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**A critical assessment of Colombia's reparations policies in the  
context of the peace process**

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The case of Colombia is important for a volume on reparations for a number of reasons, not the least of which is because the Colombian reparations programs is the most ambitious in the world to date, in terms of its size and scope. In the context of the 2016 peace agreement, Colombia has moved ahead on a wide range of policies for addressing state and non-state accountability for human rights violations. The reparations program, however, predated the peace agreement and, in fact, ran parallel to the peace process, both preparing the ground for parts of the peace process and providing some evidence of the government's commitment to its responsibility to victims as it engaged in peace negotiations.<sup>1</sup> The reparations program was also very much a response to human rights

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<sup>1</sup> This chapter draws on research the authors, individually and collectively, conducted in previous projects, including the Transitional Justice Research Collaborative (TJRC), a project supported by the NSF, resulting in a publicly available data set at [transitionaljusticedata.com](http://transitionaljusticedata.com), and research on the Colombian reparations program in the context of an evaluation requested by the Colombian Victims Unit (VU) and supported by USAID conducted in between August 2014-October 2015. Under the terms of the grant, the PIs retained the right to use knowledge gained from the evaluation for their own research and writing, such as this chapter. We thank in particular Bridget Marchesi and Peter Dixon for their research assistance on these projects.

and social justice organizations' community advocacy and litigation in Colombia that had long called for remedies for the many collective injustices of the conflict.<sup>2</sup>

In their introduction to the volume, the editors write "Governments have proved reluctant, with very few exceptions (most notably post-Holocaust Germany), to engage seriously with demands for reparations." The Colombian government, responding to community advocacy, is certainly another exception to this statement. A visionary piece of legislation in 2011 defined a broad set of beneficiaries, a requirement of finding and registering those victims, and a set of benefits to which they were entitled. Presidential decrees and rulings of the Constitutional Court further refined these requirements. Each of these was not only groundbreaking in the conception of society's commitment to repair the harm of fifty years of civil war, but also expanded the expectations of what this fledgling institution should do, without, however, the strategic guidance and priorities that would allow it to fully succeed.

The Colombian peace agreement addressed a half-century long conflict between the Revolutionary Armed Forces of Colombia (FARC) and the Colombian government. During the conflict, Colombia's security forces, rightwing paramilitary groups, the FARC, and a handful of other smaller revolutionary groups killed over 200,000 Colombians, more than 80% of whom were non-combatants.<sup>3</sup> There is also evidence that Afro-Colombian communities disproportionately suffered in the Colombian conflict.<sup>4</sup>

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<sup>2</sup> See, for example, Nelson Camilo Sanchez Leon, Catalina Diaz y Rodrigo Uprimny, Eds. *Reparar en Colombia: Los dilemas en contextos de conflicto, pobreza y exclusion* (Bogotá, Colombia: ICTJ/DeJusticia, 2009).

<sup>3</sup> Washington Office on Latin America, "Colombia's 52-Year-Old Conflict with the FARC Comes to an End," August 24, 2016.

<sup>4</sup> See for example "Internal Displacement in Colombia: Fifteen Distinguishing Features" in *Disaster Health* 2:1, 1–12; January/February/March 2014

The fighting also displaced approximately six million people, out of a population of over 48 million, and led to a wide range of other human rights violations and war crimes.

Colombian President Juan Manuel Santos initiated formal peace talks with the FARC in 2012, the year after the Colombian government had established its ambitious reparation program. For this reason, the reparations program was well under way by the time the peace agreement was signed in September 2016. The unit in charge of the Reparations program, Unit for Comprehensive Attention and Reparation of Victims, or Victims Unit (VU) (Unidad para la Atención y Reparación Integral a las Víctimas) constructed a registry of victims, in which by 2018 over eight million individuals were enrolled. The process of creating the reparations program and enrolling victims drew new attention to the diverse victims of the conflict. Eventually, in an unprecedented move for peace negotiations, victims' groups actually participated in peace negotiations in Havana, Cuba, presenting their stories and concerns in high profile panels. While there was widespread support for reparations in the peace process, the most difficult parts of the agreement to negotiate were the provisions for some form of retributive justice with regard to the FARC's human rights violations.<sup>5</sup>

After four years of negotiations, the government and FARC leaders signed the over 300-page peace agreement in a ceremony highly publicized both nationally and internationally. The Nobel Committee awarded Santos the Peace Prize shortly after the agreement was signed.<sup>6</sup> But when the government submitted the peace agreement to a

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<sup>5</sup> Some estimates attribute between one-fifth to one-third of conflict-related killings to the FARC. Washington Office on Latin America, August 24, 2016.

