

# Building a comprehensive child protection system in Colombia: The architecture, cost and gaps



*This report is one in a series of case studies on building national child protection frameworks. The study was funded by Global Affairs Canada.*

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# Building a comprehensive child protection system in Colombia: The architecture, cost and gaps

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# Contents

Acronyms	4
Executive summary	5
Basic demographic data on Colombia	8
Chapter 1. Introduction	9
Chapter 2. Methodology	12
Chapter 3. Institutional architecture: Description and analysis	14
Three selected rights violations	18
Institutional architecture for protection	20
Institutional architecture for re-establishment of rights	25
Chapter 4. Public expenditure on child protection	36
Chapter 5. Conclusions and recommendations	42
 Annex 1. Agencies and actors interviewed	 47
Annex 2. Sectoral and regional distribution of the national budget	49

# Acronyms

**ACR** – Colombian Agency for Reintegration

**APC** – Presidential Agency on International Cooperation

**CAIVAS** – Centres for Comprehensive Investigation and Assistance to Victims of Sexual Crimes (Colombian government structure)

**CAVIF** – Centres for Comprehensive Attention and Investigation against Intra-Family Violence (Colombian government structure)

**CIPRUNA** – Intersectoral Commission to Prevent Recruitment and Utilization of Girls, Boys and Adolescents by Armed Groups

**CTI** – Technical Investigation Corps

**FUT** – Unique Territorial Format

**ICBF** – Colombian Family Welfare Institute (Colombian government agency)

**NGO** – Non-governmental organization

**PARD** – Administrative Process for the Re-establishment of Rights (official Colombian government procedure)

**RIPS** – Individual Registry for Provision of Care

**SENA** – National Service for Apprenticeship

**SIVIGILA** – National System of Public Health Surveillance

**SGP** – General System of Participation (Colombian Government mechanism for distributing budgetary resources to municipalities)

**SIJIN** – Division of Criminal Investigation of the National Police

**SNBF** – National System of Family Welfare

**UARIV** – Unit for Comprehensive Assistance and Reparations to Victims

# Executive summary

This case study<sup>1</sup> is part of a UNICEF global initiative, undertaken in collaboration with Global Affairs Canada, to document national child protection frameworks in six core programming countries: Colombia, Ghana, Indonesia, Kenya, Senegal and the United Republic of Tanzania. The studies are intended to generate a better understanding of the country context, government response, engagement by other actors and additional factors that are contributing to success in protecting children from violence, exploitation and abuse.

In Colombia, UNICEF and Econometría S.A. consultants undertook an analysis of the structure, funding and functioning of Colombia's comprehensive system for child protection during the first half of 2015. The study used three child rights violations as a proxy for the complex challenges of child protection in that country: 1) domestic abuse against children, 2) recruitment of children into armed groups, and 3) commercial sexual exploitation of children. These violations were deemed relevant and representative since they reflect the areas where the worst abuses of everyday life intersect with the deleterious impacts of an armed conflict that is more than 50 years old. They also represent violations that affect girls and boys differently, due to socially ascribed gender roles in Colombian society. In that country, gender-based violence, especially sexual violence against children, constitutes a critical threat, even though incidence is grossly underreported. This study, which concentrates on institutional architecture and costs of child protection, addresses gender differences only tangentially, but recognizes the importance of further research into the causes, magnitude and effects of this problem.

The methodology for this study involved an extensive literature review, interviews with key actors in the field of child protection at the national level, and a series of field visits to analyse first-hand the interactions of the system at the local level in four chosen sites around the country (Quibdó, Chocó; Sibundoy, Putumayo; Manizales, Caldas; and Cartagena, Bolívar). The four sites represent a mix of urban and rural dwellers, high and low income groups, strong and weak service capacity, and African, indigenous and *criollo* ethnicities. In addition, all four areas are affected to varying degrees by conflict.

The legal framework of the modern comprehensive child protection system in Colombia is based on Law 1098 of 2006, which affirms that children have rights, guarantees the fulfilment of those rights, prevents threats against those rights, and prompts the 're-establishment' of rights that have been

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<sup>1</sup> Suggested bibliographic reference: UNICEF and Global Affairs Canada (2015). Building a comprehensive child protection system in Colombia: The architecture, cost and gaps.

violated, based on the best interests of the child. In 2013, a legal decree redefined the National System of Family Welfare (SNBF) as the collection of public agencies and private actors and the mechanisms that coordinate them, established “...to fulfil the comprehensive protection of girls, boys and adolescents, and the strengthening of the family at national, departmental, district and municipal levels.” In the area of prevention, for two of the three child rights violations selected, there is a national policy or plan and a series of government agencies charged with carrying out prevention at national and subnational levels (the exception being intra-family violence, which is still somewhat murky). Certain constraints limit the efficiency of prevention efforts in the case of all three rights violations: lack of sufficient resources, problems with data collection on risks and, especially, the lack of coordination among children protection actors on the ground.

The Colombian Code of Children and Adolescents defines the re-establishment of rights as “the restoration of their [children’s] dignity and integrity as subjects and their capacity to make effective exercise of those rights that have been violated.” The Colombian Family Welfare Institute (ICBF), which constitutes the coordinating arm of the National System of Family Welfare, has responsibility for defining the administrative procedures, road maps and measures for re-establishing rights for each type of violation. These range from family counselling, medical help and rehabilitation to psychosocial support and even adoption, as a last resort. For each case that comes before the authorities, an Administrative Process for the Re-establishment of Rights (PARD) is opened and followed through by the various actors involved. At the local level, these actors may include: the Family Defender (which falls under the ICBF); the Commissary of the Family, named by the mayor; the Police Inspector, a municipal official; or Traditional Indigenous Authorities, which are recognized by law as responsible for indigenous girls, boys and adolescents. In addition, there are a number of private service providers for health and social protection, particularly in rural areas where state services may be lagging.

There are three official ‘road maps’ for the re-establishment of rights: the administrative route (coordinating the actions of relevant authorities), the service provision route (to ensure rapid treatment and care for the affected child), and the judicial route (to prosecute the offender). In practice, considerable overlap and confusion were found in the mandates of the various actors involved, which mitigates the efficiency of the system. The lack of clarity in roles among agencies often results in the referral of cases to different authorities, delaying or denying timely, appropriate care to the child. Such delays can result in the loss of interest by the family in pursuing the process and the consequent re-victimization of the child. Other key constraints identified by the study include: insufficient trained human resources to fulfil legally mandated responsibilities; deficits in physical infrastructure and technological resources; lack of minimum operating resources (such as paper and office supplies); gaps in resources to cover the transportation required to support and follow up cases; as well as extraordinarily high caseloads, which overwhelm the capacity of the system to handle them.

Colombia has a particularly progressive legal framework that recognizes the autonomous role of dozens of distinct indigenous communities in establishing authorities and providing services to their

own people. In practice, however, some indigenous communities are unaware of their authority or have limited capacity to exercise it; in other instances, government authorities do not fully recognize the independent actions of indigenous authorities on issues of child rights violations. A further complication lies in the lack of resources in many indigenous communities, which means that providing services (especially health care) for children whose rights have been violated may require their transfer to a different municipality. Generally speaking, there is insufficient coordination between the two administrative systems in terms of prevention, protection and justice.

In recent years, the country has made considerable effort to increase resources allocated for children and adolescents, recording a rise of approximately \$4 billion between 2012 and 2014 in total expenditures, which represents an increase in real terms of between 9 per cent and 11 per cent per year. The total budget allocated to child protection, both for prevention and assistance, ranges from \$172 million to \$431 million. The vast majority (98.6 per cent) of financial resources linked to child protection issues are concentrated in just one institution – the ICBF, which has suffered serious cutbacks in its budget as well as a major restructuring and turnover in personnel. Moreover, the outlays required to provide various services related to prevention and the re-establishment of rights is likely to increase dramatically in the context of a post-peace-agreement scenario, when thousands of adults as well as children used by armed groups may be demobilized. In fact, many political analysts foresee a potential increase in domestic violence, commercial sexual exploitation and recruitment by armed gangs after the signature of a peace accord. There is no evidence that Colombia's child protection system structures its supply of services or assigns its budget with a gender focus in mind, although this perspective would be most useful in recognizing the different needs of girls and boys in terms of protection services. A series of conclusions and recommendations are provided at the end of the case study.

Although the chief child protection agency within the national system (the Protection Division of the ICBF) decided not to participate in the study subsequent to the initiation of research, several government agencies involved in the comprehensive protection of children collaborated and provided valuable insights into the structure and functioning of the system. UNICEF wishes to thank in particular the public servants and advisers from the Ministry of Health and Social Protection, the Ministry of Labour, the Ombudsman's Office, and the National Police. The report will be shared and the conclusions and recommendations discussed with these and other key government partners. In the context of the new National Development Plan (2015-2019), the government is currently planning several actions to evaluate and strengthen its own capacity to provide vital services, including, among other initiatives, a national survey of violence against children. The current study will hopefully serve to inform efforts to strengthen the comprehensive child protection system.

# Basic demographic data on Colombia

Total population <sup>2</sup>	48,203,405
Population aged 0-14 years (%)	27
Male: 6,575,822	
Female: 6,287,201	
Population aged 15-24 years (%)	18
Male: 4,415,431	
Female: 4,221,972	
Population growth rate (2013 estimate) (%)	1.3
Population living on less than \$1.25 a day (PPP), 2012 (%)	5.6
Life expectancy at birth (years), 2012	78
Male/female (years)	n.a./80
Adult literacy rate (% of people aged 15 and over), 2011	93.6
Prevalence of interpersonal violence (male/female aged 15-24) (%) <sup>3</sup>	38/34
Prevalence of forensic examinations for alleged sexual assault, (male/female aged 10-24)	40/61
Women who have been subjected to some type of physical violence by their partners (lowest/highest wealth quintile) (%) <sup>4</sup>	34/32
Early marriage (girls aged 20-49 years, married before age 15) (%) <sup>5</sup>	5.6
Child labour (children age 5 to 17 who are engaged in child labour) (%) <sup>6</sup>	9.3
Children in conflict with the law (children that are part of the juvenile justice system/children that are in detention/children involved in other ways with the juvenile justice system) <sup>7</sup>	12,714/4,003/8,714

<sup>2</sup> National Administrative Department of Statistics (DANE), Demographic projections for 2015 based on 2005 Census, 2015.

<sup>3</sup> Instituto Nacional de Medicina Legal y Ciencias Forenses, FORENSIS, Comportamiento de las lesiones por violencia interpersonal en Colombia, Bogotá, 2013, <[www.medicinalegal.gov.co/documents/10180/188820/FORENSIS+2013+6-violencia+interpersonal.pdf/51fd2db2-93f1-4c22-9944-f2d88dd0b1c6](http://www.medicinalegal.gov.co/documents/10180/188820/FORENSIS+2013+6-violencia+interpersonal.pdf/51fd2db2-93f1-4c22-9944-f2d88dd0b1c6)>.

<sup>4</sup> PROFAMILIA, Colombia Demographic and Health Survey, 2010, <[www.profamilia.org.co/encuestas/Profamilia/Profamilia/index.php?option=com\\_content&view=article&id=114&Itemid=131&limitstart=1](http://www.profamilia.org.co/encuestas/Profamilia/Profamilia/index.php?option=com_content&view=article&id=114&Itemid=131&limitstart=1)>.

<sup>5</sup> Ibid.

<sup>6</sup> National Administrative Department of Statistics (DANE), Trabajo infantil (October-December 2014), 2015.

<sup>7</sup> Colombia Family Welfare Institute (ICBF), Missional Information System, as of September 2015.



# Chapter 1. Introduction

This case study is part of an international initiative advanced by UNICEF Headquarters and financed by Global Affairs Canada to document national child protection frameworks in six core programming countries: Colombia, Ghana, Indonesia, Kenya, Senegal and the United Republic of Tanzania. The studies are intended to generate a better understanding of the country context, government response, engagement by other actors and additional factors that are contributing to success in protecting children from violence, exploitation and abuse. Their conclusions and recommendations will hopefully contribute to strengthening the operational, normative and financial structures of these national systems.

This study aims to provide a comprehensive view of the child protection system in Colombia by describing its institutional architecture, estimating its current level of expenditures and calculating the resources required to cover financial and procedural gaps. The study focuses on three specific types of rights violations, which are emblematic of the protection issues facing children and adolescents in Colombia: 1) child abuse in the context of domestic violence, 2) involvement or recruitment of girls, boys and adolescents in armed conflict, and 3) commercial sexual exploitation of girls, boys and adolescents.

The study analyses the actions taken to both prevent and to 're-establish' rights that have been violated in order to identify the following gaps: procedural gaps – identified through a qualitative analysis of situations that occur in reality as opposed to what the law establishes; and financial gaps – identified through an analysis of the budget and expenditure allocations for child protection.

