

## Article

# Guarantee of rights for victims in the family context within the competencies of Family Commissariats. Law 2126 of 2021

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**Abstract:** Families are the central nucleus of society; however, they face internal challenges that affect their functioning and stability, often manifesting in incidents of domestic and gender-based violence. The World Health Organization has classified this violence as a severe public health problem and a violation of human rights. To address this issue, the Congress of the Republic of Colombia enacted Law 2126 of 2021, introducing significant changes to the responsibilities of authorities in preventing, restoring, protecting, and repairing the rights of victims. This law provided a three-year implementation period for territorial entities, which concluded on 4 August 2023. In 2023, 119,483 cases were reported, and by June 2024, the number had reached 63,528—the highest recorded to date. This situation continued to escalate uncontrollably throughout 2024, overwhelming functional capacity and resulting in a crisis. Therefore, the objective of this study is to analyze the guarantee of rights for victims of violence in the family context, within the competencies of Family Commissariats, as outlined in Law 2126 of 2021. The methodology focuses on analyzing academic and scientific databases, including studies and articles published in indexed journals, to evaluate government measures and describe the challenges in service provision by Family Commissariats to propose conclusions. The approach is qualitative, with a hermeneutic, documentary, legal-dogmatic orientation and anthropological contributions. The results reveal that the law's implementation has been gradual, surpassing the established deadline. Administrative, political, and financial factors identified over the three years remain unresolved in 2024. The situation for victims of physical, psychological, economic, and sexual violence within the family context has worsened due to multicausal obstacles to accessing justice in a timely, efficient, and effective manner. Consequently, there is evidence of an exponential increase in violence, underreporting, impunity, setbacks, procedural delays, normalization of violence, and re-victimization, among other issues.

**Keywords:** violence in the family context; domestic violence; gender; intrafamilial violence; Law 2126 of 2021; competencies; family commissioners

## 1. Introduction

The family is universally considered the central unit of society (Congress of the Republic of Colombia, 1991) as it provides the foundation for the physical, emotional, and social development of its members (García et al., 2023). However, families face a series of internal challenges that affect their functioning and stability, including personal and familial conflicts arising from cultural and stereotypical aspects, changes in family structure, economic and social stress, communication problems, and discrepancies in values, parenting styles, and family expectations (Torres et al., 2017). These challenges often manifest in severe forms of violence within the family, including domestic violence, sexual violence, and gender-based violence, with

repercussions on physical, emotional, and mental health (Johnson, 2023) and, in extreme cases, femicide (Pérez et al., 2019).

Acts of violence within the family context represent a widespread global issue, affecting all social groups and exacerbated by the global COVID-19 pandemic (Smith et al., 2023). Due to its alarming and uncontrolled rise, the World Health Organization has classified this violence as a severe public health problem and a violation of human rights (WHO, 2021), impacting entire generations (Sánchez et al., 2019).

To address this public calamity, the Congress of the Republic of Colombia enacted Law 2126 of 2021, which regulated the creation, composition, and functioning of Family Commissariats. It defined their qualifications, responsibilities, and administrative and judicial competencies to prevent, protect, restore, and repair human, social, economic, and political rights for victims of violence in the family context and beyond. The law also outlined responsibilities for the National Government, the Colombian Institute of Family Welfare (ICBF), the Ministry of Justice, and territorial entities such as departments, districts, and municipalities, emphasizing principles of cooperation, coordination, subsidiarity, due diligence, independence, autonomy, and gender perspectives. A three-year implementation period was established, which expired on 4 August 2023.

For implementation, the Ministry of Justice issued technical guidelines for the proper functioning of Family Commissariats, formalized through Law 2197 of 2022. Additionally, Law 2294 of 2022 created the Family Justice System and extended the deadline for the ICBF to assume its assigned competencies to 1 July 2024.

Scientific studies conducted in 2022 and 2023 revealed contradictions and obstacles that hindered achieving acceptable levels of efficiency and effectiveness. These were reflected in the various protests by Family Commissariats, denouncing the arbitrariness they faced and the exponential rise in family violence cases. This motivated further exploration of the issue in this study, revealing that the delays in implementation remain unresolved due to political and administrative disinterest and a lack of funding.

The study highlights deficiencies in physical, administrative, and technological infrastructure, inadequate qualification and specialization of professional personnel, and insufficient expansion of staff to meet legal expectations. Furthermore, the protective system is underperforming, and administrative and judicial measures lack proper cooperation, coordination, and subsidiarity among different government entities. The shared responsibilities with the ICBF have not been effectively distributed, leading to conflicts of jurisdiction. These unresolved issues have exacerbated the violence, fostering underreporting, normalization, concealment, and even involvement of external actors such as criminal organizations acting as mediators in domestic conflicts.

A 2022 study identified the lack of political and administrative interest as the root cause of insufficient financial resources for effective implementation through August 2023. Case backlogs, delays in justice access, re-victimization, underreporting, and the overwhelming scope of the problem, alongside protests by Family Commissariats, form the foundation of this research.

As a result, the following scientific question was developed:

What is the Guarantee of Rights for Victims of Domestic Violence within the Competencies of Family Commissariats? Law 2126 of 2021.

To address this question, the general objective is:

To analyze the Guarantee of Rights for Victims of Domestic Violence within the Competencies of Family Commissariats under Law 2126 of 2021.

The specific objective is:

To describe the practices of Family Commissariats and their competencies in guaranteeing the rights of victims within the family context.

## **2. Materials and methods**

This research employs a normative or dogmatic-legal methodology with a descriptive and comprehensive approach to the phenomenon under study. It is based on the analysis of documentary data collected from specialized databases and literature to deeply examine and discern the subject matter, understand its causes, and highlight the underlying reasons for its occurrence. The methodology is further supported by ethnographic and descriptive methods, complemented by legal hermeneutics. The qualitative approach is highly valuable as it follows an inductive process.

The study begins with an analysis of the legal and regulatory framework, jurisprudence, and relevant theories and concepts to guide the scope of Law 2126 of 2021 in ensuring the rights of victims of domestic violence. It then examines the principles, competencies, and functions of the Family Commissioners; the measures adopted by public entities for implementation; and the challenges they face.

This information is contrasted with the actual functioning of the Family Commissioners, validated through fieldwork involving on-site visits. Observations will include evaluations of office conditions, physical infrastructure, technical resources, and the availability of specialized professionals to provide effective and efficient victim support. Attention will also be paid to the care pathways employed and the institutional coordination of family welfare and justice systems as mandated by Law 2126 of 2021 and Law 1098 of 2006.

