

RESISTING DISPLACEMENT BY COMBATANTS AND DEVELOPERS:

HUMANITARIAN ZONES IN NORTH-WEST COLOMBIA



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November 2007

Acknowledgements

This report is based on interviews conducted in September 2006 with members of Humanitarian Zones in Chocó department in the region of Urabà; with local authorities, including “Accion Social”, and the Ombudsman’s Office; with the resident population and a representative of the African palm plantations in the district of Curvaradó, and with IDPs in Bogota and Madrid in June and July 2007. The report also draws upon research carried out by the Ombudsman’s Office, the Procurator General’s Office and a wide range of other sources. The IDMC is grateful to the inhabitants of the Humanitarian Zones for taking the time to present their experiences, and to José Gomez of NRC Colombia and to staff of “Justicia y Paz” for their indispensable support and advice.

Cover photo: Detail of a memorial sculpture in the Nueva Vida settlement in honour of the 83 community members killed and disappeared in Cacarica, in the department of Chocó, Colombia since 1997.

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Table of contents

Map of Colombia	3
Executive summary	4
History of conflict in the Urabá region	6
Continuing human rights violations	8
African palm plantations and forced displacement	9
Humanitarian Zones - a bid to recover land	13
Legality of the companies' use of collective territories	16
Conclusions	18
Endnotes	22
Sources	25

Map of Colombia



NB. The Afro-Colombian population and collectively-owned territories are concentrated in the departments along the Pacific and Caribbean coasts.

Executive summary

In the north-western department of Chocó, near Colombia's border with Panama, forcibly displaced people have established "Humanitarian Zones" in a bid to hang on to their land and livelihoods. These zones are occupied by groups who have joined together to remain on or near the collective land which they were forced to leave as a result of a major military campaign launched by the Colombian army and paramilitary forces against left-wing guerrillas in 1996. Although the security situation improved in 1999-2000, many of those displaced by the fighting have not been able to return to their land.

In Jiguamiandó and Curvaradó, the two communities in the department of Chocó on which this report focuses, private companies cultivating African palm for the production of biofuel started to establish plantations on the land soon after its inhabitants were displaced. The Colombian government has provided political and financial support to the development of African palm plantations as part of its effort to eradicate illicit crops, promote regional development, and, reportedly, to provide economic incentives for paramilitaries to give up their weapons in line with the government's Justice and Peace programme. However, in a context of continued human rights violations against the displaced and a complex set of competing property ownership claims, the African palm companies, with the apparent support of local paramilitary forces, have exerted pressure on the people displaced to sell or otherwise give up their land. These internally displaced people (IDPs) have established the Humanitarian Zones both to demonstrate their determination to regain their land and to better protect themselves from attacks by paramilitaries and the guerrillas. To this end, the groups seek to prevent the access of any armed group into the Humanitarian Zones - whether guerrillas, paramilitaries or the regular army.

There is growing evidence of a pattern of economic interests fuelling forced displacement and other human rights violations in the region, which has triggered investigations by the Attorney-General's Office of one of the African palm companies for having commissioned forced displacement and other human rights violations from paramilitary groups, and which led the Ombudsman's Office to conclude that the companies have "taken advantage of forced displacements". IDPs in Chocó have reported more than 100 crimes by paramilitary groups acting with the collusion or material support of the army since the beginning of the counter-insurgency campaign in 1996, including killings, death threats, forced displacements, forced disappearances and torture. In September 2007, two IDP leaders were shot and seriously wounded in a reportedly "paramilitary-type" attack.

In February 2007, the Procurator General's Office opened formal investigations against military personnel accused of killing eight members of an IDP community in the area. Yet the majority of the reported attacks against the civilian population have not been investigated. In response to continuing reports of human rights violations, the Inter-American Court on Human Rights, a body of the Organisation of American States (OAS), reiterated in February 2006 previous rulings urging the government of Colombia to take special measures to protect the people living in Humanitarian Zones in Jiguamiandó and

Curvaradó. Yet officially-demobilised paramilitary groups in alliance with African palm companies are still preventing IDPs from recovering their land.

The IDPs' struggle to reclaim their land demonstrates some of the challenges of reconciling the government's quest for peace and economic prosperity with the victims' rights to truth, justice and reparation. This report seeks to disentangle some of the complexities and challenges arising from the situation and to formulate recommendations accordingly, by focusing on these Humanitarian Zones, which illustrate some of the choices and threats facing Colombia's three million or more displaced people.

The cases of forced displacement discussed suggest that development projects cannot provide a way out of conflict unless genuine peace has been agreed and achieved between the warring parties, and the people displaced or otherwise affected have been involved in processes to restore their rights. In the continuing absence of consistent application of the rule of law and the continuing presence of development projects harmful to the restoration of the victims' rights, there can be no sustainable peace. The projects examined in this report show that development efforts may indeed perpetuate and even aggravate the injustices faced by the conflict's victims.

History of conflict in the Urabá region

The north-western Urabá region bordering Panama covers parts of two administrative departments, Chocó and Antioquia, on the Caribbean Sea's Gulf of Urabá. Government institutions have traditionally had little presence in this region, which largely explains the high percentage of Afro-Colombians; many freed slaves found refuge and land in these remote and sparsely populated jungle areas following the abolition of slavery in the nineteenth century.¹ The near-absence of the state was notably exploited by banana producers over the last century, as well as guerrilla and paramilitary groups, drug and weapons dealers and internal settlers.

