



# VICTIMS ISSUES

## A MONTHLY REVIEW

MAY 2014

### 1. BACKGROUND

On June 10, 2011, President Santos signed into effect the Victims and Land Restitution Law (Law 1448). Over the next 10 years, the Law will provide five reparation measures to victims of the internal conflict: (1) land restitution, (2) financial reparation, (3) rehabilitation, (4) satisfaction and (5) guarantees of non-repetition. Three public institutions were created by the Law: (1) the Victims Unit, to provide services and reparations and coordinate the National Victims Assistance and Reparation System (SNARIV), (2) the National Center for Historical Memory (CNMH), to collect and develop historical memory of the conflict, and (3) the Land Restitution Unit, to implement the restitution component. As of May 2014, 6,431,981 victims are registered with the government of Colombia (GoC), primarily victims of internal displacement (87%).

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### 2. KEY DEVELOPMENTS

#### SEXUAL VIOLENCE CRIME AGAINST HUMANITY

The Congress approved a law on sexual violence, which considers it a crime against humanity with no statute of limitations. The law also includes sentences between 13 and 17 years for prostitution, forced abortion, rape, and sterilization, among others. Five main issues guide the law: (1) sexual violence is considered a crime against humanity; (2) there is no requirement to demonstrate “physical violence”, the judge can analyze circumstances and behaviors of organized groups; (3) under no circumstance can these crimes can be judged by military tribunals; (4) the Attorney General’s judiciary committees are responsible for investigating these cases; and, (5) the law orders immediate and free health attention for victims of sexual violence.<sup>(1)</sup>

**According to a report released by ABC Colombia and Sisma Mujer, impunity amounts to nearly 98% in cases of sexual violence within the conflict.**

**Sexual violence perpetrators include paramilitaries, guerrilla and members of the armed forces.**

#### FORCED DISAPPEARANCE AND THE STATE’S RESPONSIBILITY

As part of the “International Week of Forced Disappearances”, the National Historical Memory Center (CNMH) released four new reports on this issue, and victims’ representatives met with members of the Search Commission for Missing Persons. According to CNMH findings and victims’ testimonies, not only illegal armed groups are responsible for disappearance, but also the state, both directly through alliances with paramilitary groups and drug traffickers, and indirectly due to negligence and impunity. Lack of staff and unified statistics, and the persistence of threats against victims obstruct the adequate attention, reparation and closure of relatives of the disappeared. With the commemorations, discussions on crimes without a body, evidence or closure, were brought to the public arena. As part of the negotiations with FARC in Havana, relatives demanded the creation of a Truth Commission to search for the disappeared.<sup>(2)</sup>

**Since 2000, Colombia has considered disappearance as an independent crime different from kidnap. According to statistics collected by CNMH, between 1958 and 2012, 26,000 people went missing as a result of being forcibly disappeared.**

**According to estimates from the Victims Unit, 124,696 victims and relatives of forced disappearance are registered with the government (13,920 direct and 110,776 indirect).**

1. “Delitos de violencia sexual no prescribirán”, *El Tiempo*, May 6, 2014, [http://www.eltiempo.com/politica/proyecto-contra-la-violencia-sexual\\_13945635-4](http://www.eltiempo.com/politica/proyecto-contra-la-violencia-sexual_13945635-4)

2. “Familiares de desaparecidos piden crear comisión de la verdad”, *El Tiempo*, May 21, 2014, <http://www.eltiempo.com/politica/justicia/familiares-de-desaparecidos-piden-crear-comision-de-la-verdad/14017724>; “El gran responsable”, *Semana*, May 26 de 2014, <http://www.semana.com/nacion/articulo/el-gran-responsable/389172-3>; “Promesas incumplidas en la lucha contra la desaparición forzada”, *Verdad Abierta*, May 30, 2014, <http://www.verdadabierta.com/victimas->

3. “Falsos beneficiarios cobraron millonarias indemnizaciones. Costaron a la nación \$ 35 mil millones”, *El Tiempo*, May 11, 2014, <http://www.eltiempo.com/politica/justicia/asi-intentan-robarse-la-plata-de-las-victimas/13975463>;