The findings will be further corroborated with semi-structured and spontaneous interviews conducted with experts, qualified professionals (both national and international), users, and victims—those directly affected and involved in the process. The interview group comprises individuals with substantial expertise and insight, covering various stages of the services provided by the Family Commissioners. These participants, located in different regions of Colombia and municipalities of varying classifications, offer valuable revelations about the effectiveness of services provided by this institution.

The research concludes with a professional analysis of the obtained results and provides well-defined solutions as a final closure to the study.

## **3. Results and discussion**

### **3.1. Legal, normative, jurisprudential environment, theories, and concepts**

In the international legal framework, various countries, including Colombia, have adopted and ratified treaties, conventions, and protocols that reinforce human rights guarantees and promote legal transformations aimed at protecting victims and preventing acts of violence within the family context. These instruments are integrated into the constitutional framework, with the most relevant and significant including: the Universal Declaration of Human Rights (1948); the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women (Belém do Pará Convention, 1994); the International Covenant on Civil and Political Rights (1966); the American Convention on Human Rights (1969); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979, ratified by Law 51 of 1981); the Convention on the Rights of the Child (1989); the Optional Protocol to the Convention on the Rights of the Child (1989); the Convention on the Rights of Persons with Disabilities (CRPD, 2006); and the Inter-American Convention on Protecting the Human Rights of Older Persons (2015).

Colombian legislation has been notably influenced by Western countries, particularly members of the European Community, which is reflected in the structural evolution of its family law and legislation. This includes regulations related to guaranteeing human rights for victims of domestic violence, gender-based violence, and other forms of violence within the family context. The Istanbul Convention, ratified by the European Community in 2014, explicitly addresses the shared issue of violence against women, minors, and domestic violence. According to Dr. María Inmaculada Sánchez Barrios, a professor at the University of Salamanca and an expert in gender studies, this convention has driven countries like Spain and Colombia to criminalize all forms of family-context violence, including gender-based violence, as well as physical, psychological, and sexual violence, forced marriage, and female genital mutilation.

During my international research residency at the University of Salamanca (2023), I analyzed the subject of this study with specialized experts in criminal and family law, including Dr. Stefano Ruggeri (Professore Ordinario, Università degli Studi di Messina, Italy); Dr. Sergi Corominas Bach (Associate Professor of Procedural Law, University of Salamanca, Spain); Dr. Marcia Ada Flores Benalcázar (lawyer and former judge at the Provincial Court of Justice of Pichincha, Ecuador); Dr. Rodrigo Rivera Morales (President, Colombo-Venezuelan Institute of Procedural Law, Venezuela); Dr. Camilo Constantino Rivera (Professor and Rector, Professional Institute of Legal Sciences Magister, Mexico); Dr. Zelia Luiza Pierdoná (Regional Prosecutor and Professor, Presbyterian University Mackenzie, Brazil); Dr. María Inmaculada Sánchez Barrios (Professor and Coordinator of Gender Research, University of Salamanca, Spain); and Dr. Fernando Martín Diz (Professor, University of Salamanca, and Mediator in Family and Criminal Law).

The research residency in Spain provided a comparative understanding of various institutional designs in Spain, Italy, Venezuela, Mexico, Brazil, and Colombia. These designs allow for a doctrinal and practical extraction of different care models that facilitate access to justice through specialized and interdisciplinary attention. This approach is aimed at preventing, protecting, restoring, repairing, and guaranteeing the rights of those at risk or who have been victims of domestic violence, gender-based violence, and other forms of violence in the family context. These topics are

highlighted in landmark cases of the European Court (González vs. Spain, 2011), the Inter-American Court of Human Rights (María da Penha vs. Brazil, 2001), and Colombia’s Constitutional Court (Judgments T-025 of 2004, T-030 of 2023, T-045 of 2023). Key aspects include the best interests of minors, institutional violence, penalties for aggressors, well-being and protection, prohibition of mediation, mechanisms to protect victims, and the implementation and materialization of legal changes and perspectives, among others.

In conclusion, domestic violence is a widespread issue in both Europe and Latin America, exacerbated by the COVID-19 pandemic. It has profoundly affected constitutionally protected populations such as women, children, adolescents, the elderly, LGBTQ+ individuals, and people with disabilities, as well as the general population, including men. This issue has disrupted the fabric of society and the anthropological culture of families. It has been recognized by the World Health Organization as a severe public health problem and a human rights violation (WHO, 2021).

In Colombia, domestic violence, now referred to as violence within the family context, remains a significant issue impacting many people across both regions. A deeper dive into Colombian statistics reveals hidden challenges faced by society, summarized as follows (**Tables 1 and 2**):

**Table 1.** Total number of recorded domestic violence cases per year (Article 229, C.P).

Year	Number of cases
2016	97.143
2017	100.524
2018	99.914
2019	116.523
2020	118.776

(Source: National police–statistical portal, 2024).

**Table 2.** Reported cases of domestic violence (Art. 229 C.P.) as of June 2024, representing the highest number recorded to date.

Year	Number of cases
Junio 2024	63.528

(Source: National police–statistical portal, 2024).

In Colombia, cases of domestic violence surpass the actions led by the State at the national, departmental, district, and municipal levels. Colombia’s Legal Medicine Institute has reported alarming statistics, underscoring its deep concern.

The research conducted in Spain enabled a comparative understanding of various institutional designs in Spain, Italy, Venezuela, Mexico, Brazil, and Colombia. These designs facilitate access to justice through specialized and interdisciplinary services aimed at preventing, protecting, restoring, repairing, and guaranteeing the rights of those at risk or who have been victims of domestic violence, gender-based violence, and other forms of family violence. These issues are highlighted in emblematic cases from the European Court (González vs. Spain, 2011), the Inter-American Court of

Human Rights (*María da Penha vs. Brazil*, 2001), and Colombia's Constitutional Court (Sentences T-025 of 2004, T-030 of 2023, T-045 of 2023). Important aspects include the best interests of children, institutional violence, punishment for aggressors, well-being, protection, the prohibition of mediation, victim protection mechanisms, and the implementation and realization of legal changes and perspectives, among others.

