The reparations, are they impossible to pay?

The case of the reparations policy for survivors of sexual violence and victims of the armed conflict in Colombia

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FOR AND WITH SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE

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Abstract

The right to reparation for victims of human rights violations is one of the cornerstones of transitional justice, and a principle widely recognized both in the literature and in human rights standards. Despite its importance, administrative reparation programs are frequently singled out as policies with high costs and little effectiveness. However, the literature on reparations has overlooked the question of the financial viability of these programs. This text provides an analysis of the financing of administrative reparation programs, particularly in the context of reparations for sexual violence, based on the Colombian experience.We analyze how the financial viability of the reparations policy established in 2011 was defined,how the budget allocated to reparations has evolved between 2012 and 2022, and what role reparations for acts of sexual violence have played within this framework. This allows us to identify methodological, conceptual, and political elements that are crucial for determining what has worked well and what has been problematic in this process. Based on this case, we discuss factors that should be taken into account in various contexts to ensure sustainable programs that meet the rights of victims of human rights violations, especially survivors of sexual violence.

Keywords: reparations, financing, sustainability, sexual violence, armed conflict.

Resumen

El derecho a la reparación para las víctimas de violaciones a los derechos humanos es uno de los pilares de la justicia transicional y un principio reconocido ampliamente tanto por la literatura, como por los estándares de derechos humanos. A pesar de su importancia, los programas administrativos de reparación suelen ser señalados como políticas con altos costos y poco efectivas. Sin embargo, la literatura sobre reparaciones ha dejado de lado la pregunta por la viabilidad financiera de estos programas. Este texto aporta el análisis sobre la financiación de los programas administrativos de reparación, en particular la reparación de la violencia sexual, a partir de la experiencia Colombiana. Analizamos cómo se definió la viabilidad financiera de la política de reparaciones creada en 2011, cómo se ha comportado el presupuesto destinado a las reparaciones entre 2012 y 2022 y cuál ha sido el lugar de la reparación de los hechos de violencia sexual en este marco. Esto nos permite identificar elementos metodológicos, conceptuales y políticos que son importantes para establecer qué ha funcionado bien y qué ha sido problemático en este proceso. A partir de este caso, discutimos factores que deben tenerse en cuenta en distintos contextos para garantizar programas sostenibles que satisfagan los derechos de las víctimas de violaciones de derechos humanos, especialmente las sobrevivientes de violencia sexual.

Palabras clave: reparaciones, financiamiento, sostenibilidad, violencia sexual, conflicto armado

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ARE REPARATIONS IMPOSSIBLE TO PAY? COLOMBIA'S REPARATION POLICY FOR SURVIVORS OF SEXUAL VIOLENCE AND VICTIMS OF THE ARMED CONFLICT

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Content

Introduction

Reparation for victims of human rights violations is a principle that has gained broad international consensus in the last thirty years. It is currently one of the cornerstones of transitional justice and a right of victims, as demonstrated by wide-ranging jurisprudence and multiple reports issued by various international human rights mechanisms (De Greiff 2014; United Nations 2005).

The consensus surrounding the right to reparation has been accompanied by high levels of institutionalization. In addition to the reparation measures ordered by national and international judicial bodies, such as the Inter-American Court of Human Rights (Nash Rojas 2009), administrative reparation programs have spread worldwide. These programs are measures initiated by the executive or legislative branch that allow access to reparations without the evidentiary burdens and costs associated with judicial proceedings in contexts of mass human rights violations (De Greiff 2014; Sandoval 2017). According to the Transitional Justice Research Collaborative, at least fifty-three reparation programs were created in different regions of the world between 1979 and 2015 (Transitional Justice Research Collaborative n.d.).

Despite the growing importance of reparations in transitional justice contexts, administrative reparation programs are often viewed as policies whose costs are unjustified in relation to their effectiveness (De Greiff 2014). In transitioning countries facing high levels of inequality and poverty, arguments can be made that instead of allocating resources toward reparations, states should focus on strengthening their policies aimed at the most socioeconomically vulnerable sectors. This would create better opportunities for peacebuilding and democratic stabilization than would attempting to provide repair for damage that is

ultimately irreparable. Such arguments are joined by voices claiming that reparation programs are financially unsustainable, particularly in resource-constrained contexts.

These objections often lead to failed attempts to adopt reparation programs, the design of less comprehensive programs, or the exclusion of certain categories of victims and survivors from reparation measures. This is especially true in cases of sexual violence (De Greiff 2014). The exclusion of sexual violence is associated with the gender-related dimension of these crimes and the prevalence of various forms of gender inequality and discrimination, factors that also explain these crimes' underreporting and low levels of acknowledgment of responsibility by their perpetrators.

However, are administrative reparation programs for victims of severe human rights violations truly unviable or financially unsustainable? While this question underlies both the feasibility of reparation programs and their level of success, the literature on the funding of reparations is underdeveloped. With a few notable exceptions of studies addressing the political economy of reparations (Segovia 2006), most studies focus on their legal dimension, specifically the scope and content of reparations standards (Rincón 2010; Sandoval 2017), or on their socio-legal and political dimensions, with analyses centering on victims' access to such programs or on the implementation and impacts of these programs (Guarín and Londoño 2019).

This paper explores some of the central questions regarding the feasibility and sustainability of administrative reparation programs by looking at Colombia's policy on reparations for victims of the armed conflict. This policy, established through the Victims and Land Restitution Law of 2011 and its decrees, offers an ideal subject for studying the financial dimensions of administrative reparation programs. Despite facing an ever-evolving armed conflict and the challenges of being a middle-income economy with high levels of inequality, Colombia has implemented a reparation policy that recognizes a broad range of human rights violations, including various forms of sexual violence. This policy involves various types of reparation (restitution, compensation, rehabilitation, guarantees of non-repetition, collective reparations, and symbolic reparations). Compared with other countries, Colombia has one of the largest populations of potential beneficiaries, at more than seven million people (roughly 14% of the country's total

population). Comparatively, no other domestic program has registered or provided reparations to more than 2% of the population (Carr Center for Human Rights Policy 2015).

In this paper, we analyze Colombia's reparation policy by addressing three questions related to its funding:[1] How was the policy's financing process carried out? What were budget allocations like for reparations between 2012 and 2022, and what sources of funding were used? And what has been the role of reparations for acts of sexual violence within the framework of the country's armed conflict? These questions, initially descriptive, allow us to analyze the financing process behind Colombia's reparation policy and to identify any methodological, conceptual, and political elements that shed light on what has worked well and what has been problematic in this process. Our cross-cutting focus on sexual violence enables us to provide both a general overview of the financing of the reparation policy and an analysis of those types of human rights violations that are often disproportionately excluded from reparation programs.

To address these questions, we employed three methods. First, we conducted a systematic analysis of relevant official documents, such as those establishing the financial foundations of reparations and the reports monitoring policy implementation. Second, we analyzed official data on the victims' policy in Colombia. We obtained these data from secondary sources and through freedom-of-information requests, which allowed us to compile our own database that we used for descriptive statistics to support our analysis at certain points. Third, to contextualize the data and deepen our understanding of the costing and funding process for reparations, we conducted six semi-structured interviews with key former officials involved in the formulation and implementation of the reparation policy, both at the National Planning Department and the Victims' Unit.

Based on these analyses, we find that Colombia's reparation policy considered a number of key aspects regarding financial viability and sustainability. However, the Colombian case also demonstrates that

1 This paper does not analyze the land restitution policy in Colombia. Although restitution is a reparation measure for land-dispossessed individuals, it has a separate process consisting of both administrative and judicial phases.

the viability of administrative reparation programs—understood as the possibility of having the necessary resources for their effective creation and implementation—does not depend solely or even primarily on financial considerations. As suggested by comparative literature on the political economy of reparations, factors such as the political will of the administration in power, social mobilization around the rights of victims, and political consensus on the need for reparations have the potential to mobilize resources for reparations, including in resource-scarce contexts (Segovia 2006). In the Colombian case, these three factors were decisive in the approval of the law that created the reparation policy.

Once the policy was established via Law 1448 of 2011, giving it legal standing, the government embarked on a costing process. To this end, it came up with an estimate of the universe of victims, which was unknown at the time, and an approximate value of the measures that should be provided as reparations according to the law. Based on these numbers, the government then estimated the budget that would be necessary to implement the policy. Our analysis shows that despite being based on the available figures at the time and including a broad range of human rights violations, including sexual violence, this effort was a conservative exercise that resulted in an underestimation of the universe of victims and the cost of the measures. This led to the initial reparations budget being insufficient to address the actual universe of victims, which was progressively adjusted and expanded through the implementation of the Victims' Registry.

After more than twelve years of implementation, the reparation policy faces significant challenges, including with regard to its financial sustainability and the achievement of its objectives. Since 2011, the state has invested considerable economic and institutional resources and has been able to provide compensation to nearly one and a half million victims.[2] When comparing this result with the universe of

2 According to the latest figures from the Victims' Unit, as of July 31, 2023, more than 1,446,000 administrative compensation payments had been made, exceeding ten billion pesos. More information is available at https://www.unidadvictimas.gov.co/es/reparacion-individual/con-mas-de-10640-millones-de-pesos-son-reparadas-849-victimas-en-antioquia#:~:text=En%20total%2C%20más%20de%201.446,los%2010%20billones%20de%20pesos.

victims in other transitional contexts, we can conclude that reparations, despite being a massive undertaking, are financially viable. For instance, in Peru, the registered universe of victims comprises 182,350 individuals and 7,678 communities, and in Guatemala, it comprises 54,000 victims. In Indonesia, although there is no victims' registry, an estimated 233,282 individuals in 1,724 communities have been direct beneficiaries of collective reparations, and another 30,000 individuals have received cash payments through individual reparations (Carr Center for Human Rights Policy 2015). However, the compensation paid to date in Colombia accounts for only 16% of the seven million people entitled to receive it (Unidad para las Víctimas n.d.-f).[3]

Due to the large number of victims who have yet to access full reparations according to the terms established in the law—which provide not only for compensation but for other measures as well—there are new concerns about the financial sustainability of the policy. In fact, a ten-year extension was necessary for the policy to have a chance of meeting its goals. Nevertheless, the answer to the question of sustainability is a difficult one that requires a nuanced analysis. Our findings show that within the context of the victims' policy, assistance measures have overshadowed reparations. From a budgetary perspective, this means that there have been fewer resources for reparations than for assistance measures. This is due, among other factors, to the urgency of assistance measures, the technical difficulty of implementing certain reparation measures, and the fact that assistance measures are funded, to a large extent, with resources aimed at serving the entire population, not just victims. This has contributed to the perception that reparations are very costly, despite the fact that very little has actually been spent on them. Therefore, we dedicate some of the concluding reflections in this paper to what has not worked well in the implementation process and what would allow for a more sustainable reparation program.

This document consists of five sections. After this introduction, the second part provides a general analytical and normative context for our analysis, exploring the evolution of Colombia's reparation policy and what the literature has said about its financing. This allows us to

3 While the Victims' Registry contains over nine million individuals, only about seven million of them qualify as subjects of reparation according to the criteria established in Law 1448.

understand the reparation policy and its relationship with other normative frameworks and jurisprudential developments. The third section presents our analysis of how reparations have been funded. The fourth section addresses the sources of funding and budgetary commitments related to Law 1448 in general and reparations in particular. In this section, we take a specific look at the approach to reparations for survivors of sexual violence in the context of the armed conflict. The fifth section, as a conclusion, explores some financing-related challenges of Colombia's reparation policy and presents some recommendations.

1. COLOMBIA'S REPARATION POLICY FOR VICTIMS OF THE ARMED CONFLICT

More than five decades of armed conflict in Colombia left behind millions of victims and the enormous challenge of guaranteeing their rights, including comprehensive reparations. Since the late 1990s, the state has sought to address the needs of these victims. Initially, it did this through humanitarian assistance for the displaced population. Subsequently, as part of the discussions on transitional justice in the country, the state developed various mechanisms to ensure victims' rights to truth, justice, and reparations. As part of these efforts, the state has implemented both judicial and administrative avenues to guarantee victims' right to reparation. In this section, we explore the evolution of Colombia's institutional framework for reparations. We begin by providing background context for the emergence of the reparation policy and then follow this with a normative perspective. Finally, we examine the state of the conversation regarding funding for reparations in Colombia by analyzing relevant studies on the topic.

1.1. Background: Addressing the Displaced Population

For most of the twentieth century, forced displacement in Colombia remained largely unnoticed and, in many cases, justified as a consequence or a "side effect" of decades of continuous internal armed conflict (Centro Nacional de Memoria Histórica 2015). This changed in the 1990s with the emergence of social struggles to secure recognition of displacement as a phenomenon that required special attention from the state (Atehortúa and Fuentes 2013). In response, the state adopted

Law 387 in 1997, acknowledging the massive scale of this phenomenon and the need to provide humanitarian assistance to displaced persons (Ley 387 de 1997).

However, despite this step forward, the country still faced the dramatic situation of more than three million people displaced by violence, in addition to the lack of a coordinated and comprehensive response from Colombian institutions. This prompted the Constitutional Court to issue Sentence T-025 of 2004 declaring a state of unconstitutionality[4] due to the massive and repeated violation of the rights of the displaced population. This ruling marked a transformation in which forced displacement was no longer seen solely a humanitarian issue but rather one of human rights. Consequently, displaced persons began to be recognized as victims of the armed conflict and holders of rights to truth, justice, and reparation (Rodríguez Garavito and Rodríguez Franco 2010).

The court's ruling ordered the state, among other things, (i) to create an action plan to overcome the consequences of forced displacement, (ii) to make every effort to secure the necessary budget to assist victims, and (iii) to guarantee the effective enjoyment of the fundamental rights of the displaced population.

Additionally, the Constitutional Court established a dialogue-based mechanism to monitor compliance with the sentence. As part of this mechanism, it conducted an evaluation of the measures taken by the state to address the situation of displaced individuals. In this regard, it issued a series of follow-up orders where it set minimum standards for care and for compliance with international reparation standards. It also issued orders aimed at strengthening measures for compensation, land restitution, rehabilitation, truth, non-repetition,

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4 "The unconstitutional state of affairs is a legal concept or a form of decision adopted by the Constitutional Court when specific requirements are met to address a severe situation. These requirements include (1) the existence of a massive and recurrent violation of the fundamental rights of a particular population; (2) this violation is not due to specific circumstances but is typically linked to the failure of certain authorities to fulfill their legal and constitutional obligations, and thus (3) individual *tutela*s [legal actions to protect rights] are not effective because (4) general measures are needed" (Dejusticia 2022).

and justice to combat impunity in cases of displacement. Furthermore, it emphasized the need for a differentiated approach for specific populations, including women, ethnic groups, people with disabilities, and children.