<sup>6</sup> Santos, Juan Manuel, "Lo logramos: lo que parecía imposible, lo hicimos posible", XVI Cumbre Mundial de Premios Nobel de Paz, February 2, 2017, <http://es.presidencia.gov.co/sitios/busqueda/noticia/170202-Lo-logramos-lo-que-parecia-imposible-lo-hicimos-posible/Noticia>.

plebiscite in October 2016, 50.2% of the voters rejected it, with 49.8% voting in favor.<sup>7</sup> Many factors contributed to the vote outcome, including bad weather on the coast that kept many voters from the polls. But one of the key disputed issues were the beliefs of many voters that FARC leaders were not going to be held sufficiently accountable for human rights violations.

Following the referendum, government and the FARC modified some of the language and the terms of the peace agreement to respond to the concerns of the citizens who voted “No.”<sup>8</sup> Rather than a second referendum, the government opted instead to seek approval from Congress, a provision entirely consistent with Colombian law and the terms of the agreement. In November 2016, both chambers of the Congress, which Santos’s governing coalition controlled, voted unanimously to pass the new agreement; opposition legislators boycotted the vote.<sup>9</sup> President Santos and the FARC leaders managed to turn what appeared at the time to be a devastating defeat into an eventual victory for peace. The process, however, led some segments of the Colombian population associated with former President Uribe to question the legitimacy of the peace agreement.

The peace agreement began to be implemented in December 2016, and mainly completed its first phase, the demobilization and disarmament process for the FARC over

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<sup>7</sup> Cobb, Julia Symmes and Casey, Nicholas, “Colombia Peace Deal Is Defeated, Leaving a Nation in Shock,” New York Times, October 2, 2016.

<sup>8</sup> Washington Office on Latin America, “Key Changes to the New Peace Accord,” November 15, 2016, <http://colombiapeace.org/2016/11/15/key-changes-to-the-new-peace-accord/>.

<sup>9</sup> Acuerdo Final para la Terminación del Conflicto y la Construcción de una Paz Estable y Duradera (Final Peace Agreement), November, 24, 2016.

the course of the next six months.<sup>10</sup> But it is still far from ensuring the reintegration of former combatants into Colombian society. The Transitional Justice provisions of the peace agreement included a truth commission, a special new tribunal for peace, and an office for missing persons. Some are still in the process of being set up. For example, the Missing Persons Search Unit (UBPD) was not yet operational as of early 2018. The reparations process, which began well before the peace agreement, thus differs from the transitional justice provisions of the peace agreement, in that it has its work well under way before the peace agreement.

In this chapter, we draw on diverse research methods to provide a critical assessment of Colombia's reparation programs in the context of the peace process. Reparations were intended to assist victims to overcome or alleviate the damage they have suffered, to restore their dignity, and to provide assurance that the harms they suffered will not happen again. Moreover, the government hoped that reparations could also contribute to the peace process, change how individuals interacted with others, their community, and the state, build confidence in state institutions, and strengthen the rule of law. These claims about how reparations policies contribute to both macro and micro-level outcomes are, however, largely untested and lack empirical evidence.

In the course of our scholarly research on transitional justice, the authors of this chapter were part of a multi-level, mixed method evaluation that was carried out between late 2014 and early 2015 to evaluate the efforts of the Victims Unit to implement the

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<sup>10</sup> Presidencia de la República, "El país ha entrado en una etapa irreversible de consolidación del posconflicto," Bogotá, February 28, 2017, <http://es.presidencia.gov.co/noticia/170228-El-pais-ha-entrado-en-una-etapa-irreversible-de-consolidacion-del-posconflicto>.

comprehensive reparations measures called for in Law 1448.<sup>11</sup> In our evaluation we combined diverse methods of inquiry because each revealed multiple truths that need to be taken into account when assessing the impact of transitional justice.

