



**ABSTRACT**  
**FORMAL AND  
ACTUAL  
REPARATION**

**Questions and suggestions**  
A case study of 100 victims

**SOLIVIDA**  
Asociación  
Solidarios por la Vida

## FORMAL AND ACTUAL REPARATION

### Questions and suggestions

A case study of 100 victims

### THE VICTIM'S STATEMENTS

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*You are left like a bird without a nest...you are left with nothing, out of place, with nothing. People have helped me. The first days after it happened I went to a psychologist, but I went just once because it was expensive and my sister was paying.*

*We met with a group of close friends to share. It's like having a conversation. We talk about things that we know neither psychologists nor public officials will understand.*

*The ladies made me medicine, herbs, secrets, massages, very enthusiastic about healing me, and finally they got me on my feet. I spread lion fat with lard and boa fat and with herbs, they put a toad on my head because that restored my mental state and they bandaged that on me all day. Those ladies were in my family on my mom's side (...) I have a lot of family here but they are tired of us. People when they see you messed up like that find that you get on their nerves.*

*We took him to El Bordo and then to Popayán, they operated on him and he survived, I brought him to Cali to the house but after a while I saw that he was very afraid. Sometimes when he sees someone he starts to shake, almost doesn't talk, doesn't go out, he stays by himself and is silent in the patio of the house. He eats but he's gotten thinner, he sleeps little and he's always alert. He says that he's in a prison and that I kidnapped him and so he won't take anything I give him. Sometimes he becomes aggressive and I had to tie him up once.*

*I don't want to go out, I don't want to dance or even see anyone. It's tiresome, nothing interests me. I had ways of doing things and now I can't. There are days when I wake up and I don't have anything to give my kids, I think about things I want...sometimes I think about going and throwing myself in front of a car, that's the quickest solution...and sometimes I start to think: oh! But I am too cowardly to kill myself and my kids who are they going to stay with...*

*I was really bad. In Buenaventura in the mental hospital I drank Draino to kill me but they took me to the hospital. Afterwards, on July 13<sup>th</sup>, my birthday, I drank rat poison but again they took me to the hospital. There I was a month and a half when they sent me to Cali to the home of a friend who lives here in Mojica neighborhood. I eat little. I don't work. I help in the house with the kids. I feel very sad and want revenge. I think many things, like paying people to kill them.*

## **CHARACTERIZING THE VICTIMS**

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In this report the circumstances of 100 victims and their family members are analyzed. The study was carried out between May and December 2008 with victims – direct or indirect, attended in the offices of Asociación Solivida in Cali.

- The cases examined occurred between 1986 and 2008. A total of 78 of cases analyzed occurred between 2000 and 2008; 9 in 1993 and 13 in other years outside of these two periods.
- Some 88% of cases occurred in departments along the Pacific Coast of Colombia: Chocó, Valle del Cauca, Cauca and Nariño.
- The selection criteria for the cases corresponded to those persons who had been the victims of crimes against humanity within the armed conflict, and whom are legally recognized as victims under the law of reparations. The majority of victims are internally displaced persons. From among this group, persons were selected with whom it was possible to maintain communication throughout the period of the study, and who gave their consent to ask about their case after they were aware of the study's proposed objectives and methodology.
- The crimes committed in the cases included the following: 70 homicides, 15 forced disappearances, 11 cases of incapacitating injuries, 3 kidnappings and 1 torture.
- The perpetrators of the crimes in 44 cases were paramilitary groups, in 40 cases guerrillas and in 1 case involved a confrontation between irregular armed groups. There is 1 case where the perpetrator was unknown and 1 where the Army was accused. In 13 cases there was no information on the perpetrator.
- In this study, 85% of victims were men. Of the 70 homicides registered, 63 were against men and 7 against women. Of the 15 forcibly disappeared, 12 were men and 3 were women, and of the 11 left disabled, 7 were men and 4 were women.
- The group of 100 victims includes 75 family members. Prior to being subjected to the violence of the conflict, in this group there were 12 homes with just one head of household; after becoming victims, 46 have only one head of household. The total increased by 34 homes where one of the parents were lost, and this meant that 33 women became sole heads of households.