While the focus of Sentence T-025 and its follow-up orders was on helping the population displaced by the armed conflict, this jurisprudence had a significant impact on subsequent developments in the field of reparations and the recognition and guarantee of victims' rights. For example, the orders addressing the situation of displaced women (such as Auto 092 of 2008) allowed for an understanding of the differentiated impacts of victimization on women, the centrality of sexual violence in the armed conflict, and the conflict's disproportionate effects on women. Consequently, they underscored the need for a differentiated response by authorities. This was crucial for ensuring that subsequent debates on reparations took into account sexual violence and its impacts, despite the underreporting of such violence. Furthermore, these orders also laid the constitutional foundations for ensuring the basic rights of victims of the armed conflict.

1.2. Early Attempts to Provide Reparation to Victims of the Armed Conflict: Judicial Reparation

In Colombia, judicial reparation has always been an option for victims of human rights violations for which the state is responsible. This type of reparation can be accessed by claiming the state's non-contractual liability before the contentious-administrative jurisdiction for acts or omissions involving human rights violations that occurred within the framework of the armed conflict. Among the potential judicial remedies that can be ordered by judges are reparations, including compensation to be paid by the entity declared responsible. For instance, in decisions by the Council of State[5] that establish the state's liability for human rights violations committed during the armed conflict, the Ministry of Defense is often ordered to pay compensation as part of the reparation. The funding for such compensation comes from the budgets of

5 Some examples include Council of State, Third Section, No. 7.267, 1992; Council of State, Third Section, No. 11.837, 1998; and Council of State, Third Section, No. 8.490, 2000.

the entities declared responsible. However, these judicial proceedings are time-consuming and require significant evidence-gathering on the part of victims. Therefore, when discussions about victims' rights began, judicial reparation was not considered an adequate mechanism for ensuring comprehensive reparation for all victims.

Starting in 2005, avenues for reparation began to expand. Law 975 of 2005, better known as the Justice and Peace Law, was the first to recognize the rights of victims to truth, justice, and reparation. Its goal was to facilitate the peace process and the social reintegration of ex-combatants, creating mechanisms to ensure the aforementioned rights of victims.

This was a significant milestone for reparations, as it established that all victims of crimes committed by those who had availed themselves of the law could access reparation. To this end, the law introduced a comprehensive judicial reparation mechanism, which, although associated with criminal proceedings against demobilized individuals, did not preclude the possibility of using other mechanisms in the future (Uprimny and Saffon 2005). Additionally, the law opened the door for the creation of administrative reparation programs and established the National Commission for Reparation and Reconciliation, which, among other functions, was responsible for monitoring and periodically evaluating reparations and recommending reparations to be funded by the Reparation Fund.

Although the law originally conceived of reparation as an obligation of the perpetrators of human rights violations, the Constitutional Court clarified that regardless of the identity of the perpetrator, the state is obliged to repair victims based on the principle of solidarity (Sentencia C-370 de 2006). According to this principle, the assets contributed by demobilized individuals were to be supplemented by the state budget, thereby expanding the sources of reparations funding to include resources from the General Budget of the Nation. To achieve this, the law created the Reparation Fund (art. 54), which would receive assets seized or voluntarily surrendered by perpetrators, resources from the national budget, and donations in cash or in kind.[6]

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6 The Constitutional Court had to clarify that the Reparation Fund should also include a contribution from the state's budget. This clarification was necessary because the effective enjoyment of the

However, during the early years of the implementation of Law 975, very limited progress was made in delivering reparations. One of the main obstacles was that it was exclusively for victims of those who were convicted. This excluded victims of armed actors other than demobilized individuals, who were primarily from paramilitary groups (Guzmán 2009). Three years after judicial proceedings under this mechanism began, none were in the final stage, meaning that no reparations had been delivered (ibid.).[7] This highlighted the need to develop other mechanisms for reparation—for example, administrative measures permitted by same the Justice and Peace Law.

1.3. In Search of Alternatives for Achieving Mass Reparation: Administrative Reparation Programs

Given the slowness of judicial reparation procedures, the state decided to develop administrative programs. The aim was to secure a quicker and more expansive reparation process, a critical need considering the growing number of reported victims.

The Administrative Reparation Program of Presidential Decree 1290 of 2008

In 2008, the administration issued Presidential Decree 1290, creating an administrative reparation program managed by the Presidential Agency for Social Action that was aimed at the victims of illegal armed groups. The program sought to redress violations of life, physical integrity, physical and mental health, individual freedom, and sexual freedom. The decree provided for individual reparations, primarily through "solidarity compensation."[8] The idea behind this approach was

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right to reparation for victims could be significantly diminished if the fund were exclusively composed of assets or resources from the members of each illegal armed group.

7 This was the procedural mechanism through which victims requested reparations, and it applied only when the competent court accepted an acknowledgment of responsibility by the accused.

8 Article 5 establishes the compensation amounts based on the following victimizing acts:

- Homicide, forced disappearance, and kidnapping: forty monthly minimum wages.

to provide a relatively prompt response without the victim needing legal representation and counsel. However, the decree was widely criticized for reducing the concept of reparation to individual measures and for prioritizing compensation over other forms of reparation (Guzmán 2009). This led to a public debate about the need to consider alternative and more robust measures for reparation.

The Victims and Land Restitution Law

On August 7, 2010, Juan Manuel Santos assumed Colombia's presidency. Two key priorities of his administration were the pursuit of peace and the recognition of the rights of victims, which by that time had broad support from the victims' movement and human rights advocates. To achieve these aims, Santos promoted a bill aimed at creating a policy for victims. In this context, in 2011, the Congress approved Law 1448, known as the Victims and Land Restitution Law (or more commonly the Victims' Law). Its main purpose was to create measures to ensure victims' rights to care, assistance, and reparation. Additionally, it included measures to guarantee the participation of victims in legal processes and established special protection measures and humanitarian aid measures (Guzmán 2012). That same year, this new legal framework was also integrated with the law decrees that were ratified after prior consultation processes with Indigenous, Afro-Colombian, Black, Palenquera, Raizal, and Rom peoples and communities (Rodríguez and Orduz 2012).

The law established that comprehensive reparation meant that "victims have the right to be compensated in an adequate, differentiated, transformative, and effective manner for the damage they have suffered" (Ley 1448 de 2011, art. 25). The concept of *transformative*

- Personal and psychological injuries resulting in permanent disability: up to forty monthly minimum wages.
- Personal and psychological injuries not causing permanent disability: up to thirty monthly minimum wages.
- Torture: thirty monthly minimum wages.
- Crimes against sexual freedom and integrity: thirty monthly minimum wages.
- Illegal recruitment of minors: thirty monthly minimum wages.
- Forced displacement: up to twenty-seven monthly minimum wages.

reparation[9] suggests that reparations are not only a form of corrective justice aimed at addressing the suffering caused by certain events but also an opportunity to promote a democratic transformation of society to overcome situations of exclusion and inequality that may have fueled the disproportionate victimization of the most vulnerable sectors (Uprimny and Saffon 2009; Uprimny and Guzmán 2010).

While the law mentioned comprehensive reparation, it did not seek to apply the judicial standard for such reparation, which aims to address the nature and extent of all the harm suffered by victims. On the contrary, in the administrative reparation measures provided for under the Victims' Law, there was no specific assessment of the harm but rather a general valuation of the reparation measures. However, unlike other administrative programs, the program under the Victims' Law was designed to complement various reparation measures and to work in conjunction with other transitional justice mechanisms and broader state policies, such as social policies. Table 1 outlines the reparation measures provided for by the program.

Furthermore, the law introduced the operational concept of "victim." In other words, it established the scope of application of the measures through personal, temporal, and event-related factors. For the purpose of determining access to the measures, the law defined victims as "those persons who, individually or collectively, have suffered harm *due to events occurring* as of January 1, 1985,[10] as a result of violations of international humanitarian law or serious and manifest violations of international human rights norms, occurring in the context of the internal armed conflict" (Ley 1448 de 2011, art. 3).

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9 This concept has been used and developed by the Inter-American Court of Human Rights.

10 Subsequently, the Constitutional Court declared the definition of victims established by the Law 1448 to be constitutional, arguing that, for fiscal reasons, the measures would apply only to those who suffered victimizing events on or after January 1, 1985, while acknowledging that those to whom it does not apply would benefit from symbolic reparations and guarantees of non-repetition as part of the broader social group, without the need for individualization. See Sentencia C-250 de 2012 and Sentencia C-253 de 2012.

Table 1. Measures included in the administrative reparation program

Type of measure	Purpose	Description
Compensation	Provide economic compensation for the victimizing acts suffered.	Delivery of established amounts depending on the victimizing event.[11]
Restitution	Restore victims to their original situation before the violations took place.	Financial measures for credit, housing restitution, employment opportunities, return, and relocation. Land restitution program, consisting of both an administrative and a judicial phase, to achieve the restitution of lands and territories that were taken during the armed conflict.
Rehabilitation	Restore the physical and psychosocial conditions of victims.	Community-based emotional rehabilitation services, psychosocial care for victims living abroad, support in the processes of searching for and handing over corpses, and strengthening of relationships of trust.
Satisfaction	Restore the dignity of victims and disseminate the truth about what happened.	State-produced messages about the dignity of victims and their exemption from military service, processes for the recognition of responsibility and requesting forgiveness, accompaniment in the delivery of corpses, and support for local memory initiatives.
Guarantees of non-recurrence	Prevent the recurrence of human rights violations and address their structural causes.	Formulation, management, and dissemination of guarantees of non-recurrence by the Victims' Unit, as well as coordinated actions among different entities, including institutional reforms and cultural transformations that require public policies.

11 Article 149 of Decree 4800 of 2011 states: "Amounts. Regardless of the estimated amount for each case in accordance with what is established in the previous article, the Special Administrative Unit for Comprehensive Care and Reparation for Victims may recognize the following amounts for administrative compensation:

1. For homicide, forced disappearance, and kidnapping, up to forty (40) legal monthly minimum wages [~US$13,108].
2. For injuries causing permanent disability, up to forty (40) legal monthly minimum wages [~US$13,108].
3. For injuries that do not result in permanent disability, up to thirty (30) legal monthly minimum wages [~US$9,831]."

Additionally, in order to support the implementation of measures for assistance and reparation, Law 1448 created a new institutional framework. First, it established the Unit for Comprehensive Assistance and Reparation for Victims (commonly known as the Victims' Unit), tasked with (i) coordinating the assistance, humanitarian aid, and reparation measures provided by the state; (ii) bringing together the entities that are part of the National System of Comprehensive Assistance and Reparation for Victims (SNARIV);[12] and (iii) administering the Reparation Fund created by Law 975 of 2005. This Victims' Unit became part of a new administrative department—the Department for Social Prosperity (DPS).

Moreover, Law 1448 created the Special Administrative Unit for Managing the Restitution of Despoiled Land to achieve the legal and physical restitution of land. The unit was tasked with designing and managing the registry of despoiled and abandoned lands, where individuals subject to restitution would be registered and their legal relationship with the land and their family unit indicated; it was also deemed responsible for carrying out the administrative phase of the restitution process. Alongside this entity, land restitution judges were appointed to oversee the judicial phase of the restitution process. Additionally, the law created the National Center for Historical Memory, which would take on many of the tasks of the National Commission for Reparation and Reconciliation, particularly those related to its Memory Group.

Meanwhile, the law decrees for ethnic peoples, which are an integral part of the victims' policy in Colombia, represent significant developments in terms of reparation. First, they recognized the ways of thought and the governing structures of these peoples and communities. The prior consultation processes that resulted in these laws allowed for the recognition of territory as a victim, an understanding of the scope of the violence committed during the armed conflict, and the inclusion of its related factors as part of the historical and structural violence to which ethnic peoples in Colombia have been exposed. They

12 This entity coordinates with other organizations that have the authority to develop or implement specific actions, plans, programs, projects, and initiatives aimed at the comprehensive care and reparation of victims.

also emphasized the collective harm suffered by ethnic peoples and communities, among other elements.

1.4. The Final Peace Agreement with the FARC and Its Impact on the Reparation Policy

The path set by the victims' policy was further advanced by the 2016 peace agreement between the national government and the Revolutionary Armed Forces of Colombia (FARC). This agreement recognized the importance of the assistance, humanitarian aid, and reparation measures for victims outlined in the Victims' Law. It thus did not create new mechanisms to guarantee the right to reparation but instead sought to strengthen existing processes, emphasizing certain components such as collective reparations.

In this regard, the agreement included the following measures: (i) early acts of recognition of collective responsibility, whereby the FARC and others acknowledge their responsibility for the harm caused; (ii) concrete actions for contributing to reparation, allowing direct participation in the measures;[13] (iii) the strengthening of collective reparations; (iv) the promotion of psychosocial rehabilitation, with measures for individual recovery and community psychosocial rehabilitation; (v) the strengthening of returns and relocations that promote interinstitutional coordination, the empowerment of community defenders, and the support of a specialized team; (vi) the strengthening and revitalization of land restitution, including the participation of local institutions and technical support to beneficiaries of restitution; and (vii) the adaptation and strengthening of the victims' policy by including victims' voices in the discussion of reparation proposals, of regulatory reforms to ensure implementation and broader coverage of measures, and of actions to ensure full and effective funding (Government of Colombia and FARC 2016).

Moreover, with the purpose of providing a coordinated and comprehensive institutional response to fulfill the rights of victims, the

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13 This may include participation in the rebuilding of infrastructure in affected areas; clean-up programs; demining contaminated areas; illicit crop substitution programs; the search, location, identification, and recovery of deceased or missing persons; and environmental restoration programs.

peace agreement established that new peace institutions should also contribute to the quest for reparation. To this end, it created the Missing Persons Search Unit, the Special Jurisdiction for Peace, and the Truth Commission, which were to join forces around the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition. This system embraces a holistic approach toward the satisfaction of victims' rights, so that each of its components contributes to ensuring these rights. It was agreed that all components of the system should satisfy victims' rights—for example, by promoting actions with a reparative content, such as satisfaction and clarification measures. These measures do not replace reparative measures but rather contribute to generating a more robust response for victims and survivors.

1.5. Significant Changes in Reparation and the Inclusion of Sexual Violence

The above overview of Colombia's legal framework for reparation for victims reflects the range of efforts made by the state to fulfill this right. It also highlights the significant changes that have occurred in the state's conceptual and policy approach to reparation. For instance, there has been a shift from a judicial focus to an administrative one. Furthermore, the transition from Decree 1290 of 2008 to Law 1448 of 2011 illustrates a move from restitutive administrative reparation to a more comprehensive and transformative approach. This indicates not only that the legal framework and existing pathways have become more complex but that so too have the goals of reparation. Beyond compensating for past events, the aim is to achieve comprehensive reparation that can transform the economic vulnerabilities that led to victimization in the first place. This naturally implies increased budgetary demands to fulfill this right, which fall primarily on the state.