It should be noted that the Colombian context bears certain features that distinguish it from other case studies in this series. Since the 1950s, the country has been convulsed by an armed conflict that affects all aspects of society, not the least of which are efforts to ensure the protection and rights of children and adolescents. Over the past six decades, armed non-State actors from both the left and the right of the political spectrum have challenged government control in all geographic regions of the country – militarily, economically and socially. Children and adolescents have been among those most directly affected, by landmines, physical (and most notably) sexual violence, recruitment, forced involvement in illegal activities, displacement, confinement and denial of access to basic services.

The armed conflict affects nearly all aspects of children's lives in various parts of the country. Over the course of several decades, the conflict and the illicit activities that accompany it have altered the nature of life in Colombia, changing social attitudes with respect to women, violence, corruption, illegality, and even basic values such as honour, success and beauty. Even where the conflict does not directly affect children's rights and well-being, so many children are indirectly affected that it becomes difficult, if not impossible, to separate those rights violations that can be attributed to the pernicious impacts of the armed conflict and those that are simply a result of daily social interactions. In addition, the emergence of violence, 'narcotraffic', illicit wealth, corruption and impunity as viable economic choices and lifestyles over the past several decades – exemplified in both guerrilla and paramilitary activities – has contributed to social mores that directly threaten the rights and well-

being of children. The predominant attitudes and stereotypes about women (for example, that prostitution is the free choice of a girl, rather than sexual exploitation by a pimp, 'client' and society) directly cause and condition the extent to which girls and boys require protection services. Partly for these reasons, the three specific types of rights violations chosen to measure child protection efforts in this study are each intrinsically related to the conflict, whether they occur in that context or not.

Since 2011, when the government established the Unit for Comprehensive Assistance and Reparation to Victims (UARIV), over 7 million citizens have been officially registered as victims of the conflict; of these, over 2 million are under the age of 18. The only representative from Latin America featured in this series of case studies, Colombia is a middle-income country with strong government structures, a progressive and comprehensive legal framework, and a strong capacity to carry out child protection activities. Nevertheless, partly because of the pervasive impact of the armed conflict, there are many sectors of the country where the presence of the State is notably weak and in which official services are underrepresented. In particular, this includes rural portions of conflict zones and, in some geographic areas, where armed groups effectively control populations. In addition to the responsibility to protect and re-establish the rights of all children, the Government of Colombia bears an additional burden in the form of reparations to children registered as victims of the armed conflict.

It is important to note that the child protection division of the Colombian Family Welfare Institute (ICBF), the lead agency of the national child protection system in the country, decided after the initiation of the study not to participate, due to a perception that it was no longer a priority at the time. This unexpected decision by one of the key actors resulted in certain limitations in the scope and depth of the research: First, the research team was unable to contrast and deepen the analysis of identified gaps in the process of re-establishing rights using as primary sources the protection officials at national and subnational levels, the Family Defenders Offices, and the contracted service providers for the ICBF. For this reason, the analysis was carried out based largely on secondary resources of the ICBF. Second, it was impossible to calculate actual financial gaps, since there was only limited access to cost data on the services of the ICBF and to administrative records on the access of girls, boys and adolescents to these services. As a result, the study centred exclusively on the measurement and analysis of global public expenditures of the system based on secondary sources available in the different units examined. While it is unlikely that the ICBF will endorse the study, it should be noted that a number of government agencies did cooperate with the researchers and were duly interviewed, providing important data and observations. These agencies included the National Police, the Ombudsman's Office (*Defensoría*), the Public Prosecutor's Office (*Fiscalía*), and various line ministries (see Annex 1). UNICEF is hopeful that the findings of this report will inform further investigation as well as joint efforts by the Government of Colombia and the UN system to strengthen the national system of child protection.

The case study is organized as follows: Chapter 2 describes the methodology for the study. Chapter 3 explains the concept of comprehensive protection, the National System of Family Welfare and selected rights violations; it subsequently describes and analyses the principal strengths and weaknesses of the institutional architecture to prevent child rights violations and to re-establish rights. Chapter 4 develops these concepts as they relate to the public expenditures of the system,

starting from a general vision toward the specific cases chosen as the focus of this study. Chapter 5 presents the main conclusions and recommendations.

## Chapter 2. Methodology

The authors followed a simple process in their investigation of the comprehensive child protection system in Colombia. A thorough literature review of recent studies and reports was undertaken, emphasizing both quantitative and qualitative evaluations. A series of interviews with key informants was also carried out at the national level, involving the main actors from the National System of Family Welfare, such as relevant ministries and institutional actors that have a role in the provision of protection services to children. (Note: these interviews were limited by the decision of the ICBF not to participate, as noted above.) Local field interviews were set up and carried out with public servants, officials, operators, service providers and other key observers to shed light on the issues relevant to both the architecture and costing of the system at subnational levels (see Annex 1, which includes the list of agencies and individuals who were interviewed in selected municipalities). Subsequently, an extensive review of secondary sources was undertaken to analyse the costing data and complement the field-based findings with the financial reality at the macro level.

For each of the three selected rights violations, the central analysis of institutional architecture revolves around the following variables:

- **Functions and standing capacity** of the protection system's key actors. This refers to the type of functions, actions and responsibilities within the system.
- **Coordination**. This looks at the coordination required among different actors in the system, which includes horizontal relations between agents as well as vertical contacts between different geographic levels of the system (national, departmental and municipal).
- **Public expenditure and investment**. This identifies the financial investment required by the different agents of the system and its specific actors, allowing the identification of costs, which will be the object of analysis in terms of financial expenditures and gaps.

The first variable (functions and capacity) includes an analysis of the type of human talent that is required by national and local authorities responsible for child protection, as well as an assessment of the basic actions on information registry and data use by member actors of the system. Given the extension and complexity of the budget system related to child protection, the analysis of this system is carried out in a separate chapter (Chapter 4.) The other two variables are assessed in Chapter 3.

A consistent qualitative methodology was utilized in the open interviews carried out with actors in the system and in the textual analysis of secondary resources. Interviews were done both at the national level and at the departmental level in the following geographic sites:

- **Quibdo** (Department of Choco): A medium-sized municipality characterized by a predominantly Afro-Colombian population, weak institutional capacity and a poor supply of services.
- **Sibundoy** (Department of Putumayo): A small rural municipality, with a high proportion of indigenous communities.
- **Manizales** (Department of Caldas): A medium-sized city in the coffee-producing zone of the country, with a high institutional capacity and good supply of services. (This municipality was

twinned with nearby Riosucio, as the latter has one of the country's few centres for the treatment and reintegration of children demobilized from armed groups.)

- **Cartagena** (Department of Bolivar): A medium-sized tourist city, with some incidence of commercial sexual exploitation of girls, boys and adolescents.

The four sites for field research were chosen in consultation with UNICEF, based on their size, population density, ethnic composition, level of services available, involvement in the conflict and other factors. The four municipalities are in no way meant to be representative of a country as complex as Colombia. However, together they were deemed an interesting mix from which a wide perspective on the nature of Colombia's child protection system could be developed.

**Map 1. Map of Colombia, showing four sites of field research**



*Note: The map is stylized and not to scale. It does not reflect a position by UNICEF on the legal status or any country or territory or the delimitation of any frontiers.*

# Chapter 3. Institutional architecture: Description and analysis

According to the National Administrative Department of Statistics (DANE), Colombia's total population in 2015 was estimated at 48.2 million, with a mean annual growth rate of 1.3 per cent projected for the next four years. Of this total, 15.5 million people (around 36 per cent) are under 18 years of age (51.1 per cent boys and 48.9 per cent girls). An estimated 4 per cent of these children and adolescents belong to indigenous and 11 per cent to Afro-Colombian communities – the two groups of greatest relevance in the country's ethnic and cultural context.

## **The comprehensive protection approach**

Following ratification of the Convention on the Rights of the Child, the Colombian government issued Law 1098, the Code of the Child and Adolescent, in 2006. The law represents an important shift – a move away from government care based on the identification of 'irregular situations', as established in the Code of the Minor (Decree 2737 of 1989), towards an approach based on comprehensive protection.

In its seventh article, Law 1098 defines comprehensive protection as: recognition of girls, boys and adolescents as subjects of rights; the guarantee and fulfilment of all their rights; prevention of any threat or violation of these rights; and assurance of the immediate re-establishment of these rights in line with the principle of the best interests of the child. In addition, the law establishes that comprehensive protection must be implemented through comprehensive policies, plans, programmes and actions that are carried out at national, departmental, district and municipal levels, with the corresponding allocation of financial, physical and human resources.

## **The National System of Family Welfare**

Law 7 of 1979 created the National System of Family Welfare (SNBF) and assigns its coordination to the Colombian Family Welfare Institute (ICBF). The definition, reach and structure of the system have been modified over the years through various norms, the most recent of which is Decree 936 of 2013, which regulates article 205 of Law 1098 and redefines the SNBF, its organization and operation in the following manner:

"The National System of Family Welfare is the collection of agencies, mechanisms of coordination and the relations existing between these, established to fulfil the comprehensive protection of girls, boys and adolescents, and the strengthening of the family at national, departmental, district and municipal levels."<sup>8</sup>

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<sup>8</sup> República de Colombia, Instituto Colombiano de Bienestar Familiar (ICBF), Manual Operativo del Sistema Nacional de Bienestar Familiar, versión 1.0., Bogotá, 2013.

The agencies of the system can be: a) public institutions of the executive, legislative and judicial branches, which have direct responsibilities assigned by law to guarantee the comprehensive protection of girls, boys and adolescents; or b) private institutions that have the function of collaborating and complementing the actions of the government. Private institutions include non-governmental organizations (NGOs), community-based organizations and similar entities that are hired by the ICBF to provide specific services, such as rehabilitation for substance abusers, half-way houses, psychosocial therapy, etc. Some of these private institutions receive funding from international cooperation to carry out their role (for example, a local NGO hired by UNICEF to educate children in the prevention of sexual violence or to train them in mine-risk education). The role of the SNBF at the national, departmental and municipal levels is to guarantee the participation of stakeholders, provide technical development, coordinate operations, facilitate decision-making and support policy orientation. These roles function at national, departmental and municipal levels (Figure 1).<sup>9</sup>

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<sup>9</sup> Ibid.

**Figure 1. Key actors in Colombia's System of Family Welfare (at three levels)**

(National level)

EXECUTIVE BRANCH				LEGIS-LATIVE BRANCH	JUDICIAL BRANCH	OTHER ORGANS OF GOVT.	CIVIL SOCIETY AND COOPERATION
PRESIDENCY OF THE REPUBLIC	OTHER ENTITIES UNDER THE EXECUTIVE			CONGRESS OF THE REPUBLIC	CONSTITUTIONAL COURT	OFFICE OF THE INSPECTOR GENERAL (Procuraduría General)	NGOs
LINE MINISTRIES	Dept. of Social Prosperity	ICBF	NATIONAL POLICE OF COLOMBIA		COUNCIL OF STATE	OFFICE OF THE OMBUDSMAN (Defensoría del Pueblo)	INTERNATIONAL COOPERATION AGENCIES
	National bodies for Sports and Sciences		Directorate of Criminal Investigation and Interpol (DIJIN)		SUPREME COURT OF JUSTICE	NATIONAL AUDIT OFFICE (Contraloría General)	
	National Dept. of Planning		Directorate of Protection and Special Services (DIPRO)		SUPERIOR COUNCIL OF THE JUDICIARY	NATIONAL REGISTRAR'S OFFICE (Registraduría Nacional)	
	National Dept. of Statistics		Police for Children and Adolescents		OFFICE OF ATTORNEY GENERAL (Fiscalía General) including Technical Investigation Corps		



(Departmental level)

EXECUTIVE BRANCH				LEGIS-LATIVE BRANCH	JUDICIAL BRANCH	OTHER ORGANS OF GOVT.	CIVIL SOCIETY AND COOPERATION
OFFICE OF THE GOVERNOR	OTHER ENTITIES UNDER THE GOVERNOR	REGIONAL OFFICE OF THE ICBF	DEPART-MENTAL POLICE	DEPART-MENTAL ASSEMBLY	DEPART-MENTAL COURTS	DEPART-MENTAL PUBLIC PROSECUTORS	NGOs
DEPART-MENTAL SECRETARIATS		REGIONAL OFFICE OF THE FAMILY DEFENDER	Judicial Police Sectionals (SIJIN)		SECTIONAL PUBLIC PROSECUTORS including Technical Investigation Corps	DEPART-MENTAL AUDIT OFFICE	INTERNATIONAL COOPERATION AGENCIES
			Departmental Police for Children & Adolescents			DEPART-MENTAL DELEGATION OF THE REGISTRAR	
						REGIONAL OMBUDSMAN	

(Municipal level)

