



**REHABILITATION AND VICTIMS WITH DISABILITIES IN COLOMBIA:
FULL REDRESS FOR HUMAN RIGHTS VIOLATIONS THROUGH
COMMUNITY-BASED REHABILITATION PROCESSES**

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Abstract

This article argues that Community-Based Rehabilitation (CBR) processes can enhance meaningful and transformative reparations for victims with disabilities in Colombia. It first explains the legal and public policy framework for the prevention, attention, assistance and full redress of victims with disabilities in Colombia. Second, it analyzes rehabilitation as a full redress measure at the international and domestic levels. Third, it provides some insights and analyzes how CBR processes, particularly their health and empowerment components, might enhance meaningful and transforming reparations.

Key words: Rehabilitation, victims with disabilities, full-dress of human rights violations, Colombian armed conflict.

Rehabilitación y víctimas con discapacidad en Colombia: Reparación integral a las violaciones de derechos humanos a través de procesos de Rehabilitación Basada en la Comunidad

Resumen

Este artículo argumenta que la Rehabilitación Basada en la Comunidad (RBC) puede fortalecer la reparación integral, diferenciada y transformadora de las víctimas con discapacidad en Colombia. En primer lugar explica el marco legal y de política pública para la prevención, atención, asistencia y reparación integral a las víctimas con discapacidad. En segundo lugar analiza la rehabilitación como una medida de reparación en los ámbitos internacional y local. En tercer lugar provee algunas reflexiones teóricas e ideas práctica sobre cómo por procesos de RBC, particularmente en los componentes de salud y empoderamiento, pueden fortalecer la reparación integral, diferenciada y transformadora.

Palabras clave: Rehabilitación, víctimas con discapacidad, reparación integral a las víctimas, conflict armado colombiano.

Rehabilitation and victims with disabilities in Colombia: Full Redress for Human Rights Violations through Community-Based Rehabilitation Processes^{*1}

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SUMMARY

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I. Introduction

Community-Based Rehabilitation (CBR) and the Right to Full Redress share the same goal: social inclusion and the enjoyment of human and constitutional rights. The former – particularly its components regarding health and empowerment – has been developed to provide healing, meaningful and transformative actions and outcomes for persons with disabilities. CBR can be a powerful tool for fostering and enhancing full redress for victims with disabilities of the Colombian armed conflict. This article provides insights into how to achieve this.

For more than 50 years Colombia has been engaged in a non-international armed conflict that has resulted in more than 220,000 deaths, 81.5% of which constitute civilian deaths (CNMH, 2013, p. 32). It is a particularly complex conflict because of its prolonged duration, its various causes, the different actors involved (state and non-state actors), its geographical impact, differences among the affected regions, cities and rural areas, and its interaction with other forms of violence (CNMH, 2013, p. 19).

Among other reasons, the Colombian armed conflict was initially (and continues to be) caused by the violent tenure and use of the land, the concentration of unproductive land, the supply chain of the drug business, mining exploitation and other extractive businesses, energy and agro-industrial projects, as well as criminal alliances among state actors, criminal agents, politicians, civil servants and economic elites (CNMH, 2013, p. 21).

The impact upon civil society in Colombia has two main characteristics. First, it is a permanent low-level threat of violence, mainly through selective killings, enforced disappearances, forced displacements, massacres with less than six victims, kidnappings, sexual violence, and the use of landmines. Second, it involves a war strategy developed to ensure control at local level, while simultaneously reducing its visibility at the national level in order to avoid legal responsibility for the actors involved (CNMH, 2013, p. 15). Colombia's armed conflict has become a daily issue because of its rural focus, the anonymity of its victims within national politics, and the widespread perception of economic stability (CNMH, 2013, p. 14).

The legal recognition and protection of the victims of the armed conflict in Colombia has, so far, followed Wood's pattern (Wood, 2005). Sovereignty is protected as a top priority, interveners actors come second, and victims third. For decades, victims of the armed conflict were ignored due to a political discourse that legitimized war. The victims were vaguely recognized through expressions such as "civil society", "migrants" or "collateral damage" (CNMH, 2013, p. 14). Generally speaking, victims were protected by criminal law, while non-specific protection was provided and accessing full redress for human rights violations involved a numbers of burdens.