### **Background of the Reparation Program in Colombia**

International standards on reparations expressed through international treaty law or international guidelines and principles are still developing.<sup>12</sup> The non-binding 2005 UN Resolution 60/147 is an inflection point in the emerging norms towards a more expansive view of reparations as including not only compensation and restitution, but also rehabilitation, satisfaction, and guarantees of non-repetition. The Colombia program is based on the expansive view of reparations in 2005 UN Resolution as well as on the work of the Inter-American human rights system, which has “without doubt, developed the most innovative jurisprudence of reparations.”<sup>13</sup>

The Colombian government established the reparation program in 2011. The reparations Law 1448 provides for:

[A] set of judicial, administrative, social, and economic measures, both individual and collective, to benefit the victims who individually or collectively have

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<sup>11</sup> This evaluation was requested by the Victims Unit (VU) and supported by USAID through a subcontract from Management Systems International (MSI) with our Harvard based team. The evaluation’s funding was under the project title ‘Evaluation and Analysis for Learning’ to the Carr Center for Human Rights Policy at the Harvard Kennedy School and the Harvard Humanitarian Initiative at the T.H. Chan School of Public Health. Under the terms of the grant, the PIs retained the right to use knowledge gained from the evaluation for their own research and writing.

<sup>12</sup> It is a well-accepted norm in international law that victims have a right to remedies, and that such remedies include forms of compensation. See, for example, The International Covenant on Civil and Political Rights (Art. 3), The Convention against Torture (Art. 14), the 2002 Rome Statute (Art. 75, Art. 79) and the American Convention on Human Rights (Art. 25 and 63).

<sup>13</sup> Evans, p. 66.

suffered harm for events that occurred as of January 1, 1985, as a result of violations of international humanitarian law or of grave and manifest violations of international human rights law provisions, which occurred on occasion of the internal armed conflict within a framework of transitional justice, that make possible the effective enjoyment of their rights to truth, justice, and reparation with guarantees of non-repetition.<sup>14</sup>

Although the Colombian conflict is often seen as beginning as early as 1948 or at the latest in the early-to-mid 1960s, the reparations policy “only” begins in 1985, which still makes it one of the most historically comprehensive programs in the world to date. During peace negotiations, the FARC requested that the dates of the reparations program be extended to an earlier start date, a proposal that did not gain government support, perhaps because by that time, the size of the victims’ registry was already unprecedented.

The law and subsequent Presidential Decrees and Constitutional Court rulings took expansive views of temporal coverage, coordination of benefits, eligibility criteria for victims, and forms of reparations. They defined a broad set of beneficiaries including all possible injury types (e.g. physical, emotional, economic, and fundamental rights), a requirement of finding and registering those victims, and a set of benefits to which they were entitled, not just to repair tangible harms but to restore victims to full citizenship. Although reparations were primarily intended for individuals and their families, there is

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<sup>14</sup> Ley de Víctimas y Restitución de Tierras, Law 1448. Signed into law, June 10, 2011.

also a list of over 300 communities that are subjects for collective reparations, nearly half of which are Afro-Colombian groups or indigenous groups.

To coordinate and implement this comprehensive reparation program, the law created the Victims Unit (VU). In addition to directly providing reparations, part of the VU mandate was also to coordinate various public and private entities that also had a role to play in the delivery of reparations. Because of the large number of victims and the comprehensive reparations to which they were entitled, the demands on the VU were immediate. The VU did not have the luxury of developing its services on a small scale, adapting and perfecting them from the tests of everyday experience before creating the institutional capacity needed for scale-up. Indeed, it has had to design, construct, drive and navigate its vehicle at the same time.

Our 2015 evaluation of the Colombian reparations program included three levels of analysis: (1) a macro global benchmarking study comparing the Colombian program to other reparation programs around the world; (2) an institutional analysis of the VU's reparation and coordination functions; and (3) a micro examination, via a large randomized survey, of the VU's implementation of reparation measures from the perspective of its beneficiaries, and more broadly, victims of the armed conflict. We draw on the knowledge gained in this evaluation as well as in our previous research on transitional justice, in the sections below.

### **Macro level comparative analysis:**

We undertook the macro-level analysis through a process of “benchmarking” which compared Colombia's laws, institutions, and the results to date of the reparations program to other reparations programs around the world. We conducted a broad

comparison of the Colombian reparations program with forty- five other reparations policies in thirty-one other transitional countries in the world. We then undertook a more in-depth comparison of the Colombia program with policies in a reference group of reparations policies in five other comparable countries: Guatemala, Indonesia, Peru, South Africa, and Morocco.<sup>15</sup>

This evaluation found that the Colombian reparations program is unprecedented and unique in a number of ways. First, it aims to serve a far broader and larger number of victims than any other reparations program in the world, both in absolute terms and relative to population size. But in addition to being the most ambitious program, as of 2016, Colombia's reparation program had already been quite effective by actually compensating more individuals than any of the other reference countries, while at the same time, still having a much larger number of victims to compensate in the future than any other program.

