

**VICE PRESIDENCY OF THE REPUBLIC OF COLOMBIA**

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Presidential Program for Human Rights and International Humanitarian Law  
Project 'Fight against impunity in cases of Human Rights violations and breaches of  
International Humanitarian Law'

**Public Policy against impunity in cases of Human Right Violations and  
breaches of International Humanitarian Law, through the strengthening of  
the Colombian State capacity to prosecute, trial, and sanction.**

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## CONTENTS

### JUSTIFICATION

### PRESENTATION

#### I. MEANING AND SCOPE OF THE POLICY

- A. Impunity in cases of Human Rights violations and breaches of International Humanitarian Law as object of the Policy
- B. Importance of the object of the Policy
- C. Policy's recent background
- D. Relationship between this Policy and other policies, plans, and strategies of the Colombian State

#### II. POLICY PROBLEM AND ITS DETERMINANT FACTORS

- A. Policy Problem
- B. Problem lines and factors associated with the policy problem
  - 1. Problem Line I. Institutional and organizational development
  - 2. Problem Line II. Resource Management, with special emphasis on the development of Human Resources
  - 3. Problem Line III. Attention to victims and witnesses
  - 4. Problem Line IV. Specific operational conditions for investigating and sanctioning

#### III. STRATEGIC FRAMEWORK AND OBJECTIVES FOR THE REQUIRED STATE INTERVENTIONS

- A. Policy's General Objective
- B. Guidelines for the Policy's formulation, implementation, monitoring, and evaluation
- C. Policy's specific objectives
  - 1. Strategic Line I. Institutional and organizational development
  - 2. Strategic Line II. Resource Management, with special emphasis on the development of Human Resources
  - 3. Strategic Line III. Attention to victims and witnesses
  - 4. Strategic Line IV. Specific operational conditions for investigating and sanctioning

#### **IV. REQUIRED STATE INTERVENTIONS**

- A. Projects in accordance to strategic lines and policy objectives
- B. Specific actions directed at institutional and organizational adjustments and orientation
  - 1. Normative reforms and adjustments to be promoted
  - 2. Guidelines for organizational action
- C. Budget requirements
- D. Implementation outline
  - 1. Participants and their roles
  - 2. Execution plan for the projects included in the Policy
  - 3. Instruments for Policy management

#### **IV. MONITORING AND EVALUATION MECHANISMS**

- A. Monitoring
  - 1. Monitoring responsibilities
  - 2. Monitoring strategy
  - 3. Monitoring instruments
- B. Evaluation
  - 1. Evaluation responsibilities
  - 2. Evaluation strategies
  - 3. Basic evaluation criteria

#### **BIBLIOGRAPHY**

#### **ANNEXES**

## JUSTIFICATION

A public policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law requires all of the institutions in charge of prosecuting, sanctioning and repairing such violations to develop a set of actions directed at strengthening the rule of law.

This policy is basically motivated by the negative consequences of impunity. According to social perception, justice is nonexistent. This perception generates negative social consequences such as irrational responses, revenge, conflicts, and displacement. This perception, simultaneously, invalidates the model of State established in the Constitution. There is an inverse relation between impunity and the rule of law: greater impunity diminishes the legitimacy of the rule of law, because it implicitly denies Constitutional values. On the other hand, if, in a Social State of Law, the judicial power is identified with the State, the prevalence of impunity weakens the legitimacy of the judicial power and, therefore, of the State itself.

Cases involving this type of violations where the legal resources are not sufficient or prove to be inadequate are frequent. This is interpreted as a limitation to the international law statutes and instruments' normative force; a situation which is untenable within the framework of a Social State of Law. This situation alone would warrant the adoption of a state policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law. Furthermore, the compulsory nature of the human rights international justice systems makes it imperative, from a political point of view, to adopt specific state actions against impunity in these types of violations. The local judicial system should allow for an adequate legal prosecution of such cases, leading to the reversal of the current situation, where the victims wish to take their cases before international courts.

This is, perhaps, the situation that most clearly shows the need for a State Policy against impunity in the case of such violations. Due to the victim's dramatic personal and social situation, they deserve a special recognition during the implementation of the Policy in order to effectively materialize their rights of truth, justice and reparation. .

**Policy Area:** It is where the instruments of the policy should operate and render the expected results. There are several areas where this should happen and, because of their scope, some may be included in others. The importance of determining the areas where the policy should be applied lays in that it helps to

make the policy more precise, so that future effects may be predictable and the convenience of the means chosen to materialize it may be appraised.

This type of policy is only useful if conceived as a State policy, that is, if the State as a whole is included. This perspective is opposed to an entity outlook, where the problem and, of course, the policy designed for its solution, is seen within the restricted environment of an agency's competence. This is not an adequate area of implementation for a policy against impunity. Due to the complexity and relevance of the phenomenon, it demands that each agency and government official be seen as a representative of the State. It will certainly require leadership in specific topics, but it should be understood as operating within a larger context: a particular State's outlook. Only within that context can impunity in all its manifestations be confronted, and its spreading to other fields, with aggravated effects, be prevented. This has occurred when attempts at controlling it with limited criteria from a specific sector, agency or instance have been made. No matter how efficient the actions undertaken are, impunity is only displaced to another agency's area<sup>1</sup>.

The larger State outlook allows for the appropriation of this phenomenon by the State as a whole and the recognition that all agencies are responsible for its occurrence. It also avoids the tendency to reciprocal recrimination between different agencies and leads to joint efforts and resources in dealing with the problem, creating better conditions for attaining the desired results, than those attained by isolated efforts undertaken by government sectors or entities. It was in this spirit that the Special Committee for Promotion and Monitoring was created.

This does not mean that the judicial system should not have a strong participation in the implementation of this type of policies. However, it should be clearly recognized that this is not exclusively a judicial policy; it is also a legislative policy that involves Congress at the same level of responsibility. Furthermore, it is also an administrative policy linking the executive and other administrative entities, as well as the legislative and judicial branches. The Public Ministry (Procuraduría General de la Nación) which, according to its constitutional mandate, is a main actor in the protection of Human Rights, as well as the Office of the Ombudsman, have the responsibility to support a public policy against impunity in the cases of Human Rights violations and breaches of International Humanitarian Law.

Second, the social area is a reference of the utmost importance, not only because it is there that the expected effects of the policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law must be

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<sup>1</sup> Recent experience and the jurisprudence of the entities created by human rights agreements and treaties reaffirm a fundamental premise of the principles: the necessity of a global plan for fighting impunity. For a policy to be effective it must have a multiple variants' strategy, where each of its components satisfies a necessary function, even if it is partial. Human Rights Commission. 61 sessions period. February 8 2005. E/CN.4/2005/102/Add.1. Concept of Diane Orentlicher, independent expert in charge of updating the set of principles in the fight against impunity.

produced, but because its legitimacy and effectiveness depend on it. This is the context where a public policy presents its results and where the actions undertaken in order to implement it are validated.

Third, the area of armed violence and transitional policies is fundamental for understanding one of the main causes of impunity in Colombia and the actions undertaken to overcome it. A public policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law should take such context into consideration.

Because of its consequences, the main principle of the policy here discussed must be that in no case can there be impunity. Impunity in the conflict implies the capitulation of the State; it implies that the State tolerates this problem, all which translates into a loss of the State's legitimacy. In the post- conflict period, impunity becomes an obstacle for reconciliation; it violates international norms regarding this type of situations. The concepts of justice, truth and reparation established in international programs against impunity must have full application. In this sense, the policy shares the postulates of the Justice and Peace Law, designed to make the principles of truth, justice and reparation effective in the transitional process of peace seeking that Colombia is living today.

The Policy contemplates short, medium and long term actions. In their design, the urgency of the problem is taken into account, as well as the efforts to be made and the complexity of the problem to be faced. One thing is clear; there is no room for simplistic solutions, such as the approval of legislation that is not preceded by realistic appraisals of its probable effects.

Within this framework, the judicial system should respond in a prompt, timely, and effective manner, based on the principles of efficiency and economy, in any case involving a violation of fundamental rights, particularly when involving Human Rights violations or breaches of International Humanitarian Law.

When the justice system fails to provide such a response, it not only fails to fulfill its obligation to protect and guarantee fundamental rights, but turns into an obstacle for the consolidation of the Social State of Law, exacerbating the conflicts that prevent or hinder peaceful coexistence.

Presently, the Colombian State has a limited capacity regarding the justice system's response to impunity, expressed primarily in the phenomenon of impunity concerning Human Rights violations and breaches of International Humanitarian Law. Hence the need to develop state guidelines and public policy actions at the short, medium and long term designed to counter impunity and eliminate its causes and associated factors. These policies and actions will allow the efficient clarification of the facts that give origin to such violations, sanction the aggressors, and provide effective reparation to the victims.

## PRESENTATION

This document presents a “Policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law, through the strengthening of the capacity of Colombian State for their prosecution, trial, and sanction.” This Policy has been formulated with the leadership of the Vice Presidency of the Republic of Colombia, through the Presidential Program of Human Rights and International Humanitarian Law, and with the participation of the Procurator-General’s Office (Procuraduría General de la Nación), the Office of the Attorney General (Fiscalía General de la Nación), the Administrative Office of the Courts (Consejo Superior de la Judicatura), the Office of the Ombudsman (Defensoría del Pueblo), the National Planning Department (Departamento Nacional de Planeación), the Ministry of the Interior and Justice (Ministerio del Interior de Justicia), the National Institute of Prisons (Instituto Nacional de Prisiones) and with the advise and recommendations of the High Commissioner Office for Human Rights in Colombia.<sup>2</sup> This effort has been possible thanks to the cooperation of the Embassy of the Royal Netherlands through the project “Basis for a management strategy and inter-institutional coordination in the fight against impunity in cases of Human Rights violations and breaches of International Humanitarian Law.”

The interpretation of the policy problem and its associated factors, as well as the proposal regarding its objectives and required interventions, have as reference actual or intended institutional structures and practices for the prosecution, trial, sanction and reparation in cases of Human Rights violations and breaches of International Humanitarian Law. The Colombian State has a normative framework and a set of organizations, practices, and procedures for investigating Human Rights violations and breaches of International Humanitarian Law, solving the cases, and trying and sanctioning those responsible for such violations. This framework and set of institutions are intrinsic elements of any Social State of Law and must be capable of responding to situations for which they were designed.

The Policy recognizes that the Colombian State must devise actions at the short, medium and long term to fight against impunity of Human Rights violations and breaches of International Humanitarian Law, regardless of particular temporary

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<sup>2</sup> Three moments in which this policy was presented can be mentioned. The first was on December 16<sup>th</sup> 2004, before the Special Promotion Committee (D.2429/98); the second was on April 26<sup>th</sup> 2005 during the session of the Work Group of the Special Promotion Committee; the third was on May 19<sup>th</sup> 2005, during one of the sessions of the Special Promotion Committee. Additionally, the process of collective construction was deepened through the workshops tables for the identification and characterization of projects and the work sessions for the revision and adjustment of the projects’ profiles. Special Promotion Committee. Session of November 22 2005 (See Annex n° 4)

conditions, or changes in the dynamics of key perpetrators. Yet, these conditions will imply the strengthening of some elements of the “Policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law, through the strengthening of the capacity of the Colombian State for prosecution, trial and sanction in order to warrant the attainment of its general and specific objectives.