EXECUTIVE BRANCH				LEGIS-LATIVE BRANCH	JUDICIAL BRANCH	OTHER ORGANS OF GOVT.	CIVIL SOCIETY AND COOPERATION
OFFICE OF THE MAYOR	NATIONAL AND DEPART-MENTAL BODIES WITH A PRESENCE IN THE MUNICIPALITY	ZONAL CENTRES OF THE ICBF	Police District/ Police Station	MUNICIPAL COUNCIL	MUNICIPAL COURTS	LOCAL OMBUDSMEN (Personerías)	NGOs
MUNICIPAL SECRETARIATS		OFFICE OF THE FAMILY DEFENDER	Police for Children and Adolescents		LOCAL PROSECUTORS Including Technical Investigation Corps	MUNICIPAL OFFICE OF THE REGISTRAR	INTERNATIONAL COOPERATION AGENCIES
COMMISSARY OF THE FAMILY							
INSPECTORATE OF THE POLICE							

## Three selected right violations

### Commercial sexual exploitation

According to Colombian criminal law, commercial sexual exploitation of children “is the utilization of persons under 18 years of age for sexual purposes in exchange for payment or the promise of payment in money or kind to the victim or to an intermediary.” It is a crime that tends to operate in a clandestine manner.<sup>10</sup> One of the chief bottlenecks in addressing it is consistent underreporting and the lack of a solid information system with clear criteria from which a database could be built to show the true magnitude of the problem. Many public officials themselves are unclear about the difference between commercial sexual exploitation and sexual abuse. Common mores in Colombia still tend to find the involvement of children and adolescents in sexual exploitation as ‘normal’ to some extent. Many victims and their families are hesitant to come forward out of stigma or fear for their personal safety. The State has traditionally treated victims as delinquents, who in turn tend to view the State as a source of persecution. The number of cases of commercial sexual exploitation that were referred to the ICBF and resulted in an administrative action between 2011 and September 2013 totalled 2,135, representing less than 2 per cent of the total number of cases that passed through the Administrative Process for the Re-establishment of Rights (PARD).<sup>11</sup> During this period, 84 per cent of the cases involved women, 55 per cent adolescents, 30 per cent girls and boys between 7 and 12 years of age, and 16 per cent involved children under 6 years old.<sup>12</sup> It should be noted that an active search for victims of commercial sexual exploitation occurs in only three or four major cities in Colombia (including Cartagena, Medellín and Bogotá), while municipal services in the vast majority of the country do not seek out victims. Rather, victims tend to be treated as delinquents.

### Domestic violence against girls, boys and adolescents

Domestic violence refers to violent actions directed against girls and boys in the context of the family and home. It specifically excludes violence between adults within this context, even though the phenomenon does affect children and is domestic in nature. It also excludes violence against children in public and in school. Domestic violence may include physical abuse, emotional abuse, psychological harm or negligence.

The National Institute of Legal Medicine reports that, in 2013, it received 9,708 cases of violence in the family environment for examination, a 20 per cent reduction over 2012, and a rate similar to that of 2004. By age cohort, in 2013, 60 per cent of the victims in these cases were adolescents between 12 and 17 years of age; 24 per cent were in the 5- to 9-year-old age group and 13 per cent were infants 0 to 5 years old.

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<sup>10</sup> Law 599 (2000): Colombian Penal Code, Title IV, Chapter IV.

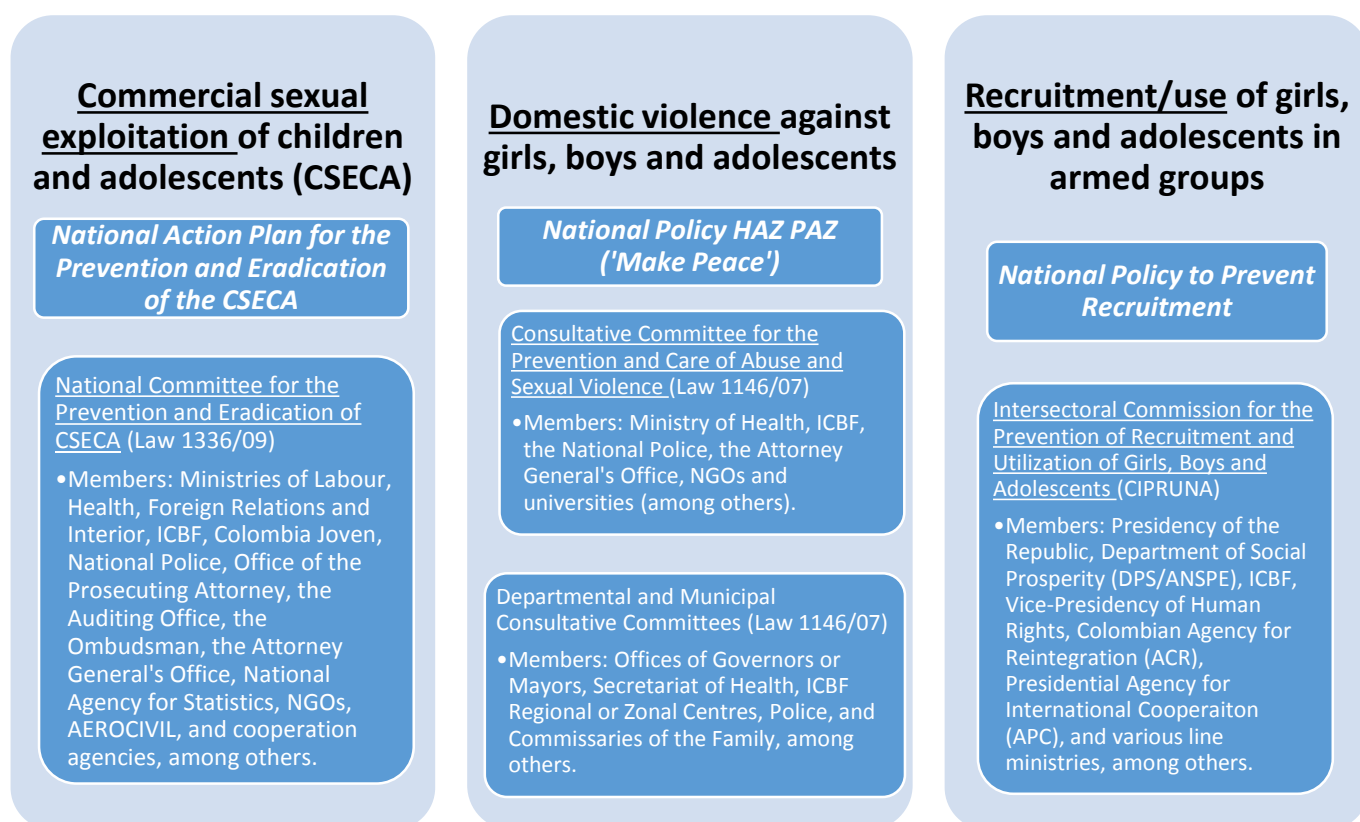
<sup>11</sup> PAR D is an administrative process initiated by the Family Defenders Office of ICBF (or by the Commissary of the Family or by the Police Inspector, in the absence of the Family Defender) when any of three situations arise: 1) refusal or failure to provide a service that guarantees the right(s) of a child, 2) the threat, risk or danger of violation of the right(s) of a child, or 3) the effective violation of the right(s) of a child.

<sup>12</sup> República de Colombia, Instituto Colombiano de Bienestar Familiar (ICBF), ‘Análisis de la situación de explotación sexual comercial en Colombia: una oportunidad para garantizar la protección de niños, niñas y adolescentes’, Bogotá, ICBF and OIM, 2014.

## Recruitment and use by non-State armed groups

A girl, boy or adolescent linked to an armed group “refers to any person under 18 years of age who is or has been recruited or utilized by a group or armed force in any condition, including but not limited to girls and boys used as combatants, cooks, look-outs, messengers, spies or for sexual purposes. It does not refer only to a girl or boy who is taking part or has taken part directly in hostilities.”<sup>13</sup> In 2013, the ICBF reported that, since 1999, it has assisted 5,156 demobilized girls, boys and adolescents, of whom 24 per cent revealed that they arrived into the ranks of the non-State armed groups when they were between 3 and 12 years old; 76 per cent reported that they joined between 13 and 18 years of age.<sup>14</sup>

**Figure 2. National policies and forums for prevention and response to three selected rights violations**



## Gender equality and gender considerations

Clearly, girls and boys have very different experiences with regard to the three violations under consideration, based on the social roles and expectations ascribed to them within Colombian culture

<sup>13</sup> 'The Paris Principles – Principles and Guidelines on Children Associated with Armed Forces or Armed Groups', article 2.1, 2007.

<sup>14</sup> República de Colombia, Instituto Colombiano de Bienestar Familiar (ICBF) 'Grupos armados ilegales tienen niños y niñas desde la Primera Infancia y los someten desde los seis años', Press release, Bogotá, 2013.

and society. Commercial sexual exploitation affects both sexes, but the vast majority of reported cases involve girls and adolescent women. (Information on the sexual exploitation of lesbian, gay, bisexual, transgender and intersexual children and adolescents in the country is only beginning to appear.) In terms of sexual violence, a 2013 forensic study of alleged sexual crimes<sup>15</sup> found that, of the 20,739 official medical-legal examinations carried out for presumed sexual violence that year, more than 84 per cent involved women and girls, while 16 per cent involved boys or men. The highest proportion of victims were under the age of 18, with the largest cohort for males being between the ages of 5 and 9 and, for women, between the ages of 10 and 14. Nearly 49 per cent of the cases involved violence within the family. Another indicator of the potential magnitude of sexual abuse against children is the number of girls under age 14 who are registered as mothers. On average, there are 6,550 births in Colombia each year among girls aged 10 to 14. In the context of armed conflict, gender-based violence is even more difficult to measure and prosecute. Within the family, girls tend to constitute the majority of victims of domestic violence. A civil society study carried out in 2013 found that 48,915 children were victims of sexual violence perpetrated by armed actors between 2008 and 2012, with girls comprising the vast majority (41,313) of the victims. In terms of involvement in non-State armed groups, it is evident that the means of recruitment for girls and boys differs considerably, as do the roles carried out by the two sexes, with girls and adolescent women more frequently used as 'sex slaves' by fighters.<sup>16</sup>

This study does not propose to examine in depth the gender differences in services and expenditures on child protection in Colombia. Preliminary evidence suggests that the system does not structure its supply of services nor does it assign financial and human resources based on a rigorous analysis of gender considerations. Nevertheless, the authors recognize that this conclusion may be due to insufficient investigation into the issue and that further research on the causes, magnitude, effects and most effective strategies to protect children and adolescents against gender-based violence is required.

## **Institutional architecture for protection**

Law 1098 (2006) establishes general obligations for the State (at different levels) to promote peaceful coexistence in the family and society; to promote respect for the integrity of girls, boys and adolescents; and to prevent all forms of violence against them. It also ensures that children and adolescents are not exposed to economic exploitation and that they are protected against association and recruitment into armed groups outside of the law. In addition, the law establishes specific actions to prevent violence within the family to be carried out by the Commissaries of the Family and by the National Police, particularly the Police for Children and Adolescents. The latter carries out prevention activities in cities and municipalities prioritized according to the research developed by the Crime Observatory of the National Police. A programme called 'Open your Eyes' raises the awareness of

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<sup>15</sup> Tello Pedraza, Jorge Enrique, 'Exámenes medicolegales por presunto delito sexual, Colombia, 2013', Instituto Nacional de Medicina Legal y Ciencias Forenses.

<sup>16</sup> Universidad Nacional, DDR Observatory, 'Study Characterizing Demobilized Children 2007-2013', 2014.

children and adolescents about illicit activities and seeks to involve them in the prevention of violence and exploitation.<sup>17</sup>

### **Prevention of domestic violence**

Law 1098 (2006) establishes that the Commissaries of the Family should “develop prevention programmes on the issues of intra-family violence and sexual violence” (article 86, number 7), but no specific guidelines exist.<sup>18</sup> Commissaries usually carry out occasional actions rather than structural interventions in order to prevent violence within the family (both in general and against girls and boys); thus they have no registry of their activities, no specific budget for plans and programmes, and do not coordinate on an ongoing basis with other entities. Moreover, as the Commissaries interviewed in this study themselves revealed, the economic resources provided to them are limited and the staff already have high levels of work providing care for children and families, leaving little time for prevention activities.

On the other hand, in the four municipalities selected for this case study it was found that efforts to prevent violence within the family are carried out according to the guidelines established by the municipal government. The types of actions vary and depend on the emphasis assigned by the municipality to the different protection actors under their responsibility. Work in this area may be undertaken by educational institutions, communities, youth groups and families who seek services, such as the CAVIF (Centres for Comprehensive Investigation and Assistance to Victims of Sexual Crimes), or who form part of social protection programmes, such as Familias en Acción or Red Unidos (‘Families in Action’ or ‘Network United’). Resources for prevention work are apportioned by the municipality, and this allotment directly affects the quantity and stability of the professionals involved, the information system and inter-institutional coordination.