The Urabá region is of great potential economic and political importance. It is covered by millions of hectares of some of the world's richest and most biodiverse jungle and it has precious metal resources. Multinational logging and mining companies have operated here for decades. Urabá is strategically located between the Pacific Ocean and the Caribbean Sea, with rivers and valleys connecting landlocked administrative departments with the sea.² The Pan-American Highway would have to pass through the region to connect South America with Central and North America by road, but it lacks some 90 kilometres, the so-called "Darién Gap" between Panama and Colombia. There are plans to construct a second inter-ocean channel from the Gulf of Urabá to Coredó on the Pacific Ocean, at the mouth of the Atrato River.³

In an area that came to be known as the "banana axis" stretching over five municipalities in the Urabá region, the banana plantations attracted guerrilla groups in the 1960s, notably the left-wing *Ejército Popular de Liberación* (Popular Liberation Army, or EPL) which sought to control the labour unions and the local population in its struggle against the state.⁴ In 1991 the demobilisation of the EPL left a power vacuum which was soon filled by what is now Colombia's principle left-wing guerrilla group; *Fuerzas Armadas Revolucionarias de Colombia – Ejército del Pueblo* (Revolutionary Armed Forces of Colombia - People's Army, FARC-EP) started to carry out brutal attacks against people believed to sympathise with the *Esperanza, Paz y Libertad* (Hope, Peace and Liberty) political party founded by demobilised EPL fighters. An incursion of a paramilitary group from the neighbouring Córdoba region in 1995 further reduced civilians' prospects of safety and peace in the area.⁵

Many of the demobilised EPL guerrilla fighters joined these paramilitary groups, significantly altering the dynamics of the region's conflict.⁶ The alliance between the former EPL guerrillas and the paramilitary groups was reinforced by the support of the national army, all of them united against FARC-EP.⁷ In the period that followed, the security and human rights situations deteriorated dramatically. Several hundred people were assassinated in the "banana axis", including union leaders and local politicians of the *Unión Patriótica* (Patriotic Union, UP) a political party founded by FARC-EP in 1985 following negotiations with the government of President Belisario Betancur.⁸

According to one paramilitary leader, the effectiveness of the alliance between the paramilitary groups, demobilised guerrilla soldiers and the national army in the Urabá region served as a model to stimulate the proliferation of similar collaborative ventures in other regions.⁹

At the end of 1996, ostensibly to quell the FARC-EP insurgency, the army and paramilitary groups launched a major offensive called “Operation Genesis”, using methods ranging from aerial bombardments and economic blockades to the looting and burning of houses and crops and the massacre, abduction, torture, and arbitrary detention of civilians.¹⁰ Operation Genesis succeeded in forcing the guerrillas away from the lower reaches of the tributaries of the Atrato River, but it also drove between 15,000 and 17,000 people,¹¹ mainly *campesinos* (Afro-Colombian smallholders and indigenous people) from their homes.¹² Though the major armed clashes subsided in 1999-2000, the return and reintegration of the people displaced have not followed.



A sign showing the entrance to a Humanitarian Zone in Chocó, near the border with Panama. The sign indicates that the land is collectively owned by the communities, protected by the Inter-American Commission on Human Rights and that no armed actors may enter.

Continuing human rights violations

The forced displacement of civilians which resulted from this military strategy was followed by the establishment of large-scale African palm plantations on the abandoned land. In 2007, the IDPs continue to face physical and legislative obstacles to their return. The continuing presence of armed actors, and the government's failure to enforce laws protecting IDPs' rights, have proved to concur with the interest of the African palm companies.

The violence did not stop with the end of the major armed clashes in 2000. From 2001 to the end of 2005, the paramilitary groups colluded with the army to intensify direct attacks against the Afro-Colombian and indigenous communities in the districts of Jiguamiandó and Curvaradó (as discussed further in this report) and across the region.¹³ The ongoing human rights violations included killings, torture, looting, burning of crops and houses, arbitrary detention, forced sale and death threats.¹⁴ The Afro-Colombian communities in Jiguamiandó and Curvaradó reported more than 100 crimes committed against their members from 1996 up to late 2005 by paramilitary groups with the collusion or at least assent of the 17th Brigade of the National Army. These accusations included the dates and location of the crimes, the names of the victims and the alleged perpetrators.¹⁵ According to IDP leaders and an organisation monitoring the human rights situation in the region, the army has also since 1996 directly or indirectly caused 12 major non-combat-related displacements in the two communities.¹⁶



Members of a Humanitarian Zone in North-western Chocó.

In response to official complaints by the victims and by an organisation supporting the IDPs, the Organisation of American States' Inter-American Court on Human Rights (IACHR) reiterated previous rulings of 2003, 2004 and 2005 in February 2006 and ordered the government to "adopt such measures as may be necessary to protect the life and the right to humane treatment of all the members of the communities of Jiguamiandó and Curvaradó and ensure that the beneficiaries of these measures can continue to live in their usual residence, without fear of coercion or threat, and that displaced persons may return to their homes or to the 'humanitarian areas' established by these communities".¹⁷

While investigations of some of the crimes have been initiated, IDMC was not aware in July 2007 of any indictments against the alleged perpetrators.¹⁸ Moreover, the IDPs continue to be subjected to threats and pressure to leave their land from supposedly demobilised paramilitary groups.¹⁹ One of the cases referred to in the IACHR ruling involved an IDP leader who was killed by identified members of a paramilitary group after he had been interrogated by the local police in his home commune. The IDP leader had been invited by

the Presbyterian Church in the United States to testify to the US Congress on the links between the army, paramilitary groups and illegal commercial activities. He was denied a visa and found dead with signs of torture some days after being abducted by a paramilitary unit.²⁰ In September 2007, two further IDP leaders were shot and seriously wounded in a “paramilitary type” attack.²¹ The two had been witnesses in judicial proceedings on the killing and the seizure of land by the African palm companies, and were leading attempts to recuperate land currently occupied by plantations.

The FARC-EP guerrillas, meanwhile, have been deemed responsible for the killings of seven people in Jiguamiandó and Curvaradó since 1996, reportedly lumberjacks working for the companies operating in the area.²² The relatively small number of human rights violations committed against members of the Humanitarian Zones by the guerrilla forces has fuelled the military and civil authorities’ suspicions of collaboration between the two groups. Most of the prominent members of the Humanitarian Zones in Jiguamiandó and Curvaradó, and a number of representatives of supporting national and international organisations, are under investigation by military judicial authorities after being accused of guerrilla affiliation.²³

African palm plantations and forced displacement

The African palm is a tropical tree used to extract African palm oil, for which global demand is expected to increase significantly over the coming years as a sustainable source of biodiesel.²⁴ The two main producers and exporters of African palm oil on the world market are Malaysia and Indonesia. In Colombia this cash crop may offer a viable source of income for the government and an economic alternative to drug cultivation. The government plans to dedicate six hundred thousand hectares of land to increase the production of African palm oil and export of biodiesel.²⁵ Thus biodiesel projects have attracted considerable private investment as well as support from international donors for regional development and the eradication of illicit crops.

