

More actions, Less obstacles

Proposed analysis to enhance immediate and temporary humanitarian assistance for victims in Colombia within the framework of Law 1448 of 2011.

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NRC in Colombia: NRC responds to the needs and rights of displaced persons and refugees regardless of their age, gender, social, ethnic, religious or nationality status, with a focus on access to rights and durable solutions. We also contribute to the development of policies aimed at protecting the rights of displaced persons, as well as supporting the strengthening of protection and response frameworks.

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Acronyms

*Spanish acronyms

***DPS:** Administrative Department for Social Prosperity.

***ART:** Agency for Territorial Renewal.

BACRPC: Black, Afro-Colombian, Raizal and Palenquero Communities.

***CTJT:** Territorial Committee for Transitional Justice.

***DANE:** National Administrative Department of Statistics.

***DRGI:** Directorate of Registration and Information Management.

GBV: Gender-Based Violence.

***ICBF:** Colombian Institute for Family Welfare.

IAHC: Inter-Agency Humanitarian Committee.

ICRC: International Committee of the Red Cross.

IHA: Immediate Humanitarian Attention

IHL: International Humanitarian Law

LCT: Local Coordination Team.

NIN: National Information Network.

NPD: National Planning Department.

NPU: National Protection Unit.

NRC: Norwegian Refugee Council.

NRV: National Register of Victims

***MSF:** Doctors without Borders

***SNARIV:** National System of Attention and Integral Reparation for Victims.

OCHA: The United Nations Office for the Coordination of Humanitarian Affairs.

PADF: Pan American Development Foundation.

RR: Return and Relocation.

SDF: Single Declaration Form

SDPAE: Sub-Directorate for Prevention and Attention to Emergencies.

***UARIV:** Unit for the Attention and Integral Reparation of Victims.

UNHCR: The UN Refugee Agency

USOA: Unconstitutional State of Affairs.

WFP: World Food Programme.

Introduction

From 2017 to September 2023, on average, a large-group displacement or confinement was reported every two days in Colombia, according to data from the United Nations Office for the Coordination of Humanitarian Affairs (**OCHA**)¹. This average remains nearly the same when analysing the information from the Unit for the Attention and Integral Reparation of Victims (UARIV Spanish acronym) over the past three years². In addition, every year since 2020, new records are reported in the number of events of confinement and large-group displacement in the country.

Hundreds of thousands of people recently affected by the armed conflict still in need of emergency humanitarian assistance³.

In light of this situation, the Norwegian Refugee Council (**NRC**) quadrupled the number of displacement and confinement events it responded between 2020 and 2022. A daunting challenge for the organisation.

The data described above serve as an urgent wake-up call for Colombian authorities and humanitarian organizations to maintain their focus on providing emergency assistance to victims of the armed conflict in Colombia. The enforcement of Law 1448 of 2011 remains crucial.

Additionally, in relation to the population affected by forced displacement and confinement, 2024 will mark the 20th anniversary of Ruling T-025. The Constitutional Court has issued this ruling, highlighting that the system of assistance has not adequately fulfilled its duty to protect and guarantee the rights of these persons and communities, including the right to life, personal integrity, housing, food, education, and other fundamental rights⁴.

¹ OCHA Monitor: 1,255 events between January 2017 and 15 September 2023.

² UARIV: 381 events between January 2021 and 31 August 2023.

³ According to records of the National Information Network (RNI) of the UARIV, there are more than 9 million victims of the armed conflict in Colombia as of 2023.

⁴ Constitutional Court in Colombia. Sentences T-025 of 2004 and auto 811 of 2021.

This ruling, which formally declares the existence of an unconstitutional state of affairs in relation to the living conditions of the population affected by internal displacement, has subsequently led to stringent monitoring of public policies aimed at assisting the population affected by forced displacement and confinement. It remains in force. Urgent and effective measures to address and remedy this situation must be implemented by the competent institutions and authorities.

As a result of this situation, NRC decided to conduct a case study to contribute to enhancing the vital emergency response for victims of the armed conflict. In addition, this report and its recommendations is expected to contribute to overcoming the unconstitutional state of affairs.

