

A REVIEW OF THE INTERCONNECTEDNESS  
AND INDIVISIBILITY OF THE HUMAN  
RIGHTS, HUMAN DEVELOPMENT AND  
HUMAN SECURITY AGENDAS: THE  
CASE OF THE COLOMBIAN INTERNALLY  
DISPLACED POPULATION\*

*REVISIÓN DE LA 'INTERCONEXIÓN' E  
'INDIVISIBILIDAD' DE LAS AGENDAS  
DE LOS DERECHOS HUMANOS, EL  
DESARROLLO HUMANO Y LA SEGURIDAD  
HUMANA: EL CASO DE LA POBLACIÓN  
DESPLAZADA EN COLOMBIA*

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### ABSTRACT

In recent years, there has been increasing interest in the interdependence and indivisibility of the human rights, human development and human security agendas. The United Nations, particularly the Secretary General and the United Nations Development Programme, have embraced this approach because of its potential to address structural problems, to secure coherence in all of the activities of the organization and fulfil the principles of the Charter. This library based paper reviews the application of this 'approach to human well-being' to the IDPs in Colombia, and will contend that, although this all encompassing approach to human protection has an impact on the possibility of enhancing the capacity of these discourses of addressing human well-being, there are risks which need to be highlighted in order to guarantee that the emancipatory character of human rights will not be co-opted or instrumentalized.

**Key words author:** Human rights, human development, human security, forced displacement, Colombia.

**Key words plus:** derechos humanos, desarrollo humano, seguridad humana, desplazamiento forzado, Colombia.

## RESUMEN

*En años recientes, ha habido un creciente interés en la interdependencia e indivisibilidad de las agendas de derechos humanos, desarrollo humano y seguridad humana. Las Naciones Unidas, particularmente la Secretaría General y el Programa de las Naciones Unidas para el Desarrollo, se han adherido a esta aproximación, debido a su potencial para abordar problemas estructurales, asegurar coherencia en todas las actividades de la Organización, así como la realización de los principios de la Carta de Naciones Unidas. Este artículo, basado en la revisión de la literatura relevante, revisa la aplicación de esta aproximación al bienestar de la población desplazada en Colombia, para concluir que, a pesar de que esta comprensión holística de la protección del ser humano tiene un impacto en la posibilidad de mejorar la capacidad de cada uno de los discursos que la componen para abordar el bienestar humano, existen riesgos que deben ser resaltados para garantizar que el carácter emancipatorio de los derechos humanos no sea cooptado o instrumentalizado.*

**Palabras clave autor:** *derechos humanos, desarrollo humano, seguridad humana, desplazamiento forzado, Colombia.*

**Palabras clave descriptor:** *derechos humanos, desarrollo humano, seguridad humana, migración forzada, Colombia.*

## I. INTRODUCTION

In recent years, there has been increasing interest in the interdependence and indivisibility of the human rights, human development and human security agendas<sup>1</sup>. The United Nations, particularly the Secretary General<sup>2</sup> and the United Nations Development Programme (UNDP)<sup>3</sup>, have embraced this approach because of its potential to address structural problems, and to secure coherence in all of the activities of the organization and fulfil the principles of the Charter. This paper will contend that, although this all encompassing approach to human protection has an impact on the possibility of enhancing the capacity of these discourses of addressing human well-being, there are risks which need to be highlighted in order to guarantee that the emancipatory character of human rights will not be co-opted or instrumentalized.

This paper will seek to evaluate the benefits and risks, which could derive from the materialization of this understanding in the public policies directed to tackling poverty and social exclusion in the ‘developing world’. In order to do so I will firstly review the human rights, human development and human security agendas, in order to understand them separately, as well as in dialogue with one another. This will allow me to present the

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- 1 United Nations, *In Larger Freedom: towards development, security and human rights for all A Report of the Secretary General*, Document No. A/59/2005, 2005, 6, [Online] Available from: <http://www.un.org/largerfreedom/>. [Accessed 19 April 2012]; H.O. Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 *Human Rights Quarterly*, No. 3, 734–752, (2000); Sen, A. *Human Rights and Development*, en *Development as a Human Right*, 1–8 (B.A. Andreassen y S.P. Marks, Eds., Harvard University Press, Cambridge, 2006); W. Benedek, *Human Security and Human Rights Interaction*, 59 *International Social Science Journal*, No. 193 – Supplement, 7–17, (2008); J.F. Thérien, *Human Security: The Making of a UN Ideology*, 26 *Global Society* 2, 191–213, (2012).
  - 2 United Nations, *In Larger Freedom: towards development, security and human rights for all A Report of the Secretary General*, Document No. A/59/2005, 2005, 6, [Online] Available from: <http://www.un.org/largerfreedom/>. [Accessed 19 April 2012]
  - 3 United Nations Development Programme, *Human Development Report: New Dimensions of Human Security*, 1994, [Online] Available from: <http://hdr.undp.org/en/reports/global/hdr1994/chapters/>. [Accessed 20 April 2012]; United Nations Development Programme, *Human Rights in UNDP*, 2005, [Online] Available from [http://web.undp.org/governance/docs/HRPN\\_English.pdf](http://web.undp.org/governance/docs/HRPN_English.pdf). [Accessed 19 February 2012].

possible risks to human rights and human agency that derive from bringing these three agendas together. I will also review the benefits and risks that emerge from translating this ‘holistic’ understanding of human protection to the ‘developing world’, bearing in mind the particularities which distinguish these countries from what has been referred to as the ‘developed world’. Finally, I will conduct a case study, which will allow me to test the theoretical framework outlined before.

The case study selected is the situation of the internally displaced population in Colombia, a phenomenon that has affected approximately 4 million people<sup>4</sup>, making Colombia one of the countries with more internally displaced persons in the world<sup>5</sup>. This case is particularly relevant because of the magnitude and long-standing character of the phenomenon; the existence of a public policy since 1993, which has been evaluated by the Colombian Constitutional Court and found wanting; the issuance of the Victims and Land Restitution Law in 2011; and because the armed conflict is ongoing. In order to conduct the study, I will include a brief contextualization of the phenomenon of internal forced displacement in Colombia, followed by a review of the jurisprudential approach<sup>6</sup> to the phenomenon, in order to determine if the three agendas mentioned above have had any bearing on the institutional response to the situation of internally displaced persons in Colombia (hereinafter “IDPs”). This will result in highlighting the benefits that have derived from this ‘holistic’ approach to human protection and the gaps that are still left.

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- 4 L. Garay-Salamanca, F. Barberi-Gomez y C. Ramirez-Gomez, *The Humanitarian Tragedy of Forced Displacement in Colombia*, CODHES. [Online] Available from: [http://www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52). [Accessed 16 April 2012]; M. Romero, *Desplazamiento Forzado: Entre la Guerra y la Economía Política del Despojo*, 2007, [Online] Available from: [http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DESPLAZA-DOS.Marco\\_Romero.Texto.doc](http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DESPLAZA-DOS.Marco_Romero.Texto.doc) and <http://www.uclouvain.be/71963.html> [Accessed 12 April 2012].
- 5 Internal Displacement Monitoring Centre – IDMC and Norwegian Refugee Council, *Global Overview 2011 People Internally Displaced by Conflict and Violence*, 2011, [Online] Available from: <http://www.internal-displacement.org/publications/global-overview-2011.pdf>. [Accessed 21 April 2012].
- 6 Colombian Constitutional Court, Ruling T – 025 of 2004. [Online] Available from: <http://www.corteconstitucional.gov.co/relatoria/2004/t%2D025%2D04.htm>. [Accessed 17 April 2012].

I will conclude by suggesting that although it is important to resort not only to human rights as the panacea for human well-being, and to create a dialogue between the different practices which are all directed towards the protection of human dignity, there is a need to guarantee that the oppositional character of human rights language is not lost in their interaction with human development and human security practices.

## II. HUMAN RIGHTS, HUMAN DEVELOPMENT AND HUMAN SECURITY: CONCEPTS, DIALOGUE AND RISKS

### *A. Definitions and Understandings of the concepts*

Even though there have been many debates over the definition of human rights, human development and human security, it is not within the scope of this paper to analyse these debates. Therefore, for the purposes of this paper, these concepts will be defined bearing in mind their understanding in the particular scenario of the United Nations, and their characterization as social constructs. In this sense, the definitions which will guide the subsequent analysis, need to be located within a social constructivist approach, according to which these ‘categories’ are the product of political, social and historical forces, and not pre-social or natural or biological facts<sup>7</sup>. This clarification is significant to understand why this paper will contend that there is a risk of instrumentalization of the human rights discourse when being applied in conjunction with human development and human security.