4. “ONU felicita a Colombia por acuerdo sobre drogas ilícitas”, *TeleSur*, May 17, 2014, <http://www.telesurtv.net/articulos/2014/05/17/onu-felicita-a-colombia-por-acuerdo-sobre-drogas-ilicitas-1495.html>; “Comunicado conjunto de las delegaciones del Gobierno Nacional y la guerrilla de las Farc”, *El Espectador*, May 16, 2014, [www.elespectador.com/noticias/proceso-de-paz/comunicado-conjunto-de-delegaciones-del-gobierno-nacion-articulo-492875seccion/desaparecidos/5342-promesas-incumplidas-en-la-lucha-contra-la-desaparicion](http://www.elespectador.com/noticias/proceso-de-paz/comunicado-conjunto-de-delegaciones-del-gobierno-nacion-articulo-492875seccion/desaparecidos/5342-promesas-incumplidas-en-la-lucha-contra-la-desaparicion)

## VICTIMS FRAUD: INCREASING PRACTICE

According to information released by the Victims Unit's Legal Office, to date there have been at least 2,490 cases of presumably fraudulent information detected. Although the number of fraudulent cases is low compared to the number of recognized victims of the conflict (6.3 million), it is disconcerting that money that could be spent repairing victims might be sent to false cases. The penalty for submitting a false claim is between 5-8 years in prison. Most of the irregularities have resulted from false cases of displacement that included incorrect information in order to enter the registry and receive humanitarian aid and economic benefits from the state.<sup>(3)</sup>

## 3. PEACE PROCESS

### AGREEMENT ON ILLEGAL DRUGS, TURN FOR VICTIMS' RIGHTS

On May 16 an agreement on the problem of illegal drugs was announced between the GoC and FARC. After rural development and political participation, illegal drugs constitutes the third point agreed upon by both sides. Agreement proposals include measures to involve communities and governments, joint efforts between GoC and FARC to solve the problem of illegal drugs, the creation of a national prevention program, and tighter controls for money laundering and of the chemicals used in drug processing. Three additional points in the peace agenda are still to be discussed, including victims' rights, ending the conflict, and implementation of the peace agreement. To accelerate conversations, negotiating teams will divide and focus on the rights of the victims, the next point of the agenda.<sup>(4)</sup>

### NATIONAL PEACE COUNCIL INSTALLED

On May 28, President Santos installed the National Peace Council, with representatives from victims' and human rights organizations, union and rural leaders, academy, business, church, minorities and Congress in attendance. The Council, created 15 years ago under President Ernest Samper, was reactivated by President Santos to support the peace process and mobilize civil society. Starting in June, the Council will start meeting in order to restructure itself according to current and future peace processes.<sup>(5)</sup>

### FRAMEWORK FOR PEACE UNDER SCRUTINY

The Constitutional Court hosted a discussion on the Judiciary Framework for Peace (*Marco Jurídico para la Paz*) that introduced Transitional Justice measures in a post-conflict scenario. The framework authorizes Congress to create a law to study crimes that will be considered political, which might condition the political participation of FARC members; crimes against humanity and genocide are already considered impediments to political participation. Three positions arose in the discussion: (1) Prosecutor Alejandro Ordoñez considers that terrorist acts, war and international crimes are not political crimes and those who committed them cannot take part in politics; (2) Attorney General Eduardo Montealegre considers that limiting political participation goes against the Constitution and that the best option is to allow Congress to decide and create the law; (3) Peace Commissioner Sergio Jaramillo highlighted the importance of political participation in any peace process and the need to set clear limitations. The Constitutional Court is considering a demand against the Framework and must declare whether it is legal or not.<sup>(6)</sup>

## 4. A VIEW FROM THE FIELD

### COMMEMORATIONS OF THE BOJAYÁ MASSACRE

On May 2 through 3, different activities and ceremonies were held to pay tribute to the people who died 12 years ago in the Antiguo Bellavista church, caught in the crossfire between paramilitary groups and FARC. Activities included a march for victims, a forum to comment on the current state of the reparation process, a memory photography exhibition and the screening of the historical memory documentary "*No hubo tiempo para la tristeza*" ("There was no time for sadness") with USAID and IOM support.<sup>(7)</sup>