The VU uses a larger list of different kinds of victimizing acts than any other country on record, including murder, threats, forced disappearances, sexual violence, and other grave harms. Colombia moved quickly to create a National Registry for Victims (RUV), and that Registry grew dramatically over time to include seven million victims by 2016. By 2018, the number of victims on the RUV had grown to over eight and a half

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<sup>15</sup> The main data for this macro-level analysis was the reparations data from Transitional Justice Research Collaborative (TJRC), an international collaboration of the Harvard University Kennedy School, Oxford University, the University of Minnesota, and Tulane University that produced a comprehensive database on transitional justice policies around the world, and analysis of transitional justice policies using data from the database. Its research was supported by the National Science Foundation. For an overview of the dataset, see [transitionaljusticedata.com](http://transitionaljusticedata.com)

million.<sup>16</sup> Because of the age and composition of the RUV, which integrated four previous lists of victims, the actual number of victims who could be reached to provide reparations is smaller than the number listed in the registry, because there was some duplication in the lists, because some victims and family members had died, and because it was impossible to locate others.

The Victims Unit's preliminary evaluation in 2016 placed the total number of victims currently capable of receiving support under Ley 1448 at closer to 5.7 million persons, a number of whom have already received reparations. Even with this adjustment, in terms of scale, the Colombian reparations program is of historic proportions. The very existence and work of the RUV in Colombia is in and of itself an accomplishment. Two of the other cases we examined – Indonesia and Morocco – did not even have registries, and Guatemala and South Africa had lists from their Truth Commissions, but not full-fledged registries. Of the reference group, only Peru has a registry. The creation of the registry and its ability to register over eight million victims is one key stage of implementation of the reparations program in Colombia.

No other case comes anywhere close to the number of victims who the Colombian registry has already registered. The Colombia victims' registry now includes more than 15% of the current population of Colombia; none of the other forty-five reparations programs in the world have registered or repaired more than 1% of their populations. The differences between the Colombia program and the other reparations programs are largely the result of the huge size of the displaced population in the country and the

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<sup>16</sup> Gobierno de Colombia, Unidad para las Víctimas, Registro Unico de Víctimas, accessed August 11, 2018, <https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>

Colombian Constitutional Court’s decision to expand the original legislative mandate of the reparations program to include displaced people. Since the peace agreement, new displacement in Colombia has diminished significantly.<sup>17</sup> But at the end of 2016, Colombia was the country with the highest total number of internally displaced people (IDP) in the world, followed closely only by Syria<sup>18</sup> If displaced people were not included in the Colombia program, the size of the registered victims would be approximately 2% of the population, still twice the size of other large reparations programs, but somewhat more in line with the other large and complete programs in the database. Because of these unique and challenging aspects of the Colombia program, the VU faced multiple dilemmas as it scaled up for an unprecedented task.

Colombia also had a quite open eligibility process for reparations victims, initially setting few limits on when and for how long victims could register for monetary benefits. This is the reason for the growth from seven million to eight and a half million victims on the RUV between 2016 and 2018. While this dramatically reduced barriers for victims – and follows some international guidelines of not imposing burdensome limits on victims for registration – the long window made Colombia more vulnerable to organizational “scale-up” issues, where the VU as an organization faced challenges as it tried to meet the needs of its constantly growing constituency.

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<sup>17</sup> Internal Displacement Monitoring Center, IDMC Grid 2018, “Global Report on Internal Displacement 2018,” <http://www.internal-displacement.org/global-report/grid2018/>

<sup>18</sup> Internal Displacement Monitoring Center, IDMC Grid 2017, “Global Report on Internal Displacement,” <http://www.internal-displacement.org/global-report/grid2017/pdfs/2017-GRID-global-figures.pdf>

Colombia was one of the few countries in the world that defined different classes of victims and compensated differently based on those classifications. For example, the families of individuals who had been killed receive different compensation than people who have been displaced. The VU has worked to tailor reparations to the needs of the victims through the creation of an individual reparations plan, known as a Plan for Comprehensive Attention, Assistance and Reparation (PAARI – Plan de Atención, Asistencia y Reparación Integral a las Víctimas). The PAARI results from a consultation with a VU staff person on the individual needs to be matched with the available services in their area that would help them move from a state of vulnerability to independence and self-reliance. So, for example, the PAARI for a victim who had been directly subject to violence and also displaced would be different than the PAARI for a victim of direct violence who had not been displaced.

