

# Assessing Colombian Civilian Harm Mitigation Policies

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## Executive Summary

This project aims to evaluate and analyze the civilian protection policies of the Colombian Armed Forces using CIVIC's *Protecting Together* Framework for Evaluating Policy and Practice. This report will begin with a literature review of civilian protection policies and an overview of the Colombian conflict that pays special attention to issues of civilian protection and harm. We will then analyze the extent to which Colombia has enacted civilian protection policies via both a quantitative analysis using CIVIC's framework and a timeline to demonstrate the temporal evolution of civilian protection policies in Colombia. We will then conclude this report with policy recommendations and recommendations for further research.

## What is CIVIC's Framework?

In August 2022, the Center for Civilians in Conflict (CIVIC) published *Protecting Together: Preventing, Mitigating, and Addressing Civilian Harm: A Framework for Evaluating Policy and Practice*. The evaluation framework (hereafter referred to as "the Framework" or "CIVIC's Framework") was developed to assess a state's leadership in the protection of civilians. CIVIC believes that the framework can be applied to countries regardless of their engagement in an active conflict. States can demonstrate their regional and/or global leadership in civilian protection through policies and practice regardless of conflict status.

The Framework is broken down into four categories and two annexes. For the purposes of this analysis, we focused on the four categories as the annexes concerned cooperation between states, rather than a single government's civilian protection efforts. Each category contains five subcategories and each subcategory has five or six illustrative indicators that describe leadership in the subcategory.

CIVIC laid out multiple potential uses for their evaluation framework. One of which was to be the basis of a quantitative scoring metric, which is what we have endeavored to do here. A scoring metric can be used to some of the other ends that CIVIC mentioned: to evaluate gaps and opportunities in civilian protection, to assess needs based on observable phenomena, or to conduct comparative or targeted evaluations.

## Colombian Conflict Overview: Context and History of Civilian Harm and Protection

### *La Violencia and the Roots of Decades of Civilian Harm*

The most obvious roots of the Colombian conflict stem from La Violencia, a ten year period of intense political violence between supporters of the Liberal and Conservative parties. La Violencia ended with a political power-sharing settlement between the Liberal and Conservative parties in 1957, but marked just the beginning of decades of intense political violence in Colombia with significant human rights violations against civilians.

By the end of La Violencia, armed communist groups had various strongholds of support in areas with little state presence, especially among citizens displaced by the violence (Steele 2017). From these communist guerilla groups, the FARC (Fuerzas Armadas Revolucionarias de Colombia) and the ELN (Ejército de Liberación Nacional) emerged in the 1960s. The contemporary Colombian conflict begins with the 1964 military campaign against a rural communist enclave known as the Marquetalia Republic. This invasion of the “republic” spurred the creation of the FARC, formally founded in 1966, and kicked off a new era of political violence between communist militias, right-wing paramilitary groups, and state forces. The asymmetric and disorganized nature of this conflict has had terrible impacts on Colombian civilians, claiming a total of 9,379,858 victims per the Registro Único de Víctimas (RUV).

### *The Colombian Conflict: A Brief Overview*

Abbey Steele (2017) cites the period between 1986 to the beginning of final peace talks with FARC in 2012 as the most intense phase of the conflict. After a four-year state of siege beginning in 1978--in which Colombian national police and the military actively repressed all political dissent--President Belisario Betancur led a round of peace talks with FARC between 1982 and 1986. While FARC did form a peaceful electoral front in 1985, FARC ended the ceasefire and again took arms against the government in 1986; Steele (2017) argues the cancellation of the ceasefire and death of peace talks was driven by FARC opposition to continued violence against candidates from Unidad Popular (their electoral front). In tandem with the failure of the 80s ceasefire, right-wing paramilitaries, often with strong connections to drug traffickers, began to rise in power.

With military tactical support, paramilitaries carried out “cleansings” of suspected communists in the countryside throughout the 80s (HRW 1996). In 1989, Liberal President Virgilio Blanco issued Decree 1194, which banned all civilian financial or political support for paramilitaries; despite this seeming advance towards de-escalation, paramilitaries were re-legalized by 1994 under President Ernesto Samper. Despite the re-legalization and government support of paramilitaries, the Samper administration marked the first time during the conflict that the government passed a law regarding civilian protection. Ley 387 from 1997 committed the government to giving reparations and aid to displaced populations; while this law was in fact rather toothless and insufficiently implemented, Ley 387 marked an important first step in the emphasis of civilian protection within the conflict.

The Presidency of Alvaro Uribe (2002-2012) was characterized by an intensification of government-led operations against guerillas and a series of severe human rights abuses. Under the military doctrine of “Democratic Security,” and with billions of dollars of military assistance from the US under Plan Colombia, Colombia expanded its security forces. The Uribe administration was consistently mired in controversy, particularly around its ties to paramilitary organizations and responsibility for human rights abuses. The “false positive” killings--or murders of civilians by state security forces who presented the deceased as guerillas for bonuses and promotions--peaked under Uribe, with estimates citing over 10,000 civilians killed by national police and the Army (Daniels 2018). Similarly, the Uribe administration was criticized for not prosecuting military members with paramilitary ties and for the fact that numerous politicians who campaigned Uribe were embroiled in the “parapolitics” scandal for their ties to paramilitary groups (Steele 2017). Despite attempts to demobilize paramilitaries, increase citizen participation and engagement with the “Democratic Security” strategy, and nominally commit to human rights, the Uribe government cannot be separated from its ties to paramilitaries and track record of atrocities against civilians.