## I. MEANING AND SCOPE OF THE POLICY

### A. Impunity for Human Rights violations and breaches of International Humanitarian Law as the object of the Policy

It is of the outmost importance that the content and limits of the policy be clearly defined. Therefore, a statement of its object and basic definitions is presented in this section.

In first place, the policy’s object is limited to impunity in cases of Human Rights violations and breaches of International Humanitarian Law. It differs from a policy addressing impunity in all criminal actions and disciplinary infractions, for it concentrates exclusively on those that constitute Human Rights violations and breaches of International Humanitarian Law. This in no way prevents the necessary integration and articulation of these two types of intervention.

It is also different from a general Human Rights and International Humanitarian Law policy, since the policy against impunity is directed at neutralizing those elements that prevent the clarification of the facts, and the trial and sanction of the perpetrators. This is not to deny the contribution that the policy makes to the prevention of Human Rights and International Humanitarian Law violations and breaches. It works as general and particular deterrence and as a guarantee of the principle of non-recurrence.

Secondly, it is important to make explicit the concepts of impunity, Human Rights violations and breaches of International Humanitarian Law used in the Policy.

Impunity is understood as “the non-existence, *de jure* or *de facto*, of criminal responsibility of perpetrators of Human Rights violations, as well as civil, administrative or disciplinary responsibility, because they escape all investigations leading to their being charged, arrested, tried and, when pronounced guilty, given appropriate sentences, including reparations to their victims”<sup>3</sup>.

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<sup>3</sup> M. Louis Joinet’s final report on impunity of human rights violations. Special Relator E/CN.4/SUB.2/1997/20/Rev.1. Victim is any person who has suffered individually or collectively, including physical or mental injuries, emotional suffering, economic losses or any substantial detriment of his/her fundamental rights, as a consequence of acts or omissions that constitute a violation of human rights or breaches of International Humanitarian Law. “When appropriate and according to internal law, the term ‘victim’ also includes the immediate family members or the people who depend directly on the victim, and the people who have suffered any damages when



Regarding this definition, it should be noted that there are multiple factors leading to impunity inside and outside the criminal system. For example, not all crimes are reported or perceived as such. Moreover, impunity has been associated with problems of social inequality, lack of resources for the judicial system, and lack of political will, that is, issues that would indicate structural problems transcending the functional capacity of the criminal system to punish crime. The structural character of impunity is obvious if conceived as a failure of the State to meet internationally acquired obligations as consequence of the subscription of pacts and treaties related to the protection of Human Rights.<sup>4</sup>

All of the above shows that the problem of impunity includes more than failing to investigate, trial, and sanction some kind of crime; it shows that impunity is a situation that endangers the nation's life and culture, affecting not only the victims, but society in general.

Aware of the magnitude of the problem, and without simplifying its nature, the application of this Policy is limited, due to the nature of the interventions that it proposes, to strengthening the prosecution, trial and sanction processes, but keeping, as permanent reference the actions undertaken by the State to confront the need of making effective the postulates of truth, justice and reparation.

Human Rights violations are those public officials' acts or omissions that, in virtue of the power invested in them, infringe the rights included in international agreements on Human Rights and in the Constitution, as well as those actions that affect such legal rights' violations committed by civilians instigated or tolerated by public officials, or with their participation.<sup>5</sup>

Therefore, it is a State's obligation, according to the relevant international treaties it has ratified, to prosecute and sanction this kind of criminal behavior. Impunity, in

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providing medical assistance to victims in peril or that acted to prevent their victimization." This definition was adopted by the Economic and Social Council. Human Rights Commission E/CN.4/2005/59. pg. 19

<sup>4</sup> In Case C-578/2002 the Constitutional Court establishes that "Colombia is part of the international consensus for the fight against impunity of the most serious violations to human rights. This commitment of Colombia is reflected in the fact that the State is part of the most important international instruments that gather the international consensus in this matter and have been used as a base for the creation of The International Criminal Court. These instruments are: i) The 1948 Convention for the prevention and repression of Genocide, approved by Law 28 of 1959; ii) International Convention on the eradication of all forms of racial discrimination, approved by Law 22 of 1981; iii) Convention against torture and other cruel and degrading treatments approved by Law 76 of 1986; iv) International Pact of civil and political rights, approved by Law 74 of 1968; v) American Convention on Human Rights, approved by Law 16 of 1972; vi) The four Geneva Conventions of August 12, 1949, approved by Law 5 of 1960...ix) International Convention on the suppression and punishment of the crime of apartheid, approved by Law 26 of 1987; x) Interamerican convention on forced disappearance of persons, approved by Law 707 of 1994."

<sup>5</sup> See OACNUDH, Defensoría del Pueblo. "Manual de calificación de conductas violatorias. Derechos Humanos y Derecho Internacional Humanitario." Edición OACNUDH 2004. pg. 58 y 59.

these cases, not only impairs the fulfillment of the obligations that the State has acquired, but makes the Colombian State responsible before the community of nations, before the States that are parties to the relevant normative instruments universally applicable.

Finally, breaches of International Humanitarian Law are those actions or omissions that infringe the set of rules which, in times of international war or armed internal conflict, protect those individuals who do not participate in the hostilities or no longer participate in them. Its primary objective is to limit and prevent human suffering in times of armed conflict. The norms established in Human Rights treaties must be respected, not only by the Governments and their armed forces, but also by armed opposition groups and by any other party involved in the conflict. The four 1949 Geneva Conventions, and the two 1977 Additional Protocols are the main instruments of International Humanitarian Law.<sup>6</sup>

### **B. Importance of Policy's Object**

We shall now make explicit the central arguments on which the need and priority of formulating, adopting, implementing, monitoring and evaluating a policy against impunity in cases of Human Rights violations and breaches of International Humanitarian Law, through the strengthening of the Colombian State capacity for the prosecution, trial and sanction is based. The three main arguments that show the importance of the Policy's object are the following:

- Every Social State of Law and, therefore, the Colombian State, must have an explicit policy for strengthening the capacity for prosecution, trial and sanction in cases of Human Rights violations and breaches of International Humanitarian Law as an instrument against impunity.
- The dynamics of impunity in general, and of impunity in cases of Human Rights violations and breaches of International Humanitarian Law, in particular, are an element that continuously and seriously weakens the possibilities of implementing the Social State of Law established in the Colombian Political Constitution.
- The fight against impunity in cases of Human Rights violations and breaches of International Humanitarian Law is essential for the possibility of reconstructing and strengthening peaceful coexistence patterns and, therefore, for the possibility of a lasting peace.

### **C. Policy's Recent Background**

In 1998, the national government issued Decree 2429 "by which the Special Committee for the Promotion and Monitoring of the investigation of Human Rights

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<sup>6</sup> <http://www.icrc.org/spa/dih>

violations is created". This Committee should: a) promote the investigation of Human Rights violations; b) coordinate, supervise and control the development of such investigations; c) report on the results of those activities.

Later, an international cooperation strategy aimed at promoting a series of investigations of Human Rights violations and breaches of International Humanitarian Law was developed. In 2001, parameters and guidelines for a policy directed at strengthening the Colombian State's capacity for the prosecution, trial and sanction in cases of Human Rights violations and breaches of International Humanitarian Law were defined. These guidelines included: a) promoting a specific number of cases; b) strengthening the protection system for public officials in charge of the investigations; c) providing such officials with training and technical support; d) developing alternative mechanisms for conflict resolution; and e) creating a communication and inter-institutional coordination network.

On July 2003, the national government subscribed an international cooperation agreement, "Basis for a management and inter-institutional coordination strategy for the fight against impunity of Human Rights violations and breaches of International Humanitarian Law", with the Government of the Royal Netherlands. This agreement, currently in force, has the following objectives: a) formulate and implement a policy against impunity, b) promote and monitor a specific number of cases regarding Human Rights violations and breaches of International Humanitarian Law.

#### **D. Relationship between this Policy and other policies, plans and strategies of the Colombian State.**

It is crucial to guarantee that the interventions proposed in this Policy are articulated and coordinated with related strategies and plans of action in order to prevent overlapping and duplications, and at the same time, encourage a higher level of joint work among the agencies involved in protecting Human Rights and International Humanitarian Law. To this effect, the Policy identifies five main referents:<sup>7</sup>

First, the National Development Plan 2002-2006. The National Government's strategy for Human Rights is stated in the document "Basis for the National Development Plan 2002-2006: Towards a Communitarian State". Included in the objective of providing Democratic Security is the protection and promotion of Human Rights and International Humanitarian Law. This document states that the weakness of the justice system and the lack of a Human Rights culture, among other things, are crucial factors in preventing the protection and application of Human Rights and International Humanitarian Law, and that:

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<sup>7</sup> This is not meant to exclude other referents. As the process of implementation and following up of the project continues, the effort to identify new referents will increase.

This situation requires the State to strengthen its actions and strategies towards a preventive approach, strengthen the fight against impunity, offer an adequate response to the victims, work jointly with international agencies for the promotion and protection of Human Rights, rationalize the operation of the institutions in charge of their promotion and protection, and create effective mechanisms for International Humanitarian Law's application.

The consolidation of these strategies requires also overcoming institutional obstacles, such as poor institutional coordination, scattered actions, and low decentralization of the Human Rights policy. (p.76)

Additionally, this document, as part of the protection and promotion strategy, enunciates some actions to promote the judicial system. Among them, the following are particularly relevant:

[...] the government shall strengthen the Special Committee for the Promotion of the Investigation of Human Rights Violations and the agencies in charge of justice administration, control and monitoring. (p. 84)

A second referent is the National Plan of Action for Human Rights and International Humanitarian Law. As part of the commitment acquired by the Colombian State in the Vienna Conference of 1993, the National Government is formulating a Plan of Action for Human Rights and International Humanitarian Law. One of its fundamental purposes is "strengthening the justice system and fighting impunity". The actions included in this Policy would be part of the National Plan of Action for Human Rights and International Humanitarian Law.

The third referent is the project "Strengthening of the Justice Sector for reducing impunity in Colombia" financed by the European Union delegation for Colombia and Ecuador and administrated by the Department of the interior and Justice. One of the expected results thereof directly related to this Policy is the "Implementation of coordination strategies related to the international cooperation in the justice sector". This project is, therefore, expected to support the execution of some of the Policy's interventions.

As a fourth referent, it should be mentioned the necessary integration and articulation of this Policy with the "Lines of action directed at strengthening the State's policy on Human Rights and International Humanitarian Law" adopted by CONPES document 3172 on July 15, 2002.

Finally, the fifth referent is Law 957 of 2005 as well as its development and implementation. The coincidence between the tenets of this Law and the principles of the Policy regarding truth, justice and reparation shall lead to the creation of the necessary channels for systematic intervention.