In response to these challenges, the Colombian Congress developed Article 42 of the 1991 Constitution, which establishes that “the family is the fundamental nucleus of society. It may be constituted by natural or legal ties, such as marriage or the responsible decision to form one. The State and society guarantee its integral protection.” This principle was initially codified through Law 294 of 1996, which addressed various forms of family violence by introducing norms to prevent, remedy, and sanction domestic violence to ensure family harmony and unity. The law defined the family as a group of individuals united by natural or legal ties, including spouses, parents, adoptive children, and other household members, and created a database on domestic violence. Subsequently, Law 575 of 2000 partially reformed Law 294 of 1996, further strengthening protection mechanisms.

To better protect women and girls as victims of violence, Law 1257 of 2008 introduced significant affirmative actions that all public and private institutions must undertake to counteract inequities and inequalities affecting women and girls. It amended Law 294 by highlighting the rights of women and girls, assigning families, society, and the State the responsibility of offering immediate and long-term integral protection to all victims. The law also promoted gender equality by introducing affirmative actions to establish parity between men and women.

Strongly influenced by international trends and increasing conflicts within Colombian families, Congress passed Law 2126 in 2021, which brought significant changes to the regulation, creation, and operation of Family Commissioners (*Comisarios de Familia*, CdF). The law assigned oversight, control, and inspection responsibilities to the Ministry of Justice and Law as the governing body and introduced several provisions. This law was modified by Law 2272 of 2022, which added tools to achieve peaceful coexistence, justice efficiency, and other legal measures. Law 2197 of 2022 set the deadline for legal and technical support implementation to June 2023, later extended to June 2024 by Law 2294 of 2023, issued under the 2022–2026 Development Plan. The deadline for regional, district, and municipal entities was August 2023.

Law 2126 of 2021 established a three-year timeframe from its publication for implementation by territorial entities, governors, districts, and municipalities, as well as the Ministry of Justice and Law, culminating in August 2023. It also granted additional deadlines to the Colombian Family Welfare Institute (ICBF) to implement the administrative structure necessary to address new responsibilities for Family Defenders in cases of sexual violence within the family setting, set to expire in August 2024. The Ministry of Justice extended the deadline to June 2024, formalized in Law 2197 of 2022, part of the National Development Plan 2022–2026.

These laws introduced significant changes to family law, the protection of women and children, and the prevention of domestic violence. Key changes included broadening the definition of “family” to recognize not only traditional families but

also single-parent families, same-sex families, extended families, and other diverse configurations. This reflects a more inclusive and respectful view of family diversity in Colombia. The law also introduced a new approach to family violence, particularly gender-based violence and other forms of violence affecting family members. It enhanced measures for prevention, mitigation, and identification of gender-based violence and granted new administrative and judicial powers to the CdF for handling violence in family settings.

Additionally, the law created interdisciplinary teams comprising professionals in law, psychology, social work, and other relevant fields. These teams are responsible for providing specialized, comprehensive care to victims of gender-based and family violence, ensuring access to justice. The law also amended and complemented specific regulations on family, childhood, gender-based violence, and Colombia's judicial and penal system, including Law 1257 of 2008, Law 1098 of 2006, Law 599 of 2000, Law 640 of 2001, and Law 223 of 1995, among others.

Violence has been defined in various ways, tracing its evolution through key milestones. The Belém do Pará Convention (1994) defines violence as “a violation of human rights and fundamental freedoms that limits the recognition, enjoyment, and exercise of such rights and freedoms by women.” Law 1257 of 2008 states that violence against women includes “any action or omission causing death, harm, or suffering—whether physical, sexual, psychological, economic, or patrimonial—because of a woman's gender.” Iris Young (2020) describes violence as “a face of social oppression, where one group uses illegitimate forms of physical or non-physical coercion to restrict and subjugate others.”

A review of Law 2126 of 2021 reveals significant progress in defining family violence: “Family violence based on gender refers to discriminatory and oppressive practices within the family unit, such as violence between parents, from parents to children, from children to parents, or among other internal and external family members. In these cases, sexual or gender identity serves as the underlying motivation.”

Colombia has addressed the issue with a multidisciplinary approach, considering cultural, social, psychological, and legal factors. It acknowledges the dynamics of power, manipulation, and emotional dependence in violent relationships (CEDAW, 1979) and recognizes Lenore Walker's cycle of violence, describing how violence can repeat and intensify in abusive relationships. Feminist groups have exposed patriarchy as a structure of power and control (Castañeda et al., 2016), identifying women, children, youth, the elderly, and LGBTQ+ individuals as the main victims of family violence (Dirección Seccional de Salud, 1994).

Psychological approaches have examined the emotional and psychological aftermath of domestic violence on victims, describing it as a chronic social problem passed down through generations and deeply embedded in society (Dirección Seccional de Salud, 1994). Various theories concur that family violence arises from factors beyond gender and involves physical, economic, or patrimonial coercion to achieve dominance within a family unit marked by inequality or exclusion (UNDP, 2021). The family context is a social and legal space comprising individuals and sociocultural situations that shape the legal relationships among its members and their

external interactions (Congress of Colombia, 2021). It is a flexible, fluid, permanent, and stable family structure (Colombian Constitutional Court, 2016; UNDP, 2021).

Family violence manifests differently in cultural and social settings, including gender violence, domestic violence, violence against women and girls, child-to-parent violence, economic and patrimonial violence, physical violence, psychological violence, emotional violence, sexual violence, and symbolic violence (Ministry of Justice, Colombia, 2021). These categories encompass physical, sexual, and psychological abuse, neglect, incest, infanticide, femicide, child sexual and commercial exploitation, genital mutilation, honor killings, reactive violence, armed conflict, forced or early marriage, human trafficking, economically coerced sexual relations, sexual exploitation, forced abortions through mistreatment, and trafficking of adult women (Calvo, 2014). This classification reflects the influence of the surrounding environment, as highlighted by the United Nations and Colombia's Ministry of Justice (2021).

To fully grasp the scope of this scientific research, it is crucial to differentiate legal and social concepts like “sex” and “gender” according to Law 2126 of 2021 within the family context (Pérez et al., 2021). Although often confused, these terms have distinct legal definitions. “Sex” refers to the biological, physiological, and chromosomal characteristics that define humans as male or female (Mead, 1949). In Colombia, as in many Western legal systems, “gender” has two meanings: as a tool for analysis and as an identity. As an analytical concept, gender relates to the advantages and disadvantages linked to being male or female, traditionally understood in this way (Facio, 1992). Gender as identity refers to one's internal experience of living a role in society, known as queer theory (Rodríguez, 2020). This concept reflects how individuals feel in their bodies and express their personal and sexual experiences in public (Amorós, 2020; Butler, 1990).