Each community entitled to collective reparations also worked with the VU to draw up a tailored plan for that community, called a Comprehensive Plan for Collective Reparation (PIRC – Plan Integral de Reparación Colectiva).

Other countries that tried to define different classes of victims and compensate based on those classes were eventually overwhelmed economically or administratively by the effort and felt obliged to return to less differentiated solutions. To date, however, the Colombian program has managed to provide differentiated reparations for large numbers of different types of victims, and to work with communities to draw up plans for collective reparations. This may have been possible because the Colombian leadership was determined to be in the forefront of reparations programs and the Colombian

reparation program was designed taking into account the critiques of other reparations programs when compared to international norms.

It has been difficult for other large and complex reparation programs to implement and comply with their goals. Given the ambitious nature of the Colombia program and its massive and unprecedented size, such implementation and compliance challenges are also in evidence. The implementation of the Colombian program is discussed below in the institutional analysis.

The macro level analysis provided an overview of the Colombian reparations program and the big picture of implementation. A year before the peace agreement was signed, the Victims Unit had already been very efficient in delivering compensation to victims compared to other cases in the world. None of the other reference group countries have compensated so many individuals. Only Indonesia came near to providing reparations for the number of people to whom reparations were delivered in Colombia by the end of 2015, and it did so mainly by delivering lump compensations to communities rather than payments directly to individuals.

Not only had the VU compensated more victims, but also had done so in a relatively short period of time. But, when we compared the number of individuals already compensated to the total size of the pool of victims, Colombia still faces a huge task to provide reparations for the individuals in its registry.

The macro-analysis raises the question of why a developing and conflict ridden country like Colombia innovated with this remarkably ambitious and forward-looking reparations program. President Santos and the early leaders of the VU, including Paula Gaviria Betancur, deserve credit for their vision, but the vision of a handful of key policy

makers cannot by itself explain an undertaking of this magnitude. Among other possible explanations, we would signal that the Colombian program is the last in an increasingly ambitious and integral reparations programs throughout Latin America in the context of democratic transitions and transitions from conflict. In this sense, Colombia learned from the experiences and successes and failures of neighboring countries, including Argentina, Chile, Peru and Guatemala. The Colombian government also took into account innovative jurisprudence on reparations of the Inter-American human rights system in designing and implementing its program. But the international influences and pressures are only part of the explanation. No international organization or foreign government pressured Colombia to adopt this program. Rather the Colombians themselves chose to exercise leadership in this area, aiming to set a new global model of integral and transformative reparations. In this, they were responding to domestic constituencies and institutions, both non-governmental organizations and their own judicial sector. In recent years, Colombia is gaining recognition for the far-reaching jurisprudence of its judicial system, especially the Constitutional Court, and so the domestic judicial system itself exercised influence on the reparations program.

Ultimately, while the macro-level comparison confirmed the remarkable ambition of the Colombian program, it yielded relatively little understanding about how the reparations programs were actually being implemented in Colombia. The institutional and micro-level analyses helped clarify what such ambition has meant in practice — both in terms of the capacity of the VU to live up to its mandates as well as the consequences for the program's reception by the public and victimized populations.

## **II. Institutional analyses:**

To understand the reparations process in Colombia, it was also necessary to look more closely at the institutional issues that influenced the granting of reparations, and in particular, at institutional developments within the VU, and relations between the VU and other government agencies. We focus on an institutional analysis of the VU's work in the delivery of a set of reparations measures, specifically indemnification of individuals and community level or collective reparations. The VU's direct delivery of reparations was only one small part of its work. It was also responsible for the coordination of the interagency task force (SNARIV) of thirty-nine governmental units and thirteen allied organizations that have responsibility for pieces of the reparation puzzle created through national legislation and Presidential Decrees.<sup>19</sup> Of these, seven ministries had specific responsibilities for meeting the reparation goals.