The first one of these terms (human rights) can be defined by reference to the Universal System for the Protection of Human

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7 I. Hacking, *The Social Construction of What?* (Cambridge University Press, Cambridge, 1999); J. Donnelly, *The Social Construction of International Human Rights*, en *Human Rights in Global Politics*, 71-102 (T. Dunne y N. Wheeler, Eds., Cambridge University Press Cambridge, 1999); M. Winston, *Human Rights as Moral Rebellion and Social Construction*, 6 *Journal of Human Rights*, No. 3, 279–305, (2007).

Rights, as universal entitlements, inalienable and inherent to all human beings, without discrimination (Universal Declaration of Human Rights, Preamble and art. 1). They are also indivisible and interdependent, which means that in order to guarantee human well-being, states need to guarantee civil, political, economic, social and cultural rights<sup>8</sup>. The commitment of states with the human rights agenda was clearly demonstrated in the Vienna Declaration on Human Rights (art. 1), in which “[t]he World Conference on Human Rights reaffirm[ed] the solemn commitment of all States to fulfil their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all in accordance with the Charter of the United Nations, other instruments relating to human rights, and international law. The universal nature of these rights and freedoms is beyond question.”<sup>9</sup>

On the other hand, the UNDP has defined human development as a people centred process, which seeks to find a balance between the formation of human capabilities and the use people make of the acquired capabilities<sup>10</sup>. It is a process that differs from the classic conception of development, which was focused on state, regime or economic growth or well-being<sup>11</sup>. Human development is preoccupied with enforcing capabilities, understood as the substantive freedoms every human needs to enjoy in order to lead the kind of life that he or she has reason to value<sup>12</sup>. Accordingly, poverty is defined as the deprivation of these capabilities, and does not refer merely to income. The latter since, as Sen argues (i) the relationship between income

8 United Nations General Assembly, Resolution No. A/RES/44/130, 1989, [Online] Available from <http://www.un.org/documents/ga/res/44/a44r130.htm>. [Accessed 19 April 2012].

9 World Conference on Human Rights, *Vienna Declaration on Human Rights*, Document No A/CONF.157/23, 1993, [Online] Available from: [http://www.unhchr.ch/huridocda/huridoca.nsf/\(symbol\)/a.conf.157.23.en](http://www.unhchr.ch/huridocda/huridoca.nsf/(symbol)/a.conf.157.23.en). [Accessed 20 April 2012].

10 United Nations Development Programme, Human Development Report, 1990, 73, [Online], Available from: <http://hdr.undp.org/en/reports/global/hdr1990/chapters/>. [Accessed 30 April 2012]; United Nations Development Programme, Human Development Report, 2000, 10, [Online] Available from: <http://hdr.undp.org/en/reports/global/hdr2000/chapters/>. [Accessed 30 April 2012].

11 S. McNerney – Lankford, *Human Rights and Development: Some Institutional Perspectives*, 25 *Netherland Quarterly of Human Rights*, No. 3, 459–504, 472 (2007).

12 A. Sen, *Development as Freedom* (Knopf, New York, 1999)

and capability can be seriously affected by age, gender, social, location, and other variations over which the person doesn't have any control, (ii) some may have the same income but need more to achieve the same functioning, (iii) income doesn't take into account that family income can be disproportionately allocated amongst the members of the family and (iv) relative deprivation of income (in world standards) can yield absolute deprivation in terms of capabilities (e.g. being relatively poor in a very rich country, with expensive commodities)<sup>13</sup>.

Finally, human security is perhaps the more contested of the three categories which are under scrutiny in this paper, since there have been several ways to address it<sup>14</sup>. Even though human security can be broadly understood as a paradigm shift from state security to people's security, there is a 'narrow' and a more comprehensive understanding of the spectre of protection within the human security framework. On the one hand, there is a more expansive understanding, which includes the security of people against threats to human dignity<sup>15</sup>, i.e. it encompasses 'freedom from want' and 'freedom from fear'. Therefore it includes advocacy for security through sustainable development, and dislocating the concept of security from the notions of territory and arms<sup>16</sup>. This particular approach has been advocated for by the United Nations<sup>17</sup> who has encouraged the construction of a system of collective security which would enable us to protect each other from threats that are interconnected, such as poverty, social exclusion, terrorism and civil wars.

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13 Idem.

14 B. Sorj, *Security, Human Security and Latin America*, 3 *SUR International Journal on Human Rights*, 39–56, 40 (2005).

15 W. Benedek, *Human Security and Human Rights Interaction*, 59 *International Social Science Journal*, No. 193 – Supplement, 7–17, 9 (2008).

16 United Nations Development Programme, *Human Development Report: New Dimensions of Human Security*, 1994, [Online] Available from: <http://hdr.undp.org/en/reports/global/hdr1994/chapters/>. [Accessed 20 April 2012].

17 United Nations, *A More Secure World: Our Shared Responsibility*, Report of the High-level Panel on Threats, Challenges and Change. Document A/59/565, 2004, [Online] Available from <http://www.un.org/secureworld/report.pdf>. [Accessed 19 April 2012].



However, on the other hand, there are those<sup>18</sup> who support a more restricted or ‘narrow’ understanding of human security, limiting it to ‘freedom from fear’ and focusing on “removing the use of, or threat of, force and violence from peoples’ everyday lives.”<sup>19</sup> Even though the United Nations does advocate for a more all encompassing approach to human security, in the Report of the High-level Panel on Threats, Challenges and Change there is a particular emphasis on the military agenda behind this concept of human security, which is important to bear in mind in order to understand the way in which this organization is approaching the issue of security<sup>20</sup>. Nonetheless, for the purposes of this paper, human security will be understood as a process by which the states need to protect the security of persons and therefore provide them with ‘freedom from want’, as well as ‘freedom from fear’.

### B. Dialogue and risks

After defining the concepts of human rights, human development and human security it is possible to move forward to the discussion of the ways in which these categories relate to each other. The latter since, as the United Nations Secretary General argued in his report ‘*In Larger Freedom: towards development, security and human rights for all*’, “[w]e will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights.”<sup>21</sup>

18 K. Krause, *Towards a Practical Human Security Agenda*, Policy Paper No. 26. Geneva Centre for the Democratic Control of Armed Forces – DCAF, 2007, [Online] Available from <http://www.dcaf.ch/Publications/Towards-a-Practical-Human-Security-Agenda>. [Accessed 19 April 2012]; B. Sorj, *Security, Human Security and Latin America*, 3 *SUR International Journal on Human Rights*, 39–56, 40 (2005).

19 K. Krause, *Towards a Practical Human Security Agenda*, Policy Paper No. 26. Geneva Centre for the Democratic Control of Armed Forces – DCAF, 4, 2007, [Online] Available from <http://www.dcaf.ch/Publications/Towards-a-Practical-Human-Security-Agenda>. [Accessed 19 April 2012]

20 United Nations, *A More Secure World: Our Shared Responsibility*, Report of the High-level Panel on Threats, Challenges and Change. Document A/59/565, 2004, [Online] Available from <http://www.un.org/secureworld/report.pdf>. [Accessed 19 April 2012].

21 United Nations, *In Larger Freedom: towards development, security and human rights for all A Report of the Secretary General*, Document No. A/59/2005, 6, 2005, [Online] Available from:

On the other hand, there are risks and contingencies that arise from this interconnection, which also need to be addressed. Therefore, in the following lines I will seek to establish some of the principal elements of the dialogue between human rights and development and human rights and human security; as well as addressing some of the risks derived from merging the human rights language with these other discourses.

