-25 of the Constitutional Court mandating the government to fulfill its legal obligations with the internally displaced population according to Law 387 of 1977. The government presents periodic reports to the Court about its performance regarding his mandate which has a cost 2.5 billion dollars.

individual or head of the household or working capital for economic stabilization through self-employment providing an income above the indigence level, and the recovery of personal security, and dignity for the victims through a formal recognition of victimization.¹¹

36. This level of wellbeing is also an aspiration in an administrative reparation program as it is recommended in the study. In this case the reparation program would be massive for a universe of victims that would probably be larger than the universe defined in the JPL for judicial reparation. The administrative reparation program would emphasize a collective objective rather than just an individual one with spill over benefits for non victims that are vulnerable but not beneficiaries of a reparation program. This approach, aside from helping to move people out of vulnerability and poverty, would also contribute to social reconstruction, increased trust in State institutions and national reconciliation.

Transitional Justice and Reparation

37. The notion of transitional justice “includes a range of processes and mechanisms associated with the attempts of a society to settle accounts with a past history of large scale abuses, assuring acceptance of responsibilities, justice served and reaching reconciliation.”¹² Therefore, transitional justice implies moving from a socio-political situation, usually marked by serious violations of human rights and/or humanitarian international law, in a context of armed conflict or a dictatorial régime, to a state of affairs where respect for international law, human rights and democracy is predominant.

38. This notion does not assume, by any means, the existence of a unique model that can be used by countries for transformation processes such as those described. Nevertheless, both theory and practice of the law show a number of elements that are common to all processes. Some of these elements include: national, hybrid or international investigations concerning violations of human rights, initiatives to search for the truth, reparations, institutional reforms with severe sanctions for any officials involved in violations of human rights or corrupt practices, promotion of reconciliation and social reconstruction, building an infrastructure aimed at preserving the memory of events, and identifying gender patterns among the victims.¹³ The lessons from international experience and practice in transitional justice and reparation are quite useful to the current Colombian process, even though the conflict has not ceased.

39. In transitional justice, reparations processes are included in administrative programs that are the responsibility of the State. Their success, as indicated by some experts, resides partly with their consolidation as public policies, the legitimacy afforded

¹¹ The government strategy in the National Development Plan 2006-2010 to overcome vulnerability is the *Juntos* strategy. The strategy guidelines outlined in CONPES Document # 102, 2006 define a set of basic conditions to be achieved by 1.5 million households by the year 2010 and provides an operational definition of the levels. The established conditions offer a basis to establish a benchmark against which to compare the results.

¹² Annan, Kofi. 2004. "The Rule of Law and Transitional Justice in Conflict and Post-conflict Societies," report by the Secretary General to the Security Council, New York, United Nations.

¹³ International Center for Transitional Justice, 2006. *Transitional Justice* in: www.ictj.org.

to them by society, and citizen support and participation in their design.¹⁴ These programs are supposed to be more efficient, less expensive, broader in their definition of victims and beneficiaries, and much more flexible in terms of the evidence standards requested for victims' access to such programs than those resulting from reparations within the framework of a judicial process, as outlined in the JPL.

40. According to de Greiff, although reparation for massive cases pursues a collective rather than an individual objective it assumes the importance of acknowledging the individual as the cause and effect of justice. This acknowledgement begins by viewing the human being in every victim and ends by making that individual a citizen and subject of rights. One of the objectives of such processes is "to re-establish the trust bond between citizens and those institutions that were once previously either totally indifferent or indeed abusive of those citizens."¹⁵

41. Finally, although in a transitional justice scheme the reparation concept does not discard the elements that define it as an integral measure under international law, its application is restricted to monetary and symbolic, individual or collective measures.

Legal, Economic and Political Lenses on Reparation

42. The notion of integral reparation and its application following a rights-based approach raises issues regarding legal, economic and political dimensions. The legal dimension derives from judicial connotations provided by international and domestic legislation regarding grave violations of human rights, crimes against humanity, justice, civil rights and the dignity of the human person. These legal implications of human rights violations are relatively independent of economic considerations. The economic dimension, however, has to do with considerations of monetary and non-monetary costs and benefit of reparation vis-à-vis alternative policies on expenditures of public funds in a context of limited resources and fiscal concerns. And the political dimension implies dealing with public support for allocation of resources among different interest groups, including in this case the allocation of resources to conflict-affected victims when there is a considerable numbers of disadvantaged people who are not victims.

43. Consequently, the implementation of integral reparation to victims is likely to be influenced by the tension between legal rights and economic and political considerations. This tension is experienced by a variety of stakeholders responsible to deal with the impact on people of the conflict by illegal armed groups against the state and society. The concerns of stakeholders responsible for the legal rights dimension of reparations may not coincide with the concerns of those responsible for the economy. In effect, the responsibility of judges and human rights professionals is to ensure that the nation fulfills its obligations regarding human rights and international humanitarian law. Policy and decision-makers, on the other hand, worry primarily about the economic and political

¹⁴ "As reparation programs may become part of the political agenda that enjoys a broad and solid support, they may even have a positive impact, not only on the "vertical trust", that is to say, trust between citizens and institutions, but also on "horizontal trust", in other words, trust between citizens." (De Greiff, 2006, p.16).

¹⁵ De Greiff, 2005^a, p. 11.

impact of reparations rather than about the legal rationale, despite a likely agreement about the priority of reparation to victims.

44. The tension between legal, economic and political considerations is further illustrated by the issue of financial responsibility of reparations under the JPL identified in the next section of this chapter. The JPL attributes financial responsibility for reparations to members of the illegal armed groups. By doing this, the law excludes the State from legal, political and economic responsibility for the violation of the rights of the victims. However, international legal authorities and experts argue that, even if the State is not directly responsible for the violations, it must assume political and economic responsibility due to its inability to have guaranteed the respect to the human rights of these citizens.

45. The study proposes a way to deal with these tensions finding options in a framework of fairness, viability and sustainability. This framework helps to address the legal, economic and political issues raised by integral reparations in a way that they become manageable within current conditions in Colombia. The notion of fairness addresses legal and equity issues; viability addresses the economic and political issues and sustainability introduces the notion of a development-driven view of reparation, a lens that looks at it from a development investment perspective. Furthermore, the study argues in Chapter 3 that the proposed approach to integral reparations not only does not affect the economy but that it might have a positive impact if properly designed and delivered. The proposed reparation options and the criteria for delivery would provide arguments for policy-makers to find reasonable trade-offs that will lead them to take these options into consideration. This might be the case in view of the fact that the current institutional supply of services and subsidies for victims, including the integral attention to internally displaced populations, include a core of reparation measures.

46. Finally, identifying a counterfactual for reparation programs is difficult but the study offers some insights. On the one hand, the perspective of the rights-based approach proposed in the study suggests that victims of conflict should be restituted to previous levels of wellbeing and helped to go beyond to a basic level of material wellbeing. On the other hand, is it fair to target the support to victims over and above the poor population in Colombia? Although the answers to this question lie on international human rights and decisions of policy makers as stated before, some economic and statistical analysis may provide valuable information to enrich this discussion.

47. For example, Ibáñez and Moya (2006) compare the conditions of the displaced population in destination sites to the Colombian urban poor population. The results clearly indicate that displaced households fare worst than urban poor and urban extreme poor in most indicators. In contrast to urban extreme poor, displaced households have lower school enrollment, less coverage of public utilities, and higher unemployment rates. On the other hand, health indicators are better for displaced households than for poor and extreme poor in urban areas. Chapters 2 and 3 of the study offer additional information to document the counterfactual by comparing the conditions of various groups and detailing program costs of subsidies and services of current institutional supply for victims and non victims.

The Notions of Fair, Viable and Sustainable Reparation

48. An integral reparation scheme, in either a judicial or administrative program, should consider fair, viable and sustainable options. Fair means that options are consistent with the human rights law and thus are non-discriminatory and applied to the universe of victims. Viable means that the reparation is achievable from an economic, political and operational standpoint, and sustainable means that the reparation options are satisfactory to the population of victims and non-victims; enable them to overcome vulnerability and lead them to a life project of dignity, citizenship and basic well-being as illustrated in the previous section. These concepts are spelled out in Chapter 3 and used in the discussion of the proposed reparation options to qualify the focus on rights-based reparation in light of economic, political and developmental realities.

49. The Graphic below illustrates an ideal situation of a society that has achieved a high level of guarantees of rights for the majority of its citizens. That ideal situation is achieved as a result of applying a rights based approach to reparation qualified by fairness, viability and sustainability. The arrow on the left embodies the key principles of a rights-based approach as it has been conceptualized in the literature on the subject. These principles are participation, accountability, transparency, equity and non-discrimination leading to positive institutional and individual achievements. The circle at the bottom starts with the victim who, in an ideal situation due to a policy of reparation based on rights, makes use of such rights to demand adequate reparation.

Graphic 1. Reparation as a Development Instrument¹⁶



50. The arrow from the victim’s circle moves in the direction of the circle of citizens. This stage of the process makes evident its viability to the extent that each member of

¹⁶ This scheme is based on the figure presented by Ljungman to represent the dynamics of the rights based approach (Ljungman 2004, p. 8), adapted for the study by the authors of the background document on reparations.

society assumes his/her responsibility with the process and with the victim. The participation of society in the whole process of reparation makes possible the delivery of integral and sustainable reparation to victims. The next circle shows society as a whole incorporating legal and institutional mechanisms to guarantee the respect for rights and the fulfillments of its international and internal obligations to empower the victim to claim its rights.

51. The circle on the right shows an end stage of society of restitution and consolidation of rights where the victim has made the transition to full citizenship. The successful implementation of the entire process results, as shown in the arrows on the right in individual and institutional gains. In institutional terms, the State gains respect and legitimacy in the eyes of its citizens. Citizens become active and empowered actors, as they are able to overcome their vulnerability, enjoy guaranteed rights and work towards accomplishing the goals of their own life plan.

5. The Current Legal and Institutional Framework for Reparations in Colombia

Reparation Under the Justice and Peace Law (JPL)

52. The 2005 Justice and Peace Law is one of the instruments of the democratic security policy of the government. It offers a framework for the government to promote the demobilization of illegal armed groups in the interest of peace and individual or collective return to civilian life for the members of guerrilla or paramilitary organizations. It also represents an attempt to guarantee the victim's right to truth, justice and reparations¹⁷ and a potential path to peace and reconciliation. The law defines minimum requirements for truth, justice, and reparations as a prior condition for the armed groups to receive the benefits of the law. In other words, it is an attempt to cover all the conditions needed to facilitate a peace process, taking into account former combatants as well as the civilian victims of the conflict.

53. The Justice and Peace Law (JPL) deals only with those responsible for grave crimes which, according to international law, are imprescriptible and without amnesty.¹⁸ Article 1 of the law determines that the peace processes and the collective and individual incorporation into civilian life of those demobilized must guarantee the rights of the victims to truth, justice and reparation. Although some critics argue that the law does not conform to international parameters regarding human rights and reparation, it must be recognized that the letter of the law determines that its interpretation and application must

¹⁷ The contents of the law are consistent with current constitutional and legal provisions in Colombia. These include, for example, Law 782/02 on talks with armed groups, their demobilization and collective reinstatement as members of society, Decree 128/03, which establishes rules on individual demobilization.

¹⁸ Convención sobre la Imprescriptibilidad de los Crímenes de Guerra y de los Crímenes de Lesa Humanidad Adoptada y Abierta a la firma, ratificación y adhesión por la Asamblea General en su Resolución 2391 (XXIII), de 26 de noviembre de 1968.

conform to constitutional norms, the international treaties signed by Colombia and other existing international obligations on the subject.¹⁹

54. Within the scope of the JPL, reparation in Colombia involves essentially two schemes: one is judicial and the other is administrative. However, the judicial scheme is the more predominant, as it focuses on determining a system of penal benefits for demobilized combatants who decide to confess their crimes and integral reparation to victims. The law states that the perpetrators will contribute the resources, from their own illicit or licit assets, to compensate the victims for the human-rights violations they have suffered. The administrative scheme fits into the process through the implementation of collective reparation programs for communities uniquely affected by armed conflict violence, to be financed by the State as pointed out in the law.

55. The study analyzes both reparations schemes under the JPL, pursuant to the definitions and principles found in international legislation on human rights, victims, reparation and options, as applicable to the target groups of the study. In particular, it considers the Inter-American System of Human Rights (ISHR), which is responsible for the protection of human rights. Its foundations and legal evolution are based on the Organization of American States Charter, the 1948 Declaration of Human and Citizens Rights, the Inter-American Court of Human Rights (ICHR), which is a jurisdictional body, and, above all, the 1969 American Convention of Human Rights (The Convention), which is mandatory for the States that have ratified it.²⁰

Scope and Limitations of Reparation Under the Justice and Peace Law

56. The JPL offers a legal and institutional framework for the State to guarantee the right victims to truth, justice and reparation. The available legal instruments, including the law itself, its regulatory decree, and the Constitutional Court ruling, offer a framework that is consistent with the legal and constitutional provisions effective in Colombia and with the international instruments Colombia has ratified concerning human rights and international humanitarian law.

57. Nonetheless, amid moderate optimism with regard to the successful application of the JPL, a variety of legal, financial, political and institutional issues that have sparked discussion and controversy are being debated in political spheres, specialized forums and the media. The main issues are summarized as follows:

58. (i) The JPL is framed within a transitional scheme of justice. However, as mentioned earlier, Colombia currently does not exhibit the characteristics of that scheme, since the armed conflict has not ceased. Therefore, the elements that are crucial to the success of a transitional scheme, such as agreement among all parties involved, guaranteed security for victims or definition of the universe of victims and the total cost of the reparation program, represent serious risks for the implementation of the law.

¹⁹ Art. 2 de la Ley de Justicia y Paz: “La interpretación y aplicación de las disposiciones previstas en esta ley deberán realizarse de conformidad con las normas constitucionales y los tratados internacionales ratificados por Colombia. La incorporación de algunas disposiciones internacionales en la presente ley no debe entenderse como la negación de otras normas internacionales que regulan esta misma materia.”

²⁰ Colombia ratified the Convention in July 1973 and accepted its jurisdiction in June 1985. So far to date, 21 American nations have ratified the Convention, which took effect in 1978.

59. (ii) There are concerns among different stakeholders as to how reparation will be funded. This is because the sources of funding defined by law are mainly the assets surrendered by demobilized leaders and it is not known how much they will contribute. Nor it is known if that amount is sufficient to cover all eligible victims. Furthermore, the reparation fund for victims has no resources at the moment.

60. (iii) Along the same line, there also is disagreement over the State's responsibility. Experts, analysts and authorities have different opinions on whether the State is responsible for complying with the standards and parameters set by the international community for reparation, and if it must assume the cost of reparations, regardless of the amount of assets surrendered by demobilized persons. The government maintains that the State has no responsibility under the JPL. Some experts in international law disagree.

61. (iv) Some analysts and government officials see limitations in the capacity of the judicial system. They see limitations to respond comprehensively to all victims who are beneficiaries of the process, and to receive the version given freely by each demobilized person who invokes the law. On one hand, the Attorney General's office has been swamped with requests from victims. A special unit of 35 attorneys has been set up, but it needs more staff and resources. Some 48,000 people have registered already as paramilitary victims, and as many as 400 *Autodefensas Unidas de Colombia* (AUC) leaders might be included in the legal process. So far, several months after initiation of the process, only a handful of perpetrators have freely given their version of events.

62. (v) Many victims fear the risk involved in facing their victimizers, fear that has been exacerbated by the recent murder of three leaders of victims' associations. Consequently, there are more eligible victims who will fail to appear for the judicial process. Also, there is dissatisfaction among victims and their advocates over the restricted access to justice and peace hearings and the fact that it is impossible for many of them to participate in those hearings, because they lack the means to do it, even though the State is obliged by law to guarantee victims' participation in the process.

63. (vi) Finally, there is concern over the technical capacity of judges and other agents in the process to address integral reparations. This is a specialized topic for which they may not be sufficiently prepared. This limitation concerns the implications of knowing and managing the diverse components of integral reparation and the need for a specialized approach to handling individuals with particular vulnerabilities, such women, children, ethnic groups and people with disabilities.

64. This chapter presented the rationale of the study, the country context and government development priorities as well as its objective, target groups, methodology and conceptual framework for reparations. The framework takes a perspective of rights to reparation and development taking advantage of concepts used in the international and internal legislation and practice regarding reparation to victims of grave violations of their rights. In addition, the framework presents various lenses to analyze the issue of reparations and proposes the notions of fairness, viability and sustainability as conditions for a proposal to reparations to be realistic under current conditions in the country. These notions are carried forward in the next chapters of the report. The chapter ends with an assessment of the current legal and institutional framework of reparations in Colombia.

CHAPTER II

ASSESSMENT OF THE SITUATION OF EACH OF THE VULNERABLE GROUPS

65. This chapter begins with an introduction regarding special vulnerability under international and domestic legislation and the identification of the target groups and sources of information for the study. The next two sections provide an overall assessment of the situation of the target groups at present and a detailed account of each, based on four categories. These categories are (i) an estimate of the size of the groups within the population, the description of how it was estimated and the sources of information; (ii) the characteristics of their members, the harm and damage caused to them following the definition of victims, benefits and integral reparation presented in Chapter 1, and the extent of their poverty and vulnerability compared to that of other groups who are in a similar condition but not affected directly by the armed conflict; (iii) the kind of public support and services currently being provided to them; and (iv) any special considerations regarding the proposal for integral reparation.

1. Introduction

66. The Inter-American Court of Human Rights has acknowledged the special vulnerability of certain human groups. Among these groups are children of both sexes, given their intrinsic vulnerability; children and adolescents at high risk due to extreme poverty; women heads of household due to forced displacement; indigenous peoples ousted from their ancestral lands; and the elderly whose vulnerability is accentuated by forced displacement. The JPL and the NRRC, in turn, recognize the vulnerability and special needs of women, children, those with disabilities and the elderly who participate in the judicial process.²¹

67. The concept of special vulnerability responds to several factors, among them age with respect to children and the elderly, gender inequality, disability, poverty and the way it attacks on human dignity. To be in a situation of especial vulnerability increases the risk of being a target of violence, as will be documented in this chapter. In turn, violence and serious human-rights violations in particular can make the vulnerability more acute..

68. These considerations on special vulnerability motivated the study team to bring into the public's attention some of the most vulnerable groups of Colombians who are victims of the conflict and deserve priority attention. The decision to focus on the five groups was based on practical considerations. The first is that consultations with relevant stakeholders about especially vulnerable groups showed full agreement that the majority

²¹ CNRR, *Recomendaciones de criterios de reparación a las autoridades judiciales*, Borrador, January 2007, Bogotá, p. 24.

of these five groups are silent victims deserving priority attention. Second, focusing on specific groups makes it more realistic to estimate costs for specific aspects of reparations. Third, in the view of the NRRC, it is important to establish priorities with respect to reparation for groups based on level of vulnerability and urgency, taking into consideration (i) that not all the victims are affected equally or have equal needs or urgency regarding the recovery of rights through the various reparation components, and (ii) what the state can realistically do in the short to medium term.

69. The intention of the study was to estimate the size of each of these groups in the population. However, there is no available information to allow making this estimate. Thus there are victims of the armed conflict who belong to the target groups that are not incorporated in the study. In the absence of information about the entire subpopulation groups, the study focuses on segments of these groups for which information is available. Three of the five groups analyzed belong to the internally displaced population, that is, households who lost the breadwinner and became displaced, displaced households from ethnic groups and displaced adults over 65 years old. The other two groups, orphan children and people with disabilities by and large remain in their place of origin.

70. The members of a target group may overlap with the members of another group. For example, the total number households that lost the breadwinner may include households from ethnic groups, some individuals with disabilities or older adults over 65. Despite the overlaps the study focuses on each group without considering the overlap for the analysis in order to facilitate the cost estimates of reparations. The main focus of the analysis is the unit of each of these groups (a household, a group or an individual) when making the estimates of reparations costs for each of the items of integral reparation to which they are entitled.

71. Furthermore, the assessment of the conditions facing each of the target groups with respect to violence and vulnerability is based on information of different quality. The assessment of households who lost the breadwinner and those from ethnic groups was done using survey information from a larger representative study carried out by Andes University and the National Secretariat of the Social Pastorate. The results are based on statistical and econometric analyses. The assessment of the other three groups is done using existing information from secondary sources including registries, descriptive statistics compiled from raw data provided by government sources, and qualitative information from case studies. The quality of information available makes extremely difficult to do a better analysis in these cases.

2. Overall Assessment of the Especially Vulnerable Groups

72. The main conclusion of the study regarding the situation of each of target group is that, in general, they were poor and highly vulnerable before they were victimized and their victimization made these conditions even worse. In effect, households who lost the breadwinner and are now headed by a woman as a result of forced displacement are in worse social, economic and emotional condition than displaced households headed by a woman before forced displacement and those headed by a male. Orphaned children who have lost both parents are worse off than the other victims, given their absolute lack of

family protection and almost total frustration of their life projects. Older adults over 65 years-old experience great economic deprivation, health and mental problems, and a feeling of abandonment. People who have physical disabilities due to the armed conflict are at a disadvantage with respect to other individuals with similar disabilities, due to the loss of an existing capacity, the loss of productive ability, their emotional pain and the need for special rehabilitation for recovery. Finally, ethnic households subject to forced displacement experience greater risk of violence, greater loss of capital assets and greater difficulty in adapting at the reception site than other displaced families due to their culture and traditions. The following sections of the chapter describe the current situation of each of the target groups.

Conflict, displacement and vulnerability

73. The escalation of the conflict since the nineties has been accompanied by an increase in forced displacement affecting three of the five groups of the study. Currently, the magnitude of displacement according to the Social Action Network (*Acción Social*) amounts to 1,976,970 persons.²² This is about 4.7 percent of the Colombian population and slightly less than 14 percent of the total rural population. Furthermore, displacement is occurring throughout most of the country, and according to data provided by *Red de Acción Social*, over 90 percent of the municipalities have either expelled or received displaced people.

74. Expulsion of the civilian population is a military strategy used by armed actors to consolidate and expand their territorial control, to weaken their enemies and to seize valuable assets (Reyes and Bejarano, 1998). Therefore, besides launching indiscriminate raids against the population, illegal armed actors focus them on population groups with certain characteristics: mainly those of rural origin, with high land tenure, strong leadership in their original municipality, and homes with younger family heads (Ibáñez and Querubín, 2004; Ibáñez et. al., 2006). Ethnic groups are particularly affected by conflict and displacement. Afro-Colombians of the Pacific Coast and some indigenous peoples appear to be selective victims of illegal armed groups and thus their rights as a collective subject are violated²³.