### **3.2. Principles, competencies, and functions of family commissariats; the measures adopted by public entities for implementation and the challenges**

Family Commissioners: These are defined by Law 2126 of 2021 (Art. 2) as: “Entities or departments responsible for providing specialized attention in an autonomous and independent manner, performing administrative and judicial functions specialized in identifying violence in the family context, capable of generating legal responses that contribute to eradicating violence, based on current legal frameworks, and strengthening access to justice. They ensure the effective enjoyment of rights and freedoms of individuals in the context of family relationships.”

The role of the Family Commissioner is an administrative and judicial activity carried out on behalf of the State, with the objective of providing specialized and interdisciplinary care to prevent, protect, restore, repair, and guarantee the rights of those at risk or who are or have been victims of gender-based violence in the family context (Congress of the Republic of Colombia, 2021). All actions must adhere to the principles of respect and guarantee of human rights, in accordance with constitutional and international standards, non-discrimination, non-revictimization, and must be



oriented toward “do no harm,” applying the best interests of children and adolescents, and emphasizing those in need of special protection (Congress of the Republic of Colombia, 1991). These actions must be timely, effective, efficient, inclusive, with a gender-based approach. They promote coordination, subsidiarity, and articulation as fundamental tools for the effective response of all institutions that make up the Family Welfare and Justice systems (Ministry of Justice and Law, 2020). Their decisions administer justice, as they relate to fundamental rights (Child and Family Law Quarterly, 1999); they are interpretative, as they define the contexts and situations of rights holders (Law 2126 of 2021, Article 4). They are also judicial, as they decide independently, autonomously, without interference (UN; 1985), pressure, intrusion, or conditioning by external actors (UNDP, 2021). Those who delay or obstruct the services of Family Commissioners will be subject to disciplinary sanctions (Congress of the Republic of Colombia, 2021).

The Law grants Family Commissioners the authority to intervene in cases of family violence, specifying the various relationships and situations in which they can act, even if family members do not live under the same roof. Family Defenders (DdF) from the Colombian Institute of Family Welfare are responsible for preventing and providing comprehensive protection for early childhood, children, adolescents, youth, and family strengthening; they restore rights violated in contexts other than family violence. For this purpose, Family Commissioners and Family Defenders must have the necessary human resources, professionals in law, psychology, and social work, specialized in family law, as well as the necessary physical, technical, and technological resources, which must be organized to achieve the best possible results in relation to the tasks they must perform quickly, efficiently, and productively, ensuring the effectiveness of prevention, protection, restoration, and guarantee of the rights of victims of violence, both within and outside the family context. This reorientation of workload in service provision is highly positive, as stated in Article 14 of Law 2126 of 2021; furthermore, it prohibits mayors from assigning tasks to Family Commissioners that are not established by law.

To fulfill all the competencies assigned to Family Commissioners and guarantee the rights of victims in the family context, the Law has established provisional, definitive, and stabilization protection measures, as specified by Law 2126 of 2021, Law 294 of 1996, Law 575 of 2000, and Law 1257 of 2008. These also include measures to restore the rights of children and adolescents, as detailed in Law 1098 of 2006 and other laws that amend, add to, or regulate it (Art. 5). These measures must be timely, comprehensive, and contextual.

For implementation, the Law assigned responsibilities to various entities of the National Government of Colombia, particularly to the Ministry of Justice and Law (Art. 47), as the governing body of the justice system. It coordinates with the Colombian Institute of Family Welfare, the Ministry of the Interior, the Administrative Department of the Public Function, the Ministry of Information and Communication Technologies, territorial entities, governors, and municipal and district mayors. Together, in a coordinated, interinstitutional, and inter-agency manner, these entities will implement and enforce Law 2126 of 2021 across Colombia, gradually and in phases. Deadlines were set for 5 June 2023, extended to 5 June 2024 (technical guidelines, training, information systems, infrastructure, etc.), with the Ministry of

Justice responsible for providing technical advice and training to territorial entities, and the Administrative Department of the Public Function responsible for adjustments to personnel structure and job descriptions, in accordance with the law. The deadline to implement the law, including the provision of physical and financial resources to implement the restoration of rights, was set for 5 August 2023 (Congress of the Republic of Colombia, 2021), encompassing the structuring of personnel, specialized qualifications, and the construction of all necessary physical, administrative, and institutional infrastructure to guarantee protection measures and the rights of victims within the family context in their jurisdiction.

Law 2126 of 2021, in its Article 43, describes the financing mechanism, indicating that expenses must reflect the fiscal situation of the Nation and align with the Medium-Term Expenditure Framework of each involved sector (Ministries, Departments, Districts, Municipalities), in compliance with the Medium-Term Fiscal Framework and budget regulations, to ensure the efficient and effective performance of Family Commissioners. Access to national financial resources must be recorded in the National Development Plan 2022–2026, approved by the Congress of Colombia, as initiated by the National Government. However, this has not occurred, forcing public entities to seek funding from budgets allocated to other similar programs (Ministry of Justice and Law, 2023).

By June 2022, the Attorney General's Office issued a preventive report, indicating that only 52% of the Family Commissioners surveyed had a permanent interdisciplinary team, highlighting institutional capacity gaps that are not only an internal issue but also a national one. Regarding infrastructure, 80% of the Family Commissioners reported deficiencies, such as space limitations for both users and staff. Additionally, 80% faced challenges in basic needs such as water, internet, and security services. These poor conditions directly impact access to justice for individuals, especially women, children, and adolescents who are victims of family violence (Attorney General's Office, 2022).

This problem, clearly identified by the Ministry of Justice and Law, led to the issuance of CONPES 4080 of 2022 to address inefficiency, lack of teams, and the qualification crisis in the Family Commissioners. The document highlights the lack of resources from the central government and territorial entities to cover personnel, infrastructure, and specialized professional qualification needs. The Ministry of Justice and Law developed a progressive financing plan for the creation of new Family Commissioners in 5th and 6th category municipalities and non-municipalized areas, to mitigate these risks. The plan highlights several challenges: the Department of the Public Function and the Colombian Institute of Family Welfare were tasked with developing qualifications for the transformation of Family Commissioners, along with territorial entities.

