

VICTIMS ISSUES

A MONTHLY REVIEW

MARCH 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 February 2014, 6,231,617 victims are registered with the government of Colombia (GoC), primarily victims of internal displacement (87.7%).

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2. KEY DEVELOPMENTS

UN HUMAN RIGHTS REPORT ON COLOMBIA

United Nations High Commissioner for Human Rights Navi Pillay presented the latest UN report on Colombia to the Human Rights Council. The report recognizes GoC efforts in advancing in the peace negotiations with FARC as well as initiatives to fulfil international human rights obligations. However, it warns about consistent violations to human rights defenders and land restitution claimants, as well as the negative impact of initiatives to extend military criminal jurisdiction. In regard to victims' reparations, the report identified the lack of sufficient resources to implement the Victims Law and the lack of effective use of the Local Action Plans (PAT) by municipal authorities. The report recognizes the efforts made by Bogotá and Medellín to provide services for victims and the Constitutional Court ruling ordering the inclusion of all victims of forced displacement regardless of the actor who committed the displacement.

GoC welcomed the High Commissioner's support, as well as the recognition of current peace efforts. GoC expressed regret for the lack of balance in the report between human rights violations perpetrated by armed groups and those perpetrated by the State. It welcomed the report's inclusion of recommendations addressed to armed groups.⁽¹⁾

JUSTICE AND PEACE TRIBUNALS CAN REPAIR VICTIMS: CONSTITUTIONAL COURT

According to the Constitutional Court, judges –members of the Justice and Peace Tribunals– have the competence to define financial compensations for victims and not the GoC through the Victims and Land Restitution Units. First perpetrators and then GoC are responsible for victims' reparations, stated the Court.⁽²⁾ This ruling found the Justice and Peace law's reforms to be unconstitutional. These reforms had stated that the Government, through the Victims and Land Restitution Units, was responsible for all victims' reparations, establishing a maximum of 40 minimum wages (compensation for homicide: COP 24 million, USD 12,000). The Victims Unit will still be responsible for administrative reparations. The decision had created fiscal concerns for the GoC, which would have been responsible for repairing 6 million victims.

"This decision favors victims, but let's hope it doesn't privilege some victims over others. If perpetrators don't return all their properties, the State will not be able to financially compensate victims," warned Congress President Juan Fernando Cristo.⁽³⁾

1. "Human Rights Council discusses reports on Guatemala, Bolivia, Colombia, Cyprus and Iran", Office of the High Commissioner for Human Rights, March 26, 2014, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14439&LangID=E>

2. "Fallo frena burla de 'paras' a reparación en Justicia y Paz", *El Tiempo*, March 31, 2014, http://www.eltiempo.com/justicia/ARTICULO-WEB-NEW_NOTA_INTERIOR-13760575.html

3. "Alerta fiscal por fallo sobre reparaciones a víctimas", *El Tiempo*, April 1, 2014, http://www.eltiempo.com/justicia/ARTICULO-WEB-NEW_NOTA_INTERIOR-13766335.html

4. "La mitad de las más de seis millones de víctimas del conflicto en Colombia han sido niños, niñas, adolescentes y jóvenes, revela informe presentado hoy por la Procuraduría General de la Nación", *Prosecutor's Office*, March 31, 2014, <http://www.procuraduria.gov.co/portal/La-mitad-de-las-mas-de-seis-millones-de-victimas-del-conflicto-en-Colombia-han-sido-ninos-ni-as-adolescentes-y-jovenes-revela-informe-presentado-hoy-por-la-Procuraduria-General-de-la-Nacion-news>

HALF OF VICTIMS ARE BETWEEN 0 AND 26 YEARS OLD: PROSECUTOR'S OFFICE

According to the Prosecutor's Office's report on child and adolescent victims of the conflict, half of the victims are below 26 years old (49.6% of total victims registered, 6,231,617). The Forced Recruitment Commission prioritized 108 municipalities in 22 departments to analyze issues such as recruitment, violence and unequal access to rights (adding previously prioritized municipalities for a total of 139 municipalities analyzed). The report warns about critical access conditions for health, education and employment services targeting children and teenagers. The report emphasizes the need to prioritize not only specific municipalities, but also social investment in those municipalities to improve conditions.⁽⁴⁾