Regardless of the existence of previous efforts from the government, Law 387/1997 (Congreso de la República de Colombia, Ley

387/1997) can be considered a starting point in the systematic recognition of victims, yet it was still restricted to the internally displaced population. Regardless of the government's efforts, its implementation was hindered by political discourses of war and the denial of its impact upon civil society. Through decision T-025/2004 the Colombian Constitutional Court declared the existence of an "Unconstitutional State of Affairs" regarding systematic and gross human rights violations against the internally displaced population and the lack of a governmental response to the situation. Decision T-025/2004 represents a landmark in Colombian judicial activism. It has prompted a permanent follow-up process through which the Court monitors the outcomes of the executive branch regarding the internally displaced and, more recently, a broader spectrum of victims of the armed conflict.

As a result of this follow-up process the Constitutional Court has protected the rights of vulnerable groups, such as children (Corte Constitucional de Colombia, Auto 251/2008), women (Corte Constitucional de Colombia, Auto 092/2008), indigenous persons (Corte Constitucional de Colombia, Auto 004/2009), afro-colombian communities (Corte Constitucional de Colombia, Auto 005/2009), and persons with disabilities (Corte Constitucional de Colombia, Auto 006/2009). This "differential approach" in recognizing human diversity and the varied impact the Colombian armed conflict has on individuals and communities has been a key achievement in protecting the hu-

man rights of victims, particularly the rights of victims with disabilities.

Almost five years after an "Unconstitutional State of Affairs" was declared, through Auto 006/2009 the Court recognized the disproportionate impact of the armed conflict in terms of generating disabilities or aggravating existing conditions and social barriers. It also identified a lack of available information and government actions regarding prevention, attention and assistance, while also assessed the risks and disproportionate impacts the victims with disabilities might face in the realms of health, education, work and rehabilitation, among others. Second, the Court ordered a special program for attending and assisting internally displaced victims with disabilities according to this disproportionate impact. It is important to notice that, even if by that time Colombia had not ratified the Convention on the Rights of Persons with Disabilities (CRPD), Auto 006/2009 was highly influenced by its provisions and the social model outlined within it.

In 2011, Colombia made its greatest effort to date in recognizing and protecting the victims of the armed conflict. Through Law 1448/2011 government actions were expanded beyond internally displaced victims to include a broader spectrum, moving beyond assistance to the full redress of human rights violations. Law 1448/2011 constitutes the actual legal and public policy framework for attending, assisting and repairing the victims of the armed conflict. Rehabilitation is a measure of full redress, yet

what does rehabilitation mean to victims with disabilities? How is this different from access to regular health services and psychosocial counseling? How can rehabilitation go further to enhance social inclusion and community development? In light of these questions this article argues that CBR processes can enhance meaningful and transformative reparations for victims with disabilities. Accordingly, this article first explains the legal and public policy framework for the prevention, attention, assistance and full redress of victims with disabilities in Colombia. Second, it analyzes rehabilitation as a full redress measure at the international and domestic levels. Third, it provides some insights and analyzes how CBR processes, particularly their health and empowerment components, might enhance meaningful and transforming reparations.

II. VICTIMS WITH DISABILITIES: LEGAL AND PUBLIC POLICY FRAMEWORK

The Victims and Land Restitution Law, Law 1448/2011 (Congreso de la República de Colombia, Ley 1448/2011, art. 1), represents a landmark in the Government of Colombia's efforts to provide attention, assistance and full redress to victims, and to prevent new violations and the negative effects of an ongoing armed conflict. This Law and its regulations constitute the actual legal and public policy framework, which follows the international trends regarding reparations for gross human rights violations (United Nations General As-

sembly, 2006, par. 16). The Law establishes a transitional justice framework intended to protect the Rights to Truth, Justice and Full Redress with Guarantees of Non-Repetition among the realization of other constitutional and human rights.

Although victims of the armed conflict are entitled to the same human and constitutional rights, and the law makes an effort to enhance and foster effective access to these, there are three key rights enshrined in law for victims: the Right to Truth (Congreso de la República de Colombia, Ley 1448/2011, art. 23), Justice (Congreso de la República de Colombia, Ley 1448/2011, art. 24), and Reparation with the Guarantee of Non-Repetition (Congreso de la República de Colombia, Ley 1448/2011, art. 25).

There are four main features of Law 1448/2011. First, it recognizes that victims are the center of the public policy and are key agents in their own redress and social inclusion. Second, it recognizes the individual and collective impact of the armed conflict and provides a set of reparation measures in both levels. Third, it acknowledges diversity among the victims and the different impacts the armed conflict might have upon them. Fourth, by addressing many of the roots of the Colombian Armed Conflict, it delineates a path towards long-lasting peace. Perhaps the main challenge of Law 1448/2011 is its implementation during an ongoing armed conflict which, while trying to assist and repair damages for the victims, is also producing new ones.