In Jiguamiandó and Curvaradó, following the end of the major clashes between the guerrillas and the national army and paramilitary groups in 2000, a group of companies started establishing African palm plantations on the land the IDPs had fled from. The growth of the banana plantations in the Urabá region in the 1950s and the establishment of these African Palm plantations since 2000 show crucial similarities, particularly the lack of respect for the human rights of the workers and the local population shown by the companies and the authorities.²⁶

In response to complaints by the people who had been forced from their land, the *Instituto Colombiano de Desarrollo Rural* (National Rural Development Institute, INCODER)²⁷ confirmed in a verification report of 14 March 2005 that more than 3,800 hectares, or 93 per cent, of the land that the companies planted with African palm trees belonged to displaced Afro-Colombian communities.²⁸ INCODER concluded that between 2001 and 2004 a group of private investors took advantage of the forced displacements that these commu-

nities had been victims of, and developed a massive purchasing scheme to establish African oil plantations.²⁹

The land purchases were characterized by gross irregularities; in interviews with IDMC in September 2006, IDPs described a pattern of forced sales in which representatives of the companies colluded with paramilitary groups to present to the landowners offers far below the estimated market price which were backed up by indirect or direct death threats.³⁰ “If you do not sell to us, the widow will sell cheaper” was a threat commonly used by representatives of the companies.³¹ The region’s record of human rights violations and the ongoing impunity of perpetrators lent weight to these threats. All the IDPs interviewed added that while the price offered had amounted to only a small fraction of the market value, full payment was still pending, several years after the sales were forced on them.

As of July 2007, the companies continue to extend the plantations despite orders issued by INCODER, the *Procuraduría General de la Nación* (Procurator General’s Office) and IACHR to stop the commercial exploitation of the land and promote the return of the rightful owners.³² Between March 2005 and July 2007, according to the Procurator General’s Office, the area covered by plantations has increased from around 4,000 hectares to more than 7,000 hectares in Jiguamiandó and Curvaradó.³³ The companies plan to continue expanding their activities to cover more than 22,000 hectares of land whose ownership they assert.³⁴



A member of a Humanitarian Zone

INCODER’s report of March 2005 recalled that its antecedent INCORA had awarded Afro-Colombian communities in Jiguamiandó and Curvaradó more than 100,000 hectares of land in 2000, in compliance with Law 70 of 1993.³⁵ Article 7 of Law 70 states that all land granted under the law is “inalienable, can not be seized nor expire”. INCODER consequently recommended a plan “to reintegrate the displaced communities entirely; [to ensure] the immediate suspension of land transfers; immediate suspension of the companies’ attempts to repopulate the abandoned areas with workers from neighbouring departments [and] compensation and economic and moral reparation to the victims.”³⁶ These recommendations were reiterated and supported by the Ombudsman’s Office in Resolution 039 of 2 June 2005 and its follow-up report of July 2006.³⁷

In describing the situation, Resolution 039 cites the Quibdo Superior Court’s response to a petition for protection of rights against the African palm company Urapalma and govern-

ment institutions: “Urapalma invaded land that was private property to sow palm and in some cases later signed a contract to pay the owners of the usurped land and return part of it, but this contract was usually not honoured or was partially fulfilled.”³⁸

However, the IDPs’ land rights were not to be so easily defended. Following the publication of the INCODER report in March 2005, a national newspaper reported that the President’s Office instructed the Ministry of Agriculture not to distribute the report further.³⁹ In October 2005, INCODER retracted its March statement, instead confirming the existence of 732 private titles in the two municipalities, with 217 of them – covering more than 15,000 hectares – overlapping the land awarded to the Afro-Colombian communities in 2000 under Law 70.⁴⁰

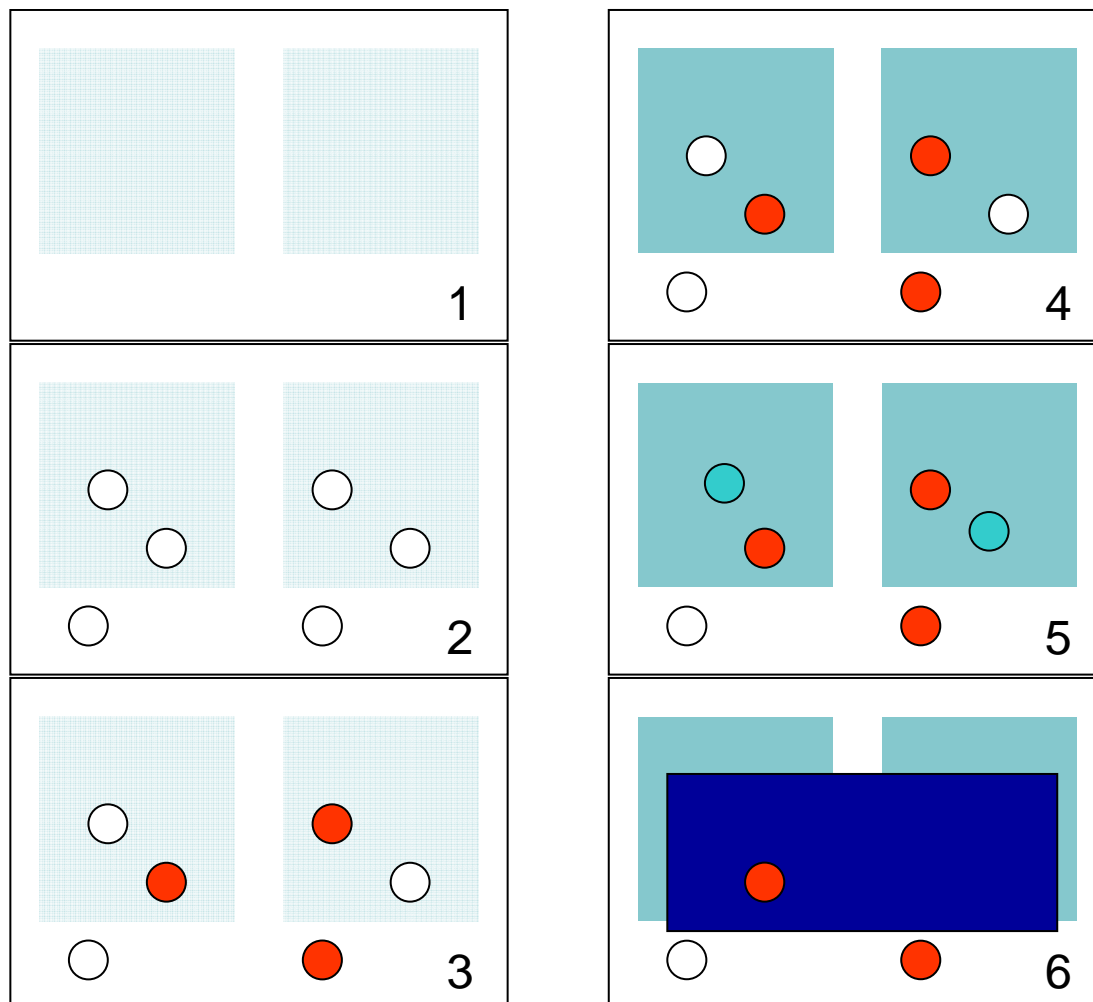
The revised position capitalises on a legal confusion created by INCODER; in the 1970s and 1980s, as part of the internal colonisation process, *colonos* – smallholding settlers of mainly Spanish descent – had been allocated land by INCORA. Thus in 2000, when INCORA awarded collective land to the Afro-Colombian communities under Law 70 in Jiguamiandó and Curvaradó, it was ruling on land already legally owned by the settlers.