## 5. IN THE SPOTLIGHT

### PRESIDENTIAL ELECTIONS REVOLVE AROUND PEACE

On June 15, incumbent President Juan Manuel Santos will face challenger Oscar Iván Zuluaga in the second round of presidential elections, after no candidate reached the majority needed in the first round to avoid a run-off. Peace has been a crucial topic during the campaign. While Santos proposes continuing and concluding the peace process with the FARC in Havana, Zuluaga, who is critical of the negotiations, would revise the process and establish conditions for their continuation. According to a recently released Gallup survey (May 31), victims issues are not among citizen's top priorities for the next administration. 40% of respondents feel that Santos is better prepared to support displaced populations, compared to 35% for Zuluaga.

5. "Un Consejo Nacional de Paz para la sociedad", *El Espectador*, May 18, 2014, <http://www.elespectador.com/noticias/paz/un-consejo-nacional-de-paz-sociedad-articulo-495190>

6. "¿Del monte al Congreso?", *Semana*, May 31, 2014, <http://www.semana.com/nacion/articulo/proceso-de-paz-del-monte-al-congreso/390110-3>

7. "Agonía sin fin: 12 años de la masacre de Bojayá", *Revista Semana*, April 2, 2014, <http://www.semana.com/nacion/articulo/masacre-de-bojaya-12-anos-despues/385639-3>  
seccion/desaparecidos/5342-promesas-incumplidas-en-la-lucha-contra-la-desaparicion

## 6. PROGRESS REPORT\*

REGISTERED INDIVIDUALS: 6,431,981 (13.5% of total population)<sup>(8)</sup>

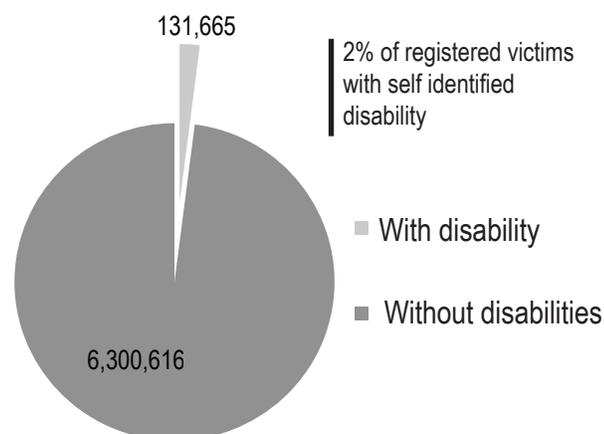
INDIVIDUALS BY GENDER OR SEXUAL ORIENTATION		VICTIMS BY AGE GROUP		TOP FIVE VICTIMS LOCATIONS <sup>(9)</sup>		TOP VICTIMIZING ACTS: 7,364,378 <sup>(10)</sup>	
	%		%		%		%
Male	49.8	0-17	31.7	1. Antioquia	19.4	1. Displacement	82.5
Female	49.4	18-26	17.0	2. Bolívar	7.4	2. Homicide/Massacre	11.5
Undefined	0.7	27-60	33.9	3. Magdalena	5.9	3. Threats	2.2
LGBTI	.01	61-100	6.7	4. Nariño	5.1	4. Disappearance	1.7
		Without info	10.7	5. Cesar /Valle del Cauca	4.9	5. Loss of property	1.1

### VICTIMS BY ETHNIC GROUP<sup>(11)</sup>

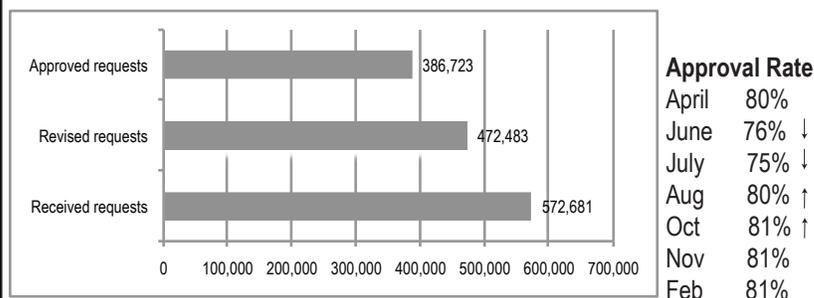
Ethnic Group	Victims	%
No ethnicity recognized or identified	5,683,184	88.36
Afro descendant	583,321	9.07
Indigenous	128,725	2.00
Gypsy/Rom	28,335	0.44
Raizal (San Andres and Providencia)	8,059	0.13
Palenquero	357	0.01
<b>Total</b>	<b>6,431,981</b>	<b>100.00</b>