LAND RESTITUTION REGISTERS SLOW PROGRESS, REPORT REVEALS

A new report by Forjando Futuros denounces the slow progress of land restitution policy and warns that if current conditions continue it will fail.⁽⁵⁾ After analyzing the 372 sentences produced to date, the report concludes that 20,694 hectares have been restituted and 411 cases have been compensated (when a different property is assigned to a claimant). The report states that a total 54,063 land restitution requests have been presented and only 1.7% (927) has been solved through judiciary processes; 96% of these cases were favorable to victims. The report finds that low numbers of requests due to security concerns and the focalization of specific regions following Ministry of Defense guidelines are the main barriers for restitution process. "Denying land restitution of properties not located in prioritized regions is a violation of the Law," states the report.

3. PEACE PROCESS

SANTOS CALLS NATIONAL PEACE COUNCIL

President Juan Manuel Santos announced the reactivation of the National Peace Council, created 15 years ago under President Ernesto Samper, to promote the peace negotiations with FARC. The Council has representatives from the civil society and seeks to foster a peaceful culture and promote the successful conclusion of the negotiations. Currently, FARC and GoC are discussing the third point of the agenda focusing on illegal drugs production and trafficking. In response of FARC proposal of a Truth Commission, the GoC agreed but expressed that this should be created once the peace agreements are signed.⁽⁷⁾

4. IN THE SPOTLIGHT

VICTIMS DAY COMMEMORATIONS IN APRIL

On April 9, Colombia commemorates the National Memory and Solidarity with Victims Day. As part of the commemoration, several activities are being held around the country. National demonstrations supporting victims will be held nationally on April 9, as well as town meetings with victims' representatives in all departmental assemblies and in the Congress. On April 10, an International Congress on Victims will be held in Bogotá.

During the report's presentation, the Prosecutor's Office issued a wakeup call on the need to include children and adolescents' issues as part of the conversations between GoC and FARC in Havana.

Land Restitution Unit Director Ricardo Sabogal stated that 35% of reclamations presented are under revision. President Santos announced a reform to the Victims Law, stating that in those cases where there is no opposition to the claim, restitution can proceed administratively without needing to be sanctioned by a judge.⁽⁶⁾

Colombia's second largest guerrilla group, the ELN, expressed that the destitution of Bogotá's Mayor Gustavo Petro (former member of the M19 movement), is a menace for current peace negotiations, since it gives no guarantees for former combatants to participate in politics. At the same time, ELN has announced their willingness to negotiate with GoC and repair victims as the result of a possible peace.⁽⁸⁾

With Victims Unit, UNPD, USAID and IOM support, news outlet El Tiempo will hold a dialogue on victims' issues and peace building with victims' representatives, GoC officials and experts (April 28).

5. "Restitución gota a gota", *Fundación Forjando Futuros*, March 2014, <http://www.pares.com.co/wp-content/uploads/2014/03/Publicaci%C3%B3n-Semana.pdf>

6. "El 35% de reclamaciones de tierras, en trámite: Sabogal", *El Colombiano*, April 1, 2014,

http://www.elcolombiano.com/BancoConocimiento/E/el_35_de_reclamaciones_de_tiempos_en_tramite_sabogal/el_35_de_reclamaciones_de_tiempos_en_tramite_sabogal.asp "Santos anunció acelerador al proceso de restitución de tierras", *El Espectador*, April 4, 2014, <http://www.elespectador.com/noticias/politica/santos-anuncio-acelerador-al-proceso-de-restitucion-de-articulo-484950>

7. "Juan Manuel Santos reactiva la Comisión Nacional de Paz", *El Tiempo*, March 26, 2014, http://www.eltiempo.com/politica/ARTICULO-WEB-NEW_NOTA_INTERIOR-13731875.html;

"Gobierno, favorable a comisión de la verdad pero tras firma de paz", *El Espectador*, March 30, 2014, <http://www.elespectador.com/noticias/paz/gobierno-favorable-comision-de-verdad-tras-firma-de-paz-articulo-483819>

8. "Destitución de Petro pone en peligro el proceso de paz": ELN", *El Espectador*, March 27, 2014, <http://www.elespectador.com/noticias/politica/destitucion-de-petro-pone-peligro-el-proceso-de-paz-eln-articulo-483348>;

"ELN reitera intención de reparar a sus víctimas", *El Espectador*, March 3, 2014, <http://www.elespectador.com/noticias/paz/eln-reitera-intencion-de-reparar-sus-victimas-articulo-478417>