The Differential Approach Principle enlightens the attention, assistance and full redress provided to the victims (Congreso de la República de Colombia, Ley 1448/2011, art. 13). Pursuant of the international and constitutional principle of equality and the correlative prohibition of discrimination, while enhancing the protection of vulnerable groups through material justice, Law 1448/2011 recognizes and develops a differential approach for implementing the set of measures available for victims of the armed conflict. The Differential Approach Principle recognizes that because of age (children and older persons), gender identity, sexual orientation, disability and ethnicity,³ or because of a social role or condition (peasants, social leaders, unions members, or human rights defenders), victims could face particular needs or higher levels of risk. Hence the measures provided might identify such circumstances and respond to them effectively. In a context where there is an ongoing armed conflict and financial resources are lacking, assisting and redressing the victims under the differential approach principle is a major challenge.

Law 1448/2011 defines victims as civilians, individually or collectively, who because of the armed conflict have suffered grievances

due to breaches of International Humanitarian Law and gross violations of International Human Rights Law (Congreso de la República de Colombia, Ley 1448/2011, art. 3). Law 1448/2011 recognizes that members of the state military can be considered victims as well, but their attention, assistance and full redress, where applicable, is managed separately from that of civilians. The members of non-state actors are not considered victims, a situation held to be constitutional by the highest Court (Corte Constitucional de Colombia, Sentencia C-253A/2012). They can access a more general offer of ex-combatant reintegration processes that will not be analyzed in this article.

Although it is difficult to identify an accurate total numbers of victims, the Colombian government estimates that 5.9 million individuals have been affected, with more than 6.6 million victimizing situations having occurred (Red Nacional de Información, 2013). It is even more difficult to know how many of these victims are persons with disabilities. The latest information available reports that 6.77% of all victims report a disability⁴. But with some victimizing situations such as landmine accidents (51%), torture (22%) and terrorist attacks (18.63%) the prevalence is more than the double.

3. Ethnicity encompasses the Indigenous, Afro-Colombian, and the Roma communities.

4. This Information was reported to the Constitutional Court on April 2013 by the National Government of Colombia. See “Disability and Social Inclusion in Colombia: Saldariaga-Concha Alternative Report to the CRPD Committee” for updated information on this matter.

Estimate of Victims with Disabilities		
Victimizing Situations	Estimate #	Estimate % of victims with disabilities
Abandonment and Forced Dispossession of the Land.	7,329	14,28
Assassination	714,303	6,03
Child Soldiers (Child recruitment or use by an armed force or armed group)	7,572	11,33
Enforced Disappearance	101,657	6,26
Internal Forced Displacement	5,409,229	5,86
Kidnapping	28,908	12,05
Landmine accident or with other unconventional device	10,479	51
Life-Threatening situations	95,842	8,03
Lost or destruction of assets or belongings	76,411	-
Sexual Violence	3,368	15,53
Terrorist attack	49,218	18,62
Torture	9,611	22,03
Other	9,078	-
Total	6,523,005⁵	6,77

Note: the information provided in this overview comes from the general tendency of victims with disabilities reported by the National Government of Colombia to the Constitutional Court applied to the updated information of victims. It is only estimated information.

It is even harder to know how many of these victims had a disability before the victimizing situation occurred, and how many were caused by the armed conflict or emerged afterwards. Because questions regarding this matter have only recently been incorporated it will take

months or years to have reliable information on this regard.

The intersection of victimizing situations and disability raises complex concerns when it comes to repairing damages and providing

5. It is important to bear in mind that this total corresponds with victimizing situations, not individual victims. An individual victim might have experienced various victimizing situations.

rehabilitation. This is not only because the armed conflict is one of the main causes of disabilities, but also because it interacts with other situations such as chronic diseases, mental-health issues, birth problems, malnutrition and HIV/AIDS (World Health Organization, 2010, p. 17). With WHO, Colombia faces the double burden of attending to, assisting and repairing damages and grievances for victims of the armed conflict, while also addressing traditional social problems relating to poverty and social inclusion (World Health Organization, 2010).

A. Prevention, Attention, Assistance and Full-Redress

The legal and public policy framework set out in Law 1448/2011 establishes three main moments in the implementation process: prevention, attention and assistance, and full redress. Because of the complex situation that this Law has to address these do not necessarily follow a sequence, and often these moments overlap with one another.

First, because the implementation of Law 1448/2011 takes place in an ongoing armed conflict, one of the government's primary goals is to prevent victims from new violations and end cycles of violence. To this end, local and national authorities devise and implement strategies on early and urgent prevention, as well as comprehensive plans. The purpose is to identify risk scenarios, define protocols, a budget and human resources, and coordinate the

actions of multiple institutions in order to prevent human rights violations or assist civilians when these are imminent. Prevention under Law 1448/2011 constitutes a set of civilian actions; military actions of prevention and protection work consistently but in a separate way.