11.6% of registered victims self recognized as members of a ethnic group

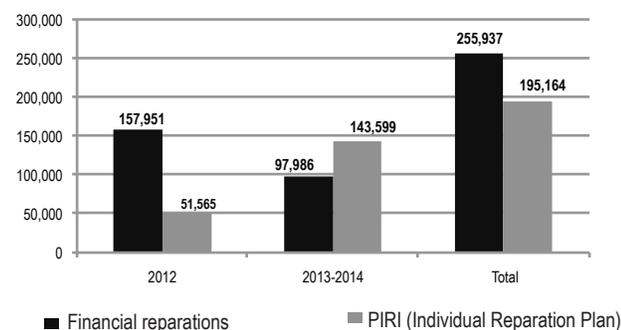
### DISABILITIES



### DECLARATIONS<sup>(12)</sup>



### FINANCIAL AND JUDICIARY REPARATIONS / PIRI<sup>(13)</sup>



### HOMICIDE, DISAPPEARANCE AND KIDNAP: DIRECT AND INDIRECT VICTIMS<sup>(14)</sup>

	Direct	Indirect	Total
Homicide	112,056	680,326	792,382
Dissapareance	13,920	110,776	124,696
Kidnap	24,969	9,844	34,813

\*Source: Victims Unit, November 30, 2013; Victims Registry information obtained from the Victims Unit's National Information Network, January 21, 2014, <http://mi.unidadvictimas.gov.co>

8. Official estimate of victims in the country. Population: 47,661,787.

9. Based on registry location.

10. Based on the registry of victimizing acts.

11. Based on declared ethnicity; Palenquero: natural from San Basilio de Palenque, Bolívar.

12. Based on the Single Declaration Format (FUD). Cumulative total of declarations received, February 2014.

13. Number of reparation transfers sent during May 2014; PIRI: Individual Reparation Plan.

14. Indirect victims include relatives; May 2014.

## 7. DIVERSITY MAINSTREAMING

### AFRO DESCENDANTS, MOST AFFECTED BY DISPLACEMENT

The Ombudsperson's Office reported that of the displacement cases that occurred in 2013, 47% affected afro descendant communities and 23,9% indigenous communities. Cauca, Nariño, Valle del Cauca and Chocó register the highest numbers of displacements. To date in 2014, over 2,500 individuals were displaced in the Alto Baudó region; around 28 indigenous communities were affected. According to a report released by the UN and the Norwegian Refugee Council, Colombia has the highest number of internal displaced populations (IDP) in the Americas and is second, after Syria, on the list of top countries in the world in terms of IDPs.<sup>(15)</sup>

### DISPLACED SIT-IN IN THE PLAZA DE BOLÍVAR

A group of over 200 displaced individuals held a sit-in in the Plaza de Bolívar, the political center of Bogotá and the country. The group, which included victims displaced by the violence and victims with disabilities, occupied the Plaza for over 20 days until leaving on May 24 to facilitate the installation of voting tables for the first round of presidential elections. The group left after reaching an initial agreement with the government, per which the National Victims Roundtable will assume policy responsibilities for victims with disabilities on topics related to housing, comprehensive reparation and income generation.<sup>(16)</sup>

## 8. INSTITUTIONAL ADVANCES

### Victims Unit

#### CO-FINANCING MECHANISM PROPOSALS CLOSED

The Victims Unit successfully closed its 2014 call for proposals with territorial entities. 59 projects were presented, which the Victims Unit revised for compliance with requirements and provided feedback. After all technical, financial, legal, social and environmental evaluations were completed, 12 projects were deemed viable, prioritization was carried out and co-financing resources were allotted. Three of the projects presented were designed with USAID and IOM support, two of which were selected to receive funding (Cauca and Magdalena).<sup>(17)</sup> The project in Magdalena aims to strengthen the return processes of small coffee cultivators who are victims of forced displacement. The total project value is USD 947,061 and co-financed resources amount to USD 663,012. The project in Cauca will strengthen productive processes, psychosocial accompaniment and victims' participation. The total project value is USD 882,826 and co-financed resources amount to USD 610,515.