5. PROGRESS REPORT*

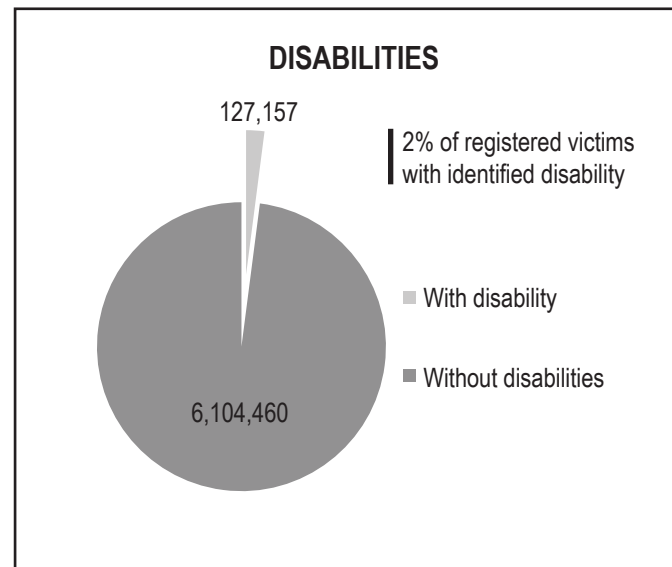
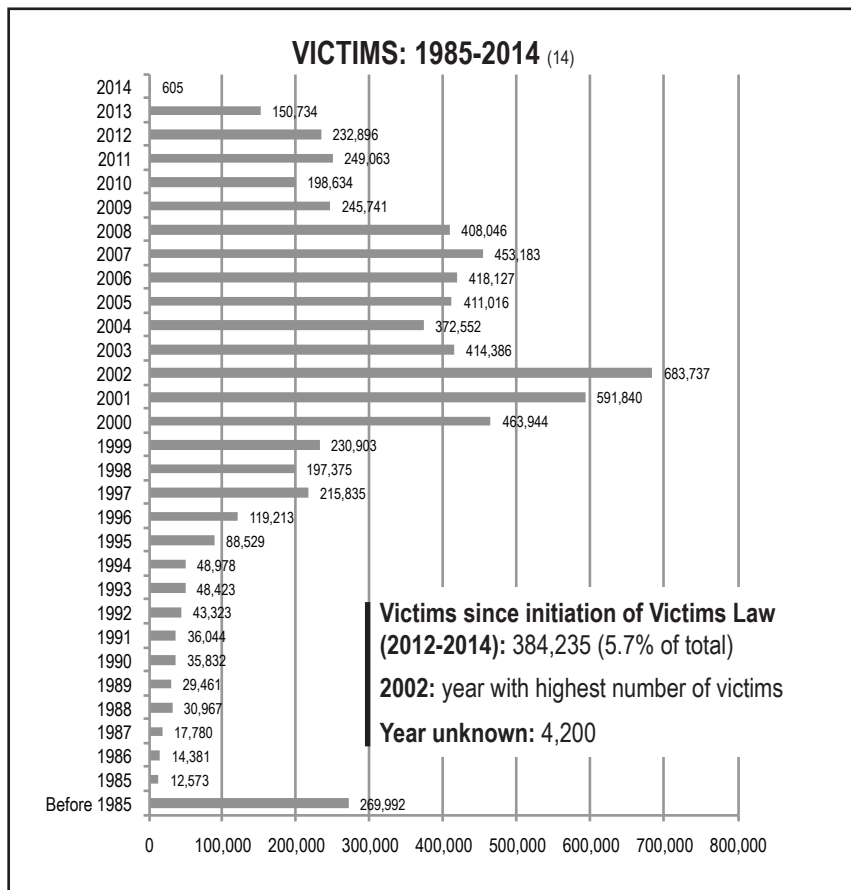
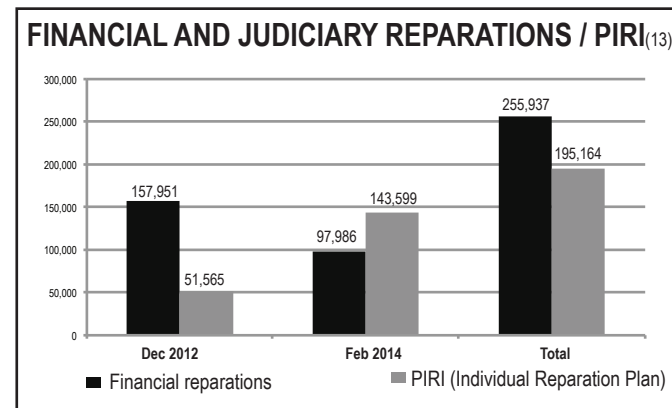
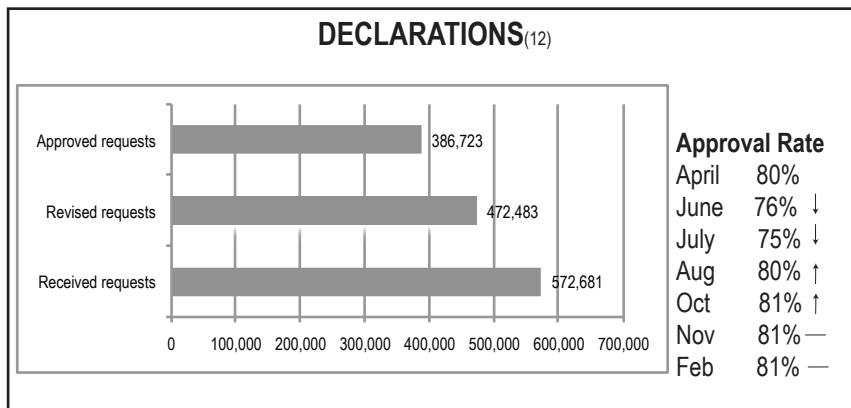
REGISTERED INDIVIDUALS: 6,231,617 (13.2% of total population)⁽⁹⁾