The resulting competing claims over the land, according to the Ombudsman’s Office in the city of Apartadó, should in principle be resolved according to the principle of first registration at the “*Superintendencia de Notariado y Registro*”, a government institution mandated to register ownership. Thus, settlers who received land from INCORA in the 1970s or 1980s in principle only retain their statutory rights to the land if they registered it before the Afro-Colombian communities were awarded title in 2000.⁴¹

In any case, INCODER’s new stance on community ownership was welcomed by the government and the companies involved. It opened the way for the legalisation of extensive African palm plantations within the collective territories, and boosted the government’s biodiesel policy. The Ministry of Agriculture said soon after the announcement of the revised position that “Any company can plant palm on this land.”⁴² Representatives of the companies said that “the confidence of private and public investors would increase” and that this would entail a “re-launch of the African palm projects”.⁴³

Yet the Ombudsman’s Office’s February 2006 examination of the revised INCODER report found serious irregularities, including the award of titles exceeding the maximum allowed area of 450 hectares, the transfer of ownership before the end of a compulsory 15-year ownership period, and the creation of false titles. One African palm company had claimed to have bought 6,000 hectares of land from a settler who had been awarded only 18.3 hectares in the late 1980s by INCORA.⁴⁴

Figure 1: Schema of the evolution of land ownership on collective territory



1. Much of the land in the region is informally occupied by Afro-Colombian and indigenous communities.
2. Settlers are allocated land through the 1970s and 1980s by INCORA.
3. Some settlers register their ownership at the *Superintendencia de Notariado y Registro*.
4. 2000: INCODER awards collective title to Afro-Colombian communities under Law 70 of 1993.
5. Settlers with unregistered title lose legal ownership.
6. Palm companies forcibly take possession of land from communities and settlers.

Interviews with members of the Humanitarian Zones in September 2006 confirmed these irregularities and underlined the active role of paramilitary groups in the forced sale of land.

The paramilitary support for the establishment of African palm plantations in Jiguamiandó and Curvaradó was publicly admitted by one of the paramilitary leaders in June 2005: “And in some territories of the Jiguamiandó River it is said that there are already sprouting fields of African palm, as put forward by the [paramilitary] self-defense groups in talks with the government on the economic plans they will implement once the demobilisation is carried out. Plots acquired illegally in the middle of the armed conflict are discussed within these plans.”⁴⁵

A programme aimed at economic development and the eradication of drugs may unintentionally have contributed to these human rights violations and illegal land seizures. In 2005, the Colombian Agrarian Bank and US Aid provided the Urabá Union of Palm Oil Growers (Urapalma) with more than \$6 million within a programme to replace illicit crops.⁴⁶ Since then Urapalma has continued expanding African palm in Jiguamiandó and Curvaradó, as reported by the Procurator General’s Office in Bogota.⁴⁷

According to a 2003 report in the *Washington Post*: “Church officials, military intelligence officers and farmers [in Urabá] say the land seizures are being used to hide paramilitary money, build a strategic buffer against nearby guerrilla fronts with designs on the region, and provide thousands of paramilitary soldiers with work and land after the fighting ends.”⁴⁸

The content of the *Washington Post* article was corroborated by the Procurator General’s Office which, in a report of October 2006, warned that a proposed law on rural development (Law 210/07) could serve to launder illegally acquired resources.⁴⁹ Despite protests⁵⁰ from Afro-Colombian and indigenous communities, Law 210/07 was adopted by the Congress in June 2007. While the purpose of Law 210 is to improve socio-economic conditions in rural areas, critics have pointed to warnings by the Procurator General’s Office that claimants to land will only have to provide officially recognised documents without having to produce evidence on how it was acquired.⁵¹ In Jiguamiandó and Curvaradó, this means that the African palm plantations may more easily formalise their ownership of the land they have acquired by force.

Humanitarian Zones - a bid to recover land

To increase their chances of staying out of the armed groups’ attempt to implicate them in the conflict, and in a bid to recover lost land and livelihoods, Afro-Colombian and indigenous IDPs have been setting up Humanitarian Zones close to their areas of origin. In the words of one IDP leader: “It is better to die from a bullet at home than from hunger and desperation in a municipal centre.”⁵² The Humanitarian Zones consist of delineated areas where the members deny access to arms and armed parties and actively insist on neutrality, refusing to pass on information to the armed groups or to provide them with logistical sup-

port. In addition to the internal rules of the Zones, many have established warning mechanisms in case of threats or violations against their members which involve national and international networks.⁵³ As of November 2006, there were five Humanitarian Zones in the districts of Jiguamiandó and Curvaradó, hosting an estimated 400 out of the 2,125 people who lived in the two districts before the counter-insurgency operation began in 1996.⁵⁴ In 2005, there were more than 50 Humanitarian Zones or similar initiatives in Colombia.⁵⁵



A sign marking the entrance to a Humanitarian Zone in Curvaradó. The members of the Humanitarian Zone lived scattered in the area before they were forced to flee. Following their displacement, an African palm plantation was located on the land. The IDPs are trying to claim back the land by setting up the Humanitarian Zone. Inhabitants and visitors have to cross barbed wire fences set up by the company to enter the Zone.

