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Quantification of the financial resources required to repair victims of the Colombian conflict in accordance with the Justice and Peace Law

Mark Richards
June - July 2006



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La serie Documentos de CERAC busca presentar al público avances de investigación sobre análisis de conflicto desde una perspectiva académica.

- ▶ Mark Richards está terminando actualmente un Master en administración pública y el desarrollo internacional en el John F. Kennedy School de Harvard University. Sus intereses incluyen el análisis económico del conflicto y programas de reparación. Mark se graduó en leyes y comercio de la Universidad de Melbourne. Trabajó como abogado en las áreas de energía y recursos naturales en Australia antes de comenzar en la Universidad de Harvard.

- ▶ The Conflict Analysis Resource Centre (CERAC) is a private research organization specialized in data-intensive studies of conflict and criminal violence. Based in Bogotá, Colombia, CERAC was established in December 2004 by an international and multidisciplinary group of researchers.

One of the main objectives of CERAC is the investigation of spatial and temporal dynamics of violence from a wide variety of methodological perspectives, emphasizing the human impact of conflict and crime.

The series Documentos de CERAC sought to disseminate preliminary research work on Conflict Analysis from a variety of academic methodological perspectives.

- ▶ Mark Richards is currently completing a Master in Public Administration and International Development at the John F. Kennedy School of Harvard University. His interests include economic analysis of conflict and reparations programs. Mark also holds degrees in law and commerce from the University of Melbourne. He worked as an energy and natural resources lawyer in Australia prior to commencing at Harvard University.

**Quantification of the financial resources required to
repair victims of the Colombian conflict in accordance
with the Justice and Peace Law**

Mark Richards*

June - July 2006

Abstract

The Justice and Peace Law includes a mechanism under which victims of the Colombian conflict can seek reparation from illegal armed groups. This investigation estimates the potential financial cost to illegal armed groups with respect to the reparation of all victims. It provides a variety of different possible valuations for different categories of victims to which harm occurred between 1964 and 2005. It then combines certain of these valuations to give a feasible estimate of between \$55,544,152 and \$96,359,032 million pesos of 2006, representing between 19% and 33% of GDP. It is hoped that this investigation will benefit the current discussion regarding reparation of victims and any future balancing of legal obligations with political and resource constraints.

* Student of the Master in Public Administration and International Development at the John F. Kennedy School of Harvard University. Contact: Mark_Richards@ksg07.harvard.edu

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Executive summary

The purpose of this investigation is to estimate the potential financial cost to illegal armed groups with respect to the reparation of victims under the Justice and Peace Law. In general, harm to victims has been considered if it occurred between 1964 and 2005.

After reviewing the Justice and Peace Law, the investigation provides a variety of different possible valuations for different categories of victims. It then adds up certain of these valuations to give a feasible estimate. A summary of all the different valuations, including those that make up the feasible estimate, is set out in Annexure 1.

Assuming that all harm can be proven, and that the relevant perpetrators do demobilize under the Justice and Peace Law, the feasible estimate of the amount payable by all illegal armed groups is between \$55,544,152 and \$96,359,032 million pesos of 2006. This represents between 19% and 33% of GDP of 2005. Responsibility for this amount is allocated between the different illegal armed groups as follows:

Category	Guerrilla Responsibility (millions of pesos and % of GDP of 2005)	Paramilitary Responsibility (millions of pesos and % of GDP of 2005)
Total harm (excluding decrease in quality of life)	[13,269,674 - 21,831,183] [5% - 7%]	[6,072,275 - 10,265,416] [2% - 4%]
Decrease in quality of life of victims	[23,037,590 - 41,872,910] [8% - 14%]	[13,164,613 - 22,389,523] [5% - 8%]
Feasible total	[36,307,264 - 63,704,093] [12% - 22%]	[19,236,888 - 32,654,939] [7% - 11%]

The fact that these estimates are presented in the form of a range is not intended to represent upper and lower limits. Instead, the ranges depend on whether the number of displaced persons is consistent with SUR or CODHES estimates. The difference in the estimates for each category of loss therefore represents the large discrepancy in the SUR and CODHES estimates of displaced persons, and the extent of the harm estimated to have been suffered by displaced persons.

It is hoped that this investigation will benefit the current discussion regarding reparation and any future balancing of legal obligations with political and resource constraints.

Introduction

'The level of suffering caused by the ongoing violence is immeasurable ... and so it is impossible to aspire to achieve total reparation'

President Álvaro Uribe, during the inauguration ceremony of the Justice and Peace Law, 4 October 2005

The current conflict in Colombia originated as a military struggle between the State and the Revolutionary Armed Forces of Colombia (*FARC*), the National Liberation Army (*ELN*) and other guerrilla groups. While most of these guerrilla groups were established with political and socio-economic ideals, they are now accused of engaging in little more than violent terror and drug trafficking.¹ In response to such guerrilla activities, paramilitary groups formed throughout the country. These groups have also engaged in violence against the civilian population and other illegal activities.²

The effect of this 40-plus year conflict on Colombia and its civilian population has been immense. The Colombian population has routinely faced the risk of massacre, assassination, torture and kidnapping. Hundreds of thousands of civilians have been forcibly displaced from their homes and lands. Attacks on energy and other public infrastructure have also been common.³ The International Crisis Group has described the conflict as one of the world's most severe and persistent humanitarian emergencies.⁴

Following disappointing progress in relation to the conflict throughout the Samper and Pastrana administrations, and security being high on the international agenda after the September 11 attacks, President Álvaro Uribe was elected in May 2002 and has since addressed the conflict in accordance with his Democratic Security Policy. This policy

¹ International Crisis Group (26 March 2002), p. 3.

² International Crisis Group (26 March 2002), p. 4.

³ Rojas, C. (2004), p. 8 and International Crisis Group (26 March 2002), p. 18.

⁴ International Crisis Group (26 March 2002), p. 16.

explicitly includes reference to the demobilization of illegal armed groups,⁵ a process partly regulated by the Justice and Peace Law (*JPL*), together with victim reparation.

Although some consequences of violent conflict are indeed difficult to measure, or at least involve some degree of subjectivity, there are techniques available to attach a monetary value to most, if not all, forms of harm. To not undertake such a valuation process in relation to the reparation of the victims of the Colombian conflict increases the risk of an incomplete and haphazard reparation program. This in turn would further add to victim harm and distress.

This investigation provides an estimate of the potential financial cost to parties responsible for the reparation of victims in accordance with the JPL. It does so by providing a variety of different possible valuations for different categories of victims. It then adds up certain of these valuations to give a feasible estimate. Readers may choose to substitute different valuations depending on which assumptions, time periods and other relevant factors that they prefer, and adjust the feasible estimate accordingly.

A summary of all the valuations of different types of harm is presented in Annexure 1, as well as the feasible estimate of the total cost of reparation under the JPL. The costs for each category of likely victims and the feasible total cost are also separated according to the relative responsibility of guerrilla and paramilitary groups.

The conflict and the reparation of victims are incredibly complex and numerous competing interests have needed to be addressed, and will continue to be so. Although this investigation concentrates on the financial obligations associated with repairing victims of the conflict, it is also acknowledged that these obligations cannot be looked at in isolation and that other political and resource constraints will inevitably impact upon the reparation process.

⁵ Política de Defensa y Seguridad Democrática (2003), article 116.

Justice and Peace Law 2005

What is the Justice and Peace Law?

The Justice and Peace Law (Law 975 of 2005) came into effect on 25 July of 2005. The JPL provides a framework for the demobilization and reinsertion of members of 'illegal armed groups'.⁶ The JPL framework operates alongside existing mechanisms for demobilization such as that provided for under Law 782 of 2003.

Members of illegal armed groups who may choose to demobilize under the JPL are those who hope to avoid both ordinary criminal prosecution and prosecution before the International Criminal Court.⁷ Other incentives for members of illegal armed groups to demobilize under the JPL include alternative (reduced) sentences.⁸

To complement the demobilization provisions, the JPL also provides a mechanism under which victims of the conflict can seek reparation.

Despite the JPL having been introduced in the middle of 2005, presidential elections and Constitutional Court challenges have contributed to the law not yet being formally applied.⁹ Consequently, institutions such as the National Commission for Reparation and Reconciliation Commission (*NCRRR*) and the National Reparation Fund (*NRF*) are still in the process of preparing for their roles in the demobilization and reparation processes.

⁶ The JPL is therefore applicable to members of both guerrilla and paramilitary groups: see JPL, article 1. However, as at July 2006, the guerrilla groups have not given any indication that they are likely to demobilize.

⁷ International Crisis Group (14 March 2006), p. 2.

⁸ The maximum jail sentence contemplated by the JPL is eight years: JPL, article 29.

⁹ The Constitutional Court released its first decision on the JPL dated 18 May 2006, but other challenges remain to be determined.

Reparation under the JPL

The JPL provides that victims have the right to reparation, as well as to truth and justice.¹⁰

a) Who is a victim?

A victim is defined broadly as a person who has individually or collectively suffered direct harm as a consequence of actions by illegal armed groups in violation of the criminal law.¹¹

The JPL provides examples of different types of harm that could lead to a person being a victim. These include temporary or permanent injuries that cause some type of physical, psychological or sensory disability, emotional suffering, financial loss, or the infringement of fundamental rights.

The JPL also recognizes that the definition of victim can include spouses and other relatives. The Constitutional Court has interpreted this provision to include relatives beyond the first degree of consanguinity or first civil that have suffered the requisite harm.¹²

The status of victim is acquired independently of whether the perpetrator of the criminal conduct has been identified, apprehended, prosecuted, or convicted, and without consideration of any family relationship between the perpetrator and the victim.¹³

¹⁰ JPL, articles 1, 4 and 8.

¹¹ JPL, article 5.

¹² Corte Constitucional, Sentencia No. C-370/2006 (18 May 2006), paras. 6.2.4.2.15 - 6.2.4.2.16.

¹³ JPL, article 5.

b) Right to reparation

A victim's right to reparation is defined to include actions taken for restitution, indemnification, rehabilitation, satisfaction (moral compensation), and guarantees of non-repetition.¹⁴ These elements of reparation are defined as follows:

- Restitution constitutes actions that seek to return the victim to his or her situation prior to the crime.
- Indemnification is compensation for the damage caused by the criminal act.
- Rehabilitation is actions aimed at the recovery of victims who suffer physical and psychological traumas as a result of the crime.
- Satisfaction or moral compensation is actions aimed at reestablishing the dignity of the victim and disseminating the truth about what happened.
- Guarantees of non-repetition include the demobilization and dismantling of the illegal armed groups.

In addition to the provisions referred to above, the JPL also refers to both symbolic and collective reparation that is to be set by judicial authorities.¹⁵ The wording of the JPL appears to indicate that this is separate and in addition to the individual reparation owing to victims.

c) Limitations on the right to reparation

There are two principal limitations on a victim's right to reparation under the JPL. These are:

- the illegal armed group responsible for the harm suffered by a particular victim must have demobilized under the JPL and been convicted in relation to the conduct which caused that harm to the victim; and
- the relevant harm must be direct and a consequence of the actions of the particular illegal armed group.

¹⁴ JPL, article 8.

¹⁵ JPL, article 8.

Firstly, although the definition of victim and the right of victims to reparation is not explicitly conditional on any particular person or group having demobilized, article 42 provides that it is the members of armed groups who benefit from the provisions of the JPL who owe the duty to make reparation to the victims of the criminal conduct for which they are convicted.

However, even if a particular perpetrator cannot be identified, a victim may still be able to access the NRF. To do so, the victim must establish that a causal nexus exists between the harm suffered and the activities of an illegal armed group or a member thereof which has demobilized.¹⁶

Secondly, a victim's right to reparation only extends to harm that is direct and a consequence of actions by the illegal armed group in violation of the criminal law.

The JPL does not provide an explicit definition of what constitutes 'direct' harm. It does, however, provide that direct can include temporary or permanent injuries that cause some type of physical, psychological or sensory disability, emotional suffering, financial loss, or the infringement of fundamental rights.¹⁷

There are various examples in conflict literature of costs being identified as direct or indirect. This distinction is often based simply on whether an actual monetary expense has been incurred.¹⁸ It is proposed that this basis for distinguishing between 'direct' and 'indirect' does not apply with respect to whether harm is direct or indirect. For example, emotional suffering is referred to in article 5 of the JPL as an example of direct harm. This is clearly a logical consequence of certain types of criminal conduct and is subject to reparation under the JPL; however it will rarely result in actual expenses being incurred.

