

VICTIMS ISSUES

A MONTHLY REVIEW

DECEMBER 2015

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 December 2015, 7,821,641 victims were registered with the government of Colombia (GoC), primarily victims of internal displacement (84.3%).⁽¹⁾

2. KEY DEVELOPMENTS

PRESIDENT SANTOS: HALF A MILLION VICTIMS REPAIRED

Announcing the agreement on victims and justice reached by negotiators in Havana (see Peace Process), President Santos announced that to date, 580,000 victims of the armed conflict have been repaired under the Victims Law since it took effect in 2011 (that is, about 7.5% of all victims registered with the GoC).⁽²⁾ During the year and a half discussion of the victims point in Havana, it is undeniable that victims issues gained notable attention on the national and international stages. 2015 was a year of victims, their rights, their stories, their advances, and their ongoing needs. The agreement reached and the nearly six million victims who have yet to be repaired underscore that this should be the case for many years to come. "Victims can be sure that we will work as hard as we can – as we have been doing – to satisfy their rights," stated Santos.⁽³⁾

THE ADVENT OF RECONCILIATION: FARC ASKS BOJAYÁ FOR FORGIVENESS

On Sunday, December 7, eight representatives of FARC traveled to the municipality of Bojayá, Chocó to ask forgiveness for a massacre committed on May 2, 2002 that killed over 70 members of the community who sought refuge in a church. The guerrilla members met with the community in Antigua Bellavista, where the attack took place, to ask for forgiveness in a ceremony entirely dedicated to victims. This historic act of reconciliation between a community of victims and FARC is the first of its kind in Colombia, and paves that way for many more.⁽⁴⁾ Gonzalo Sánchez, Director of the CNMH wrote, "Bojayá is a landmark for peacebuilding...a sense of a process, not of a single moment...a sense of reconciliation, not of retribution."⁽⁵⁾

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According to the Victims Unit, in 2015, 101,403 financial reparation transfers were sent for an approximate value of USD 174 million.

72% of these compensations were sent to victims of forced displacement, 18% to victims of murder, and 7% to victims of sexual violence, among other acts.

In a piece written after the encounter, FARC Representative Pastor Alape wrote, "I never thought I would find myself before the teary eyes of the people of Bojayá...as we left after the encounter, we left sure of the idea that the seed of peace and reconciliation from Bojayá has to be spread throughout Colombia."⁽⁶⁾

1. Data from the National Information Network (RNI), Victims Unit, through Dec. 1, 2015. This number refers to the historic total of victims. <http://rni.unidadvictimas.gov.co/?q=v-reportes>.

2. "El discurso del presidente Santos sobre acuerdo de víctimas," El Heraldo, December 15, 2015, <http://bit.ly/1P1u7mW>.

3. Ibid.

4. "FARC piden perdón en Bojayá por la masacre del 2002," Semana, December 6, 2015, <http://bit.ly/1OfF51V>.

5. "Yo estuve en... El acto de reconocimiento de las Farc ante víctimas de Bojayá," El Espectador December 27, 2015, <http://bit.ly/22uwKS8>.

6. "Nunca pensé en estar frente a los ojos humedecidos de la gente de Bojayá," Las 2 Orillas, January 7, 2016, <http://bit.ly/1S8AZiE>.

3. PEACE PROCESS

HISTORIC AGREEMENT REACHED ON TRANSITIONAL JUSTICE AND VICTIMS

On December 15, GoC and FARC representatives announced the agreement on victims' reparations and a special jurisdiction for peace. The accord creates a comprehensive justice system to guarantee truth, justice, reparation and guarantees for non-repetition with judicial and non-judicial mechanisms (see Progress Report). A Special Tribunal for Peace will be created to judge combatants (including military members) and non-combatants who participated in the most representative cases. Those who admit guilt will receive five to eight year sentences of supervised "restrictions of liberty," which would include surveillance and monitoring but not jail. Those responsible for war crimes or crimes against humanity would be excluded. At the same time, a truth commission will be created to clarify what happened during the conflict, as well as special unit to search for thousands missing people, identify their remains and return them, and also ensure that those affected will not be victimized again.⁽⁷⁾ While the accord was celebrated by the UN,⁽⁸⁾ former president Alvaro Uribe described the agreement as a "pile of empty promises," and Human Rights Watch (HRW) Director José Miguel Vivanco stated that "this is a piñata of impunity. ... It is a pact between the government and FARC that ends up sacrificing the right to justice of thousands of victims of the Colombian conflict."⁽⁹⁾