To fulfil this purpose, this report includes information on the key jurisprudential decisions regarding forced displacement and confinement. It also includes an analysis of official data and information from humanitarian actors and information from the victim population gathered during field visits in the prioritised cases. This document also identifies the primary obstacles, opportunities, and recommendations for addressing emergencies related to forced displacement and confinement, with the aim of contributing to the resolution of the unconstitutional state of affairs.

The involvement of community leaders, local and national officials, and humanitarian actors in the targeted territories was crucial to the drafting of this analysis.

This analysis of cases of forced displacement and confinement includes events that occurred between 2022 and 2023 in communities in Alto Baudó (Chocó), Buenaventura (Valle del Cauca), Guapi (Cauca), Tame and Puerto Rondón (Arauca). Ethnic and geographic diversity is reflected in this sample. The analysis of these cases primarily focuses on the protocols and effectiveness of the delivery of immediate, emergency, and transitional humanitarian assistance."

Finally, this document includes specific recommendations and calls for action aimed at facilitating decision-making by institutional decision-makers, legislators, authorities, and other actors in responding to and assisting in humanitarian emergencies. The analysis provides practical and concrete guidance on how to address problems or challenges related to the registration of events and affected populations, the need to strengthen the articulation of the state and its institutions at the territorial and national levels, and guidance on how to effect and harmonise territorial, departmental and national planning.

Summary

Emergency response must once again be at the centre of the decisions of the Colombian government and the international community. Similarly, the UARIV's work in emergency response must be supported and carried out by all parties with obligations and responsibilities under the implementation of Law 1448 of 2011. By 2024, it will have been 20 years since the declaration of an unconstitutional state of affairs and the establishment of new annual records in the number of incidents involving confinement and large-group displacement in the country. This situation should serve as a catalyst for the urgent call to action, as mandated by the Constitutional Court, in providing assistance to victims.

The information collected⁵ and that evidenced in the prioritised cases in this analysis reveals that planning, coordination, flexibility, dedication, willingness, and agility in response processes can bring relief and hope to people who continue to be displaced and confined in the country. When this is not done, lives are put at risk.

The analysis of the cases prioritised geographical areas: *(i)* where displacement and confinement events are recurrent, such as, for example, in the municipality of Buenaventura, where more than 66 displacement and confinement events have been reported since the signing of the peace agreement or the municipality of Alto Baudó, where 34 confinement and displacement events were reported in the same period of time; *(ii)* geographic areas of difficult access, where the way of operating and financial resources should be adapted to the context of the territory to guarantee an effective and timely response; *(iii)* cases where the Norwegian Refugee Council provided or provides humanitarian assistance; and *(iv)* cases where the orders and recommendations of Judgment T-025 have challenges in their implementation.

For this reason, the case analysis was conducted in communities in Alto Baudó (Chocó), Buenaventura (Valle del Cauca), Guapi (Cauca), Tame, and Puerto Rondón (Arauca). It includes the participation of

⁵ See [Annex 1: Methodological route](#)

indigenous peoples, Afro-Colombian, and peasant communities. They describe the fear experienced during emergencies, the protracted humanitarian crisis in their territories, and call for immediate response through concrete proposals.

This report is also grateful for the collaboration and proactive contribution of local and national authorities and institutions that safeguard rights. Additionally, the international community, which has expressed its commitment to the rights of the victims of the armed conflict and provided specific recommendations to enhance humanitarian assistance.

The information⁶ and the testimonies collected⁷ indicate that measures and policies to respond to forced displacement and confinement are still only partially implemented. Despite the ongoing efforts of local authorities, national institutions, and national and international humanitarian actors to provide assistance and protection to these affected communities, there are victims who feel unprotected and neglected.

Challenges persist, with remaining gaps and barriers preventing people and communities affected by forced displacement and confinement from receiving the necessary protection, assistance, and support. For instance, the assessment and inclusion in the National Register of Victims (NRV) are untimely, as evident in the communities of Guapi (one case), Alto Baudó (three cases), and the Special District of Buenaventura (one case), which accounts for five of the eight cases analysed. In this regard, it's worth noting that Article 156 of Law 1448 of 2011 stipulates that the assessment and inclusion must occur within a maximum of 60 working days, but in these cases, it took more than 90 working days.

Another challenge identified is the persistent non-compliance with the principle of co-responsibility on the part of the **State Governments**. In the four departments under study, the responsibility for emergency assistance is shared by the territorial entity and the **UARIV**.