Sexual violence, in various forms, has been recognized in Colombia as a violation of human rights that is subject to reparation. A milestone in this regard is the Constitutional Court's Auto 092 of 2008, which is part of the follow-up to Sentence T-025 of 2004 regarding displaced populations. Drawing on the available evidence presented in reports by women's and human rights organizations, this ruling acknowledges the differentiated impacts of the armed conflict on women and emphasizes sexual violence as a victimizing event that affects women in particular.

Furthermore, it identifies barriers to accessing institutional services as a key factor responsible for the underreporting of this type of violence. Auto 092 and subsequent follow-up orders consider sexual violence as a victimizing event that requires a state response.

Both the judicial and administrative avenues have regarded sexual violence as a violation that must be repaired from a gender perspective. This involves taking into account its gender dimension and the differentiated consequences it has for women and gender-non-conforming individuals. Law 1448 includes sexual violence as one of the victimizing events to be repaired, although it does not attribute specific or differentiated measures for doing so. Additionally, through administrative means, there has been consideration of the need to establish reparations for children who are the result of rape.

In addition to including sexual violence as one of the human rights violations to be repaired through the Victims' Law, the state has adopted several measures aimed at ensuring the recognition of and proper care for survivors. For example, Decree 1480 of 2014 declared May 25 as the National Day for the Dignity of Women Victims of Sexual Violence in the Context of the Armed Conflict. Furthermore, as part of the reparation process for victims of sexual violence, the Victims' Unit created a strategy to provide these individuals with differentiated and transformative care focused on capacity building from a rights-based perspective (Unidad de Víctimas 2020).

In contrast to other transitional contexts where such violence has been excluded or downplayed, in Colombia it has been central, at least in the development of the legal framework. As a result, sexual violence must be comprehensively and transformatively repaired according to the terms defined by the Victims' Law, granting all procedural and symbolic guarantees to its survivors.

1.6. What Do We Know about the Financing and Sustainability of Reparations in Colombia?

Although the financing of reparations has been a constant topic of conversation among policy makers, it has not been systematically explored in the literature on reparations in Colombia. Nevertheless, some studies have analyzed certain dimensions of the financing and sustainability of administrative reparation programs, with varying levels of depth.

The first studies to inquire about the financing of reparations were conducted prior to the policy established in Law 1448 of 2011. In 2010, the United States Agency for International Development presented a report that compared the structure and operational aspects of the Colombian administrative reparation program (under Decree 1290 of 2008) with reparation programs in other countries (Argentina, Chile, Iraq, Turkey, and Germany). The report explained that one of the main challenges facing the Colombian program was the availability of resources. Researchers estimated that in that year, the total value of the reparation program under Decree 1290 would amount to around four trillion Colombian pesos, approximately US$2 billion (United States Agency for International Development and International Organization for Migration 2010).

Although this estimate might suggest that a massive program with a variety of administrative reparation measures would be unfeasible in the Colombian context, as mentioned previously, Congress approved the creation of a victims' policy in 2011 that included a significant focus on transformative reparations. As some studies in the field show, this legislative approval was facilitated by various factors, such as the prioritization of such a policy by the newly elected administration of Juan Manuel Santos, strong public support for victims and their rights, and the coordinated efforts of civil society organizations and congressmembers who worked to strengthen the legal framework and incorporate the voices of victims (Uprimny and Saffon 2009).

Once the reparation policy outlined in Law 1448 came into effect, several authors focused on identifying some of the policy's financing-related challenges. For example, Ana Portilla and Cristian Correa (2015) emphasized that despite the state's budgetary efforts, there was still a significant deficit in terms of providing reparations. They noted that while the budget of the Victims' Unit was increased annually, only a small portion (1.7%) was allocated to the Reparation Fund. Their study does not specify the reasons for this or how the rest of the budget was allocated (these figures refer to the budgets of 2015 and 2016). Still, it suggests a hypothesis that is relevant for our study—namely, that reparations allocations and their implementation take a second place compared to the other measures that make up the victims' policy. The authors also highlight the management of resources, which involves constantly relying on future appropriations to cover humanitarian

assistance, negatively impacting resources for other measures such as indemnification.

In a similar but more general vein, Nelson Sánchez and Adriana Rudling conducted an assessment of the implementation of the Victims' Law in 2019 and confirmed the inherent difficulties in such an ambitious endeavor. They indicated that the growing number of victims, which at that time amounted to 19% of Colombia's population, added to the financial burden resulting from the commitment to compensate and ensure other measures for the population displaced by violence. In particular, they pointed to the decision of the Constitutional Court that led to the granting of compensation to victims of forced displacement, contrary to what was initially conceived in the Victims' Law, which aimed to provide different measures, such as housing subsidies, to such victims. The authors noted that this change had a significant fiscal impact since the majority of registered victims had experienced forced displacement, increasing the amount of resources required for compensation. This decision indeed had one of the most substantial impacts on the universe of victims to be repaired, as we will see later below.

Meanwhile, in 2021, Germán Valencia and Fredy Chaverra highlighted one of the most significant tensions in Colombia concerning reparations: the disproportionately large number of victims awaiting reparations in relation to the scarce resources available to the state. According to the authors' documentary review, the Colombian state does not have the capacity or resources to ensure the reparation of the seven million victims expecting to be repaired within the ten-year term of the law. They also pointed out that, according to the Follow-Up and Monitoring Committee for the Implementation of Law 1448, the policy has a budget hole and is underfinanced. The authors did not specify the amount of the deficit and referred to the reports of the monitoring committee, which state that the investment projections for 2030 amount to 357 trillion Colombian pesos to cover nearly nine million victims, which equates to a bit more than 15% of the national budget.

In 2022, Alejandro Rodríguez and Hobeth Martínez, researchers from Dejusticia and the Transitional Justice Network at the University of Essex, respectively, conducted a similar analysis but framed it within the implementation of the peace agreement. Their document focuses on diagnosing and analyzing the financing of points one (rural

development) and five (the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition) of the peace agreement.

Rodríguez and Martínez stated that the resources allocated to the reparation policy represent a significant fiscal effort by the state to comply with the Victim's Law. They indicated that between 2017 and 2021, the Victims' Unit received consecutive budget increases ranging from 1% to 8%. Furthermore, based on reports from the Follow-Up and Monitoring Committee, they noted that the budgeted amount when starting to implement the Victims' Law (74.9 billion Colombian pesos) has more than doubled what has been effectively spent (118 billion Colombian pesos). However, given the magnitude of the goal pursued by this policy, the allocations made to date are insufficient to meet the objective within the slated time frame. The authors also emphasized the need to analyze why, despite the significant allocation of resources, the percentage of victims who have accessed reparations is so low.

Our review reveals that analyses of this topic have been scarce and have relied on secondary sources, particularly the reports of the Follow-Up and Monitoring Committee. At the same time, these studies share several points in common that are relevant to our analysis:

i) From 2010 to the present, researchers have expressed concerns about the cost of reparations in Colombia and the state's fiscal ability to fulfill this commitment.
ii) Access to necessary information in this field has been a recurring challenge, with some observers pointing to a lack of data transparency. Consequently, one of the main sources of information has been the monitoring reports on the implementation of the Victims' Law.
iii) While there was once concern that the state was shouldering the bulk of the cost of reparations, this debate has lost relevance in the literature in recent years due to the state's legal obligation to guarantee victims' rights regardless of the attribution of responsibility in judicial proceedings.
iv) Several authors have expressed concern about new factors that have significantly affected the feasibility of achieving reparation, such as the economic fallout from the COVID-19 pandemic, other economic developments, and the constant increase in the universe of victims to be repaired.

Considering both the normative design of the reparation policy and the hypotheses derived from the literature analyzed here, the following sections explore how the reparation policy has been financed in Colombia and its financial sustainability.

2. THE FEASIBILITY OF THE ADMINISTRATIVE REPARATION POLICY AND AN ESTIMATE OF ITS COSTS

Once the Victims' Law was approved, Colombia undertook a costing exercise to establish how much it would cost to assist and repair victims according to the terms established in the law. This exercise was led by the National Planning Department and resulted in the preparation of three Conpes documents[14] determining the resources necessary for the implementation of the law. Specifically, these documents are Conpes 3712 of 2011 (National Funding Plan for the Sustainability of Law 1448), Conpes 3726 of 2012 (National Plan for Comprehensive Care

14 Conpes documents are public policy documents prepared by the National Planning Department and submitted for approval to the National Economic and Social Policy Council, which is the main government advisory body for issues related to economic and social development. In accordance with Decree 627 of 1974, the members of the council include the ministers of finance and public credit, agriculture, labor, commerce and foreign affairs; the director of the National Planning Department; the manager of Banco de la República; and, depending on the subject under discussion, any ministers not previously mentioned, the directors of the administrative departments and decentralized agencies, and any other official invited by the president. Conpes documents are the result of a process of analysis, consultation, and agreement among different government entities, the private sector, academia, and other relevant stakeholders. They are not binding, but the National Planning Department monitors their implementation in its role as technical secretariat of the council.

and Reparation for Victims), and Conpes 4031 of 2021[15] (update of the National Plan for Comprehensive Care and Reparation for Victims).

The costing of Law 1448 set out in these documents was based on an estimate of the *universe of victims* and on the definition of the *expenditure measures* involved in the implementation of the law. This exercise, as we will detail in the following sections, faced several challenges. First, there was insufficient information to estimate the universe of victims and victimizing events, since there were no records containing the type of details required by Law 1448 (namely, by time frame and type of victimizing event). Second, several of the proposed measures were new, so there were few benchmarks to help estimate the corresponding costs. Below, drawing on the official information available, we present the methodology used by the National Planning Department to reach its cost estimates. We also explain how its projections evolved throughout the implementation of the reparation policy.

2.1. Estimate of the Universe of Victims

When the Victims' Law was enacted, there was a significant underreporting of the human rights violations to be repaired. Most of the official and non-official sources cited in Conpes 3712 suffered from limitations with respect to the requirements of the Victims' Law regarding the period and the type of victimizing event. As a result, the National Planning Department had difficulty achieving the level of detail required by the law. On the one hand, according to Law 1448, reparations could be claimed for violations committed since January 1, 1985, and, on the other, the law recognized both direct victims and indirect victims (e.g., spouses, permanent partners, same-sex partners, relatives with first-degree consanguinity, and those who intervened to help the victim). Thus, given the scope of Law 1448 and the information-related limitations at the time of its rollout, any estimate risked being inaccurate or out of date with respect to the potential demand.

The registry of the administrative reparation program of Decree 1290 (henceforth referred to as the DPS registry, after the acronym of

15 This Conpes document responds to the extension of Law 1448 of 2011 provided for in Law 2078 of 2021.

the entity that was in charge of it until the Victims' Law) was the main source for estimating the universe of victims. This registry included victims registered between April 22, 2008, and April 22, 2010, for events that occurred before 2008. At the time of preparation of Conpes 3712, the registry contained 335,051 persons, of which 187,487 records included an identification of the victimizing event and 147,564 were pending identification. Of the records that had been identified, 65,848 (35%) had been approved for reparations, 75,328 (40%) had been denied, and 38,028 (20%) were reported under "technical reserve."[16] Methodologically, the National Planning Department reduced the total number of records included in its analysis by eliminating any revoked and rejected applications, those corresponding to victims who had already been compensated under the program of Decree 1290 of 2008 and Law 418 of 1997, those pending payment, and those corresponding to victims of forced displacement who had already been compensated for another victimizing event (Conpes 3712 de 2011, p. 16).

The National Planning Department then cross-checked the number of victims included in the DPS registry against data from other sources in order to control for possible shortcomings, gaps, or inaccuracies in this registry. Table 2 reconstructs the methodology used by the department to estimate the universe of victims. It shows the different sources of information that were considered for each type of victimizing event and provides a description of the methodology used to arrive at the estimate in each case.

As shown in table 2, in cases where there were multiple sources of information, the National Planning Department used the highest figure available. In cases where there was only one source, the department used that source. In no case did it attempt to use any methodology that took into account the underreporting of victims.

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16 The term "technical reserve" refers to the category assigned to records where identification has occurred but the individual has not requested any of the reparation measures.

Table 2. Methodology used for estimating of the universe of victims, according to type of victimizing event

Victimizing event	Source	Methodology
All	DPS registry Registry of Displaced Persons National Police Human Rights Observatory of the Presidential Human Rights Program National Administrative Department of Statistics Commission for the Search for Missing Persons Fondelibertad Presidential Program for Comprehensive Action against Antipersonnel Mines National Institute of Legal Medicine and Forensic Sciences Colombian Institute of Family Welfare Records, reports and research from think-tanks, universities, human rights organizations, and other civil society actors	Comparison of the DPS registry with other sources. The National Planning Department excluded from its total any applications that had been revoked or rejected, those already compensated by Decree 1290 of 2008 and Law 418 of 1997, those that were pending payment, and those corresponding to victims of forced displacement who had been compensated for another victimizing event.
Homicide	DPS registry Center for Research and Popular Education Oxfam Amnesty International (1985–2002) Resource Center for Conflict Analysis (1975–2005) Echeverry, Salazar, and Navas, 2001 (1984–1998) Gutiérrez Sanín, 2006 (1975–2004) United Nations Development Programme, 2003 (1997–2001) Sánchez and Díaz, 2005 (1990–2002) Peace Research Institute International Institute for Strategic Studies	The National Planning Department used the approximate figure of 134,000 homicides based on the DPS registry. This figure is higher than the estimates calculated by the other sources.

Victimizing event	Source	Methodology
Forced disappearance	DPS registry National Registry of Missing Persons of the National Institute of Legal Medicine and Forensic Sciences	Taking into account possible underreporting, the National Planning Department used the approximate figure of 22,200 victims of forced disappearance within the framework of the armed conflict, which is the highest figure recorded.
Personal injuries	DPS registry	The National Planning Department used the figure provided in the DPS registry since there were no alternative sources.
Abduction	DPS registry Fondelibertad (1996–2010)	The National Planning Department used the figure calculated by Fondelibertad since it was the highest.
Torture	DPS registry	The National Planning Department used the figure contained in the DPS registry. It is worth highlighting the limitation suggested by the United Nations Committee against Torture in its 2009 document CAT/C/COL/CO/4 concerning Colombia, which states that "the Committee is concerned that in practice, the charging of crimes of torture does not clearly identify cases of torture as a specific and autonomous crime since these crimes are subsumed in the aggravating circumstances of other related crimes that are considered more serious by judicial operators."
Illegal recruitment of children and adolescents	DPS registry Colombian Institute of Family Welfare	The National Planning Department compared both sources, finding a significant underreporting in the DPS registry. Therefore, it used the figure provided by the Colombian Institute of Family Welfare.