On January 7, Peace Commissioner Sergio Jaramillo published a public letter responding to criticism from HRW. "There will be no impunity for those responsible. There will be justice. How much? As much as peace allows us, respecting the Colombian Constitution and national and international laws," reads the letter.⁽¹⁰⁾

PEACE ON COLOMBIA'S DOORSTEP IN 2016 AMIDST ECONOMIC CHALLENGES

"This year that is about to start, Colombia can see a new dawn, the dawn of a country without a war, without a conflict, in which our nation can advance to its maximum potential," stated President Santos in his New Year speech.⁽¹¹⁾ While a peace accord with FARC could triple foreign direct investment in Colombia and bolster its potential economic growth, the country faces major economic challenges including falling oil prices, the historic low of Colombia's peso against the dollar, an increasing public deficit, new tax reform, and economic growth projected between 1% and 2%. The government faces these challenges in the year when the peace accord will require approval from Colombian voters.

According to GoC and ELN representatives, the negotiation agenda with Colombia's second largest guerrilla group is finalized and agreed upon. Both parts expect the beginning of dialogues to be publically announced by early 2016.⁽¹²⁾

4. DIFFERENTIAL APPROACHES

CONFLICT AGAINST CAMPESINO MOVEMENTS MUST BE ENDED

According to a report by the Permanent Committee to Defend Human Rights, based on surveys with 200 human rights defenders, 90% in rural areas declared have been the target of an aggression, threat, or attack because of their labors. Land restitution defenders, Indigenous People, and Afro-Colombians are particularly targeted. 42% of those surveyed report being threatened or attacked by the National Army, 37% by paramilitary groups, and 6% by guerrilla members.⁽¹³⁾

IN META, THE FIRST HANDING OVER OF REMAINS OF DISAPPEARANCE VICTIMS

The remains of 29 victims of forced disappearance were handed over to their families under an agreement reached between GoC and FARC in Havana on October 17 to jointly seek the remains of thousands of disappeared people. 200 relatives from around the country traveled to Villavicencio to receive the remains of family members who were buried in cemetery common graves as "no name." Peace Commissioner Sergio Jaramillo stated that the GoC "is firmly committed to responding to every family that has lost a loved one."⁽¹⁴⁾

5. A VIEW FROM THE FIELD

THE RETURN TO EL SALADO – AN OVERVIEW OF SEXUAL VIOLENCE IN COLOMBIA'S CONFLICT ZONES

The short film "The Return to El Salado" directed by Dutch filmmakers Lenny Schouten, Jan van den Berg, and Martijn Schroevers, which seeks to increase the visibility of sexual violence suffered by women and girls in zones affected by the internal armed conflict, was presented in Bogotá on December 16. The film is part of the project "The Laws of Silence" that narrates the lives of journalist, victim, and activist against GBV Jineth Bedoya and other female victims of sexual violence, the access barriers they face and the challenges for institutions to appropriately provide them with attention services.⁽¹⁵⁾ The trailer of the project, supported by the European Union, UN Women, USAID and IOM, is available here: <http://thelawsofsilence.org/the-film.html>.

7. The text of the agreement is available here: <http://bit.ly/1TNx20n>.

8. "Comunicado de las Naciones Unidas...", UN, December 15, 2015, <http://bit.ly/22YpMoE>.

9. "9 Unanswered Questions...", WOLA, December 23, 2015, <http://bit.ly/15nm0Mw>.

10. "Carta del Alto Comisionado...", Alto Comisionado para la Paz, January 7, 2016, <http://bit.ly/1nguf5O>.

11. "2016 será el amanecer...", El País, December 31, 2016, <http://bit.ly/1KcYbVi>.

12. "Gabino' asegura...", El Espectador, December 26, 2015, <http://bit.ly/1KcYbVi>.