It is important to highlight that these three categories are considered interrelated because they all have human dignity as a common source.<sup>22</sup> Also, this ‘interconnectedness’ can be seen as a result of the agenda set forth by the United Nations to mainstream human rights throughout the United Nations System<sup>23</sup>. In effect, as an outcome of the 2005 World Summit, the General Assembly stated that “[w]e resolve to integrate the promotion and protection of human rights into national policies and to support the further mainstreaming of human rights throughout the United Nations system, as well as closer cooperation between the Office of the United Nations High Commissioner for Human Rights and all relevant United Nations bodies.”<sup>24</sup>

### *C. Human rights and human development: dialogue and risks*

The relationship between human rights and human development can be found, amongst others, in a human rights approach to development<sup>25</sup>, which has been highly advertised in the academia<sup>26</sup>,

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<http://www.un.org/largerfreedom/>. [Accessed 19 April 2012]

22 W. Benedek, *Human Security and Human Rights Interaction*, 59 *International Social Science Journal*, No. 193 – Supplement, 7–17, 13 (2008).

23 United Nations, *World Summit Outcome*, Resolution No. A/RES/60/1, 2005, [Online] Available from <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>. [Accessed 20 April 2012].

24 *Ibidem*, Par. 126.

25 Even though the relationship between human rights and human development can also be particularly explained and highlighted through the ‘right to development’, for the purposes of this paper, the emphasis will be placed on the ‘rights-based approach’.

26 P. Alston, *Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals*, 27 *Human Rights Quarterly*, No. 3, 755–829 (2005); P. Alston y M. Robinson, *The Challenges of Ensuring the Mutuality of Human Rights and Development Endeavours*, en *Human Rights and Development. Towards Mutual Reinforcement*, 1 - 18 (P. Alston y and M. Robinson, Eds., Oxford University Press, Oxford, 2005); J. Wolfensohn, *Some Reflections on Human Rights and Development*,

as well as by the United Nations, particularly the UNDP<sup>27</sup>, financial institutions such as the World Bank<sup>28</sup> and organizations such as UNICEF, UNESCO and OECD.

There were two predominant tendencies in the 1990s that have provided with the basis to believe that human rights and development are connected. Firstly, there was a unanimous acceptance of the principle of indivisibility of human rights, by which economic, social, cultural, civil and political rights have the same normative value; as well as the recognition of a right to development, as oppose to development based on solidarity or charity<sup>29</sup>. Secondly, development practitioners and academics started placing increasing weight and importance to good governance and democratization in development discourse. Therefore, not only socio economic rights were on the agenda, but also civil and political rights, as norms to the political process and part of the new world order based on democratization<sup>30</sup>.

Kirkemann-Hansen and Sano<sup>31</sup> have rightly described the interrelations of human rights and human development by arguing

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en *Human Rights and Development. Towards Mutual Reinforcement*, 19 – 24 (P. Alston y M. Robinson, Eds., Oxford University Press, Oxford, 2005); J. Sachs, *Human Rights Perspectives on the Millennium Development Goals: Conference Report*, Center for Human Rights and Global Justice, NYU School of Law, New York, 2003; Sen, A. *Human Rights and Development, en Development as a Human Right*, 1 – 8 (B.A. Andreassen y S.P. Marks, Eds., Harvard University Press, Cambridge, 2006); S. McNerney – Lankford, *Human Rights and Development: Some Institutional Perspectives*, 25 *Netherland Quarterly of Human Rights*, No. 3, 459–504, (2007); R. Perry, *Preserving Discursive Spaces to Promote Human Rights: Poverty Reduction Strategy, Human Rights and Development Discourse*, 7 *McGill International Journal of Sustainable Development Law and Policy*, No. 1, 61–87, (2011); B.A.N. Mudho, *Structural Adjustments to Human Rights*, en *Special Report on Human Rights and Development 8 Development Outreach*, 24 - 28 (D. Freestone y J.K. Ingram, Eds., The World Bank Institute, 2006); M. Salomon, *Global Responsibility for Human Rights: World Poverty and the Development of International Law* (Oxford University Press, Oxford, 2007).

27 United Nations Development Programme, Human Development Report, 2000, [Online] Available from: <http://hdr.undp.org/en/reports/global/hdr2000/chapters/>. [Accessed 30 April 2012].

28 D. Kaufmann, *Human Rights, Governance and Development: An Empirical Perspective*, The World Bank Institute, 2006, [Online] Available from: <http://siteresources.worldbank.org/EXTSITETOOLS/Resources/KaufmannDevtOutreach.pdf>. [Accessed 20 April 2012]; J. Wolfensohn, *Some Reflections on Human Rights and Development*, en *Human Rights and Development. Towards Mutual Reinforcement*, 19 – 24 (P. Alston y M. Robinson, Eds., Oxford University Press, Oxford, 2005).

29 H.O. Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 *Human Rights Quarterly*, No. 3, 734–752, (2000).

30 Idem.

31 J. Kirkemann-Hansen y H.O. Sano, *The Implications and Value Added of a Rights-Based Approach*, 36 – 37, en *Development as a Human Right*, 36-56 (B.A. Andreassen y S.P. Marks,

that rights-based approaches have emerged in an environment where human rights practice has increasingly recognized the normative value of economic, social and cultural rights; views poverty as a violation of human rights; and seeks to move beyond standard setting into implementation. Also, the development practice has accepted the importance of human rights in international intervention; and seeks to promote human-centered and process oriented interventions, resorting to concepts of empowerment, accountability and participation.

The UNDP<sup>32</sup> has particularly advocated for the integration of the human rights and human development agendas. Accordingly, it has considered that human rights are the why, and human development the what and how, regarding the enhancement of capabilities and access to social arrangements that protect human beings from abuses and deprivations that will not allow them to enjoy their dignity as human beings. In effect, “[t]he realization of the dignity and worth inherent in every human being is the common goal of human development and human rights. Human rights express the bold idea that all people, men and women alike, have claims to human capabilities and social arrangements that protect them from the worst abuses and deprivations and enable them to enjoy their dignity as human beings. Human development, in turn, is a process of achieving the necessary capabilities —the range of things that a person can do and be in leading a life. When human development and human rights advance together, they reinforce each other— expanding people’s capabilities and protecting their fundamental rights and freedoms.”<sup>33</sup>

However, even though as Robinson<sup>34</sup> highlights, a human rights approach to development provides added value to the de-

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Eds., Harvard University Press, Cambridge, 2006)

32 United Nations, *In Larger Freedom: towards development, security and human rights for all A Report of the Secretary General*, Document No. A/59/2005, 6, 2005, 7, [Online] Available from: <http://www.un.org/largerfreedom/>. [Accessed 19 April 2012]

33 Idem.

34 M. Robinson, *What Rights can add to Good Development Practice*, en *Human Rights and Development. Towards Mutual Reinforcement*, 25–44 (P. Alston y M. Robinson, Eds., Oxford University Press, Oxford, 2005).

velopment agenda by enhancing accountability, citizen empowerment and free participation, normative clarity, transparency in development processes, a focus on governance and not only development, safeguards against unintended harms caused by development projects, and a more authoritative basis for advocacy; this does not mean that there are no risks and shortcomings which result from the combination and coordination of these two agendas. On the one hand, development practitioners have criticized the human rights language for being too political, unrealistic, too abstract and with no possibility of practical implementation, for not coping with time and resource restrictions, and most importantly not bearing into account that the law in which the discourse relies on, excludes the poor and therefore leaves them as unreachable if we were to rely solely on a legalistic human rights approach<sup>35</sup>.

But these are not the only shortcomings of which the human rights agenda has been accused of, since Sano<sup>36</sup> and Kirkemann-Hansen and Sano<sup>37</sup> have particularly argued that the interaction between both agendas needs to be partial, and human rights should not be regarded as the panacea for all development efforts. The latter since there are important differences between the way human rights practitioners and human development practitioners address the same issues. For example, the human rights theory has rules, duties and institutions at its core, while development theory has resource allocation and change at its core<sup>38</sup>. The development worker measures success with effective transfer of resources and increasing social welfare, while the human rights practitioners measure quality in terms of the incorporation of human rights legal norms in a particular cul-

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35 *Idem*.

36 H.O. Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 *Human Rights Quarterly*, No. 3, 734–752, (2000).

37 J. Kirkemann-Hansen y H.O. Sano, *The Implications and Value Added of a Rights-Based Approach*, en *Development as a Human Right*, 36-56 (B.A. Andreassen y S.P. Marks, Eds., Harvard University Press, Cambridge, 2006)

38 H.O. Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 *Human Rights Quarterly*, No. 3, 734–752, (2000).

ture<sup>39</sup>. It has also been argued that the human rights paradigm is not adept in addressing efficient resource allocations and in reconciling different strategies for development<sup>40</sup>.