### National Historical Memory Center

#### CNMH PRESENCE AT THE BOGOTÁ BOOK FESTIVAL

The CNMH hosted an interactive exposition at the Bogotá Book Festival (FilBo), on April 30 through May 12 at Corferias. The exposition included audio and video exhibits to share historical memory with visitors, as well as workshops, presentation of books, documentaries and talks. Free copies of over 25 reports produced by the CNMH were available. Over 400,000 people attended the Fair.

### Bogotá Mayor's Office

#### FUND OPENED FOR VICTIMS TO STUDY IN BOGOTÁ

Bogotá has designated USD 2.5 million for higher education credits, which will be available to youth and female victims of the armed conflict who either graduated in Bogotá or have lived in the city for a period of at least four years.

## 9. FURTHER READING

### 2013 HUMANS RIGHT REPORT IN COLOMBIA

The report published by CINEP Peace Program covers human rights violations in 2013 and reveals that seven new cases of "false positives" (forced disappearance) occurred in 2013.<sup>(18)</sup>

### FOUR NEW REPORTS ON FORCED DISAPPEARANCE

The CNMH published four new reports on disappearance in the context of the armed conflict, which cover norms and dimensions of the victimizing act, cases and statistics of forced disappearance, psychosocial impacts and actions taken by the GoC.<sup>(19)</sup>

### INFOGRAPH ON VICTIMS OF FARC

Infograph published by CERAC on civilian victims of FARC.<sup>(20)</sup>

15. "Más de 18.000 personas de comunidades afro han sido desplazadas: Defensoría", *Caracol Radio*, May 21, 2014, <http://www.caracol.com.co/noticias/actualidad/mas-de-18000-personas-de-comunidades-afro-han-sido-desplazadas-defensoria/20140521/nota/2235229.aspx>; "Al menos tres mil desplazados dejan combates en Alto Baudó, Chocó", *El País*, May 17, 2014, <http://www.elpais.com.co/elpais/judicial/noticias/menos-tres-mil-desplazados-dejan-combates-alto-baudó-chocó>; "Colombia: el segundo país con más desplazados", *Semana*, May 14, 2014, <http://www.semana.com/nacion/articulo/desplazamiento-colombia-es-el-pais-con-mas-desplazados-en-latinoamerica/387275-3>

16. "Elecciones: desplazados desalojan la Plaza de Bolívar", *Semana*, May 24, 2014, <http://www.semana.com/nacion/elecciones-2014/articulo/desplazados-desalojan-la-plaza-de-bolivar-para/389195-3>

17. "Resultados mecanismos de gestión de proyectos 2014", *Unidad para las Víctimas*, June 9, 2014, <http://www.unidadvictimas.gov.co/index.php/79-noticias/2401-resultados-mecanismos-de-gestion-de-proyectos-2014>

18. "Informe 2013 SITUACIÓN DDHH Y DIH EN COLOMBIA", *CINEP*, [http://www.cinep.org.co/images/stories/Documentos/informe\\_derechos\\_humanos%202013\\_final.pdf](http://www.cinep.org.co/images/stories/Documentos/informe_derechos_humanos%202013_final.pdf)

19. "¿DÓNDE ESTÁN LOS DESAPARECIDOS?", *CNMH*, <http://www.centrodehistoriahistorica.gov.co/micrositios/desaparicionForzada/libros-tomo1.html>

20. "Geografía: víctimas no combatientes de las FARC", *CERAC*, <http://www.cerac.org.co/es/infograf%C3%ADa/geograf%C3%ADa-v%C3%ADctimas-no-combatientes-de-las-farc.html>