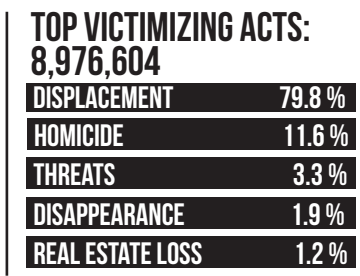
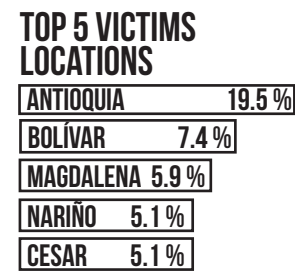
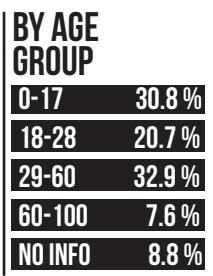
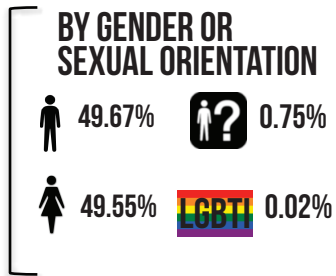
13. "Hay que desescalar el conflicto..." Verdad Abierta, December 9, 2015, <http://bit.ly/1TC2P4g>.

14. "Entregan a familiares los primeros 29 restos de desaparecidos durante el conflicto," Pulzo, December 18, 2015, <http://bit.ly/1PXJhXu>.

15. "Cortometraje "El Retorno a El Salado": testimonios de mujeres víctimas de violencia sexual", IOM, December 15, 2015, <http://bit.ly/1Pbpggi>.

6. PROGRESS REPORT*

7.821.641
REGISTERED VICTIMS
16.4%
OF TOTAL
POPULATION



TRUTH, JUSTICE, REPARATION AND NON-REPETITION COMPREHENSIVE SYSTEM

An overview of the agreement on transitional justice and victims' rights announced on December 15 2015.**

JUDICIAL and **NON-JUDICIAL** mechanisms to

Restore victims' rights

Identify responsibility for what happened

Ensure legal certainty of those who participate

Contribute to social harmony, reconciliation and non-repetition

Ensure the transition towards peace

JUDICIAL MECHANISMS

Special Jurisdiction for Peace
Investigate, prosecute and penalize severe human rights violations and severe breaches of IHL.

- **CHAMBER OF RECOGNITION** to organize and distribute cases.
- **CHAMBER OF AMNESTY AND PARDON**, which will grant amnesties or pardons in accordance with the provisions set forth by the Amnesty Law (to be issued).
- **CHAMBER TO DEFINE JUDICIAL SITUATIONS** of those not fit for amnesty or pardon.
- **INVESTIGATORY BODY** to look into and prosecute crimes that are not recognized.
- **SPECIAL TRIBUNAL** of approximately 20 judges, composed by Colombians and a foreign minority.

Amnesty is only possible for **political crimes** (e.g. simply belonging to FARC)

Alternative sentences for **conflict-related crimes and crimes against humanity** (e.g. homicide, displacement, disappearance, kidnapping, sexual violence) committed by FARC, members of the **armed forces**, and **non-combatants**, under these conditions:

For those who collaborate and confess their crimes:	For those who do not collaborate and are found guilty of committing crimes:
ALTERNATIVE PENALTIES: 5-8 YEARS OF COMMUNITY WORK "WITH EFFECTIVE RESTRICTION OF LIBERTY"	UP TO 20 YEARS OF PRISON

NON-JUDICIAL MECHANISMS

Commission for the Elucidation of Truth, Coexistence and Non-Repetition
Investigate the armed conflict in general, including its root causes, its impact on society and the serious human rights violations committed from a historical perspective.

Find out the truth	Recognize damages and responsibilities	Promote coexistence in the regions
Promote victims' dignity	3 year duration period	

Special unit to search for missing people
Search for, locate, and identify those who have disappeared during the 50 years of armed conflict.

Comprehensive reparation measures
Includes land restitution, financial reparations, rehabilitation, satisfaction and guarantees of non-repetition, as well as collective reparations.

Guarantees of non-repetition 3

*Data from the National Information Network (RNI), Victims Unit, through Dec. 1, 2015.