In 2023, an audit by the Internal Control Office of the Ministry of Justice and Law raised concerns about delays in implementation, highlighting issues such as excessive workloads, incomplete interdisciplinary teams, deficiencies in infrastructure, and weaknesses or lack of information systems (Ministry of Justice and Law of Colombia, 2023).

An audit report stated: "Although progress has been made in strengthening the Family Commissioners' offices in municipalities with high violence rates, these

improvements need to be extended nationwide. This situation, although not exclusively the responsibility of the Ministry of Justice, has resulted in a loss of legitimacy and an increase in institutional distrust, perpetuating inefficient dynamics in the role of the Family Commissioners and possibly contributing to the persistence and escalation of family violence. Furthermore, interventions continue to be ineffective and disconnected from territorial realities, leading to inefficient use of public resources.”

The report further added: “Regarding the creation of intermunicipal Family Commissioners, a responsibility previously handled by the Department of the Public Function, the institution decided to withdraw from this task, citing concerns over the co-management between the central government and territorial entities... The situation is being clarified through a request to the Council of State.”

“Training was provided to officials such as mayors, governors’ secretaries, commissioners, inspectors, and judges, with clear guidelines on the responsibility of authorities and the creation of interdisciplinary teams within the Family Commissioners’ offices. However, the lack of clarity in some areas has caused difficulties in its uniform implementation across the country.”

A study conducted in the city of Cali by Gómez and Torres (2022) highlighted several challenges in the implementation of Law 2126 of 2021. The main issues identified include: lack of qualified and specialized personnel, limited knowledge of gender issues and human rights, lack of awareness of the law, trivialization of gender issues, cultural and social barriers, lack of infrastructure, absence of private spaces for interviews, and insufficient technological resources. There were also delays in adopting protective measures, revictimization of victims, and lack of institutional coordination to guarantee rights, leading to a complete disconnect.

A study conducted in the Santa Fe District of Bogotá by Bolaños and Camacho (2023) focused on users’ perceptions of the quality of services provided by the Family Commissioners in Bogotá. The main findings were moderate satisfaction with the services, with an emphasis on the importance of empathy and humane treatment by staff. They identified the need to improve waiting times and attention, as well as the infrastructure, which was in poor condition.

Both studies (Gómez et al., 2023) and (Pérez et al., 2021) concluded that the successful implementation of Law 2126 of 2021 depends on the creation of strategies that enable the effective operation of Family Commissioners, eliminating the identified obstacles, providing continuous professional training on gender and family issues, particularly in territorial areas, and ensuring timely financial and technical resources.

The lack of trained personnel has limited actions to protect human rights, combat corruption, and promote transparency in the public sector, emphasizing that this lack of resources has negatively impacted the effectiveness of the measures established by the Law. It is essential to mitigate the risks faced by victims. On the other hand, Pérez et al. (2024) point out limited capacities to adopt protective measures, resistance to change, underreporting, and generational concealment, creating a debt with society and families, calling for recognition of the problem. As Fernando Álvarez (2008) aptly described, recognizing “... is settling a debt with the past and with society, and is part

of a collective project for social transformation” that truly overcomes the conditions of violence experienced by individuals within families.

To achieve the implementation of Law 2126 of 2021 across all of Colombia’s territory, which consists of 32 departments and 1,123 local administrative entities (1096 municipalities, 8 districts, 19 non-municipalized areas like indigenous territories, and the island of San Andrés), there are 1217 Family Commissioners (CdF), of which 125 are located in department capitals and 1092 are in lower-category municipalities (Ministry of Justice and Law, 2022). By June 2023, in the evaluation and monitoring of the law’s implementation, the Ministry of Justice reported that the number of registered Family Commissioners in the country as of 30 March 2023, had risen to 1370, indicating that 153 new Family Commissioners were created. However, it was found that only 56% of Family Commissioners are integrated into information standardization processes, highlighting a lack of information and limited institutional capacity to improve the guarantee of victims’ rights in family contexts and the provision of family justice services.

Territorial decentralization, enshrined in the 1991 Political Constitution, promises changes in administrative, political, and fiscal matters (Cohen and Peterson, 1996) to achieve its objectives of improving local services, including Family Commissioners. In the national context of 2024, with deadlines for territorial entities expired (5 August 2023), they have not received participation from the national government, which has hindered changes in the way each local territorial entity operates internally, as they depend on their budgetary capacity, creating their own limits based on their categorization (Administrative Department of Planning, Colombia, 2023), which varies from Special, 1, 2, 3, 4, 5 to 6 categories. According to the national emergency plan, only municipalities in categories 5 and 6 will receive support (Ministry of Justice and Law, 2023). Municipalities, districts, and departments are categorized according to uniform rules, and based on this, they receive either a high or low rating. This makes small and low-rated municipalities weaker, as they cannot match the characteristics of higher-rated municipalities (Duque, 2017), which strongly influences the implementation of Law 2126 of 2021 in municipalities across Colombia. This situation is further aggravated by the political and administrative interests that affect the smooth relationships between public entities at the national and territorial levels (Administrative Department of Planning, 2002).

In fulfilling these duties, municipalities are subject to guiding principles such as coordination, concurrence, and subsidiarity. In cases where municipalities face difficulties in providing the services for which they are responsible, higher-level territorial entities must temporarily assist in managing these services, respecting the autonomy of the municipalities. The duties of the Family Commissioners (CdFs) are framed within these guiding principles and aligned with the Family Welfare and Justice Systems, which are realized in various committees, tables, or support groups. According to Law 1098 of 2016, the Economic and Social Policy Councils are the appropriate forum for planning strategies, coordination actions, and subsidiarity, with proper coordination, cooperation, and articulation to achieve joint, unified, and interinstitutional efforts. These actions aim to improve outcomes and guarantee the rights of victims within the family context.

### **3.3. Reality of the functionality of the family commissariats and the issues in guaranteeing the rights of victims in the family context**

Once the efforts made by public entities to implement Law 2126 of 2021 have been outlined, and some studies conducted between 2021 and 2023 have been highlighted, revealing significant difficulties and shortcomings in the role of the Family Commissariats (CdF), it is essential to take a clear look at the actual progress in the functionality of these Commissariats, in contrast to the effectiveness of guaranteeing the rights of victims of family violence.