The 10 main findings identified in the implementation of the policy of assistance to victims, as well as the policy of prevention and protection aimed at emergency aid to forced displacement and confinement are as follows:

⁶ See [Annex 2: State of the art - humanitarian care](#).

⁷ See [Annex 3: Methodological document and instruments](#).

1. **Efforts must be made to gain access to geographical areas where the armed conflict persists, particularly in regions with limited accessibility.** The presence of non-state armed groups, along with limitations in human and financial resources, presents challenges for authorities and humanitarian actors in reaching the victims of armed conflict. These challenges impact the ability to analyse situations and respond promptly and effectively to the population. Currently, the concept of "hard-to-reach areas" has not been developed or considered in emergency planning and response to the victims of the conflict.
2. There is an **urgent need to adapt and make** the timing and **procedures more flexible** when taking statements and subsequently referring them for assessment and inclusion in the Single Register of Victims (NRV).
3. **Budgets and financial resources should be directly proportional to the frequency of victimizing events and the magnitude of humanitarian needs.** The victim assistance policy requires substantial financial resources to provide food, shelter, emergency education, medical care, and other essential rights or services to displaced and confined persons during emergencies. Local authorities and institutions are often constrained in their ability to respond effectively due to limited resources and funding.
4. **It is necessary to adapt and implement the public policy of prevention and protection to ensure the effective enjoyment of the rights to life, security, integrity, and freedom of the victims of the armed conflict.** The public policy of prevention and protection requires: *i*) financial resources, *ii*) the existence of a work plan with a programme, *iii*) publicity of the plan that is within the reach of the victims, *iv*) establishment of times, goals, indicators and monitoring, *v*) that plans are oriented towards the effective enjoyment of rights and that the policy is harmonised with the contingency plans, the development plan and the territorial action plan.
5. **Harmonise national, departmental, and municipal planning:** The lack of coordination for adequate national, departmental, and municipal planning, including actions

aimed at providing timely response to emergencies within the framework of the victims' policy and prevention and protection, should be activated without delay.

6. **There is a need for collaborative effort to meet the timelines of existing regulations:** Improved coordination between various government entities, including international humanitarian actors, is essential. In the case studies, inadequate coordination has led to duplication of efforts or gaps in hard-to-reach areas where humanitarian assistance is critical.
7. **Tailor responses to the specific needs of vulnerable populations:** Victims assistance and prevention and protection policy must be better adapted to the specific needs of vulnerable populations including children and adolescents, pregnant women, female heads of households, older individuals, persons with disabilities, indigenous peoples, Afro-Colombian communities, and peasant communities. Failure to address these unique needs will exacerbate vulnerability.
8. **Ensuring the participation of victims in the development and implementation of public policy for victims is essential:** In this regard, it is relevant to enhance the involvement of delegates in departmental and municipal victims' roundtables, which should include representatives from each of the differential approaches. Moreover, these representatives should play a role in the development of contingency plans, the development plan, and the territorial action plan.
9. **Compliance with Order 5 of Article 811 of 2021 issued by the Constitutional Court is necessary to regulate the response procedure at the national and territorial level for addressing the victimizing event of confinement.** This response should specifically consider the disproportionate risks faced by ethnic communities and peoples, considering the impact of this event on their territories and its effects on collective and individual rights.
10. **The principle of non-repetition and durable solutions must be guaranteed from the beginning of the emergency:** In addition, in the cases analysed, the

temporality of the emergency response and the challenges in its assistance are limiting a strategic planning vision in the short, medium, and long term that guarantees both the protection and assistance to the communities and the principle of non-repetition. It is necessary to link the humanitarian response with durable solutions for the population; for this reason, targeted actions have been included in the recommendations in this document.

Based on the analysis of the findings, this document suggests 24 key recommendations and actions to enhance emergency response.

Recommendations

The Constitutional Court, through Judgment T-025 of 2004, declared the existence of an Unconstitutional State of Affairs due to the systematic and massive violation of the rights of the victims of forced displacement due to the internal armed conflict. Over the years, the Constitutional Court has issued specific follow-up orders, stating that this issue still persists. The Follow-up Chamber, through Article 373 of 2016, 331 of 2019, and 811 of 2021, has pointed out that unconstitutional practices and institutional blockages within the State persist, resulting in public policy failures that hinder the resolution of the Unconstitutional State of Affairs.