## II. POLICY PROBLEM AND ITS DETERMINING FACTORS

Given the complexity of the phenomenon of impunity in cases of Human Rights violations and breaches of International Humanitarian Law, we would like to define the way the problem is understood and which are its determining factors.

### A. Policy Problem

The policy problem, according to which the scope and content of the interventions are defined, is the following: the Colombian State does not, in a generalized and prompt manner, establish the facts, punish perpetrators, and repair the victims, in cases of Human Rights violations and breaches of International Humanitarian Law.

The Policy problem, thus stated, implies that the existing institutional arrangements for the clarification, trial, sanction, and reparation of the victims in cases of Human Rights violations and breaches of International Humanitarian Law are inadequate. In this sense, the substantial and procedural content of the investigation, trial, punishment and reparation are primarily understood within the framework of Law 599 of 2000 (Criminal Code), Law 600 of 2000 (Criminal Procedure Code), Law 906 of 2004 (Criminal Procedure Code), and Disciplinary Code (Law 734 of 2002).

### B. Problem lines and factors associated to the policy problem

The identification and understanding of the factors determining the policy problem mentioned above is based on case monitoring and the analysis of the intermediate and final products generated by the “Project against impunity of Human Rights violations and breaches of International Humanitarian Law” in the last two years. It is complemented with experiences obtained from the discussions and decisions made by the Special Committee for Promotion and Monitoring, and its Work Group.

The interpretation of the associated factors herein takes into consideration the “Survey for the institutional strengthening of the National Unit for Human Rights and International Humanitarian Law” (E/UNDH-DIH/04), the “Survey for the institutional strengthening of the Specialized Circuits’ Criminal Jurisdiction (E/JPCE/05), and the updated diagnostic of the Office of the Attorney General concerning Human Rights.

Based on these inputs, a total of 17 associated factors (AF) were identified. These factors are structured around four problem lines (PL). (See Chart No. 1, Annex 1). The four PL and each of the AF that they include are explained below:

1. **Problem Line I. Institutional and organizational development** This line refers to the capacity and motivation of the institutions and organizations of the Criminal Justice System and Disciplinary Control System to change in a dynamic, planned and systematic way, to develop innovations directed at increasing the coherence among structures, processes, strategies, cultures and individuals, and to adjust and harmonize their responses to the environment made up of the conditions of occurrence, investigation, and sanction of Human Rights violations and breaches of International Humanitarian Law.
  - a. **Lack of adequate job stability conditions for judges, prosecutors, Public Ministry officials, and judicial police personnel.** Public officials in charge of Human Rights violations and breaches of International Humanitarian Law face two types of situation affecting their job stability. First, lack or non-application of a career regime and, secondly, the obstacles to stability for specialized groups personnel. The first situation affects the prosecutors, the members of the Technical Investigation Team (Cuerpo Técnico de Investigación - CTI) and the criminal judges of the specialized circuit. For the latter, conditions are particularly complex, because their transitory character<sup>8</sup> prevents their incorporation into the judicial career system. The second situation affects the Public Ministry officials and their investigators, for whom it is particularly difficult to keep their teams together, at medium and long terms and, therefore, to further their specialization.
  - b. **Conflicts of competence between the Ordinary Criminal Jurisdiction and the Criminal Military Jurisdiction in cases of Human Rights violations and breaches of International Humanitarian Law.** The Constitutional Court in case C-358 of 1997, states that the “Criminal Military Jurisdiction (CMJ) is an exception to the general rule of the natural judge”. Its competence must, therefore, be interpreted restrictively, for it involves a subjective element – being a member of the public force in active duty - and a functional element - the crime must be related to the service itself. Therefore, the CMJ should not prosecute cases of Human Rights violations and breaches of International Humanitarian Law. The perpetration of such violations breaks all functional links between the agent and the service, and should be prosecuted by the ordinary criminal jurisdiction (OPJ).

The persistence of competence conflicts in relation to cases of Human Rights violations and breaches of International Humanitarian Law affects negatively the investigation and sanctioning processes. First, the exchange of arguments between the General Attorney’s Office (GAO) and the CMJ regarding a conflict of competence takes up a considerable amount of time, and, therefore, it is a determining factor for the delay of in issuing legal decisions. Failing to comply with a reasonable deadline for the solution of conflicting issues related to Human Rights violations and breaches of International Humanitarian Law is

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<sup>8</sup> Law 504 of 1999

mostly explained by the lengthy disputes between the GAO and the CMJ with regard to the prosecution of particular cases. Secondly, when the GAO presents a positive conflict of competence or the CMJ upholds a negative one, the benefits of entrusting ordinary justice with the prosecution of Human Rights violations and breaches of International Humanitarian Law, are lost.

- c. Lack of clarity in the definition of the GAO's Human Rights – International Humanitarian Law Unit (HR-IHLU) competence for the investigation of Human Rights violations and breaches of International Humanitarian Law.** According to Resolution 0-2725 of December 9<sup>th</sup>, 1994, the GAO's HR-IHLU is responsible for “carrying out the investigations of Human Rights violations and breaches of International Humanitarian Law.” Additionally, according to Resolution 0-1560 of 2001, the HR-IHLU is responsible for “investigating the most serious violations of Human Rights and International Humanitarian Law in the country imputed to all parties in conflict, according to internal criminal law and international treaties ratified by Colombia (...).”<sup>9</sup>

The Direction of the HR-IHLU established a set of criteria for assigning cases to the Unit based on these Resolutions. Such criteria, however, have failed to clarify and to warrant a timely assignment and reassignment process of the cases of Human Rights violations and breaches of International Humanitarian Law. This lack of clarity is explained by the broad interpretation that concepts such as “serious Human Rights violations” may have, and by the lack of an operational definition common to those who participate in the assignment and reassignment processes, and to those who prosecute such cases.

- d. Lack of protection plans for judges, prosecutors, Public Ministry officials, public defense lawyers, and investigators that respond to a rigorous process of risk evaluation and vary according to changes in determining factors.** Presently, there are no personal security plans for those who direct and develop criminal and disciplinary investigation and sanctioning processes for Human Rights violations and breaches of International Humanitarian Law. There are only a few low-scope, fragmented and immediate mechanisms that are not based on a rigorous and updated risk evaluation system.
- e. Poor use of the Work Group (WG) of the Special Committee for Promotion and Monitoring (SCPM) as a means for inter-institutional coordination and promotion of the investigation of Human Rights violations and breaches of International Humanitarian Law.** As a strategy to give operative support to the SCPM, created by Decree 2429 of 1998, a Work Group was created. Since its creation, progress has been made in the implementation of informal inter-institutional coordination mechanisms, intended to promote those cases selected by the SCPM.

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<sup>9</sup> Article 2<sup>o</sup>, Resolution 0-1560 of October 22<sup>nd</sup>, 2001.

Nevertheless, the WG faces two obstacles that prevent the development of its potential as an instrument for articulating the efforts of several State agencies responsible for clarifying Human Rights violations and breaches of International Humanitarian Law, sanction their perpetrators, and repair the victims. First, due to its lack of institutional character, its competence and possibilities for action are poorly defined. Secondly, the WG does not have the tools for adequately responding to the needs of inter-institutional coordination and for the technical upgrade of the promotion and monitoring processes of the cases selected by the SCPM.

- e. **Inadequate monitoring of the execution of measures that guarantee the presence of the accused during the trial (medidas de aseguramiento) and the sanctions imposed in trials of Human Right violations and breaches of International Humanitarian Law.** A prosecution and criminal sanction process is effective when those found responsible serve their sentence according to the material and procedural conditions determined by criminal and penitentiary law. The same is true of arrest warrants.

One of the characteristics of the Colombian criminal justice system, specifically of one of its subsystems, the correctional system, is the precariousness of the mechanisms available to guarantee the conditions above. The perception of insufficient control and monitoring is intensified by the events in which those accused or convicted for Human Rights violations are members of the public force and serve sanctions imposed to them in military or police facilities in which they are not to be subject to the inherent limitations of the correctional regime.

- f. **Information on number, characteristics, and condition of the criminal and disciplinary processes for Human Rights violations and breaches of International Humanitarian Law is incomplete, fragmentary and untimely.** A preliminary diagnostic of the current situation regarding information on criminal and disciplinary processes for Human Rights violations and breaches of International Humanitarian Law indicates: a) The Attorney's General Office Legal Information System (AGOLIS) does not allow prosecutors and investigators to monitor the development of trials, or to analyze and verify associated information. Additionally, the information system for the Oral Accusatory System (OAS) is still under development; b) The Office of the Attorney General has two different systems for monitoring information on trials (GEDIS and SEPREDH). Although they provide relevant data to Public Ministry officials and investigators, they do not allow for data analysis and verification, or any exchange of information among the Criminal Justice System's agencies; c) the specialized circuit criminal judges have the "SIGLO XXI" information system that only operates in each court and does not allow for case management; d)



the Office of the Ombudsman is developing a system for cases within the framework of the new accusatory system.

Given the above, actions leading to clarify cases of Human Rights violations and breaches of International Humanitarian Law, sanctioning their perpetrators and repairing the victims, are hindered by the lack of full, adequate and timely information. This affects the intra-institutional and inter-institutional coordination of investigation and sanction activities, monitoring of processes, and the development of wider strategies against impunity in these kinds of crimes.

## **2. Problem Line II. Resource Management, with special emphasis on the development of Human Resources.**

This second line is related to the criteria, structures, processes and tools used for identifying the human, physical, and financial resources needs of the agencies pertaining to the Criminal Justice System and the Disciplinary Control System, in order to meet the demands of the investigation and sanction processes in cases of Human Rights violations and breaches of International Humanitarian Law. Besides identifying such needs, the line includes their satisfaction and monitoring in so far as such processes should be guided by principles of effectiveness, efficiency, economy, and transparency. The line recognizes the crucial importance of developing human resources, that is, those strategies and practices directed at the promotion, training and upgrading of the public official's abilities, knowledge and attitudes.

- a. The allocation, distribution and application of human, technological and financial resources are not made according to principles of planning, efficacy and efficiency.** The way the GAO, the Procurator-General's Office (PGO) and the Judiciary carry out their tasks shows little coherence between the number of human, technological and financial resources available, the needs of their work load, and the quality of their planning and application processes. This situation has multiple operational expressions, among them: a) difficulties to ensure the sustainability of those projects that included investments in fixed assets, b) programming the implementation of investigative activities, such as investigative commissions, depend on cash availability; and c) financing the operational costs supporting the commissions and the gathering of evidence depend mostly on international cooperation resources.

In this scenario, these agencies are strongly restricted to respond adequately to the demand for investigating Human Rights violations and breaches of International Humanitarian Law, and to undertake investigations and procedures with no other limitation than those of time and relevance required by each particular case.

