



## THE GOC-FARC AGREEMENT ON VICTIMS OF FORCED DISAPPEARANCE

### INTRODUCTION

On October 17<sup>th</sup> 2015, the Government of Colombia (GOC) and Revolutionary Armed Forces of Colombia (FARC, in Spanish) announced an agreement that aims to “relieve the deep pain of the families of the disappeared” by asking the existent Commission on the Search for Disappeared Persons to implement a range of measures towards this end.<sup>i</sup> The principle objective of this agreement is to “locate, identify and...hand over the remains of those reported as disappeared in the context of and due to the armed conflict.”<sup>ii</sup> The two parties asked the International Committee of the Red Cross (ICRC) to partner with the National Institute of Legal Medicine and Forensic Science to support the immediate design and implementation of “special humanitarian plans” to find, identify, and deliver remains. The ICRC has already responded that it is ready to support the measures encompassed by the agreement, which it welcomes as a way to alleviate the suffering of the thousands of victims of forced disappearance in the country.<sup>iii</sup> These plans will be based on information provided by the GOC and the FARC regarding the location and distribution of disappeared people throughout the country. In the next four months, the Commission on the Search for Disappeared Persons will meet with and gain input from victims’ organizations and other relevant groups, to write a report with recommendations on how to fulfill the goals and mission of the agreement.

The agreement also states that once a final peace accord between the GOC and FARC is signed, the GOC will create a Special Unit for the Search for Disappeared People (or UBPD, in Spanish), which will be part of the legal transitional justice framework and system. Its main goal will be to continue implementing actions to fulfill the agreement. Its work will be considered strictly humanitarian and extrajudicial, and will contribute to the fulfillment of the victims’ right to truth and reparations. In addition, the UBPD will write and deliver reports to family members of the disappeared, with all information obtained in the case of their loved ones when no further progress is made on the case.

*The three main functions of the UBPD will be to:*

1. *Collect the information necessary to define the universe of people disappeared during the conflict;*
2. *Strengthen and expedite identification of remains;*
3. *Coordinate and carry out the process of searching for, identifying, and handing over remains.*

These functions imply a range of tasks outlined in the agreement. Finally, the UBPD will work in coordination with the Truth Commission already created for the Colombian post-conflict phase, as part of a transitional

justice system that aims to fulfill the rights of the victims.<sup>iv</sup> Both national and regional plans to locate and return the remains of the disappeared will be designed and implemented over the course of the application of this agreement, which shows an unprecedented step forward in the GOC-FARC peace process, as it represents the FARC’s recognition of its role in kidnapping and ‘disappearing’ people in the armed conflict. The accord is also a significant step forward in the fulfillment of the rights of disappeared people’s families, many of whom have struggled for years to locate their loved ones and gain some sort of official recognition of their disappearance.

### THE DISAPPEARED IN COLOMBIA

Forced disappearance is considered to be “apprehension, detention, or kidnapping followed by hiding [of the person], or the denial of liberty, or the denial of information about the fate or location of that person, thereby taking away their legal resources and guarantees”.<sup>v</sup> Victims of forced disappearance include those who are physically disappeared themselves, their family members, and others who directly suffer as a result of the disappearance of someone close to them. Various laws prohibit forced disappearance in Colombia, including Article 12 of the Constitution and Law 589 of 2000. At the international level, this crime is prohibited under the International Convention for the Protection of all People against Forced Disappearance, and the Inter-American Convention on the Forced Disappearance of People.<sup>vi</sup>

The following table demonstrates the range of estimates of the number of cases of disappeared, the timeframes included in the estimates, and other information.

# Disapp.	Source	Dates	Other info.
105,580	Legal Medicine Inst.	1980-pres.	
15,000	Attorney General’s Office		Only national investigations
45,515	Victim’s Unit	1985-pres.	114,100 relatives indirect victims
25,000	National Center for Historical Memory	1985-pres.	
109,000	Red Cross	1938-pres. <sup>vii</sup>	

Other civil society groups also have different estimates of the number of disappeared, further complicating the issue. One of the first tasks of implementing the agreement is therefore to unify the information systems so that an official number can be reached. This will be done by matching data from the systems listed above and others, purging duplicates, merging information storage formats, and creating an official database. Recommendations on this effort will be made in the report to be written over the next four months by the Commission.<sup>viii</sup>