¹⁶ JPL, article 42.

¹⁷ JPL, article 5.

¹⁸ See, for example, Lindgren, G. (2005), p. 4, Pinto Borrego, M. E. et al (9 June 2004), p. 33, and Small Arms Survey (2006), p. 191.

Methodology

General overview

The following investigation seeks to estimate the potential financial cost to parties responsible for the reparation of victims in accordance with the JPL.

As other investigations have noted, there is no standard approach to costing violence.¹⁹ This has resulted in wide-ranging and competing estimates both across and within countries.

The approach taken in this investigation is therefore to present a variety of different possible estimates for probable victims. These estimates are based on different assumptions and different time periods, etc. A summary of all these estimates is then presented in Annexure 1, as well as a figure representing a feasible total cost of reparation under the JPL. The costs for each category of likely victims and the feasible total cost are also separated according to the relative responsibility of guerrilla and paramilitary groups.

Which victims and which harm?

The investigation is conducted assuming that all civilian victims are able to prove that the relevant harm in fact occurred. It also assumes that all victims will be able to claim from the NRF; That is, if a victim can prove that relevant harm has been suffered, the particular illegal armed group or member thereof responsible for the harm will be demobilizing subject to the reparation provisions of the JPL.

Harm that is suffered by public forces personnel in this capacity has not been included. Although these persons are able to seek reparation under the JPL,²⁰ there are other

¹⁹ Small Arms Survey (2006), p. 193.

avenues for them to seek forms of reparation.²¹ It also does not include victims who are members of paramilitary and guerrilla groups, although it is not impossible that such persons could fit within the definition of ‘victim’.

Notwithstanding the assumption that all victims will be able to prove their loss, only harm that is suffered between 1964 and 2005 is considered. The earlier limit is imposed because current guerrilla and paramilitary groups tended not to be active prior to this date.²² Therefore any harm suffered before 1964 is unlikely to ever be reparable under the JPL. The upper limit of 31 December 2005 was chosen for reasons of data availability across categories.

Regarding the different elements that are defined to constitute reparation, this investigation only considers the financial obligations that could be owed by illegal armed groups, i.e. the obligations regarding restitution, indemnification and rehabilitation. It therefore provides an estimate of the quantity of funds that could be required to financially repair victims of the conflict. It does not attempt to place a monetary value on, or seek to cost, acts or programs associated with satisfaction and guarantees of non-repetition, nor symbolic or collective reparation.

Although there is a possibility that some individuals have gained from the actions of illegal armed groups, the reparation provisions focus only on those people who have suffered losses. There is no process for reclaiming profits from civilians who have enjoyed a net gain as a result of the actions of illegal armed groups. Nor is it possible to offset the gains of one person against the losses of another.

²⁰ JPL, article 5.

²¹ UNDP (2003), 215.

²² Restrepo, J. et al (2004), p. 400, Pizarro Leongómez, E. ‘Las FARC-EP: Repliegue estratégico, debilitamiento o punto de inflexión?’ in Instituto de Estudios Políticos y Relaciones Internacionales, (2006), p. 214, Aguilera Pena, M. ‘ELN: Entre las armas y la política’ in Instituto de Estudios Políticos y Relaciones Internacionales, (2006), p. 214, and Gutiérrez, F and Barón, M., ‘Estado, control territorial paramilitar y orden político en Colombia’ in Instituto de Estudios Políticos y Relaciones Internacionales, (2006), p. 272. Note also that the NCRR has indicated that persons can be victims from 1964, see El Tiempo, (2 August 2006), ‘Víctimas del conflicto desde 1964 podrán pedir reparación’, at http://www.eltiempo.com/justicia/2006-08-03/ARTICULO-WEB-NOTA_INTERIOR-3060815.html.

An estimate of the value of income and services that are directly received by persons in their capacity as victims from donors and governments is deducted from total loss and damage. As the JPL provides, social services received by victims do form part of the reparation process.²³ The investigation has not included, however, general donations and government disbursements or services for which non-victims are also eligible. This is because the same victims may have received these funds or services irrespective of the actions of illegal armed groups, therefore restitution would require that these amounts not be subtracted. The investigation has also included (where possible) the actual value of both donations and disbursements to recipient victims, rather than the cost to providers of distributing donations or implementing government programs.

Although very significant costs have been incurred by Colombian governments in directly addressing the activities of illegal armed groups, leading to an increased burden on taxpayers or reduced expenditure on other civilian programs, any such harm to taxpayers or civilians is not considered to be sufficiently direct for the purposes of this investigation.

Studies have suggested that rates of victimization tend to be up to three times higher than the actual numbers reported.²⁴ Although the estimated numbers of particular groups of victims are likely to be underestimates, it is also probable that not all persons who are formally victims will seek reparation.

Feasible estimate

As has already been referred to, a feasible estimate is provided with respect to the amount that could be required to fully retribute, compensate and rehabilitate victims under the JPL.

²³ JPL, article 47.

²⁴ Freeman, R. B. (1999), p. 3534.

The individual estimates that make up this feasible estimate are selected according to a number of different factors, including the different assumptions on which they are based, the time period over which the original data applied, and the degree to which each particular estimate is able to fit with other estimates to give a reasonable overall cost.

The format in which the investigation is presented is, however, intended to allow a reader to be able to adjust or substitute any particular estimate without sacrificing the remainder of the investigation.

Limitations

As at July 2006, there is still much uncertainty regarding exactly how the JPL will be interpreted and applied, with future decisions of the NCRR, governments and the judiciary all having the potential to affect the reparations process.²⁵ As discussed above, the investigation is presented in a form that should enable users to adjust particular figures as new information is revealed. The categories of victims and costs selected do, however, represent a best estimate of potential victims and harm that could require reparation under the JPL.

It is also impossible to predict exactly which illegal armed groups will demobilize and which particular loss and damage is the responsibility of particular illegal armed groups.

Finally, as has been noted on many occasions,²⁶ official and unofficial data on issues relating to the conflict in Colombia (and conflicts in a broader sense) can be inconsistent, limited in its coverage, or simply non-existent. Certain types of harm such as emotional suffering or loss of future income are also intrinsically subjective or difficult to estimate.

²⁵ For example, the NCRR is currently developing criteria which will be used by judicial authorities in determining what kind of reparations will be made in accordance with JPL, article 51.

²⁶ See, for example, International Crisis Group, (13 November 2003), p. 7, Restrepo, J. et al (2004), p. 397, Restrepo, J. et al (2005), p. 133, United Nations Commission on Human Rights, (2005), para. 155.

Other matters

Although estimates of different costs originated in a variety of different currencies and at different time periods, all estimates are converted into Colombian pesos as at 30 June 2006.²⁷ The relevant adjustments from other currencies and from other time periods have been made using data on gross domestic product, consumer prices and exchange rates available from the National Administrative Department of Statistics (*DANE*), the Bank of the Republic of Colombia and the Ministry of Finance.

Currencies expressed in purchasing power parity (*PPP*) terms were converted to Colombian pesos using the relevant implied purchasing power parity conversion rate contained in the World Economic Outlook Database published by the International Monetary Fund.²⁸

²⁷ Any amounts expressed in foreign currencies were converted to Colombian pesos at the average exchange rate between 1 January and 30 June 2006. For example, for the purpose of this investigation, US\$1 of 2006 was calculated to equal \$2,348.43 pesos.

²⁸ Purchasing power parity refers to the adjustment of the relevant currency to account for differences in spending power across countries.

Victims and estimates of the costs of reparation

1. Deaths and injuries

Are persons who suffer deaths, injuries and other related harm as a result of the conflict victims for the purpose of the JPL?

Persons who are killed or injured (including injuries of a psychological or emotional nature) as a consequence of the actions of illegal armed groups and in violation of the criminal law are clearly entitled to reparation in accordance with the JPL.²⁹

Although it is impossible to retribute, rehabilitate or give meaningful compensation to a person who has died, the JPL provides that relatives of persons who suffer direct harm can themselves be victims.³⁰

How many deaths, injuries and other incidents of direct harm have occurred?

There are many different estimates of the number of persons who have died as a result of the actions of illegal armed groups (and other causes). A small selection is included below to demonstrate the extent of the variation:

Source	Period of time	Estimate
Amnesty International ³¹	1985-2002	60,000 conflict-related deaths (80% of which were civilians)
Restrepo-Vargas-Spagat Colombia Civil War Dataset	1975-2005	15,931 civilian deaths and 7,762 civilian injuries

²⁹ JPL, article 5.

³⁰ JPL, articles 5, 47 and 49. See also Corte Constitucional, Sentencia No. C-370/2006 (18 May 2006), paras. 6.2.4.2.15 - 6.2.4.2.16.

³¹ Amnesty International (2002), p. 1.

(1975-2005)		
National Administrative Department of Statistics (DANE) ³²	1979-2003	508,058 conflict- and non-conflict- related homicides
Echeverry, J.C. et al ³³	1984-1998	200,000 conflict-related deaths
Gutierrez Sanin, F. ³⁴	1975-2004	53,431 political killings (including 27,936 killings outside of combat)
United Nations Development Programme (UNDP) ³⁵	1997-2001	15,561 political deaths outside of combat

As with other data related to the conflict in Colombia, the range of different definitions, methods of obtaining data and time periods, make it difficult to obtain an accurate figure as to how many civilians have died as a consequence of the actions of illegal armed groups.

In addition, there are very few registers of conflict-related injuries.

For the purpose of this report, the Restrepo-Vargas-Spagat Colombia Civil War Dataset (1975-2005) is used to estimate the number of deaths and injuries attributable to illegal armed groups.³⁶ This dataset is chosen because it isolates political deaths; an event must have been carried out by an organized group for it to be registered in the dataset, and because it covers a relatively large proportion of the relevant period 1964 to 2005.

³² See Estadísticas Vitales – DANE.

³³ Echeverry, J.C., N. Salazar y V. Navas (2001), p. 18.

³⁴ Gutiérrez Sanin, F., ‘Tendencias del homicidio político en Colombia 1975-2004: una discusión preliminar’, in Instituto de Estudios Políticos y Relaciones Internacionales, (2006), p. 485.

³⁵ UNDP (2003), p. 120.

³⁶ This database is based on reports in political violence periodicals, which themselves are based on reports in national and regional newspapers, as well as on reports from NGOs and other local organizations: See Restrepo, J, M Spagat and J. F. Vargas (2004), p. 403.

The dataset provides that there were 15,931 civilian deaths and 7,762 civilian injuries that occurred between 1975 and 2005.

To then obtain an estimate of the number of deaths and injuries that occurred for the period 1964 to 2005, the classification of the period 1964 to 1983 as relatively peaceful is relied upon.³⁷ Assuming that the levels of conflict-related deaths and injuries during this period were stable, the average number of civilians killed and injured each year from 1975 to 1983 is extrapolated to the earlier years 1964 to 1974.³⁸ Based on this assumption, it is estimated that there were 1,474 civilians killed and 77 civilians injured during this earlier period.

After adding these deaths to those in the Restrepo-Vargas-Spagat Colombia Civil War Dataset (1975-2005), it is estimated that there were 17,405 civilians killed and 7,839 civilians injured between 1964 and 2005.

It is acknowledged that there appear to be relatively few injuries which may lead to an underestimation of injury-related costs. However, if an injury was not initially reported, it may be that the injury was either not significant or that other reasons exist such that these persons would not seek restitution, compensation or rehabilitation under the JPL even if they were eligible.

What costs might be incurred by persons who suffer death, injury and other related harm?

The costs referred to in the table below are considered to be direct and to have been incurred as a consequence of the actions of illegal armed groups.

³⁷ Echeverry, J.C., N. Salazar y V. Navas (2001), p. 18.

³⁸ Between 1975 and 1983, there was an average of 134 civilians killed and 7 civilians injured per annum in conflict-related incidents.