- b. The operational definition of the roles and profiles of judges, prosecutors, Public Ministry officials, technicians, clerks, and legal police personnel do**

**not fit the needs of the investigation and sanctioning processes for Human Rights violations and breaches of International Humanitarian Law.**

The Handbook of Functions and Requirements for GAO personnel shows that a) there are no specific profiles for the HRU-IHLU's officials; and b) the functions of legal technicians and clerks are poorly defined. According to their job definition, they should aid prosecutors in drafting decisions, gathering of evidence and development of investigative commissions; however, some are mainly or exclusively devoted to secretarial tasks. Furthermore, in the case of members of the judicial police workforce in charge of investigating Human Rights violations and breaches of International Humanitarian Law, the different agencies involved have not agreed on their functions and requirements.

This situation hinders the investigations of Human Rights violations and breaches of International Humanitarian Law in the following ways: a) the secretarial tasks performed by judicial technicians creates case overload and, therefore, delay in criminal investigations, since prosecutors do not receive the support they require; b) there are no specific profiles for the HR-IHLU officials related to the type of crimes they investigate. This means that individuals occupying these positions may not be fully qualified, or that qualified personnel are not currently performing the tasks for which they are qualified; c) the profiles and functions of the members of the judicial police vary from one agency to another; this explains the lack of uniformity in the quality of their production.

The lack of specificity and operability of the functions and profiles of prosecutors, technicians, clerks, and judicial police personnel concerning the needs involved in the investigations has particularly negative effects on the cases of Human Rights violations and breaches of International Humanitarian Law. These types of cases require that the officials in charge have special personal conditions and experience to further the clarifying process. This situation should be analyzed within the framework of the modifications affecting the dynamics of investigations introduced by the new Criminal Procedure Code.

Concerning the specialized circuit criminal judges and the Public Ministry officials acting in criminal and disciplinary processes, there is likewise an insufficient relationship between the positions and the profiles, and in some cases, inadequate or insufficient job specification.

- c. The requirements for the clarification and sanctioning processes in cases of Human Rights violations and breaches of International Humanitarian Law exceed the capacity and ability of judges, prosecutors, Public Ministry officials, public defenders, forensic teams, and investigators.** The clarifying of facts, sanctioning of perpetrators and reparation to victims of Human Rights violations and breaches of International Humanitarian Law require that local authorities and public officials in charge of these processes had previously received specific quality training on these types of violations and breaches. This need is recognized at the international level, where investigation

protocols for each violation have been developed, for instance, the Model Protocol for investigating extrajudicial, arbitrary and summary executions (Protocol of Minnesota).

- d. Current formal performance evaluations have negative effects on the quality and relevance of investigative and sanction activities.** The existing informal and formal mechanisms have not developed adequate criteria for evaluating the performance of officials in charge of the investigation and sanction of Human Rights violations and breaches of International Humanitarian Law. These mechanisms are focused in the quantitative analysis of activities performed, and, therefore, have negative effects in that they favor activities and legal decisions that do not necessarily lead to the clarification of the facts and sanctioning of perpetrators.
- 3. Problem Line III. Attention to victims and witnesses.** This line includes practices, conditions and attitudes promoting access of victims and witnesses of Human Rights violations and breaches of International Humanitarian Law to the criminal justice system and/or disciplinary control system. It concerns also the efficiency and effectiveness of the processes whereby persons are recognized as victims and witnesses by the competent authorities, the provision of services that facilitates and propitiates their participation and collaboration with investigative, sanction and reparation processes while controlling the risks of their re-victimization.
- a. Low frequency in the application of the victim's recognition and participation mechanisms contemplated in the investigation, trial, sanction, and reparation procedures.** The low frequency in the application of victim's recognition and participation mechanisms in cases of Human Rights violations and breaches of International Humanitarian Law limits the contribution they may make to the clarification of facts; it also prevents the materialization of their rights to truth, justice and reparation.

Several factors are involved: a) the victims' lack of financial resources for hiring a lawyer to represent them in the different legal, disciplinary or administrative proceedings; presently there is no free legal aid; b) the victims are not aware of their constitutional and legal rights regarding criminal, disciplinary and administrative Law, which can be summarized as the right to truth, justice, and reparation; and c) there are no institutional mechanisms available to the agencies and officials in charge of investigation and sanction procedures, and a culture of providing support and information to the victims about the processes being investigated has not yet been developed.

- b. Protection mechanisms are not related to the characteristics and needs of witnesses and victims.** One of the main sources of evidence used in prosecutions of Human Rights violations and breaches of International Humanitarian Law for the clarification of facts are the statements made by

victims and witnesses. However, their collaboration with the justice and disciplinary control systems implies risks to their lives and their personal security in as much as they receive frequent threats and do not find sufficient, timely and effective protection from the State. Therefore, current protection mechanisms for victims and witnesses discourage their collaboration with the criminal and disciplinary prosecution of Human Rights violations and breaches of International Humanitarian Law.

**4. Problem Line IV. Specific operational conditions for investigating and sanctioning.** This line focuses in the processes/procedures and specific operational practices that are part of the work to be performed for the investigation and sanction in cases of Human Rights violations and breaches of International Humanitarian Law, and that are recognized as key factors for attaining the goals of the criminal justice system and/or the disciplinary control system when dealing with this type of crimes.

**a. Failure to comply with legal proceedings and investigation and sanction activities.** Any adjournment of the proceedings within an investigative and sanction process leads to a delay in the State's response to perpetrators, victims, and society in general, that may become a condition for default.

When the workload (in terms of number of processes) of legal and disciplinary operators is high, non-compliance with schedules lead to such delays that they create conditions for default, and the probability of clarifying the facts and the consequent sanctioning of perpetrators and reparation to the victims is highly diminished.

Failure to comply with legal proceedings, prosecution procedures, and sanctions in cases of Human Rights violations and breaches of International Humanitarian Law, and the ensuing need to reschedule, are due to the inadequate development of strategies and tools to synchronize, in specific times and spaces, the use of scarce human and logistic resources among several agencies.

**b. Non-compliance or untimely implementation of arrest warrants in cases of Human Rights violations and breaches of International Humanitarian Law.** Even when investigation and sanction decisions in cases of Human Rights violations and breaches of International Humanitarian Law are adopted in a timely and efficient manner according to principles of truth, justice and reparation, such decisions are worthless if agencies do not have the capacity to implement them in a reasonable amount of time. This is particularly true concerning warrants to guarantee the presence in court of alleged perpetrators or when implementing prison sentences.

**c. Insufficient security guarantees and mobility conditions for the investigation commissions in cases of Human Rights violations and**

**breaches of International Humanitarian Law in certain parts of the national territory.** It is possible to assert that most places in Colombia where Human Rights violations and International Law crimes take place or where evidence can be gathered are characterized by the difficult conditions of access and/or security for personnel that are part of investigation commissions. This situation generates delays in the arrival at the crime scene with the consequent risk of evidence alteration or witnesses' and victims' dispersion. Even when access is achieved, the lack of security can affect the level of autonomy of the investigation teams and the proficiency of their operations.

When these obstacles become unsurpassable, the probability of clarifying cases for Human Rights violations and breaches of International Humanitarian Law are directly affected, and so is the probability to sanction perpetrators and repair the victims.

**d. Limited coverage and opportunity in legal defense services for alleged perpetrators of Human Rights violations and breaches of International Humanitarian Law who are not financially or socially able to obtain them.**

The fight against impunity cannot mean, in any way, the non-observance of defendants' procedural guarantees. A main element for protecting the rights of the alleged perpetrators of Human Rights violations and breaches of International Humanitarian Law, who, because of financial or social reasons cannot obtain timely legal defense, is that such defense be provided by the State through qualified Public Defenders.

When this does not occur, besides violating due process, other failures in the dynamics of the investigation and trial are generated. All this leads to judicial delays and negative effects on the probability of the clarification and sanction of crimes.

### **III. STRATEGIC AND OBJECTIVES FRAMEWORK FOR THE REQUIRED STATE INTERVENTIONS**

#### **A. Policy's General Objective**

The Policy's general objective, based on which the scope and content of interventions are defined, is the following: to overcome those obstacles that prevent or hinder the clarification of cases involving Human Rights violations and breaches of International Humanitarian Law, sanction their perpetrators, and repair their victims.

Thus stated, the policy's general objective involves the strengthening of current organizations, practices, and procedures for the investigation of Human Rights

violations and breaches of International Humanitarian Law, clarify the cases, sanction those responsible, and repair the victims. At the same time, it means the improvement of the normative framework in order to establish a greater coherence among its different sources.

The attainment of this objective requires taking into consideration the new institutional and organizational conditions derived from the approval and application of Law 975 of 2005. This means that the interventions shall be adapted to include as beneficiaries those departments or units responsible for its implementation.

## **B. Principles guiding the Policy's definition, implementation, monitoring and evaluation**

- 1. Responsibility of the Colombian State in the clarification of Human Rights violations and breaches of International Humanitarian Law, prosecution, and sanction of their perpetrators, and reparation to the victims.** The Colombian State will answer, at the national and international level, for the Human Rights violations and breaches of International Humanitarian Law committed in its territory by its agents, or by individuals with the acquiescence of such agents. The recognition of this responsibility involves adopting political, administrative, civil, and criminal measures to protect the rights of the victims and the effective sanction of the perpetrators. This means materializing the duty of respect and guarantee as a responsibility of the Colombian State.<sup>10</sup>
- 2. Standards of justice, truth and reparation.** The Colombian State, through its structures and institutionalized processes of justice and disciplinary control, shall abide by the standards of truth, justice and reparation. This involves, among other results, that: a) all cases of Human Rights violations and breaches of International Humanitarian Law be clarified; b) the investigations thereof shall be exhaustive, complete, and must be carried out within reasonable time limits, and their results shall be published; c) the sentences shall be proportionate and implemented, f) the victims shall have institutional support, effective resources, and timely access to investigation and trial instances; g) due process, independence and impartiality in investigation and trial shall be guaranteed; and h) the non recurrence of such violations shall be guaranteed.
- 3. Imprescriptibility of the criminal action, limitation of the principle of *non bis in idem* and *res judicata*, inapplicability of the principle of opportunity and non granting of amnesty or pardon in cases of Human Rights violations and breaches of International Humanitarian Law.** Within the framework of the Colombian State's structures and institutionalized processes

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<sup>10</sup> For a broader explanation of the duties and guarantees of the State. See Interamerican Court of Human Rights. Case *Velásquez Rodríguez*. July 29, 1988.

of justice and disciplinary control, investigation and sanction activities will be carried out without violating the above stated limitations and exceptions.