Juan Manuel Santos' presidency, however, marks a significant shift towards human rights in Colombian national policy. In 2011, the same year that Santos secretly opened peace talks with FARC in Havana, Congress passed the Victims' and Land Restitution Law; this law not only expanded the amount of available reparations to victims of the Colombian conflict, but also stated that all parties--including the government--were subject to international humanitarian law within the conflict. Other notable reforms under Santos include the creation of the Unidad de Protección (a Ministry of the Interior body that arranges protection for individuals threatened by criminal groups, guerillas, or paramilitaries), the 2016 national police code (which established human rights guidelines for the national police), and the formation of truth and reconciliation bodies mandated by the 2016 Peace Agreement with FARC.

Since the passage of the peace agreement by both houses of Congress in 2016, Colombia has continued to design institutions and enact laws with the goal of increasing civilian protection and respect for human rights. Decreto 2124 (2017) and Decreto 66 (2018) established, and then refined, an early warning system to alert communities about state military operations and potential threats from criminal gangs, while various Ministry of Defense plans have re-oriented Colombian security policy towards primarily emphasizing human rights and community engagement. While implementation and designs of these plans have faced critiques, there is certainly a strong interest in pursuing these human rights policies within the country. The reformist government of Gustavo Petro--along with his Minister of Defense, human rights lawyer Iván Velásquez--seeks to achieve "zero corruption, zero violation of fundamental rights" among state security forces by expanding civilian control and justice mechanisms over the military (Acosta 2022). An engaged, reformist civilian government with a primary interest in ensuring human rights may ultimately be what Colombia needs to truly enact and implement the tenets of the Peace Agreement and successive civilian protection policies.

### *The Colombian Conflict and Civilian Harm*

Throughout the course of the armed conflict, there have been extraordinary human rights abuses as well as extreme violations of international humanitarian law (IHL) with civilians as the primary victims (Amnesty International, 2008). According to Amnesty International (2008), "no part of the country has escaped the consequences of the conflict, although the scale of devastation in remote rural areas, rich in natural resources, is perhaps the most profound and the least well documented."

Colombia's Truth and Reconciliation commission, within their series of final reports on the conflict released in 2022, estimates that about 450,666 people--mostly civilians--died during the conflict, while around 210,000 were victims of forced disappearance. Furthermore, the commission found that responsibility could not be determined for over half of the murders, but estimates that paramilitaries perpetrated 54% of the civilian murders, FARC 24%, and state agents 8%; these ratios are similar for the rate of forced disappearances.

Perhaps the most troubling aspect of the Colombian conflict is the number of massacres of civilians perpetrated by all sides. Kaplan (2022) notes that there were "4,210 massacres with 24,447 victims" between 1959 and 2019; of these 4000 massacres, the Truth Commission found that 50% were perpetrated by paramilitaries, 18% by leftist guerillas, 7% by the state, and 1% by both the state and paramilitaries. The Truth Commission report further elaborates that state involvement in massacres is more than the data suggests, as individual members of the police and military frequently joined paramilitary groups.

The major civilian protection issues that emerged from the conflict, and still persist today, are numerous. Through the *parapolitica* and False Positive scandals, the Colombian state security forces (as well as numerous political elites) are responsible for serious atrocities committed by both state forces and paramilitary organizations; the state must clearly pursue criminal accountability for these atrocities to repair its relationship with the citizenry. Furthermore, Colombia still faces continuing conflict between the ELN, FARC dissidents, paramilitaries, and *bacrim* (bandas criminales, or armed criminal groups) in the country's rural areas.

With the continuation of conflict, even after the Peace agreement, Colombia has seen a new front of civilian protection issues become important: the protection of human rights and environmental activists. Since 2016, over 400 rights defenders (and counting) have been murdered in Colombia, with a diverse array of perpetrators such as FARC dissidents, unknown hired hitmen, and bandas criminales. For the Colombian state to truly demonstrate post-Peace commitments to civilian protection, it must be able to strengthen its institutions in order to meaningfully protect vulnerable communities.

## **Methodology**

CIVIC envisioned its framework as the basis for a measurement tool or quantitative scoring rubric as one of its potential use cases. We chose to test the feasibility of this process through the cases of Colombia and the United States. The course took place over 10 weeks, with coding beginning in week 5. This section focuses on the methodology used by the Colombia team. Through class discussion, the teams attempted to align their methodology as much as possible.

Due to time constraints and a lack of intimate knowledge of Colombia prior to starting the project, we made a few necessary adjustments to code with confidence and accuracy. We outline them here to be explicit about what we coded. It deviates in a few key ways from CIVIC's framework

### *Approach to Coding*

The CIVIC framework is divided into four categories, then five subcategories, then five to six indicators. Our general approach was to code at the indicator level using a 0 or a 1, and then aggregate for a score out of five for each subcategory. An indicator coded as 1 means that the state fulfills the majority of the description of CIVIC's indicator. An indicator coded as 0 means that the state does not meet the majority of the description's requirements.

We chose a dichotomous approach due to the short time frame of the project and the lack of our advanced knowledge on the country context of Colombia. Ranking each indicator on a scale would require much more nuanced knowledge of the country and its policies that we did not have the capacity for at this time. Instead, we opted to look for the general presence (1) or absence (0) of policy language about a specific indicator. This approach allowed us to code confidently given our limited knowledge of Colombia, but we acknowledge that it may miss the nuances of CIVIC's framework.

The majority of indicators had simple descriptions that fit well into this approach. They were, at least, clearly present or absent to some extent. For more complex indicators with lengthy descriptions or nuanced criteria, we simplified them to a simpler, "yes or no" question. For example, Category 1.2: International Leadership has two indicators about a country's support of relevant treaties and other non-binding international agreements. To assess "support," we opted to code each of those as a 1 if

Colombia had signed or ratified at least half of the treaties outlined in the Appendix. Similarly, vague and subjective language was adjusted to allow for easier judgements. Category 4 concerned amends and reparation payments, and the indicators often referred to a reparations scheme that was *fair, timely, and effective*. Each of those criteria is highly subjective to the context, so we lowered the threshold to measure whether or not a reparations scheme existed at all. This approach was applied routinely to subjective language: *clear* policy was reinterpreted to be *explicit* policy; *restrict arbitrarily* was reduced to *restrict*; *leadership* changed to *participation*.