Therefore, development practitioners have suggested that, in order for these agendas to interact properly, justice requires a paradigm shift to a more social and less legalistic approach. Justice not only depends on reliable and uncorrupted institutions and, therefore, human rights assistance needs to be moved from courtrooms and ombudsman's offices to the rural areas<sup>41</sup>. Also, the scope of accountability needs to be broadened beyond the nation-state and into the spaces where power is exercised in the global order. This includes international organizations and transnational and national corporations, which sometimes exert more influence in the realization of rights than the nation-state<sup>42</sup>. There needs to be a paradigm shift in human rights towards a less legalistic and more social approach to empowerment and realization of rights<sup>43</sup>.

Nonetheless, the criticisms not only refer to what the human rights discourse lacks or how it affects development practice. They also refer to the way in which development discourse can affect the human rights practice, since there is a risk of human rights being co-opted or instrumentalized by the institutions and authorities in charge of national and international development policies. Perry considers that when the human rights language is incorporated into development practice, human rights take two shapes: one 'within' development and another 'beyond' development. By 'within development' he is referring to "...poverty reduction being the vehicle to shape human rights in order to achieve an orthodox conception of what constitutes development...", i.e. one focused on a liberal understanding of

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39 Ibidem, 742.

40 H.O. Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 *Human Rights Quarterly*, No. 3, 734–752, 751 (2000).

41 Ibidem, 750.

42 Ibidem, 752.

43 H.O. Sano, *Development and Human Rights: The Necessary, but Partial Integration of Human Rights and Development*, 22 *Human Rights Quarterly*, No. 3, 734–752, 751 (2000).

economic growth and prosperity. On the other hand, by ‘beyond development’ he understands the resistive and unsettled form of human rights, the political force that allows them to be instruments for contestation and opposition. According to this author, it is necessary to allow space for the oppositional character of human rights, which is found ‘beyond development’, in order to allow for contestation of the conception of development<sup>44</sup>.

In the same line, it is relevant to note that by expanding their operation to human rights, the International Financial Institutions and national institutions in charge of development policies, have gained a position as authoritative interpreters and have therefore gained an important space in determining the scope of some human rights, thus taking away from them their dynamic and emancipatory potential<sup>45</sup>. On the other hand, the new concept of ‘development with participation’, which emerges from a rights-based approach, could actually imply the neutering of their contestation capacity, because in a human rights framework the ‘development institutions’ have managed to react to the accusations of undemocratic measures imposed from above or from external forces, while at the same time giving the ‘poor’ a script in which said participation is to take place. Genuinely broad based participation, which might give rise to different interpretations of rights and a move from a liberal conception of development, is avoided. The malleable nature of rights renders them vulnerable to capture, not only to radical social groups but also to conventional organs of power<sup>46</sup>. However, this does not mean that we should give up rights-based approaches to development, but rather that human rights advocates should seek to keep the space open in this joint-agenda for the emancipatory dimension of rights<sup>47</sup>.

44 R. Perry, *Preserving Discursive Spaces to Promote Human Rights: Poverty Reduction Strategy, Human Rights and Development Discourse*, 7 *McGill International Journal of Sustainable Development Law and Policy*, No. 1, 61–87, 64 (2011).

45 *Ibidem*, 69.

46 R. Perry, *Preserving Discursive Spaces to Promote Human Rights: Poverty Reduction Strategy, Human Rights and Development Discourse*, 7 *McGill International Journal of Sustainable Development Law and Policy*, No. 1, 61–87, 85 (2011).

47 *Ibidem*, 87.



*D. Human rights and human security: dialogue and risks*

The dialogue between human rights and human security can be traced back to a shared belief that security policies should seek the protection and welfare of the individual<sup>48</sup>. Therefore, this new understanding of security implies a paradigm shift into a broadening of prioritizations: from territorial security to security of people, from a right to intervene to a responsibility to protect, and from the citizen's right to security within the boundaries of the state, to the security of individual human beings worldwide<sup>49</sup>. However, the relevance of the concept of human security has been bound to the possibility of it being able to give the human rights agenda an added value<sup>50</sup>. There are some who discard this possibility, while others<sup>51</sup> believe that this new approach to human well-being allows not only for the inclusion of new threats that do not fit into the human rights legal framework, but also that it will open spaces to discuss the accountability of non-state actors and international organizations.

A 'wide' approach to human security, which includes 'freedom from fear' and 'freedom from want', could affect the security agenda mainly because by fusing social problems together there is a dilution of the struggles against physical violence, as well as a loss of operational capacity, and the possibility of determining priorities and establishing responsibilities. Also, when the human security discourse resorts to human rights in order to gain clarity, it is risking losing relevance for being a simple 'repackaged form

48 J.F. Thérien, *Human Security: The Making of a UN Ideology*, 26 *Global Society* 2, 191-213, 192 (2012); K. Bajpai, *Human Security: Concept and Measurement*, 3 (Kroc Institute Occasional Paper #19:OP:1, 2000); The Commission on Global Governance, *Our Global Neighborhood*, 338 (New York: Oxford University Press, New York, 1995).

49 B. Klein-Goldewijk, *Why Human? The Interlinkages Between Security, Rights and Development*, 19 *Security and Human Rights*, No. 1, 24 – 36, 24 (2008).

50 R.E. Howard-Hassmann, *Human Security: Undermining Human Rights?*, 34 *Human Rights Quarterly*, No. 1, 88–112, (2012); G. Oberleitner, *Porcupines in Love: The Intricate Convergence of Human Rights and Human Security*, 6 *European Human Rights Law Review*, (2005), [Online] Available from: <http://www.uni-graz.at/gerd.oberleitner/EHRLROberleitnerfinal.pdf>. [Accessed 21 April 2012].

51 W. Benedek, *Human Security and Human Rights Interaction*, 59 *International Social Science Journal*, No. 193 – Supplement, 7–17, (2008).



of human rights<sup>52</sup>. Finally, it could be argued that the security agenda would lose sight of the importance of strengthening the institutions in charge of guaranteeing public order and justice<sup>53</sup>, precisely because of the fusion of social problems.

Apart from the risks to the security agenda, there is a tension between human rights and human security that refers to the definition of the content and breath of the concept. The question is whether human rights are part of the ‘vital core’ of human security, or if they are the ‘vital core’. If we were to accept the latter, then there is a problem because the human security agenda would incorporate an explicit, open-ended prioritization of freedoms and rights, which the human rights practice tends to avoid<sup>54</sup>. On the other hand, if we were to agree with the former, then, as we stated above, the human security agenda could only be considered as a ‘repackaging of human rights’<sup>55</sup>.

Now, if we were to restrict the content of human security to ‘freedom from fear’, as Sorj<sup>56</sup> and Krause<sup>57</sup> argue, this could imply an emphasis on guaranteeing public order and physical security, therefore opening the doors for an instrumentalization or ‘securitization’ of rights<sup>58</sup>. This risk seems to mimic the risk identified by Perry<sup>59</sup> regarding human development, since it basically implies that human rights understood from ‘within’ will

52 G. Oberleitner, *Porcupines in Love: The Intricate Convergence of Human Rights and Human Security*, 6 *European Human Rights Law Review*, 598 (2005), [Online] Available from: <http://www.uni-graz.at/gerd.oberleitner/EHRLROberleitnerfinal.pdf>. [Accessed 21 April 2012].

53 B. Sorj, *Security, Human Security and Latin America*, 3 *SUR International Journal on Human Rights*, 39–56, 42–43 (2005).

54 G. Oberleitner, *Porcupines in Love: The Intricate Convergence of Human Rights and Human Security*, 6 *European Human Rights Law Review*, 600 (2005), [Online] Available from: <http://www.uni-graz.at/gerd.oberleitner/EHRLROberleitnerfinal.pdf>. [Accessed 21 April 2012]

55 *Ibidem*, 598.