- 4. Visibilization of the cases of women's and minors' victimization resulting from Human Rights violations and breaches of International Humanitarian Law.** The Colombian State shall guarantee that the authorities in charge of investigation, trial, sanction, and reparation procedures for Human Rights violations and breaches of International Humanitarian Law make explicit and carry out a complete and exhaustive investigation of crimes in which the victims are women and children. To this effect, as part of the Policy's interventions (projects included in the Annual General Operative Plan, AGOP), compliance with this principle in specific activities shall be guaranteed.
- 5. Autonomy and harmonious collaboration among the Public Power branches and the Office of the Ombudsman in Policy's definition, implementation, monitoring, and evaluation.** The different agencies of the Colombian State participating in the investigation, trial, and sanction of Human Rights violations and breaches of International Humanitarian Law, shall collaborate to attain the Policy's general and specific objectives. In this sense, all interventions are understood as a State Policy and, therefore, as actions that are not limited to the interests of a particular agency, but, in accordance with the Constitution, to the interests of the Colombian State as a whole.
- 6. Guarantee of the sustainability of interventions.** The interventions included in the Policy shall be supported by the agencies involved. Therefore, they should be integrated in the relevant plans, programs and projects. State agencies shall also provide the resources needed to ensure the continuity of the Policy, according to the Annual General Operative Plan, AGOP.
- 7. Integration with related policies and actions.** The Policy shall be articulated with other policies and actions of the Colombian State related to the fight against impunity for Human Rights violations and breaches of International Humanitarian Law, in order to prevent overlapping, duplication and contradicting interventions.
- 8. Accountability and social control.** The State shall regularly report on the progress of the policy's actions to citizens. It shall also implement information mechanisms on the activities pertaining to each intervention.

### **C. Policy's Specific Objectives**

The definition of the Policy's objectives, as well as the identification of associated factors, was based on the monitoring of cases and analysis of the intermediate and final products generated by the "Project against impunity of Human Rights violations and breaches of International Humanitarian Law" in two years of work. It was complemented with the experiences obtained in the discussions and decisions

adopted by the Special Committee for Promotion and Monitoring (SCPM) and its Work Group (GT).

Based on these inputs, a total of seventeen (17) specific objectives (SO) were structured around four strategic lines (SL) (See Box 2, Annex 1). The four SL and each SO included in them are the following:

- 1. Strategic Line I. Institutional and organizational development.** This line concerns the capacity and motivation of institutions and organizations of the Criminal Justice System and the System of Disciplinary Control to change their dynamics, in a planned and systematic way, and to develop innovations leading to increase coherence among structures, processes, strategies, cultures and individuals, and adjust their response to the occurrence, investigation and sanction of Human Rights violations and breaches of International Humanitarian Law.
  - a. Guarantee the continuity of the processes of investigation and sanction by offering conditions of stability to judges, prosecutors, Public Ministry officials and judicial police personnel.** The system of recruiting, permanence, promotion, and retirement of judges, prosecutors and judicial police shall guarantee that the decisions regarding personnel management are based exclusively on performance criteria. Thus, each public official will know that his/her permanence and promotion will depend on the quality of results. When given such guarantees, the decisions adopted by these officials shall be motivated only by the principle of legality, and their continuity in investigation and trial processes shall be based exclusively on concrete results regarding the clarification of facts. Additionally, stable and specialized teams of legal Public Ministry officials and investigators in cases of Human Rights violations and breaches of International Humanitarian Law should be created.
  - b. Guarantee that all the cases of Human Rights violations and breaches of International Humanitarian Law are timely reported to the Ordinary Criminal Jurisdiction.** The thorough and timely application of the Constitutional Court's decisions concerning competence to prosecute cases of Human Rights violations and breaches of International Humanitarian Law, so that it is always the GAO the entity responsible since the beginning for the direction and coordination of relevant investigations.
  - c. Guarantee that all cases of Human Rights violations and breaches of International Humanitarian Law are timely reported to the Attorney's General Office.** Once Human Rights violations and breaches of International Humanitarian Law occur, the case will be assigned to the prosecutors and investigators of the Attorney's General Office as soon as possible, so that they may arrive at the scene of the crime and undertake the direction and coordination of the procedures. Special attention should be given to the



competence of the HR-IHLU and the specific parameters for assigning cases to this unit.

**d. Provide protection plans to increase the autonomy of judges, prosecutors, Public Ministry officials, public defenders, and investigators in cases of Human Rights violations and breaches of International Humanitarian Law.**

The Colombian State will provide the means to guarantee the personal security of judges, prosecutors, Public Ministry officials, public defenders, and investigators that are working in cases of Human Rights violations and breaches of International Humanitarian Law and face threats against their life or personal integrity.

**e. Consolidate the Work Group of the Special Committee for Promotion and Monitoring as a space for inter-institutional coordination for the investigation, trial, and sanction of Human Rights violations and breaches of International Humanitarian Law.**

As a result of the inter-institutional work developed in the Work Group, and according to the guidelines of the Special Committee for Promotion and Monitoring, the way in which the participant organizations relate to each other will be redefined.

**f. Permanent monitoring of arrest warrants and sanctions imposed in cases of Human Rights violations and breaches of International Humanitarian Law.**

The Colombian State will be able to guarantee that those who are object of arrest warrants or sanctions in cases of Human Rights violations and breaches of International Humanitarian Law comply with these decisions in strict accordance with the conditions established by the criminal, penitentiary and correctional codes.

**g. Provide timely and quality information on the characteristics and situation of the criminal and disciplinary processes for Human Rights violations and breaches of International Humanitarian Law.**

Those responsible for the implementation, monitoring, and evaluation of the Policy shall have reliable, sufficient, and timely information on the progress made in the investigation and sanction processes in order to facilitate the revision of policies and lines of action. The collection and use of this information shall strictly observe the existing legal provisions regarding privacy and confidentiality.

**2. Strategic line II. Resource Management, especially Human Resources development.**

This second line refers to criteria, structures, processes and tools based on which the needs of human, physical and financial resources of the organizations of the Criminal Justice System and the Disciplinary Control System are determined in order to meet the demands of the investigations and allow the imposition of sanctions to perpetrators. In addition to determining the resources needed, this line includes the means for its adequate use and control, in the understanding that these processes must be guided by the

principles of effectiveness, efficiency, economy, and transparency. This line recognizes the crucial importance that the development of human resources has for fighting impunity and understands this process as including strategies and practices aimed at the promotion, training, and updating of the personnel's knowledge and attitudes.

- a. **Guarantee that the planning and application of human, physical and financial resources allow for the promotion of all prosecution, trial and sanctioning processes in cases of Human Rights violations and breaches of International Humanitarian Law.** The Attorney's General Office HR-IHLU, the Specialized Criminal Justice, and the Public Ministry Human Rights officials shall have the personnel and logistical support required to investigate and sanction perpetrators in cases of Human Rights violations and breaches of International Humanitarian Law. The estimate of needs shall be based on a transparent application of a managerial and financial model that identifies the cost of the activities and controls the flow of funds.
- b. **Guarantee that the operational definition of the roles and profiles of judges, prosecutors, state attorneys, technicians, clerks, and judicial police personnel correspond to the demands of the investigations in cases of Human Rights violations and breaches of International Humanitarian Law.** The requirements related to academic background, professional experience, and motivation of those who participate in the investigation, trial and sanction of Human Rights violations and breaches of International Humanitarian Law shall be adjusted in order to achieve the level of profesionalization and specialization needed by the work teams, given the complexity of the cases they investigate. All of the above is framed by the functional definitions established in Laws 600 of 2000, 906 of 2005, 734 of 2002, 504 of 1999, and 270 of 1996.
- c. **Provide means and instruments to generate and develop the capacities and abilities necessary for the investigation, trial, sanction, and reparation in cases of Human Rights violations and breaches of International Humanitarian Law.** The judges, prosecutors, state attorneys, public defenders, forensic teams, investigators and local authorities that handle these cases will acquire, through a training and information updating process, the specific knowledge and techniques required to understand, explain, coordinate, direct, and clarify the cases of Human Rights violations and breaches of International Humanitarian Law.
- d. **Guarantee that the performance evaluation is based on criteria assessing the quality and relevance of activities and products.** The prosecutors', Public Ministry officials', and investigators' work will be evaluated not only by quantitative criteria, such as issuing a specific number of decisions or the number of people formally accused, but also on the influence they have had in the effective and prompt clarification of Human Rights violations and breaches

of International Humanitarian Law, and the respect they have shown for the legal provisions controlling these cases. All of the above, keeping in mind that the Criminal Justice System's obligation in these investigations is one of means and not of result.

- 3. Strategic line III. Aiding victims and witnesses.** This line encompasses the practices, conditions, and attitudes that promote access to the Criminal Justice System or/and Disciplinary Control System for victims and witnesses of Human Rights violations and breaches of International Humanitarian Law. It also refers to the efficiency and effectiveness of the process through which competent authorities formally recognize victims and how soon they are offered services that facilitate and promote their participation and collaboration with the process of investigation, sanction, and reparation, while being protected from the risk of re-victimization.
  - a. Promote the recognition and the participation of the victims of Human Rights violations and breaches of International Humanitarian Law in the investigation, trial, sanction and reparation processes.** The economic or social limitations affecting the victims of Human Rights violations and breaches of International Humanitarian Law shall not be an obstacle for their recognition and participation in disciplinary or administrative processes. The Colombian State shall provide victims the required integral assistance and encourage practices that allow their official recognition and participation in all administrative and judicial processes. All of the above shall translate into specific services and mechanisms that should be developed in accordance with the Constitutional Court's jurisprudence<sup>11</sup> and the Declaration of fundamental principles of justice for the victims of crimes and abuse of power, adopted by the General Assembly of the United Nations through Resolution 40/34 of 1985.
  - b. Guarantee that the protection mechanisms promote the effective participation and collaboration of the victims and witness in the investigation, trial, sanction, and reparation processes.** The Colombian State shall be able to provide victims and witnesses of Human Rights violations and breaches of International Humanitarian Law complete access to the justice system without risk to their lives or personal integrity. The State shall, then, create those conditions that will allow victims and witnesses to report cases and participate in the judicial and administrative processes without risk of being re-victimized.
- 4. Strategic line IV. Specific operational conditions for the investigation, trial, and sanction.** This lines focuses in the processes/procedures and specific operational practices that must be carried out during the investigation and sanction of Human Rights violations and breaches of International

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<sup>11</sup> See, for example, the following Constitutional Court cases: C-740/2001, C-1149 /2001, SU-1184/2001, T-1267/2001, C-282/2002, and C-004/2003

Humanitarian Law, and that are central to the attainment of the Criminal Justice System's and/or the Disciplinary Control System's objectives regarding this type of cases.

- a. **Guarantee the implementation of investigation and sanction activities in cases of Human Rights violations and breaches of International Humanitarian Law.** All the proceedings and procedures for the investigation and sanction of Human Rights violations and breaches of International Humanitarian Law shall be carried out in the conditions of time and place established initially. Public officials shall have instruments for intra and inter-institutional coordination that will help to reduce postponements, delays, and adjournments.
- b. **Guarantee the timely execution of arrest warrants in cases of Human Rights violations and breaches of International Humanitarian Law.** The arrest warrants issued in cases of Human Rights violations and breaches of International Humanitarian Law shall be served within a reasonable period of time.
- c. **Provide necessary safety and mobility conditions for the investigative commissions in cases of Human Rights violations and breaches of International Humanitarian Law.** The prosecutors and investigators shall be hindered in their access to places where Human Rights violations and breaches of International Humanitarian Law take place or where evidence needs to be gathered. Therefore, factors related to public order conditions and means of transportation and communication that limit officials' access shall be controlled.
- d. **Guarantee timely technical defense services for those allegedly responsible for Human Rights violations and breaches of International Humanitarian Law with financial or social limitations that prevents them from obtaining such services.** The investigation and trial processes shall never be negatively affected by the lack of or low quality of the technical defense services that the State should provide to the alleged perpetrators who cannot hire a lawyer for financial or social reasons.