These changes were necessary to confidently code the indicators for Colombia. We recognize that, in some ways, this weakens the significance of the metric. A country doing the bare minimum in acknowledging civilian protection would receive the same score as a country on the leading edge. Future work with this framework could go back to the language of the indicators and further define them for consistent coding.

### *Data and Sources*

Whenever possible, we chose to focus on Colombian policies, rather than the actual practice. This had advantages for both the coders and CIVIC's future engagement with this project. Coding policy is simpler than coding practice, as practice introduces several judgment calls for the coder: what is routine behavior? Does this differ between different units of the military? How much evidence is needed to justify a behavior as routine? Often, the media only covers major violations of policy (e.g., the False Positives scandal). Is this highly publicized incident indicative of regular practice? With policy, we can at least point to Colombia's legal regime towards civilian protection. Additionally, the concrete focus on policy can give CIVIC direct avenues to work with partner governments. CIVIC can target the "low-hanging fruit" of missing policy language and encourage states to legally enshrine civilian protection.

Policy documents came from a variety of sources. In primary sources, we drew from military manuals, the text of laws and decrees, and other internal reports from the Colombian government. Our team had a range of Spanish reading ability, from none to nearly fluent. We used Google Translate and DeepL to translate select paragraphs or entire documents. If the translation seemed incomplete or jumbled by the online software, we consulted a Spanish PhD student for further clarification. Primary sources - such as military manuals, laws, and ministerial decrees - were supplemented by English-language scholarship, which mostly focused on reparations and the 2016 peace agreement.

Some indicators required assessing practice, particularly in Category 2. Prior to coding, we mapped CIVIC's subcategories to the International Committee of the Red Cross's (ICRC) Customary International Humanitarian Law (CIHL) database. We found significant overlap with Categories 1 and 2, but much less so for Category 3 and 4. This points to CIHL's emphasis on prevention in civilian protection over tracking harm and making amends. We used this mapping to point us towards policies when the indicators seemed practice oriented. Unfortunately, the CIHL database does not appear to have been updated in several years. The most recent source was from 2007. Still, we used the database to begin our search for the more updated versions of whatever policy or manual they referenced.

### *Intercoder reliability*

The team coded all indicators over a period of four weeks. For each week, we focused on a specific category and divided the subcategories among team members. Each of us completed one or two subcategories depending on our availability and interests. After coding individually, we met as a group to

discuss our findings. These discussions helped fill in any gaps, work through indicators where we were unsure of how to code, and ensure that we interpreted the indicators similarly. For this iteration of the project, we were not able to recode indicators to assess intercoder reliability or validity. The weekly discussions aimed to provide some of that cross-checking given our time constraints.

## Data

### Category 1: National Commitment and Enabling Structures

Our final subcategory scores are as follows:

<u>Subcategory</u>	<u>Score</u>
1.1: National Policy Framework	3/5
1.2: International Leadership	4/5
1.3: Oversight of security institutions and policies	4/5
1.4: National Laws and Legislation	3/5
1.5: Commitment to Transparency	1/5
<b>Total</b>	<b>15/25</b>

Colombia scored a 16/25 on all indicators in Category 1 (National Commitment and Enabling Structures), which shows that the state has a moderately strong level of political commitment to protecting civilians with clear room to improve. We found that, beginning around 2015 and continuing after the passage of the peace accords, Colombia started to emphasize issues of human rights and civilian protection in national-level security policies and legislation. High-level Ministry of Defense policies such as the 2015 *Plan Nacional de Desarrollo y Plan de Seguridad: "Todos por un Nuevo País"* and the 2019 *Política de Defensa y Seguridad PDS* affirm Colombian military commitments to IHL, human rights, and a general goal of *convivencia* (or coexistence). Legislative achievements include Ley 1862 (2017), which is a crucial piece of legislation that officially oriented military norms of conduct towards a human rights framework and severely punishes a wide variety of offenses against civilians. Colombia also has reaffirmed its commitments to IHL through both legislation (Ley 1862) and military policy (Ministry of Defense Directive 15, 2016). Colombia has failed, however, to properly specify how human rights policies will be put into practice or if there is funding designated specifically for human rights programs within the Ministry of Defense.

In terms of military oversight and transparency, Colombia has room to improve. Colombian oversight of military institutions is highly dependent on civilian executive-level leadership, especially the Minister of Defense. While Colombia does have internal military oversight structures and has recently developed more plans for civil society oversight and consultation, the lack of any meaningful legislative oversight is worrisome. Furthermore, Colombia's Transparency Law (Ley 1712 from 2014) does not apply to matters of national security, per Decreto 1081 (2015). There is clear potential for reform in this area, however: both the current Minister of Defense and General Commander of the Army (Iván Velásquez and Helder Fernán Giraldo Bonilla, respectively) have strong human rights pedigrees and have both expressed a desire to expand civilian control over the military.

Finally, Colombia has shown a modest commitment to human rights and civilian protection on the international stage. Colombia has signed and/or ratified major human rights and civilian protection treaties and actively provides human rights training to other state militaries. Still, Colombia cannot be considered an international leader on human rights due to major regional human rights bodies, such as the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights, consistently criticizing Colombia for human rights violations both during and after the country's internal conflict.