## **OBSTACLES TO JUDICIAL ACCESS FACED BY VICTIMS**

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*The extreme poverty and social challenges of many victims made even smaller delays major obstacles.*

The principal obstacles faced by victims were intimidation by the perpetrators, a lack of confidence in State response capacity, or a lack of familiarity with norms and procedures.

- Cases which were not denounced were typically the most serious violations of rights, such as torture, forced disappearance, incapacitating injuries or executions, in which the armed actors threatened to kill potential accusers. Several persons decided to file an allegation only when they found it was possible to do so in other locations, in a setting considered to be safer.
- A lack of familiarity with norms, procedures and terms: due to a lack of access to information and cultural differences in understanding the law and State institutions.
- Along the Pacific Coast in Colombia, the local population has its own way of including or excluding family members, which is unrelated to established legal norms. This situation makes demonstrating family relationships more complicated due to a lack of legal identification documents.
- Logistical challenges, bureaucracy and the economic cost of transportation, photocopies and telephone calls, for example, frequently overwhelm the capacity of victims to comply with legal requirements for reparations. Under these circumstances, these victims abandon their effort to access judicial mechanisms, despite the fact that these processes are free of any direct charge.
- There is a huge distance between the universal culture of victims and the bureaucratic and institutional world in which processes are carried out in order to obtain reparation. The gathering of evidence which victims must supply for reparation processes requires knowledge of legal processes, strong communication skills, a capacity to gain access to many offices and resources to finance this access.
- A lack of trained personnel to attend and orient victims on their legal and psychosocial needs, both in the community and in victim's organizations, community organizations, NGOs and the State.
- Victims are unaware that they must present a certificate validated by the local authorities in which the acts are recognized as being perpetrated by illegal armed groups. They typically travel without this information and it is later difficult to obtain such certification. It is also common to see that the same perpetrators intimidate local officials so that they do not issue such certifications.

- When homicides occur in remote locations, illegal armed groups prevent any accusation from being filed or the intervention of the local authorities. Victims are often buried in remote rural locations and in some cases are burned. In these cases there is no recovery of the body or autopsy; neither is it possible to issue a Civil Registry of Death which legalizes the persons death, nor is a police case opened as the State has not been notified of the murder.
- In cases of forced disappearance, in order to initiate a process of administrative or judicial reparation it is necessary to file a denunciation. This information usually upsets family members whom, frequently, are sure that their loved ones have been murdered; in this situation it is necessary to explain to them the difference between the legal view of the situation and their personal perception. In other cases, they are afraid that a denunciation of the case will put the victim's life at risk.
- The complexity of these cases allows for the exploitation of the victims by unscrupulous persons whom, in several known cases, charge between COP\$20,000 and 200,000 in order to fill out an administrative reparation form, and whom moreover expect to receive up to 30% of the sum which victims receive as indemnization.

## **SITUATION OF REQUESTS FOR ACCESS TO JUSTICE**

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### **Requests for humanitarian aid to Acción Social**

*(Law 782 of 2002 and annexes)*

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#### **IN CASES OF HOMICIDE**

Total homicide cases	70
Cases which had rights at the moment of the crime	70
More than one year passed with no request made	61
Still have the right to make a request	9
Made the request within the first year	6
Have received indemnization	2
Indemnization being processed	4

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#### **IN CASES OF FORCED DISAPPEARANCES**

Cases which had rights at the moment of the crime	15
More than one year passed with no request made	13

Still have the right to make a request	2
Should make a denunciation for forced disappearance	2
Have completed the full process	0
Have received indemnization	0

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#### **IN CASES OF DEBILITATING INJURIES**

Cases which had rights at the moment of the crime	11
More than one year passed with no request made	9
Still have the right to make a request	0
No information available on the date of the crime	1
Have completed the full process	1
Have received indemnization	0

#### **Reparation via administrative process**

*(Decree 1290 of 2008)*

All victims included in this study had rights to reparations via administrative procedure: 70 for homicides, 15 for forced disappearances and 11 for debilitating injuries. To date, all are currently being processed.