In light of the above, and to contribute to overcoming the Unconstitutional State of Affairs, we propose the following recommendations to enhance public policy for victims within the context of measures for addressing victimizing events of forced displacement and confinement. We particularly call upon the Congress of the Republic to consider these recommendations for inclusion in the draft reform of Article 1448 of 2011.

To the entities of the National System of Attention and Integral Reparation to Victims – SNARIV:

1. The Ministry of the Interior, the UARIV, and the Agency for Territorial Renewal (ART) should align and harmonize the following: Prevention and Protection Plans, Shock Plans, Specific Plans for Black, Afro-Colombian, Raizal, and Palenquero communities (BACRPC), and the Return and Relocation Plans with the Ethnic Decree Laws, the structural orders of the Constitutional Court, and the initiatives of the Action Plans for Regional Transformation. This alignment aims to provide an adequate response to victims of the armed conflict and ensure the correct execution of public policy. To achieve this, it is suggested

that the process of harmonization be incorporated into the annual operational plans, emphasizing territorial criteria, and addressing recurring emergencies.

2. Institutional adaptation of the services provided by the entities within the National System for Attention and Comprehensive Reparation for Victims (SNARIV Spanish acronym) to meet the specific needs of territories, communities, and ethnic groups, including differential attention within the context of the collective rights that these population groups should enjoy. Likewise, it is recommended that the actions include psychosocial care specialised in dealing with the effects caused by the armed conflict on women, older adults and children and adolescents. In this way, it contributes to overcoming the institutional blockage identified by the Constitutional Court in Article 373 of 2016, which pointed out that there is a deep degree of disarticulation between the different authorities and those responsible for implementing the policy, through the ethnic differential approach (Article 266 of 2017).
3. The Ministry of Finance and the National Planning Department (DNP Spanish acronym) should develop a regionalization mechanism. This mechanism should guide SNARIV entities to concentrate their efforts on Category 5 and 6 municipalities and prioritize the allocation of resources to assist victims of large-group forced displacement and confinement. The objective is to enhance their financial capacity and enable them to respond promptly to emergencies.
4. The Ministry of the Interior, DNP and UARIV to strengthen local authorities through technical assistance, territorial support, and monitoring in the response to emergencies of large-group displacement and confinement that arise.
5. To the SNARIV entities strengthen the Territory-Nation strategy that seeks to bring the territory and the victim population closer to the existing offer from the national level in a clear, simple and complete manner, in terms of prevention, protection, care and assistance, so that it is possible to identify for each component or associated right, which entity is responsible, which investment project supports it, which is the corresponding

programme, what it consists of, which population group it is aimed at, which is the modality of access (by supply or demand), its periodicity and access requirements for the presentation of the good or service.

6. The Ministry of the Interior, UARIV, and the new authorities should establish or adapt information systems that enable periodic monitoring and evaluation of all activities related to the assistance of victims of large-group displacement and confinement. This will enable responsible actors to identify best practices and opportunities for enhancing community-based actions.
7. The SNARIV entities should enhance their technical capacity and the actions taken to assist victims. In this regard, reinforce the assistance pathway for large-group displacement and confinement at all levels of implementation. This entails the assumption of responsibility from the highest national level down to the political leadership at the departmental and municipal levels.
8. To the Ministry of Finance, DNP and UARIV evaluate jointly with the departments and municipalities the competencies and resources used in the immediacy stage, as well as the feasibility of redefining the competencies of this component in the victims' policy.
9. The SNARIV entities should design a national strategy that, in coordination with humanitarian actors (whose mission is to provide durable solutions), allows for the definition of an assistance route with durable solutions for communities that are victims of large-group displacement and confinement.
10. The Ministry of the Interior, led by the Human Rights Directorate, is tasked with implementing the directives of the Constitutional Court as outlined in Article 894 of 2022⁸. This involves the adaptation of public policy for the prevention and protection in areas experiencing recurring humanitarian emergencies⁹. This adaptation encompasses

⁸ Assessment of overcoming institutional blockages and unconstitutional practices in the prevention of forced displacement and the protection of the displaced population.

