

Reparations Policy for Victims of the Armed Conflict in Colombia

With Law 1448 of 2011, known as the Victims and Land Restitution Law, and presidential decrees 4633, 4634, and 4635 that followed, the Colombian state created a system of reparations (The Victims Unit, Land Restitution Tribunals, administrative processes, etc.) for victims of the armed conflict in Colombia. This is considered to be the most ambitious reparations programme in the world, as it includes humanitarian assistance measures for victims, contemplates every form of reparation (restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence), while aiming to provide reparations for more than 8 million victims.

Initially, the reparations system's mandate was set to end by June 2021. However, in December 2019 the Constitutional Court decided to extend that term until 7 August 2030, unless the Congress enacts a law deciding its termination before that date. This decision is in line with the provisions of the 2016 Peace Agreement, which is closely linked to the 1448 Law and subsequent decrees.

Hence, it is important to understand some of the main achievements of this reparations system, as well as some of the challenges it faces to guarantee victims the right to a comprehensive reparation. This Snapshot approaches those issues on the basis of a presentation made by Professor Clara Sandoval of the University of Essex, during our event Reparations: Lessons from Colombia and Beyond.

Achievements

In contrast with other post-conflict contexts characterised by severe institutional deficit, the Colombian reparations programme relied on institutions that were already in place. The programme was linked to local, regional, and national-level institutions, which created a context that favoured implementation of reparations. For instance, ombudsmen (personeros) assist the Victims Unit in the process of identifying the victims to be repaired. Furthermore, by creating links with those institutions, the system helped to strengthen the state's presence in some of the most neglected areas of Colombia.



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The system also relied on a network of victims' organisations from across the country, the very same organisations that had lobbied for the creation of a reparations system in the first place. This strong network of organisations has constantly advocated for more effective implementation of the Victims Law and its decrees, and kept alive a widespread political support for the reparations.

Reparations for victims of the armed conflict is still an important part of the political agenda in Colombia. This political momentum started during the demobilisation of paramilitary groups between 2003 and 2006, the consolidation of the transitional justice paradigm in Colombia, and the emergence of a sufficient public consensus on the ethical obligation to implement reparations. This momentum has proven strong until today, which was clear during the peace process with FARC-EP guerrillas, in which the parties agreed to strengthening the existing reparation measures created by the 1448 Law and its decrees.

Challenges

The main obstacle that the reparations policy faces is the endurance of the armed conflict, which not only leads to new acts of violence against civilian populations, but also makes the reparation of victims who suffered from violence in the past even more challenging. For instance, those victims who are eligible for land restitution cannot begin the restitution process if armed groups are present in the area where their land is located.

Today, nine years after the Law was signed, only 11% of registered victims have received financial compensation. At this pace, the state would take more than 70 years to compensate all victims. It is harder to measure the state of implementation regarding land restitution due to the lack of consensus on the scale of land dispossession. To date, judicial sentences have ordered the restitution of 380,000 hectares, while the most conservative estimates put the number of dispossessed hectares around 1,500,000.



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