3. Families who Lost the Breadwinner Due to the Armed Conflict

75. The study focuses primarily on vulnerable families who lost their breadwinner due to assassination or disappearance within the internally displaced population. Approximately nine percent of the 2.5 million internally displaced people estimated by the study (nearly 554,207 households) belong to this group, which is defined therein as households usually headed by a woman due to forced displacement. This definition highlights the fact that over 95 percent of the direct victims of the armed conflict are men. Most are between 20 and 39 years old. The number of households headed by a woman due to forced displacement is 39,747 (about 182,836 people) or two percent of Colombia's rural population.

²² www.red.gov.co Red de Acción Social. As of February 3, 2007

²³ Definition of collective subject in the international legislation of human rights.

76. The situation of these families was analyzed for this study using a data subset from a larger study to estimate loss of well being among the internally displaced population in Colombia and to propose a social policy to serve them.²⁴ The National Survey of Displaced Households is the basis for the statistical and econometric analyses. This study applied a quantitative survey to a representative sample of 2,322 displaced households in 48 municipalities of 21 departments of the country. The survey was carried out by the Human Mobility Section of the Colombian Bishops conference.

77. The rural origin of the displaced population and their victimization makes this a highly vulnerable group. The extreme loss of assets due to displacement itself, the breakup of families, the limited amount of schooling found among household members, slow insertion into labor markets, and high rates of economic dependence make the displaced population extremely vulnerable. Consequently, because the conditions provided by recipient municipalities are quite poor, the dynamics of economic recovery are extremely slow and previous levels cannot be regained without a public policy especially designed for the displaced population.

78. One subgroup within the internally displaced population is comprised of persons who were displaced by the assassination or forced disappearance of the head of the family. The harm inflicted by the perpetrators of violence against the 39,747 households who suffered this violation can be summarized as follows. The head of the household, usually a man, was killed by an illegal armed actor or disappeared as a result of the conflict; the family lost its economic provider, was forced to displace, and lost physical assets (land, housing and equipment) and social capital. The mother of the family and the children suffered psychological trauma, and the children's human capital has deteriorated. Finally, due to the loss of the father and husband, a woman had to take over as head of the family.

79. This new role for the woman in the family highlights the special impact of armed conflict on women. Their physical condition, their reproductive role, and the historic inequalities and informal arrangements that prevail in many countries with regard to marital relationships and access to land can exacerbate the consequences of armed conflict for women. Undoubtedly, the strongest impact occurs when a woman becomes the head of household due to her partner's death or disappearance (Schindler and Brück, 2007).

80. When the breadwinner is lost, the household's vulnerability increases, since connections to the labor markets and access to financial markets for these women become restricted. The destruction of social capital reduces the availability of essential social networks from which to request support, and rates of dependence increase. Moreover, when forced migration also takes place, the impact is usually more severe for rural women who are obliged to participate in the urban labor market after having been associated only with rural domestic life. In addition, the household loses its social networks, since in many cases contact with society was through the household head

²⁴ Ibañez Ana María, A. Moya and A. Velásquez (2006), *Hacia una política para la población desplazada en Colombia*. Final report submitted to USAID. **This section of the study is based on the background report prepared by Ana Maria Ibañez and Andr ea Velasquez on h ouseholds who los t the breadwinner and on ethnic groups, using the survey data.**

(Meertens, 1999). Therefore, the loss of a spouse, forced displacement, and a new situation in life result in sharp social separation from their roots for rural women who depended heavily on their male partners and relied on them for support. In many cases, the meager economic conditions these women confront force them to rely on child labor to supplement their reduced income²⁵ (NIIR, 2002; El Jack, 2003; Ibáñez et al, 2006). Although child labor can mitigate the initial shock of conflict, the reduced investment in human capital can imply a greater risk of being trapped by poverty.

The Characteristics and Vulnerability of these Households

81. The study compares the characteristics and vulnerability of this group of households with those of other groups. In effect, to understand the economic impact of displacement on households that lost their main provider and were forced to displace, the study compares the different dimensions of economic well-being, based on descriptive statistics and econometric regressions for three groups of displaced persons: (i) households headed by a male; (ii) households headed by a female prior to displacement; and (iii) households headed by female as a result of violence and displacement.

82. The descriptive comparisons of these three groups are based on the following dimensions: characteristics of displacement (violent actor, type of violation, reason for violence, reception site), structure of the household, ownership of assets, loss of wellbeing (job, education, health, aggregate consumption, public services, social capital), access to public aid and desire to return. Annex 2 contains tables with the statistics for each of these dimensions.

83. The findings of the statistical analysis show that, although all the households are affected by displacement, some characteristics may increase their vulnerability in the recipient municipality. This is particularly true in the case of households headed by a woman, due to the loss of her husband or partner. The difficulty in earning an income makes these households more vulnerable in the recipient municipality and they may suffer a greater loss of wellbeing. The breakup of households, a consequence of forced displacement, aggravates vulnerability in the recipient municipality. The breakup occurs for two reasons: on the one hand, some households decide that a few of their members should remain in the municipality of origin to continue working their assets; on the other, it may be due to the assassination or abandonment of household members. When the reasons are forced and not strategic, the household's vulnerability increases. For example, when the main provider is missing, fewer household members generate income, rates of dependence climb and women must join the labor market, in some cases for the first time.

²⁵ In Sudan, for example, households headed by women are discriminated against and the household burden falls to the younger women, thereby seriously affecting the welfare and future of these household members (El Jack, 2003).

Box 1

The Personal Conditions in an Average Household that Has Lost Its Breadwinner

It is a household comprised of a forty years old widow, with very little schooling, two underage children, a young adult and another extended family member. Before the death or disappearance of the father, they lived in an isolated rural area where he was a leader or an active member of a community organization. They now live in a new environment, frequently a camp or shantytown, without a home or productive assets. The children dropped out of school and are doing informal work, while waiting to see if they can return to school. One of them may never go back. The young man or woman is likely to move to another town in search of work. The mother may have temporary access to a low-paying job. The household does not have the family or community support it did before, feels isolated, and experiences great psychological stress and suffering due to the loss of the husband and father. Fortunately, it does have access to State support for some basic needs.

84. The results indicate that, although households headed by women at their place of origin are slightly more vulnerable than those headed by males, the differences between these two groups are not substantial. However, vulnerability is significantly greater for households headed by women due to displacement. Table 2 shows information regarding the structure of displaced households. First of all, the loss of the primary breadwinner means higher rates of dependence. One reason why these households are more vulnerable is because fewer members are income generators. The average number of potential income generators in households headed by a male is significantly higher (3.08) than in households headed by a woman (2.33). In turn, the dependency rate is 0.33 for the former compare to 0.39 for the latter. This means that most responsibilities, including economic ones, fall on the woman's shoulders, which is why many women in this situation put their children to work.

Table 2. Estructura del hogar

Variables	Encabezados por hombres		Encabezados por mujeres			
	Media	Desviación Estándar	Antes de desplazamiento		Por el desplazamiento	
			Media	Desviación Estándar	Media	Desviación Estándar
Tamaño del hogar en recepción	5.46 **	2.23	5.05 *	2.28	4.61 **	2.08
Número de personas menores de 14 años	2.07	1.70	2.08	1.71	2.04	1.39
Número de personas entre 14 y 60	3.08 ***	1.62	2.67 **	1.50	2.33 **	1.57
Número de personas mayores de 60	0.29	0.63	0.28	0.56	0.17 *	0.38
Tasa de dependencia	0.33 **	0.23	0.39 **	0.24	0.39	0.26
Jefe del hogar indígena	0.22	-	0.17	-	0.16	-

Fuente: Cálculo de los autores con base en ENDH-2004

*Significativo al 10%

**Significativo al 5%

***Significativo al 1%

85. Secondly, the loss of assets is more pronounced, since legal titles to property and informal arrangements for land were controlled by the man of the household. Furthermore, the accumulation of assets in the recipient municipality is less, given the difficulties in generating income and the household's reduced access to formal and informal credit. For example, in recipient municipalities, 28 percent of the male-headed households own a home, compared to only 13 percents of those headed by a female. Thirdly, women have lower unemployment rates (12 percent compared to 18 percent for males) due to more labor flexibility (Ibáñez and Moya, 2006; Meertens, 2005; UNIFEM, 2006); however, job conditions for women seem to be worse than those for men. This leads to fewer working days and less income from the work they do. On average, displaced households headed by males have 349 days of work and perceive an income of \$ 677,133 pesos; those headed by females due to displacement have 197.3 days of work and earn about \$ 592,420 as shown on Table 4 of Annex 2.

86. Also, interruption of children's schooling is more prevalent in households headed by women due to displacement, given the need to depend on the income generated by older children. Interruption of schooling in households headed by women is 49 percent compared to 30 percent in male-headed households. Lastly, the results show the most abrupt drop in participation in social organizations occurs among households where the head of the family was lost due to displacement.

87. The use of econometric regressions that control for other factors of vulnerability allows for a more precise estimate of the risk facing a household headed by a woman as a result of violence and displacement. The study arrived at estimates to identify the determinants of aggregate consumption, labor income, recovery of assets, the likelihood of being unemployed, of attending school, of accessing the official registry system (SUR), and of wanting to return. Annex 3 contains tables with the estimates of the econometric regressions.

88. Table 3 shows the results of the coefficients for female heads with respect to the wellbeing of displaced households. They confirm some of the findings outlined above. In contrast to households headed by a male or by a woman before displacement, those headed by a woman as a result of violence and displacement have less access to labor markets and are more likely to be unemployed in the recipient municipality (0.1560 for female headed households before displacement compared to 0.1741 for female headed households due to displacement). Also, school interruption is longer, as shown in the gray area of the coefficients in Table 3.

89. State targeting seems to be geared towards this displaced group, since the likelihood to declare into the official registry, or receiving State support is higher as detailed in Table 3. For example, the likelihood of registration, which is crucial to receiving benefits, is even higher (0.2353) than for households headed by a woman at origin (-0.1380). In addition, despite poor conditions in the recipient municipality, households headed by woman do not want to return to their place of origin. This combination of findings, the key observation on State targeting of the neediest households, and the unwillingness of women household heads to return are critical factors that need to be taken into consideration in the proposals of the study on integral reparation.

Table 3. Coefficients

	Households Headed by a Woman	
	Originally	Due to displacement
Aggregate consumption ^a	-0.0632	-0.1187
Entry into the job market ^a	-0.1039 *	-0.3174 ***
Likelihood of being unemployed ^b	0.1560 ***	0.1741 *
Likelihood of attending school: 7-11 year olds ^b	0.1783	-0.1618
Likelihood of attending schools: 12-17 year olds ^b	0.0001	0.0492
Time out of school	50.48 *	97.77 *
Likelihood of knowing about SUR ^b	0.0871	-0.0518
Likelihood of making a statement to SUR ^b	-0.1163	0.3002 **
Likelihood of being registered in SUR ^b	-0.1380 *	0.2353 **
Likelihood of receiving State aid ^b	-0.1422 **	0.1765 *
Desire to return ^b	-0.0292 **	0.0031

Source: The authors' calculations based on EDHD-2004.

a Includes municipal controls

b Includes departmental controls

*** 1% significant

** 5% significant

* 10% significant

90. The cause effect relationships between violence and conditions of displacement suggested in the analysis might be problematic to reach definite conclusions from the data in all instances. To establish a rigorous statistical causality between the present conditions of the displaced population and forced displacement is difficult given the characteristics of the displacement process. The ideal instrument is a longitudinal survey that follows the displaced population before forced migration and once in destination sites. However, forced displacement stems from violent attacks conducted by armed groups which are unforeseeable and, if foreseeable, they should be prevented. Applying a longitudinal survey is, thus, not an option. Another alternative would be to define a control group of rural households that are from the same regions, but did not migrate when conflict intensified. These control groups are also plagued with biases which may hamper the causality between conditions in destination sites and forced displacement. Engel and Ibáñez (2007) pursue a similar study and find that forced displacement is not random and obeys to tactical strategies of illegal armed groups.

91. Two strategies can therefore be adopted to somehow circumvent this causality problem. First, data about conditions before and after displacement can be collected. This will show how the conditions changes as a consequence of displacement. Second, qualitative studies may provide evidence, albeit not numerical, about the impact of displacement on households. Annex 3A presents a series of Graphics describing before and after conditions of displacement for access to housing, informal credit, unemployment, participation in formal organizations and school enrollment.

92. In summary, all internally displaced households were poor and vulnerable before they became victimized, however, the victimization made their vulnerability more acute. Nevertheless, the households who lost the breadwinner and are now headed by a female are in worse social, economic and emotional conditions than households headed by a male and those headed by a woman before displacement. This is an important finding for considerations of priority in a reparation program.

Households who Lost the Breadwinner but Were not Displaced

93. The study also intended to estimate the total number of households (displaced and not displaced) among the entire population of the country. This estimate remains a challenge. The Census data has information on widows and widowers but does not ask about the cause of widowhood. It reports 881,679 in this category, of which 716,908 or 81.32 percent are females; 18.68 are males. All widows are reported by DANE as heads of household.²⁶ However, the study team was able to consult with focus groups of women who did not leave their place of residence, despite having lost their husbands or partners in the armed conflict. The information gathered in these focus groups shows households that lost their breadwinner, but remained in their place of origin largely have social, demographic and vulnerability characteristics similar to those of displaced households prior to displacement.

94. Their poverty and vulnerability at their place of origin worsened due to loss of the breadwinner. The need for the woman to take command of the household, coupled with the economic situation created by loss of the breadwinner, would probably affect the income of the household and children's education, as in the other households. Moreover, the psychological stress they endure may be more acute, given the risk to which the family is exposed if it stays where the violent act was committed. They could differ, perhaps, in terms of loss of assets, dislocation of children, loss of social capital, and stigma linked to the polarization by the various illegal armed groups.

95. The implications of their situation for reparation are similar to those of other households. Consequently, the proposal for reparation outlined in chapter 3 is applicable to them, particularly regarding components of material and immaterial compensation, rehabilitation and satisfaction.

4. Children Orphaned Because of the Armed Conflict²⁷

96. The study focuses on the situation of orphaned children who lost both parents as a result of the violence stemming from the armed conflict. Secondary data from various sources was used for the analysis, including a case study from one province in Colombia to determine the size of this vulnerable group, its characteristics, and its special

²⁶ The team is expecting additional information from DANE to complete the profile of this group. However, information on how violence has impact these households does not exist.

²⁷ The information of this section comes from a background document prepared for the study by Yamil Abdala Mesa.

vulnerability. However, with existing information, it was difficult to estimate the number of children orphaned by the loss of both parents due to the armed conflict.

97. Despite this limitation some sources provide specific information on orphaned children in general. The 2005 National Population and Health Survey carried out by *Profamilia*²⁸ shows that 4.3 percent of orphans 15 years old or younger lost one or both parents, 0.4 percent lost the mother, and only 0.2 percent lost both parents. According to the projections in the 2005 Census, the population under 18 years old in Colombia numbers about 17.4 million. Accordingly, based on estimates by *Profamilia*, the number of orphans in Colombia who have lost one or both parents at the time was 747,362. Out of this total, around 34,761 or 4.6 percent had lost both parents. There is no information on the causes and, therefore, the percent of children orphaned as a result of the armed conflict is unknown.

98. The reason for this is that there is no systematic national registry of orphaned children and adolescents, much less those orphaned because of the armed conflict. Official data-gathering instruments do not attempt to collect information on whether a particular status was the result of the armed conflict. In effect, the 2005 census surveyed Special Lodging Places such as prisons, mental health institutions, convents, orphanages and the like. With regard to orphaned children, the census combined orphanages with other institutions sheltering children with or without parents and all the residents of such places, including adults. Furthermore, it did not register orphaned children living with relatives, friends or in other types of households.

99. The Colombian Family Welfare Institute (ICBF) carried out a survey for this study in the Department of Antioquia, one of the largest of the country. The survey carried out at the 17 Zone Centers of the regional ICBF office found 101 orphaned children being protected by ICBF through its various types of programs; that is, protective institutions and foster homes. About 19 percent of these children are orphans who lost both parents due to the armed conflict. This information is very preliminary and needs further verification.

100. Furthermore, information from a case study hints at the number of orphans who have lost both parents due to the armed conflict. The COVIC Foundation carried out a survey of children orphaned by the violence associated with the armed conflict in the municipalities of the Diocese of Malaga-Soatá (Departments Santander and Boyacá).²⁹ The results show that about 0.53 percent of the underage population of the Diocese had lost the father or the mother through violent death or forced disappearance, and about 0.01 percent of them had lost both parents. This information needs to be validated. However, it provides some basis to speculate about the number of children left orphan of both parents in municipalities of similar conditions of conflict and poverty. In addition, it may serve to formulate a hypothesis about the total population of under age children in

²⁸ Profamilia (Association pro-Colombian Family Wellbeing), established in 1965 is the most prominent non-governmental organization of the country specialized on sex and reproductive health of adult men and women, youth and adolescents. It also implements social development programs for the most disadvantaged population. It carries out periodic surveys following the international methodology adopted by the specialized organizations on the subject.

²⁹ The Fundación is an NGO established by a Catholic priest to support children left orphan by the armed conflict in this Diocese that covers 16 municipalities with a population of 133,808 people.

Colombia who have lost both parents due to the armed conflict. Based on this hypothesis the number of orphaned children would be about 1,790. The study makes an estimate of the costs of reparation for an individual child in this category. And it uses the number derived from the case study to estimate a potential cost of reparations for this category only as an example.

Characteristics and Vulnerability

101. Despite the existence of international and domestic norms as it is documented in this section, the rights of many children can be harmed in situations of armed conflict. The rights most frequently violated are those regarding life, health, education, security and protection. In the case of the Colombian armed conflict, the violation of these rights in the case of children who have lost both parents is summarized as follows: violent death or forced disappearance of the parents, loss of the economic provider, loss of emotional and physical protection, psychological trauma, loss of human and social capital and lack of a life project.

102. The first effect on children who have lost both parents is the rupture of the family structure and, thus, the loss of special protection in physical, cultural and emotional matters. In most cases, the immediate consequence for children from vulnerable families, besides their pain and feeling of abandonment, is the need to assume new responsibilities that are not for youngsters, such as becoming heads of households in extreme cases, or dropping out of school to take on informal work to contribute to the family's economic survival. This is an interruption of their life cycle at the expense of their human capital, and jeopardizes their options for emerging from poverty and vulnerability. In other instances, children suffer a loss of social capital by being separated from siblings and the environment where they have grown up, by being forced to move on and to live with grandparents or other relatives, or by being obliged to enter institutions for their protection.

103. The deterioration in the human capital is reflected in school attendance and work related activities due to family vulnerability. According to UNICEF figures³⁰ for Colombia, the proportion of orphaned children between 10-14 years old who have lost both parents and are attending school, as a share of the non-orphans of the same age, is 76 percent. According to data from the 2001 National Survey on Child Labor, 1,568,000 children and adolescents in the 5-17 age group³¹ had an occupation that was not necessarily remunerated; 184,000 were looking for work. This shows that, during the period in question, there were nearly 1,752,000 youngsters ages 5 -17 in the labor market, or 15% of the population in that age range,³² and at a considerable risk to human capital formation. Orphaned children represent an important percentage of this group.

³⁰ UNICEF Statistics, Orphan School Attendance Ratio 1998 - 2003.

³¹ Not including the 750,531 children and adolescents who spend more than 15 hours/week on household chores.

³² During the period when the survey was conducted, the number of 5-17 year-olds amounted to 11,325,693 (25,8% of the country's population)

104. An even greater risk to these highly vulnerable children is their active engagement in the armed conflict. Orphaned children can become easy and attractive labor for illegal armed groups; that is, they can become an ingredient of the armed conflict or become involved in other equally perverse forms of child labor. This risk is so real that estimates by Human Rights Watch talk about 11,000 children who are members of illegal armed groups. In addition, it reports that about 20-30 percent of active combatants of the FARC and up to 20 percent of the AUC are minors under 18 years old.³³ Unfortunately, such engagement can be one of the few options to overcome their situation, given the absence of a timely and adequate response to restore the protection of a family and to provide minimum well being. Some argue that illegal armed groups frequently fulfill the function of providing young people with a reference group, particularly for adolescents without family support and protection.

Children and Civilian Conflicts

105. In modern armed conflicts, children and adolescents are the group most affected in terms of incidence and intensity, among the poorest and most vulnerable segments of the civilian population. In armed conflicts, children face different facets of the conflict as a result of their particular vulnerability: (i) they are recruited to join one of the armed actors and, in the event of disengagement, their rights as victims can be harmed when justice is applied; (ii) they are victims of systematic violations of human rights and international humanitarian law, such as forced displacement, massacres and assassinations, rape, abuses and kidnapping; (iii) they lose their parents and family, and are forced to drop out of school because they have to contribute to family's income due to the death or disappearance of the main provider; (iv) their values as people and citizens are affected due to the logic of the armed conflict; and (v) finally, their mental health is negatively affected by traumatic events.

106. There are international commitments to safeguard the rights of children in general and for situations of armed conflict in particular. Among these, the most salient are: (i) The Convention on the Rights of the Child, which - in situations of armed conflict - calls for family reunification, protection and assistance to refugee or internally displaced children, promotion of their physical and mental recovery and assimilation into society; (ii) The Optional Protocol on Children in Internal Armed Conflict, which is the basis for the protection of children to avoid their recruitment; (iii) some of the Guiding Principles on Forced Displacement that protect children and adolescents, particularly with regard to their right to education, preventing their direct involvement in conflict and being forced to work.

107. Colombian legislation also recognizes the rights of children and adolescents. Law 1098 of 2006, for example, seeks to protect minors and to guarantee exercise of their rights and freedoms based on the Constitution, the law and international instruments. In particular, it covers children's right to be protected from war and internal armed conflict.

³³ Human Rights Watch, *Aprenderás a no Llorar*, Niños Combatientes en Colombia, Abril de 2004.

Moreover, the two principles in the law, with respect to integral protection of children and adolescents: (i) co-responsibility on the part of State, family and society and (ii) the absolute priority on and highest interest in children, are consistent with the provisions of the Convention on the Rights of the Child.