56 B. Sorj, *Security, Human Security and Latin America*, 3 *SUR International Journal on Human Rights*, 39–56, (2005).

57 K. Krause, *Towards a Practical Human Security Agenda*, Policy Paper No. 26. Geneva Centre for the Democratic Control of Armed Forces – DCAF, 2007, [Online] Available from: <http://www.dcaf.ch/Publications/Towards-a-Practical-Human-Security-Agenda>. [Accessed 19 April 2012]

58 G. Oberleitner, *Porcupines in Love: The Intricate Convergence of Human Rights and Human Security*, 6 *European Human Rights Law Review*, 600 (2005), [Online] Available from: <http://www.uni-graz.at/gerd.oberleitner/EHRLROberleitnerfinal.pdf>. [Accessed 21 April 2012]

59 R. Perry, *Preserving Discursive Spaces to Promote Human Rights: Poverty Reduction Strategy, Human Rights and Development Discourse*, 7 *McGill International Journal of Sustainable Development Law and Policy*, No. 1, 61–87, (2011).

be instrumentalize to serve the purposes of the human security agenda, and therefore there is a risk of human rights discourse losing its oppositional and political power to defend human dignity from possible abuses.

Even those who advocate for a 'narrow' understanding of human security have identified certain paradoxes that derive from a conception identified with policing and the public order. Firstly, this approach to human security seems to advocate for a strengthening of the state, when at the same time the state has been diagnosed as the source of much human insecurity; secondly, the conceptualization of human security has come from states rather than from civil society, and states conception of human security is subjected to the pressures of the international community; and thirdly, there is no reference to the role of civil society and non-state actors in procuring human security<sup>60</sup>.

Finally, it is necessary to include a brief reference to the relationship between human security and human development. On this subject, the UNDP<sup>61</sup> has argued that human development is a 'broader' concept, which implies 'widening the range of people's choices'; while human security is meant to guarantee that these choices can be exercised safely and freely. This interrelation has also been recognized by Gruiters<sup>62</sup>. However, there are some who have found risks for the development agenda in making this linkage. Chandler<sup>63</sup> has particularly argued that this conflation has allowed for a prioritization of security over development.

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60 K. Krause, *Towards a Practical Human Security Agenda*, Policy Paper No. 26. Geneva Centre for the Democratic Control of Armed Forces – DCAF, 2007, [Online] Available from <http://www.dcaf.ch/Publications/Towards-a-Practical-Human-Security-Agenda>. [Accessed 19 April 2012].

61 United Nations Development Programme, *Human Development Report: New Dimensions of Human Security*, 1994, 230, [Online] Available from: <http://hdr.undp.org/en/reports/global/hdr1994/chapters/>. [Accessed 20 April 2012].

62 J. Gruiters, *Human Security and Development: An Ambivalent Relationship*, 19 *Security and Human Rights*, No. 1, 54–63, (2008).

63 D. Chandler, *The Security-Development Nexus and the Rise of 'Anti-foreign Policy'*, 10 *Journal of International Relations and Development*, No. 4, 362–386, (2007).

### III. THE HUMAN RIGHTS, HUMAN DEVELOPMENT AND HUMAN SECURITY AGENDAS IN THE DEVELOPING WORLD

Having defined human rights, human development and human security; and presented a brief discussion regarding the dialogue and some of the risks that emerge from the ‘interconnectedness’ of these three concepts, and before addressing the case study of IDPs in Colombia, it is relevant to see how the main benefits and risks previously highlighted have an impact in the ‘developing world’. Even though the ‘developing world’ seems to be the result of an arbitrary geopolitical division of the world, just as North-South and East-West divisions, for the purposes of this paper I will understand the ‘developing world’ as including not those countries with low GDP (since development is not just based on income), but those countries which have particular difficulties in realizing and securing the seven human freedoms highlighted by the UNDP in its 2000 Development Report: “Freedom from discrimination – for equality, freedom from want – for a decent standard of living, freedom for the realization of one’s human potential, freedom from fear – with no threats to personal security, freedom from injustice, freedom of participation, expression and association and freedom for decent work – without exploitation.”<sup>64</sup>

There are several causes for the difficulties which the countries that belong to the ‘developing world’ encounter regarding the guarantee of said freedoms. Some of them applicable to all developing countries and others derived from particular social, political or historical circumstances characteristic to a particular country. Some of them could be that they have (i) legal systems which are still under construction after the process of decolonization (e.g. Kenya); (ii) state institutions are fairly new and therefore they are either weak, strong and beginning to degenerate, or highly politicized (e.g. Iraq, DRC); (iii) institutions are

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64 United Nations Development Programme, Human Development Report, 2000, 31, [Online] Available from: <http://hdr.undp.org/en/reports/global/hdr2000/chapters/>. [Accessed 30 April 2012].

sometimes result driven in order to meet international standards and gain legitimization, but on the way neglect the importance of the process (e.g. Colombia, Brazil); and sometimes there are power vacuums which are filled by illegal forces (e.g. Colombia, Peru, Guatemala, Brazil).

Now, bearing in mind these particular characteristics of the 'developing world', I believe that the all-encompassing approach to human protection that has been suggested by the United Nations<sup>65</sup> reinforces several principles that are of special importance to these countries, because they support the strengthening of institutions, participation and the empowering of people; as well as principles like universality, interdependence between rights, accountability, participation, non-discrimination and empowerment<sup>66</sup> which are needed in order to address the causes of violations previously identified.

Nonetheless, the risks of this approach also acquire a particular dimension regarding the 'developing world', precisely because of the structural, institutional and legal difficulties identified above. For example, the risk of human rights being co-opted or instrumentalized by human development and human security discourses is higher, because of the need for industrial development and controlling illegal armed forces which have filled the power gaps found in these countries. The latter is aggravated by the fact that one of the problems found in the 'developing world' is the lack of information to the public regarding their rights and the institutional mechanisms available to make them effective and seek redress if they should be violated.

On the other hand, if we were to interpret the component of human security related to 'freedom from fear' as a need to

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65 United Nations, *In Larger Freedom: towards development, security and human rights for all A Report of the Secretary General*, Document No. A/59/2005, 2005, [Online] Available from: <http://www.un.org/largerfreedom/>. [Accessed 19 April 2012]

66 J. Kirkemann-Hansen y H.O. Sano, *The Implications and Value Added of a Rights-Based Approach*, 45, en *Development as a Human Right*, 36-56 (B.A. Andreassen y S.P. Marks, Eds., Harvard University Press, Cambridge, 2006)

guarantee public order, like Sorj<sup>67</sup> and Krause<sup>68</sup> did, this would omit the fact that there have been many atrocities committed in the developing world in the name of public order (e.g. Chile, Venezuela, Colombia). When there is little information on people's rights and strong institutions have degenerated, it is possible to have a situation in which there is much space for abuse. To strengthen the policing functions and institutions of a 'developing state' could imply augmenting the risk of making the state a threat to security (e.g. Colombia, Brazil). Therefore, this approach could pose a problem for the guarantee of human rights, the balance and separation of powers, and for policies regarding the strengthening of democratic participation.

These are only some of the preoccupations which arise from translating this all encompassing approach to the 'developing world', particularly because, even though the human development and human security approach, in my opinion, give a greater breath to what human rights can do in order to produce structural changes and therefore enhance the well-being of people, the fact that these discourses have the potential of neutering the oppositional dimension of human rights is worrisome, because as Sen<sup>69</sup> argues, social and political activism also has an important role for pressuring for respect, guarantee and fulfillment of rights, and it could be affected if the activists lose the power of their language.

Finally, it is important to highlight that there is a concern in the NGO and academic communities in Latin America, identified by Sorj<sup>70</sup>, regarding the possibility of embracing human security. The latter since, coming from military dictatorships, this

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67 B. Sorj, *Security, Human Security and Latin America*, 3 *SUR International Journal on Human Rights*, 39–56, (2005).

68 K. Krause, *Towards a Practical Human Security Agenda*, Policy Paper No. 26. Geneva Centre for the Democratic Control of Armed Forces – DCAF, 2007, [Online] Available from <http://www.dcaf.ch/Publications/Towards-a-Practical-Human-Security-Agenda>. [Accessed 19 April 2012]

69 Sen, A. *Human Rights and Development*, en *Development as a Human Right*, 1 – 8, 5 (B.A. Andreassen y S.P. Marks, Eds., Harvard University Press, Cambridge, 2006).