#### **Reparation via judicial process**

*(Law 975 of 2005 and regulating decrees)*

##### **Homicide**

It is known that of the 70 cases of homicide, 39 were committed by members of the AUC, principally by the Calima Group. Of these 39 cases, 7 denounced the case before a Prosecuting Attorney of Peace and Justice. The other 32 did not denounce due to fear of retaliation and will be excluded from reparations if they fail to comply with the requirement that they denounce the homicide before the competent prosecuting attorney.

##### **Forced disappearance**

Some 6 of the 15 cases of forced disappearance were attributed to the AUC, principally the Calima group. 5 of these 6 cases were denounced for forced disappearance before the competent prosecuting attorney of Justice and Peace. These 6 cases began the judicial process for reparations. The time required to provide a response and result will depend on what occurs in the processes of Justice and Peace.

### **Debilitating injuries**

Only 2 of the 11 cases of victims of debilitating injuries were attributed to the AUC. None have filed a denunciation before the competent prosecuting attorney of Justice and Peace, for which reason it is impossible to access the benefits provided by the said law.

#### **CURRENT LEGISLATION**

**Forced displacement** was codified by **Law 387 of 1997**. A major advance in norms on forced displacement, later there appeared Constitutional Court Decision **T-025 of 2004** and later clarifications as well as **Decree 250 of 2005** of the Ministry of the Interior and Justice, wherein is issued the National Plan for Integral IDP Assistance.

With regards to the victims of different crimes aside from forced displacement, **Law 975 of 2005** was issued on judicial reparation.

In 2008, **Decree 1290** was issued on individual reparations via administrative process under the Agencia Presidencial para la Acción Social.

**Laws 418 of 1997** and **782 of 2002** codifies humanitarian assistance for victims of violence in cases of death, debilitating injuries, a loss of property, kidnapping, forced disappearance and permanent incapacity.

#### **RECOMMENDATIONS**

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#### **To organizations of victims of the conflict, civil-society organizations and NGOs working in the field**

- Identify victims in your zone of influence and collect data on essential variables in order to characterize victims and their assistance needs.
- Collect an inventory on public and private institutions including healthcare, judicial, educational, protection, police and others that provide assistance in the area for conflict victims.
- Distribute this information among victims, their family members and the local population, including essential data on norms regarding indemnizations and judicial and administrative reparation.
- Identify and provide support in the community to those persons and groups that can accompany victims and their families.



- Lobby local Mayors, Departmental Health Secretaries, the National Government and regional NGOs to create victim assistance teams.
- Train community members or personnel in other organizations in order to:
  - Fill out forms on the victim's basic information, needs and resources.
  - Fill out forms to accredit the victim's status before the law.
  - Provide orientation and support to victims in collecting required documents and in complying with pre-requisites in order to access reparations.
  - Listen actively to victims and manage information with confidentiality.
  - Identify and support early situations of emotional stress and suffering.
  - Use basic criteria for mental health diagnoses and assistance.
  - Be aware of victim's needs and apply formal procedures to refer victims to mental health and legal support services.
  - Support and inform self-support groups.
  - Educate and orient victims so that they gain access to public resources and local educational, judicial, health, social protection, income generation, security and other institutions, including Acción Social.
  - Provide legal advice to victims on accessing recognized rights for internally displaced persons, humanitarian assistance to victims of violence, and reparations via administrative and judicial means.

### **To the Ministry of Social Protection**

- Build a consensus on psychosocial concepts, strategies and interventions for victims of the armed conflict and establish guidelines in this area for Ministry policies and planning.
- Promote the construction of victim's assistance strategies, plans and programs within the framework of the National Policies for Mental Health of the Ministry of Social Protection and the Colombian Association of Psychiatry.
- Promote from the office of integral, judicial and psychosocial assistance of the Ministry of Social Protection, programs and projects for integral psychosocial assistance interventions focused on the victims of violence.