With regards to the health sector, the Ministry of Health and Social Protection reported that, at present, no specific programmes exist for the prevention of intra-family violence. The Public Health Coordinator of Quibdo, however, highlighted work in this area by Integrated Care for Early Childhood Development with children under 6 (ideally, all girls and boys under 18 years of age would be included). The Quibdo coordinator further mentioned that the programme included guidelines on strengthening the affective link between caregivers and children as well as the prevention of violence against children within the family. The importance of avoiding incidents of violence in childhood, including physical punishment, to the growth and development of children is well recognized.<sup>19</sup> And a recent study found that parents of children under 5 who attend programmes to monitor infants’

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<sup>17</sup> The UNICEF office in Colombia maintains an institutional position of opposition to these prevention activities carried out by the National Police, inasmuch as the counter-insurgency role of the National Police may make children targets for political violence by armed groups. In the current context, the National Police are actively engaged in confrontations with left-wing guerrillas and right-wing paramilitary groups, so by participating in police-sponsored activities, children may be perceived as actors or cadres in the State’s military operations. This constitutes yet another instance of how the armed conflict pervades all aspects of children’s lives.

<sup>18</sup> República de Colombia, Procuraduría General de la Nación, Comisarías de Familias. Línea de Base Nacional. Procurando la Equidad (6), 2011.

<sup>19</sup> López-Avila, D., El castigo en la escuela está prohibido, ¿en la casa es aceptado? Accessed 26 March 2015, from the blog Primeros Pasos - Banco Interamericano de Desarrollo, <<http://blogs.iadb.org/desarrollo-infantil/2015/03/23/castigo-fisico/>>.

growth and development tend to use corporal punishment 20 per cent less as a form of discipline than parents who did not.<sup>20</sup>

While there are some structural, long-term initiatives to prevent domestic violence against girls, boys and adolescents, there is a paucity of monitoring and evaluation to analyse what is being undertaken and its results. The lack of a national commission in charge of public policy to coordinate the various sectors, agencies and subnational actors has meant that the sum of different actions has not gone very far in achieving the goal of eliminating violence against children and adolescents within the family environment.

### **Prevention of recruitment and utilization by non-State armed groups**

Decree 4690 (2007) created the Intersectoral Commission to Prevent Recruitment and Utilization of Girls, Boys and Adolescents by Armed Groups (CIPRUNA), with the objective of coordinating and guiding the actions to prevent this violation of rights. CIPRUNA advocates for three types of prevention: early (to guarantee rights), urgent (when there are collective threats), and protective (for individual threats directed against a girl, boy or adolescent or a specific group of them).

Currently, the commission is composed of the following entities: the ministries of external relations, defense, interior, justice, health, labour, education, culture, and technology and communication; the Colombian Agency for Reintegration (ACR); the Presidential Agency on International Cooperation (APC); the Colombian Family Welfare Institute (ICBF); the Ombudsman; the Attorney General; the Procuraduría; the National Service for Apprenticeship (SENA); the Presidential Programme *Colombia Joven*; the Vice Presidency; and the Presidential Council on Human Rights, which has presided over the Commission's technical secretariat since 2013.

In 2010, through the Public Policy Document (*Conpes*) 3673,<sup>21</sup> the Policy for the Prevention of Recruitment and Utilization (2010-2014) was officially launched and the country adopted a comprehensive approach to child protection. The overarching concept embraced is the following: the greater the protective environment for rights, the lower the risk of child recruitment and utilization.

The Conpes 3673 established the functions of CIPRUNA, its technical secretariat and the agencies integrated within it. The commission's role is aimed at the coordination, guidance and follow-up of actions related to recruitment, with its technical secretariat responsible for ensuring that its directives are carried out and monitored. Each agency is responsible for developing prevention activities according to its own mandate, especially in the departments and municipalities prioritized by the technical secretariat under the criteria established by the commission. The Ombudsman outlined the risk inherent in designating preventive functions to the Ministry of Defense since "its intervention and interaction with the civilian population constitutes a clear violation of principle inasmuch as involving the military forces and police with the population affected by the activities of armed non-State actors

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<sup>20</sup> Ibid.

<sup>21</sup> The Conpes is the National Council for Economic and Social Policy, created by Statute 19 (1958). In sessions of this council, documents on policy development are discussed and approved, and are numbered and published by the National Department of Planning, which acts as technical secretariat for the Council.

constitutes actions that are undoubtedly prejudicial to girls, boys and adolescents, reinforcing the militarization of civil society and representing a covert form of continuing to carry out civil-military activities that are prohibited by the Code of Children and Adolescents.”

The technical secretariat of CIPRUNA carries out its activities through a few paid contractors. Resources for these activities come from international cooperation agencies, which must necessarily cover many municipalities. Interviews revealed that these contractors have little stability, low capacity to bring together other actors, and minimal recognition at the municipal level. Therefore, the impact of their actions is limited. Added to this is the fact that public institutions lack specialized professionals with the necessary knowledge and experience to guide and monitor the process of preventing recruitment through an ethnically sensitive, child-centred approach. Moreover, municipal staff tends to turn over frequently, and there is a general lack of knowledge about national and international law on this subject.

All of the above contributes to limited knowledge about CIPRUNA and its actions, as well as to the ‘invisibility’ of recruitment as a crime against girls, boys and adolescents. By the same token, other violations related to recruitment, such as the use of children (especially girls) for sexual exploitation, and the use of girls and boys in micro-trafficking or as informants, are also largely invisible. According to the Ombudsman, many public officials (including some from the Family Defenders Office) do not know that such activities constitute a crime. Instead of considering these children as victims, they refer them to the juvenile justice system for adolescents.

Regarding the management of information, the Ombudsman’s Office has an Early Warning System that issued 112 alerts during 2012 and 2013. Of these, 91 included specific warnings about the imminent risk of illicit recruitment of civilian populations in 153 municipalities within 28 of the 31 departments in Colombia. These alerts are sent to national, regional and local authorities charged with implementing prevention measures required to avoid the violation of rights.

That said, CIPRUNA has problems receiving and managing reports from the various entities that comprise it, thus complicating the monitoring of preventive actions that it implements throughout the country. It is important to note that, within the huge amount of information available, there is no evidence of any statistical data referring to the development of ethnically sensitive approaches in programmes and strategies designed for indigenous and Afro-Colombian children at risk of recruitment.

In addition to these difficulties, a lack of coordination is clearly evident at the municipal level, where authorities are unable to carry out integrated efforts among local institutions or to coordinate adequately with national agencies. While in some municipalities this issue is discussed within the Social and Political Councils or in the Technical Working Groups on Children, there is a general consensus that it is at the municipal level where the greatest difficulties are found in applying this policy.

This situation led the Ombudsman to state, in its 2014 report, that the implementation of Conpes guidelines and protection road maps presents serious difficulties for the following reasons:

- Risk factors have not been diminished or eradicated in a timely or effective manner.

- Road maps for protection have not been incorporated into the policies, plans or programmes of local and municipal institutions.
- The Plan of Action delegates responsibilities to actors that, because of their mandate, should not implement them (for example, the defense sector).
- No coordination process has been established between national institutions and departments and municipalities.
- An ethnically sensitive approach has not been incorporated into the plans and protection road maps for children.

### **Prevention of commercial sexual exploitation**

Law 1336 (from 2009) decreed the establishment of the National Inter-Institutional Committee for the Eradication of Commercial Sexual Exploitation of Girls, Boys and Adolescents, in order to implement the public policy on prevention and eradication of commercial sexual exploitation. Currently the Committee is composed of the Ministry of Labour (which chairs the group); the ministries of health, interior, justice, education, technology and communication, commerce, industry and tourism, and external relations; the ICBF (which acts as technical secretariat); the National Police (for Children and Adolescents; for Tourism; and the Directorate of Criminal Investigation and Interpol); the Attorney General of the Nation; the National Department of Statistics; and the Presidential Programme *Colombia Joven*. It also counts among its standing invitees the Office of the Procuraduría General de la Nación; the Ombudsman's Office; Fundación Renacer, a key NGO that works on the issue; and representatives from the private sector, organizations for children and the international cooperation agencies.

Currently, the National Inter-Institutional Committee for the Eradication of Commercial Sexual Exploitation of Girls, Boys and Adolescents Committee is focusing on three basic tasks:

- 1) The committee has been charged with designing a policy for the prevention of commercial sexual exploitation, based on a review of the 2008-2011 action plan.
- 2) Linked to the design of the policy, the committee has been discussing the most appropriate approach for prevention and treatment, in order to make more visible the criminal nature of commercial sexual exploitation.
- 3) Within the committee, a sub-committee<sup>22</sup> was formed that has designed and executed preventive actions against commercial sexual exploitation in the areas of travel and tourism, with logistical support from municipalities.

In addition, members of the committee carry out prevention campaigns such as *Abre tus ojos* ('Open your Eyes'), supported by the President's office. This is not to be confused with the police-run programme of the same name, or *La muralla soy yo* ('I am the Wall'), supported by the NGO Fundación Renacer, UNICEF and the District of Cartagena. It should be recognized that civil society agencies within the movement are extremely active and have advanced action on this issue to a greater extent than government institutions.

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<sup>22</sup> Composed of *Migración Colombia*; the National Police (Police for Tourism); Ministry of Commerce, Industry and Tourism – Vice-Minister of Tourism; ICBF- Sub-directorate for Children and Adolescents; Ministry of Labour; and *Fontur*.



The chief problems that the Committee and its members face involve: difficulties in data collection on cases, a lack of resources, and lack of coordination within the committee. An additional problem involves coordination at different levels. Many municipalities work on the issue in their municipal committees, but have no contact with the national committee.

In response, the National Development Plan (2014-2019) now includes recommendations for the development of policies and programmes that: provide resources for strengthening inter-institutional coordination mechanisms for the prevention of commercial sexual exploitation at various levels; strengthen institutional and community oversight mechanisms; train various actors and create an information system on this issue; and strengthen communication strategies, among other actions.<sup>23</sup>

### **Institutional architecture for re-establishment of rights**

Article 50 of the Code of Children and Adolescents defines the re-establishment of rights as “the restoration of their [children’s] dignity and integrity as subjects and their capacity to make effective exercise of those rights that have been violated.” In the legal context, the ICBF is responsible for defining the model for re-establishment with its respective administrative procedures, road maps and legal measures, which may include (depending upon the violation) family counselling, medical help, rehabilitation and psychosocial support. The ICBF must coordinate with other entities of the National System of Family Welfare (covering health, education, registry, etc.) to ensure the comprehensive protection of children. The re-establishment of rights is undertaken when one of three types of situations is present:

- 1) Non-observance, in cases of non-compliance, omission or denial of a service that guarantees the right(s)
- 2) Threat, which applies in those situations where there is a risk or danger in exercising the right(s)
- 3) Violation, which occurs when an action impedes the effective exercise of those rights.

These situations call for the opening of an Administrative Process for the Re-establishment of Rights (PARD) by the competent administrative authority. These authorities are either the Family Defender’s Office or the Commissary of the Family, in the absence of the Family Defender; or the Inspector of Police (only in the absence of the first two in the municipality); or the Traditional Indigenous Authority, in the case of indigenous girls and boys. This administrative authority takes measures that require the ICBF or local body to provide appropriate services to respond to the violation of rights. In addition, if the perpetrator’s action is considered a crime, charges are officially pressed with the Public Prosecutor’s office to initiate legal proceedings.

### **Administrative authorities for re-establishment of rights**

The Family Defender (which falls under the ICBF) is the municipal official in charge of the PARD. Where there is no Family Defender in the municipality, his or her functions are assumed by the

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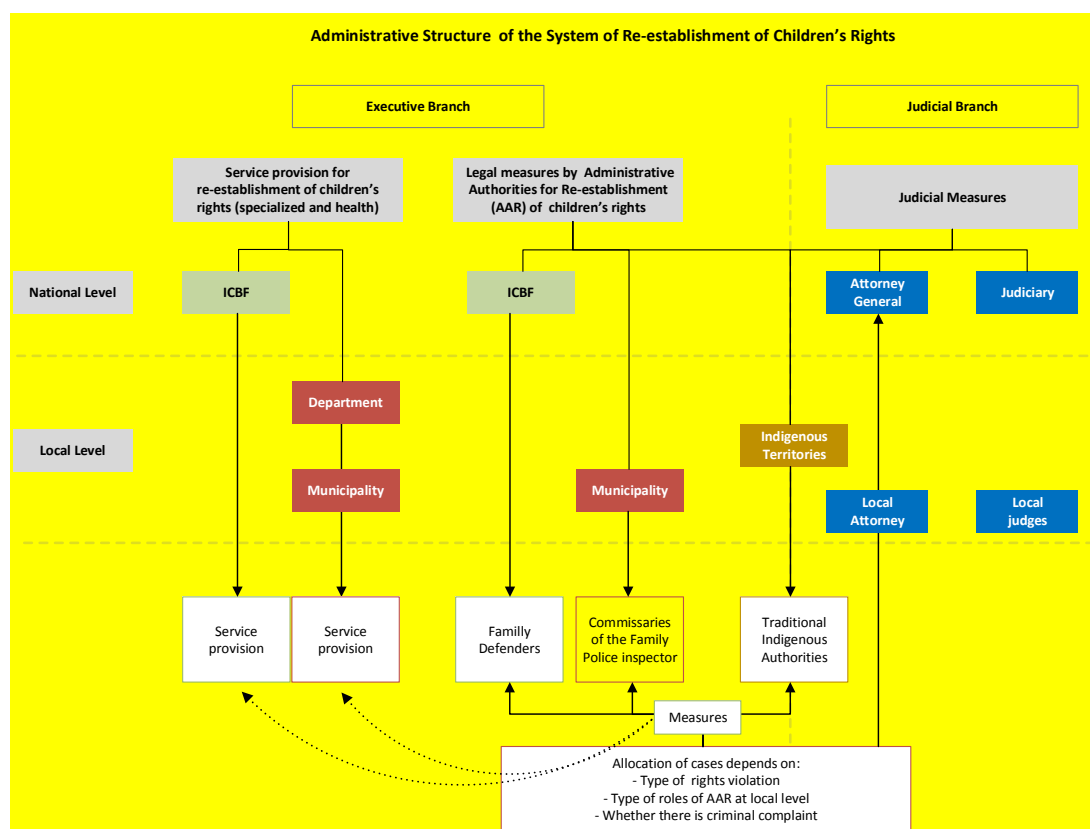
<sup>23</sup> The National Development Plan also calls for strengthening measures to respond to this violation, for example, the creation and strengthening of CAIVAS and other specialized centres of care for victims.