*Category 2: Civilian Harm Prevention and Mitigation*

Our final subcategory scores (out of 5 or 6 indicators for each subcategory) are as follows:

<u>Subcategory</u>	<u>Score</u>
2.1 Use of Force	4/5
2.2 Planning for Operations	2/6
2.3: Community Engagement	4/5
2.4: Mitigating Impact During Operations	2/6
2.5: Use of Explosive Weapons	4/5
<b>Total</b>	<b>16/27</b>

In our research for this category, we struggled due to the lack of records on practice rather than policy. It was tough to find information due to the fact that the Colombian military is not widely transparent when it comes to allowing outsiders to understand their processes. As is true for all other categories, not much has happened until the 2016 peace accords as well as the implementation of a new president. All of this has been so recent, that any major changes have not been implemented.

Colombia has established many community protection and consultation institutions since the signing of the Comprehensive Peace Accords. Achievements include the establishment of an early warning system for vulnerable communities and the formation of the diverse National Council for Peace, Reconciliation, and Coexistence (CNPRC). While there have been critiques of these institutions for not being sufficiently resourced, Colombia is moving in the right direction in terms of community protection.

There was some CIHL reference to protecting civilian infrastructure, but it mainly focused on the fact that it was prohibited and would be considered a criminal violation to harm civilians. The military manuals we found did not go further in-depth into how the military would try to prevent harm. The news only reported major violations of civilian protection (e.g., the false positives scandal) or some recent reporting on curfews related to protests, not conflict. These are both very specific circumstances and did not give me enough confidence to code either way.

Lastly, this section relied on findings related to Colombia’s involvement in international treaties and national policies that prohibit the use of weapons that would cause unnecessary suffering and harm. Colombian military manuals and national legislation state the prohibition of employing arms that will cause unnecessary harm. Most of these sources were found in the IHL website under sources. The creation of the Damascus Doctrine was built within the framework of a legal order integrating national and international norms (law of security and defense) regulating the methods and means of warfare with full adherence to these standards. It is not clear whether the Colombian military upholds national and international law in their practices, particularly in weapon accumulation.

*Category 3: Civilian Harm Response (Reporting, Investigations, Tracking, and Recording)*

Our final subcategory scores are as follows:

<u>Subcategory</u>	<u>Score</u>
3.1: Incident Reporting and Initial Assessments	4/5
3.2: Civilian Harm Investigations	5/5
3.3: Civilian Harm Tracking	1/5
3.4: Public Reporting and Transparency	1/5
3.5: Civilian Harm Recording	2/5
<b>Total</b>	<b>13/25</b>

The Civilian Harm Response section of CIVIC’s framework pertains to the policies and measures developed to effectively address harm to civilians and civilian objects through proper response to incidents and suspected incidents of harm. This category contains five subcategories to effectively measure the various components of civilian harm response by the Colombian government and military. These subcategories are Incident Reporting and Initial Assessments, Civilian Harm Investigations, Civilian Harm Tracking, Public Reporting and Transparency, and Civilian Harm Recording. Prior to conducting research for this category, we expected to find more data surrounding policies on civilian harm response and would discover a lack of data in relation to policy practice by the parties responsible for civilian harm.

After the 2016 Peace Accords that occurred between FARC and the Colombian National Government, there was a presence in efforts in the investigating and reporting of civilian harm that occurred during the years of conflict. The 2016 Peace Accords created the Comprehensive System of Truth, Justice, Reparation, and Non-Repetition (SIVJRNR) which is a set of mechanisms that guarantee the rights of victims to truth, justice, reparation and non-repetition. The SIVJRNR system was established into the Colombian constitution through Legislative Act 01 of 2017. This system is composed of three different extrajudicial and judicial mechanisms that aim at upholding the victims’ rights and shedding

light to the incidents that occurred in armed conflict. The three mechanisms are the Truth, Coexistence and Non-Repetition Commission, the Special Jurisdiction for Peace (JEP), and the Unit for the Search for Persons Presumed Disappeared in conflict (UBPD) as well as comprehensive reparation measures for peacebuilding and guarantees of non-repetition. These three mechanisms were key players in addressing civilian harm and the whereabouts of missing persons. We had difficulty retrieving data on policies and actions that occurred prior to the 2016 agreement.

The Truth Commission focused on interviewing victims, eyewitnesses, family members of victims, armed actors, political actors, and many others in order to understand the truth of what occurred during armed conflict and establish any patterns. The Commission has established different approaches in terms of gathering information from different demographic and ethnic groups to better address their needs and accurately report their stories. The Special Jurisdiction for Peace (JEP) is a judicial entity tasked with investigating and punishing those that have committed war crimes, human right violations, and crimes against humanity. JEP has convicted many FARC members, political officials, members of the public force, and others who are linked to war crimes. This has brought about justice for victims and shed light to the truth.

Aside from the Truth Commission and JEP investigating and conducting reports on civilian harm, there was no data present on whether the Colombian military conducts reports on civilian harm. It was difficult to assess whether the military does provide reports and we could not find them or if the military does not conduct reports at all. In relation to civilian harm tracking, we found that The Single Registry of Victims (RUV) fulfills the basic premise of tracking civilian harm, but its main goal is towards reparations and not acknowledgement of harm. The RUV publishes data about the victims and the incident but does not include information on the perpetrator. While conducting research for this category, we notice that the Colombian military does not take responsibility for any harm they may have caused, meaning they do not tie acknowledgement of the crimes they committed to reparations, which affects our scoring of this category. Much of this category relies on the findings and efforts conducted by the SIVJRNR system rather than the Colombian military.