Box 2
Orphaned Children: The Cortés Family

Alba had three children. Carolina, age 7 and Lina, age 12, were students at the local school. José Guillermo, age 9, was not at school. Alfonso Cortés, their father, drove the village truck, but one day he did not return home. After breakfast, he said good-bye and went to work. Four hours later, his wife Alba was told that her husband had been assassinated. He was 32 years old.

This painful situation forced them to change their way of life. Being the only male, José Guillermo, dropped out of the fourth grade and began to work as a day laborer, planting potatoes. However, since he did not earn enough to support the family, Alba was obliged to work as a domestic. It was the only job she knew. With only a third-grade education, she had never worked outside the home.

One year after Alfonso's death, rumors began to circulate in the area that an illegal armed group thought the local families were collaborating with a rival group. Some families fled, leaving behind their land and belongings, but Alba had heard similar rumors many times before and was not prepared to abandon what she and her children had inherited from her husband merely on the basis of rumors.

Three days later, the group arrived with a list in hand. They went from house to house, asking for a number of people, including "the wife of the deceased Alfonso Cortés". Alba sweetly told her children to go play hide and seek, to hide as best they could, and that she would count to 100 before looking for them inside the house. Lina, who was 12, knew something was wrong and was shocked to see her mother walk out the door on the count of five, while the other children were still looking for a place to hide. Ten seconds later, they heard several shots like the ones they had grown accustomed to hearing. Lina told her siblings not to go outside, that their mother was dead.

Family social services took the children in for a few weeks, at a temporary shelter, but they eventually were separated and placed in foster homes in different towns. After one year and various changes in foster homes, they located an uncle and were placed in his custody. Today, the Cortés children live together in their uncle's home in another province of Colombia. He also has two children of his own.

Carolina is now 12 years old and suffers from being teased at school by other children because she has no parents. José Guillermo is quiet but does good work at school. In the afternoons, he helps his uncle in the store. Lina, who is now 17, does not have a good relationship with her uncle's wife, who makes her do all the housework. Lina is now in her fourth year of high school, but has little time to study and is waiting anxiously for her 18th birthday, so she can take responsibility for her brother and sister.

108. Finally, the traumatic experience related to the loss of parents, the breakdown of the family structure, the deterioration in human capital and the risk of abuse and involment in illegal activities has dramatic consequences for children in terms of how they

conceive and define a life plan. The family is a child's first project in life, but after an experience like the one described above, many children no longer believe in the possibility of having a family of their own. From this standpoint, their life project is cut short, loses meaning and is reduced to a question of survival from day to day. This is particularly true when children suffer a loss of social capital, are separated from their siblings and the environment where they were raised, are sent to live with grandparents or other relatives, or are admitted to an institution for their protection. All this makes it difficult for children who are orphans to emerge from the vicious circle of poverty and violence.

109. The figures cited earlier reflect the precarious situation, in general, of orphaned children and adolescents in Colombia. Those who have lost both parents due to violence inflicted on the family probably are in a more unstable situation and at greater risk. Although there is no empirical information to corroborate this assessment directly, it is logical, given the foregoing analysis of households headed by women due to violence and displacement. In effect, that analysis shows that in displaced households who lost the breadwinner the probability of school attendance for children 7-11 is considerably reduced, children drop out of school to engage in work activities, and the overall vulnerability of children increases as a result of the high dependency rate.

110. The conclusion is that orphaned children who have lost both parents would be in the worst condition of all victims of the armed conflict. This is due to the reasons stated in the analysis regarding loss of physical assets, reduction of consumption, loss of income, loss of social capital and deterioration of human capital. In addition, this worst condition is due to the total lack of family protection and almost total frustration of their life project.

5. Adults Over 65 Victims of the Armed Conflict

111. The study focuses on the population over 65 years of age to highlight the special vulnerability of this population group. The analysis of this group is less complete compared to the others given the lack of information. However, it is mentioned in the report due to the concern expressed by several people during the preparation of the study of the particular vulnerability of this group given their level of dependency on others and the feelings of abandonment they experience, particularly when they have been direct victims of the armed conflict. The information comes from secondary sources, in particular from ICBF, the registry of internally displaced of *Acción Social* and the Registry for the Location and Characterizations of People with Disability.

112. The Census of 2005 projects the population over 65 years of age at 2,617,240, which is equivalent to 6.31% percent of the total population of the country. Of this population 45.3 percent are men and 54.7 percent women. The SIPOD (*Sistema de Información para la Población Desplazada*) managed by *Acción Social* reports 65,431 entries for adults over 65 years old out of the total population displaced, estimated in 1,976,970 individuals registered in the system. This is equivalent to 3.3 percent of all the displaced. Out of this group 40.9 percent are heads of household, 30.39 percent are parents or grandparents living with relatives, presumably dependent on them.

113. The characteristics and vulnerability of this group shows similarities and differences with respect to the overall displaced population. The distribution by gender is as follows: 34,272 or 52 percent are men and 31,159 or 48 percent are women, similar to the distribution of the overall population. The ejecting and receiving departments and municipalities for this population are similar to those of the general displaced population. However, it is reported by displaced families and public officials that older people decide to stay in the place of origin more frequently than younger people. Thus in many cases they are left to their own sort. This situation makes their vulnerability more acute particularly for those who either live with relatives or had a close relationship with them.

114. Finally, the SIPOD reports 393 cases or 0.6 percent with disabilities of movement (35 percent) blindness (36 percent) deafness (24 percent). However, the Registry of disability at the local level, including population displaced and not- displaced identifies 18 percent of the cases belonging to this age group as being victims of the armed conflict.

115. The institutional supply of services for this population group includes a Program for the Social Protection of the Older Adults managed by ICBF. The program targets the poorest older adults using two routes. One is a direct assistance consisting of a monthly cash subsidy that fluctuates between US\$16 and US\$34. The second is an indirect assistance consisting in in-kind delivery of basic social services equivalent to the cash amount.

6. People with Disabilities due to the Armed Conflict³⁴

116. The study focuses on the vulnerability of civilians with physical disabilities due to violence of the armed conflict.³⁵ According to the 2005 Census, out of the total population of Colombia, which is estimated at 42,090,502 people, 6.5 percent suffer of some disability. This amounts to about 2,735,882 people. This information is broken down by severity, and the data shows the number of people with one or more disabilities. The Census also included an extensive survey of a representative sample of the population. The sample showed that there are 13,405 people in Colombia with disabilities due to the violence of the conflict. This is equivalent to 0.49 percent of the total number of people who suffer any disability. This low number, according to DANE, does not justify an analysis by municipality. At the departmental level, the information will be available later this year.³⁶

³⁴ The information and analysis of this section is based on the background document prepared for the study by Alejandra Gelvez.

³⁵ The team acknowledges that this does not fully capture the range of disability or issues faced by vulnerable people in conflict: the psychological impact of displacement, violence, loss, family support systems, economic independence, and ability to function in society are immense. However, focusing on physical disabilities makes it easier to characterize the populations and make estimates for compensation. Furthermore, the study team decided not to include the military, which has a special legal and institutional status regarding social security and the impact of the armed conflict on their well being. However, some of the information provided by the study includes military members and civilians, inasmuch as the Census does not differentiate between the two.

³⁶ According to the 1993 Census, the percentage of people with disabilities was 2 percent. The large difference in the percent of disabilities between the two censuses poses the question about the more than triple increase. One may wonder if the increase has any relation to the intensification of the armed conflict

117. The sources of information are the 2005 Census for national data on disability, the Registry for the Location and Characterization of People with Disabilities, and the Landmine Observatory for the characteristics of those disabled by the conflict. In addition, the study uses United Nations documents, special reports, and interviews with relevant government and non-government stakeholders for pertinent ideas and legislation on disability, as well as for the institutional supply of services and benefits for this target group.

118. The Office of the Vice President, DANE and the Ministry of Social Protection are implementing the Registry for the Location and Characterization of Individuals with Disability (the Registry) by municipality to address the lack of information about the characteristics and conditions of people with disabilities at the municipal level.³⁷ Information has been processed to date for 446 municipalities in 20 departments which had initiated the registered by July 2006. The Registry has identified 355,435 persons with some type of disability. According to DANE, they represent 1.6% of the total population in the 446 municipalities for which information has been processed.³⁸ Out of this total 1,799 people that is, 0.5 percent, suffer disabilities caused by the armed conflict. This percentage in the Registry coincides with the share of disabilities caused by the conflict in the entire population according to the Census of 2005.

119. The information on the characteristics of this vulnerable group comes from the Registry as well as the Landmine Observatory (the Observatory), one of the instruments of the Vice Presidency of Colombia. The information from the Observatory is particularly relevant, as it provides relatively accurate and timely reports on landmines and abandoned explosive devices, which contribute a considerable number of victims of the armed conflict. The analysis of the characteristics of those with disabilities in general and those with disabilities due to violence is based on information generated by the study team, using the raw data provided by DANE and the Observatory.

Characteristics and Vulnerability

120. The study uses descriptive information from official sources to illustrate the characteristics of individuals with disabilities due to the conflict and compares them to the characteristics of other people who have similar disabilities but are not directly affected by the conflict. The description is made using the following variables: age, sex, ethnic background, education, health, housing, economic activity, type of disability, and access to rehabilitation and other state programs. The situation of a person who is a

during the last 15 years. DANE experts argue that the increase is a function of the methodology, which for the Census of 2005 included more options for disabilities. Although some increase may also be attributed to the armed conflict, given the enormous large increase in accidents related to landmines and firearms, there is no evidence to this effect. Nevertheless, maps developed by the study to show the intensity of the armed conflict and the number of disabilities due to the conflict show some overlap in about 20 percent of the cases.

³⁷ This is a tool to gather precise and current information about their numbers, as well as their needs and demands, so as to define a policy and programs geared to improve their living conditions.

³⁸ According to DANE, this figure is close to the one obtained in the 1993 Census, and much less than that of the 2005 General Census, which was 6.4%, according to preliminary figures.

casualty of violence can be described as follows. This person has lost one or more limbs and one or more senses (vision, hearing), is serious limitations for work related activities, experiences psychological trauma due to direct victimization, is much less autonomous, becomes dependent on others, and feels that his or her life project has been frustrated.

121. The characteristics of individuals with disabilities due to the conflict show some differences from those of the general disabled population. However, their level of poverty and vulnerability is substantially similar. Regarding age, 55 percent of the general population is over 45 years old compared to 40 percent of the people with disabilities due to violence. Of the remaining, 56 percent is between 15-44 years old which confirms the known fact that violent conflict predominantly affects younger people of productive age. A similar tendency can be observed with respect to gender. The proportion of men and women is about 50 percent among the general population with disabilities, but it jumps to 80 percent for men affected by the armed conflict and it is 20 percent for women. This proportion is maintained for disabilities produced by fire arms or other arms, but is even higher for men (about 87 percent) in terms of landmines.

122. On the other hand, there are not substantial differences between groups of people with general and conflict related disabilities regarding social aspects such as education, health and housing. Regarding education it was found that the percentage of those with complete primary and secondary school is somewhat higher among the group with disabilities from the conflict than among the general population with disabilities. However, the data shows that even though 80 percent of people with disabilities due to the conflict can read and write, a third of them did not complete primary school and only 2 percent has technical or higher education.

Box 3
A Victim with a Disability

The disabled victims of the armed conflict usually are working-age men who are involved in farming or commerce and pertain to the lowest income bracket. A third of them have dependent children under age 12. Most are victims of antipersonnel mines or firearms. A large proportion (75 percent) has motor or nervous disabilities.

Fifty one percent live in a home of their own, with running water and electricity. Although they can read and write, most have little schooling. A third do not have a full primary education and only 10 percent have a high school education. As to health, 63 percent have a health problem; however, 65 percent do not go to rehabilitation for different reasons, such as distance to the rehabilitation center, lack of money for transportation, lodging and food, and, in some cases, lack of information about the services to which they are entitled.

The victim's family suffers changes in its structure. In fact, 43 percent of persons with a disability due to the conflict need the help of another person, generally someone from the family. This implies a reassignment of duties among family members. For example, some of the children may be obliged to drop out of school to help support the family or to help care for the father.

123. Regarding participation in the health system the information of the registry shows a similar pattern in the affiliation between those of the general disabled populations and

those with disabilities due to the conflict. The first group shows 66 percent compared to 63 percent for the second group. In addition, the indicators show a small decrease of 3 percent in the affiliation by those affected by the conflict. Out of the 63 percent affected by the conflict registered in the health system 77 percent are males and 23 percent females, confirming once more the gender bias of the armed conflict against males.

124. Finally, regarding housing, socioeconomic stratum and access to utilities the conditions show some variation. About 83 percent of those affected by the conflict live in homes and 51 percent of them are homeowners. However, they show a slight decrease regarding home ownership compared with the general populations with disabilities. If the comparison is made by socioeconomic strata the conclusion is that 53 percent of people with disabilities due to the armed conflict belong to stratum 1 compared with 42 percent of the general population with disabilities. Regarding public utilities, of those affected by the armed conflict 77 percent have access to potable water and 89 percent to electricity.

125. The economic impact of the violent conflict on the group of people with disabilities due to the armed conflict is immense. First of all, 80 percent of this population group is males of productive age given that 78 percent of them are between 15 and 59 years old. Second, loss of limbs, vision or hearing impediments directly impacts on their ability to continue the economic activity they had – about 54 percent agricultural or commercial- or to access other job opportunities. In this regard they may not be different with respect to others with similar disabilities, but the impact on their wellbeing and economic capacity is probably greater given the relatively recent incident of disability. By and large, they will become economically dependent on others equally or more vulnerable than themselves.

126. Additionally, this type of accident provokes a change in the structure of the household. In those cases where the victim is the head of the household the wife and children become responsible for some of the roles and tasks previously fulfilled by the victim. In effect, of the individuals with disabilities due to the conflict 43 percent demand the permanent help of another person. Furthermore, 88 percent of those who provide that help belong to the household which makes evident the redistribution of roles within the household.

127. This situation may generate some of the types of impacts on the household outlined in the section on households headed by a woman. Even though these households may not experience the losses of those who became displaced, the consequences regarding household structure, access to labor, human capital development and emotional distress may be similar. In effect, the *whole family* is now affected by the loss of income not of one, but two people – or in the case of children – they cannot attend school (lost future income). This requires that compensation and safety nets for the longer term will have to take this into consideration.

128. Regarding access to rehabilitation services the Registry shows that 65 percent of this group has no access to such opportunities. The main reason for this is the lack of resources to cover non-treatment expenses such as transportation, lodging, food and others for those who live far away from the services. In addition the Registry shows that only 86 people or 7 percent have access to other public or private programs, some of them provided by ICBF.

129. Despite this insufficient access to services staff from specialized private and public service institutions consulted for the study indicate that there is a considerable supply of services for people with disabilities victims of the armed conflict. This observation is corroborated by the list of services by public institutions outlined in Annex 4. There might be several reasons to explain this discrepancy. (i) Victims may lack information regarding their rights as well as of the existing services and opportunities. (ii) These services and opportunities are available primarily in urban centers and instead most of the victims reside in rural areas and small towns. (iii) In some cases, the rehabilitation program does not include cost of transportation, lodging, food and for the victims and the companion if needed. These are relevant considerations for the delivery of reparation to this vulnerable group.

Conflict and Disability

130. Most of the more than 40 armed conflicts waged throughout the world during the past decade occurred in poor countries and the main victims of the violence perpetrated by those conflicts are from poor families and vulnerable groups, which include persons with physical disabilities.³⁹ In countries such as Angola, 10% of the population died from or was mutilated by landmines between 1980 and 1988. Half of the 50,000 Angolan amputees are women and children. In Nicaragua, 10% of all hospital admissions from 1983 to 1986 were related to war injuries. In Mozambique, it is estimated that 8,000 persons are amputees as a result of landmines. The largest percentage of these injuries is in Cambodia, where one out of every 240 persons is an amputee 240⁴⁰.

131. Colombia is not foreign to the situation described above. According to figures compiled by the Observatory, 5,735 persons have fallen victim to landmines and unexploded ammunition throughout the country since 1990. Moreover, according to the Registry, 1, 243 persons with disabilities (excluding Bogotá) for other reasons related to the violence of the conflict have been enrolled to date in the 446 municipalities where the Registry is being implemented.⁴¹ The main permanent alteration among these persons involves movement of the body, hands, arms or legs.⁴² In fact, 62 percent have alterations of this type, followed by 13 percent with alternations of the nervous system and 10 percent with alterations of the eyes. The rest are sensory and other disabilities.

39 William Boyce, Escuela de Terapia de Rehabilitaciónm Grupo de Evaluación de Programas Sociales (School of Rehabilitation Therapy, Social Program Evaluation Group),(Queen's University, Kingston, Canada) in *Disability World*, Vokumen N° 19 June – August 2003.

40 William Boyce, ... ibidem, citando Roberts S. Williams J. The Enduring Legacy of Landmines. Washington D.C.: Vietnam Veterans of America Foundation, 1995.

41 La Clasificación Internacional del Funcionamiento, de la Discapacidad y de la Salud define la discapacidad como un término genérico que incluye faltantes, limitaciones en la actividad y restricciones en la participación. Indica los aspectos negativos de la interacción entre un individuo con una condición de salud y sus factores contextuales.

42 Son las alteraciones en las estructuras del cuello, tronco y extremidades o la ausencia total o parcial de las mismas. Miembros superiores (dedos, manos, brazo antebrazo); miembros inferiores (dedos, pie, pierna, muslo) y tronco (esqueleto, músculos, tendones. También cuando existen las estructuras físicas, pero se han perdido el movimiento y la movilidad voluntaria, incluyendo los huesos, músculos, articulaciones y reflejos en ellos.

132. As to the main causes, the Registry indicates that injuries produced by firearms (revolver, pistol, shotgun and rifle) are primarily responsible for the disabilities resulting from the conflict. They account for 65 percent of the total, followed by 13 percent attributed to blunt or psychological weapons and 11 percent due to landmines.

133. Fatalities and personal injuries caused by landmines and unexploded devices are numerous in Colombia. Ninety-four (94) percent of the victims are men, five (5) percent are women and 10 percent are children. Moreover, 4,367 of all victims, that is, 76 percent, suffer wounds, and 1,368 or 24 percent are killed. Antioquia is the region with the most victims of mines and unexploded devices (23 percent), followed by Meta (10 percent) and Bolívar (8 percent).⁴³

134. At the international level, in addition to the Universal Declaration of Human Rights, the United Nations General Assembly, during its forty-eighth period of sessions in 1993, through Resolution 48/96 issued on 20 December 1993, approved a set of uniform standards on equal opportunities for the disabled. Also, an expanded and more comprehensive version of the UN Convention on the Promotion and Protection of the Rights of Persons with Disabilities was adopted in 2006, based on an integral approach to social development, human rights and non-discrimination, which was ratified by the UN in March, 2007.

135. Regarding Colombian legislation for the disabled, it is important to note that a legal framework⁴⁴ has been consolidated as of the 1991 Constitution to define the rights of the disabled population. It is based on Law 361 of 1997, which is intended to provide for the full social normalization and complete integration of persons with disabilities, all in response to the Universal Declaration of Human Rights and to the various declarations of the United Nations and the ILO. With this law, the State assumes the obligation to ensure prevention, medical and psychological care, adequate habilitation and rehabilitation, appropriate education, orientation, labor-market integration, and guaranteed exercise of fundamental economic, cultural and social rights.

136. The same law provides for the National Consultative Committee of Persons with Disabilities, an advisory body intended to monitor and verify the implementation of policies, strategies and programs that guarantee integration of the disabled into society. This committee was created through Decree 276 of 2000 and later, with Law 762 of 2002, the Colombian States approved the Inter-American Convention for the Elimination of All Forms of Discrimination against Persons with Disabilities. The population with disabilities due to the conflict provides an excellent opportunity for Colombia to experiment more with actual implementation of the UN Convention on the Rights of the Disabled signed by the country on 30 March this year. The signing of the Convention supports the case for a state-financed administration program to ensure all the rights and entitlements, from dignity and independent living to transportation and social inclusion.

⁴³ This information was provided by the Observatory of Landmines, Vice-Presidency of Colombia.

⁴⁴ The legal framework includes the laws that exist in different sectors, such as: i) health, employment and social protection; ii) accessibility; iii) education; iv) communication and information; v) culture and vi) sports and recreation.

7. Members of Ethnic Groups victims of the armed conflict

137. The study focuses on the main ethnic groups -Indigenous Peoples and Afro-Colombians-, as a vulnerable population especially targeted and subject to violence by illegal armed groups. The study approaches the situation of these groups from two sides. One side is based on the analysis of the members of these groups currently displaced by force using the same data of the survey used for households who lost the breadwinner. The second side consists of a discussion on ethnic groups as collective subjects from the perspective of international and internal legislation and the proposal of collective reparations. Most of the section provides a detailed analysis of the first side. The discussion on collective subjects is focused on providing insights for the reparation policy for these groups.⁴⁵

138. The Survey shows that out of all the internally displaced population 21.9 percent belongs to the two main ethnic groups in Colombia. This means that nearly 121,537 households out of the 554,207 displaced households reported by the survey are members of these ethnic groups: 23,221 belong to indigenous peoples and 98,316 to Afro-Colombians.⁴⁶ These percentages reflect a high over representation of ethnic groups among the internally displaced population, given the fact that indigenous peoples represent 3.2 percent of the total population and Afro-Colombians 10.3 percent. As it would be argued in this section, these figures reflect a bias of the violence of the armed conflict against ethnic groups, particularly against Afro-Colombians

Characteristics and Vulnerability of Indigenous and Afro-Colombian Households

139. In order to better understand this increased vulnerability the study examines several dimensions of wellbeing. These include the causes of displacement, the household structure, the loss of assets, the participation in labor markets, the indicators of income and consumption, the access to public and social, the social capital, the coverage of State aid and the desire to return. To determine how displacement affects ethnic groups compared to other groups of displaced persons, all the results are calculated for the non-ethnic minority displaced population, the ethnic minority displaced population, and the Afro-descendant population. Because it is a very small percentage of the sample, the indigenous population is not analyzed separately.

140. The comparison between the conditions of ethnic minorities and those of non-ethnic minority displaced households is based on descriptive statistics and econometric estimates, as was done with all households that lost the breadwinner. In the case of ethnic minorities, the conclusion is that the causes of displacement are very different and the poor socioeconomic conditions they experienced prior to displacement seem to be further aggravated by forced migration. This is evident in the proportion of homicides

⁴⁵ The study team agreed to the inclusion of ethnic groups under the condition of limiting the detailed analysis to the information available on displaced households, given time restrictions and the availability of information.