Continúa

Victimizing event	Source	Methodology
Crimes against sexual freedom and integrity	DPS registry Oxfam	Due to the difficulty of estimating a true figure for crimes against sexual freedom and integrity, the National Planning Department studied various official and unofficial sources. However, to carry out an exercise that would recognize the particular difficulties of recording this type of victimizing event, it used the data from Oxfam. This number was the product of an exercise that sought to establish the number of cases of sexual violence in the context of the armed conflict, while taking into account the underreporting of such cases.
Forced displacement	DPS registry	To calculate the number of victims of forced displacement, the National Planning Department used the DPS registry's total of approximately 618,000 households and then eliminated 78,000 victims who, in addition to being displaced, had also suffered another victimizing event.

Source: Prepared by the authors based on data from Conpes 3712

Based on the methodology just described, the National Planning Department arrived at estimates for each category of victims, as shown in table 3. These included the direct victims of all victimizing events, in addition to the indirect victims of homicide and forced disappearance. This is due to the fact that indirect victims are included in the law as beneficiaries of measures other than compensation. The result was *an estimated universe of 323,600 beneficiaries* of the law's measures for victimizing events other than forced displacement and *540,000* for forced displacement. To estimate the indirect victims of homicide and forced disappearance, the department used an expansion factor of three, accounting for the composition of the family nucleus without the presence of the murdered or disappeared member (that is, four-member families were assumed to be the average).

Table 3. Beneficiaries, according to type of victimizing event (other than forced displacement)

Source	Victimizing event	Number of beneficiaries
1\	Homicide†	217,800 (plus 72,600 indirect victims)
2\	Forced disappearance †	66,600 (plus 22,000 indirect victims)
3\	Injuries (permanent disability)	2,100
4\	Abduction	13,300
5\	Injuries (non-permanent disability)	3,900
6\	Torture	3,400
7\	Forced recruitment of minors	3,500
8\	Crimes against sexual freedom and integrity	13,000
Total number of beneficiaries due to victimizing events other than displacement		**323,600**

†	For the targets of these victimizing events, an expansion factor of three was applied, given the composition of the average Colombian family (four members per family).
1\	Source: DPS and National Planning Department estimate based on applications under Decree 1290
2, 3, 5, 6\	Source: DPS
4\	Source: Fondelibertad
7\	Source: Colombian Institute of Family Welfare
8\	Source: Oxfam

Source: Conpes 3712

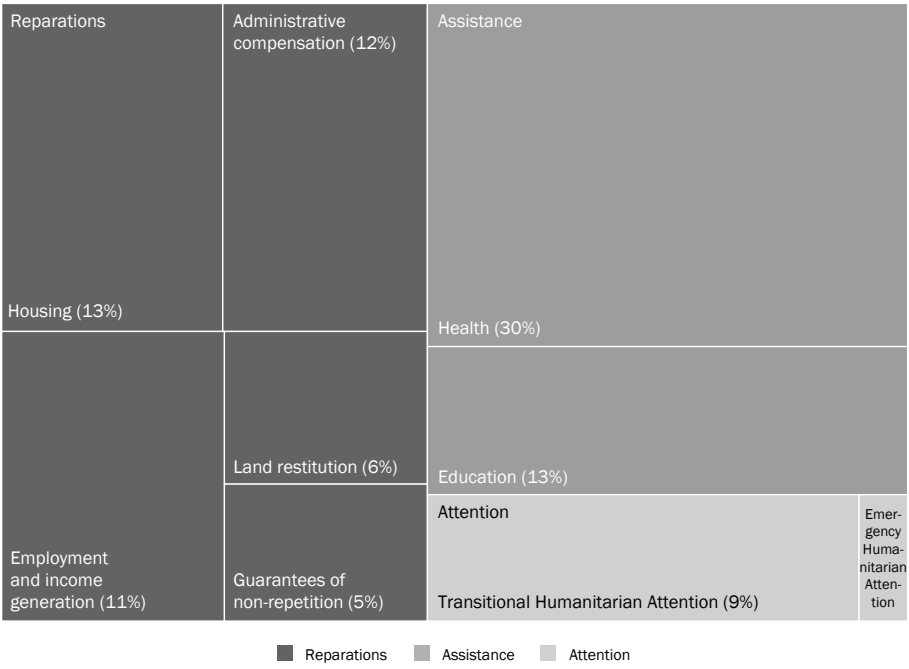
2.2. Estimate of the Costs of Remedial Action

Once it estimated the universe of beneficiaries of Law 1448, the National Planning Department costed the measures for humanitarian aid, assistance, and reparation, as well as the relevant institutional needs, in order to estimate the total cost of the policy. Given that the provisions of the Victims' Law were largely new, there was no clear starting point for the cost of each of the measures. To overcome this lack of information, the department used as benchmarks different programs and projects that were in the process of being designed or adjusted, in addition to others that were already being implemented but were focused exclusively on the displaced population.

The costing was carried out using 2011 prices for the ten years the law was originally envisaged to be in force. Specifically, the costing exercise carried out for 2012–2021 consisted of analyzing each one of

the law's measures for assistance, humanitarian aid, and reparation and disaggregating them into their components, as shown in figure 1. For assistance measures, the department estimated 22.6 billion pesos (41%); for humanitarian measures, 5.4 billion pesos (7%); and for reparation measures, 24.7 billion pesos (45%). In other words, reparation was the area with the most programmed resources.

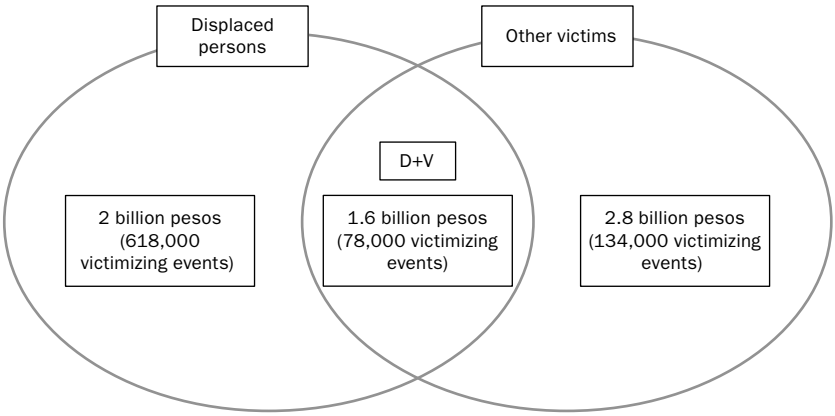
Figure 1. Share, by type of measure, of estimated expenditures for victims between 2012 and 2021



Source: Prepared by the authors based on Conpes 3712

Within the reparation category, compensation was the component with the most resources allocated to it, with a budget of 6.4 billion pesos. This represents 9% of the total budget allocated to the victims' policy and 40% of the budget allocated to reparation measures. As shown in figure 2, the distribution of the budgeted 6.4 billion consisted of 2 billion for the displaced population, 2.8 billion for victims of other acts, and 1.6 billion for the 78,000 persons who were simultaneously victims of forced displacement and another victimizing act.

Figure 2. Estimated universe for compensation through administrative channels



Source: Conpes 3712

This figure offered by Conpes 3712 shows one of the particularities of the government's effort to budget for reparations: the costing exercise tended to lump together different types of measures and victimizing events. This lack of disaggregation causes some analytical difficulties, such as when attempting to identify the resources allocated by type of victimizing event other than displacement. Therefore, it is not possible to identify what was budgeted to repair, for example, survivors of sexual violence. Furthermore, despite the attention paid to the figures available to the state at the time, the ten-year projections of Conpes 3712 did not contemplate the possible need to make adjustments over that period, nor did they take into account expected inflation or factors such as an increase in casualties.

After the publication of the Conpes documents, Colombia's president issued Regulatory Decree 4800 of 2011, which, among other things, defined the amounts of compensation for each victimizing event and the rules for the awards. For example, for crimes against sexual freedom and integrity, the decree specified that up to thirty monthly minimum wages (~US$9,800) could be paid. In addition, it provided that if a victim had been subject to more than one violation of those established in article 3 of Law 1448, the victim would be entitled to receive a maximum of forty minimum monthly wages (~US$13,100).

In 2012, the National Planning Department modified the Conpes 3712 document by issuing Conpes 3726. In this new Conpes document,

the department made a small update to the costs associated with implementing Law 1448. Although the total amount remained largely unchanged, the composition of the costs associated with the vulnerable population did change in the elaboration of the National Plan for Comprehensive Care and Reparation for Victims. For this reason, the cost of some measures increased while the cost of others decreased. Conpes 3726 was based on the budgetary guidelines of Conpes 3712; it updated the financing plan and added the differentiated approach as a costing component, so that measures that had not been fully contemplated in the initial financing plan were now estimated. Thus, the resources allocated to reparation increased from 24.6 billion pesos in Conpes 3712 to 24.7 billion pesos in Conpes 3726.

Specifically, the resources programmed for land restitution were increased by 21%, while those for employment and income generation were reduced by 7%. Satisfaction measures, which had originally been allocated only 42 billion, were now increased to 398 billion. Collective reparations were also incorporated, with a budget of 400 billion, and the budget for guarantees of non-repetition was reduced by 37%. These reconfigurations did not substantially change the overall budget, since in the end there was only a 0.3% increase in the financing plan, but they did affect the projected spending path.

The extension of the Victims' Law and the need for sound financial planning: Conpes 4031 of 2021

After the first ten years of the Victims' Law, the government recognized the need to extend it in order to cover the target universe of victims. During the first decade that the law was in force, although the reparation goal foreseen in Conpes 3712 was not achieved—according to the eighth follow-up report on the implementation of the law (Comisión de Seguimiento 2021)—there were important advances in the granting of reparation measures. For example, 889,066 people accessed rehabilitation measures and 983,038 people received administrative compensation. Compared to other programs around the world, as indicated in previous sections, not only was the proposed goal of the reparation program considerably higher, but so were the partial results of implementation.

The ten-year extension of the term of the Victims' Law brought with it the need to build a new financing plan. In a new document,

Conpes 4031 of 2021, the government took stock of the first decade of the victims' policy, stating that "75% of the resources were allocated to assistance measures, 17% to reparation, and the remaining 8% to expenditures in the cross-cutting axes of the policy by the institutions that make up the National System of Comprehensive Assistance and Reparation for Victims (SNARIV)" (Conpes 4031 de 2021, p. 10). This reinforces the idea that, in practice, reparation has received relatively less investment compared to other areas of the victims' policy.

In addition, Conpes 4031 recognized the gap between the government's initial estimate and the universe of victims that was known to exist a decade later. It also recognized the difficulty in guaranteeing the rights of victims of the armed conflict—among them, improved security conditions—in light of the persistent violence and, of course, the insufficient access to reparation measures. In addition, the document noted that despite the improvements resulting from the implementation of the Victims' Registry and the decrease in the registration rate, there were still gaps in the information on this population, which prevented a thorough and up-to-date characterization of the victims. This document aimed, then, to "implement efficiency mechanisms in public spending and reorient investment towards results" (Conpes 4031 de 2021, p. 124). In this sense, it stated that the projections for the extension were made

> taking into account an analysis of SNARIV entities' competencies and offerings, the standardization of costs of goods and services, as well as the reorientation of spending towards the latent needs of the policy, in particular, the implementation of the rights associated with reparations for victims. (Conpes 4031 de 2021, p. 124)

According to Conpes 4031, the updating process took place in three phases. In the first phase, the purpose was to eliminate any goods or services that victims were already receiving from SNARIV entities outside the scope of the victims' policy, based on a comparison of the investment projects charged to the General Budget of the Nation among the different entities of SNARIV. The second phase was aimed at improving coordination among SNARIV entities and consisted of clarifying each entity's roles and the criteria for the programming and execution of resources under the Victims' Law, seeking to establish the scope of

entities' participation, their offerings, and mechanisms for inter-agency coordination. Finally, in the third phase, SNARIV entities estimated and projected their spending under the policy. In sum, the central elements of the budget update were efficiency in spending, a precise definition of the competencies of SNARIV entities, and the implementation of targeting criteria in accordance with the roles of these entities.

Although the budget projections were updated, there were no modifications in the sources of financing, which are the General Budget of the Nation and the General System of Transfers. And although the proportion of the projected budget for assistance and humanitarian aid continued to be higher compared to reparations,[17] the Conpes document stated that there was a variation in the programmed exclusive expenditures, since reparation had a greater share than assistance and humanitarian aid.

Meanwhile, in relation to the estimates by type of expenditure, for 2022–2031, the total projected amount rose to 142.1 billion pesos (Conpes 4031 de 2021). Resources from the General Budget of the Nation for the subsidized health regime represent 38%; this is followed by investment (33%), education resources from the General System of Transfers (17%), and operating expenses other than in education and health (13%). The share of each measure is presented in detail in table 4.

Table 4. New cost projections by type of measure, 2022–2031

Measure	Billions of pesos (2022–2031)	Share (%)
Humanitarian Aid	**109.9**	**77.30%**
Food	0.4	0.30%
Education	24.1	17.00%
Income Generation	2.3	1.60%
Identification	0.1	0.10%
Family Reunification	0.6	0.40%
Health	54.5	38.40%
Minimum Subsistence	18.2	12.80%

17 This includes administrative compensation, land restitution, returns and relocations, rehabilitation, satisfaction, and collective reparations.

Measure	Billions of pesos (2022–2031)	Share (%)
Housing	9.7	6.80%
Assistance	**7.7**	**5.40%**
Orientation And Communication	7.7	5.40%
Cross-Cutting Areas	**3.7**	**2.60%**
Participation	0.1	0.10%
National Coordination	3.2	2.20%
National-Regional Coordination	0.3	0.20%
Information Systems	0.1	0.04%
Prevention and Protection	**1.0**	**0.70%**
Life, Safety, Liberty, And Integrity	1.0	0.70%
Reparations	**19.8**	**13.90%**
Employment	0.5	0.40%
Guarantee Of Non-Repetition	0.4	0.30%
Indemnification	11.5	8.10%
Rehabilitation	0.2	0.20%
Collective Reparations	0.7	0.50%
Restitution	4.6	3.30%
Return And Relocation	0.7	0.50%
Satisfaction	1.1	0.80%
Total	**142.1**	**100%**

Source: Conpes 4031

In terms of reparations, according to Annex A of Conpes 4031, the allocation for this component of Law 1448 is to be incremental. According to the National Planning Department, the projection is based on a 3% increase for each year. It is important to highlight that the new financing plan, despite establishing a progressive annual increase, is based on the spending behavior during the initial years. Therefore, while Conpes 3712 of 2011 maintained reparations as the measure with the largest share of the budget (figure 1), in Conpes 4031 reparations move to second place, after assistance measures. As we will see below, due to the fact that their resources come from the General Participation System, and because of their ease of execution, assistance measures have a considerably higher share of the budget.