Commissary of the Family, which is a post named by the mayor. When there is neither Family Defender nor Commissary of the Family, these responsibilities are taken up by the Inspector of the Police, who (despite the name) is not part of the National Police, but rather a municipal official. The only decision within the PARD that is not transferred from the Family Defender to the other two officials is the declaration of adoptability of a girl, boy, or adolescent. Traditional Indigenous Authorities are recognized by law as having responsibility over the PARD for indigenous girls, boys and adolescents. However, coordination between indigenous leaders and other administrative authorities is unclear, which results in gaps in assistance and in the re-establishment of rights for indigenous children.

The Commissary of the Family normally has competency in cases of domestic violence between adults, or against girls and boys. In the latter case, the Commissary may: provisionally decide issues of custody, upkeep and visitation rights; carry out rescue interventions in cases of danger; and take emergency, protective measures in cases of crimes against girls, boys and adolescents. Several neighbouring municipalities may share one Commissary of the Family. The Inspector of the Police normally has the function of preventing and resolving conflicts that affect the peaceful co-existence of citizens. S/he takes measures in cases of activities that disturb the public order.

The way in which these competencies were established in the Code of Children and Adolescents has generated some confusion over roles and responsibilities between Family Defenders and Commissaries of the Family. The discussion over respective roles of the various administrative authorities is also affected by existing capacity in terms of human and financial resources to carry out their functions. The Family Defenders Offices should maintain comprehensive, interdisciplinary technical teams, composed of (at a minimum) a psychologist, a social worker and a nutritionist. A similar technical capacity should be maintained by the Commissaries of the Family, with a minimum team of a psychologist, a social worker, a physician and a secretary, in municipalities of medium and high population density (articles 79 and 84). Figure 3 illustrates the actors involved in the re-establishment of rights.

**Figure 3. Administrative structure of the system for the re-establishment of children's rights**



Source: Created by the authors based on multiple sources.

### Road maps and model for care

In order to re-establish the violated rights of girls, boys and adolescents, Law 1098 established general procedures, and the ICBF established specific guidelines under law for its own institution.<sup>24</sup> The process of re-establishing rights has two components: one administrative and the other related to the provision of care services. This care may consist of health care, psychosocial support, legal assistance or remedial education, for example. The process has five phases.<sup>25</sup>

**Phase 1: Entrance of a case.** When word of a risk or of a violation of rights reaches the administrative authorities for re-establishment of rights, they carry out an investigation with the help of their interdisciplinary team. If necessary, they make a crisis intervention. The authorities may take temporary measures to immediately separate the child from the activity that threatens or violates his or her rights, if required. These measures may include: a Temporary Home (of the municipality); an

<sup>24</sup> República de Colombia, Instituto Colombiano de Bienestar Familiar (ICBF), 'Lineamiento Técnico Administrativos de rutas de actuaciones y modelo de atención para el restablecimiento de derechos de niños, niñas y adolescentes y mayores de 18 con discapacidad, con sus derechos amenazados, inobservados o vulnerados', Bogotá, 2010.

<sup>25</sup> Ibid.

Emergency Centre (of the ICBF); or a Transitory Home for Demobilized Children and Adolescents. Finally, based on the report, one of the following actions is agreed upon: care and counselling to the family with mobilization by the National System for Family Welfare; extra-judicial care; or the opening of an Administrative Process for the Re-establishment of Rights.

**Phase 2. Opening an investigation.** This includes actions such as ordering an interview with the children or adolescents, conducting tests, and issuing official notifications. Additional actions in this phase may include warning the parents (with mandatory attendance at a pedagogical course), or placing the child or adolescent in a family environment with specialized attention to guarantee comprehensive protection.

**Phase 3. Probationary period.** During this period, the initial evaluation is complemented by activities undertaken by the interdisciplinary team, with home visits and specialized care for the girl, boy or adolescent; specific evidence is required during this period.

**Phase 4. Resolution of re-establishment of rights.** The resolution of the process of re-establishing rights is one or a series of measures taken by the authorities to correct the wrong. The State recognizes that a child's rights have been violated and decrees various temporary or permanent measures, such as issuing a warning to the parents, follow-up behavioural courses, placing the child in a special programme for rehabilitation or temporary shelter with another family, etc. As a last resort, the child may be put up for adoption.

**Phase 5. Follow-up.** The monitoring and follow-up of the situation is a process by which actions are developed to verify the measures adopted. The local office of the ICBF and other administrative authorities carry out this phase with the support of interdisciplinary technical teams.

### **Analysis of functions and standing capacity**

As previously noted, the administrative process of re-establishing rights presents two road maps that may be followed to support the girl, boy or adolescent whose rights have been violated. There is the administrative route, in which the principal actors are the Family Defenders Office, the Commissaries of the Family, the Police Inspectors and Traditional Indigenous Authorities, among which actions are coordinated. A second route relates to care provided to children and adolescents according to measures taken by the administrative authority, in line with the technical guidelines for care. It is important to note that re-establishment also has a judicial route, which seeks to investigate and charge alleged offenders.

#### *The administrative route*

When analysing the functions of the administrative authorities for the re-establishment of rights, it was found that a lack of precision in Law 1098 of 2006 has resulted in a broad spectrum of legal interpretation and a lack of clarity in roles, particularly between the Family Defenders Offices and the Commissaries of the Family. There is likewise little certainty about the coordinating body in charge of the Commissaries of the Family at the national level. Nevertheless, the functioning of the Commissaries of the Family is guided by various norms, among which is Decree 4840 (2007), which

identifies the Administrative Department of the Public Authority as responsible for providing technical assistance and training in the organization and implementation of the Commissaries of the Family. In addition, the ICBF issued 'Technical Guideline for Commissaries of the Family', in accordance with the role established in article 9 of this decree.

Despite the existing rules and technical guidelines, the Commissaries of the Family interviewed in the four municipalities visited said that they were unclear about which authority at the national level is responsible for coordinating them and providing technical assistance. This situation coincides with the findings published in a study produced by the Procuraduría of the Nation,<sup>26</sup> which notes: "throughout the existence of the Commissaries of the Family, there has been an evident need not only for an agency or institution to encompass and coordinate their operations at national level, but also some mechanism able to orient and evaluate the national technical and programmatic guidelines of these entities, since until now their functioning has been scattered and heterogeneous...."<sup>27</sup>

It was noted that the lack of clarity regarding the roles of both institutions results in an additional workload for the Commissaries of the Family.<sup>28</sup> Moreover, the constant referral of cases between various authorities prolongs the time required to resolve cases. Often, this results in the denial of timely, appropriate care to the child. It is not unusual that such delays can cause a family to lose interest in pursuing the process and the child is consequently re-victimized. Such situations were reiterated by Commissaries interviewed in all four municipalities.<sup>29</sup>

Although each of the municipalities in the study has the appropriate number of Commissaries according to its size, as stipulated by law, in all of the interviews carried out, the Commissaries confirmed that the number of cases they handle exceeds their respective capacities. This situation is intensified by the finding that only 34 per cent of the Commissaries are administrative career posts, while the majority are temporary posts named by the mayor, a situation that tends to produce a high rate of turnover among personnel.<sup>30</sup> Moreover, many Commissaries do not have an interdisciplinary team as required by law. This weakness in the technical teams was encountered in all four municipalities studied, each of which reported having only psychologists and social workers.

While municipal budgets should guarantee salaries for the Commissaries and their teams, as well as for the general operation of the office, all sites except Manizales show budgetary shortfalls. Interviewees identified gaps in resources to cover transportation required to support and follow up cases, deficits in physical infrastructure and technological resources, as well as lack of minimal

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<sup>26</sup> The Procuraduría is an entity of the national government that oversees actions of public servants.

<sup>27</sup> República de Colombia, Procuraduría General de la Nación, Comisarías de Familias, Línea de Base Nacional. Procurando la Equidad (6), 2011. Regarding this point, Decree 2897 of August 2011 assigns to the Dirección de Justicia Formal del Ministerio de Justicia y del Derecho the role of "defining technical guidelines in the matter of competencies, procedures and actions related to the functions of responding to gender-based violence by the Commissaries of the Family and other administrative authorities for the re-establishment of rights that exercise jurisdictional roles" (article 14, number 11, Decree 2897 of August 2011).

<sup>28</sup> The study was unable to contrast this statement with the point of view of the Offices for the Defense of the Family, since the Directorate of Protection of the ICBF chose not to participate in the study.

<sup>29</sup> Note: It was not possible to interview Family Defenders, since the Protection Division of ICBF chose not to participate in this study.

<sup>30</sup> República de Colombia, Procuraduría General de la Nación, op. cit.

operating resources (such as paper and office supplies), among other things. In the cases of Quibdo and Sibundoy, the Commissaries highlighted that since they are ‘category 6’ municipalities, they cannot count on sufficient resources.<sup>31</sup> While this study does not include a deeper analysis of expenditures for child protection, Law 1098 (2006), article 203, makes it clear that social investment in children and adolescents must be a priority.

Available resources have an impact on the way information is registered in the Commissaries, which is digital in the case of Manizales, while in the other municipalities it is either physical or sometimes digital, depending on the availability of electricity and Internet connectivity. The information is sent to the Secretariats of Government or of the Interior in Cartagena and Manizales, while in the cases of Quibdo and Sibundoy, it is sent to the ICBF so they can enter it into the Information Management System (IMS). The previously cited study of the Procuraduría notes that “the conditions of the Commissaries of the Family are such that, a full 20 years after their creation, the country has no idea how many cases of domestic violence have been dealt with at national level nor what has been the response of the Colombian State.” In that same study, the Commissaries report that, in 2010, of the total number of cases assisted, only 9 per cent related to boys and 10 per cent to girls.

#### *The provisions of care services*

In terms of providing care, both the ICBF and the municipalities are responsible for guaranteeing the supply of specialized services for the protection and re-establishment of rights, while the health sector is responsible for providing the care specified under the Obligatory Health Plan. With regard to the former, the municipal interviews demonstrated that the ICBF contracts out the greater part of the services related to the re-establishment of rights. Notwithstanding this, in the case of demobilized children, the Family Defender’s Office indicated that, while the technical guidelines of the ICBF are well formulated, the lack of services at the subnational levels leads to the need to transfer children to other geographic regions. This means that children are separated from their family and local culture. On the other hand, interviews with local authorities and public officials revealed that there were considerable problems in remitting children from the Commissaries of the Family to the contracted services of the ICBF, since they consider that the assignment of slots should prioritize girls and boys who have been referred by the Family Defenders Offices, when in reality the slots should be for the girl or boy who requires assistance, independent of the authority that referred them.

With regard to the health sector, the personnel from the Ministry of Health and Social Protection note that they make use of road maps and procedures. Service providers who receive children after any type of rights violation must notify the protection system (Central Zone of ICBF, Family Defenders, Commissaries and Police Inspectors) and Justice Ministry authorities so that they can advance the trial and judgement of the alleged offender. In the specific cases of Cartagena and Quibdo, municipal officials of the secretariats of health reported that knowledge of these road maps constituted one of their strengths, despite their comment that the constant rotation or turnover in personnel in private health-care institutions complicates the application of these measures.

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<sup>31</sup> Colombia has 1,098 officially recognized municipalities. They are classified in categories from one to six, according to their population and income. Category 6 encompasses the municipalities with the lowest volume of income and the lowest population. In 2007, 89 per cent of municipalities were classified as category 6.

There is a clear gap in the provision of health care (and especially mental health-care services) to child victims of violence in the three selected types studied here. From interviews, it is evident that child victims of intra-family violence are often treated for blows, fractures and burns, while the victims of commercial sexual exploitation require care related to infections, trauma or the consumption of psycho-active substances, all of which are treated at the primary health-care level. When the situation requires a higher level of care than the one provided in the municipality (because of lack of supply), the child must be transferred to another municipality, a procedure that has the same consequences of separation described above in relation to demobilized children. Transferring children also interrupts the continuity of care provided, due to the costs for the family in terms of transportation and lodging in a different municipality.