Type of loss/damage	Estimated loss/damage
<p>Expenses associated with death</p> <ul style="list-style-type: none"> ▪ General expenses ▪ Funeral expenses ▪ Lost human capital 	<ol style="list-style-type: none"> 1. It is estimated that the average cost in the United States associated with each fatal gunshot wound is US\$3,566,277 of 2003 (PPP).³⁹ <ul style="list-style-type: none"> ▪ This estimate includes direct medical and non-medical expenses, lost productivity and lost quality of life.⁴⁰ ▪ Assuming that on average the 17,405 victims of the Colombian conflict who died received similar services as are provided to victims of fatal gunshot wounds in the United States, then the cost of direct medical and non-medical care, lost productivity and lost quality of life associated with these civilians is US\$62,071 million of 2003 (PPP). 2. The Program for the Attention of Victims of the Violence operated by the Presidential Agency for Social Action and International Cooperation (<i>Acción Social</i>) provides 40 minimum monthly salaries (approximately \$16,320,000 pesos) to the family of each civilian who dies in the conflict as a form of humanitarian assistance and to assist with funeral expenses.⁴¹ <ul style="list-style-type: none"> ▪ Although this assistance is not intended to constitute restitution or compensation, if all civilians who died as a result of the conflict were awarded such assistance, the total value is \$284,050 million pesos of 2006. 3. In the recent case of <i>The Massacre of Pueblo Bello v. Colombia</i> (31 January 2006) at 249, the Inter-American Court of Human Rights awarded damages to the families of persons who were killed in the massacre. Each family of a deceased was awarded US\$5,000 in funeral expenses. <ul style="list-style-type: none"> ▪ In the event that US\$5,000 was awarded for each of the 17,405 civilians who are estimated to have died as a result of the conflict, the amount payable would be US\$87.0 million of 2006. 4. In the cases <i>Mapiripan Massacre v. Colombia</i> (15 September 2005) and <i>The Massacre of Pueblo Bello v. Colombia</i> (31 January 2006), the Inter-American Court of Human Rights awarded damages for lost earnings to the families of persons killed in the massacres. The average amounts awarded with respect to each

³⁹ Small Arms Survey p. 199.

⁴⁰ Note that these general estimates do not take into account that a proportion of medical services are covered by the Solidarity and Guarantee Fund (FOSYGA).

⁴¹ Acción Social, Resolución 7381 (21 September 2004), article 2.

	<p>person who died (or who was presumed to have died) were US\$109,000 and US\$64,000, respectively.⁴²</p> <ul style="list-style-type: none"> ▪ In the event that US\$109,000 was awarded for 17,405 civilians who are estimated to have died as a result of the conflict, the amount payable would be US\$1,897.1 million of 2006. ▪ In the event that US\$64,000 was awarded for 17,405 civilians who are estimated to have died as a result of the conflict, the amount payable would be US\$1,113.9 million of 2006. <p>5. An alternative estimate of productivity losses is that provided by the Small Arms Survey. Average productivity losses per person for fatal injuries from firearms were calculated as US\$268,835 in Bogotá and US\$272,779 in Cali (in US\$ 2003 PPP).⁴³</p> <ul style="list-style-type: none"> ▪ Using the average of these two figures (US\$270,807), productivity losses for the 17,405 civilians who are estimated to have died as a result of the conflict is equal to US\$4,713.4 million of 2003 (PPP). <p>6. Future income that is lost as a result of homicide in Colombia was shown by Sánchez Núñez as being equal to an average of \$289,603,922 pesos of 2003 per homicide.⁴⁴</p> <ul style="list-style-type: none"> ▪ Assuming that this average cost also applies to conflict-related deaths, the estimated economic costs associated with all conflict-related deaths is \$5,040,566 million pesos of 2003. <p>7. The early death of 390 persons from landmines and other unexploded weapons between 1999 and 2003 is estimated to have cost \$101,917.8 million pesos of 2003 in lost human capital.⁴⁵</p> <ul style="list-style-type: none"> ▪ Based on the average cost per death between 1999 and 2003, and assuming that victims of landmine and UXO incidents are representative of other victims of the conflict, the total estimated loss of civilian human capital from early deaths between 1964 and 2005 is \$4,548,408 million pesos of 2003.
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⁴² *Mapiripan Massacre v. Colombia* (15 September 2005) at 278 and *The Massacre of Pueblo Bello v. Colombia* (31 January 2006) at Annexure 1.

⁴³ Small Arms Survey (2006), p. 206.

⁴⁴ Sánchez Núñez L. F. (24 July 2005). Total direct economic costs of \$74,200,000,000 pesos of 2003 were estimated in relation to ‘areas studied’ where 256,212 homicides occurred. Direct economic costs in this study referred to foregone income associated with premature death.

⁴⁵ Pinto Borrego, M. E. (January 2005), p. 13 and based on Lahuerta, Y. (2004). This estimate assumes that unemployment is constant at 11.5%, that victims’ wages or salaries would have only increased with inflation, and that victims would not have engaged in productive activities after retirement.

<ul style="list-style-type: none"> ▪ Lost wages/salaries 	<p>cost of treating a person who is injured as a result of a landmine or other unexploded device to be \$4,676,714 pesos of 2002.⁵⁰ It is estimated that victims of such incidents require on average 1.78 times more time in hospital than victims of firearm incidents.⁵¹ If it is assumed that time in hospital is linearly related to average cost of treatment, and that civilians who are injured as a result of the activities of illegal armed groups suffer on average the equivalent of firearm injuries, the estimated cost of treating civilians who suffered injuries from the activities of illegal armed groups between 1964 and 2005 is \$20,595.9 million pesos of 2002.</p> <ul style="list-style-type: none"> ▪ Assuming that 54% of victims are covered under FOSYGA's social security program, the amount of these medical costs incurred by victims is \$9,474.1 million pesos of 2002. <p>12. Other estimates of treating injured patients may also be relevant:</p> <ul style="list-style-type: none"> ▪ The average cost per admitted patient suffering injuries in Europe was calculated as equal to €2,351 of 1999.⁵² This represents a total cost of €18.4 million of 1999 with respect to the 7,839 injured civilians, and €8.5 million of 1999 incurred by victims not covered by FOSYGA. ▪ The average cost of treating victims of firearm injuries in El Salvador was calculated as equal to US\$3,084.45 of 2003.⁵³ This represents a total cost of US\$24.2 million of 2003 with respect to all injured civilians, and US\$11.1 million of 2003 with respect to victims not covered by FOSYGA. <p>13. Average productivity losses associated with non-fatal firearm injuries have been estimated by the Small Arms Survey as equal to US\$1,178 in Bogotá and US\$1,423 in Cali (in US\$ 2003 PPP).⁵⁴</p> <ul style="list-style-type: none"> ▪ Using the average of these two figures (US\$1,300), productivity losses for civilians injured as a result of the conflict is estimated to be equal to US\$10.2 million of 2003 (PPP). <p>14. It is estimated that the lost wages and salaries associated with 1,360 civilians being injured from incidents with landmines and other unexploded weapons between 1999 and 2003 was \$264,346.7 million pesos of 2003.⁵⁵</p> <ul style="list-style-type: none"> ▪ It is estimated that victims of such incidents require on average 1.78 times more time in hospital than victims of firearm
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⁵⁰ Lahuerta, Y. (2004), 8. Note that this average cost is derived from expenditure on injured military personnel rather than on civilians.

⁵¹ Coupland, R.M. (1996), p. A1.

⁵² Polinder, S., et al (2004), p. 57.

⁵³ Médicos Salvadoreños para la Responsabilidad Social (2004), p. 57.

⁵⁴ Small Arms Survey (2006), p. 206.

⁵⁵ Pinto Borrego, M. E. (January 2005), p. 13 and Lahuerta, Y. (2004). This estimate assumes that unemployment is constant at 11.5%, that victims's wages or salaries would have only increased with inflation, and that victims would not have engaged in productive activities after retirement.

⁵⁶ Coupland, R.M. (1996), p. A1.

	incidents. ⁵⁶ Assuming that time in hospital is linearly related to lost wages and salaries, and that civilians who are injured as a result of the activities of illegal armed groups suffer the equivalent of firearm injuries, the estimated loss of civilian wages/salaries from injuries between 1964 and 2005 is \$856,004 million pesos of 2003.
Private expenditure to avoid death and injury	15. See general expenditure on security, protection and insurance in section 6.
Decrease in quality of life (including pain and suffering)	<p>16. In the cases of <i>Mapiripan Massacre v. Colombia</i> (15 September 2005) and <i>The Massacre of Pueblo Bello v. Colombia</i> (31 January 2006), the Inter-American Court of Human Rights awarded damages for non-material costs to the families of persons killed in the massacres. The average amounts awarded with respect to each person who died (or who was presumed to have died) were US\$305,750⁵⁷ and US\$53,700,⁵⁸ respectively.</p> <ul style="list-style-type: none"> ▪ In the event that US\$305,750 was awarded for 17,405 civilians who are estimated to have died as a result of the conflict, the amount payable would be US\$5,321.6 million of 2006. ▪ In the event that US\$53,700 was awarded for 17,405 civilians who are estimated to have died as a result of the conflict, the amount payable would be US\$934.6 million of 2006. <p>17. Another potential measure of the non-material costs associated with the death of a person is the amount awarded to families by Colombia's Administrative Court (Consejo de Estado). In the event that the State is found to be responsible for the death of a person, an average family is likely to be awarded 440 minimum monthly salaries (approximately \$179,520,000 pesos of 2006) for moral losses or pain and suffering.⁵⁹</p>

⁵⁷ *Mapiripan Massacre v. Colombia* (15 September 2005) at 288. The damages awarded to each family depended on the size of a family. Assuming that when a person died he or she left a family of a spouse, 1.9 children, one parent and one sibling (based broadly on the average household size of a Colombian family of 3.9, as per the DANE Calidad de Vida survey 2003), then the amount paid in non-material costs to each family would be US\$305,750. This comprises \$80,000 in relation to the dead person, \$50,000 for each spouse, child and parent, \$8,500 for each sibling and an extra \$5,000 for each child of the deceased at the time of his or her death).

⁵⁸ *The Massacre of Pueblo Bello v. Colombia* (31 January 2006) at 258. The damages awarded to each family depended on the size of a family. Assuming that when a person died he or she left a family of a spouse, 1.9 children, one parent and one sibling (based broadly on the average household size of a Colombian family of 3.9 from the 2003 Calidad de Vida survey, then the average amount paid to the family of a deceased person would be US\$53,700. This comprises \$30,000 for the dead person, \$8,000 for each spouse, child and parent, and \$500 for each sibling.

⁵⁹ If the State is found to be responsible for the death of a person, the Administrative Court has usually awarded the spouse, each child and each parent approximately 100 minimum salaries, as well as each brother and each sister approximately 50 minimum salaries: Interview with Carmen Castro, Secretaria de Sección de Tercera de Consejo de Estado (14 July 2006) and Henao, J. C. (1998). Assuming that when a person died he or she left a family of a spouse, 1.9 children, one parent and one sibling (based broadly on

	<ul style="list-style-type: none"> ▪ In the event that \$179,520,000 pesos of 2006 is awarded to the families of each of the 17,405 civilians who are estimated to have died between 1964 and 2006 as a result of the conflict, the total amount payable would be \$3,124,546 million pesos of 2006. <p>18. Similarly, in the event that the State is found to be responsible for the injuring of a person, the Administrative Court has usually awarded the injured party, his or her spouse, each child and each parent between 0 and 100 minimum monthly salaries, as well as each brother and each sister between 0 and 50 minimum monthly salaries, depending on the gravity of injury, for moral loss or pain and suffering.⁶⁰</p> <ul style="list-style-type: none"> ▪ In light of insufficient data on the exact gravity of injuries suffered by victims, it is assumed that the average amount paid to victims is half of the range usually awarded by the Administrative Court (i.e. 50 minimum monthly salaries to the injured party, his or her spouse, each child and each parent, and 25 minimum monthly salaries to each brother and each sister). If so, then an average family of an injured person is likely to be awarded 220 minimum monthly salaries (or approximately \$89,760,000 pesos of 2006).⁶¹ ▪ If each of the 7,839 injured persons and his or her family received such an amount, the total amount payable would be \$703,629 million pesos of 2006. <p>19. See also general costs associated with a decrease in quality of life in section 6.</p>
Resources provided	Estimated value of goods and services received
<p>Expenditure on victims</p> <ul style="list-style-type: none"> ▪ Humanitarian assistance (40 minimum monthly salaries) 	<p>20. For persons who died or became permanently incapacitated, Acción Social reports having paid \$148,687 million pesos from 2003 to 2005 for humanitarian assistance and funeral expenses.⁶²</p> <ul style="list-style-type: none"> ▪ This is the equivalent of approximately \$157,558 million pesos

the average household size of a Colombian family of 3.9 from the DANE Calidad de Vida survey 2003), then the average amount paid to the family of a deceased person would be 440,000 minimum salaries. Note that other persons can also claim compensation but cannot expect to receive compensation simply on the basis of their relationship to the deceased.