⁴⁶ These numbers are different from those of the official government records. The survey estimates a 30 percent under registrations of internally displaced. However, this difference does not affect the cost estimates made in Chapter 3.

and massacres perpetrated against indigenous people and Afro-Colombians, in their substantial loss of assets, in the difficulty they have in adapting to socio-cultural environments that are very different from their own, in the discrimination to which they are subjected in the recipient municipality, and in less access to State aid.

141. In addition, belonging to an ethnic minority is another factor that has a negative influence in well-being after displacement. To analyze the conditions of the ethnic minorities displaced by the armed conflict a comparison is made, based on descriptive statistics and econometric estimates, between their situation and that of displaced households that are not part of any ethnic minority. In the case of the ethnic minorities, the deprived socioeconomic conditions before displacement seem to worsen even more as a result of forced migration. This is due to high losses in assets, the difficulty to adapt to socio-cultural atmospheres quite different from theirs, discrimination in the recipient municipality, and reduced access to State aid.

142. Households belonging to ethnic minorities have to deal with particular and more traumatic displacement processes. Ethnic minorities are often victims of a direct and apparently selective violence, adding to the impact of displacement. The frequency of land possession and ownership of housing is quite higher among ethnic minorities, and therefore the loss of assets is substantial for them and the process of accumulation and recovery of assets usually becomes difficult given the obstacles to their assimilation into urban labor markets.

143. Table 4 shows the characteristics of displacement for all three groups of the population analyzed. The figures suggest a strategy of direct attacks of the illegal armed actors towards ethnic groups, particularly towards Afro-Colombians. Even though the guerrilla expels a similar percentage of households from all groups compared, around 70 percent) the paramilitary expels a considerable larger percentage of households belonging to an ethnic group. As the table shows in the marked grey area there are highly significant differences regarding homicide, between 32.23 percent for heads of household who do not belong to ethnic groups to 46.30 percent for indigenous and 54.63 percent for Afro-Colombian households. A similar pattern of significant difference is observed for massacres. This clearly indicates that homicides and massacres are a direct aggression by the armed actors against ethnic groups, especially against Afro-Colombians. This is further evidenced by the fact that Afro-Colombians are less victimized by random violence (27.56 percent compared to 39.99 percent for non ethnic), result that reinforces the hypothesis of deliberate attacks towards some ethnic groups.

Table 4. Characteristics of Displacement

Variables	Non-ethnic Minority Household Head	Indigenous or Afro-descendant Household Head	Afro-descendant Household Head
	Average	Average	Average
Guerrillas – Agent of expulsion	70.95%	69.00%	74.11%
Paramilitaries – Agent of expulsion	41.91% **	55.65% **	49.28%
Government – Agent of expulsion	3.59%	3.63%	5.59%
Threat – Reason for expulsion	55.88%	47.80%	45.70%

Attempted Homicide – Reason for expulsion	18.36%	21.24%	20.42%
Homicide - - Reason for expulsion	32.23% **	46.30% **	54.63% ***
Disappearance or Torture – Reason for expulsion	14.69%	12.88%	16.33%
Forced Recruitment – Reason for expulsion	19.18% ***	9.70% ***	7.31% ***
Massacres - Reason for expulsion	19.68% **	30.36% **	34.53% **
Kidnapping – Reason for expulsion	7.05%	8.70%	7.86%
Armed Confrontation - Reason for expulsion	35.82%	35.73%	45.13%
Non-cooperation with armed groups - Reason for expulsion	27.52%	21.70%	17.15% **
Random Violence – Reason for expulsion	39.99%	32.39%	27.56% **
Order to Leave – Reason for expulsion	27.45%	33.35%	30.91%
Fumigation – Reason for expulsion	5.88%	4.91%	6.08%
Reactive Displacement	87.94%	84.86%	83.18%
Intra-departmental Displacement	56.54% **	69.06% **	72.34% ***
Intra-municipal Displacement	14.66% ***	28.52% ***	24.90% **
Direct Displacement	92.68%	94.46%	94.63%
Displacement Perceived as Permanent	81.25% ***	62.49% ***	61.79% ***

Source: Authors' calculations based on ENDH-2004

* 10% significance level

**5% significance level

***1% significance level

144. These households face other specific and more traumatic displacement processes. Ethnic minorities have a much higher rate of land and home ownership, which is why asset loss is substantial. The process of accumulating and recovering assets usually is difficult, because of the obstacles associated with entry into urban labor markets. Although loss of wellbeing is manifest in most of the factors analyzed in the comparison, as shown in detail in Attachment 6, it is particularly illustrative with respect to income. Table 5 shows how unemployment rates for ethnic minority household heads at their place of origin were less (1.04 percent) compared to non-ethnic minority household heads (1.91 percent). Upon arrival in the recipient municipality, unemployment rates increased for the entire displaced population, with an even sharper rise for ethnic minority households. Afro-Colombian households become the group with the highest rate of unemployment (24.3 percent compared to 18.2 percent of the total belonging to any ethnic groups and 15.5 percent of the non-ethnic minority household heads.

Table 5. Loss of Wellbeing Due to Displacement: Labor Market and Consumption

Variables	Non-ethnic Minority Household Head		Ethnic Minorities			
	Average	Standard Deviation	Indigenous or Afro-descendant Household Head		Afro-descendant Household Head	
	Average	Standard Deviation	Average	Standard Deviation	Average	Standard Deviation
Household head unemployed at place of origin	1.91%	-	1.04%	-	1.58%	-
Equivalent labor income per adult at place of origin	2,061,259	12,200,000	1,458,698	4,247,401	1,811,026	5,195,290
Days worked at place of origin	495.47	397.70	524.15	577.71	487.82	428.47

Equivalent aggregate consumption per adult at place of origin	1,852,162 **	10,500,000	1,071,046 **	1,379,624	997,162 **	937,075
Household head unemployed at reception site	15.50%	-	18.17%	-	24.29%	-
Equivalent adult labor income at reception site	687,801 ***	919,302	338,729 ***	492,084	310,562 ***	474,301
Days worked at reception site	333.69 ***	398.01	224.20 ***	321.86	195.63 ***	253.76
Equivalent adult aggregate consumption at reception site	1,056,905	1,310,980	1,061,458	1,135,953	1,365,076 *	1,273,344
Equivalent percentage of consumption donated per adult	0.13	0.26	0.09	0.20	0.08	0.19
Duration of displacement	1,214.68	936.36	1,306.27	1,081.98	1,446.19 ***	874.96

Source: Authors' calculation based on ENDH-2004

* 10% significance level

**5% significance level

***1% significance level

145. Therefore, there is a substantial drop in labor income for these households after displacement. As the table shows the non-ethnic households obtain an average income from adults of \$ 687.801 which significantly different compared with \$ 338.729 pesos for all ethnic groups and \$ 310.562 for Afro-Colombians. This is less than half. These figures show that ethnic minorities suffer a double discrimination due to their condition of displacement and to their belonging to an ethnic minority, which makes their access to labor markets even more difficult (ACNUR, 2004).

146. All the above-mentioned issues involve some hardships for recipient municipalities. The vulnerability of ethnic minorities becomes evident in the coverage of health services and utilities in terms of reception that, even though improved with regard to the origin, are significantly smaller when compared to the rest of the displaced population. However, the data on school attendance show interesting results. School attendance of the Afro-descendant households was quite lower before displacement and increased significantly after displacement. The low rates of school attendance among Afro-descendant households are presumably associated with the scarce educational offer in the locations where they came originally from, since once the offer increases their school attendance shoots up. On the other hand, school attendance rates for 12-17 year-old youths only increase for Afro-descendant minors, while there are decreased rates for the rest of the population. For secondary education, the pressure to generate higher income in households leads to school dropout that appeared to be smaller for the Afro-descendant households.

147. Conversely, the impact of displacement on social capital is important for ethnic minorities since it constitutes an important asset for these households. The results show that, although the decline in social capital is greater for ethnic minorities, their recovery seems to be faster, in particular for Afro-descendant households.

148. Ethnic minorities experience very harsh living conditions in the recipient municipality. These conditions, together with the larger land tenure at the origin, deep-

rooted in their territory, explain a stronger desire to return to their homes. This greater desire to return is consistent also with lower registration rates in SUR despite facing a more vulnerable condition in the recipient municipality and having to report at SUR with the same frequency.

149. The results of the econometric analysis, except those for aggregate consumption, confirm the conclusions of the descriptive analysis; that is, ethnic minorities are highly vulnerable. The coefficients of the regressions for the aggregate group of ethnic minorities and for Afro-descendant and indigenous household heads separately are presented in Table 6. After control for household characteristics and migratory processes, consumption is shown to be effectively less for ethnic minority households, while the impact on Afro-descendant households is particularly strong. Belonging to an ethnic minority group has a negative effect on the level of labor income, on school attendance for children between the ages of 12 and 17, and on the process of access to State aid. The probability of being aware of, making a statement to and enrolling in SUR is less for ethnic minorities and particularly for Afro-descendant households, as was concluded in the previous section. Attachment 7 contains all of the tables with regressions for this analysis.

Table 6. Coefficients for Ethnic Groups

	Non-ethnic minority Household Head	Ethnic Minorities	
		Afro-descendant Household Head	Indigenous Household Head
Aggregate Consumption ^a	-0.1757 ***	-0.1841 ***	-0.1605 **
Labor Income ^a	-0.2141 **	-0.1471 *	-0.3539 *
Probability of school attendance among children ages 7-11 ^b	-0.1457	-0.1771	0.0971
Probability of school attendance among children ages 12-17 ^b	-0.2884 **	-0.3436 ***	-0.0964
Time out of school: children ages 7-11 ^b	43.86	48.22	55.45
Time out of school: children ages 12 -17 ^b	-114.69 **	-74.71	-185.75 ***
Probability of knowing about SUR ^b	-0.2170 *	-0.3372 **	0.0455
Probability of making a statement to SUR ^b	-0.1131	-0.2546 **	0.2323
Probability of being enrolled in SUR ^b	-0.1728 *	-0.3054 ***	0.1191
Probability of receiving State aid ^b	0.0354	-0.0153	0.149

Source: Authors' calculations based on EDHD-2004

^a Includes municipal controls

^b Includes departmental controls

*** 1% significance level

** 5% significance level

* 10% significance level

150. In short, ethnic minorities often are victims of direct and apparently selective violence. This only heightens the impact of displacement. Having to deal with particular processes of displacement, a strong attachment to their land, substantial loss of property and difficulties in entering urban labor markets places ethnic minority households in a highly vulnerable situation in recipient municipalities. Moreover, the poor conditions ethnic minorities faced at their place of origin seem to deepen the impact of displacement and the loss of property. On the other hand, the poor conditions in the recipient municipality and the difficulty in earning an income slow the recovery of property and settlement. The vulnerability of ethnic minorities is particularly evident in the coverage of health services and public utilities in the recipient municipality. Although better than at their place of origin, it is much less compared to coverage for the rest of the displaced population. The SIPOD registration rates for ethnic minorities are less, despite the fact that they are more vulnerable in the recipient municipality and make statements to SIPOD with the same frequency. This last finding, coupled with poor living conditions in the recipient municipality and property at the place of origin, may explain why ethnic minorities who are victims of displacement have more desire to return.

Conflict, Ethnicity and Displacement

151. This section analyzes indigenous and Afro Colombian groups living in collective lands as a people, given the special cultural, social and economic characteristics of the ethnic groups. The analysis complements the information on individuals and households presented before. However, as pointed out above, the study did not have access to information on ethnic groups as peoples. It thus focuses on considerations to approach reparations based on the concept of a collective subject and recognizes the need to do a full analysis of the situation of indigenous peoples and Afro Colombians living in collective lands to better understand how they are affected by the armed conflict.⁴⁷

152. Law 21 of 1991 provides the framework for the treatment of indigenous peoples and Afro Colombians living in collective lands as collective subjects of rights. Through this law, the Colombia State approves Convention 169 on indigenous and tribal peoples in independent countries adopted by the General Conference of the ILO in 1989. In addition to the collective rights, the law recognizes the fundamental right to a territory, the recognition of ethnic authorities, and the legal framework of protection of the integrity of peoples, ancestral lands and collective territories.

153. Unfortunately, the institutions and instruments of the Colombia State, including those especially established to deal with the rights and concerns of ethnic groups do not have an ethnic approach to their work. This is evidenced, for example, in the absence of an ethnic category in the registries on populations or territories by the institutions

⁴⁷The study and analysis will establish, for example, how many groups are affected by the armed conflict, how many indigenous and Afro-Colombian territories are in areas of conflict, how many groups have lost access to their lands, and how many groups have been victims of direct violence (deaths, massacres, displacement, etc.). This information could give an overview of the grade of impact of conflict on these groups and provide information to estimate their reparation.

responsible for them. For example, the National system for Integral Attention to IDP uses as a unit of analysis for the protection of land property of people at risk of displacement only the category of individual rights despite the fact that the lands of indigenous peoples and Afro Colombian communities have collective rights.

154. The evidence presented on displaced households from ethnic groups shows a considerable loss of assets particularly land. Even though there is an increase of the affectation of reserves and collective territories information is not available about how the armed conflict affect these groups. One side of this is the particular dynamics of displacement among indigenous peoples that is not always registered. For example, they are displaced from their own homes but may remain within the territory of a reserve or community or move to the neighboring ones. In other cases, they leave the territory temporarily and go back and forth as a strategy to manage the impact of the presence of armed groups. Finally, some indigenous or Afro Colombian communities are displaced as a whole or are confined within their own territory.

155. Another side of this situation is the type of tenure of the reserves or collective territories. The team of the Protection of Patrimonial Assets Project carried out a pilot research on 150 of the main ejecting municipalities of displaced population. They looked at the number of reserves or collective territories with titles or in the process of titling, the number of hectares they represent and the numbers of households and people in those territories. The team found that out of the total number of municipalities 43 percent (65) have reserves that are formed and recognized. However, 34 percent of the municipalities have reserves in the process of titling, and 10 percent have collective territories in process of titling. In addition, those 65 municipalities include 64 of the titles and 60 percent of the hectares in process of titling.

156. The risk associated with this fragile tenure of the lands shown by the pilot represents an immense threat for indigenous and Afro Colombia peoples. Unfortunately, this fragile tenure provides an incentive for illegal armed groups to carry out forced displacement of these communities and take possession of their lands as it has already occurred in many instances. The pressure of these groups is more accentuated over Indigenous Peoples and Afro-Colombians as discussed before due to their presence and possession of land in geographical areas of strategic interest for legal and illegal activities. Therefore, the protection of these collective rights on land, and the guarantee of their return to their owners becomes one of the challenges of the application of the JPL and of the reparation program.

157. The victimization of indigenous peoples has also occurred in other parts of Latin America. The ICHR has taken particular interests in these groups in consideration of the importance of the protection of economic, social and cultural rights. The type of reparations issued by the ICHR for several indigenous peoples in various countries of the region is relevant for Colombia. This is particularly the case of five sentences of the ICHR to protect the rights of indigenous peoples from Guatemala, Paraguay, Nicaragua and Surinam.⁴⁸ The common denominator of these cases, despite their individual situation, relate to the extreme poverty in which they live, the constant acts of violence

⁴⁸ The cases are documented in the project files based on the report on reparations prepared for the study.

against them by legal or illegal armed groups and the dispossession of their ancestral lands.

158. In summary, the harm and damage produced by illegal armed groups on Indigenous Peoples and Afro Colombian communities violates collective as well as individual rights. On the collective side forced displacement or dislocation within their territory is a violation of the rights of a collective subject recognized by international and internal legislation. This violation goes against social, cultural, religious and spiritual values and practices owned by these peoples deserving protection by the State and society. In this regard they deserve collective compensation for material and moral damages. On the individual side the situation is normally as follows: members of a displaced household may have been killed or disappeared by an illegal armed actor; the family frequently loses an important economic provider, the rest of the family decides to abandon their community, they lost physical assets including land, they lost the social capital of their traditional community, they suffer the psychological trauma of being a targeted and selective victim, the human capital of the children has deteriorated and they experience great difficulty to adapt to a new location if they are displaced outside of their territory. They are entitled to collective and individual reparation according to the fundamental rights of the national legal system and the human rights internationally recognized.

CHAPTER III

PROPOSAL FOR INTEGRAL REPARATION THAT IS FAIR, VIABLE AND SUSTAINABLE

159. This chapter outlines a detailed proposal for integral reparation to especially vulnerable victims of the armed conflict in Colombia and offers a rationale for its consideration. First, it brings back the main elements of the conceptual framework of Chapter 1 and shows the relationship between crimes and rights violated by illegal armed groups. Second, it spells out the notions of fair, viable and sustainable reparation proposed by the study and criteria for content and delivery of reparations that further specifies those notions. Third, it specifies special criteria to keep in mind for each of the target groups when deciding on and delivering the reparation.. The fourth section presents a comprehensive set of matrixes with options for each of the components of integral reparation by group incorporating the main concepts of the framework and the criteria. The matrixes include costs references based on legal parameters of internal practice as well as cost calculations from empirical studies and from costs of services. These matrixes are a critical element of the proposal as they allow determining options for judicial reparation which can also be used as a reference for an administrative program. The chapter ends with a rationale that explains why this is a reasonable proposal to deal with reparation in Colombia including the establishment of an administrative program complementary to the judicial one proposed in the JPL.

1. Introduction

160. The foregoing results illustrate the economic and social implications of the victimization of historically vulnerable groups whose situation is aggravated by the violence of the armed conflict. Each of the households or individuals of the target groups is likely to fall into a state of chronic poverty. First due to the fact that the members of these groups were poorly equipped with physical and human capital before their rights were violated. Secondly due to the loss of protection, capacity, assets, human and social capital resulting from human rights violations which also lead limited social and economic opportunities.

161. The proposal for integral reparation offered by the study focuses on the best options to provide reparation to these victims in the context of the JPL and of an administrative reparation program. In this regard, the study assumes that the five target groups are likely victims of the armed conflict and thus have the right to satisfactory reparation because they suffered physical and emotional damage as a result of the violence of the armed conflict. In addition, the study maintains that a proposal for integral

reparation to victims should contribute to fulfill the rights to development of all the citizens of a country. To make such contribution the proposal requires the definition of options for reparation that are fair, viable and sustainable as it is described in the next section.

162. The study also assumes that the State has the obligation to guarantee the human rights of all its citizens and thus to ensure the reparation to those whose rights have been violated. The legal framework of the JPL assigns responsibility for the financial aspects of reparation to the perpetrators and in a subsidiary form to the State. Nevertheless, if the resources are insufficient, according to international standards the State continues to be responsible to find alternative sources to ensure that victims receive satisfactory reparation. In addition, the study shows that Colombia is able to implement a reparation program that is financially viable even if the State has to fund a portion of it, provided that it is properly designed and delivered.

163. Furthermore, the study argues that an administrative reparation program is desirable to complement the judicial option of the JPL. Towards that end the proposal presents options recommended to the judges that will contribute to the restitution and guarantee of the violated rights as a means and an end of individual and social development. A similar principle could be applicable in case the government decides to undertake an administrative program of integral reparation as would be recommended in the next chapter.

164. Table 7 shows the relationship that exists between most of the crimes against humanity and/or war crimes committed by illegal armed groups and the more important human rights they violate. This information is relevant to defining the types of damage or harm caused by violations, for which the victims must receive reparation, and to estimating the cost of that reparation in the event of economic compensation. In almost every case, reparation would imply a combination of material and immaterial, monetary and non-monetary benefits, as established in international practice. The content of this table provides the basis for the proposals made for integral reparation of the members of the target groups outlined in the following sections of the chapter.

Table 7. Relationship between Crimes and Rights

Major Crimes	Violated Rights to be Restored
Homicide and forced disappearance	Life and personal safety
Physical and/or mental torture and other cruel and inhuman treatment Rape, sexual slavery, forced prostitution, forced pregnancy, forced sterilization or other forms of sexual abuse	Physical, psychological and moral well being; equity; honor and dignity
Forced displacement	A decent life; personal safety; equity; housing; health; work; education; right to honor and dignity; circulation and residence; and freedom of worship, among other rights
Acts of terrorism and the unjustified and disproportionate destruction of civilian property	Personal safety; housing; private property; freedom of worship, among other rights

Persecution of a group or community with its own identity, due to political, racial, national, ethnic, cultural religious or gender motives	Freedom of thought and religion, freedom of expression, right to honor and dignity
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2. Reparation that is Fair, Viable and Sustainable

165. In Chapter 1 it was stated that the notion of integral reparation and its application following a rights-based approach raises issues regarding legal, economic and political dimensions. In addition, that the implementation of integral reparation to victims is likely to be influenced by the tension between legal rights and economic and political considerations. To address the issues and tensions the study proposes the notions of fairness, viability and sustainability as a way to increase the likelihood the legal dimension in view of economic and political realities. As it is explained below the notion of fairness addresses legal and equity issues; viability addresses the economic and political issues; and sustainability looks at reparation from a development investment perspective.

Fair Reparation

166. Fair reparation implies being consistent with the law and equitable. The fairness of reparation is evidenced by reestablishment of the victims' rights that were violated and by recognition of all the basic rights that are characteristic of their human condition. Therefore, fairness demands reparation that is consistent with international legal standards mandatory for Colombia and with the JPL without necessarily exceeding the economic and political capacity of the process in the specific context of the country today.

167. Equitable reparation entails at least two main features. One feature ensures that there is no discrimination in the allocation of reparations. This means that neither the enrichment nor the impoverishment of victims will be encouraged, and that the magnitude and severity of events, as well as the extent of victims' vulnerability will be kept in mind. The second feature implies that both victims and non-victims feel satisfied with the reparation program, particularly those who are not victims, but are at permanent risk of being victimized and are extremely poor and vulnerable.

Viable Reparation

168. Viable reparation refers to measures that are achievable from a economic, political and operational perspective. In other words, by complying with the law and being consistent with international standards, such measures actually can be implemented. Economic viability means guaranteeing that the financial resources needed to compensate the victims are available in the required amounts and at the proper time, without creating a negative impact on the economy and society as a whole.