*Category 4: Amends and Reparations*

Our final subcategory scores are as follows:

<u>Subcategory</u>	<u>Score</u>
4.1: Post-Harm Amends	3/5
4.2: Reparation and Victim’s Rights	3/5
4.3: Assistance for Survivors and Victims of Explosive Remnants of War	4/4
4.4: Repair and Restoration of Services and Infrastructure	3/4

4.5: Criminal Accountability	4/4
<b>Total</b>	<b>17/22</b>

A Harvard study funded by USAID found Colombia’s reparations scheme to be one of the largest and most comprehensive in the world, with 12.7% of the population registered in the Victims Registry (RUV, *Registro Único de Víctimas*) as of 2015 (Sikkink et al. 2015). Similarly, the Reparations, Responsibility, and Victimhood in Transitional Societies Project at Queen’s University in Belfast called the program “one of the most ambitious public policy efforts by the Colombian state” (Sanchez and Rudling 2019). Even with this deserved recognition, the process of coding this category under CIVIC’s language revealed some gaps in Colombia’s approach.

Colombia does have a criminal justice procedure for reparations and amends to victims, but the primary focus here is the reparations scheme of Law 1448. The reparations program is more victim-centered and more responsive to harm by state actors than the criminal court system.

Law 1448 of 2011 set the legal framework for providing assistance to victims. Victims were empowered to seek different forms of care ranging from rehabilitation to psychosocial care. These programs are administered by the National System for the Assistance and Comprehensive Reparation of Victims (SNARIV, *Sistema Nacional de Atención y Reparación Integral a las Víctimas*), which was specifically created to address the complex needs of victims. This approach reflects a comprehensive view of loss and an effort to improve societal conditions to reduce violence. Law 1448 also explicitly recognizes anti-personnel mines, unexploded ordinances, and explosive devices as a discrete victimizing act, in line with CIVIC’s emphasis on victims of explosive remnants of war.

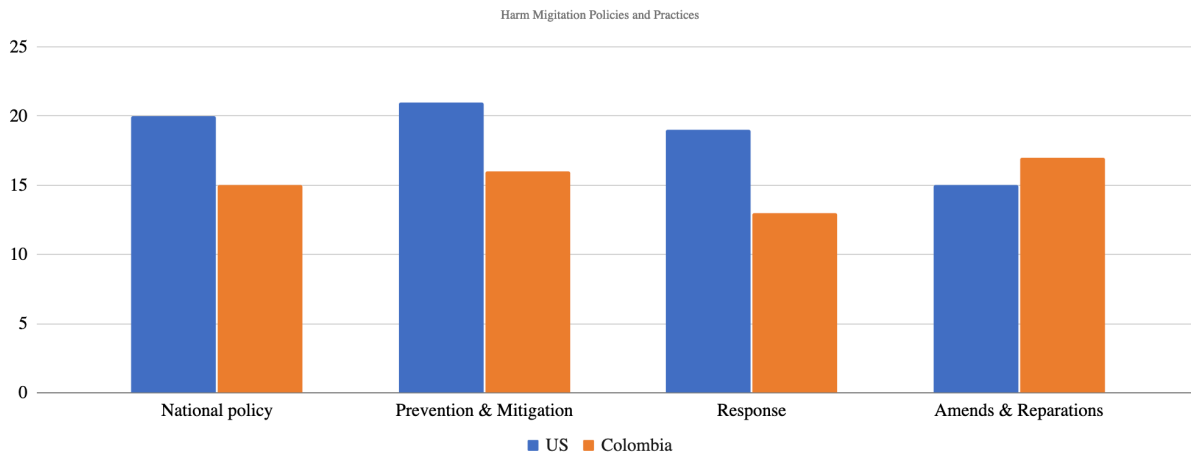
The process for condolence and registering as a victim is managed by the Victims’ Unit (UV, *Unidad de Víctimas*). Victims must self-report the incident to the UV and RUV, which is then investigated and decided as valid or not. There is little transparency over the adjudication process for claims and no explicit efforts towards trauma-sensitive processes. Claims also extend to infrastructure and restoring critical services. The military is actively involved in repairs and official policy views them as essential work.

The major gap between Colombia’s reparations scheme and CIVIC’s framework is accountability. Colombia meets the majority of CIVIC’s indicators when it comes to having a process in place for victims, publishing data on the number and type of incidents, and striving towards a comprehensive reparations scheme. However, Colombia does not apologize to victims or publish any data on alleged perpetrators, whether they are government or non-state actors. The reparations program originally excluded victims of government actors, but Colombia has shifted towards acknowledging all victims without discussing the source of harm. This fails a major piece of CIVIC’s indicators around amends and reparations. Acknowledgement is the first indicator of the entire category, but Colombia fails to do so. CIVIC’s frameworks also considers apologies and plans for improvement and harm mitigation as part of comprehensive amends.

