

VICTIMS ISSUES

A MONTHLY REVIEW

SEPTEMBER 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 August 2015, 7,620,114 victims were registered with the government of Colombia (GoC), primarily victims of internal displacement (79.6%).⁽¹⁾

2. KEY DEVELOPMENTS

VICTIMS HIGHLIGHT JUSTICE AGREEMENT BUT DEMAND AGREEMENT ON VICTIMS REPARATION

The group of victims who participated in the peace talks with FARC in Havana highlighted advances from the process after an agreement on transitional justice was announced by FARC and the GoC. However, they also demanded faster advances on pending issues such as victims' reparations and guarantees of non-repetition. Victims also acknowledged the support of the international community, experts, and civil society representatives for the creation of a Special Jurisdiction for Peace, while warning the need to widely disseminate the agreements and strengthen protection measures, as many victims are continuously threatened.⁽²⁾

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"Having the judicial framework to know how victims will be responded to was the most difficult part; we have the framework. Now we ask that there be no more delays on the victims' agreement, how they will be repaired, and how the truth process will be," said journalist Jineth Bedoya, who was part of victims delegations in Havana.⁽³⁾

WITH SIT-INS, VICTIMS EXPRESS FRUSTRATION WITH INSTITUTIONS AND REPARATION

Earlier this month, victims frustrated with delays and lack of compliance by the GoC in the reparation process held multiple sit-ins. On September 10, operations at the Bogotá's Puente Aéreo airport terminal were disturbed for several hours when a group of over 300 victims sat-in to call for timely attention and guidance and demand humanitarian attention.⁽⁴⁾ A team from the Victims Unit and the Ombudsperson's Office met with the victims. However, the same group of victims later occupied two abandoned buildings in downtown Bogotá, citing GoC in compliance with housing promises and saying that they would not leave until their until they were attended to⁽⁵⁾ These two sit-ins, as well as other smaller ones throughout the country, are an example of some victims' high expectations versus the progressive and gradual nature of the Victims Law.

Speaking of victims' recent occupations, Victims Unit Director Paula Gaviria warned against fraud, "We understand that many of those who arrived to Puente Aéreo were tricked, they were told that there they would be given the keys to a new home. We have raised an alert regarding the manipulation to which victims are subjected," and cautioned against the abuses of some victim leaders who mislead others.⁽⁶⁾

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

2. "Victimas destacan acuerdo en justicia, pero piden celeridad en reparación", El País, September 28, 2015, <http://bit.ly/1RHJs9J>.

3. Ibid.

4. "Unidad de Víctimas se reúne con desplazados en Puente Aéreo," El Tiempo, September 10, 2015, <http://bit.ly/1XQwdrz>.

5. "Desplazados se toman edificio en el centro de Bogotá," W Radio, September 21, 2015, <http://bit.ly/1VVpU7o>.

6. "Unidad de Víctimas responde a la toma del puente aéreo de Bogotá", El País, September 10, 2015, <http://bit.ly/1VWQixZ>.

3. PEACE PROCESS

PROCESS ADVANCES WITH BREAKTHROUGH ON TRANSITIONAL JUSTICE

In Havana, President Juan Manuel Santos and “Timochenko,” FARC’s elusive top commander, announced a key breakthrough in peace talks – an agreement on transitional justice, under which political crimes (i.e. being a member of FARC) may be given amnesties, while “the most serious and representative” crimes will be subject to special tribunals.⁽⁷⁾ If responsible actors collaborate and provide truthful and complete testimonies, they would be eligible for an “alternative justice” system and reduced sentences, including five to eight years of community work. The arrangement has been called a “groundbreaking hybrid” of other peace negotiations.⁽⁸⁾ According to Cesar Rodríguez, Director of DeJusticia, the agreement achieves “greater equilibrium than the South African model between two forms of justice (restorative and retributive) and between the search for peace and guarantees of victims’ rights.”⁽⁹⁾ It was also announced that FARC agreed to begin disarming within 60 days of signing a final accord. Furthermore, Santos declared that in six months, a final agreement would be signed. In the days following the announcement, Timochenko cast some doubt on the six-month deadline, stating “If there’s a political will, we can do it earlier, but six months may also be too short,” adding that both parties must “tread carefully.”⁽¹⁰⁾ Additionally, the FARC leader tweeted an order to FARC members to suspend military training courses and begin political and cultural training.⁽¹¹⁾ See Progress Report.

According to a survey published in *Semana* magazine, public support for the peace process has increased. Following the announcement of the justice agreement, 46% of respondents were optimistic about the process’ prospects for peace, compared to 29% in July.⁽¹²⁾

4. DIFFERENTIAL APPROACHES

SOCIAL MOBILIZATION STRATEGY AGAINST GENDER BASED VIOLENCE THROUGH THEATER

To raise awareness and establish actions and commitments at the local level against GBV, the Colombian Council for Women’s Equality, Casa Ensamble, USAID, and IOM are organizing regional events with institutions and civil society organizations. The events include a meeting with public servants to present the regional context and statistics on GBV against women and establish joint initiatives, as well as a theatrical monologue and dialogue presented by Colombian actress and activist against GBV Alejandra Borrero. In an encounter with institutions in Florencia, Caquetá, Borrero declared, “this is not a space for vanities,” to say that everything is OK, but rather to complement future efforts. As a result of the encounter, a Departmental Roundtable was formed to address GBV. A total of eight presentations will be held, with the closing event programmed in Bogotá on November 26.