Second, once the victimizing situation has occurred the moment of attention and assistance becomes important. Attention means that victims are provided with access to information, legal advice and psychosocial counseling in order to enhance their access to their rights and full redress (Congreso de la República de Colombia, Ley 1448/2011, art. 49). Assistance means access to a set of economic, political and social measures, programs and resources intended to reestablish human and constitutional rights of victims, and foster social inclusion. Assistance measures include urgent and humanitarian assistance in cash or kind, access to health, education, shelter, food, clothing, and work. Many of these measures depend on the social programs available locally.

For Sveaass, “[r]eparative measures are intended to acknowledge harm, as well as repair or compensate [...] violations. [...] [R]eparation denotes a process in which a person tries to come to terms with what has happened and enter a process of healing” (Sveaass, 2013, p. 4). Although the prevention, attention and assistance features are not completely new – the Colombian government has been providing these more or less with success for more than 15 years – the reparation or full redress measures are a new feature.

Pursuant of UN Basic Principles (United Nations General Assembly, 2006a), reparations and full redress measures are intended to be appropriate, meaningful and proportionate to the gravity of damage suffered. They should also be able to foster or transform the conditions under which human rights violations initially took place so that measures can foster the enjoyment of constitutional and human rights, while also ensuring justice for victims (Congreso de la República de Colombia, Ley 1448/2011, art. 25).

Full redress measures work in two different, but related, levels. They recognize damages at the individual and family levels, as well as addressing collective and social damages. Therefore, this moment also provides measures for restoring social, cultural and economic practices and values disrupted by armed conflict. These programs benefit communities, ethnic, social and political groups, as well as women's organizations, among others. Either at the individual or the collective level, Law 1448/2011 provides five different measures for the full redress of victims of the armed conflict: restitution (United Nations General Assembly, 2006; Congreso de la República de Colombia, Ley 1448/2011, art. 71), compensation (United Nations General Assembly, 2006; Congreso de la República de Colombia, Ley 1448/2011, arts. 123-133), satisfaction (United Nations General Assembly, 2006; Congreso de la República de Colombia, Ley 1448/2011, art. 139), non-repetition (United Nations General Assembly, 2006; Congreso de la República de Colombia, Ley 1448/2011, art. 149), and rehabilitation (Congreso de la

República de Colombia, Ley 1448/2011, art. 69).

III. REHABILITATION AS A FULL REDRESS MEASURE

No clear concept of rehabilitation as a full redress measure exists. Moreover, when it comes to victims with disabilities the concept is often diluted in general health services or psychosocial counseling. Often, the meaningful reparation and its ability to foster and protect human rights is co-opted by traditional medical treatments.

In this sense, for Sveaass, “[t]here is a need to discuss what rehabilitation as a form of reparation means and how this can be dealt with in practice” (Sveaass, 2013, p. 1). Regarding the post-conflict situation in the Republic of Georgia, rehabilitation is understood as aiming at improving living conditions, mainly through rebuilding basic infrastructures such as gas, water, school facilities and shelter assistance (Ruiten Van, 2009, pp. 165–168). The idea behind Van Ruiten’s rehabilitation concept is to create conditions for reconstruction and local development. In other cases, such as Macrae *et al* (1996), in an analysis on Uganda’s post-conflict situation rehabilitation is understood as a way of rebuilding health facilities or redesigning and improving the national health system. In the cases of Sierra Leone and Liberia, rehabilitation is understood as psychosocial support and physical rehabilitation for physically and psychologically vulnerable members

of the population, including interventions related to prosthesis for victims of amputation, therapeutic activities for former “child soldiers” and other victims who are not properly included in society (Medeiros, 2007, p. 499). For victims with disabilities rehabilitation is a key element when redressing human rights violations and fostering their social inclusion. Yet in order to achieve this it is paramount that we understand rehabilitation and health in a broader perspective, for that purpose the CRPD and the social model encompassed within can shed some light.

The UN Basic Principles do not define rehabilitation in detail, but state that it should include medical and psychological care as well as legal and social services (United Nations General Assembly, 2006a). Even though there is no doubt that these elements could be part of a successful rehabilitation process as a measure of redress, the UN Basic Principles do not establish any aim or purpose for such actions. The question on what constitutes rehabilitation remains uncontested.