As of August 2023, when territorial entities at the departmental, district, and municipal levels were expected to have completed the implementation of the law, and with a deadline for national entities set for June 2024, the data, validated directly through field visits, showed that municipal and district offices, one year past the deadline, had not made adjustments to the physical spaces to accommodate victims. They continued operating under the same conditions of the past five years, and the law had not generated the expected changes. While technical support had improved with the availability of technological tools that made the work more efficient, there were still no adequate systems to generate statistics, which continued to be compiled manually, except for districts that had developed software for this purpose.

100% of the observed entities lacked specialized personnel, and the Commissariats had not been qualified or selected based on merit-based selection criteria. They continued to perform structural functions that do not support the autonomy and independence outlined in the law, creating an undue workload on top of their responsibilities for handling victims of family violence. Local territorial entities must ensure the protection care route and coordinate with the Zonal Centers of the Colombian Institute of Family Welfare, specifically with Family Defenders, to expand services in a diversified manner according to the conflicts and the diverse nature of the issues. This situation is exacerbated by the fact that Defenders are located in Subregional Zonal Centers, without a presence in each municipality. Despite the qualification of the Family Commissariats, they continued handling cases that fell under the jurisdiction of the Family Defenders, due to the principle of subsidiarity, resulting in a conflict of competencies, which required clarification and interpretation of the law to avoid legal uncertainties that undermine victim protection.

This research delves into the implementation and materialization of the law between August 2023 and August 2024. It was confirmed that the Social and Economic Policy Councils created by Law 1098 of 2006 had met four times that year, but their discussions covered all public policies, including protection mechanisms, service excellence, and the participation of all national, departmental, and local entities. It was observed that authorities attended these meetings without decision-making power, which hindered the efficient operation of the Family Welfare System and the Justice System, as decisions were diluted due to the cultural diversity of the departments and municipalities visited. Departments such as Antioquia, Valle del Cauca, Chocó, and Quindío, including the Medellín District of Technology and Innovation, and municipalities like Fredonia, Segovia, San Pedro de Urabá, Peque, Istmina, Cartago, Cali, and Circasia were included in this analysis.

These findings were cross-referenced with semi-structured and spontaneous interviews conducted with both national and international experts, qualified professionals, users, and victims.

Following a qualitative methodology, semi-structured interviews were conducted with mayors, receiving commissioners, family commissioners, lawyers, victims of family violence, non-governmental organizations, and citizen oversight committees in districts and municipalities. These interviews took place across various departments such as Antioquia, Valle del Cauca, Chocó, and Quindío, including the Medellín District of Technology and Innovation; municipalities like Fredonia, Segovia, San Pedro de Urabá, Peque, Istmina, Cartago, Cali, and Circasia. These territorial entities represent a sample ranging from districts to municipalities categorized as special, 1st, 2nd, 3rd, 5th, and 6th categories. Confidentiality of the information and informed consent were emphasized, ensuring privacy, transparency, and the accuracy of the data presented here. We would like to thank the National Network of Family Commissioners for making the selection of professional individuals possible.

One year after the law's deadline in June and August 2024, this research reveals the on-the-ground reality. Two mayors from municipalities in the 1st and 5th categories stated that the efforts made until 2023 were focused on training by the Ministry of Justice and Law. Not all the country's mayors attended; only a representative sample participated. Guidelines and manuals for the Family Commissariats (CdF) were created, along with training on responsibilities as territorial entities, and a channel was established to assist and guide the responsible officials. Mayors attending were asked to co-finance projects for physical infrastructure, equipment, technology, and qualified personnel. Projects were presented, but it was later reported that funds would only be allocated to municipalities in categories 5 and 6. This has been the situation throughout 2023 and continues in 2024.

"It's a waste of time", one mayor remarked. "The National Government doesn't want to decentralize resources, leaving municipalities alone. Districts have more resources and are much further along, especially with structuring their qualified staff, including professionals in law, psychology, social work, and administrative personnel. Municipalities in the 1st category are implementing this by creating positions for lawyers and psychologists, while others are supported by other municipal departments. Categories 4, 5, and 6 continue to operate as the Family Commissariats did before the law—with contracted lawyers, psychologists, and other staff from various municipal departments. Everyone shares the same office, with limited space, equipment, and technology, although they do have internet access. In rural and remote areas, we lack basic services consistently, and public order issues affect daily operations."

Family Commissariats (CdF) have been overwhelmed with work. The problem is growing, and meeting the requirement of one Family Commissariat per 100,000 inhabitants is impossible due to the lack of resources. Municipal revenues are limited, and debt levels are often at their limits. In the case of districts, it seems to be the same issue. We heard on Noticias Caracol (2 August 2024) that the Medellín District of Technology and Innovation, based on its current population, needs seven new family commissioners. The creation of inter-municipal Family Commissariats (CdF) for rural areas has not yet begun, and those populations continue to receive no timely attention.

A recent departmental ordinance approved the stamp tax established by the law, but the revenues are so low that they cannot be distributed or allocated for implementing the law. Support from departmental governments is limited, focused on regional or inter-municipal projects, and no funds have been received from the national government. The law is not a priority. Four family law specialists (Prosecutor, Ombudsman, and Commissioner) provided valuable insights. In training for proper qualification in the role of Family Commissariats, the Ministry of Justice, the Colombian Institute of Family Welfare, and the Administrative Department of the Public Function have trained officials across various disciplines. However, the disparity in knowledge between them, the vast distances across Colombia, and the lack of resources in municipalities have been obstacles to advancing the transformation, implementation, and materialization of the law. This has caused an institutional crisis in providing timely, efficient, and effective care for victims in the family context.

Although the Ministry of Justice, together with USAID, developed guidelines for the Family Commissariats (CdF), their materialization is complex when it comes to applying protection measures and guaranteeing rights. The burden has fallen on municipalities, particularly those in categories 4, 5, and 6, exacerbated in rural areas due to the lack of Family Commissariats (CdF) and institutional support from law enforcement and healthcare providers. Law 2126 of 2021 envisions the creation of inter-municipal Family Commissariats (CdF) in these areas, but they have yet to begin. Delivering fragmented and ineffective responses to the regions has led to impunity, re-victimization, and an alarming rise in family violence.

Representatives from social organizations and human rights watchdogs agreed on the lack of preventive measures to counter internal family conflicts, citing the absence of specialized professionals, a lack of knowledge among teams, and excessive workloads. Educational institutions or health departments often take on this role. The lack of coordination, articulation, and cooperation between public institutions to combine services (social, police, health, judicial, psychologists, social workers, family defenders) hinders the effectiveness of protection measures and access to justice, preventing a comprehensive and effective response for those affected by these issues.