⁶⁰ Interview with Carmen Castro, Secretaria de Sección de Tercera de Consejo de Estado (14 July 2006) and Henao, J. C. (1998).

⁶¹ This calculation assumes that an injured person has a family of a spouse, 1.9 children, one parent and one sibling (based broadly on the average household size of a Colombian family of 3.9 from the DANE Calidad de Vida survey 2003). Note that other persons can also claim compensation but are not entitled to receive compensation simply on the basis of their relationship to the deceased.

⁶² Accion Social (2006), pp. 9, 11 and 13.

<ul style="list-style-type: none"> ▪ Humanitarian assistance (2 minimum monthly salaries) 	<p style="text-align: center;">of 2006.</p> <p>21. For persons who were injured but not permanently incapacitated, see general resources provided to victims as humanitarian assistance for threats and injuries without permanent incapacity in section 6.</p>
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Attribution

Using the Restrepo-Vargas-Spagat Colombia Civil War Dataset (1975-2005), civilian deaths between 1975 and 2005 were attributed to particular groups as follows:

Guerrilla groups	51%
Paramilitary groups	43%
Public forces	6%

There were, however, no civilian deaths attributed to paramilitary groups between 1975 and 1981 due to paramilitary groups not existing in Colombia before the early 1980s.⁶³ Accordingly, the deaths and injuries estimated to have occurred between 1964 and 1974 are distributed between guerrilla groups and the public forces according to the relative number of persons killed by each group between 1975 and 2005. Following this adjustment, civilian deaths are attributed between the three groups as follows:

Guerrilla groups	54%
Paramilitary groups	40%
Public forces	6%

⁶³ Gutiérrez, F. and M Barón, 'Estado, control territorial paramilitar y orden político en Colombia', in Instituto de Estudios Políticos y Relaciones Internacionales (2006), p. 272.

2. Displaced Population

Are displaced persons victims for the purpose of the JPL?

Although there has been some speculation as to whether displaced persons would be repaired under the JPL,⁶⁴ Decree 4760 of 2005 expressly refers to displaced persons as victims for the purpose of the JPL.⁶⁵

How many displaced persons are there?

There are two principal sources in estimating the number of displaced persons.

The Principal Registration System (the ‘Sistema Único de Registro’ or *SUR*) maintained by Acción Social provides that as at 31 December 2005, there had been 1,761,964 displaced individuals and 397,470 displaced households.⁶⁶

The Consultancy for Human Rights and the Displaced (*CODHES*) also keeps a register of displaced persons. As at 31 December 2005, CODHES estimated that there had been 3,720,278 displaced individuals.⁶⁷ Although CODHES does not formally record the number of displaced households, this figure equates to approximately 701,939 displaced households.⁶⁸

⁶⁴ Instituto Latinoamericano de Servicios Legales Alternativos, ‘Verdad, justicia y reparación en procesos de paz o transición a la democracia’, (2006) p. 23.

⁶⁵ See article 11.

⁶⁶ Acción Social, ‘Acumulado Hogares y personas Incluidos por Departamentos como Receptor y Expulsor hasta el 30 de junio del 2006’, (7 July 2006). Note that as at 30 June 2006, these figures had increased to 1,814,964 displaced individuals and 410,330 displaced households. These figures do not include individuals or households ‘in deputation’.

⁶⁷ CODHES (6 May 2006), p. 41.

⁶⁸ The results of the EDHD-2004 questionnaire provide that the average size of a displaced household is 5.3 persons: see Ibáñez, A.M. et al (2006), p. 55.

What costs might be incurred by displaced persons?

The costs referred to in the table below are considered to be direct and to have been incurred as a consequence of the actions of illegal armed groups.

Type of loss/damage	Estimated loss/damage
Total costs incurred during displacement (includes loss of land, loss of assets and other costs associated with displacement)	<ol style="list-style-type: none"> 1. In <i>Mapiripan Massacre v. Colombia</i> (15 September 2005) at 274, the Inter-American Court of Human Rights awarded US\$20,000 to the one person awarded compensation for displacement and the loss of land and other assets. <ul style="list-style-type: none"> ▪ Note that because only one person was awarded such compensation, this amount may not be representative of the costs incurred by other displaced persons. ▪ Using the <i>Mapiripan Massacre v. Colombia</i> decision as an estimate of the average costs incurred by displaced households, the total costs incurred by the displaced population is estimated as being equal to US\$7,949.4 million (SUR) or US\$14,038.8 million (CODHES) of 2006.⁶⁹ 2. The EDHD-2004 questionnaire includes a question regarding the amount of money that a displaced person would accept to return to his or her original location.⁷⁰ This data is not expected to be available until later this year, but will provide a different form of valuing costs associated with displacement.
Abandoned land and assets	<ol style="list-style-type: none"> 3. A study conducted by the University of Los Andes and the Episcopal Conference of Colombia estimates that the amount of land and assets abandoned by displaced persons has an average value of \$12,430,733 pesos of 2004 per household, comprising an average value of \$2,799,353 pesos worth of land and \$9,631,380 pesos worth of assets.⁷¹ <ul style="list-style-type: none"> ▪ These figures are based on estimates of 1.2 million hectares of land having been abandoned. Note that abandoned land does not include land that displaced persons expected to have access to if and when they return. ▪ Using this average value, the estimated total value of abandoned land and assets is \$4,940,843 million pesos (SUR) or \$8,725,616 million pesos (CODHES) of 2004.

⁶⁹ The Colombian Government has at least until 2006 in order to pay the relevant amounts, see *Mapiripan Massacre v. Colombia* (15 September 2005), para. 326.

⁷⁰ Ibáñez, A.M. et al (2006), pp. 8 and 10.

⁷¹ Ibáñez, A.M. et al (2006), p. 132-133 and Ibáñez, A.M. and C. Jaramillo (2006), p. 32.

	<p>4. Alternatively, displaced populations are reported by various agencies as having lost more than four million hectares of land as at 2001.⁷²</p> <ul style="list-style-type: none"> ▪ Given the estimated numbers of displaced households up to 31 December 2001,⁷³ this is an average loss of land and assets of 23.4 hectares (SUR) or 8.5 hectares (CODHES) per displaced household. ▪ If this same average number of hectares was lost across all displaced households, then the total number of hectares lost up to 31 December 2005 would be 9,300,798 (SUR) or 5,966,481 (CODHES). ▪ Using the average value of an abandoned hectare (with assets),⁷⁴ the estimated value of abandoned land and assets for all displaced households up to 31 December 2005 is \$33,591,385 million pesos (SUR) or \$21,548,943 million pesos (CODHES) of 2004. <p>5. Similarly, calculations by CODHES provide that 5 million hectares were abandoned by displaced persons between 1997 and 2003.⁷⁵</p> <ul style="list-style-type: none"> ▪ Given the estimated numbers of displaced households
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⁷² Programa Mundial de Alimentos (2001), p.3. See also Global IDP Survey of the Norwegian Refugee Council, 31 May 2001, in Internal Displacement Monitoring Centre, 'Colombia: Government "peace process" cements injustice for IDPs', 30 June 2006. Note that this amounts to more than one third of productive land in Colombia. As has been noted by Ibáñez, A.M. and C.E. Vélez (2005), p. 9, displaced households have incentives to report ownership of larger farm sizes in anticipation that a program of land restitution will be implemented. These figures may therefore overestimate the total quantity of abandoned land.

⁷³ Data from SUR provides that there were only 171,264 displaced families up to 31 December 2001. Assuming an average of 5.3 persons per displaced household, data from CODHES implies that there were 472,132 displaced families up to 31 December 2001.

⁷⁴ The average value of an abandoned hectare including assets (\$3,611,667 pesos of 2004) was calculated using figures from the EDHD-2004 questionnaire and Ibáñez, A.M. et al (2006), p. 132-133.

⁷⁵ *El Tiempo* (12 December 2004). Note that this amounts to more than one third of productive land in Colombia. As has been noted by Ibáñez, A.M and C.E. Vélez (2005), p. 9, displaced households have incentives to report ownership of larger farm sizes in anticipation that a program of land restitution will be implemented. These figures may therefore overestimate the total quantity of abandoned land.

⁷⁶ Data from SUR provides that there were 313,254 displaced families between 1997-2003. Assuming an average of 5.3 persons per displaced household, data from CODHES implies that there were 402,351 displaced families between 1997-2003.

⁷⁷ The average value of an abandoned hectare including assets (\$3,611,667 pesos of 2004) was calculated using figures from the EDHD-2004 questionnaire and Ibáñez, A.M. et al (2006), p. 132-133.

⁷⁸ Villazon, J. M. (17 June 2006), p.8 and Procuraduría General, (2006).

⁷⁹ Sistema de Información y Seguimiento a Metas de Gobierno (21 July 2006). Note that as at 21 July 2006, an additional 603 estates have been registered. The estimated size of each estate was obtained using data from Villazon, J. M. (17 June 2006), p.10.

⁸⁰ The average value of an abandoned hectare including assets (\$3,611,667 pesos of 2004) was calculated using figures from the EDHD-2004 questionnaire and Ibáñez, A.M. et al (2006), p. 132-133.

⁸¹ Villazon, J. M. (17 June 2006), p.9.

⁸² The average value of an abandoned hectare including assets (\$3,611,667 pesos of 2004) was calculated using figures from the EDHD-2004 questionnaire and Ibáñez, A.M. et al (2006), p. 132-133.

	<p>between 1997 and 2003,⁷⁶ this is an average loss of land and assets of 16.0 hectares (SUR) and 12.4 hectares (CODHES) per displaced household.</p> <ul style="list-style-type: none"> ▪ If this same average number of hectares was lost across all displaced households, then the total number of hectares lost up to 31 December 2005 would be 6,359,520 (SUR) and 8,704,044 (CODHES). ▪ Using the average value of an abandoned hectare (with assets),⁷⁷ the estimated value of this abandoned land is equal to \$22,968,469 million pesos (SUR) or \$31,436,108 million pesos (CODHES) of 2004. <p>6. Calculations by the Advocate General (or Procurador General) using ‘conservative’ data of the Controller General (or Contraloria General) (i.e. 2.6 million abandoned hectares) estimates the total value of abandoned land held by households registered with SUR as at December 2005 to be \$6,964,539 million pesos of 2005.⁷⁸</p> <ul style="list-style-type: none"> ▪ The Advocate General then assumes that an extra 35% of displaced households had not registered with SUR. Based on this assumption, the value of abandoned land is equal to \$9,402,128 million pesos of 2005. ▪ Note that this figure does not include lost assets and assumes an average value of 2.2 million pesos of 2005 per hectare. <p>7. The Principal Register of Estates (or Registro Único de Predios) had only 1,217 estates registered as abandoned as at 31 December 2005 which represents approximately 62,917 abandoned hectares.⁷⁹</p> <ul style="list-style-type: none"> ▪ Using the average value of an abandoned hectare (including assets),⁸⁰ the estimated value of this quantity of abandoned land is equal to \$227,235 million pesos of 2004. <p>8. Note that as at 2005, it is estimated that displaced families had been granted a total of 66,724 hectares which had been acquired by, or transferred to, the Government.⁸¹</p> <ul style="list-style-type: none"> ▪ Using the average value of an abandoned hectare (with assets),⁸² the estimated value of this quantity of returned land is equal to \$240,985 million pesos of 2004.
<p>Lost income/productivity</p> <ul style="list-style-type: none"> ▪ Agricultural income 	<p>9. A study conducted by the University of Los Andes and the Episcopal Conference of Colombia has estimated that each abandoned agricultural estate loses an average of \$2,310,645 pesos of 2004 per annum; that is each displaced household</p>

<ul style="list-style-type: none"> ▪ Household income/ consumption 	<p>loses an average of \$1,867,191 pesos of 2004 in lost agricultural income per annum.⁸³</p> <ul style="list-style-type: none"> ▪ Using this value, the estimated value of lost agricultural income up to December 2005 is \$3,051,937 million pesos (SUR) or \$9,855,354 million pesos (CODHES) of 2004.⁸⁴ <p>10. The same study estimated that average household consumption per annum decreases by \$1,958,570 pesos of 2004 (or 55%) following displacement.⁸⁵</p> <ul style="list-style-type: none"> ▪ This estimate incorporates costs associated with actual displacement, establishing the household in the place of reception and any differences in the cost of living. It also includes humanitarian assistance and donations. ▪ The figures therefore provide an indication of relative well-being of displaced households and their capacity to accumulate assets and access services such as health, education, etc. ▪ Using this value, the estimated value of lost household consumption is \$3,201,296 million pesos (SUR) or \$10,337,668 million pesos (CODHES) of 2004.⁸⁶ <p>11. Average household income per annum has been estimated to decrease by \$2,404,442 pesos of 2004 following displacement.⁸⁷</p> <ul style="list-style-type: none"> ▪ Provides an indication of relative well-being of displaced household and their capacity to accumulate assets and access services such as health, education, credit, etc. ▪ Using this value, the estimated value of lost household income is \$3,930,077 million pesos (SUR) or \$12,691,056 million pesos (CODHES) of 2004.⁸⁸
<p>Costs of returning</p>	<p>12. In 2002, it was estimated that \$2,600,000 million pesos was needed to resettle the displaced population (not including the cost of physical safety, acquisition of land and loans).⁸⁹</p> <ul style="list-style-type: none"> ▪ As at 2002 this represented a cost per displaced person of 2,136,441 pesos (SUR) which, for the number of displaced

⁸³ Ibáñez, A.M. et al (2006), p. 134.