The CRPD enshrines the Right to Habilitation and Rehabilitation for persons with disabilities (United Nations General Assembly, 2006b, art. 26), and it could be applied extensively to those who are victims. Within CRPD the Right to Habilitation and Rehabilitation seeks that persons with disabilities attain and maintain maximum independence, as well as full physical, mental, social and vocational ability. From a broader perspective, the right also aims at the full inclusion and participation of

persons with disabilities in all aspects of life (United Nations General Assembly, 2006b). The main mechanisms for achieving this end are reached through organizing, strengthening and extending comprehensive habilitation and rehabilitation services and programs; in particular, as stated in article 26, in the areas of health, employment, education and other social services.

Consistent with the UN Basic Principles, the UN Committee against Torture has incorporated medical, psychological care, and legal and social services within the rehabilitation definition (United Nations Committee Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 2012, par. 11). Moreover, and consistent with the CRPD, it has established a purpose for rehabilitation: “the restoration of function or the acquisition of new skills [...]. It seeks to enable the maximum possible self-sufficiency and function for the individuals concerned, and may involve adjustments to the person’s physical and social environment. Rehabilitation for victims should aim to restore, as far as possible, their independence, physical, mental, social and vocational ability; and full inclusion and participation in society” (United Nations Committee Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 2012). In particular, the Committee has established that the requirement to provide rehabilitation as a redress measure “does not extinguish the need to provide medical and psychosocial services for victims in the direct aftermath of torture, nor does such initial care represent the fulfillment of the obli-

gation to provide the means for as full rehabilitation as possible” (United Nations General Assembly, 2006b). This obligation is paramount when drawing relationships between the right to rehabilitation and the right to health, and between assistance and full redress, especially from a perspective that includes torture and other victimizing situations.

The Colombian legal and public policy framework for the attention, assistance and full redress of victims, pursuant to the international mainstream and, more specifically, the UN Basic Principles, defines rehabilitation measures as “a set of legal, medical, psychological and social strategies, plans, programs, and actions intended to reestablish the physical and psychosocial conditions of the victims” (Congreso de la República de Colombia, Ley 1448/2011, art. 135). Even though the Colombian concept has a purpose, when formulated in terms of reestablishing previous conditions it seems to be very narrow when compared with other definitions of rehabilitation. Yet while rehabilitation can seek for the reestablishment of previous conditions for victims, this is not always possible. Thus Colombian efforts on rehabilitation must bear in mind the main purpose outlined in the CRPD and by General Comment No. 3 on the Convention against Torture, namely acquiring a maximum of independence, physical, mental, social and vocational abilities, and working towards full social inclusion and

participation, a purpose that CBR can help to develop.

However, social inclusion is not completely alien to Law 1448/2011 and the legal and public policy framework at large. The Colombian government is obliged to design and implement a “Rehabilitation Program” with individual and collective measures for fostering and enhancing victims’ inclusion in the family, cultural life, the labor market, and in the broader social context; the Program may also foster the victims’ enjoyment of other human and constitutional rights (Congreso de la República de Colombia, Ley 1448/2011, art. 136). CBR, as it will be argued, can help to implement this legal mandate.

Despite the general and specific provisions regarding rehabilitation measures in Law 1448/2011, the regulations, particularly Decree 4800/2011,⁶ does not entail proper dispositions to be able to put into practice these general rules. There is not a proper regulation for devising and implementing the “Rehabilitation Program.” Because Law 1448/2011 presents an obligation to devise and implement a “Psychosocial Attention and Comprehensive Access to Health for Victims Program,” (PAPSIVI in Spanish) (Congreso de la República de Colombia, Ley 1448/2011, art. 137) somehow it has been incorrectly understood that the Rehabilitation Program is encompassed by the

6. When regulating the rehabilitation measures in articles 163 to 169, Decree 4800/2011 only provides for the Program on Psychosocial Attention and Comprehensive Access to Health; it does not provide for the Rehabilitation Program.

latter. The result, as prohibited in General Comment No. 3 on the Convention Against Torture, is that the rehabilitation measures have been merged into the general health services and psychosocial counseling. Rehabilitation as a redress measure has thus been rendered invisible and dependent on health issues.

For Sveaass, when it comes to rehabilitation measures as a form of redress “there is the question of what is meant by rehabilitation services. Do these consist mainly of health services or do they include a larger spectrum of other often needed forms of assistance, such as training and education, housing, legal assistance” (Sveaass, 2013, p. 3). There are great limitations for the medical model when it comes to rehabilitation, not only because of inherent limitations in the model (Sveaass, 2013, p. 4), but also because rehabilitation is not restricted to health services, or psychosocial counseling. State obligations to provide rehabilitation as a form of reparation to some groups, such as victims with disabilities, go beyond the general concept of the right to health (Sveaass, 2013, p. 5).