The costing exercise of the measures was carried out with an acute awareness of the difficulty in accurately determining how the universe of victims would grow in the coming years, given that any change in the universe would have repercussions on the projections made in this financing plan during its execution stage. Likewise, the new document recognized that as the annual estimates become more distant in the future, they carry a greater degree of uncertainty. The reason is that the projection of this financing plan was made based on assumptions and projections, both of costs and of the evolution of the needs of victims over time, and these variables are more difficult to predict the longer the time horizon considered.

The costing of the reparation program created by the Victims' Law reveals two fundamental aspects about the government's costing exercise: first, the difficulties in obtaining sufficient sources of information to estimate both the universe of beneficiaries and the cost of the measures, and second, the importance of including multiple sources of information, both official and from organizations that have systematically collected information on human rights violations.

These aspects should come as no surprise, especially given that this reparation program has different goals and a different scope from other programs previously implemented in Colombia. Moreover, the difficulties associated with the lack of information will not endure over time; on the contrary, as the reparation program is implemented over the years, information gaps can be filled. Therefore, if the initial scenario is characterized by a dearth of information to inform estimates, periodic updates of these estimates and costs, in accordance with the information that is collected during implementation, can improve the projections in order to close the gaps between what is projected and what is required. But in Colombia this did not happen, at least not formally, with the issuance of new Conpes documents—it occurred only with the extension of the Victims' Law in 2021, despite the fact that the huge gap between what was foreseen in Conpes 3712 and the demands for the implementation of the reparation program was well known.

The Conpes 4031 of 2021 carried out this updating task in a partial manner. Although it took into account the changes in the universe of victims and benefited from the advances in information brought about by the Victims' Registry, it did not carry out a thorough process of defining goals and strategies. For example, without explanation, it

defined very moderate goals with respect to reparations. These decisions, although ostensibly technical on their face, have a political nature and should therefore be based on the most democratic and transparent definition possible of policy priorities.

The difficulties in making more precise estimates of the universe of victims and the cost of reparation measures are clear. However, carrying out this process makes it possible, at least to some extent, to construct a future scenario of the resources and sources of financing that are needed. But in the face of underestimates and the growing clarification of the variables that affect the implementation of the reparation program, it is necessary to make updates and recalculations to adjust the planning and allocation of resources, to verify whether more or new sources of funding are required, or to adapt the policy to the material possibilities for its execution.

3. SOURCES OF FINANCING AND THE BUDGET TRAJECTORY OF IMPLEMENTATION

In this section, we explore the origin of the resources to pay for reparations and how the budget allocations have played out, with a special focus on violations related to sexual violence. This allows us to show that while the sources of financing have been relatively stable, the Reparation Fund has been unable to fulfill its purpose. In addition, we observe that the general panorama of budgetary allocations is characterized largely by a gap between the estimates in Conpes 3712 and 3726 and the budgetary commitments that have been assumed. To this end, we draw on our own calculations based on information provided by the Ministry of Finance and Public Credit to present in detail how budget allocations have been made.[18]

3.1. Sources of Financing for the Reparation Policy

The state has used various sources to finance the measures created to provide assistance, humanitarian aid, and comprehensive reparation for persons who have been affected by the internal armed conflict. These sources do not disaggregate their budgetary allocations by population or victimizing event, which makes it difficult to identify the funds that have been specifically allocated to provide reparations for acts of sexual violence.

18 This information was provided in response to a freedom-of-information request.

The sources of financing for the reparation measures of Law 1448 of 2011 are the General Budget of the Nation, with the main share; the General System of Transfers, mainly for assistance measures (health and education); the General System of Royalties; and the Reparation Fund. Below, we explore the share of each funding source in the reparation program.

The General Budget of the Nation

The General Budget of the Nation is the main instrument of Colombia's fiscal policy. It programs and records public spending, its financing methods, and the rules for its execution; therefore, it contains revenues and expenditures. With respect to revenues, it includes tax and non-tax contributions, internal and external sources of credit, and the revenues of public establishments. On the expenditure side, it includes operating, investment, and debt service costs.

As the main financial instrument, the General Budget of the Nation incorporates resources and spending aimed at complying with most of the measures of Law 1448. These include, for example, health care through the subsidized regime to which victims, including survivors of sexual violence, have access; the provision of goods and services to which victims are entitled due to their status as Colombian citizens (expenditure on demand); and expenditure on the specific rights of victims (exclusive expenditure) arising from the damages resulting from the internal armed conflict, including victims of sexual violence (Conpes 4031 de 2021).

As we will show, there are other sources of funding earmarked for specific measures. Two of them—the Reparation Fund and the General System of Royalties—are not included in the revenues of the General Budget of the Nation, while the General System of Transfers is included but is executed by regional entities.

The Reparation Fund

This fund was created specifically to finance reparations for victims of the armed conflict. Its creation was based on the need to ensure that those responsible for human rights violations contribute to the satisfaction of victims' right to reparation. To this end, it aims to ensure that

those responsible hand over the assets they acquired as a result of the conflict and that these assets are used for the payment of reparations.

The Reparation Fund is intended for the payment of compensation and is responsible for receiving, administering, and monetizing assets (movable and immovable) and resources delivered by illegal armed groups or individuals; resources from the General Budget of the Nation; donations in cash or in kind (domestic or foreign); and new sources of funding (Ley 975 de 2005, art. 54, amended by art. 177 of Ley 1448 de 2011).

The fund, however, has not been able to provide significant resources for reparation payments. To start, the monetization of the goods and other resources it receives has been a problematic aspect when it comes to dispensing the resources, as we will detail in the last section of this paper. Moreover, the operation of the fund also generates administrative costs that are charged to the general budget. Thus, although the fund's existence can be read as a bid to diversify the sources of resources for reparations, its ineffectiveness suggests that such diversification has been insufficient in the Colombian case.

Local and regional authorities

While local and regional entities make contributions to reparation measures, they mainly contribute to assistance and humanitarian aid measures. The departments, districts, and municipalities of Colombia are obligated to contribute to the financing of the measures established in the Victims' Law, through their own resources from the departmental, district, or municipal budget; from the General System of Transfers; and from the General System of Royalties.

The General System of Transfers is composed of transfers from the General Budget of the Nation made by the nation to regional entities in order to cover basic needs mainly in education, health, potable water, and sanitation. These resources seek to close social gaps and benefit communities in vulnerable conditions, which is why a large percentage of the assistance measures come from this source. It is important to point out that the resources of the General System of Transfers are aimed at serving the entire population of Colombia, not just the victim

population. Therefore, as we will show in the following section, when the General System of Transfers expenditure is taken out of the implementation picture, since these are not targeted resources for victims and survivors, the budget shares of the measures change.

Meanwhile, the resources of the General System of Royalties come from the exploitation of natural resources. They are not part of the General Budget of the Nation or the General System of Transfers, and their destination is defined in collaboration by regional entities and the national government. These resources are not part of the reparation policy budget on a permanent basis but may be used for specific projects that must be submitted to the body in charge of approving the allocation of royalties (the Collegiate Body for Administration and Decision-Making). Among these projects are mainly those aimed at collective reparations and returns and relocations. It is worth mentioning that with the extension of the Victims' Law and the Conpes 4031 update, no new sources of funding were included, and nor were the regional allocations modified.

3.2. Gaps between Estimates and Implementation

Once the reparation policy began to be implemented, a gap quickly emerged between the estimated and the real universe of beneficiaries, which in turn resulted in a gap between what was budgeted and what was effectively allocated. In this regard, the national government reported an average variation of 68% between what was budgeted and what was executed for reparation measures (Unidad para las Víctimas 2020, p. 306). This figure confirms the inaccuracy of the estimates at the time of funding the policy in 2012, since, as indicated above, Conpes 3712 foresaw a universe of victims much smaller than the nine million registered in the Victims' Registry at the time of the extension. In terms of victimizing events, table 5 shows that the estimates in Conpes 3712 differ vastly from the information reported in the Victims' Registry.

Table 5. Victimizing events registered in the Victims' Registry versus estimates in Conpes 3712 of 2011

Victimizing event	Victims' Registry estimate*	Conpes 3712 estimate
Terrorist acts/attacks/combat/confrontations/ hostile action	79,845	No estimate
Threat	611,070	No estimate
Crimes against sexual freedom and integrity	37,670	13,000
Forced disappearance	136,476	66,600
Forced displacement	6,898,167	618,000
Homicide	746,179	217,800
Antipersonnel mines, unexploded ordnance, and improvised explosive devices	10,226	No estimate
Abduction	28,957	13,300
Torture	8,695	3,400
Involvement of children and adolescents in activities related to armed groups	8,568	3,500
Forced abandonment or dispossession of land	35,201	No estimate
Loss of movable or immovable property	113,758	No estimate
Personal physical injuries	15,999	4,000
Personal psychological injuries	13,078	No estimate
Confinement	120,172	No estimate
No information	42,610	N/A

*__Cut-off date:__ July 31, 2023. These figures include only the registered population that is subject to reparation.

Source: Prepared by the authors based on the Victims' Registry and Conpes 3712

In the table, we see that with respect to sexual violence, although underreporting may still be an issue, the information from the Victims' Registry is almost triple the estimate in Conpes 3712. In this sense, there may be two non-exclusive phenomena: underestimation as a result of the difficulties already mentioned, added to the underreporting of this type of violence, and an improvement in the registry, possibly attributable to the mechanism for taking statements for individuals' inclusion in the Victims' Registry.

In addition to the difficulties pointed out in the previous section, the difference between the estimated universe and registered universe was also due to the Constitutional Court's rulings that contributed to the expansion of the universe of victims, as well as to the decision to maintain an open registry throughout the life of the law. Regarding the first issue, in 2012 the court ruled on the constitutionality of the requirements set out in Law 1448 for individuals to be recognized as victims of the conflict. In terms of the requirement of a relationship between the victimizing event and the armed conflict, the court noted that this requirement must be understood broadly and interpreted to the benefit of victims. Therefore, although victims of common crime are not included, the notion of armed conflict does not exclude *a priori* the victims of certain armed actors; rather, there must simply be *a close and sufficient relationship with the development of the armed conflict* (Constitutional Court of Colombia, Sentencia C-253A de 2012 and Sentencia C-781 de 2012). This approach was reiterated with regard to the forced displacement caused by the groups known at that time as *bacrim* (criminal gangs), under the perspective that not including the displaced victims of these actors in the Victims' Registry would be an unacceptable step backward (Constitutional Court of Colombia, Auto 119 de 2013).

In addition, the Constitutional Court explained that land restitution measures[19] aimed at guaranteeing the dignified life of the displaced population cannot affect or reduce the monetary compensation to be granted to victims. Such benefits are additional and cannot be discounted from the amount of administrative or judicial compensation to which victims are entitled (Constitutional Court of Colombia, Sentencia C-462 de 2013 and Sentencia C-912 de 2013). This decision also affected the budget projections of Conpes 3712. Since the population

19 These include (i) comprehensive land subsidies; (ii) land swaps; (iii) land acquisition and adjudication; (iv) adjudication and titling of vacant land for displaced populations; (vi) rural housing subsidies in the form of housing improvements, housing construction, and basic sanitation; and (vii) urban housing subsidies in the form of acquisition, improvements, or construction of new housing (Constitutional Court of Colombia, Sentencia C-462 de 2013 and Sentencia C-912 de 2013).

of victims of forced displacement had to be included—as forced displacement was the victimizing event with the highest occurrence—the amount foreseen for administrative compensation was considerably increased.

Regarding the second element, the discussion on the universe of victims was also affected by the determination of how long the Victims' Registry would be open. According to one interviewee, "If you closed the registry and adjusted the delivery of compensation, in some way, you established a cut-off . . . it was a payable figure, a figure that was difficult to pay, but it was payable. If you left the registry open, it was an absolutely unpayable figure. And that was indeed what happened" (I5). This is particularly difficult in a context such as Colombia's, where transitional justice measures, such as reparation programs, are implemented while violence affecting the civilian population continues. Consequently, any estimate runs the risk of being highly inaccurate, as it is dealing with an uncertain scenario of increased victimization and the emergence of multiple armed actors.

This brought with it, in addition to the gap between projections and reality, a recognition of the budgetary challenges involved in complying with the Victims' Law. The people we interviewed agree that one of the main barriers to implementing the reparation policy is that of resources, because although there has been a sustained budgetary effort on the part of the government, it is still insufficient. One of the interviewees stated that budget limitations mean that the measures are implemented in accordance with the budget schedule, not with the number of people to be served (I4). Thus, each year there is a limit to the number of people served and a backlog that grows and accumulates in addition to any new registrations in the Victims' Registry.

These budgetary difficulties are compounded by the lack of new sources of financing. As we have indicated and will detail below, the reparation policy is financed largely by resources from the General Budget of the Nation, through operating and investment allocations, and from the General System of Transfers. Thus, one of the main questions, as indicated by one interviewee, centers on how to secure new sources of funding, given that without adjustments to the policy, budgetary pressures remain and there are no in-depth discussions on the viability of "the promises" (I4).

According to our interviewees, there were other specific aspects that implied budgetary difficulties. One of them was the design of the collective reparation plans, which were done without a budget ceiling and, in interviewees' words, were small development plans that were fiscally unfeasible (I5). This issue was addressed through the redesign of the collective reparation strategy, whereby maximum amounts were adopted that made it possible to ensure these plans' viability. Another aspect was humanitarian aid, which occupied a large portion of the resources compared to reparations, which was the purpose of the policy (I2).

3.3. Allocations, Budgetary Commitments, and Budget Execution of the Reparation Policy between 2012 and 2022

In this section, we analyze the resources allocated, committed, and executed of the reparation policy from 2012 to 2022. Our analysis is based on the information reported by the Ministry of Finance and Public Credit;[20] follow-up reports on the implementation of Law 1448 produced by the Follow-up and Monitoring Committee; and Conpes documents 3712, 3726, and 4031. We discuss how the resources were initially planned at the outset of the Victims' Law and how the budget allocations and commitments were made each year.