5. A VIEW FROM THE FIELD

ATTACK AGAINST WOMEN’S RIGHTS LEADER HIGHLIGHTS PERILOUS POSITION OF HUMAN RIGHTS DEFENDERS

Mayerly Angarita, leader of the women’s collective reparation subject *Narrar para Vivir* and candidate for mayor’s office in San Juan Nepomuceno, Bolívar was the victim of an attack against her life when a motorcycle shot at her armored car. Angarita and others in the car were not injured. Earlier this year a flier had been distributed by the “Costeños AUC” threatening the organization.⁽¹³⁾ The attack highlights an increased trend of attacks against victims and human rights defenders in Colombia.

Through August, 69 human rights activists and community leaders had been killed this year, twice the number registered in 2014.⁽¹⁴⁾

COMMISSION CONFIRMS STATE’S RESPONSIBILITY IN BOJAYÁ MASSACRE

The Colombian Council of State’s Fourth Section overruled a writ by the Ministry of Defense and the National Army, Police, and Navy forces, thereby confirming the decision that the Colombian State is a responsible actor in the massacre carried out in Bojayá on May 2, 2002. The decision includes the determination that an omission by the Armed Forces allowed the attack by illegal armed groups against the town’s population to take place. The decision implies that then President Andrés Pastrana, as well as ministers and commanders from the Armed Forces, should “respond with their personal assets for the damage caused, and should respond from the disciplinary, criminal, and fiscal points of view,” ordering that economic reparations be paid to 78 victims’ family members.⁽¹⁵⁾

7. “A big leap towards peace in Colombia,” *The Economist*, September 26, 2015, <http://econ.st/1MsxHzo>.

8. “Colombia peace deal with Farc is hailed as new model for ending conflicts,” *The Guardian*, September 26, 2015, <http://bit.ly/1GgE8sw>.

9. “Cesar Rodríguez, “La suave venganza de la paz,” *El Espectador*, September 26, 2015, <http://bit.ly/1h6BjhA>.

10. “Colombian Farc rebels to halt military training,” *BBC*, October 1, 2015, <http://bbc.in/1KVH5KG>.

11. Timoleón Jiménez, *Twitter*, September 30, 2015, <http://bit.ly/1LQ7r1i>.

12. “Encuesta: los colombianos y la paz,” *Semana*, October 3, 2015, <http://bit.ly/1jrlaFG>.

13. “Un fugaz recuerdo del terror volvió a los Montes de María,” *Semana*, October 7, 2015, <http://bit.ly/1RvNRfQ>.

14. “Colombia: 69 Activists Killed Year to Date,” *Telesur*, August 20, 2015, <http://bit.ly/1KE7eni>.

15. “Consejo de Estado dejó en firme condena contra la Nación por masacre de Bojayá,” *El Espectador*, September 17, 2015, <http://bit.ly/1KkfqGf>.

6. PROGRESS REPORT*

7,620,114
REGISTERED VICTIMS
 15.9%
 OF TOTAL
 POPULATION

BY GENDER OR SEXUAL ORIENTATION

Male	49.69%	Unknown	0.76%
Female	49.53%	LGBTI	0.02%

BY AGE GROUP

0-17	30.6%
18-28	20.5%
29-60	32.4%
60-100	7.4%
NO INFO	9.1%

TOP 5 VICTIMS LOCATIONS

ANTIOQUIA	19.6%
BOLÍVAR	7.5%
MAGDALENA	5.9%
NARIÑO	5.1%
CESAR	5.1%

TOP VICTIMIZING ACTS:
8,637,129

DISPLACEMENT	79.6%
HOMICIDE	11.8%
THREATS	3.2%
DISAPPEARANCE	2.0%
REAL ESTATE LOSS	1.2%

TRANSITIONAL JUSTICE agreement

Announced on September 23 in Havana by President Santos and top FARC commander Timochenko after **16 MONTHS** of discussion. It was hailed as a breakthrough on the path to a final accord.

WHAT DOES IT MEAN?



SPECIAL JURISDICTION FOR PEACE

- END IMPUNITY
- FIND OUT THE TRUTH
- SUPPORT VICTIMS' REPARATION
- SENTENCE RESPONSIBLE ACTORS particularly "serious and representative crimes"
- GUARANTEE NON-REPETITION

- **CHAMBER OF RECOGNITION** to organize and distribute cases.
- **INVESTIGATION BODY** to look into and prosecute crimes that are not recognized.
- **SPECIAL TRIBUNAL** with approximately 20 judges, primarily Colombian and a minority international.
 - 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:

PEACE PROCESS timeline

- Sept. 23 ● Agreement on transitional justice
- June 4 ● GOC and FARC agree to create a Truth Commission
- March 6 ● GOC and FARC reach demining agreement
- 2015
- May 16 ● Agreement on illicit drug production
- 2014
- Nov. 9 ● Agreement on political participation
- May 26 ● Agreement on land reform
- 2013
- Nov. 19 ● GoC and FARC begin formal talks in Havana
- 2012

For those who collaborate with a truth commission and confess their crimes:



ALTERNATIVE PENALTIES:
 5-8 YEARS OF COMMUNITY WORK
 "WITH EFFECTIVE RESTRICTION OF LIBERTY"

For those who do not collaborate and are found guilty of committing crimes:



UP TO 20 YEARS OF PRISON

WHAT COMES NEXT?