70 B. Sorj, *Security, Human Security and Latin America*, 3 *SUR International Journal on Human Rights*, 39–56, (2005).

concept is seen to pose a risk of ‘resecuritizing’ social life, which would mean to place social problems in the scope of security again<sup>71</sup>. Even though Colombia does not have the background that countries like Argentina or Chile have regarding atrocities committed by military dictatorships, it does have an internal armed conflict that has been ongoing for the past fifty years, which means there is a strong security sector and a tendency to ‘securitize’ social life, which was particularly visible with the emergence of paramilitary forces and the Alvaro Uribe government from 2002 – 2010.

#### *A. Case study: the internally displaced peoples in Colombia*

This case study will allow me to apply the theoretical framework analyzed in the previous chapters to the particular situation of IDPs in Colombia, which are considered an especially vulnerable group because of the systematic and massive violations of rights to which they are subjected. In order to study this case, I will firstly contextualize the situation of the IDPs in Colombia; I will then analyze the ruling T-025 of 2004 of the Colombian Constitutional Court (hereinafter the Court), and then present some conclusions regarding how the institutional response has incorporated, if at all, the ‘interconnectedness’ approach to human rights, human development and human security, as well as the limitations behind a rights-based approach to understanding the internal armed conflict, and therefore of the situation of the IDPs.

#### 1. Contextualizing the situation of IDPs in Colombia

The ‘forcibly displaced person’ as a legal category in Colombia only comes into existence for the state in 1997<sup>72</sup>, despite the fact

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71 Ibidem, 43.

72 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003. [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/613/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012].

that the phenomenon initiated in the 1980s<sup>73</sup>. Before then, the phenomenon was made invisible by referring to it in the public policies for economic migrations, or by assimilating it to the victims of natural disasters<sup>74</sup>. In 1997, Law 387 was issued, which defined IDPs in the following terms: “A forcibly displaced person is every person who has been forced to migrate within the national territory, leaving his/her place of residence or of habitual economic activities, because his/her life, physical integrity, security or personal freedom have been violated or are directly threatened, with occasion of any of the following situations: internal armed conflict, riots and internal tensions, generalized violence, massive violations of human rights, breaches to the international humanitarian law, or other circumstances emerging from any of the before mentioned situations which may alter or have altered drastically the public order.” (My translation).

Even though there is a legal definition of IDPs, there are important debates in Colombia regarding the registry and the characterization of the ‘universe’ of victims of forced displacement, because there are serious inconsistencies in the official records<sup>75</sup>. And this is not simply an issue that affects statistics, but one that has a high impact on the state’s approach to this phenomenon, since the data collected by the authorities is the one being used to structure public policies and to measure their results. Particularly, there is a problem of ‘under registration’ which has made the magnitude of the problem invisible and has also made the institutional and financial answers to it inadequate<sup>76</sup>.

73 Colombian Constitutional Court, Ruling T – 025 of 2004. [Online] Available from: <http://www.corteconstitucional.gov.co/relatoria/2004/t025%2D04.htm>. [Accessed 17 April 2012].

74 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003. [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/613/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012].

75 L. Garay-Salamanca, F. Barberi-Gomez y C. Ramirez–Gomez, *The Humanitarian Tragedy of Forced Displacement in Colombia*, CODHES. [Online] Available from: [http://www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52). [Accessed 16 April 2012]; M. Romero, *Desplazamiento Forzado: Entre la Guerra y la Economía Política del Despojo*, 2007, [Online] Available from: [http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DESP-LAZADOS.Marco\\_Romero.Texto.doc](http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DESP-LAZADOS.Marco_Romero.Texto.doc). and <http://www.uclouvain.be/71963.html> [Accessed 12 April 2012].

76 M. Romero, *Desplazamiento Forzado: Entre la Guerra y la Economía Política del Despojo*,



Up to December 2009 official government figures showed that there were 700,000 families registered in the official information system on the displaced population, that is over 3.6 million people, amounting to 7.9% of the total population of Colombia. However, bearing in mind that there is a considerable amount of under registration in the official system of information, according to CODHES (Consultancy for Human Rights and Displacement, in Spanish Consultoría para los Derechos Humanos y el Desplazamiento), the forcibly displaced population could amount to 4.5 million people, which corresponds to around 10% of the total population of Colombia<sup>77</sup>.

Finally, it is important to bear in mind that approximate figures indicate that 33% of IDPs are Afro Colombian, 5% are indigenous peoples (who represent 2% of the Colombian population), 48% are women, 44% are children<sup>78</sup>. And according to the Constitutional Court<sup>79</sup>, 92% of the population does not have their basic needs covered, 80% live in indigence, 63.5% have inadequate housing, 49% have no adequate public utilities, 23% of children are undernourished, 25% of children between 6 and 9 years old do not attend to school, 54% of children between 10 and 25 do not have access to education, and their death rate is 6 times higher than the national average. This is the context in which IDPs started recurring to the *writ for the protection of fundamental rights* (in Spanish *acción de tutela*), provided for in article 86 of the Constitution, and regulated by Decree 2591 of 1991. The Constitutional Court, given the amount of claims presented by the IDPs, decided to accumulate the proceedings

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2007, [Online] Available from: [http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DES-PLAZADOS.Marco\\_Romero.Texto.doc](http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DES-PLAZADOS.Marco_Romero.Texto.doc). and <http://www.uclouvain.be/71963.html> [Accessed 12 April 2012].

77 L. Garay-Salamanca, F. Barberi-Gomez y C. Ramirez-Gomez, *The Humanitarian Tragedy of Forced Displacement in Colombia*, CODHES. [Online] Available from: [http://www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52). [Accessed 16 April 2012]

78 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003. [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/6131/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012].

79 Colombian Constitutional Court, Ruling T-025 of 2004. [Online] Available from: <http://www.corteconstitucional.gov.co/relatoria/2004/t%2D025%2D04.htm>. [Accessed 17 April 2012].



and take a decision not only on the individual cases, but also regarding the design, implementation and monitoring of the public policy for the assistance of IDPs.

#### IV. THE CONSTITUTIONAL COURT RULING T-025 OF 2004: THE STRUCTURAL INJUNCTION REGARDING THE PUBLIC POLICY FOR THE ASSISTANCE OF IDPs

##### *A. Considerations and decision of the Court*

The Court determined in this ruling that there was a massive, prolonged and reiterated violation of the rights of IDPs, and identified the source of these violations in structural problems of the public policy established by the government, due to low funding and low institutional capacity. Even though the Court argues that the grave situation in which the IDPs find themselves is not caused by the state, but by the armed conflict, and particularly by the illegally armed forces, it does set out to determine if the state, via actions or omissions found in the design, implementation, monitoring and evaluation of its public policies, has contributed to the violations of the rights of the IDPs.

There are three identified stages to the policies for the IDPs: humanitarian aid, socioeconomic stability and return or re-establishment, all of which are coordinated by the *Network of Social Solidarity* (in Spanish *Red de Solidaridad Social*). The programs and policies had not been effective, with low coverage and unsatisfactory quality and adequacy. From 1998-2002 only 43% of the families according to the *Network of Social Solidarity* and 25% according to CODHES, had received humanitarian aid. Now, looking at individual cases, only 33% of the individuals according to the *Network of Social Solidarity*, and 15.32% according to CODHES. The programs for labour capacity building had reached coverage of 19.5% according to the *Network of Social Solidarity*. The housing program had coverage of 11.4%

according to the same entity, and the housing provided was not adequate according to international standards.

The Court identified as the main problems with the public policies for the protection of the IDPs, the precariousness of the institutional capacity and the insufficient funds destined to implement the policy. Amongst the faults found by the Court in the design and implementation of the public policy, it highlights that there are no indicators to measure the implementation, no clear rules engaging the displaced population in the process, nor does it establish the way in which the civil society and particularly companies can be aware of the magnitude of the phenomenon and be involved in the programs to solve it. Also, there are no differential measures directed to the most vulnerable groups (e.g. women, children, ethnic groups, minorities), and the time limit established by law for humanitarian aid (3 months) has no regard for the objective conditions in which IDPs find themselves. Particularly, regarding the socioeconomic component of the policy, the programs have not allowed IDPs to return to their places of origin and be autonomous. Nor have they established measures to protect the land of IDPs.