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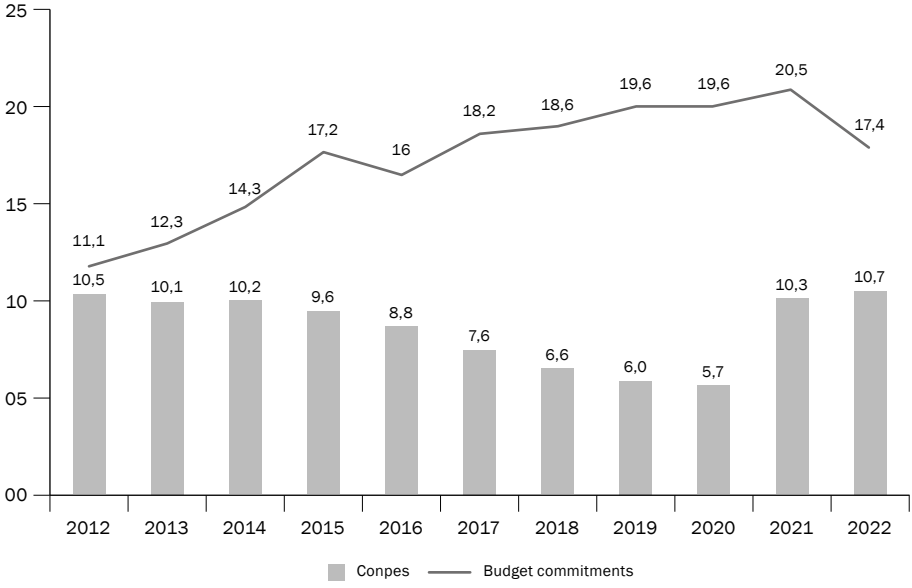
20 With regard to the information reported by the Ministry of Finance and Public Credit via the Integrated Financial Information System, it is important to clarify a few concepts. According to the *National Public Investment Manual*, public investment is recorded in three categories:

- Appropriations: Maximum spending authorizations approved by Congress to be executed or committed during the respective fiscal year.
- Commitments: The acts and contracts issued or entered into by public bodies in the development of their capacity to commit the budget in compliance with the public functions assigned by law.
- Obligations: The amount due by the public entity as a result of the perfection and total or partial fulfillment of the commitments acquired for the receipt of goods and services rendered pending payment.

According to Conpes documents 3712, 3726, and 4031, the government programmed 212.9 billion constant 2023 pesos for the financing of the victims' policy (i.e., for the period from 2012 to 2031). However, according to the tenth report of the Follow-Up and Monitoring Committee (Comisión de Seguimiento 2023), between 2012 and 2022 the nation executed, at constant 2023 prices, 184.7 billion pesos. This means that, with almost ten years of the policy remaining, 86.7% of the resources planned for the twenty years of the policy have already been committed. In other words, the resources executed each year have exceeded those estimated in the Conpes documents, as shown in figure 3. These resources went from representing 2.9% of the gross domestic product in 2012 to 1.1% in 2022.

Figure 3. Resources budgeted in Conpes documents (3712 and 4031) vs. resources committed for Law 1448 between 2012 and 2022 (billions of constant 2023 pesos)

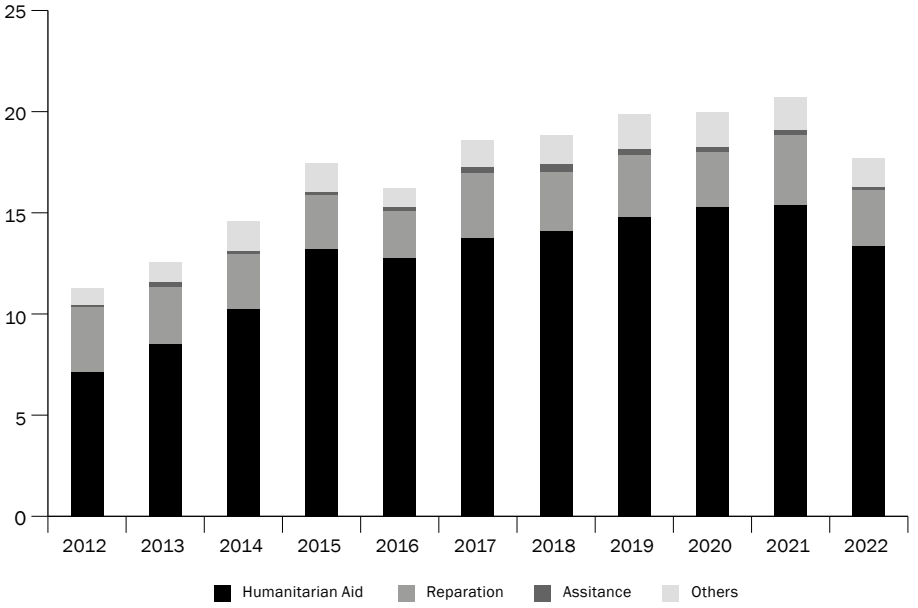


Source: Prepared by the authors based on Comisión de Seguimiento (2023)

In terms of the budget's behavior according to the type of measure, figure 4 shows that assistance measures have historically received the highest share of the budget. From 2012 to 2022, humanitarian aid

measures represented, on average, 74% of the budget; reparation measures represented 18%; and assistance measures represented 1%. The remainder corresponds to other expenditures. This also reveals that most of the resources for humanitarian aid measures come from the General System of Transfers (health and education), meaning that a considerable percentage of the resources is not directed specifically to victims but is instead intended to serve the entire population; thus, for example, of the total resources executed in 2022, 63% (11.7 billion pesos in 2023) come from that source (Comisión de Seguimiento 2023).

Figure 4. Appropriation by type of measure between 2012 and 2022 (billions of constant 2023 pesos)[21]



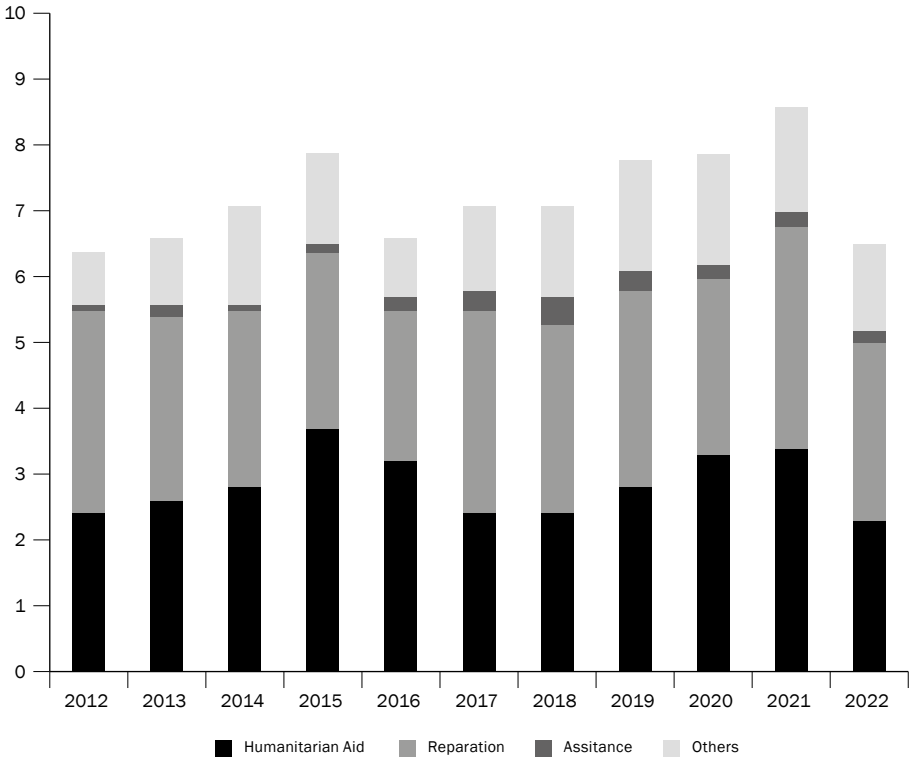
Source: Prepared by the authors based on Comisión de Seguimiento (2023)

However, if we exclude resources from the General System of Transfers, including those directed exclusively to assist the victim population, we see that the share changes and that those destined for humanitarian aid are closer to those for reparations (figure 5). Without

21 This includes resources from the General System of Transfers that are for health and education and are not focused exclusively on the victim population.

including General System of Transfers resources, between 2012 and 2022, an average of 2.8 billion pesos were allocated to humanitarian aid and 2.9 billion pesos to reparations.

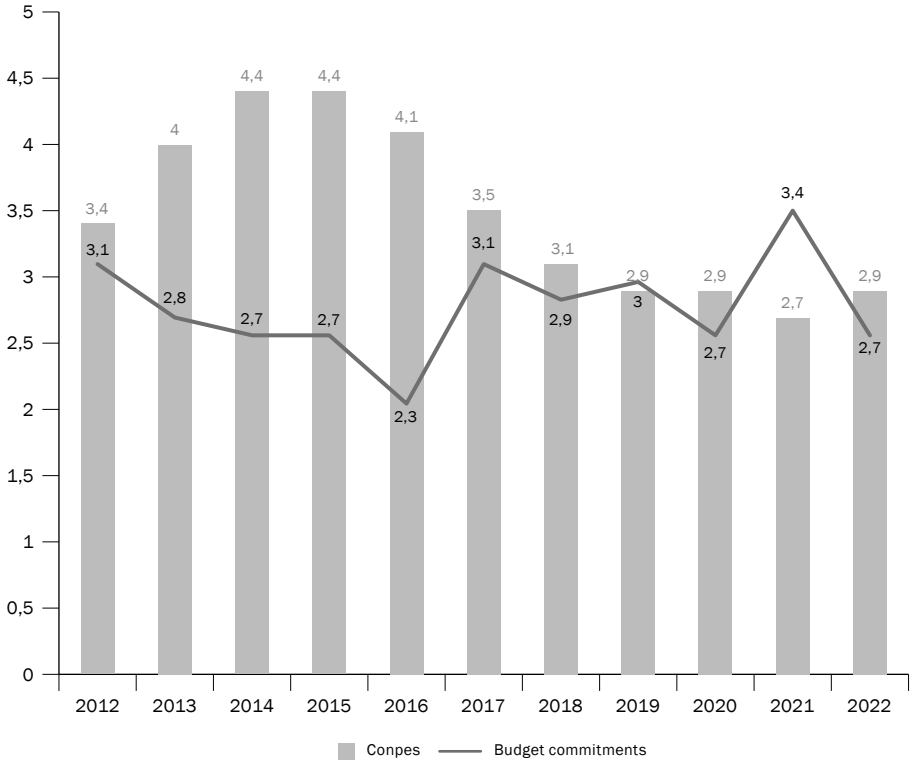
Figure 5. Appropriation by type of measure between 2012 and 2022, not including the General System of Transfers (billions of constant 2023 pesos)



Source: Prepared by the authors based on Comisión de Seguimiento (2023)

Now, although overall spending has exceeded what was envisioned in the Conpes documents, this has not occurred with spending on reparations, as shown in figure 6. On average, since 2012 the difference between the resources committed and those planned for reparations is 26%.

Figure 6. Resources envisioned in Conpes 3712 and 4031 vs. resources committed for reparation measures (billions of constant 2023 pesos)

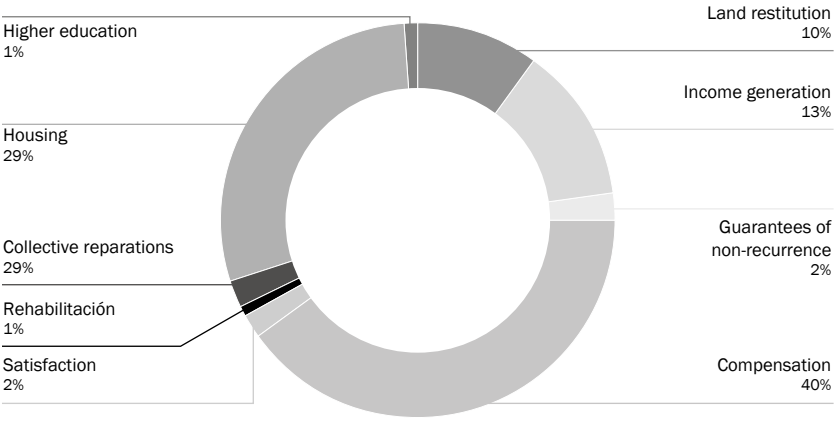


Source: Prepared by the authors based on Comisión de Seguimiento (2023)

With respect to reparation measures, figure 7 shows that, on average, for the period analyzed, 40% was spent on compensation; 29% on housing; 13% on income generation; and 10% on expenses related to the administrative phase of land restitution.

With respect to what was planned in Conpes 3712 for each type of reparation measure, it should be noted that neither collective reparation, nor rehabilitation, nor higher education were included. For housing (subsidies), satisfaction, and administrative compensation measures, the commitments exceeded what was planned. But the same was not true for employment and income generation, credits and liabilities, land restitution (costs related to the administrative phase), and guarantees of non-repetition.

Figure 7. Percentage of commitments by type of measure between 2012 and 2022*

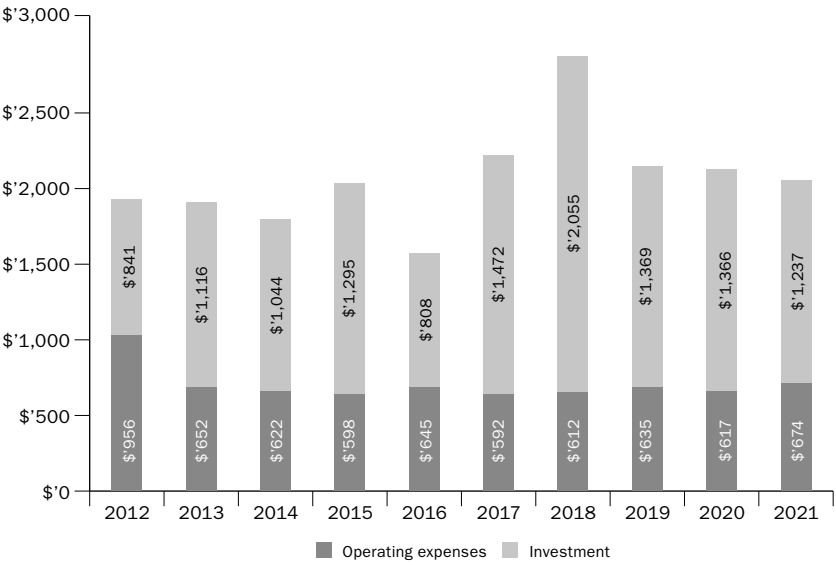


*Average figures

Source: Prepared by the authors based on Comisión de Seguimiento (2023)

Figure 8 suggests that operating expenses (*funcionamiento*) are an important component of the reparation resources. According to the information available, most of the operating expenses correspond to the Reparation Fund (99.7%).

Figure 8. Type of reparation expenditure (billions of pesos)



Source: Prepared by the authors based on information from the Ministry of Finance and Public Credit

The information presented thus far reveals several problematic elements from a financial perspective regarding the implementation of Law 1448 in general and reparation measures in particular. To start, the difficulties in the costing process mentioned earlier are clearly exposed when it comes to determining appropriations and commitments. None of the data analyzed show any resemblance between what was projected in the Conpes documents and what was ultimately spent. In overall spending, the spending significantly exceeded projections, while in the specific area of reparations we see the opposite, with projections exceeding spending almost every year.