Rehabilitation is a freestanding right that is connected to the rights to full redress and health. In the context of Law 1448/2011 and the legal and public policy framework at large, and when it comes to victims with disabilities the question that must be asked and answered is how rehabilitation processes can be appropriate and meaningful, while fostering or transforming the previous conditions of such victims, either at the individual or the collective level.

One preliminary answer is that such forms of reparation might include health practices and psychosocial counseling, but must go beyond this to overcome other social barriers and the impact of the armed conflict.

IV. COMMUNITY-BASED REHABILITATION: A WAY TO FOSTER AND ENHANCE FULL REDRRESS, SENSE OF REPARATION AND SOCIAL INCLUSION

One way of going beyond traditional health and psychosocial practices in providing rehabilitation processes is to implement, or at least include, a full reparation approach in existing CBR processes. At the beginning CBR was primarily a process for delivering primary health care and rehabilitation services to persons with disabilities that was focused physiotherapy, assistive devices, and medical or surgical interventions (World Health Organization, 2010, p. 23). Over the last 30 years its scope has broadened considerably. Globally, CBR has been redefined as “a strategy within general community development for the rehabilitation, poverty reduction, equalization of opportunities and social inclusion of all people with disabilities,” (International Labour Organization; United Nations Educational Scientific and Cultural Organization; World Health Organization, 2004) through the combined efforts of persons with disabilities, their families, their representative organizations, the communities, and the relevant governmental and non-governmental institutions (World Health Organization, 2010, p. 34).

In light of the evolution of CBR into a broader multi-sectorial development strategy, aimed at the social inclusion of persons with disabilities, and indeed for the purpose of this article, and the victims at large, the common CBR matrix becomes a useful tool for developing a meaningful and appropriate process of reparation. The matrix consists of five key components: health (World Health Organization, 2012), education (World Health Organization, 2012a), livelihood (World Health Organization, 2012c), social (World Health Organization, 2012d), and empowerment (World Health Organization, 2012). Empowerment is a crosscutting component that exists within all the others because it is fundamental for ensuring access to each development sector and improving the quality of life and enjoyment of human rights for people with disabilities (World Health Organization, 2010, p. 24), as well as ensuring their full redress.

CBR processes are a practical strategy for the implementation of the CRPD because, as stated by WHO, first, they support community-based inclusive development. Second, they are a bottom-up strategy that starts with individuals before incorporating the whole community. Third, they present a practical strategy for meeting the basic needs of persons with disabilities, reducing poverty, and enabling access to health, education, livelihood and social opportunities (World Health Organization, 2010, p. 26).

CBR processes are not homogenous; its main virtue remains in its diversity. However, the World Health Organization's guidelines provide a basic overview of key concepts, identify

goals and outcomes, and suggest activities. The guidelines are not prescriptive (they are not a step-by-step guide) (World Health Organization, 2010, p. 12) but are instead a flexible roadmap that should be transformed and improved according to local circumstances. In light of this, Colombian CBR processes have been in the mainstream process of rehabilitation for persons with disabilities since the early 1980s. These processes started in Bogotá and then spread countrywide. They were mainly implemented by international and national organizations, and lately the local governments and the Ministry of Health have started supporting such processes (Ministerio de Salud, 2012). At the present time there exists a national network of organizations and national authorities for RBC processes. Although some efforts must be made to strengthen CBR processes in order to extend them further across the country, and making them available to the most vulnerable and excluded, the experience is still remarkable and represents important input for fostering rehabilitation processes as a way of providing full redress for victims with disabilities.

The following sections analyze WHO CBR guidelines regarding health and empowerment, and present some insights to develop rehabilitation processes for victims with disabilities in order to foster and enhance full redress. It is important to note that, first, the assistance and full redress of the victims and CBR processes share a common goal: full social inclusion. Second, in light of this common goal, reparation processes cannot be isolated from other efforts for

social inclusion. Reparations for victims with disabilities must contain both specific actions on behalf of the victims, and a broad perspective that can be implemented through social processes. In this second sense, it is not about segregated or exclusive CBR processes for victims with disabilities, but inclusive processes where a sense of meaningful and transforming reparation can be shared with other participants and the community at large.

A. Health

In the context of CBR processes health must be understood as “a state of complete physical, mental and social well-being and not merely the presence of disease or infirmity” (World Health Organization, 2012, p. 3). Health is a precondition for social inclusion. It fosters access to education, work, public and political participation, among other rights and social opportunities. The idea that CBR processes must go beyond traditional health practices does not mean that health-related activities must not be performed. Instead, CBR processes are a way of including traditional services delivered by the health system; they go beyond this towards broader conceptions of health that can lead to meaningful and transforming reparations for victims with disabilities.