REMAINING POINTS

- **Point 4:** Finalize the victims' rights point regarding reparations
- **Point 5:** Reach agreement on End of Conflict (disarmament)
- **Point 6:** Reach agreement on Referendum measures for accords

Both sides have agreed to sign a final accord by **MARCH 2016**
 Within **60 DAYS** of signing of a final accord, FARC will begin to disarm

7. IN THE SPOTLIGHT

HUMANIZING INFORMATION SYSTEM SERVICES FOR VICTIMS

The National Information Network seeks to guarantee that National Victims Assistance and Reparation System (SNARIV) institutions can access national and regional information on victims in timely and efficient manner. The Network, which operates under the coordination of the Victims Unit, has produced various tools with support of USAID and IOM. On November 4, an event in Bogotá will present the Network and the tools produced, as well as a tour through different stands showcasing each of the tools.

8. INSTITUTIONAL ADVANCES

Victims Unit

PARTICIPAZ: DISSEMINATING VICTIMS' RIGHTS

The Victims Unit launched its pedagogical strategy “Participaz,” which provides an online and onsite training course on the Victims Law, victims’ reparation measures, and access routes. The course clearly presents the rights and prevention, protection, attention, assistance and integral reparation routes for victims, as well as available programs from different institutions. Overall, “Participaz” seeks to create and promote an online community that includes victims abroad. The online training course, supported by USAID and IOM, is available here: <http://participaz.com/>.

National Center for Historical Memory (CNMH)

CNMH AND SMITHSONIAN COMBINE FORCES TO STRENGTHEN COLOMBIA'S NATIONAL MEMORY MUSEUM

A CNMH delegation visited Washington D.C. to meet with representatives of the Smithsonian Institute. As a result of the meeting, both institutions will formalize an agreement to provide technical support to the CNMH for the National Memory Museum’s design, construction, museological and museographical concept, and business plan design. A delegation from the Smithsonian will visit Colombia in the following months to know more about the social processes and historical memory initiatives that the museum will include.

As a part of the visit to D.C., representatives from the CNMH and experts discussed the historical memory report Basta Ya! in a peace forum at the United States Institute for Peace.

9. FURTHER READING

IN REMOTE COLOMBIA, PROSPECTS FOR PEACE ARE CLOUDED BY CORRUPTION

This National Public Radio (NPR) piece analyzes the role that electoral corruption could play in local level elections in Colombia this October. Speaking with an indigenous mayoral candidate from the Sierra Nevada region, NPR reporters discuss vote-buying in rural regions in the run-up to elections that will be pivotal for the local implementation of eventual peace accords and the post-conflict.⁽¹⁶⁾

AGREEMENT FOR THE CREATION OF A SPECIAL JURISDICTION FOR PEACE

On September 23 the ten-point agreement between FARC and the GoC for the creation of a Special Jurisdiction for Peace was announced. The Special Jurisdiction will be responsible for judging crimes committed by members of FARC and of the Colombian state within the internal armed conflict. The text of the agreement is available here <http://bit.ly/1Lxp3n7>, as well as a video of the announcement: <http://bit.ly/1k56bRI>.

SUMMARY OF THE REPORT FROM THE HISTORICAL COMMISSION ON THE CONFLICT AND ITS VICTIMS

As part of the peace conversations between FARC and the GoC, a Commission was created to research and clarify the origins and multiple causes of Colombia’s internal armed conflict. The Commission was made up of 12 experts and two note takers, who produced a report with the essays written by its members. A summary and the texts of these documents are available here: <http://bit.ly/1J5axl4>.

A DISPLACED NATION: NEW HISTORICAL MEMORY SERIES

The CNMH with the Victims Unit launched four historical memory reports on displacement, as part of the series “A Displaced Nation.” The reports analyze forced displacement in Colombia through different approaches and case studies in diverse regions, Catatumbo (Norte de Santander), the Colombian-Venezuelan border, and El Castillo (Meta). The series shows how displacement is not merely collateral damage of the conflict, but has also been a consequence of criminal practices by drug traffickers, businessmen, and politicians. The series, available here <http://bit.ly/1FJmxtD>, also includes the animation “People without land”, a short video that portrays the story of displacement in the country. The animation video, supported by USAID and IOM, is available here: <http://bit.ly/1jzp7HO>.

16. “In Remote Colombia, Prospects For Peace Are Clouded By Corruption,” NPR, October 4, 2015, <http://n.pr/1Of0I4a>.