In addition, in the initial years of implementation of the Victims' Law, certain developments emerged that affected the government's estimates—developments that would have had an impact even if the estimates had been more precise to begin with. These developments, which affected spending in the first ten years of implementation of Law 1448, were the Constitutional Court's rulings regarding (i) allowing the registration of victims of actors other than those traditionally viewed as parties to the armed conflict and (ii) the impossibility of deducting other measures, such as subsidies, from the compensation to victims of forced displacement. Despite these factors and the evident gap between what was projected and what was being executed in the initial years, there was no updating or recalculation exercise that would allow the state to plan according to the new information available.

In relation to reparation measures, which are at the core of Law 1448, this centrality is not reflected in budgetary commitments. Although the state's effort to try to finance this law is undeniable, the reparation measures have lagged behind, which means that in the future an enormous investment will be required to satisfy this right of victims. Moreover, in the resources allocated to reparation measures, the largest share has gone to compensation and housing subsidies. And even in these cases, they continue to lag behind, indicating that the measures with the lowest share of overall reparation expenditures are in an even more critical situation.

3.4. Reparations for Female Survivors of Sexual Violence during the Armed Conflict

The duty to provide reparations to victims and survivors of sexual violence that occurred in the context of the armed conflict was recognized long before the passage of the Victims' Law. Nonetheless, this law did not provide for specific reparation measures for these victims. Therefore, in the planning documents—both the initial ones and the update—there is no specific costing that addresses this category. Similarly, when looking at the law's implementation, most of the reparation measures fail to provide disaggregated information that would allow us to identify the specific expenditures on victims of sexual violence; it is possible to see this information only in the rehabilitation measures and in the compensation.

What brings us closest to being able to see the specific allocation and execution of reparation measures for victims and survivors of sexual violence is the gender-based approach to reparation required by Law 1448. Specifically, with respect to reparations for sexual violence, the Victims' Unit has been implementing a *Strategy for Comprehensive Reparations to Women Victims of Sexual Violence* (Unidad para las Víctimas 2018) since 2014. But although the strategy incorporates a differentiated approach to gender and type of violence in the provision of care and reparations, which translates into some concrete monitoring indicators, it does not implement specific reparation measures or prioritization criteria for accessing reparations; therefore, it does not result in a disaggregated costing of all of the measures.

The first indicator that refers to the assistance offered to victims of sexual violence is "women victims of sexual violence in the context of the conflict targeted and assisted with the Comprehensive Reparation Strategy," which reports the progress in the implementation of the aforementioned strategy but, as indicated, does not have disaggregated information on its cost. The only additional information is that the information reported in this indicator refers to the Vivificarte methodology. According to the Victims' Unit, Vivificarte

> [is a] methodology [that] seeks, on the one hand, to help the victims [of sexual violence] assume their life process as a personal commitment, which is not exhausted or limited to comprehensive reparation but requires concrete decisions

> and actions of self-realization and empowerment. And on the other hand, contribute to comprehensive reparation through the implementation of *symbolic reparation* measures, which address the irreparable dimensions of violence and actions that contribute to the guarantees of non-repetition from a preventive dimension. (Unidad para las Víctimas 2020, p. 3, emphasis added)

An example of the actions under this methodology is to provide guidance on how to invest the compensation through financial education. However, the Vivificarte methodology is not in itself a differentiated reparation program but rather an approach to the way that reparation measures are granted that is sensitive to gender and type of victimizing event. Thus, although it offers care and empowerment measures with a restorative focus, these measures are not reparations as such.

Regarding specific reparation measures, comprehensive health care and compensation are the only ones that have some degree of information disaggregated by victimizing event. With regard to the former, the Program for Psychosocial and Comprehensive Health Care for Victims has provided measures to address the damages resulting from sexual violence. Between 2013 and 2022, it provided psychosocial support to 3,720 victims of sexual violence, which is equivalent to 0.5% of the total number of people attended (662,524) and 9.8% of the victims of this type of violence. Although there are no differentiated values according to type of victimizing event, according to the Ministry of Health, attending a person in this program in 2013 cost 641,895 pesos (~US$150), which decreased until reaching a steady rate of approximately 200,000 pesos (~US$50) in 2017 and 2018 (Ministerio de Salud y Protección Social 2020).

Second, with respect to administrative compensation, there is an indicator for "women victims of sexual violence with compensation granted." In the tenth follow-up report of the Follow-Up and Monitoring Committee (Comisión de Seguimiento 2023), this indicator shows that compensation was provided to 26% (8,816 persons) of the universe of victims registered for these victimizing events, for a total of 200,648 million pesos. In relation to children resulting from rape, the same report indicates that 52% of registered victims (1,114) have

received such compensation. It is important to specify that sexual violence is not a prioritization criterion for accessing compensation, as the criteria refer only to age, being in a situation of disability, or suffering from a life-threatening disease (Resolución 01049 de 2019, art. 4; Comisión de Seguimiento 2022, pp. 441 et seq.). In this light, it is possible to establish that 779,535 million pesos, at 2021 prices, would be required to compensate the remaining victims and survivors of sexual violence[22] (Comisión de Seguimiento 2021).

22 This information is as of March 31, 2021, before the extension of Law 1448.

4. CONCLUSIONS AND RECOMMENDATIONS: CHALLENGES IN FINANCING THE REPARATION POLICY AND STRATEGIES TO ADDRESS THEM

Based on the information presented so far, it is possible to identify certain challenges in the financing of Colombia's reparation policy. These challenges can be classified according to two categories: political-institutional challenges and budgetary challenges. Looking at these challenges allows us to identify fundamental elements for being able to respond to the demands of an ambitious reparation program such as the one in Colombia; but at the same time, they allow us to reflect on certain aspects that could be considered by other countries wishing to strengthen their administrative reparation policies in the face of massive and serious human rights violations.

4.1. Political and Institutional Challenges

Recognition of sexual violence but a lack of specific and disaggregated data regarding the costing and financing of reparations in this area

Different countries that have undergone transitional processes have tended to exclude sexual violence from the human rights violations that are eligible for reparations, at least in the early stages of their transitions. In Argentina and Chile, for example, the recognition of sexual violence and the search for mechanisms for its reparation emerged only over time, largely as a result of feminist mobilization. This general failure to consider sexual violence has occurred because of the lack of recognition of the seriousness of such violence and because of the vast

underreporting of such violence. The practical effect of such exclusion is that survivors, mostly women, do not enjoy effective access to specialized health and psychosocial care, among other things.

Colombia recognized sexual violence as a serious human rights violation even before the design stage of the reparation policy. It has also developed reparation programs that have some specific components for survivors of sexual violence, such as the Program for Psychosocial and Comprehensive Health Care for Victims, which we referred to in the previous section.

Nonetheless, the country has not developed specific tools to analyze the financing of reparations for sexual violence. As we showed in the section on costing, sexual violence was included in the state's process of calculating the universe of victims, but the state failed to consider some of the particularities of such violence, such as the general tendency to underreport sexual violence and the difficulties faced by victims in reporting. Furthermore, neither the budget nor the way in which budget monitoring is conducted allows for a specific evaluation of this type of human rights violation, which makes it difficult to more concretely assess the costs of reparations for sexual violence in Colombia in order to follow up and make adjustments when necessary. Greater disaggregation would contribute to greater transparency on the use of resources for reparations and on how these resources are distributed according to type of violation, which could help generate better public policy inputs.

Subordination of reparation to other measures for victims and survivors

Law 1448 recognizes a broad set of rights for victims of the armed conflict. In particular, it includes reparation, humanitarian aid, and assistance measures. Although these are independent measures that address different dimensions of victimization and diverse needs of victims that are of equal relevance, reparation is usually subordinated to humanitarian aid measures. Despite both being aimed at the same population, humanitarian aid policies require greater institutional efforts than do reparation ones. Although a large part of the resources for humanitarian aid come from the General System of Transfers and not from the resources specifically earmarked for the victim population, in the aggregate implementation of Law 1448 there is a

disproportionality between what is earmarked for humanitarian aid and what is earmarked for reparation.

The urgent need for humanitarian aid by communities across the country has led to a significant portion of spending being concentrated on these measures (Elementa 2021). Such measures are provided in emergency situations and therefore require immediate action. Additionally, the Constitutional Court has established a hierarchy that places humanitarian aid above reparation. Even though the latter is a fundamental right, the court has specified that it cannot be considered absolute nor can its immediate compliance be demanded, since, unlike humanitarian aid, it does not jeopardize the essential core of the right to a vital minimum (*mínimo vital*) (Constitutional Court of Colombia, Auto 206 de 2017).

In addition to the fact that emergency actions are still necessary due to the persistence of the armed conflict in Colombia, these measures allow for high levels of execution and show efficiency in management. In fact, they usually take the form of pre-established packages that are delivered to family groups in emergency situations due to the conflict. Reparations, on the other hand, are more complex conceptually and logistically, so they tend to be more difficult to implement. A collective reparation program, for example, requires prior work with communities or groups to establish expectations, needs, and appropriate reparations mechanisms, and then requires deep institutional deployment to translate the design of the plan into concrete actions.

In countries where reparation programs are being designed, it is important to consider the need for these programs to be linked to other measures for victims and to other state policies more generally, while also ensuring their independence. To this end, from a budgetary point of view, it is advisable to have a good disaggregation of reparations, associated with specific public policy commitments and goals that can be reviewed and adjusted over time.

Confusion between reparations and broader social policy

The Colombian victims' policy recognizes the difference between reparation measures, humanitarian assistance, and social policy. By virtue of this difference, developed by the Constitutional Court and by scholars such as Rodrigo Uprimny and Diana Guzmán (2010),

reparation is understood as both a right of victims and an autonomous measure of assistance and humanitarian aid, even if it benefits people in conditions of socioeconomic vulnerability or who have suffered exclusion or discrimination. This conceptual difference is important for preventing reparations from being diluted within the state's broader social policy and failing to achieve their purpose of repairing those who have suffered serious human rights violations.

Law 1448 is committed to maintaining the independence of these different measures while also ensuring coordination among them. Despite the conceptual clarity that inspires the design of the victims' policy, in practice the differentiation between the different types of measures is less clear. According to one interviewee (I2), distinguishing between the reparation policy and social policy was a barrier from the outset, especially considering that the agency in charge (the Department for Social Prosperity) is responsible for both areas. This is evident, for example, in the resources from the General System of Transfers (health and education) earmarked for assistance, but the same is true for other measures, such as housing subsidies and access to higher education.

Indistinctly combining social policy and the reparation policy leads to a dilution of the reparations component and, as a result, to a lack of clarity regarding when a victim has been fully repaired within the reparation policy. For example, since the objective of Colombia's social policy is to overcome poverty, this confusion between the two could lead to the assertion that comprehensive reparation occurs only when all victims have overcome poverty, which is unrealistic for such a large universe of victims in a ten-year period.

4.2. Budgetary Challenges

Steady increase in the universe of victims

The universe of victims in Colombia has been constantly growing, even in the wake of the creation of the reparation policy. Although Conpes 3712 was based on valid estimates for spending at that time, this document was updated only once, which occurred in connection with the ten-year extension of the Victims' Law through Law 2078 of 2021. This extension was necessary to meet the objectives of Law

1448, since at the end of the policy's first ten years, the assistance and reparation provided to victims were still far from covering the universe established in the Victims' Registry.

This variability in the universe of victims is due not only to the persistence of violence and the emergence of new victimizing events in the country but to other associated factors as well. For example, several Constitutional Court decisions have broadened the scope of the concept of "victim" under Law 1448, as explained in the first section of this paper. Moreover, with a simmering armed conflict and ongoing negotiation processes (with the National Liberation Army insurgency and criminal gangs), the universe of victims may continue to expand and projections may again be insufficient to meet demand.

Similarly, after the 2016 peace agreement, the situation regarding the satisfaction of victims' rights changed. While the importance of maintaining the administrative reparation program was understood, other spaces emerged—concretely, the Comprehensive System for Truth, Justice, Reparation, and Non-Repetition, which seeks to satisfy victims' rights from a comprehensive perspective. Moreover, other elements of the peace agreement, such as the Development Programs with a Territorial Approach, were also foreseen as regionally based planning instruments that incorporate elements to respond to victims in areas most affected by the armed conflict. These programs, therefore, must also rethink elements of the reparation policy in order to ensure that they reflect the new post-peace agreement environment.

This challenge is critical for cases such as Colombia's, where reparation programs take place in the midst of an active conflict or prior to the cessation of political violence. In cases where reparations are made after a dictatorship or war, it is more likely that the universe of victims will remain unchanged over time. However, even in these cases the universe could expand due to factors such as increased trust among victims' in the reporting process and the creation of mechanisms to remedy underreporting, which is a good practice in transitional contexts.

Given the possibilities for variation in the universe of victims, it is important that countries in transition that wish to develop reparation programs take seriously the task of estimating the universe of victims. This requires using methodologies that make it possible to develop robust estimates based on available information, as well as developing

information systems that allow for more and better information on victimizing events, victims, beneficiaries, and their characteristics.

As the Colombian case suggests, it is also important to consider updating the estimates, at least in those cases in which there are contextual changes that may significantly affect the universe of victims. In order for these updates to be made more easily, it is important to ensure transparency and clarity in the methodologies used in the initial estimation process. These updates should also be accompanied by public debate on the implications of the possible expansion of the universe of victims with respect to the cost of reparations, as this is part of the process of establishing new sources of financing, expanding the funding from existing sources, or making transparent the time frame in which reparations will be possible.

Weaknesses of the Reparation Fund: Deadlines, types of goods delivered, and reduced contributions from perpetrators

As explained above, the Reparation Fund emerged as an initiative to ensure that reparations could be financed with assets from the perpetrators of serious human rights violations in the context of the armed conflict. In Colombia, the creation of the fund seemed like a good idea, since it seeks to make perpetrators participate directly in the reparation process. Moreover, it seemed feasible given armed actors' participation in illicit economies in Colombia, meaning that it was reasonable to assume that they would have resources to contribute to reparations.

However, the Reparation Fund has experienced several difficulties that have prevented it from fulfilling its purpose. First, there have been no clear deadlines for delivering assets. For example, in the case of paramilitary groups, the state did not set a schedule for the delivery of their assets, which has meant that such assets have been handed over largely as a result of prosecutions led by the Attorney General's Office (Valencia and Chaverra 2021). This has contributed to the fact that the fund has few resources. Second, many of the assets delivered during the initial phases of the fund have not been ideal for the purposes of compensation, which has generated difficulties for their administration and monetization. For example, former members of paramilitary groups have handed over assets in poor condition whose administration has been more costly than what the assets are actually worth (ibid.).

Law 1592 of 2012 attempted to overcome these two problems by requiring that the assets delivered be able to effectively repair victims. Under this law, any asset that cannot be identified and individualized, as well as any asset whose administration or reorganization would be detrimental to victims' right to full reparation, is not eligible to be received. But despite this effort, these two problems persist.