#### IV. REQUIRED STATE INTERVENTIONS

##### A. Projects according to strategic lines and policy's objectives.

The identification of the projects required for developing the specific and general objectives was performed in eleven (11) work groups where all concerned organizations participated. A total of 24 projects were identified. The distribution of

these projects, according to strategic lines and specific objectives, is presented in the following charts:

<b>STRATEGIC LINE I.   INSTITUTIONAL AND ORGANIZATIONAL DEVELOPMENT</b>
<p><b>OAS.</b> Assure the continuity of the prosecution and sanction processes by guaranteeing the stability of judges, prosecutors, Public Ministry officials, and judicial police personnel.</p> <p><b>PY1.</b> Adoption and implementation of the Prosecutor Career in the Attorney General's Office</p> <p><b>PY2.</b> Adoption and implementation of a career regime for the Attorney's General Office Technical Body of Investigations' personnel (Cuerpo Técnico de Investigación-CTI)</p>
<p><b>OEb.</b> Guarantee that all Human Rights violations and breaches of International Humanitarian Law are investigated by the Ordinary Criminal Jurisdiction</p> <p><b>PY1. Design and publication</b> of a guide for identifying Human Rights violations and breaches of International Humanitarian Law. *</p>
<p><b>OEc.</b> Guarantee that all Human Rights violations and breaches of International Humanitarian Law are timely known by the Attorney's General Office</p> <p><b>PY1.</b> Revision of the assignment and reassignment procedures in cases of Human Rights violations and breaches of International Humanitarian Law. *</p>
<p><b>OE d.</b> Provide protection plans to allow the autonomy of judges, prosecutors, Public Ministry officials, public defenders, and investigators in the investigation and sanction processes in cases of Human Rights violations and breaches of International Humanitarian Law.</p> <p><b>PY1.</b> Design and implement a protection system for specialized judges, prosecutors, investigators, Public Ministry officials, and public defenders that participate in cases of Human Rights violations and breaches of International Humanitarian Law.</p>
<p><b>OEe.</b> Consolidate the Work Group of the Special Committee of Promotion and Monitoring as a space for inter-institutional coordination in the prosecution, trial and sanction of Human Rights violations and breaches of International Humanitarian Law.</p> <p><b>PY1.</b> Coordination of the implementation, monitoring and evaluation of the Policy, and implementation of technical support function for the Work Group of the SCPM</p> <p><b>PY2.</b> Strengthening of the Work Group as a space for inter-institutional coordination.</p>
<p><b>OEf.</b> Permanent monitoring of arrest warrants and sanctions imposed in cases of Human Rights violations and breaches of International Humanitarian Law.</p> <p><b>PY1.</b> Design, implement and integrate processes, standards and technical</p>

\* These projects shall contain details concerning the application, activities, elements and products that allow the inclusion and development of principle 4 of the policy, "Visibilization of cases where women and minors are victims as a result of human rights violations and breaches to International Humanitarian Law."

instruments for monitoring the serving of arrest warrants and sanctions imposed in cases of Human Rights violations and breaches of International Humanitarian Law.

**OEg.** Provide timely and quality information on the characteristics and situation of the criminal and disciplinary processes for Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Integration of the State information system on criminal and disciplinary processes for Human Rights violations and breaches of International Humanitarian Law. \*

### **STRATEGIC LINE II. MANAGEMENT OF RESOURCES, WITH SPECIAL EMPHASIS ON HUMAN RESOURCES DEVELOPMENT**

**OAS. Guarantee** that the planning and use of human, physical and financial resources shall promote all the prosecution, trial, and sanction processes in cases of Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Design a strategy for planning, implementation, and monitoring of the promotion plan for cases of Human Rights violations and breaches of International Humanitarian Law cases.

**PY2.** Create and adopt a model for planning and use of human, physical and financial resources for the GAO'S HR- IHLU and the GAO's Human Rights prevention and sanction system.

**OEb.** Guarantee that the operational definition of the roles and profiles of judges, prosecutors, Public Ministry officials, technicians, clerks and judicial police personnel responds to the investigation's requirements in cases of Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Design and implement a plan for reorganizing and professionalizing the Human Resources units responsible for the prosecution and sanction in cases of Human Rights violations and breaches of International Humanitarian Law.

**OEc.** Provide means and instruments to create and develop the capacities and abilities required for the prosecution, investigation, trial, sanction and reparation in cases of Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Theoretical-practical training for the investigation and sanction of cases of Human Rights violations and breaches of International Humanitarian Law. \*

**OE d.** Guarantee that performance evaluations are based on criteria related to the quality and relevance of activities and products.

**PY2.** Design instruments for evaluating the performance of prosecutors, Public Ministry officials, and investigators of cases of Human Rights violations and breaches of International Humanitarian Law.

### **STRATEGIC LINE III. ATTENTION TO VICTIMS AND WITNESSES**

**OAS.** Promote the recognition and participation of the victims of Human Rights violations and breaches of International Humanitarian Law in the prosecution, trial, sanction and reparation processes.

**PY1.** Develop mechanisms of legal assistance for the victims of Human Rights violations and breaches of International Humanitarian Law who face difficult financial or social conditions. \*

**OEb.** Guarantee that the protection mechanisms favor the victims' and witnesses'

effective participation and collaboration in the investigation, trial, sanction and reparation processes.

**PY1.** Develop and adopt standards of aid and protection for victims and witnesses in cases of Human Rights violations and breaches of International Humanitarian Law. \*

**STRATEGIC LINE IV. SPECIFIC OPERATIVE CONDITIONS FOR THE PROSECUTION, TRIAL AND SANCTION.**

**OAS.** Guarantee the implementation of the prosecution and sanction activities and proceedings in the cases of Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Create instruments for planning proceedings among agencies of the Criminal Justice System and Disciplinary Control System for the cases of Human Rights violations and breaches of International Humanitarian Law.

**PY2.** Analyze available alternatives for redesigning the notification and witnesses' service strategies in cases of Human Rights violations and breaches of International Humanitarian Law, and for the notification of public officials working in this type of cases.

**PY3.** Revision and adjustment of the procedures of the National Institute of Prisons for transporting inmates to courts in cases of Human Rights violations and breaches of International Humanitarian Law

**PY4.** Promote the use of technology for "virtual hearings" in cases of Human Rights violations and breaches of International Humanitarian Law.

**OEb.** Guarantee the timely execution of arrest warrants in cases of Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Create a judicial police specialized group for serving arrest warrants in cases of Human Rights violations and breaches of International Humanitarian Law.

**OEc.** Provide the necessary safety and mobility guarantees for the investigative commissions in cases of Human Rights violations and breaches of International Humanitarian Law.

**PY1.** Create mobility and communications plans for investigative missions in cases of Human Rights violations and breaches of International Humanitarian Law.

**PY2.** Institutionalize Public Force protective support strategies for investigators of Human Rights violations and breaches of International Humanitarian Law in areas with public order problems.

**OEd.** Guarantee timely technical defense services for alleged perpetrators of Human Rights violations and breaches of International Humanitarian Law who are financially or socially unable to obtain it.

**PY1.** Create a group of public defenders and investigators in the Ombudsman Office for cases of Human Rights violations and breaches of International Humanitarian Law.

**B. Specific actions for institutional and organizational adjustment and management**

## **1. Reforms and normative adjustments**

In order to provide the necessary conditions for the application of the Policy's principles and the implementation, monitoring, and evaluation of the interventions proposed, the following actions shall be carried out:

- The Office of the General Attorney shall make the necessary normative adjustments to guarantee that in no case of Human Rights violations and breaches of International Humanitarian Law the opportunity principle is applied.
- The Ministry of Foreign Affairs shall adopt the necessary measures for ratifying still pending Human Rights treaties and shall submit the ratification instruments of those that have already been internally approved.

## **2. Guidelines for Organizational Action**

To facilitate the attainment of the Policy's objectives and the application of the principles that guide it, the different organizations shall adopt or strengthen specific actions:

- The National Government, the General Attorney's Office, the Prosecutor – General Office and the Administrative Office of the Courts shall carry out the necessary actions to promote the application of the third principle of the Policy.
- The Office of the Attorney General and the Prosecutor–General Office shall provide stability for the personnel responsible of investigating and sanctioning of Human Rights violations and breaches of International Humanitarian Law.
- The Prosecutor – General Office shall hold preferential power in all cases of Human Rights violations and breaches of International Humanitarian Law in which the alleged perpetrators are public officials.
- The General Attorney's Office shall exercise preventive control over the serving of arrest warrants issued in cases of Human Rights violations and breaches of International Humanitarian Law.
- The Administrative Office of the Courts shall define the contractual situation of the specialized circuit criminal judges.
- The State organizations shall adopt tools and strategies for the coordination and/or integration of plans, programs, and training projects in the prosecution and sanction of Human Rights violations and breaches of International Humanitarian Law within the framework of the commissions and existing inter-institutional work groups.

## **C. Budget Requirements**

In order to determine the necessary budget requirements for implementing the projects defined in section IV.A, working sessions with representatives of the



beneficiary organizations were held. The result of these sessions was a brief summary of projects that contain basic statistical information on each intervention that feeds the Annualized General Operative Plan (AGOP) (See Annex 3)<sup>12</sup>.

Annex 2 establishes the estimated budget requirements,<sup>13</sup> separating those that have been programmed from those that have not. They correspond to items for which the Colombian State has already made the relevant appropriations or that shall be financed with international cooperation resources.

## **D. Policy's management outline**

This section describes the structures, processes and tools through which the projects proposed by the Policy shall be implemented, monitored, and evaluated.

### **1. Roles of the participants**

Before describing the management outline, we should list those who have participated and/or will participate in the Policy's formulation, adoption, implementation, monitoring, and evaluation process. In this way, the roles of the different agencies and the diversity and complexity of the intra and inter-organizational management relationships implied in the Policy proposes may be explicated.

Regarding the agencies that participated in the formulation stage, it must be pointed out that the table includes those agencies that offered observations to previous versions of this document.

Although this document states that the Vice-Presidency of the Republic is the sole responsible for the evaluation processes (part B of section V), these processes shall be conducted with the participation of the agencies that shall benefit from the interventions.

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<sup>12</sup> For detailed budget requirements for each of the projects and the agencies that shall benefit from them, see a) the General Operative Plan (GOPA) included as an annex to section IV.5; b) the detailed outlines of the projects (P2-F02 and P2-F13).