When it comes to health, “[t]he role of CBR is to work closely with the health sector to ensure that the needs of people with disabilities and their family members are addressed in the areas of health promotion, prevention, medi-

cal care, rehabilitation and assistive devices” (World Health Organization, 2012). In light of the Right to Full Redress, CBR processes should be aimed at victims with disabilities, regardless of this being a previous condition, caused directly by the armed conflict, or emerging later in life. However, CBR processes must be mindful of such situations and address the different health issues that might arise.

One step in developing CBR processes, as a full redress measure, is to understand how the armed conflict, and particularly victimizing situations, can be a determinant of health. Like genetics, lifestyle, gender, income and social status, employment, education, culture, and social support (World Health Organization, 2012, p. 4), armed conflict may have an important impact on victim’s health, be it physically or mentally. Some victimizing situations might cause disability, for instance, accidents with landmines; yet this can also be the case with torture and terrorist attacks. Most of this has an impact on mental health, which can lead to psychosocial disabilities, as is evident with child soldiers and in sexual violence. But victimizing situations often occur against persons with disabilities because of the general victimization of the whole community, or because they are more vulnerable to such attacks. Recognizing all such persons as victims entitled to the right of full redress, CBR processes must assess these situations and address emerging health issues.

Even though CBR processes take place after a disability has been acquired, and the victimiz-

ing situation has occurred, some actions in the realm of prevention can be included. As stated before, the legal and public policy framework encompasses some prevention activities, mainly referred to as avoiding victimizing situations or mitigating their effects. In this sense, some preventive activities regarding health issues can be included in order to prevent at least two situations occurring: acquiring a disability because of armed conflict and addressing the vulnerability of those with disabilities within the community. Generally speaking, all actions for preventing victimizing situations can prevent the production of victims with disabilities, but some specific activities can be devised and implemented. For instance, identifying persons with disabilities in the community while devising and socializing strategies of action in cases of emergency. Educating, preventing and training first respondents in cases of accidents with landmines or sexual violence is also an option, as is facilitating access to maternal, postnatal and child health care. In addition, ensuring access to medication, food, water and shelter, as well as devising and implementing care strategies regarding mental health issues, among many others, present strong possibilities for action.

Because medical care and services are often provided by the health system, this CBR component must interact with it effectively. In light of the purposes of rehabilitation, the access to medical care can provide a cure, reduce impact, or prevent avoidable impairments or disabilities (World Health Organization, 2012, p. 33). Sometimes, CBR processes

can directly provide such medical services, or in other cases they can support or enhance its access. Even if CBR can be considered part of the health system, is not possible to rely only on such processes to address all the victims' health issues. Part of a meaningful and transforming reparation is having access to health services within the health system; this is why in the Colombian context the independent "Rehabilitation Program" (Congreso de la República de Colombia, Ley 1448/2011, art. 136) must interact effectively with the "Psychosocial Attention and Comprehensive Access to Health for the Victims Program," (PAPSIVI in Spanish) (Congreso de la República de Colombia, Ley 1448/2011, art. 137) and with the National Health System at large. Because of the close relationship between rehabilitation as a full redress measure and access to health services for victims with disabilities, the way to address these is complex. Access to health is a crosscutting issue that runs along moments of prevention, attention, assistance and full redress. However, existing CBR processes can help this crosscutting feature and foster qualified access to health for victims with disabilities before the rehabilitation process has started.

CBR process can use their experience and knowledge to gather information about available medical services in the community (World Health Organization, 2012, p. 40). They can promote and encourage persons with disabilities, their families and primary health care workers to ensure their access to early treatment from the very first moments of preven-

tion, attention and assistance (World Health Organization, 2012, p. 41). Because CBR processes work directly with victims with disabilities, their families and the community, they can facilitate referrals and provide follow-up to the medical services and other care options. CBR personnel can identify a need for specialized rehabilitation services, including physiotherapy and occupational therapy, among others (World Health Organization, 2012, p. 51). Additionally, although not every victim with a disability might need assistive devices, CBR processes can be useful tools for providing appropriate technologies, perhaps even designing or adapting them with consideration for the environmental, cultural, social and economic factors that impact communities and individuals (World Health Organization, 2012, p. 62).

Besides previous activities, CBR processes can develop rehabilitation strategies independently. Because rehabilitation goes beyond medical care and treatment, these kinds of processes must be understood as complex sets of actions aimed at fostering and enhancing meaningful reparation for victims with disabilities and working towards their the full inclusion in the community. In this sense, health issues are basic and must be addressed properly in order to foster other types of intervention in the realms of education, livelihood and work, social issues and empowerment. Without a good standard of health none of these actions will be successful, yet focusing only on health issues will not lead directly to meaningful and transforming rehabilitation as a full redress measure.