The Court argued that, while in Colombia the law stated clearly the priority of spending and policy implementation regarding the IDPs, and there was a legal framework with objectives, authorities responsible for their achievement, and the financial effort required is properly calculated, the problem was in the materialization of the legal standards and objectives. There was therefore an unconstitutional set back in the guarantee of the rights of IDPs because they were legally protected but unconstitutionally unprotected in practice.

However, the Court recognized that there are exceptional occasions in which the coherence between the promised level of guarantee and the resources available can never be reached, and in these cases it admitted that the authorities could consider reducing the breath of the protection promised. But it establishes as a limit of this reduction (i) the guarantee of the minimum levels of each rights and (ii) bear in mind the issues which ought to

have priority for being of high impact in society. This ‘set-back’ can be constitutional, and pass the stricter control which falls on retrogressive measures if (i) it should be necessary, (ii) if there was an exhaustive review of all other possible measures, (iii) not imply discriminatory treatment, (iv) guarantee the minimum core of each right and (v) on the condition that there need to be progressive advancement in the future (the Court refers to General Comment No. 14 of the UN Committee on Economic, Social and Cultural Rights).

Having reviewed the faults in the public policy being implemented by the state, the Court decided to declare a ‘structural injunction’ (*estado de cosas inconstitucional – unconstitutional state of affairs*) and by doing so recognized that there was a repeated and constant breach of fundamental rights, which affected a multitude of persons, whose solution requires the intervention of several entities, to attend problems of a structural nature. The Court ordered the competent authorities to undergo a reform of the public policy to assist IDPs, particularly bearing in mind the strengthening of the institutional scheme in charge of the policy, and allocating sufficient resources to materialize the recognized levels of protection.

Particularly, regarding the right to socioeconomic stability and the right to return or re-establishment the Court stated, respectively: (i) to make an individual evaluation of the situation and capacities of every displaced person in order to determine which productive projects or employment could best serve each one of them. It does not imply that the state should immediately provide material support to initiate a productive project; and (ii) not to oblige IDPs to return or re-establish themselves, provide sufficient information on the security conditions in the place of return, as well as the compromise of the state regarding socioeconomic stability and security, in order to guarantee a safe return in dignified conditions.

The Court ordered the *Network of Social Solidarity*, in charge of determining the policies and allocating resources, to guarantee the participation of the organizations of IDPs in every deci-

sion taken to overcome the ‘structural injunction’ (i.e. regarding the allocation of resources and the strengthening of institutional capacity to implement the public policy). Nonetheless, the Court clarified that this does not imply that there is a need for consent.

However, it is important to highlight that in October 2011, the Court upheld its 2004 ruling that the government’s response to internal displacement amounted to an “unconstitutional state of affairs.” The Court ordered the government to adopt a wide range of measures, and report on their implementation and outcomes.”<sup>80</sup> The latter since, as the IDMC highlights, even though since 2010 there has been a change in the discourse in favour of IDPs, this “...it is yet to translate this into effective action to protect the rights of Colombia’s internally displaced people (IDPs) and other victims of conflict. Displacement has continued in 2011 at the same rate as in previous years, as have attacks on IDPs and human rights activists. IDPs continue to have only limited access to the basic necessities of life.”<sup>81</sup>

### *B. Human rights, human development and human security in the ruling of the Constitutional Court*

Having reviewed some of the arguments that led the Court to declare a ‘structural injunction’ regarding the public policy to assist IDPs in Colombia, we can move towards determining if the Court resorted in any way to the ‘interconnectedness’ between human rights, human development and human security. Also, determine how the risks identified by practitioners and academic are manifested in the case of the IDPs in Colombia.

First of all, it is important to highlight that there was recognition, on the part of the Court, of forced displacement as a phenomenon which goes beyond the individual protection of human rights, and which entails a social development agenda, security

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80 Internal Displacement Monitoring Centre – IDMC and Norwegian Refugee Council, *Colombia Improved Government Response yet to have Impact for IDPs*, 2011, [Online] Available from: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/4C851081FB3F-B10C1257975005E685E/\\$file/colombia-overview-Dec2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/4C851081FB3F-B10C1257975005E685E/$file/colombia-overview-Dec2011.pdf). [Accessed 30 April 2012].

81 *Idem*.

for the strengthening of institutions, as well as the empowerment of excluded groups through participation. In this sense, the Court argued that "...the authorities are obliged, by the means they consider conducing, to correct the visible social inequalities, to facilitate the inclusion and participation weak, margin and vulnerable sectors of society in the economic and social life of the nation, and to stimulate a progressive improvement of the material conditions of existence of the more depressed sectors of society."<sup>82</sup>

It was this recognition which made the Court assert that the legalistic human rights approach which had been adopted so far, by which the state had limited itself to issuing regulation recognizing the rights of IDPs and creating a public policy to attend to their needs, was not enough to address this phenomenon. The structural violations to which this populations was being subjected needed of development and security strategies which would help implement and materialize the human rights legal framework which had been created. The commitment of the Court with balancing promises of protection and the limitations in resource and institutional capacity was such, that it even left the door open for the state to rethink the legal promises made to the population so that they would correspond to the actual capacity of the state.

These men, women and children were part of a legally and administratively created category of 'internally displaced persons' or IDPs, and have become a normalized phenomenon in Colombia. They are part of a statistic, of expert discourses and national policies and legislations. The way they see themselves and others see them is not only changed but also normalized<sup>83</sup>. Nonetheless, the Court, through a human rights approach has tried to give voice to the 'named', to give a human face to forced

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82 Colombian Constitutional Court, Ruling T-025 of 2004. [Online] Available from: <http://www.corteconstitucional.gov.co/relatoria/2004/t%2D025%2D04.htm>. [Accessed 17 April 2012].

83 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752-764, 756 (2007).

displacement, and detach them from the number or statistic conception of the phenomenon.

However, the ruling did not address some of the complex issues that have emerged around the participation of the state in the armed conflict, and particularly some links that have been verified by the Inter-American Court of Human Rights (2005, 2006, 2007) between the military forces and the paramilitaries. On the contrary, resorting to official data the Court referred to the FARC and paramilitary forces as being primarily responsible for forced displacement. The Court argues that the grave situation in which the IDPs find themselves is not caused by the state, but by the armed conflict, and particularly by the illegal armed forces. The only reference to the responsibility of the state relates to the omissions or actions of the state regarding the public policy to protect 'displaced persons' but it said nothing about the active participation of the state in the forced displacement itself. The Court also excluded the evaluation of the economic interests of landowners, drug traffickers, national and transnational corporations in forced displacement.<sup>84</sup>

On the other hand, the Court omitted to pronounce itself on the link between forced displacement and development, particularly land tenure in rural areas of Colombia<sup>85</sup>. The works of

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84 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003, 5, [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/613/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012].

85 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003. [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/613/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012]; M. Romero, *Desplazamiento Forzado: Entre la Guerra y la Economía Política del Despojo*, 2007, [Online] Available from: [http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DESPLAZADOS.Marco\\_Romero.Texto.doc](http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DESPLAZADOS.Marco_Romero.Texto.doc) and <http://www.uclouvain.be/71963.html> [Accessed 12 April 2012]; A. Ibáñez y P. Querubín, *Access to Land and Forced Displacement in Colombia*, 2004, [Online] Available from: <http://economia.uniandes.edu.co/publicaciones/d2004-23.pdf>. [Accessed 13 April 2012]; L. Garay-Salamanca, F. Barberi-Gomez y C. Ramirez-Gomez, *The Humanitarian Tragedy of Forced Displacement in Colombia*, CODHES. [Online] Available from: [http://www.codhes.org/index.php?option=com\\_content&task=view&id=39&Itemid=52](http://www.codhes.org/index.php?option=com_content&task=view&id=39&Itemid=52). [Accessed 16 April 2012].