<sup>13</sup> Estimatives may change as a result of new information received that may diminish the uncertainty of the calculations.

Table No. 1 Participants in the process according to stage of policy's cycle.

Organizations	Sections	Code	Stages				
Administrative Office of the Courts	Plenary meeting	CSJ-SP	•	•	•	•	
	Diciplinary Panel	CSJ-SD					•
	Administrative Panel	CSJ-SA			•	•	
	Delegate of the specialized circuit criminal judges	JPCE					•
Office of the Ombudsman	Ombudsman's Office	DP-DD		•			
	Public Defense National Section	DP-DP			•	•	
	Receiving and processing complaints National Section	DP-DAQ	•		•	•	
National Planning Department	Security and Justice Unit	DNP-DJS				•	
General Attorney's Office	Office of the General Attorney	FGN-DF	•	•			
	Office of the Vice General Attorney	FGN-DV	•				
	National Prosecutor's Unit	FGN-DN			•		
	International Affairs Office	FGN-AI	•				
	Human Rights and IHL National Unit	FGN-UNDH	•		•	•	
National Institute of Prisons	Office of the Director	INPEC-DG		•	•		
	Human Rights Office	INPEC-DDHH					•
Ministry of the Interior and Justice	Justice Viceministry	MIJ-VJ	•	•	•	•	
High Commissioner Office for Human Rights in Colombia	International Cooperation Office	OACNUDH					•
	Legal affairs office	OACNUDH					•
National Police	Judicial Police Central Division	PN-DIJIN					•
Procurator - General Office	Office of the Procurator - General	PGN-DP	•	•			
	Office of the Viceprocurator - General	PGN-DV	•	•			
	Human Rights Unit	PGN-PDP	•	•			•
	Office of the Procurator - General's counselors for Human Rights	PGN-OA	•	•	•	•	
	Special Investigations Unit	PGN-DIE	•	•	•	•	
	Public Ministry Unit	PGN-PDM	•	•	•	•	
	Human Rights Disciplinary Affairs Unit.	PGN-PDD	•	•	•	•	
Vicepresidency of the Republic	Presidential Program for Human Rights and International Humanitarian Law Project Against Impunity in cases of Human Rights' and IHL's violations	VR-PLCI	•	•	•	•	•

## 2. Implementation outline of the Policy's projects

### a. Project Typology

- i. **Type I Me Projects.** These are projects that satisfy each and every one of the following conditions: a) the direct benefits of the project are received by one clearly identifiable agency (regardless of possible systemic effects of the interventions); and b) the elements and activities of the project match those inherent to the organization's mission and support functions.
- ii. **Type II Projects.** These are projects that satisfy each and every one of the following conditions: a) the direct benefits of the project are received by more than one agency; therefore, intensive inter-organizational coordination work is needed; b) the elements and activities of the project are encompassed in the functions' framework of the Presidential Program for Human Rights and International Humanitarian Law of the Vice-presidency of the Republic, and its project "Fight against the impunity for Human Rights violations and breaches of International Humanitarian Law"; and c) the Vice-Presidency had defined that the type of intervention proposed by the Project is of strategic interest for its mission against impunity for Human Rights violations and breaches of International Humanitarian Law.
- iii. **Type III Projects.** These are projects that satisfy each and every one of the following conditions: a) the direct benefits of the project are received by more than one agency; this is why intensive inter-organizational coordination work is needed; b) the elements and activities of the project fall outside the functions' framework of the Vice-presidency of the Republic Presidential Program of Human Rights and International Humanitarian Law, and its project "Fight against the impunity for Human Rights violations and breaches of International Humanitarian Law".

### b. Assignment of responsibility for project implementation.

The following chart shows in a clear and precise way the tasks for which each agency participating in project implementation is responsible.

Table No. 2 Assignment of responsibilities according to stage of the implementation process of the projects included in the Policy.

Stage No.	Stage	PROJECT TYPE I	PROJECT TYPE II	PROJECT TYPE III
1	Articulation of the project profile	EB	VR-PLCI <sup>1</sup>	VR-PLCI <sup>1</sup>
2	Feasibility Evaluation	EB	VR-PLCI	EB
3	Viability Control	OP	EAR-GP	EAR-GP u OP
4	Design of terms of reference	EB o EAR-GP	VR-PLCI o EAR-GP	EB o EAR-GP
5	Selection of providers	EB, EAR-GP o ECD	VR-PLCI o EAR-GP	EB o EAR-GP
6	Writing and signing of contracts	EB o EAR-GP	EAR-GP	EB o EAR-GP
7	Financial and budget implementation	EB o EAR-GP	VPR-PLCI o EAR-GP	EB o EAR-GP
8	Auditing of contracts	EB	VR-PLCI	EB
9	Monitoring of implementation	EB	VR-PLCI	VR-PLCI
10	Implementation reports	EB	VR-PLCI	VR-PLCI

1/ VR-PLCI generates project profiles based on information provided by EB

**EB:** Beneficiary agency

**EAR-GP:** Resource management agency

**ECD:** Donor or international cooperation agency

**OP:** Planning department of beneficiary agency

**VR-PLCI:** Vice-Presidency of the Republic – Presidential Program of Human Rights and International Humanitarian Law - Project fight against impunity

### 3. Instruments for Policy Management

#### a. Annual General Operative Plan (AGOP)

The Operative Plan is the basic tool for Policy management. It states the necessary interventions for attaining the Policy's objective, indicating their basic characteristics in terms of budget requirements, time of implementation, and persons responsible.

The AGOP's basic unit is the Project and it is structured in four (4) tables:

- Table 1: Strategic lines and specific objectives projects.
- Table 2: Type project
- Table 3: Phase projects (starting year of implementation)
- Table 4: Agency responsible for project implementation.

In accordance with the AGOP (see Annex No.2) the projects shall be executed in three phases, the Policy's cycle shall extend over a four year period, and there will be three types of interventions, following the typology in literal a), section D.2.

### **b. Measures for controlling basic risks**

The Policy's management strategy recognizes the existence of a series of risks that may limit or prevent the attainment of the Policy's objectives. There is a need, therefore, to identify the most important risk factors, establish hypothesis on their possible consequences, and design control measures.

Table No. 3 Measures to control the risks that may affect the implementation of the Policy's projects.

TYPE OF RISK	DESCRIPTION OF RISK	POSSIBLE CONSEQUENCES	CONTROL MEASURES
Financial	Lack of financial resources assigned to the fight against impunity	1. Projects cannot begin 2. Unfinished Projects	1. AGOP includes giving priority to OE and projects 2. Only those projects with a high probability of being fully funded shall be implemented. 3. The VR-PLCI identifies alternative financing sources.
Financial	Delays in the appropriation and availability of budget resources assigned to interventions included in the Policy.	1. Increases in the projects' costs 2. Misuse of intervention opportunities and consequent reduction or elimination of possible benefits.	1. Cash Plans (CP) are designed with the participation of the VR-PLCI, the EB and EDC. 2. Monitoring the implementation of inter-institutional cooperation agreements.
Political	Changes in the intervention priorities regarding impunity for Human Rights violations and breaches of International Humanitarian Law	1. Loss or reduction of the projects' importance 2. Cancellation of the Projects	1. In each monitoring session the GTA discusses the relevance of the general intervention strategy. 2. The VR-PLCI establishes a permanent channel of communication to receive comments about the intervention strategy.
Political	Low priority of the policy in the agenda of the	1. Project implementation paralysis	1. The SCPMI shall have up-to-date information on the Policy's implementation

TYPE OF RISK	DESCRIPTION OF RISK	POSSIBLE CONSEQUENCES	CONTROL MEASURES
	agenda of the agencies on which implementation depends	paralysis. 2. Delay in project implementation	Policy's implementation stage. 2. Wide publication of the Policy within the State and civil society.
Political	Conflicts with the donating agencies in connection with decisions related to the interventions' priorities and implementation	1. Interruption of the flow of resources for the implementation of the projects. 2. Extension of the time established for each stage of the implementation.	1. Presentation of the Policy to donors before subscribing or renovating the agreements. 2. Joint revision of cooperation agreements.
Technical	VR-PLCI's and EB's limited technical capacities for generating profiles and designing viable projects	1. Errors in profiles and project design. 2. Projects are designed.	1. The VR-PLCI provides permanent assistance for creating profiles and projects. Recruitment of expert consultants to help design projects. 3. The VR-PLCI strengthens its technical capacities for project design.
Technical	Absence or lack of competent consultants for some of the projects' elements or activities	1. Weaknesses in the design and/or implementation of some of the projects' elements or activities 2. Projects cannot be designed or implemented.	1. Creation of technical cooperation channels with other countries and international agencies.
Technical	Intra and inter organizational conflicts in the definition of target populations, elements, and activities	1. Paralysis of the design and implementation stages of projects. 2. Delays in design and implementation of	1. Creation of a clear methodological framework for the identification, design, implementation, monitoring, and evaluation processes of projects. 2. Give strategic priority to projects' identification and characterization sessions (workshops).

## **V. EVALUATION AND MONITORING MECHANISMS**

### **A. Monitoring**

#### **1. Monitoring responsibilities**

The Policy's monitoring shall be a responsibility of the Extended Work Group (EWG).

The SCPMI's Work Group develops the operative functions and operationalizes the coordination mechanisms defined by the Committee. The following officials participate permanently in this work group: the Chief of the GAO's UNHR-DIH, the Public Ministry Official for the prevention of human rights violations, the Public Ministry Official for disciplinary matters involving Human Rights, the Public Ministry Official for the Public Ministry, the coordinator of the Attorney General's Council of Human Rights advisors, the Director of technical cooperation of the United Nations Office for Human Rights in Colombia, and the coordinator of the project "Fight against impunity for Human Rights violations and breaches of International Humanitarian Law".

For monitoring effects, , the Work Group shall also include : a delegate of the Vice-Minister of Justice, a clerk of the president of the Administrative Office of the Courts, a spokesperson of the specialized judges Criminal Circuit, the coordinator of the National Institute of Prisons' Human Rights Office, a delegate of the Judicial Police Director, a delegate of the Technical Investigation Team Director, the Ombudsman's Office Director of public defense, and the Director of the Justice and Security Unit of the National Planning Department.

The GTA's monitoring activities will be carried out according to the methodological lines and procedures defined in its operative manual and shall take into account the indications established in the protocols for information exchange.

#### **2. Monitoring strategy**

Monitoring shall be performed at five (5) levels.

- Inputs. The results of appropriation decisions and distribution of physical, human, technological and financial resources.
- Processes. The opportunity and relevance conditions in which the processes, procedures, and implementation practices are developed.

- Outputs. The generation of products given the quantity and quality defined at the moment of the intervention's design.
- Relationship input/output. Efficiency levels of the products' generation and intervention implementation.
- Changes of key variables affecting the general and specific objectives. Registration and analysis of the data obtained from measuring the variables associated with the phenomena included in the general and specific objectives.

### **3. Monitoring Instruments**

In order to perform the monitoring activities according to the five (5) levels above, six (6) basic instruments shall be generated.