⁸⁴ This total value is calculated using the formula $\Sigma(1,867,191 * \text{number of displaced households in year X} * \text{number of years between year X and 2005})$. The number of displaced households in each year was calculated using SUR and CODHES (number of individuals divided by 5.3) registers.

⁸⁵ Ibáñez, A.M. et al (2006), p. 35.

⁸⁶ This total value is calculated using the formula $\Sigma(1,958,570 * \text{number of displaced households in year X} * \text{number of years between year X and 2005})$. The number of displaced households in each year was calculated using SUR and CODHES (number of individuals divided by 5.3) registers.

⁸⁷ Ibáñez, A.M. et al (2006), p. 38.

⁸⁸ This total value is calculated using the formula $\Sigma(2,404,442 * \text{number of displaced households in year X} * \text{number of years between year X and 2005})$. The number of displaced households in each year was calculated using SUR and CODHES (number of individuals divided by 5.3) registers.

⁸⁹ Oficina del Alto Comisionado de las Naciones Unidas para los Refugiados (2002), p. 9, as referred to in UNDP, (2003), p. 222.

	<p>persons as at 2005, equals \$3,764,332 million pesos of 2002.</p> <ul style="list-style-type: none"> As at 2002, this represented a cost per displaced person of 891,983 pesos (CODHES), which for the number of displaced persons as at 2005 equals \$3,318,425 million pesos of 2002.
Private expenditure to avoid displacement	13. See general expenditure on security, protection and insurance in section 6.
Decrease in quality of life (including pain and suffering)	14. See also general costs associated with a decrease in quality of life in section 6.
Resources provided	Estimated value of goods and services received
Expenditure on displaced population	<p>15. Acción Social reports that between 1995 and 2005, Colombian governments devoted resources to the displaced population equal to \$1,525,367 million pesos.⁹⁰ This is the equivalent of approximately 1,853,779 million pesos of 2006.</p> <ul style="list-style-type: none"> This is likely to constitute most, if not all, government spending on displaced persons because the Government register of displaced persons (SUR) only recognizes 55 displaced persons prior to 1995.⁹¹ This figure represents resources devoted by governments to the displaced population. It does not necessarily represent the value of resources received by the displaced population. The figure includes donations by the international community for expenditure by the Colombian Government on displaced persons.⁹² These funds were spent on programs for housing, emergency humanitarian assistance for displaced persons, food security, and accompanying displaced persons on their return or relocation.⁹³ Note, however, that not all of the expenditure offsets direct harm suffered by displaced persons. Although the 17.3% of total expenditure that is spent on institutional strengthening, prevention, education and socio-economic stabilization, might prevent future or more significant losses, it is not clear

⁹⁰ Acción Social (30 June 2006), p.1.

⁹¹ Acción Social (7 July 2006), 'Acumulado Hogares y personas Incluidos por Departamentos como Receptor y Expulsor hasta el 30 de junio del 2006'.

⁹² Departamento Nacional de Planeación (2005), p. 6.

⁹³ Acción Social (30 June 2006), p.2.

	<p>that such expenditure will offset harm that has already occurred.⁹⁴ Further, some displaced persons would have received health services regardless because of their being a part of the approximately 54% of Colombians with unsatisfied basic needs who do receive health services from FOSYGA.⁹⁵ Having adjusted for these factors, the displaced population has received approximately \$1,276,104 million pesos of 2006 in services to offset the harm that they have suffered.</p>
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Attribution

Using data from SUR, the displaced population who attributes their displacement to a particular group does so according to the following percentages:⁹⁶

Guerrilla groups	58%
Paramilitary groups	28%
Public forces	2%
Other groups ⁹⁷	12%

⁹⁴ Departamento Nacional de Planeación (2005), p. 8.
⁹⁵ Fondo de Solidaridad y Garantía (2001).
⁹⁶ Acción Social, ‘Acumulado número de personas expulsadas por Departamento y Municipio, por Autor del Desplazamiento Año por año hasta el 30 de junio del 2006’, (7 July 2006). Note that displaced persons who could not, or chose not, to attribute their displacement to any particular group were excluded from the relevant calculations. Displaced persons who attributed their displacement to more than one group were distributed among the groups according to the relative number of persons displaced by each group.
⁹⁷ Other groups are not assumed to be illegal armed groups for the purpose of this investigation.

3. Landmines and unexploded ordnances (UXOs)⁹⁸

Are persons who suffer deaths, injuries and other related harm as a result of landmines and UXOs victims for the purpose of the JPL?

Persons who are killed or injured (including psychological and emotional injuries) as a consequence of the actions of illegal armed groups in violation of the criminal law are able to seek reparation in accordance with the JPL.

Persons who suffer harm as a result of landmines and UXOs (and their families) are a subset of the broader group of persons who suffer deaths, injuries and other related harm (see section 1) and will therefore be able to seek reparation for relevant injuries in accordance with the JPL.

How many landmine and UXO deaths and injuries have occurred?

Between 1990 and 2005, the Observatory of Landmines reports that there have been 1,132 deaths and 3,497 injuries associated with landmines and UXOs.⁹⁹ Note that landmines were not used by illegal armed groups until approximately 1990.¹⁰⁰

The majority of these deaths and injuries (63%) have been incurred by non-civilians.¹⁰¹ This means that 419 deaths and 1,294 injuries from landmines and UXOs are estimated to have occurred to civilians during the conflict.

The Restrepo-Vargas-Spagat Colombia Civil War Dataset (and the deaths and injuries in section 1) should include all deaths and injuries from landmines and UXOs that were

⁹⁸ UXOs include bombs, shells, grenades and other devices that did not explode when they were employed, and still pose a risk of detonation.

⁹⁹ Observatorio de Minas Antipersonal, 'Victimas según estado de eventos por MAP/MUSE: 1990 - 01 de Julio 2006' (2006).

¹⁰⁰ Landmine Monitor, Colombia Country Report: 2001, (2001).

¹⁰¹ Observatorio de Minas Antipersonal, 'Frecuencia victimas según condición por MAP/MUSE: 1990 - 01 de Julio 2006' (2006).

reported in the relevant periodicals or by other information sources on which it relies. For this reason, those estimates listed below that are associated with death and injury have already been included in section 1.

What costs might be incurred by persons who suffer from landmine- or UXO-related incidents?

The costs referred to in the table below are considered to be direct and to have been incurred as a consequence of the actions of illegal armed groups.

Type of loss/damage	Estimated loss/damage
<p>Lost income/productivity</p> <ul style="list-style-type: none"> ▪ Lost wages/salaries ▪ Lost human capital ▪ Lost land productivity 	<ol style="list-style-type: none"> 1. See estimates for lost wages and salaries in section 1. 2. See estimates for lost human capital in section 1. 3. It is estimated that reduced productivity of land associated with the possible presence of landmines and UXOs between 1999 and 2003 cost \$140,443.5 million pesos of 2003.¹⁰² <ul style="list-style-type: none"> ▪ This figure is based on 390 deaths and 1360 persons injured between 1999 and 2003. The Observatory of Landmines estimates that there have in fact been 1,132 deaths and 3,497 persons injured from 1990 to 2005 (37% of which were civilians).¹⁰³ Assuming the number of deaths and injuries is linearly related to the quantity of land that contains landmines and UXOs, and that all land that is unable to be used is land that would otherwise be used by the civilian population, then based on the average cost per incident (death or injury) between 1999 and 2003 the total estimated loss of productive lands from landmines and UXOs from 1990 to 2005 is \$371,493 million pesos of 2003.
<p>Funeral expenses</p>	<ol style="list-style-type: none"> 4. See estimates for funeral expenses in section 1.

¹⁰² Pinto Borrego, M. E. et al (January 2005), p. 13 and based on Lahuerta, Y. (2004).

¹⁰³ Observatorio de Minas Antipersonal, 'Frecuencia victimas según condicion por MAP/MUSE: 1990 - 01 de Julio 2006', (2006) and Observatorio de Minas Antipersonal, 'Victimas según estado de eventos por MAP/MUSE: 1990 - 01 de Julio 2006' (2006).

Private expenditure to avoid incidents with landmines and UXOs	5. See general expenditure on security, protection and insurance in section 6.
Decrease in quality of life (including pain and suffering)	6. See also general costs associated with a decrease in quality of life in section 6.
Resources provided	Estimated value of goods and services received
<p>Expenditure on victims of landmine and UXO incidents</p> <ul style="list-style-type: none"> ▪ Humanitarian assistance (40 minimum monthly salaries) ▪ Humanitarian assistance (2 minimum monthly salaries) 	<p>7. For persons who died or became permanently incapacitated, see the resources provided for victims of deaths and injuries in section 1.</p> <p>8. For persons who were injured but not permanently incapacitated, see the general resources provided to victims as humanitarian assistance for injuries without permanent incapacity in section 6.</p>

Attribution

There is not a lot of data on relative responsibility for landmine and UXO incidents.

The UNDP provides that landmine and UXO incidents between 2000 and 2002 which could be attributed to particular groups were attributed as follows:¹⁰⁴

Guerrilla groups	95%
Paramilitary groups	3%
Public forces	2%

¹⁰⁴ UNDP (2003), p. 127.

4. Kidnapping

Are persons who are kidnapped (and their families) victims for the purpose of the JPL?

Persons who are detained could suffer from temporary or permanent injuries that cause some type of physical, psychological or sensory disability. It is also probable that persons who are kidnapped (and their families) will incur emotional suffering, financial loss and the infringement of fundamental rights.

Kidnapped persons and their families who suffer direct harm as a consequence of the actions of illegal armed groups in violation of the criminal law are therefore likely to seek reparation in accordance with the JPL.

How many persons have been kidnapped?

The principal source for data on number of kidnappings is the register managed by Fondelibertad. This register records that there have been more than 40,000 kidnappings since 1964.¹⁰⁵

Of these kidnappings, Fondeliberdad records that there were 26,492 kidnappings of civilians between 1964 and 2005 for reasons of extortion.¹⁰⁶ During the same period, it is estimated that there were 16,987 ‘simple’ kidnappings (kidnappings for reasons other than raising funds).¹⁰⁷

¹⁰⁵ Pinto Borrego, M. E. et al (9 June 2004), p. 13.

¹⁰⁶ Pinto Borrego, M. E. et al (9 June 2004), p. 7, and Ministerio de Defensa (April 2006), p. 16. Note that this estimate does not include the kidnapping of public forces personnel or unconfirmed cases since 1996, but may include some such persons between 1964-1995.

¹⁰⁷ Pinto Borrego, M. E. et al (9 June 2004), p. 7 and 13, and Ministerio de Defensa (April 2006), p. 16. To extrapolate the data to the years 1964-2005, the ratio of extortion kidnappings to simple kidnapping from 1962-2003 was used.