One of the Humanitarian Zones in Chocó was established in April 2006 inside an African palm plantation, on land awarded to a settler in the 1980s by INCODER. The owner, who was himself displaced by paramilitaries, instead of ceding to the threats from the African palm companies, helped other displaced families to set up the zone on his land. The establishment of the Zone involved the chopping down of palm trees on the plantation, at great risk to the inhabitants. As of September 2006, the seven occupying families had to cross fences and barbed wire set up by the African palm company to reach the zone.

The living conditions of the inhabitants were precarious as they had not managed to clear enough land to cultivate for their own needs, and all food and non-food items had to be brought in from the nearest municipal centre, where paramilitary groups and representatives of the African palm companies control all movements. Moreover, military and paramilitary groups have long prohibited transport of more than limited amounts of goods in and out of the Humanitarian Zones, thus deliberately adding socio-economic hardship to the IDPs' loss of land, families and collective support structures. In September 2006, a number of the Humanitarian Zones were only accessible by walking for more than three hours through African palm plantations and jungle. Members of the Humanitarian Zone most recently established on one of the plantations were living under plastic sheeting, with no electricity, access to surface water only and no school facilities for their children. Members of more established Humanitarian Zones had erected wooden houses, organised school services and managed to harvest on some of the land they had been forced to abandon at the outset of the crisis.

Members of the Humanitarian Zones have been exposed to persistent threats and pressure to give up their attempts to recover their land. One of the settlers interviewed by IDMC said his son was in favour of selling the family's land to the African palm companies, as representatives of these companies had threatened him with death on a number of occasions to make him sell. The nature of the pressure has changed over time, from open military and paramilitary violence, including assassinations, torture, forced sales and death threats, to offers of food and medical services distributed by the army. While these offers have been rejected by the communities in Jiguamiandó and Curvaradó, they were accepted by the members of one Humanitarian Zone in an area closer to the Panama border. The result was an increase in social tensions, both among members of the community that had accepted the offer and with neighbouring communities rejecting it.⁵⁶ According to members of the Humanitarian Zones in Jiguamiandó and Curvaradó, acceptance of the army's offer of assistance would increase the chances of retaliation from the guerrillas and render collective action even more difficult. The violence and forced displacements have shattered families and social ties, and suspicion reigns as informants are commonly used by the warring parties. This was demonstrated during IDMC's visit to one of the Zones, when several unidentified men attempted to attend a meeting with members.⁵⁷ According to the members of the Humanitarian Zone, the men were working for and reporting to the African palm companies and paramilitary groups.

Social tensions are also exacerbated by the companies' policy of hiring workers, mainly from the neighbouring departments of Córdoba and Antioquia, to clear the land for planting. Most of the workers are themselves landless people with little choice but to accept the offer of work. Yet they are commonly perceived by the members of the Humanitarian Zones as supporters of the companies and the paramilitary groups.

The government's *Agencia Presidencial para la Acción Social y la Cooperación Internacional* (Acción Social), which is responsible for support to the victims of the conflict, has occasionally provided humanitarian assistance such as food, fuel and health services to IDPs in the Humanitarian Zones,⁵⁸ but has not attempted to resolve their social and eco-

nomic problems, or to promote the recovery of the collective territory.⁵⁹ Acción Social claims that this has not been possible as the members do not allow the authorities to enter the Zones.⁶⁰ Members respond that they accept civilian authorities entering unless accompanied by the army, given the rule not to allow armed actors into the zones. The situation has reached a stalemate and as of July 2007 there was hardly any direct contact between the members of the Humanitarian Zones and Acción Social.⁶¹



Visitors climbing through barbed wire fences to enter a Humanitarian Zone

Legality of the companies' use of collective territories

In addition to acquiring land by force, companies or investors wishing to expand further on these territories can sign “Strategic Alliances” with the legal representatives of the Afro-Colombian communities in order to exploit the land commercially.⁶²

INCODER has issued two decrees defining and regulating Strategic Alliances. Decree 1515 of August 2005 allowed for a loose interpretation, making it easy for companies to exploit the collective territories commercially. However, following an official complaint by the Procurator General’s Office and the Colombian Commission of Jurists, INCODER issued Decree 2038 of October 2005 which superseded Decree 1515.⁶³ The new Decree restricted companies’ operations and took note of the intentions of Law 70 to preserve the cultural identity of Afro-Colombian communities and their traditional economic practices.⁶⁴ Decree 2038 ruled that large-scale plantations on the collective territories, regardless of any Strategic Alliance, are irreconcilable with the intentions of Law 70.

Yet in apparent defiance of this interpretation, the director of one of the largest African palm companies in Curvaradó claimed in an interview with IDMC in September 2006 that

his company was operating legally by virtue of a Strategic Alliance with 52 families from the collective territory.⁶⁵ This was contested by members of the communities which IDMC visited in September 2006 and by the Ombudsman's Office in Apartadó.⁶⁶

To conform with Decree 2038, the African palm companies must negotiate with legal representatives of the Afro-Colombian communities when they engage in Strategic Alliances. Furthermore, according to decrees regulating Law 70, the legal representatives of the communities have to physically occupy the collective territories and be registered at the Ministry of Agriculture. This has clearly not been the case with those people claiming to be the legal representatives of the communities who have engaged in Strategic Alliances with the African palm companies in Jiguamiandó and Curvaradó.⁶⁷ Yet the companies continue to seek an appearance of legality by dealing with persons claiming to represent the communities. In a meeting in April 2007 between the local authorities, the IDPs and INCODER in the nearby town of Belen de Bajira to prepare a land survey of the collective territories, the IDPs had to resist a claim to such a role which was made by someone they did not recognise. Failure on their part to resist the claim would have had devastating consequences for their prospects of a safe return and of a livelihood.⁶⁸ Yet, in August and September 2007, INCODER issued two new resolutions removing 3,000 hectares from the collective territories further to a land survey that was carried out after the April meeting.⁶⁹