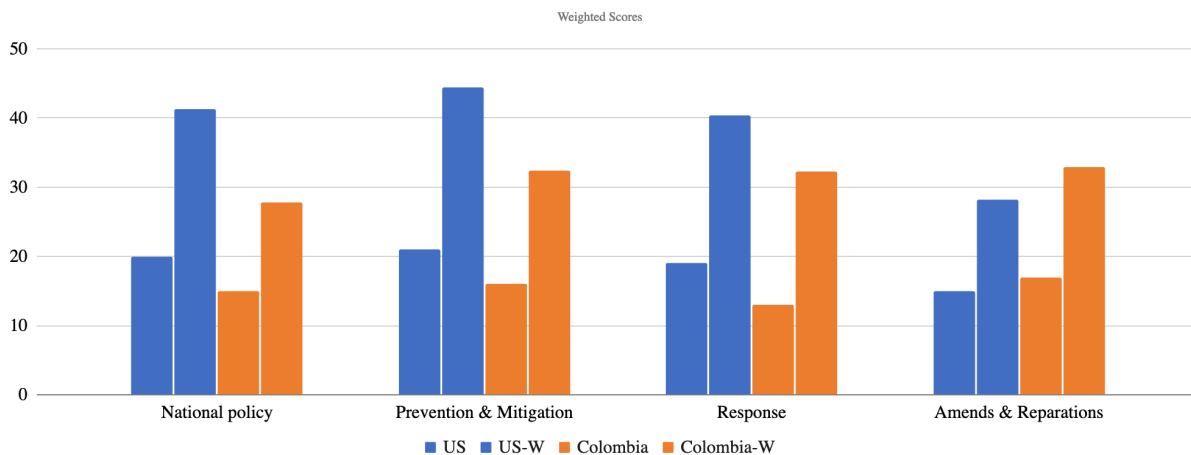
## Analysis

### *Applying the CIVIC Framework: Results*

Our research shows that CIVIC’s framework was more than sufficient to conceptualize and evaluate a broad range of “civilian protection policies” in two different country contexts. The application and scoring of this framework yielded valuable insights on the strengths and weaknesses of Colombian and American civilian protection policies and practices in a wide variety of forms. As we can see in the graph of unweighted scores below, the United States outscored Colombia in all categories except for Amends & Reparations; this is unsurprising given both Colombia’s very recent turn towards a human right-based security policy and the fact that Colombia has an expansive reparations process for victims of the country’s internal conflict.



These relationships still hold after we weighted subcategories by importance, as seen below:



The bars indicate the unweighted and weighted scores for the United States (blue) and Colombia (orange). The weighted bars give higher weight to the scores for subcategories judged to be more important for CHM via a poll of our research teams. The sharp increase between weighted and unweighted scores in Colombia’s Response category is due to the deep investigation of civilian harm (the highest weighted subcategory) that is part of Colombia’s Truth and Reconciliation Commission (*La Comisión de la Verdad*). Despite Colombia’s poor performance on other indicators in this category,

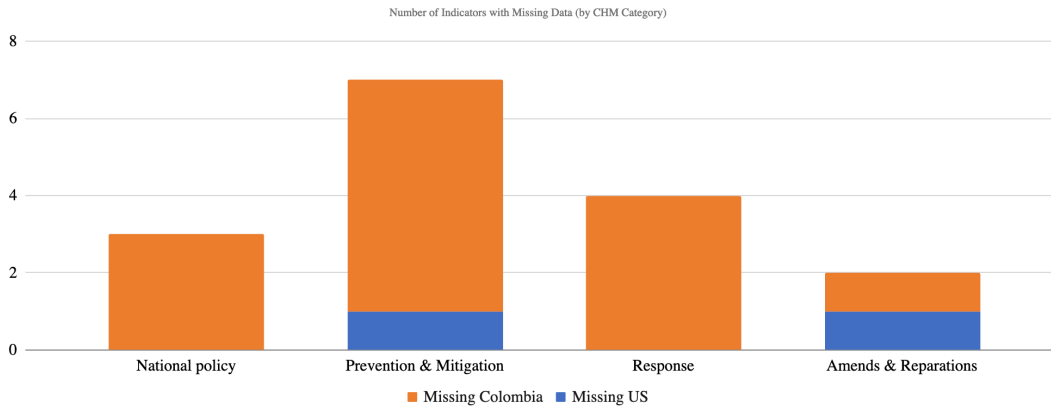
Colombia fulfilled all five indicators of Civilian Harm Investigations. Similarly, the United States boosted its weighted Prevention and Mitigation score due to fulfilling all five indicators in the highly-weighted subcategories of “Planning for Operations” and “Use of Explosive Weapons.”

Colombia scored poorly on high rated subcategories such as Commitment to Transparency (1.5; 1/5 indicators) and Planning for Operations (2.2; 2/5 indicators), which is the result of Colombia explicitly carving out transparency exceptions for national and public security matters, while areas of US weakness include Oversight (1.3 1/5 indicators) and 2. Reparation and Victims’ Rights (4.2; 0/5 indicators). Ultimately, areas of improvement for both states are 1.) increasing transparency around operations and instances of civilian harm, 2.) taking responsibility for harm when giving post-harm amends, and 3.) oversight of security institutions.

The process of researching and coding also illuminated a key temporal element of Colombian civilian harm mitigation policy development. Colombia consistently enacted or codified civilian protection and harm mitigation policies during and around peace talks; furthermore, the ratification of the 2016 Peace Accords also created new civilian protection and harm mitigation bodies. The round of successful peace talks with FARC that culminated in the 2016 Peace Accords began in 2011, coinciding with the passage of the Victims and Land Restitution Law (Ley 1448) and the creation of the National Protection Unit. Similarly, national military and police policies from 2015 and 2016 reflect a re-orientation of security policy towards emphasizing human rights language; policies such as the 2015 *Plan de Seguridad: “Todos por un Nuevo País* and the 2016 National Police Code enshrine human rights and *convivencia* as core values of the Colombian national security forces. Colombia has also created numerous civilian protection and consultation bodies as part of the implementation of the Peace Accords, such as the creation of an early warning system in 2017 and the establishment of the National Council for Peace, Reconciliation, and Coexistence. The Colombian peace process, and subsequent implementation of elements of the Peace Accords, meaningfully increased the number and robustness of civilian protection policies in the country.

### **Applying the CIVIC Framework: Challenges**

The greatest challenges we faced with applying the CIVIC framework were 1.) being unable to find information on specific subcategories and 2.) understanding how to code in the presence of contradictory information. Missing information was an acute issue for the Colombia group, as indicated by this chart depicting the number of missing indicators per group:



Unsurprisingly, given the explicit exemption of national security documents from the Colombian right to transparency, the Colombia group was unable to score for many indicators relating to specific elements of military doctrine and planning; most of these indicators are in categories 2 and 3 (Prevention & Mitigation, Response), explaining the low scores and high numbers of missing data in these categories. The continuation of Colombian Conflict (against paramilitaries, guerilla dissidents, and bacrim) after the Peace Accords does not bode well for the release of specific military plans and doctrine to the public, although the new reformist military leadership does raise the possibility of greater military transparency. Other barriers to information, beyond potential issues with Colombian transparency, included technological issues (as many Colombian Armed Forces webpages either block access or do not load) and language barriers. CIVIC’s framework acknowledges that not all indicators may be applicable or discoverable for all country/conflict contexts.