B. Empowerment

A key element of meaningful and transforming reparation is empowerment. Victims with disabilities must be able to make their own choices, stand for them and participate. Empowerment is a prerequisite for social inclusion. Empowerment is the final component of the WHO CBR Guidelines, and it is a crosscutting issue aimed at facilitating the mainstreaming of disabilities across each sector to ensure that everybody is able to fulfill their rights (World Health Organization, 2012, p. 60).

Persons with disabilities in general, and victims with disabilities in particular, experience greater disempowerment both within the family and within the community (World Health Organization, 2012, p. 3). Regardless of whether or not the disability existed before, was caused by the conflict, or emerged afterwards, they are more vulnerable to human rights violations and might face a stronger discrimination and social exclusion. Even if they are strongly supported by their families they may also be overprotected, have very limited opportunities and choices, and often they become victims and objects of pity (World Health Organization, 2012). Disempowerment fosters negative attitudes and lowers expectations regarding victims with disabilities, it fosters and enhances social exclusion and human rights violations.

Because disempowerment is also strengthened by victimizing situations and vulnerability derived from the armed conflict empowerment becomes an important issue when it comes

to developing meaningful and transforming rehabilitation processes. As WHO states, empowerment is a complex process (World Health Organization, 2012, p. 4). Overcoming disempowerment must start with people with disabilities, “shifting their mindset from being passive receivers to active contributors. [...] CBR can facilitate this process by e.g. raising awareness, providing information, building capacity, and encouraging participation, which can lead to greater control and decision-making” (World Health Organization, 2012).

CBR processes can foster and support self-advocacy and communication skills for victims with disabilities. It can foster communication for victims with disabilities so that they can speak out for themselves and connect with others, namely their families and communities. Ultimately, the scope aims at strengthening the double condition of victims with disabilities so that they can get the power necessary for making choices, expressing their own opinions, and making themselves visible within the two groups, highlighting and acting on behalf of their specific needs and situations (World Health Organization, 2012).

Moreover, in terms of individual impact for advocating and communicating, CBR processes can help to create and strengthen the community mobilization of victims with disabilities: “[C]ommunity mobilization is a strategy which aims to engage community members and empower them for change and action. The strategy is often used in low-income countries to address community development problems,

and can be used by CBR programs to ensure that communities are empowered to address the needs of people with disabilities and their family members” (World Health Organization, 2012, p. 6). The mobilization of victims with disabilities can foster meaningful and transforming reparation through CBR processes in at least in two different senses. First, by crosscutting the victims of the armed conflict perspective in the disability mainstream. Second, by crosscutting the disability perspective in the victims’ mainstream. Within both realms it is possible to find organizations and networks that are often unaware of the intersection between these two conditions. Starting with this as a powerful tool for fostering social change and transforming the living conditions of victims with disabilities, this will move them closer towards social inclusion.

However, the extent of the CBR empowerment component can go beyond this by promoting public and political participation for victims. In terms of a broader definition, participation for victims with disabilities “includes the interrelationships between people –between men and women, parents and children, people with and without disabilities– and the operation of power at every level of human interaction. Political participation includes a broad range of activities through which people develop and express their opinions on the world and how it is governed, and try to take part in and shape the decisions that affect their lives” (World Health Organization, 2012, p. 29). Strengthening participation in this broader sense is a key issue for repairing victims with disabilities.

Because participation is a principle of the legal and public policy framework established by Law 1448/2011 (Congreso de la República de Colombia, Ley 1448/2011), CBR processes can help the whole system to include victims with disabilities and their needs and interest in all participatory mechanisms, and from there advance this within political mainstream.

V. CONCLUSION

Rehabilitation is a freestanding right that is connected to the rights to full redress and health. In the context of Law 1448/2011 and the legal and public policy framework at large, and when it comes to victims with disabilities in Colombia the question that must be asked and answered is how rehabilitation processes can be appropriate and meaningful, while fostering or transforming the previous conditions of such victims, either at the individual or the collective level.

CBR is a powerful tool for developing rehabilitation processes for such victims and generating meaningful and transforming reparation processes that lead to social inclusion and the enjoyment of human and constitutional rights. They can also shed light to the concept of rehabilitation beyond the realm of health into the human rights realm. Focusing and relying on these existing CBR processes, and implementing strategies that acknowledge and repair the damages of the armed conflict can lead the Colombian government towards better support for victims with disabilities.

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