For the purpose of this investigation, all kidnappings for reasons of extortion are considered to be related to the conflict in Colombia (i.e. all extortion kidnappings are considered criminal activities conducted by illegal armed groups for the purpose of the JPL). Although some extortion kidnappings could be attributed to drug syndicates or general delinquents, many people consider that kidnappings by these groups are also connected in some way to guerrilla or paramilitary groups.¹⁰⁸

Of the simple kidnappings, 52.4% are estimated as being conducted by illegal armed groups.¹⁰⁹

Using this information, 35,393 kidnappings can be attributed to illegal armed groups between 1964 and 2005.

The Restrepo-Vargas-Spagat Colombia Civil War Dataset (and the deaths and injuries in section 1) will include any deaths and injuries associated with kidnappings that were reported in the relevant periodicals or by other information sources on which it relies. For this reason, those estimates listed below that are associated with death and injury constitute a subset of the estimates listed in section 1.

What costs might be incurred by persons who are kidnapped?

The costs referred to in the table below are considered to be direct and to have been incurred as a consequence of the actions of illegal armed groups.

Type of loss/damage	Estimated loss/damage
Private rescue expenditure	1. It is estimated that \$162,709.6 million pesos of 2003 were paid by private individuals between 1996 and 2003. ¹¹⁰

¹⁰⁸ See, for example, Peña, Carina 'La guerrilla resiste muchas miradas', *Análisis Político No. 32*, IEPRI Universidad Nacional, (1997) and Vicepresidencia de la República, 'Programa presidencial de derechos humanos y DIH. Colombia Conflicto Armado, Derechos Humanos y DIH 1998-2002', Bogotá (2002), cited in Pinto Borrego, M. E. et al (9 June 2004), p. 16.

¹⁰⁹ Pinto Borrego, M. E. et al (9 June 2004), p. 27.

	<ul style="list-style-type: none"> ▪ During this time, there were estimated to have been 13,616 extortion kidnappings.¹¹¹ Assuming that this quantity of money was spent only with respect to extortion kidnappings, an average of \$11,949,882 pesos were incurred in rescue costs per extortion kidnapping. If this same amount was spent with respect to all extortion kidnappings between 1964 and 2005, the rescue costs are estimated to be \$316,576 million pesos of 2003. ▪ Note that if instead the rescue costs were incurred in relation to both extortion and simple kidnappings, the average rescue costs incurred per kidnapping during this period would be \$9,719,228 pesos of 2003 per kidnapping,¹¹² and the total rescue costs between 1964 and 2005 would \$343,993 million pesos of 2003. ▪ Note that any estimate of amounts paid to groups responsible for kidnapping is likely to be an underestimate as victims and their families tend to underreport amounts paid.¹¹³ <p>2. In relation to payment for the liberation of persons who have been kidnapped for extortion, less than \$50 million pesos was paid for the kidnapped person's liberty in 63.2% of cases. In 14.2% of cases, more than \$100 million pesos was required to be paid.¹¹⁴</p> <ul style="list-style-type: none"> ▪ Without more specific information, it is difficult to use this information to provide a reasonable estimate of the total amount spent by private individuals on rescue costs.
<p>Lost income/productivity</p> <ul style="list-style-type: none"> ▪ Lost wages/salaries 	<p>3. It is estimated that the lost wages and salaries associated with private individuals being held captive between 1996 and 2003 was \$132,515.9 million pesos of 2003.¹¹⁵</p> <ul style="list-style-type: none"> ▪ During this time, there were an estimated 20,102 kidnappings of private citizens.¹¹⁶ The average loss of wages per kidnapping was therefore \$6,592,175 pesos. ▪ If this average amount was lost with respect to each private citizen who was kidnapped between 1964 and 2005 in

¹¹⁰ Pinto Borrego, M. E. et al (9 June 2004), p. 38.

¹¹¹ Pinto Borrego, M. E. et al (9 June 2004), p. 16.

¹¹² There are 16,741 recorded extortion and simple kidnappings of civilians between 1996-2003: Pinto Borrego, M. E. et al (9 June 2004), p. 16.

¹¹³ Pinto Borrego, M. E. et al (9 June 2004), p. 37.

¹¹⁴ Pinto Borrego, M. E. et al (9 June 2004), p. 25.

¹¹⁵ Pinto Borrego, M. E. et al (9 June 2004), p. 41. This estimate was based on the assumption that all people who were kidnapped were productively employed.

¹¹⁶ Pinto Borrego, M. E. et al (9 June 2004), p. 16.

<ul style="list-style-type: none"> ▪ Lost human capital 	<p>relation with the conflict, the lost wages are estimated to have been \$233,317 million pesos of 2003.¹¹⁷</p> <ul style="list-style-type: none"> ▪ Note that going forward, Law 986 of 2005 (26 August 2005) requires that both public and private employers continue to pay the salaries of kidnapped employees for particular periods of time. <p>4. See estimates for lost human capital in section 1.</p>
<p>Private expenditure to avoid kidnapping</p>	<p>5. See general expenditure on security, protection and insurance in section 6.</p>
<p>Decrease in quality of life (including pain and suffering)</p>	<p>6. See also general costs associated with a decrease in quality of life in section 6.</p>
<p>Resources provided</p>	<p>Estimated value of goods and services received</p>
<p>Expenditure on victims of kidnappings</p> <ul style="list-style-type: none"> ▪ Humanitarian assistance (40 minimum monthly salaries) ▪ Humanitarian assistance (2 minimum monthly salaries) 	<p>7. For persons who died or became permanently incapacitated as a result of being kidnapped, see the resources provided for victims of deaths and injuries in section 1.</p> <p>8. For other kidnapped persons, see the general resources provided to victims of kidnapping in section 6.</p>

Attribution

As referred to above, it is assumed that all extortion and 52.4% of simple kidnappings are conducted by illegal armed groups.

¹¹⁷ The estimated number of people kidnapped between 1962 and 26 August 2005 was calculated by the author to be 35,334.

As for the distribution between guerrilla groups and paramilitary groups, the relative responsibilities for kidnappings are able to be estimated using data from 1995 to 2005 as follows:¹¹⁸

Guerrilla groups	94%
Paramilitary groups	6%

¹¹⁸ Calculations using data presented in Restrepo Otalora, S. (2006), p. 7.

5. Property and infrastructure damage

Are persons who suffer damage to their property and infrastructure as a result of the conflict victims for the purpose of the JPL?

The JPL provides that the requisite harm can include financial loss and the infringement of fundamental rights.¹¹⁹ In addition to the land and assets of displaced persons that are lost or destroyed (see above), owners of property or infrastructure that is damaged as a result of the actions of illegal armed groups are also likely to be able to seek reparation under the JPL.

It is acknowledged that some of the infrastructure that has been damaged will be owned by public enterprises and not by private individuals or companies. Although it may be unlikely that public enterprises would seek reparation under the JPL, the definition of victim does not appear to prevent a public enterprise from doing so.

What property or infrastructure damage has occurred?

The data used only covers attacks on infrastructure from 1986.

Attacks on infrastructure include attacks on oil pipelines, electricity towers and transportation infrastructure (e.g. bridges, tolls and airports).

What costs might be incurred by owners of property and infrastructure?

The costs referred to in the table below are considered to be direct and to have been incurred as a consequence of the actions of illegal armed groups.

¹¹⁹ JPL, article 5.

Type of loss/damage	Estimated loss/damage
Attacks on infrastructure	<p>1. It has been estimated that there were 2,082 attacks on economic infrastructure from 1999 and 2003, with total damage equaling \$981,381.8 million pesos of 2003.¹²⁰</p> <ul style="list-style-type: none"> ▪ Attacks on economic infrastructure include attacks on oil pipelines (including the costs associated with loss of oil and suspension of refinery), electricity towers, and transportation infrastructure ▪ The estimate does not include costs borne by energy users from the suspension of the transmission of electricity/oil, or losses of transport companies from closure of routes. These costs are likely to be considered indirect for the purpose of the JPL. ▪ Government data provides numbers of attacks on oil pipelines from 1986 to 2005.¹²¹ Using the estimates of damage to economic infrastructure above, we can extrapolate the data to give an estimate of damage to economic infrastructure from 1986 to 2005 of \$2,213,016 million pesos of 2003.¹²²
Theft from agricultural properties, egg cattle rustling	<p>2. It has been estimated that theft from agricultural properties between 1999 and 2003 was equal to \$564,127.4 million pesos of 2003.¹²³</p> <ul style="list-style-type: none"> ▪ In order to extrapolate this data across a broader time period, it is assumed that theft from agricultural properties and displacement are linearly related. Based on this assumption, it is estimated that the cost of theft from agricultural properties between 1986 and 2005 is \$717,409 million pesos of 2003 (SUR) or \$1,329,207 million pesos of 2003 (CODHES).
Extortion from agricultural sector	<p>3. \$414,195.7 million pesos of 2003 were estimated to have been extorted from the agricultural sector between 1999 and 2003.</p> <ul style="list-style-type: none"> ▪ In order to extrapolate this data across a broader time period, it is assumed that extortion and displacement are linearly related. Based on this assumption, it is estimated that the

¹²⁰ Pinto Borrego, M. E. et al (January 2005), p. 7.

¹²¹ Sistema de Información y Seguimiento a Metas de Gobierno (2006).

¹²² This estimate is based on the assumption that the ratio of attacks on oil pipelines to attacks on other economic infrastructure was the same during the periods 1999-2003 and 1986-2005, and that the average cost per attack in pesos of 2003 remained constant. Attacks on oil pipelines was chosen because 83.3% of the costs associated with economic infrastructure between 1999-2003 were incurred by the oil industry: see Pinto Borrego, M. E. et al (January 2005), p. 7.

¹²³ Pinto Borrego, M. E. et al (January 2005), p. 10. Note that loss and damage in this category does not include assets abandoned by displaced populations.

	cost of extortion between 1986 and 2005 is \$526,739 million pesos of 2003 (SUR) or \$975,935 million pesos of 2003 (CODHES).
Assets abandoned by displaced persons	4. See costs associated with assets abandoned by displaced persons in section 2.
Private expenditure to avoid damage to property and infrastructure	5. See general expenditure on security, protection and insurance in section 6.
Decrease in quality of life (including pain and suffering)	6. See also general costs associated with a decrease in quality of life in section 6. <ul style="list-style-type: none"> ▪ Note that unless it can be argued that a consumer has a right to certain services, i.e. electricity, it is probable that only the decrease in quality of life suffered by owners of damaged property and infrastructure will be sufficiently direct.¹²⁴
Resources provided	Estimated value of goods and services received
<p>Expenditure in relation to damage to property/infrastructure</p> <ul style="list-style-type: none"> ▪ Reconstruction of municipalities ▪ Humanitarian assistance (2 minimum monthly salaries) 	<p>7. It is estimated that \$56,342 million pesos of 2003 were spent by Colombian governments for reconstruction works required as a result of terrorist activities.¹²⁵</p> <p>8. For persons who suffered damage to property or infrastructure, see general resources provided to victims who lost assets in section 6.</p>

¹²⁴ Note the debate as to whether access to electricity is a basic need: Pachauri, S., Mueller, A., Kemmler, A., and Spreng, D., 'On Measuring Energy Poverty in Indian Households', (2004) 32(12) World Development, p. 2083, 2084.

¹²⁵ Pinto Borrego, M. E. et al (January 2005), p. 18.

Attribution

a) Damage to economic infrastructure

Although the ELN is known for its attacks on oil refineries and energy infrastructure,¹²⁶ there is not a lot of data on the exact extent of involvement of each illegal armed group.

For the purpose of this report, it is assumed that the groups which have had access to and have used landmines also have the equipment and inclination necessary to cause damage to economic infrastructure. For this reason the UNDP's figures on relative responsibility for landmine and UXO incidents between 2000 and 2002 are used as a proxy for relative responsibility for damage to economic infrastructure. They are as follows:¹²⁷

Guerrilla groups	95%
Paramilitary groups	3%
Public forces	2%

b) Theft and extortion

For the purpose of the attribution of costs relating to theft from agricultural properties and extortion, it is assumed that harm inflicted on victims is the responsibility of the same groups and to the same relative extent as occurs in relation to displacement.

Therefore, using data from SUR,¹²⁸ the costs relating to theft from agricultural properties and extortion are attributed to the following groups and according to the following percentages:

¹²⁶ Rojas, C. (2004), p. 8.

¹²⁷ UNDP (2003), p. 127.