⁹ (i) Lower Cauca, North and Urabá (Antioquia); (ii) Middle and Lower Atrato, Lower San Juan, Middle, Upper and Lower Baudó (Chocó); (iii) urban and rural area of Buenaventura (Valle del Cauca); (iv) North and Pacific (Cauca); (v) Pacific Coast (Nariño); (vi) Southern Zone (Córdoba); and

rationalization, articulation, implementation, adjustment of response routes, identification and targeting processes, as well as the strengthening of response protocols.

11. The Ministry of Interior, Ministry of Defence, Administrative Department for Social Prosperity (DPS), and UAIRV are required to adhere to the directives of the Constitutional Court as outlined in paragraph 5 of Article 811 of 2021. This entails regulating, through an administrative act, the national and territorial response, ensuring comprehensive support for victims of confinement events.
12. The Ministry of Interior, the Ministry of Defence, and the UAIRV should establish a management-level body in collaboration with the Public Prosecutor's Office and humanitarian actors. This body's purpose is to address specific cases in municipalities that repeatedly face challenges in responding to incidents of confinement. The objective of this body is to assess the planned actions within the confinement response framework and make the required decisions to overcome implementation obstacles or make necessary adjustments to ensure the rights of the victims are upheld.
13. The UARIV, through the Sub-Directorate for Prevention and Emergency Attention (SDPAE), to design a strategy with resources for the continuous training of territorial and departmental entities and national and international organisations that support emergencies, based on their lines of action.
14. The UARIV should assess the feasibility of allocating dedicated resources for hiring appraisers within the Directorate of Registration and Information Management (DRGI) to assist in the appraisal and inclusion of cases related to large-group displacement and confinement in the Nation Register of Victims. This measure aligns with the Constitutional Court's reiterated directive in Article 811 of 2021 concerning the flexibility of processes and procedures for accessing the Register.

(vii) Catatumbo (Norte de Santander). According to the Ombudsman's Office for Ethnic Affairs, these areas are home to ethnic communities that repeatedly face risk scenarios and violations of individual and collective rights.

15. Regarding the DNP, as per the guidelines in CONPES 4031 of 2021, it is imperative to initiate more proactive measures to monitor the implementation of the plan.
16. Similarly, the DNP and the UARIV should prioritize providing technical assistance and guidance to the Governor's and Mayor's offices during each incoming government term. This effort aims to raise awareness and highlight the importance of the public policy for victims, a commitment that should manifest in specific objectives and allocated resources for the benefit of the population affected by large-group displacement and confinement.
17. For the SNARIV entities to articulate the Peace Agenda currently in place in Colombia and which is carried out through the entities implementing the Peace Agreement, whose purpose is to renew the territory that has been affected in the context of the armed conflict. These include the ATR, the Rural Development Agency, and the Peace Agreement Implementation Unit, thus, on the one hand, joining efforts to provide timely assistance to victims and, on the other, implementing lasting solutions.
18. The entities of the SNARIV and the new incoming governments should have the human and financial resources to effectively enter areas that are difficult to access and guarantee a state presence in the territories of victims of large-group displacement and confinement.
19. SNARIV entities to coordinate with humanitarian actors the response route they provide to victims of large-group displacement and confinement, in order to offer durable solutions in accordance with the needs of the communities.

Humanitarian actors:

20. Enhance coordination mechanisms to ensure effective collaboration among humanitarian actors within the framework of the response route they offer, with the goal of providing enduring solutions that align with the needs of the communities.
21. Humanitarian actors should incorporate sustained community capacity building into their initiatives. This developmental approach to community capacity building complements humanitarian efforts and aims to integrate risk reduction, promote self-reliance, and enhance the resilience of victims.
22. Humanitarian actors situated in municipalities experiencing recurring emergencies, in line with their ongoing monitoring, are expected to act as facilitators to ensure victims receive prompt assistance and additional support within the specified timeframe outlined in the response plan.
23. It is crucial that the presence of humanitarian actors, based on their mission and territorial impact in hard-to-reach areas, remains sustained over time. This persistence is essential due to the significant contributions they offer to communities and the support they provide to territorial entities in assisting victims of large group displacement and confinement.
24. The Humanitarian Country Team, and specifically the protection cluster, is requested to incorporate and implement the recommendations outlined in this document within their strategic planning, operational plans and the actions of their members in the ground.



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