Proof of the persistence of these problems can be seen in what happened during the handover of FARC assets during the peace talks with the national government (2012–2016). While the FARC handed over assets that contributed to reparations, it also delivered other assets without any reparation value, such as infrastructure works (e.g., rural roads) and other assets that its members did not have in their possession and could not be recovered.[23] Once purged by the Special Assets Society (a state agency), the value of the assets handed over by the FARC exceeded 247 billion pesos. Of these, it has been possible to monetize only 45 billion pesos' worth, and it is estimated that assets equivalent to approximately 811 billion pesos remain to be monetized.[24] This is insufficient to provide reparations to the victims and replicates

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23 There is not much official information available in this regard. However, the following information was reported in the press: N. Bocanegra, "Colombia dice que entrega de bienes de FARC deja un pobre balance al culminar plazo," *Reuters* (December 31, 2020), https://www.reuters.com/article/colombia-paz-idESKBN2951P2; M. Quiñones, "Bienes de las Farc: Estado solo ha ocupado 8 de los 722 del listado," *El Tiempo* (February 21, 2019), https://www.eltiempo.com/justicia/investigacion/balance-de-recuperacion-de-bienes-de-las-farc-para-reparar-a-victimas-329346; "¿Por qué las Farc no han entregado los bienes para reparar a las víctimas?," *Semana* (November 25, 2020), https://www.semana.com/nacion/articulo/por-que-las-farc-no-han-entregado-los-bienes-para-reparar-a-las-victimas/202058/.

24 There is no official information available; however, this information has been reported in the media: C. Navarro, "JEP pide verificar la existencia de finca de Salvador Arana en la que habría desaparecidos," *Caracol Radio* (July 21, 2023), https://caracol.com.co/2023/07/22/jep-pide-verificar-la-existencia-de-finca-de-salvador-arana-en-la-que-habria-desaparecidos/. "Bienes entregados por Farc luego del Acuerdo de Paz superan los 247 mil millones de pesos" *Caracol Radio* (March 23, 2023), https://caracol.com.co/2023/03/23/bienes-entregados-por-farc-luego-del-acuerdo-de-paz-superan-los-247-mil-millones-de-pesos/

the problem with paramilitary assets, where the fund failed to make significant contributions to reparations. According to an interviewee who used to work at the Victims' Unit, the paramilitary assets that could be monetized for the reparation of victims was equivalent to the compensation for a mere 50,000 victims; therefore, the main burden of paying reparations has fallen on the state (I4).

Added to this are the Reparation Fund's high operating costs, which represent a large percentage of the budget earmarked for reparations; thus, resources for reparations compete with operating costs. Although the fund was initially intended as a tool to contribute to providing compensation through administrative indemnities, its operation has effectively monopolized resources.

These difficulties have contributed to the fund's near irrelevance in debates about the cost of reparations and to its questioning by some sectors of the victims' movement and civil society. Indeed, these sectors had high expectations regarding the amount of goods that would be included in these funds. The contrast with the low delivery of goods that has occurred in practice was, for some victims and organizations, a sign of the armed groups' lack of interest in making reparations for the acts committed during the armed conflict. This generated more distrust in the peace process and, in turn, demonstrated the state's limited capacity to secure assets resulting from the illicit activities of perpetrators.

That said, a mechanism such as the fund can be useful for other countries grappling with the question of how to finance reparations. The Colombian experience is helpful for illuminating the pitfalls that should be avoided. Other countries could draw on these lessons to ensure that their reparation funds have clear definitions of the assets that could help pay for reparations, particularly the types of assets that can be received and quickly monetized. They could also consider incorporating a time frame for delivery and an explicit incentive scheme for the timely delivery of assets. Finally, any reparation fund created should avoid generating bureaucratic burdens and should be accompanied by clear expectations about its scope. Even under ideal operating conditions, a fund such as the Colombian one cannot be relied on as the main source of financing for reparations.

The high cost of reparations and their feasibility

The steady increase in the universe of victims, the difficulties in the development of funding sources, and the very characteristics of the transformative and differentially focused reparations that Colombia aspires to deliver contribute to the narrative that reparations for all victims is financially unfeasible. This narrative of financial unfeasibility raises the question whether states, especially those with scarce resources, can finance and pay reparations for massive human rights violations.

In order to address this issue, it is important to start with some conceptual and normative clarifications about the standard that should guide a reparation policy such as the Colombian one. Administrative reparation programs emerged as an alternative to judicial reparations in order to deal with situations of massive human rights violations. Judicial reparations seek to redress the breadth and depth of the damages suffered through a set of measures that meet the standard of comprehensive reparation. Administrative reparation programs are based on a slightly different idea of justice: they confront the damage but not in a comprehensive manner, instead seeking a universal response (i.e., covering all victims) that allows for recognition of the victims and fosters solidarity (De Greiff 2006). To this end, they establish standards that are the same for all victims of the same type of violation, regardless of the damages suffered or the particularities of each case.

Colombia's reparation policy as developed from Law 1448 takes the form of administrative reparations. This decision arose from the need to cover a broad universe of victims and from the realization that judicial reparations were not making enough progress. Therefore, the law established the goal of providing *comprehensive* and *transformative* reparations (Ley 1448 de 2011, art. 25).

This approach seems to set a particularly high standard. However, when speaking of *comprehensiveness*, the Victims' Law is committed to ensuring that reparation is not reduced to a mere monetary value but is accompanied by a broad set of additional measures, such as restitution and satisfaction measures (Ley 1448 de 2011, art. 25). Thus, for example, survivors of sexual violence not only receive compensation but also access rehabilitation and other measures. Meanwhile, the standard of *transformative* reparations implies that the measures granted by the

state should not attempt to return victims to their previous situation but rather seek to transform the conditions of exclusion and discrimination that gave rise to the victimization suffered (Uprimny 2009). This transformative approach requires going beyond the restitutive approach that has traditionally accompanied reparations; but at the same time, it recognizes the limitations imposed by a context of scarce resources and therefore permits the prioritization of victims according to the severity of their conditions of poverty, exclusion, or discrimination (Uprimny and Guzmán 2010). Thus, although it seems more demanding, in practice it allows a greater weighting according to the material conditions in which reparation must be granted.

The standard embraced in Colombia is that of a tariff-based compensation scheme, accompanied by supplementary measures and with the possibility of prioritization among victims. Being tariff based, it permits compensation amounts that respond to the fiscal realities of the state, as long as they are provided through procedures that ensure the recognition and dignity of victims and survivors. Therefore, from a theoretical and normative point of view, it is a demanding but achievable standard.

Regarding the budgetary needs to implement Law 1448, the Follow-Up and Monitoring Committee has indicated that more than 301.4 billion pesos (about US$65.3 million or 60.2 million euros) are required to attend to and provide reparations for the victims of the armed conflict by 2031. This is equivalent to an average of US$7,256 per victim. The costing exercise by the Comptroller's Office highlights the following resources required for reparation measures: 74 billion pesos for individual and collective compensation; 53 billion for housing; 15 billion for income generation; and 13 billion for returns and relocations. On top of this are the funds required by regional entities and those for compliance with land restitution rulings.[25]

Conpes 4031 of 2021 estimated resources for the entire policy at 142 billion pesos until 2031, which at 2022 prices would be 154 billion pesos. If we compare this figure with the amount estimated by the

25 Official press release from the Comptroller's Office available at https://www.contraloria.gov.co/es/w/se-requieren-m%C3%A1s-de-301-billones-para-cumplirle-a-las-v%C3%ADctimas-a-2031-contralor%C3%ADa

Comptroller's Office to pay all victims, there is a difference of more than 150 billion pesos. Regarding reparations, for example, in relation to administrative compensation (the costliest measure), the Conpes estimate is 11 billion pesos, while the Comptroller's Office estimate is 65 billion pesos (at 2021 prices). The allocated amount is clearly insufficient to comply with the state's commitments in relation to the victims policy (Comisión de Seguimiento 2021).

Colombia's president, Gustavo Petro, has made statements about the impossibility of paying reparations based on the context presented above ("Petro asegura que no hay recursos para cumplir el Acuerdo de Paz ni para víctimas" 2023). The amount of funds needed to ensure reparations for all victims is high, according to estimates by the Comptroller's Office, and requires a fiscal effort that may compete with other key policies of the government. However, this does not automatically mean that reparations are unfeasible. This is an issue that requires an open and plural public discussion that allows for an understanding of both the government's investment priorities and the possibilities of finding new balances among the various components of the victims' policy. In addition, this debate should take into account the way in which reparations have been financed to date, in order to explore possible alternative sources, and should consider how reparations have been subordinated to other measures for victims. The estimates of the Comptroller's Office, for example, are for assisting and repairing victims.

Against this backdrop, it is necessary to seek alternatives that are not limited to seeking more resources but that also aim to guarantee the sustainability of the policy under the current conditions for implementation, such as the increase in the universe of victims. One possible alternative is to separate the financing of reparations from that of other measures, provide them with specific funds, make them a priority, and seek ways to expedite them. In fact, in the past, similar approaches have been considered. According to several interviewees (I2, I4), there were institutional discussions to streamline access to the Victims' Registry, but no initiative was successful. Similarly, attempts were made to streamline reparations through, for example, collective reparation programs. However, this purpose was not achieved either, because the way the policy was implemented at the outset ended up creating collective reparation plans that were impossible to comply with

and fiscally unfeasible (I2, I5). There were also attempts to adjust the way in which compensation was awarded (I4) in light of growing family sizes that were impacting the amounts to be awarded and the budget estimates. However, there was no change in this sense, either, beyond the prioritization of certain population sectors, such as the elderly (I1). Thus, before declaring reparations to be an impossible feat, there are policy alternatives that warrant further exploration by the state.

4.3. Recommendations

The Colombian case allows us to explore the complexities of paying for and financing administrative reparations in the face of massive human rights violations. It shows that financing reparations is possible, even in contexts of scarce resources, but it is not without challenges. Based on the analysis presented above, in this section we offer a series of recommendations grouped around three themes that have been central to our research: (i) reparations for sexual violence, (ii) the costing of reparations, and (iii) the financing of reparations. Some of these recommendations apply to the Colombian case specifically, and others are also relevant to contexts in which reparations are being designed or modified.

Reparations for sexual violence

- Countries designing reparation programs should recognize sexual violence as a human rights violation and incorporate it into the list of violations to be repaired. Sexual violence should be part of the reparations costing process, which means taking into account those characteristics that have been identified in comparative literature, such as its disproportionate impact on women and the underreporting that is usually prevalent.
- Information systems should be improved so that it is possible to disaggregate investment in reparations by type of victimizing event. This is especially important in order to understand how women victims of sexual violence are positioned vis-à-vis other victims.
- Colombia and other countries that implement administrative reparation programs should make an effort to identify which resources are allocated to reparations for sexual violence. This

would allow for better monitoring of who receives such reparations and for a better understanding of how their financing can be improved. Greater disaggregation contributes to greater transparency in the use of resources for reparations and can help generate better public policy inputs.

Costing

- The design of administrative reparation programs should include robust and transparent costing exercises from the outset. This requires adopting clear and consistent methodologies that analyze official and unofficial data and that make explicit the criteria used to produce estimates. This costing exercise must also be linked to the strengthening of available official information, which is possible, for example, through the creation of information systems.
- Taking into account the barriers that make it difficult for estimates to adequately reflect current implementation realities, we consider that in order to ensure transparent and useful planning exercises for public policy, countries with administrative reparation programs should periodically update their costing in a way that takes into account the national macroeconomic situation and the investment needs of broader social policies that will also benefit victims. In the Colombian case, such updates should take place periodically over the next ten years.

Financing

- The growing budgetary demands resulting from unforeseen developments make it clear that reparation policies require periodic budget evaluations and updates, along with costing updates. A policy established at a given time does not necessarily respond to the challenges that emerge over time. As pointed out earlier, in the case of Colombia, the increase in the universe of victims has been the most notorious of such developments.
- In Colombia, in order to address questions regarding the financial feasibility of providing reparations to the remaining universe of victims, it is critical that the state foster a vibrant public debate on the scope of reparations. Such a debate must

recognize the current cost of reparations, as well as the possibilities offered by their fulfillment. In addition, mechanisms could be established for reviewing, updating, and streamlining existing programs. For example:

- The state could review and streamline the instruments that regulate the amounts of compensation paid and the procedures for awarding such compensation. Among the elements to be considered are the definition of family unit and the lowest and highest amounts payable in order to make the process more efficient and increase coverage.
- Promoting collective reparations anchored to existing regionally focused programs, such as the Development Programs with a Territorial Approach, can foster a more efficient approach toward spending and better meet the expectations of communities while also reducing the dispersive effects caused by the individual approach.
- In light of the importance of keeping the fundamental purpose of reparations front and center, it is crucial to promote technical and political discussions on the criteria used to establish when "comprehensive reparation" has been achieved and to adjust information systems accordingly. In this way, those who are beneficiaries of the reparation policy can enjoy greater certainty about the points at which they enter and exit the transitional reparation policy, and, at the same time, the state can streamline its efforts and resources in order to make the program more agile.

- In order to ensure efficiency in spending, assistance and humanitarian aid measures should be separated from reparation measures. To the extent possible, the former should be addressed as a vehicle for achieving the state's social policy aimed at overcoming poverty, while the latter would focus on the reparative dimension and on the offerings of the transitional policy of Law 1448.
- For Colombia, it is also important to assess the operation of the Reparation Fund in order to make possible adjustments to reduce its operating costs and implement measures to facilitate

the monetization of assets that can be used to pay compensation. In addition, it is important to revisit the possibility of expanding and diversifying funding sources, since the ultimate goal of reparations as originally proposed in the Victims' Law is still far from being met. Although the current problems in the execution of the victims' policy cannot be solved simply by injecting more resources, talking about the expansion of sources should be an integral part of a broader and more transparent democratic discussion on the goals of the victims' policy and the strategies to achieve them.

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The reparations, are they impossible to pay? The case of the reparations policy for survivors of sexual violence and victims of the armed conflict in Colombia

The right to reparation for victims of human rights violations is one of the cornerstones of transitional justice, and a principle widely recognized both in the literature and in human rights standards. Despite its importance, administrative reparation programs are frequently singled out as policies with high costs and little effectiveness. However, the literature on reparations has overlooked the question of the financial viability of these programs. This text provides an analysis of the financing of administrative reparation programs, particularly in the context of reparations for sexual violence, based on the Colombian experience. We analyze how the financial viability of the reparations policy established in 2011 was defined, how the budget allocated to reparations has evolved between 2012 and 2022, and what role reparations for acts of sexual violence have played within this framework. This allows us to identify methodological, conceptual, and political elements that are crucial for determining what has worked well and what has been problematic in this process. Based on this case, we discuss factors that should be taken into account in various contexts to ensure sustainable programs that meet the rights of victims of human rights violations, especially survivors of sexual violence.