Delays in case management and follow-up are among the most concerning challenges. The lack of timely and appropriate protective measures limits options for mediation and peaceful conflict resolution. Limited access to specialized services such as shelters, psychological counseling, and legal assistance increases the risk for victims, leading to re-victimization and, tragically, femicides.

Criminal organizations control territory, impose their own rules, and influence family disputes, recruiting children and adolescents, and exploiting women and girls at will. This rights violation has been borne by families for decades, normalized by society, and affects the personal development of family members, resulting in a widespread resistance to change within families. This undermines the effectiveness of the work of Family Commissariats (CdF).

In practice, the systems adapted by Law 1098 of 2006 and Law 1257 of 2008, and transformed by Law 2126 of 2021, have merged, creating a hybrid system that is difficult to change. This has led to mental health issues for the staff of the Family Commissariats (CdF) and supporting professionals.

Interviewees emphasized the exacerbated problems within families of ethnic communities, immigrants from other countries, cultural differences, and language barriers, which clash with protective measures and the guarantee of fundamental human rights for victims of family-related issues.

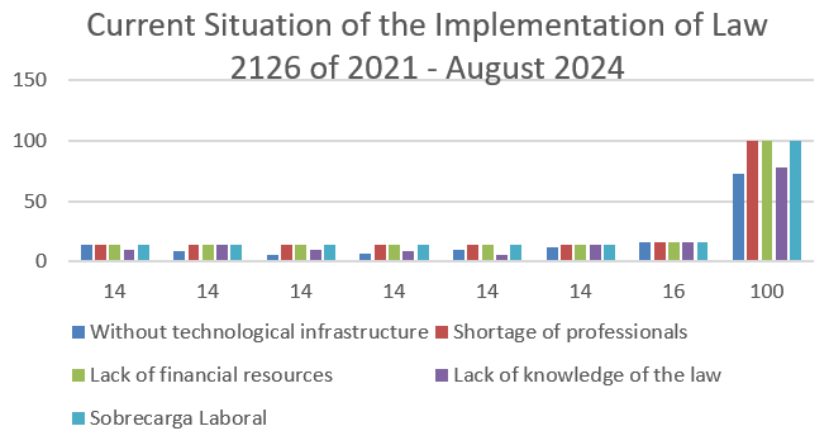
Citizen watchdogs frequently monitor accountability reports and statistics from the national government, departments, and municipalities regarding domestic violence, finding significant challenges as these reports are often superficial, scarce, or inconsistent. Despite the existence of a national registry for domestic and gender-based violence cases, inconsistencies persist between the reports from the Ministry of Justice and Law, Forensic Medicine, and the National Police. At the territorial level, reports are incomplete. As watchdogs, we act as intermediaries between victims and institutions, with many victims expressing an urgent need for protection and security for themselves and their children, seeking refuge, restraining orders, and effective protection measures.

Interviews with victims revealed a wide range of experiences and emotions, reflecting the complexity and severity of domestic violence. Victims shared that by the time they decided to report the abuse, they had already endured verbal abuse that escalated to physical abuse, and their freedom had been restricted. The control within their relationships had become so internalized that they no longer questioned any condition, accepting them as normal and cultural. It was only when their health deteriorated, resulting in emotional issues such as anxiety, depression, self-harm, and suicidal thoughts, that they decided to report the abuse. In many cases, they refrained from doing so out of fear, shame, financial dependence, concern for their children, or fear of retaliation from their abusers, leaving them feeling powerless and exhausted while being passed from one place to another.

Victims urgently seek protection and security for themselves and their children, seeking refuge, restraining orders, and effective protection measures. They often seek justice and reparation for the harm they have suffered, including punishment for the abuser, compensation for material and emotional damages, and access to support and recovery services. However, in reality, these processes move slowly, leaving them delayed and alone, waiting with their children for comprehensive reparation.

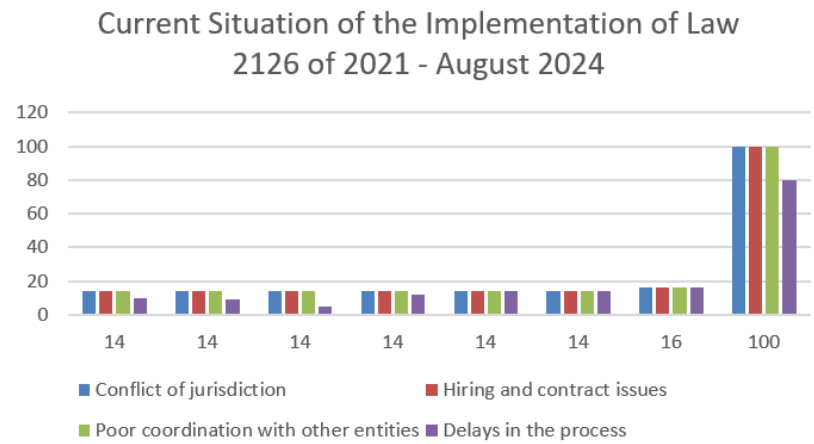
The following **Figures 1–3** reflect the common findings regarding the reality of guaranteeing rights for victims of family violence in the family context, showing significant similarities between the interviewees. It confirms that, a year after the law's deadline, the situation in August 2024 presents significant challenges and contradictions compared to reports from national, departmental, district, and municipal governments.





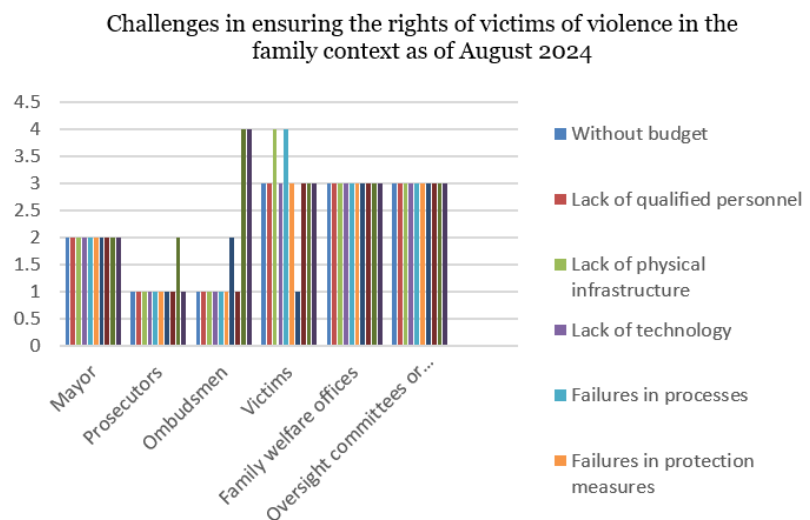
**Figure 1.** Current situation of the implementation of Law 2126 of 2021-August, 2024.