¹²⁸ Acción Social, 'Acumulado número de personas expulsadas por Departamento y Municipio, por Autor del Desplazamiento Año por año hasta el 30 de junio del 2006', (7 July 2006). Note that displaced persons who could not, or chose not, to attribute their displacement to any particular group were excluded from the relevant calculations. Displaced persons who attributed their displacement to more than one group were distributed among the groups according to the relative number of persons displaced by each group.

Guerrilla groups	58%
Paramilitary groups	28%
Public forces	2%
Other groups ¹²⁹	12%

¹²⁹ Other groups are not assumed to be illegal armed groups for the purpose of this investigation.

6. General losses/expenses

Are there other categories of victims for the purpose of the JPL which suffer direct harm and which are not included in any of the categories above?

In addition to the harm that is specific to the above categories of victims, there are also various types of loss and damage that apply across categories.

Further, the categories of victims above are merely examples of broad categories of victims that could seek reparation under the JPL. These categories are not, however, exhaustive and each example of harm, and the circumstances of particular persons, should be considered before determining whether a person is entitled to reparation.

What damage has occurred?

The largest category of all harm is arguably the decrease in quality of life, and pain and suffering, that is associated with violent conflict.

The harm suffered by particular groups (women, children, indigenous peoples and Afro-Colombians) is also addressed. This harm is, however, generally expected to form a part of other types of harm, particularly the decrease in quality of life and pain and suffering.

What general losses and expenses might be incurred by victims?

The costs referred to in the table below are considered to be direct and to have been incurred as a consequence of the actions of illegal armed groups.

Type of loss/damage	Estimated loss/damage
Expenses associated with reparation process	<ol style="list-style-type: none"> 1. Victims who are engaging in the reparation process may incur expenses related to the seeking of reparation under the JPL. <ul style="list-style-type: none"> ▪ The JPL refers to victims’ right to justice, truth and reparations, and the State’s duty to ensure victims have access to effective remedies to make reparation for harm inflicted.¹³⁰ ▪ However, there is also one explicit reference to victims not having to pay for translation services.¹³¹ It is not clear if victims will therefore be responsible for other costs incurred throughout the reparations process. ▪ If participating in the reparations process does result in victims incurring costs, these costs could also be claimed from the relevant illegal armed group.
Private expenditure in relation to security issues	<ol style="list-style-type: none"> 2. The Controller General provides data from 1991 to 2001 on the amount spent per annum by the private sector on security.¹³² <ul style="list-style-type: none"> ▪ Using the information provided, and the average level of expenditure between 1991 and 2001 (0.79% of GDP) for the years 1964 to 1990 and 2002 to 2005, the estimated expenditure on private security between 1964 and 2005 is equal to \$53,896,514 million pesos of 2006. ▪ Note that some of this expenditure would have been incurred regardless of the actions of illegal armed groups. For the purpose of this investigation it is assumed that 8% of security issues are attributable to the actions of illegal armed groups,¹³³ therefore the proportion of expenditure on private security to protect persons and property from illegal armed groups is \$4,311,721 million pesos of 2006. 3. Alternatively, it has been claimed that private security costs can take up to 7-10 percent of operating costs.¹³⁴ <ul style="list-style-type: none"> ▪ Using data collected by the Financial Superintendent (the Superintendencia Financiera) and which represents approximately 80% of Colombian companies,¹³⁵ 7% of operational expenditure between 1994 and 2005 is equal to

¹³⁰ JPL, articles 4, 6, 7, 37 and 51.

¹³¹ JPL, article 37.9.

¹³² Garay Salamanca, L. J. (2002), p. 353.

¹³³ Assumption based on data from DANE and the Conflict Análisis Resource Center which provides that only 8% of homicides in Colombia are attributable to the conflict. Alternatively, see Gutiérrez Sanin, F., ‘Tendencias del homicidio político en Colombia 1975-2004: una discusión preliminar’, in Instituto de Estudios Políticos y Relaciones Internacionales, (2006), p. 484 which states that between 15 and 25% of violent deaths in recent years are political deaths.

¹³⁴ Interview with Jonathan Green in Forero J. (1 November 2001), p. 1.

¹³⁵ Data provided by the Ministry of Finance (the Ministerio de Hacienda).

	\$5,509,904 million pesos of 2006.
<p>Decrease in quality of life (including pain and suffering)</p> <p>▪ Losses particular to (or generally suffered by) women</p>	<p>4. A number of studies have shown that the reduction in quality of life, or pain and suffering, associated with crime and violence is greater than the tangible monetary loss.¹³⁶</p> <ul style="list-style-type: none"> ▪ Loss of quality of life in the context of the Colombian conflict includes losses associated with the infringement of fundamental rights, increased fear, pain and suffering, lifestyle changes due to victimization (moving, changing jobs, changing routine, enjoying life less), and loss of access to services such as electricity, etc. ▪ It also includes collective losses with respect to social and political institutions and traditional or familiar ways of life. ▪ For fatal crimes, it has been estimated that the cost to an individual's quality of life is twice the cost of all tangible harm (including lost earnings).¹³⁷ ▪ For robberies with injuries, it has been estimated that the cost to an individual's quality of life is 2.7 times the cost of all tangible costs (including lost earnings).¹³⁸ ▪ If these multipliers associated with violent crime are adjusted for the relative number of deaths and injuries, then a multiplier to apply to the Colombian conflict is calculated to equal 2.2. Net tangible harm to individuals associated with the conflict and attributed to illegal armed groups is then multiplied by 2.2 to estimate the decrease in quality of life and pain and suffering.¹³⁹ ▪ Assuming net tangible costs to individuals attributable to illegal armed groups are between \$16,455,547 and \$29,210,197 million pesos (see Annexure 1), then the decrease in the quality of life attributed to both the guerrilla and paramilitary groups is between \$36,202,203 and \$64,262,433 million pesos of 2006, respectively. <p>5. Some types of loss or damage arising from the activities of illegal armed groups particularly affect the quality of life of women.</p> <ul style="list-style-type: none"> ▪ For example, women are more susceptible to being made objects of acts of sexual violence and of having their rights and freedoms violated through sexual harassment, restrictions

¹³⁶ Cohen, M. A. (2000) p. 276 and 290, Miller, T. R. et al. (1996), p. 15, and Small Arms Survey (2006), p. 196. Note that although it is one of the most significant costs, it is also one of the most difficult to measure.

¹³⁷ Miller, T. R. et al. (1996), p. 9. Quality of life was valued by examining the amount of money people are prepared to pay to avoid certain occurrences, as well as examining jury awards for loss of quality of life.

¹³⁸ Miller, T. R. et al. (1996), p. 9. Quality of life was valued by examining the amount of money people are prepared to pay to avoid certain occurrences, as well as examining jury awards for loss of quality of life.

¹³⁹ Net tangible harm was calculated by adding together all components of the feasible estimate, minus the components associated with property damage to businesses and lost land.

<ul style="list-style-type: none"> ▪ Losses particular to (or generally suffered by) children ▪ Cultural loss – Indigenous Colombians 	<p>on emotional and sexual relations, and imposed pregnancies or abortions.¹⁴⁰</p> <ul style="list-style-type: none"> ▪ Although such loss and damage is likely to be at least partially incorporated in the quality of life estimation above, it is worth noting that the estimated cost to an individual's quality of life who suffers rape or sexual assault is estimated to be 16 times the cost of all relevant tangible costs (including lost earnings).¹⁴¹ ▪ Any reparation of victims needs to take into account the particular loss and damage suffered by women. <p>6. Some types of loss or damage arising from the activities of illegal armed groups particularly affect the quality of life of children.</p> <ul style="list-style-type: none"> ▪ For example, children are susceptible to being forced to work against their will, being recruited to illegal armed groups, suffering increased incidence of pregnancies, having their education interrupted and suffering malnutrition.¹⁴² They are also particularly susceptible to being kidnapped.¹⁴³ ▪ Although such loss and damage is likely to be at least partially incorporated in the quality of life estimation above, it is worth noting that the estimated cost to an individual's quality of life who suffers child abuse (both physical and emotional) is 7.5 times the cost of all relevant tangible costs (including lost earnings).¹⁴⁴ ▪ Any reparation of victims needs to take into account the particular loss and damage suffered by children. <p>7. Some types of loss or damage arising from the activities of illegal armed groups particularly affect the quality of life of indigenous Colombians.</p> <ul style="list-style-type: none"> ▪ For example, forced displacement leads to a loss of customs, values and cultural practices, increased discrimination, and less employment than non-ethnic groups.¹⁴⁵ Indigenous
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¹⁴⁰ Caicedo Delgado, L. P. (November 2005), p. 56 and UNDP (2003), p. 132.

¹⁴¹ Miller, T. R. et al. (1996), p. 9. Quality of life was valued by examining the amount of money people are prepared to pay to avoid certain occurrences, as well as examining jury awards for loss of quality of life.

¹⁴² Ibáñez, A.M and C.E. Vélez (2005), p. 9 and Ibáñez, A.M. et al (2006), p. 3, and Caicedo Delgado, L. P. (November 2005), p. 56.

¹⁴³ Pinto Borrego, M. E. et al (9 June 2004), p. 21.

¹⁴⁴ Miller, T. R. et al. (1996), p. 9. Quality of life was valued by examining the amount of money people are prepared to pay to avoid certain occurrences, as well as examining jury awards for loss of quality of life.

¹⁴⁵ Ibáñez, A.M. et al (2006), pp. 36, 59 and 139, UNDP (2003), p. 131 and Fundacion Hemera, 'Situacion de derechos humanos de los pueblos indígenas de Colombia – Analisis comparativo: enero 1 a noviembre 30 anos 2001-2002'.

¹⁴⁶ Ibáñez, A.M. et al (2006), p. 6.

¹⁴⁷ Ibáñez, A.M. et al (2006), pp. 36, 59 and 139.

¹⁴⁸ UNDP (2003), p. 130-131.

¹⁴⁹ UNDP p. 130.

<ul style="list-style-type: none"> ▪ Cultural loss – Afro-Colombians 	<p>Colombians are also particularly susceptible to losing their assets.¹⁴⁶</p> <ul style="list-style-type: none"> ▪ Any reparation of victims needs to take into account the particular loss and damage suffered by indigenous Colombians. ▪ This type of loss and damage is not formally incorporated into the estimate above and is very difficult to value precisely. It is suggested that the results of the EDHD-2004 questionnaire be examined as a means of trying to establish a reasonable value for the loss of quality of life when they become available. <p>8. Some types of loss or damage arising from the activities of illegal armed groups particularly affect the quality of life of Afro-Colombians.</p> <ul style="list-style-type: none"> ▪ For example, similar to indigenous Colombians, the forced displacement of Afro-Colombians can lead to a loss of customs, values and cultural practices, increased discrimination, and less employment than non-ethnic groups.¹⁴⁷ ▪ Afro-Colombians also tend to reside in locations that have been attractive to illegal armed groups and so have been affected disproportionately with respect to forced displacement.¹⁴⁸ ▪ Further, the armed conflict has had a particularly negative effect on the political and social environment for the community councils which are intended to be the politico-administrative agents in charge of territory, population and resources throughout Chocó.¹⁴⁹ ▪ Any reparation of victims needs to take into account the particular loss and damage suffered by Afro-Colombians. ▪ This type of loss and damage is not formally incorporated into the estimate above and is very difficult to value precisely. It is suggested that the results of the EDHD-2004 questionnaire be examined as a means of trying to establish a reasonable value for the loss of quality of life when they become available.
<p>Resources provided</p>	<p>Estimated value of goods and services received</p>
<p>Expenditure on victims</p> <ul style="list-style-type: none"> ▪ Humanitarian assistance (2 minimum monthly salaries) 	<p>9. For persons who suffered loss of assets, kidnapping, threats or injuries without permanent incapacity, Acción Social reports having paid \$12,036 million pesos from 2003 to 2005 for humanitarian assistance.¹⁵⁰</p>

¹⁵⁰ Accion Social (2006), pp. 8, 10 and 12.

	<ul style="list-style-type: none">▪ This is the equivalent of approximately \$13,203 million pesos of 2006.
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Attribution

The above costs (apart from the decrease in quality of life) are attributed to different groups according to responsibility for civilian deaths (as was determined in section 1).