**Source: "Comunicado Conjunto #64". La Habana, December 15, 2015, <http://bit.ly/10wC2Td>

7. IN THE SPOTLIGHT

RAPID RESPONSE STRATEGY FOR THE POSTCONFLICT

According to media information, the GoC prepared the “Rapid Response Strategy” to invest over USD 470 million for the post-conflict.⁽¹⁶⁾ The strategy includes an initial phase with new mayors and governors to identify budgetary priorities, in order to begin the implementation of projects in April, once the peace accord is signed. Projects include demining, mobile brigades, victims’ reparations, infrastructure, training sessions, and property title formalization, among others. Currently only USD 212 million of the estimated USD 470 million needed are available. These funds and the strategy are coordinated by the Ministry of the Post-Conflict under Minister Rafael Pardo.

8. INSTITUTIONAL ADVANCES

Colombia Líder

BEST GOVERNORS AND MAYORS AND RECONCILIATION AWARD WINNERS ANNOUNCED

On December 2, the presentation and award ceremony of the winners of the Colombia Líder award for best governors and mayors and the recognition for best reconciliation and social inclusion governors and mayors was held in Bogotá.⁽¹⁷⁾ This recognition, supported by USAID and IOM, seeks to increase the visibility of initiatives to promote reconciliation, victims’ rights, and peace-building in the regions. New governors and mayors elected in October will take office in January 2016.

Victims Unit

JOINT RESPONSIBILITY DECREE ISSUED

The GoC issued Decree 2460 adopting the joint responsibility strategy between national, departmental, and municipal institutions to implement the Victims Law in the regions. The decree will strengthen coordination and planning between the three levels of government that make up the National Victims Assistance and Reparation System (SNARIV), as well as the institutional capacity of local institutions to define procedures to adapt public policies for victims in the regions. The decree is available here: <http://bit.ly/1Kd74yh>.

National Center for Historical Memory (CNMH)

LGBT HISTORICAL MEMORY REPORT

On December 10, the CNMH with USAID and IOM support launched the historical memory report “Eradicate differences: Lesbian, Gay, Bisexual and Transgender People in Colombia’s armed conflict,” on the affectations suffered by LGBT victims in the conflict. The report is the result of an over 22-month participatory process with LGBT victims in four departments, and it describes and analyzes the multiple ways in which LGBT populations have suffered, recognizing the continuum of violence against them and its intensification with the conflict. The report also narrates social mobilization processes that LGBT victims have led, as well as individual and collective resistance strategies they have developed. It is available here: <http://bit.ly/1IQLzxl>.

Ministry of Health

HIGH-END REHABILITATION SERVICES IN REGIONS MOST AFFECTED BY THE CONFLICT

In a joint initiative between the Ministry of Health, Mayor’s Offices, USAID, and IOM, the public health system is being strengthened through the creation of top-notch rehabilitation services in municipalities that have been most affected by the conflict, including Apartadó (Antioquia), Cartagena (in two hospitals) and Quibdó (Chocó). This process includes providing cutting-edge technological equipment for various therapies, as well as areas to simulate daily life and workplace activities. The first of four rehabilitation units, which will provide attention services to 2,000 individuals per year, was inaugurated on December 17 in Apartadó.

9. FURTHER READING

NEO-PARAMILITARIES OR CRIMINALS?

Article on the debate whether armed criminal groups (Bacrim) in many areas of the country represent an extension of paramilitaries (“second generation paramilitaries”) or rather an entirely criminal phenomenon.⁽¹⁸⁾

MENTAL HEALTH AND THE ARMED CONFLICT

Doctors without Borders recently marked thirty years working in Colombia. In this piece one of the organization’s doctors tells how he has helped patients overcome psychosocial affectations.⁽¹⁹⁾

MEMORIES OF A FARC CHILD SOLDIER

BBC article based on an interview with a disengaged former child soldier forcibly recruited by FARC when he was eight to nine years old. “They took advantage of innocence...they gave us a gun immediately.”⁽²⁰⁾

16. “470 millones de dólares...”, El Espectador, January 4, 2016, <http://bit.ly/1R6Lz9E>.

17. “Los mejores alcaldes...”, Colombia Líder, December 2, 2015, <http://bit.ly/1PbtJw0>.

18. “¿Neoparamilitares o criminales?” Verdad Abierta, December 21, 2015, <http://bit.ly/1keMGWg>.

19. “Salud mental: 30 años espantando la violencia,” El Espectador, December 23, 2015, <http://bit.ly/1mhq2Op>.

20. ““Salir volando, tener alas”: los recuerdos de un niño guerrillero de las FARC,” BBC, December 25, 2015, <http://bbc.in/1YFZnaj>.