### **To the National Commission for Reparation and Reconciliation -CNRR**

- Create a working committee to formulate strategies to attend to the following issues:





- Improve assistance and orientation capacity for community organizations and local institutions.
- Revise and adjust available pedagogical documentation to respond optimally to the judicial and psychosocial needs of victims.
- Strengthen the continuing availability of adequate human resources in the areas where victims live.
- Facilitate the exchange of experiences and collective learning between victims, institutions and the community.
- Diffuse best practices in integral assistance to victims.
- Build indicators to evaluate best practices in the community in the areas of social, judicial and healthcare services and in institutions.
- Identify opportunities for implementation and financing of plans and programs for victim's assistance within the framework of current public policy with mandatory compliance.
- Lobby for the support of internationally recognized academic and humanitarian assistance entities for research on, training of and assistance to victims.

#### **To departmental and municipal health secretariats**

- Collect an inventory of victim's organizations and NGOs that attend victims in their region.
- Invite victim's organizations representatives to participate in the formulation of physical and mental health plans and programs.
- Support the development of psychosocial victim's assistance pilot projects to contribute to the development of responses to needs in the areas of physical and mental health among the affected population, and to serve as spaces for training.
- Identify and diffuse among victims, their family members and public health personnel and healthcare providing institutions (IPS in Spanish), routes for attention of persons disabled due to the armed conflict.
- Establish a public health personnel and professionals training plan in healthcare providing institutions (IPS) in order to improve support capacity in the areas of physical and mental rehabilitation of victims and to orient judicial reparation processes.
- Integrate healthcare for victims of the armed conflict into Territorial Public Healthcare Plans and Departmental and Municipals Plans for Mental Health.



- Build a consensus on psychosocial interventions with victims, accompanied by academic institutions, the National Commission for Reparation and Reconciliation – CNRR, municipal secretariats and other organizations with experience in attending victims.
- Define systems for the registry of information and monitoring assistance provided to the victims of violence.

### **To the Presidential Agency Acción Social**

- Establish an assistance route for those persons who meet the criteria to be considered victims before the law and who demand the services of Acción Social.
- Evaluate the possibility of establishing new coordination mechanisms between Acción Social and the National Commission for Reparation and Reconciliation – CNRR in order to speed the legal processes of victims.

### **To faculties at universities and training centres in law and the social sciences, sociology, social work and psychology**

- Promote in academic institutions a discussion on the problems and assistance and accompaniment strategies provided to victims of the armed conflict.
- Promote social research on the impact of the conflict on victims, resistance strategies, reparation processes and social re-integration.
- Promote the rotation of law and social science students as interns or volunteers within civil-society organizations which attend victims of the conflict.

### **ABOUT SOLIVIDA**

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Asociación Solidarios por la Vida- Solivida, or the Solidarity Association for Life, is a non-governmental organization dedicated over the past 15 years to attending victims of violence caused by the armed conflict within the Aguablanca District of Cali.

From its beginnings and to the present it has attended nearly 1,800 IDP families displaced by violence, together with approximately 25,000 people affected by different forms of violence.

SOLIVIDA proposes to support the victims of violence in two areas: on the one hand, with advice, and to re-establish rights which have been violated by acts of violence, and on the



other, to protect and rebuild social solidarity links through trust-building spaces for victims perturbed by acts of violence.

Victims are attended by a group including a lawyer specialized in Human Rights and International Humanitarian Law, a psychiatrist with experience in community mental health and assisting victims of violence, four community workers and a network of volunteers who live in the District of Aguablanca. In addition, university students intern at the foundation from a variety of Cali universities or from the school of facilitators coordinated by Universidad Autónoma de Occidente.

The services provided by Solivida are free of charge and all persons attended decide as to whether they continue to visit the offices of the NGO, in accord with their needs and interests.

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