- Input-output project matrix
- Input management Matrix.
- Matrix for monitoring processes, including timetables and base line(s).
- Product generation monitoring matrix
- Performance indicators matrix.
- General and specific objectives indicator's base line and targets

The GTA shall submit six biannual monitoring reports including the five levels above (see section 2). For these reports, the GTA shall have the support of the technical secretary of the team working in the project "Fight against the impunity for Human Rights violations and breaches of International Humanitarian Law "; who shall also provide the necessary methodological orientations.

The reports will be broadly published among State and civil society organizations. Forums with civil society organizations will be held to discuss results and accept proposals and observations.

## **B. Evaluation**

### **1. Evaluation responsibilities**

The Policy's evaluation will be the responsibility of the 'Project fight against the impunity for Human Rights violations and breaches of International Humanitarian Law.' The Project shall develop the evaluation activities through external consultant teams that shall have appropriate levels of autonomy.

### **2. Evaluation strategy**

The strategy includes four objects of evaluation.



- The formulation, adoption, implementation, and monitoring processes. This object shall be evaluated at the end of the fourth year of implementation, that is, at the end of the Policy's cycle.
- The relevance and coherence of the general Policy problem, the associated factors, the Policy's general objective and the Policy's specific objectives. This object shall be evaluated at the end of the second and fourth year of implementation.
- The level of attainment of the Policy's general and specific objectives. This object shall be evaluated at the end of second and fourth year of the Policy's implementation.
- The contribution of each project to the attainment of the Policy's general and specific objectives. This object shall be evaluated at the end of the second and fourth year of the Policy's implementation, keeping in mind the finished projects and/or the end of the policy cycle.

Two evaluation reports shall be made. They will be broadly publicized among State and civil society organizations. Forums with civil society organizations will be held to discuss the results and accept proposals and observations.

### **3. Basic evaluation criteria**

The means, activities, and evaluation products shall comply with the following criteria:

- Any evaluation exercise shall have as reference the present policy document.
- The evaluation teams shall explicitate their framework of values and assumptions.
- A wide and well publicized process of participation and discussion of the assumptions, methodological strategies, the results shall be organized.
- The evaluation teams shall work independently of the beneficiary agencies of the Policy's interventions, and such agencies shall, in turn, provide inputs and feedback in a timely and transparent form.
- All evaluations shall include a section with recommendations, each of them analyzed in terms of feasibility criteria.
- The evaluation activities shall have, as additional action framework, the fight against impunity and Human Rights and International Humanitarian Law strategies.

**BIBLIOGRAPHICAL REFERENCE**

Amnesty International, February 1996, 1 Colombia: human rights crisis is aggravated.

Amnesty International, March 1<sup>st</sup>, 1994, Political Violence in Colombia: myth and reality.

Amnesty International, May 1<sup>st</sup>, 2001, Concerns of Amnesty International before the 89<sup>th</sup> International Labor Conference (June 2001, 5-21 Geneva).

Amnesty International, November 1<sup>st</sup>, 1996, Crime without punishment: Impunity in Latin America.

Amnesty International, December 10<sup>th</sup>, 2002, Colombia Security, at what price?

Amnesty International, April 20<sup>th</sup>, 2004, Colombia: A laboratory of war: Repression and violence in Arauca.

Amnesty International, November 24<sup>th</sup>, 2003, Report of Amnesty International on the Republic of Colombia for the UN Committee against Torture.

Amnesty International. Colombia. Marked bodies, silenced crimes. 2004.

Amnesty International. Public statement, July 1<sup>st</sup>, 2004. Colombia: Civil population as target of massacres

Human rights Commission, UN. President's Statement, 56<sup>th</sup> sessions period.

Human rights Commission, Presidency. 52<sup>nd</sup> session period, UN. E/CN.4/1997/11.

Inter-American Commission on Human Rights, OAS/Ser.L/V/II.111, doc. 20 rev IACHR Annual Report 2000 Report 63-01.

Inter-American Commission on Human Rights, OAS/Ser.L/V/II.111, doc. 20 rev IACHR Annual Report 2000 Report 64-01.

Inter-American Commission on Human Rights, UN. President's Statement 54<sup>th</sup> sessions period.

Inter-American Commission on Human Rights. OAS / Ser.L/V/II.83, doc. 14, Capt. III, Report 32/92, I case 10.454.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.102, doc. 6 rev., Capt. III, 2, D, Report 45/99, I case 11.525.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.102, doc. 6 rev., Capt. III, 2, D, Report 46/99, I case 11.531.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.102, doc. 6 rev., Capt. III, 2, E, Report 61/99, I case 11.519.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.102, doc. 6 rev., Capt. III, 2, E, Report 62/99, I case 11.540.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.106, doc. 3, cap. III, C, 5, Report 7/00, I case 10.337.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.106, doc. 3, cap. III, C, 5, Report 35/00, I case 11.020.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.81, doc. 6, rev. 1, Report 1/92, I case 10.235, resol. 1 E 3.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.83, doc. 14, Capt. III, Report 33/92, I case 10.581.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.84, doc. 39 rev. Conclusions E recommendations.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.85, doc. 8 rev., Report 22/93, I case 9.477.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.85, doc. 8 rev., Report 23/93, I case 10.456.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.85, doc. 8 rev., Report 24/93, I case 10.537.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.85, doc. 8 rev., Report 1/94, I case 10.473.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.91, doc.9, Report 15/95, I case 11.010.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.98, doc. 6 Capt. III, E, g, Report 26/97, I case 11.142

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.98, doc. 6, Capt. III, E, f, Report 5/98, I case 11.019.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.98, doc. 6 Capt. III, E, g, Report 26/97, I case 11.142.

Inter-American Commission on Human Rights. OAS/Ser.L/V/II.98, doc. 6, Capt. III, E, h, Report 3/98, I case 11.221.

Inter-American Commission on Human Rights. UN. Declaration of the Presidency, 1997

International Commission of Jurists, official statements of May 2000, September 18<sup>th</sup>; 2002; April 23<sup>rd</sup>, 2003; April 15<sup>th</sup>, 2004 and April 28<sup>th</sup>, 2004.

Constitutional Court. Case C-358 of 1997

Declaration of the President of the 58 session of the Commission of Human rights of United Nations on Colombia.

Document CONPES 3172 of July 15 2002. `Lines of Action to strengthen the politics of the State regarding Human rights and breaches of Humanitarian International Law. `

E/CN.4 / Sub.2/1993/10. Definition of the apparent and massive violations of the human rights, as well as, international crimes. Commission of Human rights. 45th sessions. June 8, 1999

E/CN.4/2005/102/Add.1.Report of Diane Orentlicher, independent expert in charge of upgrading the group of principles for the fight against the impunity. Commission of Human rights. 61 sessions. February 8, 2005

E/CN.4/SUB.2/1997/20/Rev.1. Final Report of the Special Relator, M. Louis Joinet, about the subject of the impunity of the authors of human rights (civil rights and political).

EC/CN.4/2005/59. The right of the victims of human rights violations and of the humanitarian international law to interpose resources and obtain reparation Commission of Human rights. 61 sessions. December 21 2004

EC/CN.4/2005/L.48. Principles and basic guidelines on the victims' of violations of human rights right and humanitarian international law to interpose resources and obtain reparation Commission of Human rights. 61 sessions. April 13 2005

EC/CN: 4/1993/18. Non state actors' responsibility in the human rights violations. Report of the Special Relator on the subject of the use of mercenaries as a

medium to violate human rights and to prevent the exercise of the right peoples' right to free determination. In: OACNUDH (2002). Jurisprudence compilation and national and international doctrine. Human rights, international law and international criminal law. Volume I

Human Rights Watch, September of 2003, Report on the children combatants in Colombia.

Human Rights Watch, November 2002, Report on the performance of the General Attorney's Office.

OACNUDH, Defensoria del Pueblo. "Manual of qualification of criminal behaviors. Human rights and Humanitarian International Law." Edition OACNUDH 2004.

Office of the High Commissioner of the United Nations for the Human rights, Diagnosis on the State and the Organization of the Disciplinary investigations in human rights in the Procuraduría General de la Nación. Cooperation and technical support project to the Procuraduría General de la Nación for the improvement of the investigation techniques and its proof in the disciplinary process in cases of violations to the human rights. International consultancy, 2000.

United Nations, High Commissioner of Human Rights, UN. E/CN.4/1998/16.

United Nations, High Commissioner of Human Rights. E/CN.4/2001/15.

United Nations, High Commissioner of Human Rights, E/CN.4/2002/17.

United Nations, United Nations High Commissioner Human Rights. E/CN.4/2000/11.

United Nations, Committee against Torture, UN. A/51/44.

United Nations, Human rights Committee, UN. A/47/40, párr. 394; or CCPR/C/79/Add.2.

United Nations, Human rights Committee, UN. CCPR/C/55/D/563/1993; or A/51/40, annex, dictamen, communication 563/93.

United Nations, Human rights Committee, UN. A/52/40, CCPR/C/79/Add.76, (Ratified for the Special Relator of the Independence of Judges and Lawyers, UN. E/CN.4/1998/39/Add. 2)

United Nations, Committee for the Elimination of the Racial Discrimination. UN. A/51/18.

United Nations, Committee for the Elimination of the Racial Discrimination, UN. A/54/18.

United Nations, Special Teller of the violence against the woman, UN. E/CN.4/2002/83.

United Nations, Special Tellers of Torture and of Extrajudicial Executions, UN. E/CN.4/1995/111.

Organization of United Nations, Special Representative of the General Secretary on the Defenders of Human Rights, UN, E/CN.4/2002/106.

United Nations. Final observations of the Children's Rights Committee: Colombia. CRC/C15/Add.137

International Work Organization, Committee of Union Freedom, ILO. GB.271/9, case No. 1787.

National Plan of Development 2002-2006 "Toward a Community State."

Policzer, P. (2002) Human Rights and Armed Groups: Toward to New Policy Architecture.

The Office of the Attorney General, Vice-presidency of the Republic of Colombia - Presidential Program of Human Rights and International Humanitarian Law - Project to tackle Impunity. Upgrade of the Diagnosis of the Attorney General's office of the Nation as regards DDHH. 2005

Rey, J.F. (2005) Identification of the factors of risk of penal impunity (FRIIP in Spanish) in the Colombian System of Penal Justice. Survey for an organizational perspective of maps of FRIP. Project urban crime and impunity. Direction of Justice and Security. National Department of Planning.

Vice-presidency of the Republic of Colombia - Presidential Program of Human Rights and International Humanitarian Law -Project to tackle the Impunity, OACNUDH. Survey for the institutional strengthening of the National Unit of Human rights and Humanitarian International Law ' (E/UNDH-DIH/04). 2004.

Vice-presidency of the Republic of Colombia - Presidential Program of Human Rights and International Humanitarian Law -Project to tackle Impunity. 'Survey for the institutional Strengthening for the Penal Jurisdiction of Specialized Circuit ' (E/JPCE/05). 2005.