Another key issue faced when coding was the issue of contradictory information, particularly around tensions between policy and practice. For example, there is a clear tension between national-level security policies that claim to promote civilian protection and actual military doctrine; Colombia is not transparent about the latter, especially around issues of planning and mitigating harm during operations, which may cheapen the Armed Forces’ ostensible commitments to human rights found in the publicly-available national defense policies. Similarly, we also came across categories in which policy and practice both promoted civilian protection, but in insufficient ways, such as the proliferation of bodies designed to protect vulnerable civilians in Colombia; the accumulation of multiple different bodies (NPU, PAO, Decreto 660 from 2018) tasked with protecting vulnerable individuals has led to the under-resourcing and over-work of each body. For areas in which policy and practice pointed towards civilian protection but had issues with implementation, we typically still scored these as a “1” while adding context and commentary within our coding sheet.

Ultimately, in gray areas of coding, we would typically review CIVIC’s language for each specific indicator that we were unsure how to score to determine whether to assign a 0 or a 1. For example, Colombia’s designation of *Zonas Futuro* (or ZEII; areas designated as combat operation zones) *can be scored as a 1* for the “Informing Communities” indicator in subcategory 2.3 per CIVIC’s language, but should be scored *as a 0* for “Public Reporting of Operations” (subcategory 1.5). Reviewing the “spirit” of CIVIC’s indicator definitions proved to be a valuable means of resolving scoring questions. As the primary goal of this project was to apply the CIVIC framework as it was written, we took all

indicators at face value, although we did feel that one or two indicators--particularly if a country “Actively supports and prioritizes the protection of civilians at the United Nations”--were not useful. Regardless, we did not exclude any indicators in our coding, nor did we weight scores at the indicator level (weights were solely for the five-point subcategory score).

## **Conclusion**

Throughout our research we found that it is possible to apply the CHM framework to a degree of accuracy but there are some challenges. CIVIC’s framework and data can be a helpful starting point for conversations on mitigating harm, especially with the Colombian peace process leading to progress as well as a new presidency that prioritizes CHM.

We did run into some challenges with coding our data due to a language barrier, as well as different verbiage used surrounding CHM, lack of access to military sites, whether that be a VPN issue or just inaccessible, and Colombia struggling with an internal conflict. The category we struggled to code the most was the Prevention and Mitigation section due to there being a lack of reported practices.

In conclusion, Colombia has a bright future in terms of civilian protection and we hope this report can shed light on areas that potentially need work. We are extremely hopeful that the new presidency will encourage civilian protection in all legislature and will focus on expanding the policies created during the peace process.

## **Policy Recommendations**

Based on our research, we have compiled a list of policy recommendations that would benefit Colombians and further their new initiatives to prioritize civilian protection. For example, Colombia could streamline protection initiatives due to there being many overlaps as well as mixed resources. As we mentioned throughout our report, many new policies have been created following the 2016 peace accords. However, there is now slight overlap when it comes to what government body is in charge of implementing and enforcing these new policies.

Colombia should also increase transparency of CHM efforts by allowing the civilians the government wishes to protect to be the main focus and to have more of a say in how they wish to be protected. Some aspects of CHM are seen as more impactful for reducing harm and should be prioritized. We recommend the communities come first when recognizing harm done to the civilian populations.

We recognize that these results demonstrate successes with enacting CHM policies but more effort is still required to improve CHM practices. There is hope with the new presidency as well as the peace accords that action is being taken to prioritize civilians but there is more work to be done to ensure compliance with international law.

## **Appendix**

Table 1: Timeline of the Colombian Conflict and Colombian Civilian Protection policy development

<b>Policy/Action</b>	<b>Year</b>	<b>Notes</b>
<i>La Violencia</i>	1948 - 1964	Civil War between supporters of the Liberal and Conservative parties after the assassination of Liberal leader Jorge Eliécer Gaitán; leads to formation of political paramilitaries and internal displacement of millions
Formation of FARC	1966	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia) form as an insurgent group to resist state violence against communist peasant “republics” in rural Colombia
Formation of M-19	1974	Formed out of a split with FARC, M-19 emerges as an urban guerilla group
Security Statute	1978	Enacted a “state of siege” in Colombia until 1982, allowing government agents to arrest anyone participating in mass demonstrations.
Birth of paramilitary organizations	1980s	Former government-trained Civil Defense Units (Juntas de Defensa Civil) begin to lead “political cleansings” of the countryside, with support of narco-traffickers and the military; the most powerful of these paramilitaries is the AUC
Initial peace talks with FARC	1982-1986	Failure of peace talks leads to FARC expanding their recruitment and operations, which in turn led to growth of paramilitaries and expansion of conflict
Banning of paramilitaries under Barco	1989	Liberal president Virgilio Barco repeals a 1960s law allowing the government to create paramilitaries; also issues Decree 1194 to establish penalties for financing paramilitaries
Demobilization of M-19	1989-1990	First militant group within the Colombian Conflict to agree to peace and demobilize
Ratification of a new Constitution	1991	Established an independent Constitutional Court and granted a wide variety of rights to civilians
Massacres in Trujillo	1988-1994	Over a six-year period, over 340 civilians suspected of being sympathetic to the FARC insurgency were murdered, tortured, or disappeared in coordinated efforts between drug traffickers, members of the Army and National Police, local politicians, and paramilitaries
Re-legalization of self-defense forces	1994	CONVIVIR paramilitaries are formed under President Ernesto Samper in 1994; by 1998, CONVIVIR was accused of assassinating and threatening civilians