Some interviews revealed that children face various obstacles in accessing health-care services including: refusal of access due to lack of an identity card, lack of insurance, difficulties in getting an appointment, or because the service deliverer does not provide the prescribed medication or the indicated quantities for the period requested by the physician. In addition, some institutional service providers do not offer psycho-social support services. These problems result in re-victimization of children by not providing them with the comprehensive assistance they are promised by law. In order to resolve this problem, the new Law for Health (2014) establishes that children under protection must be affiliated with the best service provider in the municipality or region in which they find themselves. It remains to be seen whether this measure will be effective or sufficient in responding to the needs of these victims.

Personnel from the Ministry of Health and Social Protection note that one of the greatest difficulties lies in the detection of cases of abuse of girls and boys. Insufficient training is provided to health workers to address this issue, although authorities in Manizales reported receiving occasional training lectures within the system. At the same time, there is a reticence among health professionals to officially report a case of abuse because of the potential legal implications of filing a complaint and testifying as well as the personal danger this may entail. Due to the pervasive nature of armed conflict in Colombia and the widespread impunity that exists, the mere act of reporting a case of violence against children may represent a direct challenge to powerful interests at work locally (armed groups, organized criminal bands, etc.). Many health professionals are unaware that they can simply report a case anonymously through the hospital without pressing charges or appearing personally.

In relation to the management of information, cases of intra-family violence and sexual exploitation are registered through the National System of Public Health Surveillance – SIVIGILA – since such cases are considered events that can affect health on a large scale. This system allows for public policy decision-making in order to prevent and control illness and public health risk factors. All care interventions for children are tracked in the Individual Registry for Provision of Care (RIPS). This system, however, tends to report the nature of the injury but not the type of rights violation. Thus, a fractured forearm in a 5-year-old child is not specifically identified as intra-family abuse, and pregnancy in a 14-year-old girl is not automatically identified as sexual abuse unless that is the specific cause of the consultation.

The role of the National Police in the process of re-establishing rights is addressed primarily by the Police for Children and Adolescents, which is part of the National System of Family Welfare and has specific functions assigned to it by law including prevention, monitoring, control and investigation. In the administrative process for the re-establishment of rights, the police undertake two main activities: 1) receiving complaints and reports of threats or violations from citizens and referral to an administrative authority, and 2) provision of support to the administrative and judicial authorities in policing and protective actions on behalf of girls, boys and adolescents as well as transfer of the children to temporary or specialized services, where necessary. In addition, the police play a role in immediate protection of children in danger.

Finally, with regards to the judicial arena, the Attorney General's Office carries out the function of advancing judicial investigation in cases brought forward by the Family Defenders Office, the Commissary of the Family, or the Police Inspector. This role is crucial to the re-establishment of rights, since it promotes not only access to justice but also the expectation of sanction against the offender, reinforcing trust in the national child protection system and the justice system. In order to advance judicial investigations, the process relies on the Technical Investigation Corps (CTI) or on the Division of Criminal Investigation of the National Police (SIJIN). The Police for Children and Adolescents coordinates its actions with SIJIN, and also has its own role in investigating judicial processes that involve crimes against children. It should be noted, however, that not all cases of sexual exploitation brought to the attention of the Family Defenders, the Commissaries of the Family and the police actually reach the Attorney General's Office for prosecution – evidence of a serious gap in procedure.

### **Coordination**

In assessing coordination within the comprehensive protection system, the study found the following weaknesses. First, at both the national and subnational level, there are pathways for coordination within each agency and among agencies and sectors. However, many public officials are unaware of them or are unclear about how they work, or they do not understand the purpose behind these mechanisms, which creates friction in interpersonal and inter-institutional relations. Second, it was found that health-care services for girls and boys often require a level of specialization that institutional service providers do not offer. In order to overcome this deficiency, the ICBF finances specialized health-care services that it is not mandated to provide within its legal and sectoral competencies (such as mental health-care services). As a result, the ICBF has acquired greater responsibilities without additional resources. Finally, in the case of Quibdo and Sibundoy, key problems were noted in the coordination between municipal authorities and the ICBF on the one hand, and the tribal chiefs and Traditional Indigenous Authorities on the other. This challenge is linked to the understanding and application of a differentiated approach for ethnic groups and the recognition of territorial autonomy for indigenous groups as recognized in the country's Constitution.

In addition to the above mentioned dynamics, this study found that even where inter-institutional models of coordination exist, they are not necessarily implemented effectively. Such is the case with the Centres for Comprehensive Investigation and Assistance to Victims of Sexual Crimes (known as CAIVAS) and the Centres for Comprehensive Attention and Investigation against Intra-Family Violence (CAVIF). These centres seek to provide timely and efficient service to girls, boys, adolescents, women



and adults who have been victims of crimes related to sexual violence, commercial sexual exploitation and intra-family violence. They must implement an interdisciplinary approach that includes psychological, medical, investigative, legal and social focus, seeking to provide immediate and holistic care in order to avoid double victimization.<sup>32</sup> Unfortunately, in many municipalities, the necessary officials and practitioners have never been named (for example, the prosecuting attorney specializing in sexual crime). Furthermore, many of these centres lack the necessary budget, equipment and other resources to carry out their mission. For example, the standard CAIVAS should include, at a minimum, a Family Defender with his or her full technical team (psychologist and social worker), a prosecuting attorney specialized in sexual crime, a team from the criminal investigation branch (SIJIN-Technical Investigation Corps-Police for Children and Adolescents), an ombudsman and a lawyer from the Public Defender's Office, an official from the mayor's social services branch, a doctor from legal medicine, and a human rights specialist. Typical equipment should include a full battery of computers, video cameras, private offices for confidential interviews, etc.

#### *Coordination within agencies of the National System of Family Welfare*

One of the central questions of this study was the level of coordination in the process of re-establishment of rights within the different agencies and components of the National System of Family Welfare. In the four municipalities studied, one can infer a high level of participation by all the agencies interviewed within the technical levels of the system. In terms of public policy, there exist municipal committees that bring together numerous actors, including ones that focus on children and adolescents, on child abuse and on intra-family violence. While some informants (in Quibdo) mentioned that they follow up cases of rights violation in these committees, it is clear that they focus more on prevention than on re-establishment of rights. In the case of Sibundoy, this gap is critical, since neither the Commissary nor the contracted service provider is invited to the committee on children and adolescents. Likewise, Traditional Indigenous Authorities are not generally invited to participate in these forums.

From the site visits undertaken for this study, it is evident that the committees are informational rather than decision-making in nature, and that there is an insufficient flow of information to decision-takers at the municipal level. By the same token, there is little evidence of any dialogue within the system among agencies at the municipal, departmental and national levels.

#### **Re-establishing rights in indigenous communities**

Although the law recognizes Traditional Indigenous Authorities as having the lead role in the process of re-establishing the rights of girls, boys and adolescents who belong to their communities, it is crucial to analyse their capacity to carry out this function.

In the case of Sibundoy, a municipality characterized by a high percentage of indigenous persons within the total population, the community delegates the process of re-establishing rights to the Family Defender of the ICBF or to the Commissary of the municipality, given that the community lacks

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<sup>32</sup> Fiscalía General de la Nación, Centros de Atención Ciudadana, March 2015, <[www.fiscalia.gov.co/colombia/servicios-de-informacion-al-ciudadano/centros-de-atencion-ciudadana/](http://www.fiscalia.gov.co/colombia/servicios-de-informacion-al-ciudadano/centros-de-atencion-ciudadana/)>.

the capability of carrying out the process as the administrative indigenous authority. According to those interviewed, the indigenous community has the individuals and professionals needed to take such a process forward (lawyers, psychologists and ‘wisdom-keepers’, among others). However, the community lacks the financial resources from government budgetary transfers to municipalities to hire them.

This situation does not necessarily apply to other indigenous communities. In some cases, the reasons why the administrative authority does not carry out this process may not be financial but rather associated with a lack of appropriate human resources or even a lack of knowledge about its own role as recognized by law. It is vital that this analysis of capacity be put into perspective in further research, given the recent legal advances in recognizing indigenous groups as political-administrative organizations with competencies and functions to manage the Independent Indigenous Education System and the Independent and Intercultural Indigenous Health System.

Colombia has made great advances in the application of an ethnically sensitive approach to the re-establishment of rights of indigenous girls, boys and adolescents. For its part, the ICBF’s ‘Technical Administrative Guidelines for the Re-establishment of Rights’ contains an annex that provides orientation for the application of the road map and model using a differentiated ethnic approach. The same document underscores positively the fact that it is compulsory to carry out a prior consultation with the community when the Family Defenders Office declares an indigenous child to be ‘adoptable’, since this decision has serious implications for the child’s cultural rights. In addition, for indigenous girls, boys and adolescents who have become victims of the armed conflict, the ICBF has formulated a road map for indigenous authorities, called *Caminos y Retornos* (‘Paths and Returns’) covering the departments of Cauca, Narino and Caldas. ICBF likewise established a Specialized Attention Centre in Riosucio, Caldas. The purpose of these actions is to promote an appropriate response for handling indigenous girls and boys who are victims of recruitment. However, according to a study undertaken in 2014,<sup>33</sup> the Office of the Ombudsman maintains that the state response to the problem of recruitment of children who belong to ethnic groups is insufficient and ineffective. The same report suggests that the procedures should be more adaptable, focusing on the needs of indigenous peoples and Afro-Colombian communities, especially incorporating intercultural and ethno-educational approaches that facilitate the development of content that incorporates their respective traditional and ancestral cultural traditions.<sup>34</sup>

Marked differences were also observed in the way that the violation of rights is understood. What may be considered a grave crime in the Commissary of the Family, for example, might be regarded differently in indigenous communities. In such circumstances, indigenous communities have their own manual of justice that determines the weight of a certain crime. According to a counselling professional familiar with the Kamsá people, for example, a crime that is designated as serious is delegated to the Family Defender’s Office or to the Commissary of the Family, and someone from the community is assigned to observe the process in order to ensure that the re-establishment of rights

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<sup>33</sup> República de Colombia, Defensoría del Pueblo, ‘Informe Defensorial: Prevención del reclutamiento de niños, niñas y adolescentes. Análisis de la política pública con enfoque étnico’, Bogotá, 2014.

<sup>34</sup> Ibid.

also guarantees the cultural rights of the boy or girl in question. The professional who was interviewed indicated that one of the greatest problems in this process is the lack of understanding by the ICBF and the municipality about the sociocultural framework (*'cosmovisión'* in Spanish) of Colombia's multiple indigenous communities and the lack of respect for a different community focus that integrates local culture with issues associated with education, child-rearing and nutrition.

One positive development identified is the agreement with the ICBF that indigenous children who are put up for adoption should remain within their own ethnic community, enabling then to preserve their own cultural and territorial identity. On the other hand, a crime that is designated as 'light' is handled internally within the community according to local customs and traditions. This situation presents a stark contrast to a statement made by the Commissary of the Municipality of Quibdó during an interview, who reported that all cases of rights violations of indigenous girls and boys are handled by the municipality. Under no circumstances, the Commissary said, are such cases turned over to the indigenous authority for management, given the concern that the child may remain at risk or continue to be violated.

Finally, it should be noted that, in many cases, appropriate care of indigenous children whose rights have been violated requires their transfer to other municipalities, either because of a lack of services locally or because the existing service lacks the necessary capacity, which is especially pertinent in the case of health services. This situation raises the prospect of displacement of the child from his or her family, territory and culture. On top of the previously mentioned difficulties, this issue constitutes one of the major challenges within the re-establishment of rights, particularly from the perspective of 'do no harm' – the central pillar of the differentiated care approach.

# Chapter 4. Public expenditure on child protection

In analysing Colombia's public expenditure for its girls, boys and adolescents, questions arise regarding the level (How much money is spent?), the composition (Which sectors are covered?), the dynamic (How did this expenditure pattern evolve and where will it lead?), and the institutional implications (What are the consequences of the financing scheme to the system's operations?). These same concerns come up when looking at social expenditure related to the protection of children and adolescents. The country has made progress in analysing public expenditure on children in general, which constitutes a major feat, inasmuch as the figure must be inferred from public expenditure in each sector. Arriving at a calculation of public expenditure to prevent and respond to the violation of rights constitutes an even larger challenge. This chapter begins with a broader analysis of public expenditure in order to gradually approach the costs of protection.

The literature on public expenditure for children and adolescents in Colombia identifies a series of priority sectors. The main criterion used is whether girls and boys are actually the principal beneficiaries of a programme or public policy (that is, whether the programme is designed fundamentally for them). By the same token, the measurement includes those programmes that, while not designed exclusively for children, affect them directly and in a manner different from adults.