Oslender<sup>86</sup> and Bello<sup>87</sup> make particularly visible how land tenure was not only seen by the actors in the armed conflict as a way of gaining control over territory and population, but as a means of going back to a development scheme of exclusion, which secured land tenure in the hands of a few landowners, and served the development of industrial and large scale plantations. Oslender<sup>88</sup> argues that the logic behind the violent incursions of the paramilitaries in the Pacific Coast Region of Colombia is based on capital and specific economic interests. He argues that even though the military campaign of the paramilitaries was driven by a need to regain territorial control from the FARC, there are other interests behind these incursions, which lay in what he calls "...a re-born economic strategy of capitalist penetration and land appropriation."<sup>89</sup>

However, regarding human development, although the Court accepted the need for measures to promote social development, it omitted to pronounce itself on the link between forced displacement and development, particularly land tenure in rural areas of Colombia<sup>90</sup>. The works of Oslender<sup>91</sup> and Bello<sup>92</sup> make particularly visible how land tenure was not only seen by the actors in the armed conflict as a way of gaining control over territory and population, but as a means of going back to a development scheme of exclusion, which secured land tenure in the hands of

86 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752–764, (2007).

87 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003, 5, [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/613/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012].

88 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752–764, (2007)

89 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752–764, 757 (2007).

90 M. Bello, *Forced Displacement in Colombia: accumulation of capital and social exclusion (El Desplazamiento Forzado en Colombia: acumulación de capital y exclusión social)*, 2003, 5, [Online] Available from: <http://repositorio.uasb.edu.ec/bitstream/10644/613/1/RAA-07-Bello-El%20desplazamiento%20forzado%20en%20Colombia.pdf>. [Accessed 12 April 2012].

91 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752–764, (2007)

92 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752–764, (2007)



a few landowners, and served the development of industrial and large scale plantations. Oslender argues that the logic behind the violent incursions of the paramilitaries in the Pacific Coast Region of Colombia is based on capital and specific economic interests. He argues that even though the military campaign of the paramilitaries was driven by a need to regain territorial control from the FARC, there are other interests behind these incursions, which lay in what he calls "...a re-born economic strategy of capitalist penetration and land appropriation."<sup>93</sup>

This link between displacement and development in Colombia has also been particularly highlighted by Vidal<sup>94</sup>, who argues that "[i]n the sight of production of new displacement, it has emerged the close relationship between displacement and development. The appropriation of territories by armed actors has not only political but economical roles. The transformation of territories from peace and traditional economies to industries and mining articulated to the expanded demands of free trade agreements. The new development goals demand the protection of property and the clearance of the land from traditional communities. At the present, the companies and investors control the territories, protected and encouraged by the development plan of the state. Development projects work as a cause of displacement and as an obstacle to their return on displaced people".

Regarding the 'freedom from fear' dimension of human security, the Court did refer to the right to peace of IDPs and how it entitled this population to not be affected by the armed conflict. On the other hand, it stated that one of the failures of the public policy was that the state did not guarantee the IDPs security if they should return to their lands. This preoccupation has been reproduced recently by Human Rights Watch regarding the Victims and Land Restitution Law (Law 1448 of

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93 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752-764, (2007), p. 757

94 Vidal, R. (2012) Internally Displaced Persons and Host Communities: The Limits of Hospitality, The Brookings Institution. [Online] Available from: [http://www.brookings.edu/~media/Files/events/2012/0322\\_host\\_communities/20120322\\_idp\\_communities.pdf](http://www.brookings.edu/~media/Files/events/2012/0322_host_communities/20120322_idp_communities.pdf). [Accessed 2 May 2012], p. 20.



2011): “[...] Successful implementation of the law will depend on the government’s ability to protect displaced communities from the powerful armed groups that oppose the restitution of these lands.”<sup>95</sup>. Nonetheless, it seems that the state has so far not guaranteed security and protection for those claiming lands, and much less for those who are championing the process of land restitution in Colombia. Since the issuance of the Victims and Land Restitution Law, 17 leaders of the restitution process have been killed<sup>96</sup>.

From the Court’s ruling it is possible to see how there is a recognition of the need to bring together human rights, human development and human security in order to guarantee the well being of IDPs, as oppose to an approach which simply measures success by the incorporation of rights and procedures in the legislation. However, the Court did not refer to some of the most problematic issues around the phenomenon of forced displacement (e.g. state participation and land tenure), which are necessary to understand in order to design and implement a coherent and comprehensive public policy.

Finally, it is possible to argue that in Colombia, particularly during the 2002 - 2010 period, there were circumstances under which the Government could be based on the human development and human security discourse, co-opting or instrumentalizing human rights language and, therefore, endangering its potential for contestation and opposition to arbitrariness and abuse. One of them would be the development schemes for the Pacific region included in the 2002-2006 National Development Plan, which included strategic alliances between local commu-

95 Human Rights Watch, *Colombia: Victims Law a Historic Opportunity*, 2011, [Online] Available from: <http://www.hrw.org/news/2011/06/10/colombia-victims-law-historic-opportunity> [Accessed 13 February 2012].

96 A. Wallace, (18 April 2012) *Colombia: The Victims of the Victims’ Law*, BBC, [Online] Available from: [http://www.bbc.co.uk/mundo/noticias/2012/04/120417\\_colombia\\_victimas\\_restitucion\\_tierras\\_aw.shtml](http://www.bbc.co.uk/mundo/noticias/2012/04/120417_colombia_victimas_restitucion_tierras_aw.shtml). [Accessed 22 April 2012]; Internal Displacement Monitoring Centre – IDMC and Norwegian Refugee Council, *Colombia Improved Government Response yet to have Impact for IDPs*, 2011, [Online] Available from: [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/4C851081FBE3FB10C1257975005E685E/\\$file/colombia-overview-Dec2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/4C851081FBE3FB10C1257975005E685E/$file/colombia-overview-Dec2011.pdf). [Accessed 30 April 2012].

nities and national or transnational corporations in developing productive projects. In this way, according to Oslender, hiding behind the alleged protection of IDPs human rights, particularly socio economic rights, the Government could have been endorsing what seemed to be a move back from biodiversity and sustainable development of the region in charge of communities, into the expansion of capitalist and exploitative projects of development.<sup>97</sup> A second example of the co-opting of human rights discourse could be identified in the *Democratic Security* agenda of the Government, which increased the military interventions in order to guarantee the right to personal security for all, but which according to Romero aggravated the forced displacement phenomenon because of the increase of armed combat which affected civil society.<sup>98</sup>

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97 U. Oslender, *Violence in Development: The Logic of Forced Displacement on Colombia's Pacific Coast*, 17 *Development in Practice*, No. 6, 752–764, 760 (2007).

98 M. Romero, *Desplazamiento Forzado: Entre la Guerra y la Economía Política del Despojo*, 2007, 7, [Online] Available from: [http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DES-PLAZADOS.Marco\\_Romero.Texto.doc](http://www.uclouvain.be/cps/ucl/doc/dvlp/documents/DES-PLAZADOS.Marco_Romero.Texto.doc). and <http://www.uclouvain.be/71963.html> [Accessed 12 April 2012]

## V. CONCLUSION

This paper has reviewed how human rights, human development and human security are ‘interdependent’ because of their special focus on the human being and in the need to guarantee his/her well-being and human dignity. This is an approach that has been highly promoted by the United Nations because of its potential to create coherency in the multiple activities that this organization performs, and the possibilities it opens to create structural changes which are needed in order to comply with the Charters principles. However, it is an approach which has important risks which, although do not imply that it should be abandoned completely, it is important to make visible so that the human rights language does not loose its power to protect individuals from abuse, and therefore that security and development measures can still be contended and critiqued by the human rights practitioners.

On the other hand, when translating this approach to the developing world, it was possible to identify that it had benefits such as placing emphasis on the importance of participation, institutional capacity and empowerment of the individual, and how the risks identified have particular manifestations. The use of this approach was analyzed in the case of IDPs in Colombia, and it was possible to note how while the Constitutional Court did recognize the importance of human rights, human development and human security in producing structural changes, it also left out the analysis of how the schemes of development and security, which were justified recurring to the human rights discourse, had contributed to the forced displacement of IDPs.

After having reviewed the theoretical framework behind the ‘interconnectedness’ of human rights, human development and human security, as well as applying it to the developing world, and particularly to the situation of IDPs in Colombia, I would like to conclude by suggesting that although it is important not only to resort to human rights as the panacea for human well-being, and it is important to create a dialogue between the

different practices which are all directed towards the protection of human dignity, there is a need to guarantee that the human rights language oppositional and 'emancipatory' character is not lost in their interaction with human development and human security practices.

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