The region of Urabá is, as noted above, an area of exceptional biodiversity and environmental licences are required to exploit its natural resources commercially. Yet, according to the Procurator General's office in 2005, the African palm companies in Jiguamiandó and Curvaradó had not obtained these licences.⁷⁰ In April 2005 *Codechocó*, a regional subsidiary of the Ministry of Environment, ordered the suspension of all activities aimed at establishing African palm plantations, and invoked sanctions against six companies for having established the plantations without licences.⁷¹

Also in April 2005, the Procurator General's Office issued a directive stating concern over massive human rights violations against Afro-Colombian communities in Curvaradó and Jiguamiandó, and pointing at possible links with the illegal exploitation of forests and African palm plantations.⁷² The Procurator General's Office further ordered the relevant executive and judicial bodies to clarify land issues, investigate and prosecute human rights violators and take action to protect civilians in the districts from assaults, threats, forced displacement and assassinations.⁷³ Yet in March 2007, there were reports of death threats against the owner of the land on which one of the Humanitarian Zones is located, by members of *Aguilas Negras*, a new paramilitary group that has reportedly emerged after the official demobilisation in August 2006 of *Bloque Élmer Cárdenas*, one of the most notorious paramilitary groups in Chocó. As of June 2007 the demobilisation process had not led to the return of land to the IDPs or any sort of compensation or justice for the victims.⁷⁴

Conclusions

Without the human rights violations, the IDPs' attempts to recover their land in Jiguamiandó and Curvaradó would simply have highlighted the challenges of reconciling the state's right to exploit its territory commercially with citizens' right to be compensated in cases of lawful expropriation. However, the background of armed conflict has made it difficult for citizens and businesses alike to maintain a distance from the atrocities and those who commit them, and has left the legitimate application of property law almost impossible for those displaced.

Conflict and commercial activity

The African palm companies in Jiguamiandó and Curvaradó are not the first commercial organisations to have faced some of the dilemmas of operating in this conflict zone.⁷⁵ In March 2007, the US-based Chiquita banana company, which owned large plantations in the Urabá region until 2004, accepted a \$25 million fine from the US Justice Department for paying more than \$1.7 million "protection" money to a paramilitary group identified by the US government as a terrorist organisation.⁷⁶ Following the settlement, relatives of 22 people killed by the paramilitary group that received the payments filed a civil suit against the company.⁷⁷

Chiquita claimed that it only made the payments in return for protection of its employees. However, the reality facing the African palm plantations, and other companies operating in the area, is not only that commerce in what is still effectively a conflict zone may require them to accept the protection of groups who may be listed abroad as terrorists, but that this practically unavoidable association will almost inevitably lead to complicity in human rights violations and contravention of national law. In the case of the African palm plantations, while representatives have not admitted collaborating with or receiving support from paramilitary groups, paramilitary leaders have on several occasions openly stated that they supported the establishment of the plantations.⁷⁸

There is sufficient evidence to suggest that the companies have taken advantage of the violent displacements committed by paramilitary groups to encroach on collective land belonging to Afro-Colombian communities.⁷⁹ Moreover, the sequence of events, from forced displacement by paramilitary groups as a result of military strategy, to the subsequent establishment of the plantations and continued pressure from armed individuals against the IDPs and persons or institutions defending their rights, justify concerns of a concerted strategy by paramilitary leaders and plantation owners to clear the land.

Application of national law

There is evidence that judicial authorities investigating the violations referred to in this report have been subjected to pressure not to block the plantations' expansion. To the best of IDMC's knowledge as of July 2007, the investigations initiated in the first half of 2005 against one of the African palm companies for "alleged trespass to areas of special eco-

logical significance”⁸⁰ have failed to lead to any indictments.⁸¹ The Procurator General’s Office in Bogota explained to IDMC in June 2007 that the lack of progress in bringing the perpetrators to justice was partly a result of pressure on investigators to prevent restitution of the land occupied by the plantations.⁸²

The gulf between legislative theory and practice was also noted by the Representative of the UN Secretary-General on the Human Rights of IDPs (the RSG) during his June 2006 mission to Colombia, as he pointed to a “clear gap between the policies decided in the capital Bogota and what is effectively implemented at the departmental and municipal levels”.⁸³ He also noted that perpetrators of forced displacement, a crime against humanity under Colombian law, are not being investigated and prosecuted by the Colombian legal system.

State support for the plantations

As mentioned above, the government and international supporters have seized upon African palm cultivation as a solution to the difficulties of the region and its inhabitants, and obstacles to the plantations interfere directly with the government’s intentions to increase the national production and exportation of biodiesel to the world market.⁸⁴ However the links between the companies and paramilitary groups suggest the government’s policies may not serve the people (and particularly the IDPs) of Jiguamiandó and Curvaradó. The government, through its Agrarian Bank and an international aid agency, has provided subsidies to one of the major groups of companies charged by the Ombudsman’s Office with taking advantage of the paramilitary activities and the forced displacements in the area.⁸⁵ IDPs interviewed unanimously understood the state’s support to these companies as paramount to support to the paramilitary groups that forced them from their land.⁸⁶

In view of the great changes that the African palm plantations make to the physical landscape of the area, the state financing also contributes to make the IDPs’ return and recovery of livelihoods practically impossible. The Ombudsman’s Office reports that the companies have permanently destroyed the fauna and flora by clearing jungle and digging channels, and permanently altered the topography, leading to increased sedimentation of rivers and reduced access.⁸⁷

The resolution of the conflicting interests of the African palm companies and the members of the Humanitarian Zones remains central to addressing “the issue of land taken over by other parties during displacement of the original population” noted in the RSG’s report after his mission to Colombia in June 2006. A solution to this conflict rests on the clarification of ownership in the collective territories and the political will to suspend support to companies operating on land whose inhabitants were forcibly displaced. For the country to make an effective transition from internal conflict to sustainable and peaceful development, the changes in practice needed in Jiguamiandó and Curvaradó must also be achieved by regional, national and international institutions and companies across Colombia.