Table 1 presents estimated expenditure in four sectors:

- 1) Education, where the study used as a reference the resources destined for coverage, quality and care for pre-school, primary and secondary education (both basic and vocational)
- 2) Health, with the total estimated resources needed by the insurance system to provide coverage to the total population of the country between 0 and 17 years of age
- 3) ICBF, the national entity with the greatest resources and competency for the specific care of children
- 4) The National Police (including both the Police for Children and Adolescents, as well as the Criminal Investigation Branches), since these entities manage separate areas of care for children's issues and, as noted in previous chapters, have specific responsibilities in preventing and responding to the three rights violations explored in this study.

**Table 1. Selected public expenditure on children and adolescents, 2012-2014 (in millions of US dollars<sup>35</sup>)**

Sector	2012	2013	2014
1. Total public sector basic education	\$9,420	\$10,226	\$10,532
2. Total contributory & subsidized health system, (girls and boys under age 18)	\$2,230	\$2,131	\$2,429
3. ICBF budget	\$1,543	\$1,769	\$1,757
4. National Police budget	\$2,604	\$2,821	\$2,904
<b>Total expenditure (on infants, children &amp; adolescents)</b>	<b>\$15,797</b>	<b>\$16,947</b>	<b>\$17,622</b>

Source: Created by the authors based on data from the National Ministry of Education, the Ministry of Health and Social Protection, and the Department of Treasury and Public Credit.

To estimate the expenditures that the country carries out to prevent violations and re-establish children's rights, one needs to take into account the resources that the central government transfers to institutions authorized or obligated to work on child protection issues. The ICBF plays the predominant role in child protection due to its mission, along with other entities described in Chapter 3 of this report. The bulk of the mandate for re-establishment of rights is assumed by the Directorate of Protection of the ICBF, with responsibilities to guarantee rights, handle threats and take measures to provide immediate protection and emergency assistance. Moreover, ICBF sections such as Family and Victims also have specific roles on issues of prevention, assistance and re-establishment of rights. However, as Table 2 indicates, the ICBF's budget is the least significant of all four sectors considered, as measured by its share within the total social expenditures for children.

**Table 2. Public expenditure on children and adolescents, 2012-2014 (as a percentage of GDP)**

Sector	2012	2013	2014
1. Total public sector basic education	11.5%	12.5%	12.9%
2. Total contributory & subsidized health system, (girls and boys under age 18)	2.7%	2.6%	3.0%
3. ICBF budget	1.9%	2.2%	2.2%
4. National Police budget	3.2%	3.5%	3.6%
<b>Expenditure on childhood and adolescence as percentage of GDP</b>	<b>19.4%</b>	<b>20.8%</b>	<b>21.6%</b>

Source: Created by the authors based on data from the National Ministry of Education, the Ministry of Health and Social Protection, and the Department of Treasury and Public Credit.

<sup>35</sup> All financial data provided hereafter use the exchange rate of 1 US dollar = COP 2,555 (as of June 2015).

Table 3 shows the budget of the ICBF Directorate of Protection disaggregated by the amounts allocated to the three rights violations analysed in this document. The total budget of the Directorate of Protection was \$169 million in 2014, which is 9.6 per cent of the total budget of ICBF that year. These resources represent approximately 1 per cent of the funds included in the analysis of public expenditures on children carried out the same year. According to administrative records, a little more than 92,000 girls and boys were registered as having received an Administrative Process for the Re-establishment of Rights (PARD) in 2014, which accounts for about 5 per cent of the total population assisted by the ICBF.

**Table 3. Resources of the ICBF Directorate of Protection in 2014 for three selected rights violations (in millions of US dollars)**

Unit	Activity	Current budget
Different modalities to re-establish the rights of girls, boys and adolescents	Guaranteeing girls, boys and adolescents immediate institutional protection through initial placement, temporary homes and emergency centres	\$5.54
	Strengthening and equipping girls, boys and adolescents to overcome crises generated by situations of lack of care, threats and rights violations, through support and strengthening of families	\$33.88
	Generating assistance processes to prevent greater levels of threat, lack of care and rights violations, through services such as protection centres, foster homes, half-way houses, etc.	\$124.80
	Supporting processes related to the re-establishment of rights, civic responsibility and social integration of girls, boys and adolescents who have been victims of armed conflict	\$4.66
	Financing emergency assistance needs in cases of re-establishment of rights that arise among children under the special protection of the State through the ICBF	\$0.73
	<b>Total for selected areas</b>	<b>\$169.61</b>

Source: Created by the authors based on 2014 data from the ICBF.

The first four items in Table 3 show financing for assistance in the various environments described in the chapter on institutional architecture (Emergency Centres and specialized care); there is considerable debate as to whether these budgets are sufficient to guarantee adequate operations. Repeatedly during this study, service providers contracted by the municipalities noted that the payment per child provided by ICBF was insufficient to comply with the standards of quality demanded of them, and that some services are not offered because they generate a recurring deficit.

The Victims Unit (UARIV) is responsible for administrative work involving reparations for girls, boys and adolescents who have been forcibly recruited into armed groups. It uses a standard value per case of 30 times the minimum monthly wage legally in force according to current legislation; at 2015 prices, this comes to \$7,554 per child. The total amount earmarked for assistance to this area depends on the total number of girls, boys and adolescents who are eventually covered by this measure.

**Table 4. Victims of forced recruitment registered with the Victims Unit and compensated, 2010-2015**

Age of registered victims			Total number of children registered	Number of children compensated to date (2010-2015)	Total value expended	Total value to be paid (in millions)
Between 0 and 5	Between 6 and 12	Between 13 and 17				
25	45	248	318	50	\$367,000	\$2.322

Source: Created by the authors based on data from UARIV.

It should be recognized that the \$2.32 million that the Victims Unit has set aside to compensate victims of recruitment during the period 2010-2015 is likely to increase rapidly for two reasons: 1) the post-conflict scenario in which it is expected that a sizable number of children will be demobilized from the conflict, and 2) the growth of the minimum wage, which determines the expenditure per case on reparations (Table 4).

The bulk of financial resources (98.6 per cent) linked to child protection issues are concentrated in just one institution, the ICBF, which has suffered serious cutbacks in its budget, as mentioned earlier.

The following section describes the composition of public expenditure on children made by departmental and municipal entities, as well as specific expenditures on protection (including prevention and re-establishment of rights) for the child population whose rights have been violated. The analysis takes into account the different funding sources of subnational agencies, namely: the General System of Financial Participation (transfers from the national level) and their own resources (at subnational level). Table 5 shows public expenditure for children (by sector) implemented in the country between 2012 and 2014, based on the information collected by the 'Unique Territorial Format'. The FUT, as it is known, details investments and expenditures of various social programmes implemented at the subnational level through the fiscal year. In recent years, the country has made a considerable effort to increase resources destined for children and adolescents, recording a rise of approximately \$4 billion between 2012 and 2014 in total expenditures, which represents an increase in real terms of between 9 per cent and 11 per cent<sup>36</sup> a year.

When analysing the distribution of this expenditure by type of subnational agency, it is evident that a high concentration of resources are invested in a few municipalities: Approximately 30 per cent of the total resources are spent in just three municipalities (Bogota, Medellin and Cali). This is due, in part, to the large populations concentrated in these three cities, but also to the specialized infrastructure and supply of services they can call upon.

It is also worthwhile to analyse the distribution of resources for subnational agencies, according to their source of funds – that is, to determine what percentage of their budget comes from either the transfer of resources from the central level (through a mechanism called the General System of Participation, or SGP<sup>37</sup>) or from their own resources at the departmental or municipal level. In fact, for all the components/items of expenditure, an average of 96 per cent of the financial resources come

<sup>36</sup> Calculation takes into account the official data of the Banco de la República de Colombia, with an average inflation rate of 2.5 per cent over the last three years.

<sup>37</sup> SGP or the General System of Participation is the mechanism whereby the central government allocates budgetary resources to subnational bodies at departmental and municipal levels to cover financial obligations.

from the central level and only 4 per cent of resources are generated by the subnational entity (Table 5). Thus, the capacity of local agencies to finance projects that benefit the local community is limited by the funding restrictions (by sector and by amount) that the central government assigns them each year as part of the comprehensive protection system.

**Table 5. Percentage of public expenditures on children and adolescents by funding source, 2012-2014**

Components of expenditure	Funding source	
	Own (local) resources	Transfers / SGP
Education	2.6%	97.4%
Health	4.2%	95.8%
Social inclusion and reconciliation	4.8%	95.2%
Sports and culture	19.2%	80.8%
<b>Total gross national product</b>	<b>3.6%</b>	<b>96.4%</b>

Source: Created by the authors based on data from Unique Territorial Format, 2012- 2013.

In sum, Table 6 shows the budget that is designated exclusively for the protection of girls, boys and adolescents whose rights have been violated, which comprises part of the public expenditure on children described above. It should be noted that this expenditure includes the prevention, protection and reparations costs for all violated rights related to the protection of the population under 18 years of age, and not only the three rights violations analysed in this study.

The estimated expenditure for protection is comprised of all financial resources that are registered for the following sectors: comprehensive protection of infants, children and adolescents, as well as justice and security. As with the national public expenditure, spending for protection showed an increase of \$15.6 million between 2012 and 2013, which represents a rise of only 3 per cent.<sup>38</sup> The data for 2014 demonstrate that, during the period from January to September, \$15.4 million was spent, a figure that should, by the end of the year, show a similar growth trend as in the previous two years, of between 3 per cent and 4 per cent.

<sup>38</sup> Calculation carried out taking into account the official information of Banco de la República de Colombia, the central bank of the country, using an average inflation over the past three years of 2.5 per cent.



**Table 6. Public expenditure on child protection, 2012-2014 (in millions of US dollars)**

<b>Public expenditure on child protection</b>	<b>2012</b>	<b>2013</b>	<b>2014*</b>
<b>Comprehensive protection of infants</b>			
Training human resources	1.03	7.13	-
Outlay for teaching	0.17	-	-
Inputs and supplies	0.71	-	-
<b>Comprehensive protection of children</b>			
Contracting services	53.56	65.98	44.68
Training human resources	9.12	11.75	14.87
Inputs and supplies	9.78	7.24	6.29
<b>Comprehensive protection of adolescents</b>			
Contracting services	37.67	24.22	21.69
Training human resources	10.80	11.27	11.99
Inputs and supplies	4.98	6.28	4.42
<b>Justice and security</b>			
Commissaries of the Family	23.93	23.34	26.15
Peacebuilding and family home support	12.86	23.34	24.08
<b>Total protection of girls, boys &amp; adolescents</b>	<b>164.6</b>	<b>180.55</b>	<b>154.16</b>

\* Information for 2014 includes data from January to September.

Source: Unique Territorial Format, 2012-2013.

# Chapter 5. Conclusions and recommendations

## Conclusions

*On the functions and capacity of the national child protection system to re-establish rights and prevent rights violations:*

- The process of re-establishing rights for girls, boys and adolescents requires the strengthening of a system that guarantees efficient management, coordination, norms, financial resources and the supply of timely, quality services.
- Governance and management of the administrative authorities is divided between at least two types of administrative entities: Family Defenders under the ICBF on the one hand, and Police Inspectors and Commissaries of the Family under the municipal government, on the other. It should be noted that the Commissaries have no national coordinating body. Traditional Indigenous Authorities sometimes follow the lead of the ICBF or the Commissaries; an added problem is that they are often unclear as to their own role as administrative authorities and lack the capacity to exercise it.
- The various interviews undertaken indicate that, despite existing rules for administrative authorities on the re-establishment of rights, the rules are not clear enough in defining the roles of each authority. In addition, while protection services are usually contracted under the technical guidelines of the ICBF, municipal and private providers of protection services (where they exist) often operate under their own guidelines.
- Each administrative authority for the re-establishment of rights establishes its own protocol for dealing with sectoral institutions involved in child protection. For instance, Commissaries of the Family may assign a child victim of sexual exploitation directly to a specific health service provider, while Family Defenders may assign the case to the Health Department for action. This generates confusion and duplication of effort for officials, children and their families.
- A significant imbalance was found between the resources available to the Family Defender's office (under the ICBF) and those available to the Commissaries of the Family (under the local mayor's office), particularly in small municipalities. While both are involved in the two aspects of re-establishing rights (legal measures and service provision), their respective ability and capacity to deliver services are different, generating disparities in the care provided to victims. Part of the explanation for this lies in the structure and financing of the protection sector, which has various sources of funds that go to different agencies.
- Data on cases reported and care for individual victims is registered in different systems, with widely varying procedures and controls, as noted above. As a result, the quality of the information is weak, complicating the monitoring and analysis of information for programmatic

decision-making and public policy at national and subnational levels. Information management poses serious problems due to under-registration of violations and to the limitations of institutions in maintaining and tracking the data.