169. The political viability of reparation measures implies that there is public support. In other words, citizens must feel they own the process and thus offer their political support to the government based on their moral responsibility. In addition, the offer of economic support must be made available through specific actions to reintegrate victims into society and to help them fulfill their life plan. In this sense, it is felt that neither reparation nor reconciliation will be viable if they continue to be seen as situations that are marginal to society as a whole and the exclusive responsibility of the government. Therefore, the reparations awarded to victims will make no difference in their lives or in the country's progress, if other citizens and the public and private sector do not support the exercise of their rights.

170. The operational viability of reparation means that the measures can be put into practice through public and private institutions that assume responsibility for their implementation. The implementation of reparatory measures and programs could be affected, for example, by failure to meet commitments, by delayed or politicized delivery or by problems with corruption in the management of resources.

Sustainable Reparation

171. Sustainable reparation refers to contents, internal and external integrity and delivery to beneficiaries. Contents refer to measures that are not limited to covering the victims' basic or urgent needs. Reparations should empower victims to construct a long-term plan for their lives. To this end, the stigma that identifies victims in the eyes of society should be eliminated and replaced by an identity that defines them as active and productive citizen who have achieved a basic level of material security and are able to exercise their rights to the fullest.

172. The internal and external integrity of reparation⁴⁹ requires coordinated work on the design and implementation of measures to seek truth, justice and reconciliation. Very little or nothing would be achieved in the long term, if the truth were clarified without pointing out those responsible; if punitive justice were assured to the perpetrators but the victims did not receive true reparation; or if reparatory measures were determined but not fully implemented.

173. Reparation should be delivered to the beneficiaries of especially vulnerable groups in a way that allows them to overcome their current level of vulnerability and places them on a path to a life with dignity and acceptable basic well-being. This dimension is closely related to a development approach that allows them to use the benefits of reparation to leave historical poverty behind and to be linked to processes for the construction of economic, social and political assets in the context where they live. If this is achieved, the measures will contribute to achieve consensus and satisfaction among the parties as well as to facilitate citizens, as a whole, to regain their trust in the State.

⁴⁹ Pablo de Greiff divides the coherence or integrity element into two parts: internal and external integrity. The former refers to the relationship that should exist between the different types of benefits offered by the program. The latter involves the design of mechanisms for reparation complementary to other transitional measures (de Greiff, 2005, en Fundación Ideas para la Paz, Cuadernos del Conflicto).

174. In that sense, the benefits of reparations made through the judicial scheme or an administrative program for integral reparation should be managed by the different parties with a view towards sustainable human, social and economic development. This way of looking at reparation has public support, as inferred by the results of a recent survey involving a national urban sample representative of the Colombian population. The report indicates the overwhelming majority of the population directly affected and not affected by the conflict (89.4%) believes the victims are entitled to reparations for the damages suffered and that the reparatory measures most appreciated by this population are education, employment, medical care, and psychological and personal security, all of which are crucial to sustainable development.⁵⁰

175. The diagram below schematically presents the different elements of a reparations model founded on a rights-based approach to development. It shows how such an integrated approach can promote a reparations process that is financially viable, politically sustainable and fair. The right to reparations, when embedded in a rights-based approach, not only supports material and immaterial compensation for victims but also their empowerment as citizens. Moreover, it provides a basis for development and creates a framework for broader engagement on the part of society.

3. Delivery of Reparation: Criteria on Content and Form

176. The criteria outlined in this section refer to the content and form of delivery of reparations. These criteria further specify the notions of fairness, viability and sustainability. In addition, the criteria define levels of expected wellbeing in some cases, show how the existing supply of services have reparation elements in them and how reparation can be aligned with program that are already financed and implemented. The specific criteria deal with participation, identification and use of existing and new institutional supply of services for victims and non-victims, use of private service supply, adjustment of existing assistance and subsidies for victims, sequence and priorities for delivery of reparations.

177. The following are the main criteria whose application will contribute to make a reparation program fair, viable and sustainable as defined in the previous section. (i) the participation of victims as agents with rights in the design of such programs; (ii) alignment and coordination of the components of reparation for each vulnerable group with existing and new incentives that promote the rights associated with development; (iii) incorporation and appropriate application of the existing supply of government assistance and services in a judicial or administrative program for reparation; (iv) expansion of the program for reparation to include the existing supply of private assistance and services that are considered effective, pursuant to the examples documented in the study for certain groups; and (v) the distribution and sequence of compensatory reparations for individuals and households from the vulnerable groups targeted by the study.

⁵⁰ Internacional Center for Transitional Justice, 2006, *Percepciones y Opiniones de los Colombianos sobre Justicia, Verdad, Reparación y Reconciliación* (Perceptions and Opinions of Colombians about Justice, Truth, Reparation and Reconciliation), Bogotá. The survey was commissioned by Fundación Social and Consejería en Proyectos.

178. The participation of victims is an international and internal criterion emphasized by the JPL and the NRRC. In this respect, it is required that victims who resort to a reparatory process do so voluntarily and in an informed way, and that their safety and participation be guaranteed throughout the process. As members of especially vulnerable groups, their particular circumstances must be taken into account if reparatory measures are to be the most appropriate. This refers, for example, to women who are assuming responsibility for the household, with very little human capital and with no desire to return to their place of origin; unprotected children who require special guidance from the competent agency; and ethnic groups who may expect that their values, traditions and collective resources are taken into account.

179. Reparation must be aligned with existing incentives and supplies of assistance and services. A case at hand is the alignment of the *Juntos* Strategy designed to help 1,500,000 families⁵¹ emerge from absolute poverty. Although reparatory benefits must be special and different from those granted for constitutional rights, one and the other can be combined to increase the impact. For example, restitution of land seized forcibly by a perpetrator – a reparatory measure – with priority access to a productive loan through an existing program; or a full educational scholarship for children who were orphaned before the age of 18 – a rehabilitation measure – with the Families in Action Program that exists for vulnerable households. Alignment and coordination of this sort can have important implications, such as increased acceptance by persons whose rights are repaired, social cohesion because one of the benefits is already granted to non-victims as well, and fiscal, social and operational viability given the fact that financial and institutional arrangements are already defined. A reparation option is to automatically include in the *Juntos* strategy the 39,747 displaced households who lost the breadwinner.

180. Incorporating the existing supply of public assistance and services for victims of the armed conflict into a judicial or administrative program for reparation is another complementary measure with aspects that are extremely viable. In fact, the existing supply of public assistance and services does include special measures, such as components of FOSYGA (*Fondo de Seguridad y Garantías*), the Humanitarian Assistance for Victims of Armed Conflict provided by *Acción Social*, the Ministry of Social Protection and others. These can be adjusted in terms of their values, quality or access to become fair and satisfactory measures for reparation. For instance, the criteria and amounts allocated for the *Acción Social* program under Law 418 to assist victims could be adjusted to the parameters of internal judicial practice, as suggested earlier with the criteria applied by the State Council in the case of compensatory reparation. That is, up to 100 times the minimum monthly salary.

181. The supply of private assistance and services can be used by the State in reparatory programs. Some of the examples mentioned in the study illustrate how the solidarity and non-governmental sector can become involved in reparations ordered by a judicial or administrative program. For example, resources from the private supply of assistance and services can be combined with public resources for psychological, educational or physical rehabilitation services aimed at children or adults whose life project has been seriously affected as a result of the violence.

⁵¹ The 2006-2010 Development Plan and the Strategy to Overcome Poverty and Inequality.

182. The delivery of monetary compensation for material damage should be done fairly among beneficiaries. For example, the compensation for violations perpetrated against the male household head, shall be distributed, first and foremost to the spouse or companion and to the children as specified in the estimates. This measure is justified by the needs and responsibilities implied for women who are obliged to take on the role of household head. The foregoing should apply only with the exceptions relative to the proven existence of other dependents of the victim, apart from children or the spouse, in which case the Justice and Peace judges or the administrative program shall decide on a percentage to cover their compensation.

183. The delivery of monetary compensation can be handled sequentially. The payments for material damage or moral harm inflicted on households or persons whose vulnerability has been aggravated by the damage or loss they have suffered can be done in two stages: an initial delivery that enables the victims to satisfy their most urgent needs, and a periodic delivery in the form of a pension for a specified period of time. A guaranteed income for a period of time (along the lines of what is provided through Families in Action) would give the members of these vulnerable groups a medium-term economic base. This becomes a means of empowerment, and the State would not have to disburse the various amounts in a single tax year. This model was used in the South African program for reparation with partial success. It only fulfilled the emergency part. The case of Chile is more illustrative as it will be explained later in this chapter.

184. The application of these criteria for the reparations described above is more likely to help victims develop a long-term plan for their lives. Fortunately, in the Colombian case, public and private agencies, as well as the economy, are relatively strong compared to those in other countries, such as the African or Central American cases where programs for reparation have been carried out. In fact, the State and society have supplies of assistance and services for reparation that could be incorporated into the judicial process or into an administrative program. These existing supplies could be managed in a way that would allow for special priority and targeting on these groups of victims, so as to enable them to move from a vulnerable state towards a basic well being.

4. Special Considerations for Reparation of Each Vulnerable Group

185. The following are other criteria specific to each target group to adjust reparations to particular profiles based on considerations of special vulnerability, personal characteristics and the kind of material and non material damage received. Along the way this section shows how these considerations contribute to fair, economic and politically viable options of reparation and a developmental view of them.

Women Who Become Households Heads as a Result of Violence

186. The emphasis of the study for this group is on the victimization caused by death of the husband, partner and father, the acute state of vulnerability in which this leaves the household, and the consequences for women. The study does not address crimes

involving rape or other forms of sexual violence, which are frequent in civil conflicts.⁵² In those cases, the Justice and Peace judges would be expected to consider the reparations stipulated in the Rome Statute of the International Criminal Court. The CNRR Working Group document on recommendations to ensure reparation for women who are victims of the armed conflict contains highly relevant conceptual and legal principles, along with recommendations for those who are in charge of the reparation process.⁵³

187. A woman who becomes head of a household as a result of violence requires special support. The psychological harm a woman suffers when losing her companion or husband in a situation of violence and having to assume, on her own, responsibility for the home and her children's grief justifies the creation of a psychological support program designed specifically to treat this segment of the population. It also justifies offering these women an opportunity to join appropriate programs where they can strengthen citizenship skills, acquire basic reading, writing, math and job skills to help them overcome the limited amount of human capital found so often among this population in rural areas.

188. A program of this type is adequate as a form of judicial or administrative reparation. On the one hand, it empowers women to overcome obstacles by enabling them to serve as competent citizens in the social and economic life of their new place of residence; on the other, it contributes to the recovery of fundamental social rights, and has an effect on personal and social development that is of collective benefit.

189. A particular aspect to keep in mind with these households now headed by a woman as discussed in Chapter 2 is the little desire expressed by them to return to the place of origin. Consequently, reparation measures such as restitution of land and other productive assets need to be nuanced against this desire. Instead of the plot of land or the house they would receive monetary compensation equivalent to the value of the assets, or an equivalent property in their place of reception.

⁵² The following note is part of the background document prepared for the study by Ana María Ibáñez and Andrea Velásquez. "Algunas mujeres son víctimas directas de la violencia del conflicto, la vulnerabilidad económica de otras mujeres se agudiza al convertirse, por ejemplo, en jefes del hogar como consecuencia del conflicto, y otras entran a engrosar las filas de los actores armados involucrados en el conflicto (NIIR, 2002; Gardam y Charlesworth, 2000). Estudios cualitativos han encontrado que la violencia contra las mujeres durante el conflicto adopta diferentes formas de expresión. El abuso sexual, la tortura física y la prostitución forzosa, son algunas de las expresiones de violencia más recurrentes. Los abusos sexuales son resultado de la falta de orden social, pero también responden a estrategias de guerra de los actores armados para desmoralizar a los enemigos (NIIR, 2002). Las mujeres son vistas como un botín de guerra ya que el abuso sexual representa una agresión contra el individuo y la comunidad (Rojas y Caro, 2005; Cockburn, 1999, NIIR, 2002). La violencia sexual, en algunos casos, va más allá de las violaciones, los grupos armados recurren a la mutilación de los órganos genitales de las mujeres con el fin de hacer una limpieza étnica (El Jack, 2003)⁵². Además, los actores armados secuestran a las mujeres para explotarlas laboralmente y abusar de ellas sexualmente (Rojas y Caro, 2005). No obstante lo anterior, recurrir a la propia sexualidad como medio de supervivencia, también es un aspecto común durante el conflicto. Las mujeres se casan por conveniencia, o recurren a la prostitución (El-Bushra, 2003)".

⁵³ CNRR, Working Group: Women, Gender for Truth, Justice, Reparation and Reconciliation, October 2006.

Orphaned Children Who Have Lost Both Parents

190. The first right that is violated in the case of these children is the right to a family and to not be separated from it. According to the principle of joint responsibility, it is the State that must assume the obligation to provide these children with full protection. The right to a family is, in many cases, difficult to restore, since two out of three minors under the protection of ICBF are in an institutional environment and only one is in a family environment. The alternatives to a family do not necessarily offer children a safer and more adequate environment for proper development. According to international standards, institutional protection should be the last option, considering that children under any type of protection other than protection provided by the natural or adoptive family are at greater risk of physical and psychological abuse and of not receiving care and attention suited to their age and needs.

191. Children are entitled to participate in judicial processes for reparation. In this case, orphaned children must be accompanied at all times by an ICBF representative, preferably within the scope of a program designed for this purpose. ICBF representatives and judicial operators must be properly trained to deal with children who are victims. During the process, they must pay special attention to the way children's relations with their families and their environment were affected by the violations they suffered and the repercussions those violations can have on their physical and mental development.

192. Reparatory measures must pay particular attention to continuity in children's education and to their ethnic, religious, cultural and linguistic origins. The judicial decisions by the Inter-American Court of Human Rights refer to educational reparations for children who were unable to complete their schooling due to the father's or mother's absence. In view of those guidelines, it is suggested that Justice and Peace judges contemplate, as part of their reparatory rulings, the establishment of all material means required for children to complete their primary and secondary education at public schools in the country. A system of scholarships to attend public universities could be considered as well, based for example on children's academic performance.

193. Thus educational benefits are probably one of the most important reparations for children who have suffered as a result of the armed conflict. This is critically important for children and youth who were forced to suspend their primary and/or secondary education due to the death of their parents, or who were never able to start school. While the use of existing educational programs is convenient, for many children and adolescents who were forced to leave school, the adoption of a short, flexible and specific educational program that responds to victims' psychological, spiritual and physical needs clearly would give them a better chance of reintegrating into society. A program of this sort would focus on providing a basic education, in addition to reinforcing children's self-esteem, giving them back the feeling of protection they lost by being victimized, and helping them to develop manual and vocational skills for practical living, plus citizenship skills, know-how and useful practices with respect to health, nutrition and rights. Box 3 provides an example of this type of educational option.

194. The development of human capital is a known right acknowledged by societies and States. Therefore, the measures being recommended and their form of delivery are fair from the standpoint of victim's rights and viable from a fiscal and social perspective.

Fiscal viability is based on the fact that placement in public schools implies no additional monetary expense, given the existence of regular opportunities and programs for special education. The proposal is socially viable because society generally supports measures that benefit children. The sustainability of these measures in terms of empowering youngsters to overcome vulnerability and poverty, when the services are of good quality, is widely documented. Finally, their contribution to helping beneficiaries develop a life project has a positive impact on individual and social profitability and, therefore on the development of society as a whole. However, because education is every Colombian citizen's right, reparatory measures would have to emphasize aspects such as priority, opportunity, no cost, integration between the academic, emotional and social areas, and adaptation to children's particular circumstances.

Box 3
Escuela Nueva Learning Circles for Internally Displaced Children

The Learning Circles developed by the Escuela Nueva Foundation under funding by USAID are an example. A Learning Circle consists of a group of 12-15 internally displaced children (ages 6-15) under the guidance of a young local tutor especially trained by the Foundation. The tutor works with children in a friendly and loving environment using community facilities on a series of activities geared to gaining self-esteem, overcoming fears and aggression and retaking school learning. The learning materials and methods used are especially adapted from those of the Foundation characterized by interactive, self-paced learning guides, small group work and cooperative learning. The Learning Circles are linked to the formal system (mainstream schools or education system) through a local "mother" school with shared academic calendars, grading systems and extracurricular programs. This relationship is mutually beneficial: Learning Circles ease the transition from the streets to school and local schools gain additional resources to support children who are out of sync with the traditional system.

Evidence from the application of this approach in the Cazucá Hights, a poor commune near Bogotá (with the highest reception rates of internally displaced population), shows that after a 6 month intervention, children from the Escuela Nueva Learning Circles had better scores in language (36 percent higher) and math (30 percent higher) than the formal schools, outperforming by 18 and 14 points the national average. Additionally, their self-esteem increased by 20%.

195. The example described in the note below is also an option for psychological and emotional assistance to children who lost one or both parents. It is implemented by an NGO in a province that covers 16 municipalities. This type of private offer can be used by the State to provide community-based emotional rehabilitation services.⁵⁴

⁵⁴ Fundación COVIC supports an improvement in living conditions for children ages 0 to 18 who were orphaned by the illegal armed conflict in the Malaga- Soatá Diocese (Boyacá and Santander departments). COVIC serves 258 children in 16 municipalities in Santander and Boyacá through "Peace Homes". These symbolize the family, solidarity and support for the Sons and Daughters of Peace, who are the orphaned

Adults over 65 Years Old

196. Persons over age 65 with specific problems attributed to the violence also are entitled to reparation. These situations can include forced displacement, responsibility for the household due to the death or disappearance of their married children, or abandonment by the displaced family when the elderly adult chooses to stay behind. These persons are to be given priority during the process and in the delivery of reparations, because their health and particular vulnerability could mean they might not live to see the process completed. Throughout the process, elderly victims must be ensured that, if necessary they will be accompanied and will receive physical and psychological support as well as medical care.

Persons with a Disability

197. The reparation model for persons with disabilities would take into account the principles of reparation as well as the characteristics. Reparatory measures for the comprehensive rehabilitation – motor, labor, psychological and social aspects – of persons with physical disabilities should focus on reestablishing the rights to a satisfactory life. Towards that end the reparations measures will address solutions to the barriers that stand in their way to again becoming productive members of society, to heightening their self-esteem, to obtaining or regaining productive capacity, and to reinstating their dignity. In short, to recovering their right to personal development and to have a plan for a decent life.

198. Therefore, persons with disabilities have to right to receive the medical, educational, vocational and personal treatment that is necessary and relevant to their full rehabilitation. Nevertheless, this treatment must not create dependence. On the contrary, they must give the person increasing autonomy. The component for economic compensation can be a temporary measure delivered regularly in the form of a subsidy until the person is able to find work, which is easier from a fiscal standpoint. Entry into the labor market for victims who have suffered a permanent disability as a result of the

children and families served by COVIC. A Peace Home is comprised of a core group of volunteers; namely a husband-and-wife team, the local parish priest and other volunteers who work as agents of the peace they desire. These homes are a bridge between victims of the armed conflict and other members of the community in orienting processes for pardon, reconciliation and rebuilding the fabric of society. Their psycho-social intervention aims at transforming the pain and despair produced by the war, through guidance, support and listening to youngsters were orphaned by the violence and to widowed mothers in an effort to help re-establish their projects for life as individuals and citizens. This is accomplished through individual and group sessions with a high recreational content and through home visits.

Each municipality that benefits from the program has a Peace Home. COVIC trains the leaders of these facilities and establishes links with welfare institutions, schools, health services and municipal administrators to facilitate access to services and opportunities for children. The average cost of this intervention, per child, is 600,000 pesos a year.

violence of the armed conflict is a problem for all of society, not just the government. And, as such, a dignified solution must be found for each and every one of them.

199. This measure for comprehensive reparation is particularly applicable to adults. For them, the disability due to the armed conflict represents a radical change in their life plan. This condition affects more than 56 percent of the victims who are of working age and used to earn a living in commerce and agricultural activities. This effort by society, as suggested earlier and the delivery of compensation until such the person becomes independent from a labor standpoint should lead to recovery of the right to a decent life, “not through sporadic acts of charity, which are commendable but only temporary, but through a commitment to create jobs for those who need and deserve them.”⁵⁵

200. However, achieving those results demands taking into account some of victims’ other characteristics. Most of victims are males (over 80 percent) of working age (56 percent are between 15-44 years old) with mobility problems (60 percent) caused by firearms. Approximately 43 percent have dependant children, live in small towns or rural areas, and were highly vulnerable prior to being victimized. Considering that 67 percent of the illiterate disabled are between 15 and 44 years of age and over 60, it is necessary to encourage programs to teach the adult population basic skills. Likewise, the fact that only two percent of these victims have some kind of technical training suggests the appropriateness of offering vocational programs as part of comprehensive rehabilitation.

201. If it is to be fair and operationally viable, the rehabilitation component for these victims should include not only entitlement to treatment but other elements as well, such as guaranteed transportation, food and lodging, and a companion if needed. This is a recommendation from field operators who see the absence of these elements as a critical obstacle for interventions aimed at rehabilitation. Furthermore, rehabilitation measures should cover attention to other members of the household who are affected directly by the disability, given the fact that 80 percent of the victims are men, 43 percent have dependants, and most of them need the care of someone, usually a member of the same family.

202. Children with a physical disability resulting from the violence also are entitled to receive comprehensive rehabilitation. To this end, they must be guaranteed effective access to education, training, health services, public transportation, vocational training and recreation. As suggested earlier, the delivery of these services to orphaned children can include priority access to special programs that already exist, the delivery of scholarships to cover the cost of their education until they are of legal age, and guaranteed means for descent and independent subsistence.

203. Finally, the State could take advantage of the growing number of landmine and firearm victims to define an investment program so the country’s infrastructure and facilities do not pose an obstacle to the disabled. This obligation, as part of comprehensive reparation, is compatible with the commitments the Colombian

⁵⁵ El Tiempo, Febrero 6 de 2007 - AL TABLERO, Construir Sociedad.

government hopes to acquire through its adhesion to the Convention on the Rights of Persons with Disabilities, which was signed recently at United Nations headquarters.⁵⁶

Box 4
A Community-Based Rehabilitation Model

A community-based rehabilitation model seeks to protect the rights of the disabled and to offer adequate rehabilitation to a greater number of disabled persons, especially those who are less likely to have access to a rehabilitation process; in other words, those who have very few resources and live in rural areas.