Demobilisation, development and the victims' rights

The financial support to African palm plantations is further complicated by a government-initiated national demobilisation process that started in 2002 and ended formally in 2006 with more than 30,000 paramilitary fighters demobilised. While the so-called "Justice and Peace" process is part of the government's legitimate quest for peace, the implementation and consequences have been contested.⁸⁸ Progress in reducing the rates of homicide, kidnappings and forced disappearances, and increasing involvement of the victims in the demobilisation process⁸⁹ has not been sustained, and violations have continued, particularly in rural areas.⁹⁰

In many cases demobilised paramilitary combatants have re-armed, paramilitaries and their political and economic supporters have not been held accountable for crimes, and reparation schemes to the victims and their families have been poorly conceived and implemented despite the establishment of the National Commission on Reparation and Reconciliation. While the Organisation of American States' Mission to Support the Peace Process in Colombia has recognised and valued "the positive aspects of what has been accomplished so far, i.e. the direct impact on reducing violence in large areas of the country [and] the beginnings of Government presence in the territories",⁹¹ it has also pointed out serious flaws, such as the presence of at least 3,000 former paramilitary combatants in new armed groups involved in illegal activities, which have in many places replaced and perpetuated the demobilised paramilitary structures and functions.⁹²

Similarly, the IDPs in Jiguamiandó and Curvaradó – almost a year after the official demobilisation of one of the most notorious paramilitary groups in Chocó – have reported the continuous presence and pressure from armed actors who presumably took part in the demobilisation process.⁹³ Their presence adds to the physical obstacles set up by the plantations to prevent the secure return and reintegration of the IDPs.

Mutual suspicions and hopes for dialogue

The links between the army and the paramilitary groups which committed the majority of human rights violations against members of the Humanitarian Zones have been abundantly documented.⁹⁴ As a result, members of the Humanitarian Zones are deeply suspicious of the army. The national demobilisation process has done little to restore that confidence.

On the other hand, the government and the army suspect IDP leaders and members of the Humanitarian Zones of being members or supporters of the guerrillas, ostensibly because of the long history of guerrilla presence in the area before "Operation Genesis" in 1996 and resistance to become part of a government programme to include civilians in the armed struggle against the guerrillas.

These conflicting perceptions constitute a serious obstacle to the implementation of Colombia's legislation both for IDPs and Afro-Colombian communities. A first step towards a resolution should be based on the two parties recognising the need to address cases indi-

vidually if the rule of law is to return. A principal demand of the leaders of the Humanitarian Zones which IDMC visited was that the government, represented by the investigating authorities and the judiciary, bring to justice individual officers, soldiers and paramilitary fighters who have committed or been involved in human rights violations against their members. IDP leaders and members of the Humanitarian Zones, in return, have to recognise the state's right to combat the guerrillas, and to bring individuals in conflict with the law to justice.

Socio-economic conditions and social disintegration

The forced displacements and disruption of livelihoods in these communities have caused widespread impoverishment and social disintegration. It was a generally-held perception among the IDPs interviewed by IDMC that the solidarity and social cohesion of the collective territories had been seriously disrupted by their inhabitants' violent separation from the land. While the socio-economic consequences of the forced displacements have not been measured systematically, there is sufficient evidence to suggest that the violent dispossession and ensuing destitution have also created a fertile ground for animosity and social division within the affected communities; the job opportunities created by the African palm plantations are hard to resist among the dispossessed and impoverished communities, exacerbating social divisions.

At a moment where the government has formally completed the demobilisation of the paramilitary groups, it is crucial that the rights of the victims to justice, truth and reparation are guaranteed. Issues of land rights are at the very core of the Colombian conflict and the process of reparation. The government must demonstrate that its quest for peace addresses land issues and the interest of the victims. Moreover, international donors should include reparation in their strategies aimed at supporting the current peace process, and recognise that any economic support is contingent on a clear government policy regarding the rights of the victims backed up by demonstrated political will to carry it out.

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² Ibid, p.8.

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⁴ Corporación Nuevo Arco Iris, February 2007, p.5; Ombudsman's Office, "Resolución Defensorial No 39", 2 June 2005, p.9.

⁵ Inter-American Commission on Human Rights, "Third report on the human rights situation in Colombia", 26 February 1999.

⁶ Interview with the Ombudsman's Office, Apartadó, 14 September 2006.

⁷ Ibid.

⁸ For more on the extermination of UP, see briefing to members of the US Congress, 5 October 2005.

⁹ Observatorio del Conflicto Armado-Corporación Nuevo Arco Iris, "Los caminos de la alianza entre los paramilitares y los políticos", 7 February 2007.

¹⁰ Projet Accompagnement Solidarité Colombie, "Les Communautés de Chocó", 31 August 2006.

¹¹ UN Commission on Human Rights, 9 March 1998, para. 103.

¹² The tributaries are Cacarica, Jiguamiandó, Curvaradó, Domingodó, Traundó and Salaqui, all strategically located between the Pacific Ocean to the west, Panama and the Urabá bay to the north, and Antioquia department to the east. See "Informe de Seguimiento de la Resolución Defensorial No 39", August 2006, p.4.

¹³ Afro-Colombian and indigenous communities in other parts of the region and along the Pacific coast have also been the victims of human rights violations in relation to exploitation of natural resources, in particular for African palm plantations. See Actualidad Etnicá, "La palma aceitera: intereses y consecuencias en territorios afrocolombianos", 8 September 2006.

¹⁴ Comisión Intereclesial de Justicia y Paz, "La Tramoya, Derechos Humanos y Palma Aceitera Curvaradó y Jiguamiandó", 31 October 2005, p.9.

¹⁵ Interview with IDPs in Jiguamiandó and Curvaradó, 12 September 2006. See also Comisión Intereclesial de Justicia y Paz, "Por lo menos sus nombres", 15 August 2006.

¹⁶ Interviews with IDPs in Jiguamiandó and Curvaradó, 11, 12 and 13 September 2006. See also IACHR, 7 February 2006.