### MECHANISMS FOR ASSISTING VICTIMS

The existing mechanisms for registering disappeared people include the Urgent Search Mechanism (for use immediately after a disappearance), the National Register of Disappeared People (a database with information on all disappeared people), the Administration of Assets of Disappeared People (to allocate the assets and social benefits of the disappeared to their families as appropriate), and the National Commission on the Search for Disappeared Persons, which is already exists and has a central role in implementing the agreement.<sup>ix</sup>

Every victim has the right to know the truth about what happened to their disappeared loved one, including their location, as well as to see a genuine investigation of and justice for those responsible. In addition, various national laws provide economic and other benefits including education and health to those whose family members are disappeared, thus ensuring that they do not endure additional hardship due to the absence of their loved one. In addition, any assets of the disappeared person will be re-distributed to their family member after two years after the date of their disappearance, when they are filed as “presumed deceased” by law.<sup>x</sup>

### IMPLEMENTATION HAS BEGUN

The agreement on the disappeared is part of a larger system of reparations and justice to fulfill the victims’ rights. Despite the GOC’s repeated reiteration that “nothing is agreed until everything is agreed”, there has already been some movement on both short and long-term commitments made in the agreement on the disappeared. Information on the whereabouts of the disappeared has already been provided and analyzed, leading to the identification of 315 bodies in La Macarena, Vista Hermosa, Meta, and Caquetá.<sup>xi</sup> High Commissioner for Peace Sergio Jaramillo has also met with the National Commission on the Search for Disappeared Persons to discuss concrete measures that can be taken to plan for and implement the agreement. The Commission has already begun to make efforts to comply with its role, creating an inter-agency working group to work specifically on implementation of the agreement. This group will

review and compare existing databases with information on the disappeared, make efforts to strengthen processes to find and return their remains, and coordinate with the ICRC. In addition, the Commission will hold a series of national and regional forums to gain input on the agreement from victims, their families, organizations, and local governments.<sup>xii</sup>

### CONCLUSION

*“The disappeared are, in their empty coffins, the most unbearable wound of our conflict” –  
Francisco de Roux*

The agreement on victims of forced disappearance was a significant step forward in the peace process and the reparations of victims in Colombia, both within and outside the framework of the current negotiations. The great discrepancies between estimates of the number of disappeared in Colombia show the need for a concerted effort in which multiple government agencies work together on this issue – something that has been proposed in this agreement. The fact that work has already begun to implement the initiatives for which the accord calls is also an indication of the commitment with which all sides are approaching this agreement, and the issue of victims’ rights more broadly. This “qualitative jump forward”<sup>xiii</sup> in the peace process is a symbol of optimism and hope, and will make a great contribution to fulfilling those rights in both the short and long term.

<sup>i</sup> “Las claves del acuerdo Gobierno-Farc sobre desaparecidos.” El Tiempo, October 19<sup>th</sup> 2015.

<sup>ii</sup> “Comunicado Conjunto 62.” GOC and FARC-EP. October 18th, 2015. <https://www.mesadeconversaciones.com.co/comunicados/comunicado-conjunto-62-la-habana-17-de-octubre-de-2015>

<sup>iii</sup> “Colombia: CICR saluda las medidas para la búsqueda de personas desaparecidas.” ICRC, October 18<sup>th</sup> 2015.

<https://www.icrc.org/es/document/colombia-declaracion-medidas-busqueda-desaparecidos-gobierno-farc>

<sup>iv</sup> Ibid.

<sup>v</sup> “La desaparición forzada de personas en Colombia: Cartilla para víctimas”. UN High Commissioner for Human Rights’ Office in Colombia, August 2009.

<sup>vi</sup> Ibid.

<sup>vii</sup> “Colombia: la democracia que puede tener más desaparecidos que Chile y Argentina juntos.” BBC Mundo, October 23<sup>rd</sup> 2015.

<sup>viii</sup> “La desaparición forzada de personas en Colombia: Cartilla para víctimas”. UN High Commissioner for Human Rights’ Office in Colombia, August 2009.

<sup>ix</sup> Ibid.

<sup>x</sup> Ibid.

<sup>xi</sup> “Agreement on Disappearances Moving Forward”, Colombia Calls, <https://vbouvier.wordpress.com/2015/11/13/agreement-on-disappearances-moving-forward/>

<sup>xii</sup> “Comisión de Desaparecidos empezó a cumplir acuerdo” El Colombiano, <http://www.elcolombiano.com/comision-de-desaparecidos-empezo-a-cumplir-acuerdo-KB3003905>

<sup>xiii</sup> “Desaparecidos”, Francisco de Roux, El Tiempo <http://www.eltiempo.com/opinion/columnistas/desaparecidos-francisco-de-roux-columna-el-tiempo/16415647>