*On coordination within the child protection system:*

- The structure of the child protection system affects its ability to effectively re-establish rights, since the administrative authority that dictates legal measures is a part of the same entity of the Executive Branch that is in charge of providing care services. This implies that the objectivity of decision-making is at risk, since the decisions taken by the administrative authorities to re-establish rights put pressure on the institutional budget and service capacity of either the ICBF or the local authorities, depending on the decision-maker. For this reason, the system tends to determine legal measures based on the established local capacity to provide services, rather than on the real needs of the child.
- The existence of inter-institutional commissions and committees demonstrates the effort made to achieve coordination among entities with complementary functions to prevent rights violations. However, this does not always result in coordination between local and national levels. In addition, the effort has not resulted in efficient and timely actions at the municipal level where child victims are located, and the impact is minimal. Many municipalities and various institutions within them carry out activities following their own guidelines and approaches, with budgets from their development plans. This fragmented system (for all the reasons cited above) sometimes results in the re-victimization of children, due to difficulties in access to services or the continuity of the process.
- Some successful models of inter-institutional and intersectoral management should be highlighted. These include CAIVAS (Centres for Comprehensive Investigation and Assistance to Victims of Sexual Crimes), CAVIF (Centres for Comprehensive Attention and Investigation against Intra-Family Violence) and the Houses of Justice, which seek to coordinate actions in the re-establishment of justice and the prevention of rights violations, avoiding re-victimization. It should be noted, however, that serious constraints must be addressed in the provision of equipment, funding and human resources to these institutions, especially in isolated municipalities.
- Different levels of progress can be seen in the National System of Family Welfare, with greater evidence on prevention and a significant delay in the integration of the process of re-establishment of rights in the Technical Working Groups and in decision-taking and policy-making bodies. This underscores the low prioritization of resources dedicated by municipalities to the re-establishment of rights.
- The human resources of the national committees on protection issues (for example, against recruitment, violence and sexual exploitation) tend to be insufficient, have high turnover, and show little impact at the local level.

*On public expenditure for the child protection system:*

- The estimated budget allocated to child protection, both for prevention and assistance, ranges from \$172 million to \$431 million. Considering this sum, it is perhaps inappropriate to talk of a protection system that is 'underfinanced'. Nevertheless, the resources currently available for direct assistance in protection are plainly insufficient to meet the demand, as indicated by the number of cases referred to the competent authorities.
- Financial data collected show that, in general, while social expenditures for children are on the rise (both in nominal and real terms), the resources allocated for prevention and the re-establishment of rights is declining. This contradiction, which shows a change in the priorities of public expenditure, compromises the level of care available to girls and boys whose rights have been violated.
- Based on national budget data and field visit findings, it is evident that there is not always a balance between the resources available and the functions of agencies within the National System of Family Welfare. Those agencies that have the most resources do not necessarily have the greatest responsibilities, and vice versa. This results in bottlenecks that impede the smooth functioning of the entire system.
- The Directorate of Protection (within the ICBF) saw its resources reduced by over 40 per cent from 2014 to 2015, due to the budgetary cuts resulting from overall fiscal deficits in the Colombian government. Just to maintain a stable level of assistance at subnational levels would require a greater contribution by departmental and local governments, which have not historically provided significant resources for these expenditures. If this situation holds, the system will have to reduce both the number of slots available for treatment and the level of care provided to children whose rights have been violated.

## **Recommendations**

*For the ICBF, as the lead institution in the National System of Family Welfare:*

- The current regulations on the roles of administrative authorities for re-establishment of rights should be revised to clarify governance, funding and information management responsibilities.
- It is necessary to review the way in which the guidelines of the PARD (Administrative Process for the Re-establishment of Rights) are interpreted and applied in practice, to ensure that the decisions and actions taken are based on the principle of the best interests of the child, and not on any consideration of the financial, human or institutional constraints, or other factors.
- There is value-added in supporting the mobile units used by Family Defenders at the local level to travel to rural areas to respond to the needs of vulnerable children and youth. The budget for these mobile units should be maintained and gradually increased. By the same token, the ICBF

must ensure coordination with its teams based at zonal centres to guarantee effective referral and care to cases that require specialized attention.

- The ICBF should take these recommendations as a contribution from the viewpoint of various government agencies that comprise the National Family Welfare System. They are aimed at improving the quality of the State's response in child protection, in line with the observations of the Committee on the Rights of the Child in early 2015.
- One positive step forward in the re-establishment of rights is the recognition that different types of rights violations require a differentiated approach in specialized services. While the ICBF has made progress in the provision of such services, the challenge lies in extending these services throughout the country, in coordination with various entities of the National System of Family Welfare and local authorities.
- On the specific issue of sexual exploitation and trafficking: In order to effectively re-establish rights for child and adolescent victims, the National Committee against commercial sexual exploitation of children recommends the allocation of budgetary resources to: 1) strengthen human resources, 2) provide logistical support for surveillance, control and judicial investigation, 3) transport and accompany victims, and 4) create reception centres, shelters and specialized assistance to victims throughout the country. The ICBF, as the technical secretariat of the National Committee, should follow up on the implementation of these recommendations.
- It is necessary to strengthen coordination among key stakeholders who are responsible for child protection at the local level. One way of doing this is by strengthening the capacity of children and youth working groups ('mesas de infancia y adolescencia') at national, departmental and local levels. The process of public accountability by outgoing governors and mayors, and the initiation of new terms for elected officials in 2016, presents a good opportunity to bolster the technical support provided to local authorities in the design and implementation of policies towards children and adolescents.
- Given the constraints faced by this study during its implementation, it was not possible to analyse properly the real costs of the administrative process of re-establishing rights and of assistance to child victims. Further research into this area is recommended, especially since the study suggests that the financial limitations of the system constitute an important cause of bottlenecks. An assessment of the real costs will permit the ICBF and mayors to demand budgetary resources based on evidence to ensure that the system functions with greater quality, efficiency and speed.

*For local authorities:*

- The budget for administrative authorities for the re-establishment of rights must be increased to guarantee the funds and capacity required by all teams. By the same token, greater resources are needed at the municipal level to guarantee a timely supply of prevention and care services in response to the real demand.

- Bottlenecks caused by the lack of resources demand joint financial planning among the agents of the national protection system, especially those actors who intervene in the road map to care for children and adolescents. The system could function more smoothly if centralized funds were rapidly disbursed to specialized actors in the re-establishment of rights, thus avoiding the piling up of caseloads.
- Although the law permits local governments to use financial resources from the SGP (General System of Participation) to run the Commissaries of the Family, the funding provided by most municipalities for this purpose is little or none. Mayors and governors should be informed about the funding mechanisms and urged to prioritize child protection issues.
- Resources are currently allocated based on population size rather than demand. The study recommends making realistic projections of the likely need for assistance at municipal levels, especially in a post-peace accord context. The means of allocating resources could include the transfer of funds to regional branches of the National Family Welfare Institute or direct allocations to specific thematic projects led and monitored by other local authorities.

*For national agencies:*

- Mental health-care needs to be strengthened through the provision of psychosocial support to young victims of the conflict and their families.
- A laudable effort has been made to reconceptualize the issue of recruitment by non-State armed groups and of commercial sexual exploitation, clearly recognizing recruited children and adolescents as victims, and the person who recruits or exploits them as the criminal. The current challenge lies in maintaining this recognition of the child as victim and avoiding blame, stigmatization or punishment of the victim.
- National and subnational programmes for prevention should be reviewed to guarantee that they have a long-term perspective (beyond one-off awareness-raising campaigns) that does not change with new governments. For greater efficiency, such programmes should be coordinated with other institutions and between levels of government.
- In light of recent legal advances that strengthen the autonomy of indigenous peoples, the application of an ethnically sensitive focus both in the re-establishment of rights and in judicial processes requires a serious revision and adjustment of guidance. Specifically, clear mechanisms should be established to coordinate indigenous legal procedures with the rules of Western justice, as well as with the guidelines of the Family Defenders and the Commissaries of the Family. Moreover, guidelines with a culturally sensitive focus need to be strengthened to cover child protection services for children and adolescents in indigenous communities.
- In order to achieve efficiency in the allocation and implementation of financial resources, information systems on prevention and re-establishment of rights must be strengthened to inform timely decision-making both at national and subnational levels.

# Annex 1. Agencies and actors interviewed

## NATIONAL-LEVEL INTERVIEWS

Entity	Persons interviewed
<b>Ministerio de Salud y Protección Social</b>	- Ana María Peñuela
<b>Defensoría del Pueblo</b>	- María Cristina Hurtado, Delegada para infancia y adolescencia - Edgar Gómez, Asesor
<b>Policía Nacional, Área de Policía de Infancia y adolescencia</b>	- Capitán Laura Cruz - Subteniente Javier Beltrán - Patrulleras: Tania Ramírez y Kellyn Arroyave
<b>Ministerio del Trabajo (en Rol de presidencia del Comité intersectorial de prevención de la Explotación Sexual comercial a niños, niñas y adolescentes)</b>	- Jimena González

## SUBNATIONAL-LEVEL INTERVIEWS

City or municipality	Entity	Persons interviewed
<b>Cartagena</b>	Comisaría de Familia, Casa de la Justicia	- Margarita Robles
<b>Manizales</b>	Comisaría de Familia	- Liliana María Gómez, Comisaria de Familia - Claudia Patricia Pinilla, Psicóloga - Beatriz Helena Tabares, Trabajadora social
	Comisaría de Familia y Secretaría de Gobierno	- Diana Mejía, Secretaria de Gobierno, Coordinadora comisarías de familia - Liliana Gomez Z., Comisaria Primera de Familia (Centro) - Ana Lucia Cruz, Comisaria Tercera de Familia - Maria del Pilar Rivillas, psicóloga Comisaría segunda - Luz Helena Velez, Comisaria Segunda de Familia
	Secretaría de Salud	- Myriam Ramirez, Programa de Adolescentes e ITS - Lucia Franco, Directora de Salud Mental
	CAVIF	- Lina Cardona
	Secretaría Municipal de Desarrollo Social	- Claudia Marcela Chica, Secretaria de Desarrollo Social - Alba Betty Pineda, Profesional universitaria
<b>Quibdo</b>	Comisaría de Familia	- Claudia Inés Hurtado Garrido
	Secretaría de Inclusión Social y Secretaría de Educación	- Evila Maria Rivas Chaverra
	Secretaría de Salud	- Yaisira Maturana Amagara, Coordinadora de Salud

City or municipality	Entity	Persons interviewed
		Pública Quibdó - Ricardo Panesso Asprilla y Carlos Ventura
<b>Sibundoy</b>	Comisaría de Familia	- Miriam Torres Moreno
	Autoridad Indígena	- Castulo Chindoy y Luz Amparo Jajoy
	Asociación de Municipio	- Patricia Ortega Moreno



# Annex 2. Sectoral and regional distribution of Colombia's national budget

**Sectoral and regional distribution of Colombia's national budget: Financial resources from the national to municipal level, 2015 (in millions of US dollars)**

Item	Caribbean region	Pacific region	Amazonía region	Orinoquía region	Central region
<b>Budget 2015 (millions)</b>	<b>\$3,902</b>	<b>\$2,761</b>	<b>\$797</b>	<b>\$674</b>	<b>\$7,031</b>
<b>CULTURE</b>	\$0.33	\$0.21	\$0.23	\$0.13	\$0.10
% of total	6.0%	3.6%	17.0%	11.6%	1.7%
<b>DEFENCE &amp; POLICE</b>	\$0.03	\$0.32	\$0.17	\$0.03	\$2.97
% of total	0.5%	8.2%	4.0%	0.8%	8.1%
<b>EDUCATION</b>	\$17.27	\$21.45	\$4.01	\$6.98	\$47.03
% of total	9.5%	12.2%	7.0%	17.3%	9.8%
<b>PUBLIC PROSECUTOR'S OFFICE</b>	\$194	\$697	\$0	\$559	\$1,651
% of total	5.3%	17.3%	0.0%	38.2%	13.4%
<b>SOCIAL INCLUSION &amp; RECONCILIATION</b>	\$322.98	\$293.23	\$52.79	\$51.68	\$1,092.52
% of total	41.7%	45.2%	45.4%	35.5%	58.0%
<b>JUSTICE &amp; THE LAW</b>	\$0.52	\$0.44	\$0.17	\$0.24	\$1.19
% of total	2.2%	1.3%	18.7%	9.5%	2.2%
<b>ORGANISMS OF CONTROL</b>	\$0.07	\$0.03	\$0.07	\$0.07	\$0.23
% of total	5.8%	3.9%	8.2%	9.1%	1.0%
<b>PRESIDENCY OF THE REPUBLIC</b>	\$15	\$26	\$15	\$16	\$43
% of total	0.6%	1.2%	0.8%	0.9%	0.1%
<b>LABOUR</b>	\$4.12	\$3.00	\$1.65	\$0.95	\$2.47
% of total	1.6%	1.2%	2.7%	1.8%	0.2%
<b>HEALTH &amp; SOCIAL PROTECTION</b>	\$146.97	\$202.28	\$86.75	\$46.00	\$570.98
% of total	48.7%	77.0%	56.7%	69.6%	77.9%

Source: Created by the authors based on from data from Colombia's National Department of Planning.