¹⁷ IACHR, 7 February 2006, p.10.

¹⁸ Interviews in Bogota June 2007 and Madrid July 2007.

¹⁹ Ibid; Comisión Intereclesial de Justicia y Paz, Informe 76, "Nuevos planes de actuación contra Enrique Petro y Zonas Humanitarias", 23 October 2006.

²⁰ IACHR, 7 February 2006, pp.5, 6; Interview in Apartado, 14 September 2006.

²¹ Justicia y Paz, 18 September 2007.

²² Interviews with IDPs in Jiguamiandó and Curvaradó, 12, 13 September 2006; Comisión Intereclesial de Justicia y Paz, 28 October 2005, p.9.

²³ Interviews with IDPs in Jiguamiandó and Curvaradó, 12, 13 September 2006.

²⁴ For more on the Colombian government's African Palm oil export policy, see La Diócesis de Quibdó, "La Palma Africana", p.120, April 2005.

²⁵ Comisión Intereclesial de Justicia y Paz. "La Tramoya, Derechos Humanos y Palma Aceitera Curvaradó y Jiguamiandó, caso 5", April 2005, pp.137-145.

²⁶ "Territorio Patrimonio y Desplazamiento", Seminario internacional, Bogota, October 2005, pp.124-125.

²⁷ The institutional mandate of INCODER includes execution and monitoring of Law 70 of 1993, which grants wide concessions to Afro-Colombian communities in recognition of their historical use of land and their ethnic specificity. INCODER has awarded more than four million hectares of land to Afro-Colombian communities within the last four years, but their rights and semi-autonomy granted by the law are rarely respected by the armed actors or by commercial undertakings – as this report documents. For more on INCODER, see: <http://www.incoder.gov.co/noticias/verNoticia.asp?Id=826>.

²⁸ INCODER, 14 March 2005, p.11.

²⁹ Ibid, p.2

³⁰ Interviews with IDPs, Curvaradó and Jiguamiandó, 11-13 September 2006.

³¹ Ibid.

³² Interview Procurator General's Office, Bogota, June 2007.

³³ Ibid.

³⁴ Ombudsman's Office, "Resolución Defensorial No 39", 2 June 2005, p.14.

³⁵ INCODER issued resolutions 2809 and 2801 on 22 November 2000, officially granting the land to the communities in compliance with Law 70 of 31 August 1993 of the Congress of Colombia.

³⁶ INCODER, 14 March, 2005, p.30.

³⁷ Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006.

³⁸ Resolución Defensorial 39, 2 June 2005, p.16.

³⁹ El Tiempo, 23 October 2005.

⁴⁰ INCODER, 17 November 2005, quoted in Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, p.9.

⁴¹ Interview, Defensoría del Pueblo, Apartado, 14 September 2006.

⁴² Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, p.38.

⁴³ El Tiempo, 23 October 2005. The public finance institutions referred to are FINAGRO and Banco Agrario, with the latter depending on the Ministry of Agriculture.

⁴⁴ Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, pp.10-15.

⁴⁵ Quoted in Comisión Intereclesial de Justicia y Paz, October 2005, pp.112,113.

⁴⁶ USAID, ARD / CAPP Colombia Agribusiness Partnership Program Report, 1 August 2005, p.1. "CAPP's objective is to help Colombian private sector customers develop and sustainably implement large agribusiness projects that provide an alternative source of licit family income, establish a substantial quantity of new hectares of licit crops and provide significant employment opportunities in geographic areas susceptible to illicit production."

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⁵⁰ El Espectador, 23 October 2006.

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⁵² Interview, Jiguamiandó, 11 September 2006.

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⁵⁶ Interview, Cacarica, Chocó, 8 September 2006.

⁵⁷ Field notes, Curvaradó, 13 September 2006.

⁵⁸ Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, p.19.

⁵⁹ Interviews with IDPs in Jiguamiandó and Curvaradó, IDPs in Belen de Bajira and Carmen del Dario, 12 and 13 September 2006.

⁶⁰ Interview with representative of Acción Social, Apartadó, 14 September 2006.

⁶¹ Interview IDP leader, Madrid July 2007.

⁶² Community legal representation is organised in "councils", in Spanish, "*Consejo Mayor*".

⁶³ INCODER, 9 November 2005.

⁶⁴ Ombudsman's Office, "Informe de seguimiento de la resolución defensorial no 39 del 2 de Junio 2005", July 2006, pp.38,39.

⁶⁵ Telephone interview, Bogota, 15 September 2006. See also Comisión Intereclesial de Justicia y Paz, “Informes Ejecutivos”, 28 October 2006, p.4, for more information on how the practice is used by companies in other parts of Urabá.

⁶⁶ Interviews with IDPs, 11-13 September 2006.

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⁷⁶ Reuters, “Chiquita sued over paramilitary deaths in Colombia”, 14 June 2007.

⁷⁷ Ibid.

⁷⁸ La Semana, 17 June 2005; Comisión Intereclesial de Justicia y Paz, October 2005.

⁷⁹ Ombudsman’s Office, “Informe de Seguimiento de la Resolución Defensorial no 39 del 2 de Junio 2005”, July 2006.

⁸⁰ See IACHR, 7 February 2006, p.3.

⁸¹ Interviews, Procurator General’s Office, Bogota, June 2007; and with an IDP leader, Madrid, July 2007.

⁸² Interview in Bogota, July 2007.

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⁸⁴ Plan Nacional de Desarrollo, 29 June 2007.

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⁹⁴ A Church organisation that accompanies the IDPs, Comisión Intereclesial de Justicia y Paz has compiled lists of violations and names of victims which have been handed over to the investigating authorities. In February 2007 investigations were opened against 56 members of the 17th Brigade for the massacre of eight members of a peace community in Chocó. See also IACHR, 7 February 2006.

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Note: For more detailed information on the internal displacement situation in Colombia, please visit the [Colombia country page](#) on the IDMC's online IDP database. All documents referenced in this report are directly accessible on the [List of Sources](#) section.

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The Internal Displacement Monitoring Centre (IDMC), established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide.

Through its work, the IDMC contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based Centre runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries.

Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards.

The Internal Displacement Monitoring Centre also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people. In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

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