Source: Author’s own, extracted from the information provided in the interviews, 2024.



**Figure 2.** Current situation of the implementation of Law 2126 of 2021-August, 2024.

Source: Author’s own, extracted from the information provided in the interviews, 2024.



**Figure 3.** Challenges in ensuring the rights of victims of violence in the family context as of August 2024.

Source: Author’s own, extracted from the information provided in the interviews, 2024.

## **4. Conclusion**

his research gathers the experiences from the voices of Family Commissioners, mayors, specialized family litigators, victims, and human rights monitoring bodies. They reveal the urgent need for the National Government and territorial entities at the departmental, district, and municipal levels to develop a multidimensional intergovernmental project that includes concurrence, coordination, complementarity, and subsidiarity. This would ensure a coherent response capacity that meets the administrative, social, and legal requirements to implement and materialize Law 2126 of 2021.

While the national government has defined the CONPES document, it is necessary to apply it in municipalities categorized as 4th, 5th, and 6th. This implies cooperation with resources for the construction of public policies aimed at preventing and combating family violence with a gender perspective. This would include awareness programs, training for municipal staff, prevention campaigns, and comprehensive support for victims.

The research period covered from August 2023 to August 2024, during which it was confirmed that the lack of budget continues, implementation has not occurred, and the allocation of national, departmental, and local budgets is still awaited, creating vast disparities between territorial entities at the district and municipal levels in Colombia. Inter-institutional coordination between various institutions, such as Family Commissioners, public prosecutors, police, the health sector, education, and civil society organizations, must be a priority for municipal entities to ensure comprehensive and effective attention to family violence. Mayors must also highlight efforts to improve the care and protection of victims of violence within families, ensuring the availability of resources to improve specialized services, legal and psychological counseling, safe shelters, and timely and effective reporting and protection mechanisms. Strengthening preventive measures, including educational talks in schools, media campaigns, promoting equitable and respectful relationships, and collaborating with community groups, is essential. Identifying challenges and needs, such as the lack of resources, low case reporting, stigmatization and discrimination, and the need to strengthen institutional offerings and information systems, are critical.

Promoting joint, coordinated, and interagency work in task forces, research teams, and study groups to assess, monitor, discuss, analyze impacts, share experiences, and propose improvement initiatives is crucial. This should be permanently included in the Economic and Social Policy Councils established by Law 1098 of 2006, where government entities converge and must be presided over by the highest authorities: presidents, governors, and mayors.

The increase in violence within families, in all its intrafamily and gender-related manifestations, has been classified as a public health problem, worse than war. The family environment has produced changes that impact social issues, manifesting in all violations of fundamental, social, economic, and political rights. This situation has created an excessive and disproportionate workload for Family Commissioners, public prosecutors, police inspectors, and municipal ombudsmen, generating critical mental health problems. This is worsened by delays in the creation of Family Commissioners

and intermunicipal Family Commissioners, which have not yet started. This hinders the expansion of support and care services for victims of family violence in all areas, creating a disparity in access to justice in different territories. The healthcare system constitutes the primary support system for this issue, as it is the first responder, initiating the care route and involving the victim through a pink, fuchsia, or blue code for priority attention. It activates the Family Commissioners for the start of the administrative and judicial process, forensic medicine, and penal and police authorities, providing essential healthcare.

The Ministry of Justice and Law, as the governing body, has inspection, oversight, and control competences, but it is completely underfunded. According to the Ministry's Internal Control audit (Code: F-SE-01-02 Version: 04 Valid until: 25/08/2022), it is not meeting its goals, causing the supervision of the law's implementation to face significant structural, cultural, and social challenges, resulting in lost credibility and trust, leading to resistance to change manifested in ingrained practices and attitudes that are becoming embedded in family culture over time. This complicates the approach adopted by institutions.

Law 2126 of 2021 has brought significant changes to Colombian regulations, promoting a more inclusive and protective vision of rights in the family context, especially regarding the prevention and mitigation of gender violence and the protection of victims of domestic violence. All these situations interfering with the proper development of families strongly and differently affect the victims within the family, causing profound changes at the psychological level, suppressing their feelings, senses, intellectual abilities, and skills, leading them to lose their individuality (Haller, 1970), with physical and mental consequences that make them vulnerable to aggression in other areas and hinder their ability to direct their lives (UNICEF, 2014).

These difficulties highlight the importance of addressing violence from an integrated gender perspective, with strategies involving not only the government but society as a whole, promoting awareness, prevention, and effective protection for victims. The implementation of the aforementioned law is mired in contradictions due to various political interests, clientelism, corruption, and lack of budget allocation, among other factors. Therefore, it is essential to have this research as a product that strengthens the main role of the Family Commissioners, who strive to harmonize these contradictions and achieve acceptable levels of effectiveness in fulfilling their specific functions and competences.

This research offers various perspectives on the provision of services by the Family Commissioners in Colombia, addressing topics such as the effectiveness of protection measures, community perceptions, and the management of gender violence cases. However, the regulations introduced new benefits that are considered necessary and accepted by both institutions and the community. Yet, their rushed implementation leaves unresolved the problems generated by poverty, insecurity, unemployment, domestic violence, gender violence, and all forms of violence that violate the human rights of family members within the home. When this situation persists, there is a risk that victims will resort to violence as a means of resolving conflicts of various kinds and see illegality as an effective solution to their circumstances (Castellanos, 2013), leading to fractured families and perpetuating cyclical behavioral patterns among new

generations, embedding them in their culture and customs (Heller, 1985). This requires bringing together all efforts from the public and private sectors to collaboratively and subsidiarily safeguard the violated rights.

The outcome of the research reflects the complexity of the experiences of victims of violence in the family context, emphasizing the importance of a comprehensive and sensitive response that addresses not only immediate protection but also emotional support, access to justice, and future prevention. Effective implementation in Colombia faces significant challenges, including the need to harmonize national legislation with international standards, improve training for law enforcement officials, and increase public awareness of the rights established in these instruments.

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