To fulfill the objectives, this model considers it necessary to educate government officials and the community, as well as the disabled, be they leaders or workers, in their own rehabilitation process. They also require a meaningful job and access to the resources of their communities. In other words, it is necessary to develop the concept of self-determination for the disabled, as part of community development. It is they who must assume control of their own destiny and their own place in that community.

In Colombia, a non-governmental agency called CIREC is implementing this model through the Seeds of Hope Program, which involves three strategies: i) rehabilitation brigades ii) treatment for victims at CIREC and iii) the formation of associations of persons with disabilities.

The program has been carried out in 23 municipalities where 21 groups of persons with physical disabilities have been consolidated and more than 1,000 patients have been treated. The cost per patient is US\$ 3,182 per year, including US\$ 909 to identify and support the disabled person and US\$ 2,273 for prosthesis and special services.

Indigenous and Afro-descendent Communities

204. The history and culture of the country's indigenous peoples and the Afro-Colombian *Consejos Mayores* demand special recognition and consideration in any fair reparatory scheme. When ruling on reparations, this recognition requires JPL judges and officials responsible for administrative cases to afford special consideration to usage, customs and the customary law of each community. In the case of indigenous and Afro-Colombian peoples, this applies to individual judicial reparation, as well as programs for collective reparation.

205. One of these special considerations concerns registration of identity. Oftentimes, members of indigenous communities do not have an identification card or a birth certificate, and tribal authorities rely on their own censuses or records of community members that do not necessarily coincide with those of the national government. In this respect, the Inter-American Court of Human Rights recommends that reparation judges set broad criteria for victims from indigenous and Afro-Colombian communities in terms of enabling them to identify themselves without having to obtain official documents. In this case, a statement by the head of the community or by two or three individuals who can testify to the victim's identity could be considered sufficient. This is an easy

⁵⁶ Convention on the Rights of Persons with Disabilities.

measure from an operational standpoint, does not require much training for the judge, and could increase the number of people with access to the judicial process.

206. Titling of ancestral lands is another special consideration. Taking advantage of the collective right afforded to ethnic groups under Colombian law, one practical means of reparation would be to secure the lands of indigenous and Afro-Colombian peoples.. This would be an important way to curb intrusions by illegal armed groups who are trying to take their land by forcing them to leave. A guarantee of their collective property rights is a clear way to reduce the particularly vulnerable situation of indigenous and Afro-Colombian groups and to compensate them with measures that would prevent a repeat of such violations.

207. One measure ordered by the Inter-American Court of Human Rights to protect extremely poor indigenous peoples, while guaranteeing safe return to their lands, it to provide basic services such as drinking water and sanitary facilities, nutritious food of good quality, and permanent health care. A measure of this sort would be part of an appropriate collective reparations program, particularly for indigenous peoples, but eventually could be ordered by JPL judges when the conditions facing indigenous or Afro-Colombian communities waiting for reparation are seriously lacking in terms of guaranteed public services such as those mentioned.

208. The delivery of reparation to Indigenous Peoples entitled to reparation due to violence against the group would be a collective one. One option is to create an Indigenous Peoples Reparation Fund for each of these groups to fund basic services and productive activities. The base to estimate the amount of this fund could be the equivalent of per capita reparations multiplied by the number of members of the groups that are direct victims. Or to consider the collective damage made against them as a people using criteria of compensatory reparation. The use of these funds would be agreed upon with the traditional authorities following appropriate decision-making procedures and its use will be consistent with the life plans of the peoples.

209. The delivery of reparations of Afro-Colombians would have two forms. One would be collective as in the case of Indigenous Peoples if they live in a collective territory under a *Consejo Mayor*. If they are individuals from households who lost one of more members the treatment would be similar to that of households who lost the breadwinner.

210. Finally, a satisfaction measure that is of low cost is the translation of the sentences and reparations into the respective dialect or indigenous language used by the members of indigenous communities that are parties to the judicial process.

5. Measures and Costs for Reparation of Groups Targeted by the Study

211. The integral reparation of the victims from these vulnerable groups involves monetary compensation for material and immaterial damages as well as costs for rehabilitation, restitution and satisfaction. The values that judiciary agents responsible for the reparations under the JPL can attribute to each of these components are not standard and may prove very hard to establish. This is due to the individualized treatment of each victim that may lead to different allocations from case to case. However, the judiciary

agents can use as a reference several existing parameters coming out of the international and national jurisprudence and practice regarding judicial processes, empirical studies on some of the dimensions of material losses, and the current costs of services or activities similar to those that might be granted.

212. In addition, the variety of expectations by victims, their representatives and other relevant stakeholders may also impact on the decisions and costs on reparations. These expectations relate, among other aspects to composition, forms and costs of reparation. For example, it might be hard to determine the relative weight of the components between material and symbolic dimensions to reach satisfaction and restore the wellbeing of the victims and attribute a cost to the components. It would even be harder to give a quantitative value to losses that cannot be recovered such as that of a member of the family or of a part of the body, or to the pain suffered as a result of these events.

213. Concerning expectations the recent survey cited before on perceptions and opinions on justice, truth, reparation and reconciliation of Colombians provides useful findings that may also be of reference for the responsible agents.⁵⁷ The survey finds that the population of the country considers kidnapping, assassination, displacement and sexual violence as the gravest violations resulting from the armed conflict. In addition, the majority of those surveyed, particularly respondents directly affected by the violence, give priority to finding those that have been kidnapped or disappeared-a measure of satisfaction- and the restitution of the assets, money and properties taken away by force. Finally, some of the reparation measures best appreciated by all, particularly by the victims are employment generation, education, medical and psychological attention. This balance between measures of satisfaction and restitution expected by victims goes against a common perception that they primarily expect monetary compensations.

214. The financial costs of individual reparation through the judicial process under the JPL are likely to be high and the number of eligible victims perhaps unsatisfactory as discussed in Chapter 1. The high cost is due to the fact that in the judicial process each material and immaterial loss is estimated and then totaled by the judge exercising the distributional authority granted by the law. The unsatisfactory number of victims has to do with the limitations of the law regarding the definition of victims as those affected by demobilized illegal armed groups. In addition, the judge will be limited under the JPL for the allocation of reparations by the amount of resources available in the Fund for the Reparation to Victims. Nevertheless, as discussed before, there is a debate on whether or not the State is responsible to guarantee the necessary resources to fulfill its obligations with the rights of the victims. Regardless of this debate, in the JPL the State takes a complementary financial role in relation to collective reparation measures. This feature of the law might open the door for a more active participation of the State in financing the reparations even if it does not bear a direct responsibility for the harm inflicted on the victims resulting from the armed conflict.

215. On the other hand, an administrative program of reparations complementary to the JPL would probably result in lower per capita costs of reparation but perhaps a larger number of eligible victims. In effect, international experience indicates that an administrative program tends to be more standardized because it includes specified

⁵⁷ International Commission for Transitional Justice, Survey, p. 6-7.

amounts according to the type of violation or the injury or harm suffered by the victim. *Acción Social* implements a program with the type of compensations –not necessarily the amount- suggested for an administrative program. In effect, the Program of Humanitarian Assistance to Victims of the Armed Conflict has disbursed 116.23 million dollars to about 40,000 beneficiaries in the last 4 years for immaterial losses or emergent costs; and 28.6 million for reconstruction of community infrastructure and housing.⁵⁸ Another example is that of FOSYGA which allocates two minimum monthly salaries to victims for emergent costs.

216. Analysts argue that monetary reparations based on judicial processes are extremely costly, especially if there is a large universe of potential beneficiaries. In addition, economists and policy-makers are concerned about the fiscal implications of such costs and how they would negatively impact on other public budget allocations. For example, based on a variety of methods of calculation and some assumptions about the number of victims that would be potential beneficiaries, a study argues that “a conservative estimate is that reparation of victims for harm suffered between 1964 and 2005 could cost illegal armed groups about US\$ 23,000 million.⁵⁹ This represents approximately 19 percent of the gross domestic product of Colombia of 2005”. This estimate includes cash compensations for material and non-material reparations and loss of quality of life. In his view, this would have a major impact on public finances that could make it not fiscally viable.

217. On the other hand, most countries have opted for administrative reparations or a one time cash payment to victims instead of a judicial process. For example Germany is investing 80 billion dollars to repair 2 million victims of Jewish citizens over 70 countries; the United States paid 1.2 million dollars to each of the victims of September 11, 2001. Argentina paid 224,000 dollars to each victim of the military dictatorship for death or disappearance. By mid 2002, 5,655 claims had been granted which represents about 1.3 billion dollars.⁶⁰ In the cases of Peru and Chile, a combination of monetary compensations, measures of satisfactions and direct services was made. The Ministry of Defense of Peru in the reparation program due to the terrorist activities of the *Shining Path* insurgents delivered to members of the Self-Defense Committees the amount of 9,455 dollars for permanent disability, 6,303 dollars for temporal disability and 11,818 dollars for a dead person. The case of Chile is reflected on Table 9.

⁵⁸ Information from *Acción Social* as of February of 2006.

⁵⁹ Richards, Mark. “Quantification of the financial resources required to repair victims of the Colombian conflict in accordance with the Justice and Peace Law” (December, 2006) CERAC Working Paper No. 3. The time span 1964-2005 to estimate the number of victims follows the positions expressed by the NRRC in its guidelines and principles.

⁶⁰ De Greiff, Pablo, 2005. *Los esfuerzos de reparación en una perspectiva internacional: el aporte de la compensación al logro de la justicia imperfecta*, en: Revista de estudios socio-jurídicos. Volumen 7 numero especial. Justicia transicional: memoria colectiva, reparación, justicia y democracia. Bogotá, Centro Editorial Universidad del Rosario.

Matrixes with Reparation Proposal

218. A series of matrixes were built to summarize the reparation proposal for each of the target groups presented by the study. These matrixes incorporate the main elements of the conceptual framework regarding the definition of victims and benefits, a rights-base approach and integral reparation following international and internal jurisprudence. In addition, the matrixes summarize the proposed options for reparation according to the rights violated in each case, the levels of compensation to achieve basic wellbeing and the estimated costs. The notes on each matrix further specify how they were built.

219. More specifically, they outline all the definitions of harm and damage for each group, the proposed reparation components and activities, the beneficiary, the benefit, the criteria to determine the cost and the source of that criteria (judicial, empirical studies, costs of services), and the cost per unit. The first matrix seen in Annex 5 presents the information for reparation as it has been established in judicial processes and sentences by the ICHR and the Colombian State Council. This matrix is presented only as reference to illustrate costs associated with actual international judicial processes ruled against Colombia for violations of human rights and international humanitarian law. The items on the left hand side of the matrix correspond to those determined by the Inter American Court. The cost figures are based on the average cost per item of the 5 sentences of the Court against the Republic of Colombia.⁶¹

220. The second set of matrixes in Annex 6 present in detail the options for reparation for each of the target groups of the study by unit, that is, a household or an individual. The matrix was developed assuming (i) that victims of these groups are eligible and (ii) that the reparation would take place through the judicial process. Despite the assumption of a judicial process the options were defined in such a way that they can be used as a reference for a national administrative program. The matrix shows at the top a profile of the social, economic and personal consequences of the harmful act, and the material and immaterial damages caused to the victim by such act using the language of reparations. Column 1 proposes the specific areas of reparation that correspond to the harm and damages caused in terms of monetary compensation, restitution, rehabilitation and satisfaction. The second column presents criteria of costs for most of the areas of reparation based on calculations for each of the groups. These criteria come from various sources. They include allocations in judicial cases of internal practice such as those of the State Council; estimates from studies on the loss of wellbeing of internally displaced population; per capita costs of services provided by private or public institutions such as basic education, health insurance, rehabilitation, job training, and psychological support. The final column presents the existing institutional supply of services, subsidies and incentives specifically geared to victims of the armed conflict. Most of the information in this column comes from an inventory of services available at the national level to victims of the armed conflict prepared by DNP and attached to the document on criteria of

⁶¹ The recent cases are those of 19 *Comerciantes* (July 2004), Gutierrez Soler (2005), Pueblo Bello (January 2006), Ituango (July 2006), Mapiripan (December 2006). In a recent interview, the *Relator* of the ICHR for Colombia stated that “the State must define a policy of reparations that cannot be dependent upon the penal responsibility of the illegal armed actors or on their assets”(El Tiempo, 4/14/07).

reparation for judges issued by the NCCR. Those services derived from Laws 418 and 387.

221. The matrix then provides information on the basis of which particular cases can be assessed. Table 8 presents a preliminary exercise using the information from the matrix in Annex 6 to estimate the costs per unit (a household or an individual) based on an average case for households who lost the breadwinner, orphan children and individuals with disabilities. Estimates are not made for older adults over 65 and ethnic groups. In the first case it is due to the absence of enough information to make specific calculations. In the second due to the proposed treatment as collective reparations for indigenous peoples and for Afro Colombians living in collective territories. However, the estimates made for households who lost the breadwinner can be applied for those over 65 who are displaced and heads of household, for the Afro Colombians who do not live in collective territories, and even for the households of indigenous peoples who are currently displaced, considering that 7,200 of the 39,747 households who lost the breadwinner belong to ethnic groups.

Unit Costs of Judicial Reparation

222. The average case for the calculation of the unit costs is drawn from the profiles of characteristics defined in chapter 2 and the average costs shown in the matrix of reparations.⁶² For example, an average rural household who lost the breadwinner and it is recognized by the judicial system as an eligible group of victims (Column 2 of the table) could receive the following package of reparations. (i) A compensatory monetary payment for moral or immaterial damages of about US \$ 39,427 equivalent. (ii) A compensatory payment for material damages pertaining to funeral and other expenses incurred due to the death or disappearance of the head of the household as estimated by FOSYGA-*Acción Social* and forgone income of agricultural activities based on estimates by Ibañez-Moya, for the amount of US \$ 17,770 equivalent. (iii) Restitution of properties and assets for the amount of US\$ 4,681 based on estimates of real losses by Ibañez-Moya. (iv) Mental and physical health services to rehabilitate the widow and 2 children, and nutritional support in the amount of US\$ 1,655 based on practice of FOSYGA and the Social Security Institute. (v) Health insurance for the family in the amount of US 2,315. (vi) Family reunification in the amount of US\$ 305. (vii) Basic skills and job training for the widow for two years, the amount of US\$ 565 based on yearly cost of SENA training for rural youth or equivalent program. (viii) Attendance of school and support for continuation of primary and secondary education studies for the two children and one youth for the amount of US\$ 6,075 equivalent based on the conditional cash transfer *Familias en Acción* program. (ix) Cash subsidy for primary and secondary school attendance in the amount of US\$ 2,577. Finally, return and associated special security protection for the amount of US\$ 2,132; and legal services in the amount of US\$ 7,142. The total cost of this set of reparations is US\$ 84,647.

⁶² The estimation in a judicial process would be made on a case by case basis according to the particular circumstances and merit of the case. The use of an average case is relatively arbitrary but it is the only way to provide an order of magnitude as an initial approximation.

223. Based on this itemized set of reparations regarding compensation, restitution and rehabilitation the team estimated per unit costs of judicial reparations for three vulnerable groups. As the table shows, the reparations costs to victims of these vulnerable groups range from US\$ 66,338 for a person with physical disability to US\$ 94,138 for orphan children who lost both parents. This total results from adding all the items on each column as if the reparation was based on a cash transaction.

224. However, this is not necessarily the case. First, the set of reparations includes two parts that deal with monetary compensations (section 1 and 2), one related to restitution (section 3) and one related to services (section 4). In addition, (i) the monetary payments as proposed in the criteria for delivery could be done in two stages: one to cover emergency needs and the rest can be delivered over a period of time. (ii) the restitution component may not required direct financial cost but rather the administrative side of ensuring that the perpetrators returns the assets to the victim. (iii) The rehabilitation component (health, education, physical and psychological) would be delivered through existing services or with reasonable additional costs. Finally, (iv) this average amounts are relatively arbitrary used to illustrate an order of magnitude for discussion. In effect, the amount is conditioned by the assumptions and by the more precise and specific documentations of individual cases. The assumptions used may vary greatly depending on the criteria to estimate such as the size and composition of the household, age of orphan children, size or quality of the assets lost and the like. They may also vary according to the use of reference cost from international sources such as the ICHR or internal sources such as the State Council. According to these assumptions the cost may be lower or higher.

Table 8. Reparation Costs for Especially Vulnerable Groups

Categoría	Hogares que perdieron el principal proveedor (1)	Niños Huérfanos (2)	Personas con Discapacidad (3)	Observaciones
1. Indemnización compensatoria por daño inmaterial o moral				
1.1 Víctima Directa	N/A	N/A	\$43,370,000	100 SMMLV -Consejo de Estado/ Código Penal
1.2 Esposa/ Compañera/ Familia unipersonal	\$43,370,000	\$86,740,000	N/A	(1) y (3): 100 SMMLV -Consejo de Estado. (2): Por 2 padres muertos o desaparecidos.
1.3 Hijos	\$21,685,000	N/A	N/A	(1): 50 SMMLV para hijos y/o padres (Basado en criterio de Consejo de Estado)
1.4 Padres y otros	\$21,685,000	N/A	N/A	(1): 50 SMMLV para hijos y/o padres (Basado en criterio del Consejo de Estado)

2. Indemnización compensatoria por daño material.				
2.1 Gastos Funerarios	\$594,665	\$1,189,330	N/A	(1) y (2): FOSYGA hasta 150 SMDLV del año del hecho; para este caso se toman 12 años entre la violación y sentencia como promedio de Casos del Consejo de Estado, es decir que se toma el SMDLV de 1995. (2): Se multiplica por 2 padres muertos.
2.2. Buscar Restos Mortales de la víctima ejecutada o desaparecida	\$4,400,000	\$8,800,000	N/A	(1) Y (2): Basado en indemnizaciones compensatorias por gastos de búsqueda búsqueda fijadas por la CIDH en sentencias contra Colombia.
2.3 Pérdida de Ingresos/ Lucro Cesante Víctima Directa	N/A	N/A	\$19,682,752	Pérdida de Ingreso durante 5 años de rehabilitación, basándose en criterio de indemnización debida y futura por lucro cesante del Consejo de Estado.
2.4 Pérdida de Ingresos/ Lucro Cesante Víctimas indirectas	\$34,100,000	\$34,100,000	\$6,495,308	(1) y (2): VPN pérdida de utilidades agrícolas (Ibañez). (3): Calculo lucro cesante 5 años de rehabilitación para hijos teniendo en cuenta que solo el 33% de las víctimas tienen hijos o dependientes. Se considera un subsidio adicional para los hijos.
2.5 Pérdida de Ingresos/ Lucro Cesante Cuidador	N/A	N/A	\$9,841,376	El cuidador es general un miembro de la familia, se supone que pierde el 50% de su capacidad de generación de ingresos.
3. Restitución de Derechos de propiedad, posesión de bienes y otros.				
3.1 Pérdida promedio de activos productivos y otros.	\$1,000,000	\$1,000,000	N/A	(1) y (2): Estimación de Ibañez y Moya para población desplazada - Se supone que niños huérfanos pierden propiedades y bienes en la misma medida que ésta población.
3.2 Pérdida promedio de vivienda	\$7,200,000	\$7,200,000	N/A	
3.3 Pérdida promedio de tierra no recuperable	\$2,100,000	\$2,100,000	N/A	
3.4 Costo promedio de retorno	\$891,983	N/A	N/A	(1): Estimación de este estudio basada en fuentes secundarias
3.5 Costo Protección Temporal	\$3,800,000	\$1,864,017	\$3,800,000	(1) y (3): Costo de 1 mes de protección a testigo o persona amenazada basado en costos del programa de protección del Ministerio del Interior. (2): Costo de 3 meses en institución de protección temporal para menores en peligro.
3.6 Ubicación en hogar especializado, nuevo hogar, institución o adopción	N/A	\$36,197,064	N/A	(2): Costo promedio hogar sustituto para un niño huérfano hasta que cumpla la mayoría de edad.
3.7 Servicios legales de asistencia	\$15,714,286	\$15,714,286	\$15,714,286	Deuda del estado Colombiano por concepto de reintegro de costas y gastos, a la Comisión Colombiana de Juristas por la cantidad de US\$ 50.000,00 entre el número de víctimas (siete) en el caso "las Palmeras vs Colombia"
3.8 Reunificación Familiar	\$671,000	\$671,000	N/A	(1) y (2): Estimado de acuerdo a costos de rastreo y reintegración de huérfanos a su comunidad en África.

4. Rehabilitación y Acceso Servicios				
4.1 Atención Quirúrgica hospitalaria	N/A	N/A	\$5,755,903	Costo promedio derivado de gasto en personal militar herido por MAP/MUSE indexado a pesos de 2006. (La Huerta 2004, en CERAC). [Cifras del FOSYGA hablan de \$ 15 millones por este concepto]
4.2 Costo de Rehabilitación física, social y acompañamiento.	N/A	N/A	\$11,000,000	Estimación de costos anuales de tratamiento y rehabilitación de UNHCR.
4.3 Subsidio nutricional para niños	\$1,627,500	\$1,627,500	\$1,627,500	(1), (2) y (3): Subsidio nutricional para niños menores de 7 años; se estima en promedio un niño menor de 3.5 años a quien se subsidia hasta los 7 basados en subsidio condicionado de Familias en Acción.
4.4 Acceso a sistema de salud para la familia	\$5,094,050	\$1,989,000	\$5,807,217	Basado en la Unidad de Pago por Capitación (UPC) 2006: (1): para una familia promedio con jefatura femenina de 4.61 miembros, con 5 años de acceso garantizado a salud subsidiada. (2): Para un menor promedio hasta que cumpla su mayoría de edad y (3): para una familia promedio con jefatura masculina de 5.7 miembros, garantizando salud subsidiada durante 5 años.
4.5 Atención psicosocial a víctima directa	N/A	N/A	\$944,436	Basado en el Manual de Tarifas del I.S.S/ SOAT, actualizadas a 2007 de una sesión semanal de psicoterapia con psicólogo y una sesión con trabajadora social por 1 año.
4.6 Atención psicosocial a Esposa/ Compañera/ Familia unipersonal	\$944,436	\$944,436	\$472,218	Basado en el Manual de Tarifas del I.S.S/ SOAT, actualizadas a 2007 de (1) y (2): una sesión semanal de psicoterapia con psicólogo y una sesión con trabajadora social por 1 año. (3): una sesión dos veces por mes con ambos especialistas.
4.7 Atención psicosocial a Hijos/ familiar	\$1,068,481	N/A	\$534,241	Basado en el Manual de Tarifas del I.S.S/ SOAT, actualizadas a 2007 (1): una sesión semanal de psicoterapia familiar y terapia familiar con trabajador social por 6 meses y (3): una sesión dos veces por mes con de psicoterapia familiar y terapia familiar con trabajador social por 3 meses
4.8 Matrícula, pensión y otros costos de educación primaria y secundaria	\$13,365,000	\$4,455,000	\$13,365,000	Basado en el costo por alumno de prestación de servicio público educativo en Antioquia para (1) y (3): 3 menores de edad; (2) un niño huérfano promedio. (hasta cumplir 18 años.)
4.8 Subsidio condicionado par Educación Primaria y secundaria	\$5,670,000	\$1,890,000	\$5,670,000	Basado en subsidios para educación primaria y secundaria de Familias en Acción para familias (1) y (3) con 3 menores de edad; (2) un niño huérfano promedio.
4.9 Programas de formación jóvenes y/o madres	\$1,242,678	\$621,339	\$1,864,017	Basado en costos promedio por alumno del Programa de Formación de Jóvenes Rurales del SENA por un año: (1): Formación para el jefe de hogar y un hijo adolescente o mayor de edad. (2) Formación para un menor huérfano adolescente. (3) Formación para dos padres y un hijo adolescente.
TOTAL \$ COL	\$186,224,078	\$207,102,971	\$145,944,253	
TOTAL US \$	\$84,647	\$94,138	\$66,338	

Nota: Algunos de los costos reflejados en esta tabla no constituyen un esfuerzo presupuestal adicional para el Gobierno, pues pueden estar considerados en uno u otro rubro en el presupuesto del Plan de Desarrollo o también podrían llegar a ser recuperados.