INDIVIDUALS BY GENDER OR SEXUAL ORIENTATION	
	%
Female	49.6
Male	49.6
Undefined	0.8
LGBTI	0.01

VICTIMS BY AGE GROUP	
	%
0-17	32.4
18-26	17.1
27-60	33.6
61-100	6.6
Without info	10.3

TOP FIVE VICTIMS LOCATIONS ⁽¹⁰⁾	
	%
1. Antioquia	19.1
2. Bolívar	7.4
3. Magdalena	6.0
4. Nariño	5.1
5. Cesar	4.9

VICTIMIZING ACTS: 7,103,366 ⁽¹¹⁾	
	%
1. Displacement	82.8
2. Homicide/Massacre	10.5
3. Threats	2.1
4. Disappearance	1.4
5. Loss of property	1.2



REGIONAL PRESENCE⁽¹⁵⁾

Regional Attention Centers	
Operating	6 (Valledupar, Medellín (3), Bogotá (2))
Under construction	9
Contract phase	9
Design phase	15
Planned	6
Total	45
Assistance points	103

*Source: Victims Unit, February 2014; Victims Registry information obtained from the Victims Unit's National Information Network, April 7, 2014, <http://mi.unidadvictimas.gov.co>

9. Official estimate of victims in the country.

10. Based on registry location.

11. Based on the registry of victimizing acts.

12. Based on the Single Declaration Format (FUD). Cumulative total of declarations received, Nov 2013.

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

14. Number of victims affected per year.

15. Victims Unit's service provision coverage. Victims Units Regional Centers Office, February, 2014.

6. A VIEW FROM THE FIELD

HUMANITARIAN CRISIS IN BUENAVENTURA

An article published in BBC Mundo recognizes the situation of Buenaventura, Valle del Cauca as “one of the most alarming that [Human Rights Watch] has observed in many years of work in Colombia and the region.”⁽¹⁶⁾ Buenaventura, which the article calls “the city of the disappeared” and “the new Colombian capital of horror,” has faced high levels of violence at the hands of criminal groups of paramilitary origin, which are dedicated to extortion and drug trafficking due, to its strategic location on the Pacific Coast. At least 150 people have been disappeared between January 2010 and December 2013, and criminal groups perpetrate brutal acts of violence, including dismemberment. Violence, the article states, has been institutionalized, and poverty is epidemic in the region.