The relative responsibilities are as follows:

Guerrilla groups	54%
Paramilitary groups	40%
Public forces	6%

The attribution of the costs associated with a decrease in the quality of life and pain and suffering depends on how the individual costs that make up the tangible costs are attributed to the relevant illegal armed groups.

7. Alternative macroeconomic analysis

Can macroeconomic data be used to measure the financial costs associated with reparation?

An alternative way to examine the harm suffered as a consequence of the actions of illegal armed groups is to examine it from a macroeconomic perspective.

The advantage of using this type of analysis is that it will include certain costs that are difficult to isolate and quantify, for example, social and political costs.

The disadvantage of doing so is that the estimate is going to include some costs relating to indirect harm.

What costs are associated with the conflict in Colombia?

The studies referred to in the table below provide different estimates of costs associated with the conflict in Colombia.

Type of loss/damage	Estimated loss/damage
Effect of conflict on economic growth	<ol style="list-style-type: none">1. By comparing long term economic growth in Colombia with growth during periods of conflict, the conflict is estimated to reduce Colombia's long term economic growth by 0.54 percentage points per annum.¹⁵¹<ul style="list-style-type: none">▪ Assuming economic growth was 0.54 percentage points more than what it actually was each year from 1964 to 2005, GDP would have been \$69,039,091 million pesos of 2006 greater than its currently level.

¹⁵¹ Echeverry J.C. et al (2001), 20.

	<p>2. Alternatively, the Department of National Planning has estimated that Colombia has lost 2% of GDP each year as a result of the conflict.¹⁵²</p> <ul style="list-style-type: none"> ▪ If Colombia had lost 2% of GDP each year between 1964 and 2005, the cost of the conflict is \$135,412,862 million pesos. <p>3. A third estimate claims that Colombia has lost 11.4% of GDP in ‘direct’ costs (health-related and material losses), and another 2.0% of GDP in lost productivity and investment, due to the conflict.¹⁵³</p> <ul style="list-style-type: none"> ▪ Assuming that Colombia has lost 11.4% of GDP each year between 1964 and 2005, there has been a loss of \$771,853,312 million pesos of 2006. ▪ If instead Colombia is assume to have lost 13.4.3% of GDP each year between 1964 and 2005, there has been a loss of \$907,266,174 million pesos of 2006.
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Attribution

Each of these studies refers to the conflict and not violence in general so no adjustment needs to be made with respect to other violence.

The above costs are attributed to different groups according to responsibility for civilian deaths (as was determined in section 1). The relative responsibilities are as follows:

Guerrilla groups	54%
Paramilitary groups	40%
Public forces	6%

¹⁵² Pizarro Leongómez, E. ‘Las FARC-EP: Repliegue estratégico, debilitamiento o punto de inflexión?’ in Instituto de Estudios Políticos y Relaciones Internacionales, (2006), p. 200. Other studies also estimate that countries in conflict lose approximatley 2% of GDP per annum, eg Collier, P (1999), p. 9. and Hoeffler, Anke & Marta Reynal-Querol (2003), p. 19.

¹⁵³ Londoño J. L. and R. Guerrero (August 1999), p. 26.

Conclusion

The potential universe of victims under the JPL is very extensive. Similarly, there are many types of harm that can be said to be direct and a consequence of the actions of illegal armed groups in violation of the criminal law.

Assuming that all harm can be proven, and that the relevant perpetrators do demobilize under the Justice and Peace Law, the feasible estimate of the amount payable by all illegal armed groups is between \$55,544,152 and \$96,359,032 million pesos of 2006. This represents between 19% and 33% of GDP of 2005. Responsibility for this amount is allocated between the different illegal armed groups as follows:

Category	Guerrilla Responsibility (millions of pesos and % of GDP of 2005)	Paramilitary Responsibility (millions of pesos and % of GDP of 2005)
Total harm (excluding decrease in quality of life)	[13,269,674 - 21,831,183] [5% - 7%]	[6,072,275 - 10,265,416] [2% - 4%]
Decrease in quality of life of victims	[23,037,590 - 41,872,910] [8% - 14%]	[13,164,613 - 22,389,523] [5% - 8%]
Feasible total	[36,307,264 - 63,704,093] [12% - 22%]	[19,236,888 - 32,654,939] [7% - 11%]

As discussed in the methodology, these amounts only become payable if the relevant perpetrators demobilize under the JPL.

The fact that these estimates are presented in the form of ranges is not intended to represent upper and lower limits. Instead, the above ranges depend on whether the number of displaced persons is consistent with the SUR or CODHES estimates of the displaced population.

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Annexure 1

**QUANTIFICATION OF THE FINANCIAL RESOURCES REQUIRED TO REPAIR VICTIMS OF THE COLOMBIAN
CONFLICT IN ACCORDANCE WITH THE JPL**

Categories of Costs / Expenditure	Estimate of Civilian Harm (millions)	Currency/Year	Civilian Harm in Colombian Pesos as at 30 June 2006 (millions)	Guerrilla Responsibility (millions)	Paramilitary Responsibility (millions)
1. Deaths, injuries and other related harm					
Expenses associated with death:					
▪ General expenses	62,071 284,050	US\$ (PPP) of 2003 Pesos of 2006	53,832,033 284,050	29,069,298 153,387	21,532,813 113,620
▪ Funeral expenses	87	US\$ of 2006	204,313	110,329	81,725
▪ Lost human capital	[1,113.9 - 1,897.1] 4,713.4 5,040,566 4,548,408	US\$ of 2006 US\$ (PPP) of 2003 Pesos of 2003 Pesos of 2003	[2,615,916 - 4,455,207] 4,087,769 5,744,230 5,183,367	[1,412,595 - 2,405,812] 2,207,395 3,101,884 2,799,018	[1,046,366 - 1,782,083] 1,635,108 2,297,692 2,073,347
Expenses associated with injury:					
▪ General expenses	2,490.7 63,338	US\$ (PPP) of 2003 Pesos of 2006	2,160,098 63,338	1,166 34,203	864 25,335
▪ Medical and other expenses	32.8 9,474.1 8.5 11.1	US\$ (PPP) of 2003 Pesos of 2002 € of 1999 US\$ (PPP) of 2003	28,446 11,497 54,322 9,627	15,361 6,209 29,334 5,198	11,379 4,599 21,729 3,851
▪ Lost wages/salaries	10.2 856,004	US\$ (PPP) of 2003 Pesos of 2003	8,846 975,502	4,777 526,771	3,538 390,201
Private expenditure to avoid death and injury	See section 6				
Decrease in quality of life / Pain & suffering	[934.6 - 5,321.6] 3,124,546 703,629	US\$ of 2006 Pesos of 2006 Pesos of 2006	[2,194,843 - 12,497,405] 3,124,546 703,629	[1,185,215 - 6,748,599] 1,687,255 379,960	[877,937 - 4,998,962] 1,249,818 281,452

Expenditure on victims who suffer death or injury:					
▪ Humanitarian assistance (40 MMS)	-157,558	Pesos of 2006	-157,558	-85,081	-63,023
2. Displacement					
Total costs associated with displacement	[7,949.4 - 14,038.8]	US\$ of 2006	[18,668,609 - 32,969,139]	[10,839,393 - 19,122,101]	[5,227,211 - 9,231,359]
Abandoned land and assets	[4,940,843 - 8,725,616]	Pesos of 2004	[5,337,174 - 9,425,543]	[3,095,561 - 5,466,815]	[1,494,409 - 2,639,152]
	[21,548,943 - 33,591,385]*	Pesos of 2004	[23,277,496 - 36,285,924]	[12,498,387 - 20,045,836]	[6,517,699 - 10,160,059]
	[22,968,469 - 31,436,108]	Pesos of 2004	[24,810,889 - 33,957,761]	[14,390,316 - 19,695,501]	[6,947,049 - 9,508,173]
	9,402,128	Pesos of 2005	9,686,072	5,617,922	2,712,100
	227,235	Pesos of 2004	245,463	142,368	68,730
	-240,985	Pesos of 2004	-260,316	-150,983	-72,888
Lost income/productivity:					
▪ Agricultural income	[3,051,937- 9,855,354]	Pesos of 2004	[3,296,749 - 10,645,903]	[1,912,114 - 6,174,624]	[923,090 - 2,980,853]
▪ Household income/consumption	[3,201,296 - 10,337,668]	Pesos of 2004	[3,458,089 - 11,166,906]	[2,005,692 - 6,476,805]	[968,265 - 3,126,734]
	[3,930,077 - 12,691,056]	Pesos of 2004	[4,245,329 - 13,709,072]	[2,462,291 - 7,951,262]	[1,188,692 - 3,838,540]
Costs of returning	[3,318,425 - 3,764,332]*	Pesos of 2002	[4,027,133 - 4,568,271]	[2,335,737 - 2,649,597]	[1,127,597 - 1,279,115]
Private expenditure to avoid displacement	See section 6				
Decrease in quality of life / Pain & suffering	See section 6				
Expenditure on displaced population:	-1,276,104	Pesos of 2006	-1,276,104	-740,140	-357,309
3. Landmines and UXOs					
Lost income/productivity:					
▪ Lost wages/salaries	See section 1				
▪ Lost human capital	See section 1				
▪ Lost land productivity	371,493**	Pesos of 2003	423,354	402,186	12,701

Funeral expenses	See section 1				
Private expenditure to avoid landmine/UXO incidents	See section 6				
Decrease in quality of life / Pain & suffering	See section 6				
Expenditure on victims of landmine and UXO incidents:					
▪ Humanitarian assistance	See sections 1 and 6				
4. Kidnapping					
Private rescue expenditure	316,576	Pesos of 2003	360,770	339,124	21,646
Lost income/productivity:					
▪ Lost wages/salaries	233,317	Pesos of 2003	265,888	249,935	15,953
▪ Lost human capital	See section 1				
Private expenditure to avoid kidnapping	See section 6				
Decrease in quality of life / Pain & suffering	See section 6				
Expenditure on kidnapped population:					
▪ Humanitarian assistance	See sections 1 and 6				
5. Property and infrastructure damage***					
Attacks on economic infrastructure	2,213,016**	Pesos of 2003	2,521,954	2,395,856	75,659
Theft from agricultural properties	[717,409 - 1,329,207]	Pesos of 2003	[817,559 - 1,514,765]	[474,184 - 878,564]	[228,917 - 424,134]
Extortion from agricultural sector	[526,739 - 975,935]	Pesos of 2003	[600,272 - 1,112,176]	[348,158 - 645,062]	[168,076 - 311,409]
Assets abandoned by displaced persons	See section 2				
Private expenditure to avoid damage	See section 6				

Decrease in quality of life / Pain & suffering	See section 6				
Expenditure on damage to property/infrastructure:					
▪ Reconstruction of municipalities	-56,342	Pesos of 2003	-64,207	-60,997	-3,210
▪ Humanitarian assistance	See section 6				
6. General costs/expenses					
Expenses associated with reparation process					
Private expenditure in relation to security issues	4,311,721	Pesos of 2006	4,311,721	2,328,329	1,724,688
	5,509,904	Pesos of 2006	5,509,904	2,975,348	2,203,962
Decrease in quality of life / Pain & suffering		Pesos of 2006	[40,192,304 - 72,666,992]	[23,037,590 - 41,872,910]	[13,164,613 - 22,389,523]
Expenditure on victims:					
▪ Humanitarian assistance (2 MMS)	-13,203	Pesos of 2006	-13,203	-7,130	-5,281
7. Alternative macroeconomic analysis	69,039,091	Pesos of 2006	69,039,091	37,281,109	27,615,636
	135,412,862	Pesos of 2006	135,412,862	73,122,945	54,165,145
	[771,853,312 - 907,266,174]	Pesos of 2006	[771,853,312 - 907,266,174]	[416,800,789 - 489,923,734]	[308,741,325 - 362,906,470]
Total (without decrease in quality of life)				[13,269,674 - 21,831,183]	[6,072,275 - 10,265,416]
Decrease in quality of life				[23,037,590 - 41,872,910]	[13,164,613 - 22,389,523]
FEASIBLE ESTIMATE (ALLOCATIONS)				[36,307,264 - 63,704,093]	[19,236,888 - 32,654,939]
FEASIBLE ESTIMATE (TOTAL)				[55,544,152 - 96,359,032]	

Note that the bolded figures comprise the feasible estimate

* For this range, the lower limit is using the CODHES estimate and the upper limit is using the SUR estimate

** Not included as part of tangible costs

*** Only includes damage from 1986