(1) **Hogares que perdieron el principal proveedor:** Muerte violenta o desaparición forzada jefe de hogar (generalmente el hombre), pérdida proveedor económico, desplazamiento forzado, pérdida de activos físicos, pérdida de capital social trauma psicológico de madres e hijos, deterioro capital humano de hijos e hijas. **Daños materiales** por lucro cesante y daño emergente. **Daños inmateriales** como cambio proyecto de vida, valores, al igual que traumas psicológicos, miedos y dolor.

(2) **Niños y Niñas huérfanos de ambos padres por conflicto armado:** Muerte violenta o desaparición forzada de ambos padres, pérdida de sustento económico, emocional y físico (desprotección total), trauma psicológico y desorientación para futuro, deterioro capital humano. Daños materiales por lucro cesante y daño emergente. Daños inmateriales por cambios en proyecto de vida (suspensión o atraso en sus estudios) y en sus valores, al igual que traumas psicológicos, miedos, sufrimiento y abandono.

(3) **Personas con discapacidad física por el conflicto armado:** Pérdida de uno o más extremidades o uno o más sentidos (visión, audición), pérdida capacidad de trabajo, trauma psicológico por violencia y frustración proyecto de vida, pérdida de autonomía. Daños materiales por lucro cesante y daño emergente. Daños inmateriales por cambios en proyecto de vida, valores, al igual que la afectación de integridad física y psicológica.

225. Therefore, if the components are separated into monetary compensation, administrative or transaction costs and services the cost components –under the assumptions of table 8- would be as follows. The monetary compensation (sections 1 and 2 of the table) would be US\$ 57,198 for households, US\$ 59,468 for orphan children and US\$ 36,086 for disability. This is about 38 percent less than the total itemized amount of the table. This amount would be provided in kind through services.

A Standard Reparation Package

226. Furthermore, the proposal of options for fair, viable and sustainable reparations demands reaching a balance between the restoration of rights to victims and the ability of State and society to guarantee a satisfactory compliance with legal and moral obligations under current economic and political conditions. One way of achieving these demands would be to set up the components and activities of reparation outlined in the matrix and detailed in the previous paragraphs in the form of a package in an administrative program. The composition of the package could be as follows: (i) A single amount per household (vs for each members of the household) of compensatory payments for material and immaterial damages in a given amount that is fair according to the law (for example 100-125 minimum monthly wage payments) using the experience of the State Council; (ii) Payment of agricultural forgone income according to the age of the victim using as a reference the estimates presented in the table; (iii) Restitution of house and land forcefully taken away for those willing to go back to the place of origin; or payment of the equivalent amount in exchange for the property for those who had properties and assets –this is about 60 percent of all displaced households- but are not willing to go back; (iv) priority for enrollment of the widow and children in the subsidized health regime if they are not enrolled already. And guarantee of psychological support through public or private services specialized in the support and rehabilitation of victims⁶³; (v) guarantee access to education and automatic enrollment in *Familias en Acción* until children reach adult age and full subsidy for uniforms, school supplies and transport; (vi) enrollment of the widow in the specialized programs of SENA for job training or entrepreneurship activities and related skills. This set of reparations would be delivered in a sequence over a period of time. This alternative is reflected in Table 9 under the administrative program heading.

⁶³ There are specialized NGO's in dealing with this type of problems such as the Reconciliation Foundations and its network of organizations throughout the country). Other examples are COVIC in the Diocese of Malaga-, Corporación AVRE, the network of women, CIREC for those with physical disability.

Alternatives Options for Reparation

227. The information provided in the set of matrixes in Table 8 and in the examples of the last section on reparation alternatives can be used to set up alternative options. Table 9 reflects four alternatives for the case of households who lost the breadwinner: (i) A modified case of the judicial option proposed as reference for an administrative program of reparations.⁶⁴ (ii) Judicial reparation using a combination of national criteria estimated by the study and presented in Table 8. (iii) The reparation program of Chile. And (iv), judicial reparation based on the Inter American Court of Human Rights using as a reference the five cases of sentences against Colombia. The range of costs of these four options goes from US\$ 44,234 for the administrative proposal to US \$ 349,160 for the ICHR. It is worth noticing that the per unit cost of the Chile program is US\$ 274,478, over 6.2 times the option presented in 1 and 3.2 times that of 2. In turn, the cost of reparations under the ICHR would be 7.9 times larger than the proposed administrative program. The reparation options for the judicial and administrative programs for orphan children and for individuals with disabilities appear in Annex 7.

228. The judicial and administrative options have differences as it will be explained in section 8. In the administrative option the government develops a package that incorporate monetary and non-monetary components as well as individual and collective measures. In the options provided on table 9, the construction of the judicial and administrative options is based on similar items of reparation. Even though this may not be the case at the end, the study suggests that those components and activities be taken into consideration in any case to increase the fairness of the reparation program.

Table 9. Reparation Options for a Household who Lost the Breadwinner*

PROPUESTAS	Sujeto de Indemnización compensatoria o concepto	Propuesta programa administrativo (1)	Propuesta de reparación judicial (2)	Experiencias Internacionales (Chile) (3)	CIDH (4)	Observaciones
Fijar indemnización compensatoria por daño inmaterial o moral	Víctima Directa	N/A	N/A	\$20,948,143	\$136,400,000	(3): Pago de bonificación compensatorio de monto único equivalente a 12 meses de pensión (Ley 19123 de 1992 -Chile). (4): La CIDH considera una indemnización asociada a la pérdida de la vida (víctima directa) que debe ser asumida por el Estado.
	Esposa o Compañera Permanente/ Hogar	\$52,044,000	\$43,370,000	\$320,596,270	\$82,500,000	(1): Un solo monto para la familia entre 100 y 120 SMMLV. (2): 100 SMMLV según criterio del Consejo de Estado (3): Suponiendo que expectativa de vida de la esposa/compañera de la víctima es de 76 años y recibe pensión desde los 31, momento en que muere su esposo (basado en Ley 19123 de 1992 - Chile).

⁶⁴ The reparation components of this proposed administrative option includes monetary and non-monetary components for individual reparation.

	Hijos	N/A	\$21,685,000	\$131,153,019	\$184,800,000	Para un hogar promedio que tiene 3 hijos. (1) : Se adjudica monto único por hogar. (2) : Los hijos reciben 50% del monto que recibe esposa/compañera.
	Padres	N/A	\$21,685,000	\$131,155,200	\$70,400,000	(1) Se adjudica un monto único por hogar. (2) Padres reciben 50% del monto que recibe esposa o compañera. (3) Se supone que la madre es 20 años mayor que víctima promedio en el momento de su muerte y tiene una expectativa de vida hasta los 76 años (estimación basada en Ley 19123 de 1992 - Chile).
	Hermanos	N/A	N/A	N/A	\$60,720,000	
Fijar indemnización compensatoria por daño material.	Pérdida de Ingreso		\$34,100,000	N/A	\$124,432,000	(1) y (2) VPN de la pérdida de ingreso familiar agropecuario (Ibañez). (4) Basado en sentencias de la CIDH
	Gastos de Búsqueda		\$4,400,000	N/A	\$4,400,000	(2) y (4) Basado en sentencia contra Colombia de la CIDH.
	Gastos Funerarios	\$594,665	\$594,665	N/A	N/A	(1) y (2) : FOSYGA ofrece hasta 150 SMDLV del año del hecho; los años entre violación y sentencia en Casos del Consejo de Estado en promedio de algunos casos estudiados son 12, es decir que se toma el SMDLV de 1995.
Restitución de Derechos de propiedad, posesión de bienes y otros.	Desplazamiento, exilio o pérdida de Vivienda	\$14,991,983	\$14,991,983	N/A	\$104,500,000	(1) y (2) : Costos asociados a la pérdida de tierra no recuperable, activos productivos y otros, pérdida de vivienda, retorno y seguridad. (4) Según Sentencias de la CIDH en casos contra Colombia.
	Servicios legales de asistencia	N/A	\$15,714,286	N/A	N/A	(1) : En el caso de un programa administrativo estos servicios no serían necesarios.
	Acceso al sistema de salud	\$5,094,050	\$5,094,050	N/A	N/A	(1) y (2) : Basado en la UPC 2006: (1) para una familia promedio con jefatura femenina de 4.61 miembros, con 5 años de acceso garantizado a salud subsidiada.
	Reunificación Familiar	\$671,000	\$671,000	N/A	N/A	(1) y (2) : Estimado de acuerdo a costos de rastreo y reintegración de huérfanos a su comunidad en África.
Rehabilitación y acceso a servicios	Subsidio nutricional	\$1,627,500	\$1,627,500	N/A	N/A	(2) : Subsidio nutricional para niños menores de 7 años. Se estima en promedio un niño menor de 3.5 años por hogar a quien se subsidia hasta los 7 años basados en subsidio condicionado de Familias en Acción.
	Atención psicosocial a Esposo/Compañero	\$944,436	\$944,436	N/A	N/A	Atención psicosocial especializada durante un año (1) y (2) : Basado en el Manual de Tarifas del I.S.S./SOAT, actualizadas a 2007 de una sesión semanal de psicoterapia con psicólogo y una sesión con trabajadora social por 1 año.

	Atención psicosocia a Hijos/ familiar	\$1,068,481	\$1,068,481	N/A	N/A	(1) y (2); Basado en el Manual de Tarifas del I.S.S/ SOAT, actualizadas a 2007 Atención psicológica familiar y terapia social familiar durante 6 meses de una sesión semanal de psicoterapia con psicólogo y una sesión con trabajadora social.
	Matrícula, pensión y otros costos de educación primaria y secundaria	\$13,365,000	\$13,365,000	N/A	N/A	(1) y (3) Costo por alumno de prestación de servicio público educativo en Antioquia para 3 menores del hogar; (3) Chile tiene uno de los índices más altos de universalización de la educación secundaria en América Latina. Por esto la ley 19123 de 1992 (Reparación), considera subsidios y pago de matrícula y pensión para educación superior de hijos de las víctimas.
	Subsidio Educación Primaria y secundaria	\$5,670,000	\$5,670,000	N/A	N/A	(1) y (2) Basado en subsidios para educación primaria y secundaria de Familias en Acción para familias con 3 menores en promedio.
	Programas de formación jóvenes y/o madres	\$1,242,678	\$1,242,678	N/A	N/A	(1) y (2) Basado en costos promedio por alumno del Programa de Formación de Jóvenes Rurales del SENA (1año): Formación para el jefe de hogar y un hijo adolescente o mayor de edad.
Total Costos	Total \$ Col	\$97,313,793	\$186,224,078	\$603,852,631	\$768,152,000	
	Total US \$	\$44,234	\$84,647.31	\$274,478	\$349,160	

* Que no aplique (N/A) no significa necesariamente que el ítem correspondiente no pueda estar incluido en cualquier otra categoría; puede también no haber Información suficiente.

(1) Basados en criterios de reparación en matrices grupos especialmente vulnerables (Annex 6) y en propuesta del párrafo 208 del documento principal.

(2) Criterios basados en estimaciones realizadas por este estudio see Table 8 . Reparation costs for specially vulnerable groups

(3) Basado en la Ley 19123 de 2002, por medio de la cual se crea en Chile la Corporación Nacional de Reparación y Reconciliación.

(4) Criterios de reparación basados en promedios de indemnizaciones compensatorias por daño material e inmaterial en casos contra Colombia de la CIDH.

Total Costs for Each Target Group

229. One could also estimate the cost of reparations of each of the groups, assuming the size estimated for each, the profile of damages, and the cost parameters proposed. The costs would be as follows. For 39,747 peasant, indigenous and Afro-Colombian households who lost the breadwinner due to assassination or disappearance the cost is about US\$ 1.758 billion for an administrative program shown in option 1, and US\$ 3,364 billion using a judicial reparation as shown in option 2 of Table 9. That is, the amount estimated for the average household multiplied by the number of similar cases of victims eligible in the reparation program. The cost of reparations to 1,700 orphan children is US\$ 92.5 million for the administrative option and US\$ 168.51 million in the judicial option according to Table 8; for the 13,405 individuals with physical disabilities the cost is US\$ 561.8 million for the administrative option and 889.2 million based on the judicial estimates. The total cost of the three vulnerable groups using the estimates of Table 8 amounts to US\$ 2.41 billion for the administrative option and US\$ 4.42 billion for the

judicial option. The study does not claim that this is the total number of victims from each of these vulnerable groups or that this is the amount that they should be granted. It only reflects the results of the exercise using the using existing information for the numbers and available cost options. The detailed of the calculations is in Annex 8.

230. This total as well as the amounts of the various options can be used to compare cost of reparations with relevant indicators. For example, using the estimates of Annex 7 for the administrative and judicial options, the amounts are equivalent to between 1.65-3.03 percent of GDP of 2006; 12.33-22.6 percent of the budget of 2005; 24.61-45.11 percent of social sector expenditures of 2005 without pensions, and 9.31-17.07 percent of the first year of the new National Development Plan. Once again, the estimate of costs is done on the basis of the itemized reparations for each component, excluding the restitution and rehabilitation costs in the first option of Table 9. The comparisons are made only as a reference because, as explained above, the costs do not imply a cash disbursement of the total amount at one time.

231. This type of reparations package needs to be further refined to establish broad parameters for each component that can be used by the operations of the judicial process adapted to the individual case. Likewise, these parameters can be used as reference for a national administrative program of reparation if such decision is eventually taken by the government. In that case, the cost provision for each component of reparation can be adjusted taking into considerations the notions of fairness, viability and sustainability outlined before, including the expectations of the victims. These expectations as indicated before revolve mainly around satisfaction and restitution. The satisfaction has to do with truth and justice and the restitution with economic reparation leading to a basic level of wellbeing that includes decent housing conditions, education and training, reliable work and income and physical and psychological health.

7. Why is this a Reasonable Proposal

232. There is some evidence that full reparation would not have any negative impact on the economy. Ibáñez and Jaramillo (2007) evaluate the economic and fiscal impact of pursuing demobilization programs and processes of asset compensation for the displaced population, which both amount to 2.33 percent of Colombian GDP. Results indicate these programs will generate a short term impact on economic performance, yet this impact is not persistent and disappears in the long run. Moreover, the programs to compensate asset losses of the displaced population have positive long term returns as assets are again incorporated in the production process.⁶⁵

233. Gonzalez (2006) in a report for INDEPAZ⁶⁶ argues that even though the financial implications are considerable, the State and the economy would be able to deal with reparations without any major impact on the economy or on other public budget allocations. He maintains that a reparation program for victims using a variety of existing costs references can be done over a span of 20 years with projections of payments based

⁶⁵ Ibáñez, Ana Maria ...

⁶⁶ Camilo González, *Los Costos de la Reparación*, September 2006, INDEPAZ, *Revista Punto de Encuentro* No. 39, He uses the same assumption about the period of time for eligibility for victims.

on priorities to particular groups. This program at a total cost of US\$ 22,446 million dollars, according to his estimates, can be financed allocating about 0.5 percent of the gross domestic product and 1.5 percent of the budget during that period of time.

234. In addition to the financial viability there are institutional capacity reasons to be optimistic about the reasonability of this proposal. First, different from other developing countries that established judicial or administrative reparation programs as a post-conflict benefit, the country has a working and growing economy, a reasonably strong private sector, and relatively strong public and private service institutions. Second, the commitment of the State to recognize the rights of the victims and to provide reparations is expressed in the framework of the JPL law. Third, the JPL includes the participation of the State to finance collective reparation activities. Even though this is a subsidiary activity it does not restrict the government from making significant financial contributions. Fourth, the current institutional supply of services and subsidies for victims, including the integral attention to internally displaced populations commit considerable State resources which are not necessarily seen in a light of reparation, even if they include reparatory elements. All of these services and subsidies already financed under the National Development Plan could be revised and adjusted in light of the reparation process.

235. Furthermore, the reparation to victims of violence from illegal armed groups enjoys considerable public support. One of the basis for this assertion is indicated by the survey on perceptions on justice, peace reparation and reconciliation cited before where an overwhelming majority believes the victims are entitled to reparations for the damages suffered and that the reparatory measures most appreciated by this population are education, employment, medical care, and psychological and personal security, all of which are crucial to sustainable development.

236. Consequently, the issue might become one of how to finance and disburse these costs in a way that it is reasonable from an economic point of view. The option preferred by the JPL so far is the Fund for Reparation to Victims which will be made primarily from the assets contributed by the perpetrators. However, the government could also define a budget allocation for reparations to go into the reparation fund as well as decide that other confiscated assets from illegal activities outside of the JPL be added to the fund. Thus, the government could establish a budget item with a given allocation over a period of time as it has been suggested. The amount each year would be determined on the basis of the number of victims it would be able to repair, which in turn would demand decisions regarding priority for reparations and the sequence of delivery of benefits either in cash or in kind.

237. It is in this connection that the recommendation to integrate the current institutional supply makes good sense. The main reasons for this is that the financing of subsidies, services and incentives is already planned for in the NDP 2006-2010 and thus it would not require additional financial resources. The budget amount and other resources could be managed through a National Reparation Fund especially set-up for this purpose as it is explained in section 8. Practical Issues of Fairness, Viability and Sustainability

238. The next section examines the questions of fairness viability and sustainability of reparations in Colombia. If the judicial reparation under the JPL as discussed before has limitations of access to victims affected by armed conflict, it would not be completely fair. Some of the reasons for this are the following: (i) some victims may never have the information about their rights and the procedures to make them effective. (ii) Some of the victims' organizations do not trust the judicial system and would prefer international or other mechanisms or simply would not make any claims such as those of the Patriotic Union or *Comunidades de Paz*.⁶⁷ (iii) Some victims will be afraid to make claims before the perpetrators of violence against them for fear of reprisal as it has already occurred in the cases of the recent assassination of leaders. Finally, (iv) some of the victims would be unable to demonstrate the circumstances of their violations. This limitation of the JPL is the main argument to suggest the convenience of an administrative program to complement the judicial one as it is proposed below.

239. The reparations program in line with the proposed options enjoys a fair degree of viability. First, as discussed above it seems reasonably viable from a financial point of view by aligning the public service supply of subsidies and services with entitlements of victims as described in Annex 6 and making an additional fiscal effort. Second, there is a base for the political viability to the extent that the majority of Colombians, victims and non-victims believe that the victims have the rights to reparation and that the perpetrators and the State should provide the resources to finance it. This political base needs to be broadened by a special effort by the government to bring in support from other societal stakeholders. Third, the country has considerable operational experience with the delivery of large amounts of cash resources to beneficiaries as well as the delivery of services.

240. The potential for sustainability of the reparation exists however it might require special efforts and a change of mind. Integral reparation to victims (a mix of material and symbolic measures) with the type of options proposed is likely to satisfy the victims and other interested stakeholders and thus make the reparation sustainable from a legal point of view. The delivery of the reparation components and activities in a similar fashion to the way the *Juntos* strategy to overcome extreme poverty is being planned for delivery would make it developmental rather than just humanitarian. Many of the beneficiaries of the *Juntos* will be victims eligible for reparation given that it is targeted to the 1.5 million most vulnerable families of the country. And therefore, it will have a good chance to help victims overcome their vulnerability and move to a path of a basic and secure livelihood. If this is achieved, the resources invested and the way to invest them will most certainly have an individual and social impact with considerable returns on this investment. The strategy has developed indicators of achievement of certain levels of wellbeing. Those indicators and levels can be matched with the rights and entitlements of victims identified in the proposal and the adjustments can be made to satisfy reparation requirements.

8. Suitability of an Administrative Program of Integral Reparation

241. Some of the limitations of the JPL pointed out in the study and the advantages of transitional justice mechanisms suggest the suitability of a complementary administrative

⁶⁷ A short explanation of *Comunidades de Paz*.

program for integral reparation in Colombia. The limitations include restrictions of access to all victims due to lack of information, fear or lack of trust; the direct link to demobilization of armed groups as a condition to access reparation; and the capacity of the system to manage the cases effectively and efficiently. The advantages of an administrative program include, access for a larger number of victims, a more efficient and efficacious management of the process and lower costs per capita due to greater standardization of types of damages and corresponding reparation; greater consistency with international experience in similar circumstances to that of Colombia; greater control by the government and society stakeholders to better guarantee integration with existing institutional supply and a development-driven focus to reparation.

242. In that sense, the proposal of integral reparation suggested in the study starts with the judicial process originated in the law but extends to an administrative program that is complementary to the judicial process. On the one hand, the proposal offers options to make reparations to particularly vulnerable groups victims of the armed conflict in the context of the judicial solution established by the JPL. On the other hand, it offers suggestions for a nationwide program for integral reparation that covers those eligible victims from these and others vulnerable groups that have no access to the judicial process.