<b>Policy/Action</b>	<b>Year</b>	<b>Notes</b>
<i>Ley 387</i>	1997	First government law that commits to reparations and aid to displaced populations; faced heavy scrutiny for being insufficiently funded and implemented
<i>Ley 418</i>	1997	Allowed for amnesty for members of paramilitaries and guerilla groups that turned themselves in; also recognizes the need to protect vulnerable individuals, but does little to actually enact protection policies
<i>Plan Colombia</i>	1999-2000	US-Colombia agreement for the US to give military training, equipment and general aid to Colombian Armed Forces
Failed negotiations with FARC	1999-2002	Peace talks temporarily created a demilitarized zone in Caguan for FARC until the group hijacked a plane in Cali, ending talks and reigniting the conflict
<i>Política de seguridad democrática</i>	2002	“Democratic Security”; national security plan that focused on expanding the number of police/military and power of Armed Forces under President Alvaro Uribe
<i>Parapolítica scandal</i>	2005	Several Congressmen, as well as numerous local politicians, were found to have promoted and financed the AUC, Colombia’s deadliest paramilitary group; paramilitary leaders also testified that they used threats to entice civilians to vote for Uribe as well
Height of the “false positives”	2006-2009	The most “false positive” killings--or killings of civilians by military forces to inflate kill counts of “guerillas” for promotions and bonuses--peaked under President Uribe; an estimated 6,000 to 10,000 civilians were murdered as “false positives” under Uribe
<i>La Política integral de Derechos Humanos y Derecho Internacional Humanitario</i>	2008	First wide-ranging Colombian defense policy to emphasize human rights and commitments to IHL; given the record of Uribe, should be taken with a grain of salt
<i>Ley 1448</i>	2011	Victims and Land Restitution Law, which provided recognition to the victims of the Colombian armed conflict and laid groundwork for reparations as well as a Truth and Reconciliation Committee
Peace process begins	2011	President Juan Manuel Santos confirms in October of 2011 that he had engaged in talks with FARC in Havana

Policy/Action	Year	Notes
<i>Unidad de Protección</i> established	2011	Division of the Ministry of the Interior that was established to protect journalists, politicians, rights defenders, activists, and other vulnerable individuals from criminal/paramilitary threats and violence
<i>Plan Nacional de Desarrollo y Plan de Seguridad: "Todos por un Nuevo País"</i>	2015	Reiterates the commitments to human rights found in the 2008 <i>Política integral</i>
<i>CÓDIGO NACIONAL DE POLICÍA y LA CONVIVENCIA</i>	2016	Establishes human rights guidelines for National Police and focuses national police policy on pursuing goal of <i>Convivencia</i>
Passage of Comprehensive Peace Accords	2016	After narrowly losing in a popular referendum, both houses of Congress approve a revised agreement focusing on 6 major points, such as agrarian reform, political participation, and creation of new institutions
Creation of the National Council for Peace, Reconciliation, and Coexistence (CNPRC)	2017	Formed as part of the peace agreement; composed of 36 different civil society organizations representing a wide range of vulnerable groups (women's organizations, indigenous organizations, Afro-descendent groups, etc.); serves as an advisory body to the government and makes recommendations to Ministry of the Interior relating to governmental goal of <i>Convivencia</i>
<i>Comisión para el Esclarecimiento de la Verdad, la Convivencia y la No repetición</i> (TRC formation)	2017	Formed as part of the peace agreement; released its final report in June of 2022 after interviewing nearly 30,000 people about violence--particularly the deaths of civilians--during the Colombian conflict
<i>Decreto 2124</i>	2017	Establishes a warning system in the Office of the Ombudsman; this warning system is designed to alert communities and rights defenders to potential risks, such as criminal gang activity and state operations; also argues that it is the state's responsibility to protect human rights and that early warning is a key element of this protection
<i>Decreto 178</i>	2018	Establishes a human rights body within the office of the President to coordinate cooperation and implementation of policies with different executive departments and local governments
<i>Decreto 660</i>	2018	Comprehensive Ministry of the Interior-devised plan to protect specific communities and individuals, with special attention to minority ethnic groups, women, rural communities, and

Policy/Action	Year	Notes
		rights defenders; explicitly supports and promotes community self-protection
<i>DECRETO 2137</i>	2018	Establishes the “Comisión del Plan de Acción Oportuna (PAO) para Defensores de Derechos Humanos, Líderes Sociales, Comunales, y Periodistas;” in short, creates a body to oversee the application of a national protection plan for rights defenders, journalists, and other social leaders
<i>Política de Defensa y Seguridad PDS</i>	2019	Orients national Colombian security policy towards goal of <i>convivencia</i> while advocating for the protection of vulnerable communities, such as indigenous and Afro-descendent communities
<i>Derechos Humanos y Fuerza Pública</i> report	2021	Ministry of Defense report on Human Rights strategies and trainings; prioritizes the protection of vulnerable populations such as rights leaders, ethnic minorities, and children within national armed forces policy; report claims that National Police have recorded over 17,000 instances of preventing violence against these groups
El Estallido Social	2021	Mass protests in Colombia sparked by public discontent with tax reform, inequality, police brutality, and a high COVID death toll throughout 2021; by June, the state ombudsman reported that over 50 people had died and that the National Police and Army had committed over 300 human rights violations
<i>PLAN DE PARTICIPACIÓN CIUDADANA</i>	2022	Ministry of Defense plan for civilian engagement; seeks to re-frame Armed Forces as inclusive defenders of civil society
Final reports from <i>Comisión de Verdad</i>	2022	After years of investigation and interviews with over 24,000 citizens, the Truth Commission releases a final death toll (450,000 people) and comprehensive reports on topics such as number of human rights violations, violence against ethnic minorities, and various future policy recommendations

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