7. DIVERSITY MAINSTREAMING

THOUSANDS OF CHILDREN SEXUALLY ABUSED BY ARMED ACTORS: OXFAM

A recent report released by Oxfam and other civil society organizations finds that an average of 27 children is abused daily by armed actors.⁽¹⁷⁾ The report, “¡Que dejen de cazar a las niñas y los niños!” (“Stop hunting girls and boys!”) also states that from 2008 to 2012, 48,915 children and adolescents under 15 years of age were victims of sexual abuse by armed actors in Colombia. The report addresses a deficiency of information and studies on the magnitude of sexual violence against children and adolescents. The report hopes its recommendations will increase the visibility of sexual violence, an often silent crime.

FARC AND ELN RECRUITED 1,387 CHILDREN IN THE LAST TWO YEARS, ACCORDING TO GOVERNMENT REPORT

According to the Demobilized Humanitarian Attention Group (GAHD), a part of the Ministry of Defense, between 2012 and 2013, 1,255 children and adolescents were forcibly recruited by FARC and 132 by ELN.⁽¹⁸⁾ The departments that register the highest numbers of forced recruitment are Putumayo, Nariño, Huila and Meta. The GAHD also reported that 3,780 children and youth were recovered from armed groups between January 2002 and March 2013. The statistics were presented as part of the campaign “Aquí tienes plan” (“Here you have a plan”), which is led by the Ministry of Defense and seeks to prevent forced recruitment of children and youth by illegal armed groups.

8. INSTITUTIONAL ADVANCES

Victims Unit

DIVERSITY MAINSTREAMING COMMITTEE

The Victims Unit created the Diversity Mainstreaming Committee through Resolution 0214 of 2014. This Committee will coordinate the implementation of the diversity mainstreaming approach in the Victims Unit’s procedures and in the assistance, attention and reparation routes for victims. The resolution follows the commitment of the Victims Unit to advance in the diversity mainstreaming approach inclusion and implementation in all of the institution’s national and local actions.

National Center for Historical Memory (CNMH)

“THE ROUTES OF THE CONFLICT”

The National Historical Memory Center, in alliance with specialized website on conflict issues Verdad Abierta, launched the web database and mobile phone app “The Routes of the Conflict”. The database is a registry of the massacres committed since 1982, including statistical and qualitative information. The website can be consulted at <http://rutasdelconflicto.com/>.

9. FURTHER READING

HUMAN RIGHTS DEFENDERS MURDERS, 95% IMPUNITY

A report revealing that out of 219 crimes committed against human rights defenders between 2009 and 2013, only 12 were sentenced or are in trial phase.⁽¹⁹⁾

“DO NOT ERASE ME FROM HISTORY”: TRUTH, JUSTICE AND REPARATION IN BOLIVIA (1964-1982)

Between 1964 and 1982, Bolivia suffered from military regimes and authoritarian rule committing serious human rights violations. The Amnesty International report collects evidence on the achievements and failures of Bolivia repairing victims.⁽²⁰⁾

FARC AND CONFLICT IN CAQUETÁ

A multimedia special produced by website Verdad Abierta exploring the history of the conflict in the eastern department of Caquetá, through images, texts, timelines and maps. Available at: <http://www.verdadabierta.com/las-farc-y-el-conflicto-armado-en-caqueta>.

16. “Buenaventura, la nueva capital del horror en Colombia”, BBC, March 24, 2014, http://www.bbc.co.uk/mundo/noticias/2014/03/140320_colombia_buenaventura_desapariciones_desplazados_aw.shtml

17. “¡Que dejen de cazar a las niñas y los niños!”, COALICO, March, 2014, http://www.humanidadvigente.net/images/Informe_saquen_mi_cuerpo_de_la_guerra.pdf

18. “Las FARC y el ELN reclutaron 1.387 niños en dos últimos años, según Gobierno”, *La Información*, March 13, 2014, http://noticias.lainformacion.com/asuntos-sociales/infancia/las-farc-y-el-eln-reclutaron-1-387-ninos-en-dos-ultimos-anos-segun-gobierno_1Gwo1KssAksCcxJJIRTzu1/

19. “Human right defenders murders, 95% impunity”, *Verdad Abierta*, March 1, 2014, <http://www.verdadabierta.com/victimimas-seccion/organizaciones/5270-asesinatos-de-defensores-de-derechos-95-impunes>

20. “Do Not Erase Me From History: truth, justice and reparation in Bolivia (1964-1982)”, *Amnesty International*, March 11, 2014, <http://www.amnesty.org/es/library/info/AMR18/002/2014/es>