243. It is important to illustrate some of the differences between judicial and administrative programs for reparation. The burden of proof and the procedures required are much less demanding for the victims in an administrative process than in a judicial one. While parameters also are established in an administrative process with respect to the damage or loss to be compensated and the period to be covered by the program, they are much broader than in a judicial process, as there is no need for the judge to rule that a crime has been committed.

244. It is difficult to determine if an administrative program is less costly than a judicial one before hand. Nevertheless, it is clear that the cost of hearings, training and other costs of the judicial operators in addition to security mechanisms are eliminated in an administrative process. Moreover, investment in national programs for compensation, health, housing and education can be much less in administrative programs, if they are combined with programs that already exist as illustrated before. Nonetheless, providing those services to isolated individuals beneficiaries of the judicial process can be more costly.

245. An administrative program for reparations is not, in and of itself an isolated initiative, nor is it part of a set of measures adopted without prior coordination. On the contrary, an administrative program for reparations should be conducted within the framework of a set of initiatives for truth, justice, institutional change, reconciliation, memory and education regarding respect for human rights that involve and benefit society as a whole. This is not necessarily the case in a judicial process which, in principle, addresses a small number of individual cases in an isolated way. In that sense, an administrative program can be a better tool for reparation and reconciliation.

246. Based on the previous considerations a combined judicial and administrative program would increase the fairness, viability and sustainability of reparations and the opportunity for victims to claim their rights and overcome their vulnerability compare to

the JPL alone. As a result of such a program victims will recover or acquire for the first time their rights and will be empowered as citizens. Society at large will know and acknowledge the violation of human rights that has marked the history of the country and it will be more prone to respect the guarantees of the rights of citizens. And the State will become more legitimate as guarantor of the rights of citizens, democracy will be strengthened, social cohesion will be increased as well as the chances for national reconciliation.

247. Finally, the existing legal framework regarding victims of the armed conflict may constitute the basis for an administrative program. In effect, Laws 418, 387 and 975 have provisions for reparation of victims. Besides the JPL, victims are protected through a variety of provisions of Law 418 already identified in the study. Furthermore, the displaced population is protected by Law 387 of 1997, the ensuing legal provisions, and Sentences T-015 and T-025 of the Constitutional Court. This legal framework establishes the administrative procedures to achieve the objectives defined by Law 387. Although this framework is not designed on a post-conflict context, many of its provisions are indeed similar to administrative reparation programs. Finally, this comprehensive framework suggests that victims should be restituted to the welfare levels they enjoyed before displacement or other violations, and asset losses should be compensated. The study proposes to build on these levels and go beyond towards overcoming vulnerability and poverty.

248. One instrument of this administrative program would be a Special Reparation Fund different from the one already established by the JPL. A multi-source fund can be set up to receive and manage funds from public, private, national and international sources for the administrative reparation program. The rules for use of the fund and its governance can be implemented by a mixed group of private-public representatives similar to how the FOREC mechanism worked. Other examples of funds that can be studied as references are those used by various business associations such as the *Federación Nacional de Cafeteros*.

CHAPTER IV

CONCLUSIONS AND POLICY OPTIONS

1. Conclusions

249. The legal framework of the Justice and Peace Law, including the Regulatory Decree and the sentence of the Constitutional Court is a useful instrument for de mobilization of members of illegal armed groups, the reparation of victims and the promotion of reconciliation. The content of the legal framework is consistent with the legal and constitutional provisions applicable in the country and with the international instruments ratified by Colombia regarding human rights and the international humanitarian law. However, ensuring that the practice of the law follows this consistency will depend to a great extent on the decision making of the judges. This is due to the fact that in the framework of the JPL, the judges have great discretionary powers. Therefore, their understanding of international standards, their pro victims and pro-development orientation and a case by case decision making, will define to a great extent the consistency of the process with international standards.

250. Despite a moderate optimism regarding its application there are themes under discussion in the public debate. In summary, the JPL seems insufficient for full and fair reparation to all victims of the armed conflict as it was explained in chapter 1. It is on the basis of this conclusion that a proposal is made for a program that may satisfy a greater number of victims to avoid exclusion, a situation similar to what has happened in other reparation programs, as it is illustrated by the Truth Commissions from several African countries.⁶⁸

251. The vulnerable groups of victims of violence targeted by the study -households who lost the breadwinner, children orphan of both parents, those 65 and older, people with disabilities, members of ethnic groups and their communities and were poor and highly vulnerable before they became victims of violation of their rights but the violation made those conditions more acute. They are worse off than members of similar groups who have not been direct victims of the armed conflict. This finding confirms the fact that in armed conflicts all over the world most of the victims are poor people mainly from rural areas.

252. In the case of households who lost the main provider and are forcefully displaced -the largest of the vulnerable groups of this study- vulnerability is extreme and can lead this population group to poverty traps difficult to overcome. To begin with, these households have no means of protection and assurance, given their conditions prior to displacement and the process of displacement itself. Households that have lost their

⁶⁸ UNDP, *Hechos del Callejón*, Edición Especial Número 21, Diciembre 2006-Enero 2007, Bogotá, páginas 45 y siguientes.

provider and are now headed by a female seem to come from the more rural areas, have few physical assets, and are highly involved in social networks within the region. This last characteristic presumably is why the provider was attacked directly by an armed group. Displacement occurs after the provider's traumatic death, assassination or forced disappearance. The household breaks up as a result and, upon reaching the recipient municipality, its rates of dependence are high and the mother is usually the only breadwinner.

253. Forced displacement, coupled with the loss of the main provider, seriously undermines the wellbeing of these households. They are low-income families, with few assets, and often are obliged to take their children out of school and put them to work at an early age. The meager earnings from their labor and the inability to generate other income, due to lack of access to financial markets and the impossibility of regaining their land, slow recovery from the shock of displacement and can spell long-term costs that are irreversible. Despite these difficulties, obvious vulnerability prompts them to adopt strategies such as sending the older children to work or actively searching for public or other types of assistance. These are fairly effective strategies for supplementing low income, since the levels of aggregate consumption are similar to those of the rest of the displaced population.

254. The study looks into integral reparation to the victims with a rights perspective rather than just a humanitarian perspective. That is to say that integral reparation for victims of grave violations of their human rights, an international principle recognized by the Colombian State and the JPL, would hopefully lead to the restoration of the rights violated. This integral reparation implies granting measures of compensation, restitution, rehabilitation, satisfaction and guarantee of non-repetition.

255. The international and internal parameters for reparation include material and symbolic forms of reparation as well as individual and collective reparations. Individual reparations have the objective to repair individuals who have suffered specific harm and damages that need to be resolved individually. Collective reparation seeks to restore the rights and damages of groups of people who have been subject of selective and grave attacks and violations by armed groups.

256. Based on the itemized set of components and activities outlined in the matrix of reparations, regarding compensation, restitution and rehabilitation the per capita cost of judicial reparations to victims of these vulnerable groups range from US\$ 66,338 per individual with disability to US\$ 94,138 for orphan children. In the options of Table 9, for a household who lost the breadwinner, the cost goes from US\$ 44,234 in the Administrative Program to US\$349,160 in a Judicial Reparation under ICHR. This cost can be reduced considerably if a reparation package is defined using an administrative option combining compensation and services in the framework of criteria of fairness, viability and sustainability as discussed in Chapter 3.

257. Despite the significant financial implications of these costs the provision of these resources is fiscally viable using a combination of strategies. One is to establish a budget item over a period of time as it has been suggested by some analysts. The amount allocated each year would determine the number of beneficiary victims. This budget allocation would be paired with a decision regarding priority for reparations based on

vulnerability and need and the sequence of delivery of benefits either in cash or in kind.⁶⁹ A complementary strategy would be to deliver reparations benefits using temporal subsidies or pensions of free use, education scholarships, subsidies such as *Familias en Acción*, all of which are distributed over time.

258. Finally, the State and society have at their disposal an institutional supply of services that could be integrated into a judicial or administrative reparation program. This is a supply of existing benefits that could be managed in such a way that direct access, priority or preference could be offered to the victims. This measure would have an important impact in the reduction of direct financial costs.

2. Policy Options

259. Evaluate the convenience and viability of an administrative reparation program complementary to the judicial program of the JPL. This approach to reparations is likely to increase fairness, viability and sustainability as it reaches out to a larger universe of victims, which as documented before enjoys considerable public support. In effect, people appreciate and prefer reparation measures with a developmental impact such as education, work and employment generation, medical and psychological attention and personal security. In addition, the alignment of the reparation entitlements with existing institutional supply of subsidies and services will make it more fiscally viable. This approach may reduce the concerns of decision makers in the sense that investment in reparations may compete with other State objectives. On the contrary, from a developmental view it might contribute to the objectives of National Development Plan in those areas.

260. Manage the resources of the reparation programs either judicial, administrative or both in a developmental-driven perspective. This might be similar to the way the *Juntos* strategy to overcome extreme poverty is being planned in the National Development Plan. This implies to deliver the reparation in a way that victims will overcome their vulnerability and move in the direction of basic wellbeing and eventually sustainable livelihoods. Therefore, the delivery and use of reparations to achieve the restoration of rights violated and to contribute to overcome poverty and vulnerability needs to be seen by both State institutions and the beneficiaries with a mind set of investment for personal, household and social development and thus as a social and economic investment.

261. Take into consideration, however, that a development-driven perspective requires specific criteria to manage the reparation program. Some specific criteria and delivery mechanisms were outlined in chapter 3. This is particularly relevant for compensatory monetary payments, the area with greater financial implications. This component of the reparation package could be delivered in at least two stages: one to attend the immediate vulnerability and the second over a period of time. Part of this amount could be disbursed gradually in the form of scholarships for children, keeping in mind that reparations for

⁶⁹ The idea of a special tax to complement the Reparation Fund proposed by the President of the NRRC has been squarely rejected by the government. However, as the right to reparation gains public support this idea might get back into the discussion, considering that special taxes have been created in the past to finance other aspects of the peace policy.

children should be put into a *fideicomiso* until they reach adulthood. And part of the amount delivered as cash payments to the family in the form of guaranteed income for a given length of time using a similar mechanism to that of *Familias en Acción*.

262. Establish a priority of beneficiaries in the delivery of reparation according to the gravity of their vulnerability but preserving the principle of fairness to all victims. This strategy is also helpful from a financial point of view. Moreover, it recognizes that not all of the victims have the same needs or attribute equal value to the balance between material and symbolic reparations or to compensation and satisfaction. The commitment to a progression in delivery over a period of time makes sense in light of a rights based perspective, and its promise is grounded in the strength of a functioning economy and relatively strong public service institutions.

263. Identify reparative elements in existing public institutional supply for victims and adjust existing programs as needed so that they can be used in the reparation package. Some of them already include a variety of subsidies and services that would reduce the monetary cost since these are already budgeted. For example, the investment on humanitarian assistance to victims of violence, the reconstruction of public infrastructure in municipalities or the housing programs implemented by *Acción Social*. Or the benefits of FOSYGA to support health, hospital and mental or physical rehabilitation of victims from the armed conflict, for the payment of funeral costs and others expenses of direct victims, payment of compensation for death or disappearance, the ICBF program of attention of victims of violence, particularly families and children, Ministry of Social Protection for immediate assistance to victims. A similar case can be made about some aspects of the National Peace and Development Program (Peace and Development Project and Peace Laboratories) whose objective is peace reconstruction, social cohesion and reconciliation at the local level. All of these can be complementary activities to the reparation program undertaken by the NCCR and yet they are not considered as such by the government.

264. Establish in the social policy a chapter on reparations using the proposed criteria of priority, direct access and a small plus if possible. This policy will be reflected in a special component of the main social and economic public programs targeted to the eligible victims. The advantages of this special component in public social policy are (i) a public recognition to the victims which is a symbolic measure of satisfaction; (ii) the linkage of the reparation to existing programs that would benefit victims and non-victims although with a distinction for the entitlements of the victims; (iii) the allocation of the targets for victims in the component would create a right that can be demanded by the victim which helps to move the policy towards a rights based social policy.

265. Strengthen public support for integral reparation to victims of human rights violations and make a link with the social reintegration of ex-combatants. The relevance of this link was highlighted in the previous study of this programmatic series about demobilization and reinsertion of ex-combatants.⁷⁰ That report brings to attention the fact that at the time, the main attention of the government was on demobilization and reinsertion and no so much on the victims of the demobilized. This last year victims and

⁷⁰ The World Bank, *Demobilization and Reinsertion of Excombatants in Colombia*, 2006, ESW I Peace Programmatic.

reparation have received greater attention from government and public opinion highlighting the fact that the search for truth, justice and reparation is an issue of national interest. This is why high expectations do exist for a successful application of the JPL regarding reparations. This success would give the government the kind of public support that it received for the demobilization of about 42,000 members of the AUC and other illegal armed groups. The need to balance these two components of a comprehensive peace strategy has received attention by specialists.⁷¹

266. Finally, give special emphasis to collective and integrated programs in the delivery of reparations as it is illustrated in detail in the next section.

3. A proposal for Collective and Integrated Delivery of Reparations to Households

267. A development-driven view of reparation leading to overcoming vulnerability and poverty of victims of human rights violations has several ingredients. One is a territorial based level of intervention taking a community (*vereda*), a municipality, a province or a region as a unit. A second ingredient is a collective or group based delivery to work simultaneously with victims and non-victims in the selected territory to provide individual or collective reparations. A third ingredient is integrating the components of reparations, particularly those pertaining to education, work and employment generation, medical and psychological attention. And the fourth element, increase access to social and economic development programs and make additional investments for non-victims to ensure that reparation is linked to reconciliation and that social cohesion would be increased. The following outline describes elements of this type of intervention taking the households who lost the breadwinner as the example but applicable to individuals who are entitled to reparations.

Building an Assets Base

268. The serious loss of productive and non-productive assets clearly must be recovered if the family is to accumulate enough equity to generate more return and processes of accumulation. Moreover, upon losing the main provider due to the armed conflict, these households also have lost the flow of income produced by that person. With little income from labor and the difficulty of recovering assets abandoned at their place of origin, displaced households are forced to adopt measures for monetary compensation and the restitution of assets at the place of origin, if they want to return, or at their current location.

269. When women household heads have the deed to their abandoned property and do not want to return, steps can be taken to barter or exchange that property, as provided for in Decree 2007 of 2001, further developed in the Protection of Patrimonial Assets project sponsored in partnership by the government, the World Bank and other international

⁷¹ Duthie Roger, 2006. *Restablecer el Equilibrio: Justicia y Reconciliación* en: Cuadernos del Conflicto. Reconstrucción, reinserción y región, Semana y Fundación Ideas para la Paz, p.14

cooperation agencies. These exchanges must be flexible enough to allow property to be turned over for low-income housing in the recipient municipalities, for seed money to start an income-earning project, or both, if the value of the property is enough. It is important that property can be converted into investment capital.

270. Programs will have to be designed to provide a minimum amount of equity to women who do not have the deed to their property or did not have access to land. For example, programs to involve them in low-income housing projects, where the national government subsidizes part of the cost of the home and the recipient municipality, the rest, can be a source of support for households headed by women. Likewise, providing seed money to start an income-earning project, together with micro-loans, could enable them to begin to accumulate equity.

Keeping Children in School

271. It is important to keep children from newly displaced households in school as opposed to them dropping out to help support the family due to the loss of the breadwinner. Although putting children to work increases income in the short term, it reduces income during the life cycle of the household. The findings of the study show that dropping out of school is the result of having to earn additional income. The preferences of mothers who are willing to invest in their children's education, as demonstrated by empirical studies, and the cost of education, with enrollment and tuition being free for the displaced population, are not actually the cause of school desertion. Programs to lower education costs even more (i.e. registration, school supplies and transportation) are useful but do not go to the heart of the problem and are insufficient to keep children in school. Programs need to be designed to supplement the household's earned income, thereby relieving some of the pressure on children to work. These types of initiatives are available and it is simply a matter expanding their coverage and giving households that have lost their breadwinner direct and preferential access to them.

272. Therefore, one reparatory measure is to afford women household heads with small children priority access to community daycare facilities. This would give mothers more free time to work and they would not have to rely on other children in the family to care for the little ones. Temporary subsidies to access daycare could be established for the time assistance is provided to the household and before the child is ready to enter the first grade.

273. Another measure, as suggested earlier, is to give households headed by women due to loss of the provider or displacement direct access to conditioned subsidy programs, such as *Familias en Acción*, which provides a nutritional allowance for children between the ages of 7 and 11 and a school allowance for children between the ages of 12 and 17 for a period of 12 months. The benefits of the program could be prolonged for these households until the children are of legal age.

Designing Comprehensive Assistance Programs

274. The foregoing proposals could be part of a comprehensive and collective program designed to deliver reparation in a way that addresses the primary effects created by the loss of the breadwinner. This would imply taking steps to reduce the school drop-out rate, to provide psycho-social support, to back the equity recovery process, and to design income-earning programs that are sustainable. Such programs would, therefore, be part of a comprehensive strategy with the elements listed below.

275. Households of this type should be concentrated geographically, for example with low-income housing programs or the implementation of income-earning projects on temporary plots or property to target the programs better and to make their application less costly. In turn, this would make it possible to reduce the cost of the programs, to accommodate the design to the characteristics and needs of these households, and to reinforce social networks. Several qualitative studies show that geographically concentrating households with similar circumstances (e.g. the widows of *Valle Encantado*) helps to reduce the cost of carrying out the program, creates the conditions needed to strengthen social networks, and generates collective action among the program's beneficiaries. Such processes for collective action have led to the development of labor cooperatives, community daycare facilities or successful income-earning project.

276. Health programs must be established to address the physical and psychological needs of women and children, with special treatment in cases of sexual violence. Given the dimensions of the population of victims of the armed conflict in Colombia, the State would do well to create a program or sub-program to provide the beneficiaries of individual and collective reparation with efficient and effective specialized medical care to treat the physical and mental consequences of serious human-rights violations. The scope and coverage of such a project would include all beneficiaries, through various means for easy access. The Reparations Program for Comprehensive Health Care (PRAIS) in Chile is one example to follow in this respect.

277. It is important that there be direct access to sustainable, long-term programs for earning an income, specifically ones that include micro-loans, seed money and training in basic skills, job skills and citizenship. The majority of the current income-earning programs are limited in scope and their beneficiaries disappear almost immediately when the program is over (Ibáñez and Moya, 2006). This happens because households with very little schooling lack opportunities for credit, and their ability to compete on the job market is almost nonexistent. By providing training without the specific instruction that is required and by offering seed money without loans, the programs are temporary and fail to tackle the real problems; namely, lack of assets, a very limited amount of human capital and little access to financial markets.

278. This approach to integral reparation of households who lost the principal economic provider can be adapted to households where the principal provider suffered disabilities as a result of violence, over a third of those with disabilities as reported in chapter 2. In this case, a community based intervention for the entire household is a

desirable approach.⁷² These may include (i) the monetary compensation due for loss of physical capacity, (ii) the education intervention to avoid school drop out of children, who frequently do it to take care of the father in such circumstances or to contribute to the income of the family, (iii) similar education and income generation activities to support the wife or partner as in the case of women who head the household, (iv) comprehensive rehabilitation to strengthen self-esteem, recover mobility, develop ability to generate income and overcome anger and fears.

Fund for Integral Reparations to Ethnic Groups

279. The type of reparation to Indigenous Peoples and Afro-Colombians of the Pacific Coast living in collective territories that seems most appropriate is collective reparation. In the light of the discussion on the situation of ethnic groups in Chapter 2 as particular targets of illegal armed groups they demand special protection by the State. Such protection is a right according to international and national legislation. Suggested measures are the following: (i) restitution of land and property taken away or occupied and *saneamiento* and titling of reserves or collective territories; (ii) reparation of the violated integrity of their territory and of their culture and social capital by displacement or siege; (iii) provision of basic goods and services to strengthen their economic security, frequently at risk and vulnerable; (iv) protection and security of their lives.

280. One delivery option for some of those measures, particularly restitution, basic services and economic security is to create an Indigenous Peoples or Afro-Colombian Reparation Fund for each of these groups. This type of reparation fund has been awarded by the ICHR to indigenous communities in other countries as discussed before. For example, in the case of the Moiwana Community against Suriname the fund awarded was for US\$ 1,200,000; for the Sawhoyamaxa Community against Paraguay US\$ 1,000,000; and for the Yakye Axa Community against Paraguay US\$ 950,000.⁷³

281. The size of this fund can be done on the basis of the estimated number of individual victims or households from ethnic groups. The base to estimate the amount of this fund could be the equivalent of per the capita reparations according to the type of violation multiplied by the number of members of the groups that are direct victims. In the case of households who lost the breadwinner analyzed in Chapter 2, as an example, ethnic groups represented 7,200 of those households. Using the per capita cost per unit estimated in the reparation tables, the Ethnic Reparation Fund could be between US\$ 318.5 million using the administrative option and US\$ 609.4 million using the juridical option. The use of these funds would be agreed upon with the traditional authorities following appropriate decision-making procedures consistent with the traditions and Life Plans of the groups.

282. This type of collective reparation can also be an alternative for other populations groups or communities. This may be an appropriate measure for communities with a high sense of collective identification and commitment to a community or territory which have

⁷² CIREC, a non-governmental organization is implementing this type of comprehensive rehabilitation program called “Seeds of Hope” for victims of landmines in 25 municipalities of the country.

⁷³ The references for these cases are in the project file.

been systematically affected by the violence of armed groups. For example, the *Comunidades de Paz* from Urabá, Chocó, Guaviare, Magdalena Medio, or some rural areas of the network of regional development and peace programs with a relatively large number of victims.

4. Final Comment

283. The proposal outlined in the study is client oriented, clear and with achievable objectives. It addresses recognized limitations of the JPL regarding the universe of victims that may access fair reparation. It combines material and symbolic reparation components consistent with international standards, with the provisions of the JPL and with expectations of victims and the general population of Colombia. In addition, it puts reparation in a framework of rights, in a way consistent with how the National Development Plan 2006-2010 addresses issues of human rights, internally displaced population, victims of the armed conflict and reconciliation. Furthermore, it proposes how to integrate reparation components and activities with current institutional supply of services, subsidies and incentives. Finally it suggests how to deliver and implement the reparation in a way that (i) contributes to enhance financial and operational viability with the objective to overcome poverty and vulnerability; (ii) takes advantage of existing institutional supply by adding legitimate reparative elements through assigning priority, easier access and a genuine effort to achieve the rights of victims through social investments; and (iii) addresses vulnerability conditions of victims and non-victims in order to strengthen social cohesion.