The VU's institutional dilemmas derived in large part from the very nature and scope of the reparations program. The sheer numbers of victims registered turned out to be much larger than initially anticipated. The Colombian government's thorough planning process, including the assignment of resources, was built on a much smaller estimate of numbers of victims. The legislation also divided up the reparations objectives between multiple agencies, and created the VU to provide some of those outcomes but also to coordinate the efforts of other agencies, without the political power to do so. And all of these reparations were supposed to be delivered by 2021. The VU faced unprecedented challenges. To meet them, it would need additional time and a massive

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<sup>19</sup> Much of the information presented in this section is primarily based on interviews with key informants and with analysis of the primary documents.

influx of resources. The situation is now far less promising since the election in 2018 of center-right candidate Ivan Duque as President of Colombia.

In this context, one fundamental problem the VU faced was how to strategize and prioritize its work. The leaders and staff at the VU demonstrated great creativity and commitment to developing new ideas and methods for delivering reparations to victims. But the VU also established over 400 goals with no apparent hierarchic structure indicating either priorities or expected timing or assignment within specific units with responsibility for outcomes. Such a vast undifferentiated list of goals indicated a lack of the strategic decision that would help the organization focus its energies, leadership, and operations on measurable outcomes. Indeed, the VU compounded the problem by not doing enough to control the rising expectations of victims—and their disappointment with the government when its lofty goals remain unmet.

Even so, the VU met 98% of its milestone goals for compensation of victims by the end of 2014, and exceeded its goals for the compensation of children and adolescent victims and those transitioning to adulthood. But by 2016, the VU had barely started addressing reparations for victims of displacement. The number alone of displaced people made the task daunting, since 85% of the victims registered in the national registry are victims of displacement.

The reparations program believed that certain communities were specific targets of organized violence, and their collective needs could not be repaired only through reparations to individual member. It thus included an important component for collective reparation. While the VU has met its goals in delivering compensation to individuals at the time of the 2015 evaluation, it had been less successful meeting its goals on the

delivery of collective reparations, many of which are targeted for Afro-Colombian or indigenous communities, but others focused on specific social organizations, like journalists. The national planning bureau, CONPES, established goals for the VU of creating 833 comprehensive, collective reparations plans for geographically and socially-based communities of which 417 were to be plans for ethnic communities; it did not, however, establish goals for the actual delivery of such reparations. Only other actors, such as national ministries could deliver many of the services demanded by communities. The preferences of these diverse constituencies are often in conflict, putting the VU in the challenging and undesirable position of having to expend significant resources trying to seek acceptable compromises

Each of these Comprehensive Plans for Collective Reparation (PIRC) can include measures of restitution, financial compensation, physical and psychosocial rehabilitation, satisfaction measures such as truth and memory, and guarantees of no repetition. This is similar to individual reparation plans, but with particular attention to recognizing and dignifying collective subjects, reconstructing the collective Life Plan or ethnic development plan, addressing psychosocial recuperation of affected groups, rebuilding institutional rule of law, and promoting reconciliation and peaceful coexistence.<sup>20</sup> Developing the plan in a participatory manner was therefore an important step that the VU supported. Highly customized measures have, indeed, been developed in community plans.

So, for example, an individual reparations plan might include provisions for psychological therapy, but a community might require the creation of a clinic in the

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<sup>20</sup> From the descriptive Power Point presentation created at the Victims' Unit, "Reparación Colectiva", presented to the evaluation team in September 2014, referencing Article 225 of Decree 4800 of 2011.

community. Similarly, in terms of memory work, collectivities may be best served by public memorials. Some communities that were isolated by the violence and excluded as a result, might require the construction of roads to assist their reintegration into the nation. The VU believed these collective reparations needed to tailor to each community and the planning process should widely engage the community.

One component of the planning process is a diagnostic phase during which organizations explained what happened to them in the context of the armed conflict. That process was largely seen positively, especially among ethnic communities. About half of the communities and organizations that were interviewed praised the participatory nature of the process. There were various benefits of the planning process. VU staff reported that their work in creating plans with communities led to very moving conversations, drawing them closer to the lives of the victims, and motivating the staff. In the surveys we conducted, collective subjects cited their recognition as victims, and the respectful treatment received, as important achievements of this collective reparation planning process. At the time of our evaluation in 2015, however, not a single collective reparation plan had been completed.

While the community processes might have temporarily increased the legitimacy of the VU in the eyes of community members, this could turn to disappointment and disillusionment if results are not commensurate with their raised expectations.

The VU's task was to *produce* collective reparations plans. It interpreted that by working with communities to generate lists of projects desired by the communities as part of reparations. The problem was that the VU itself could not fulfill these lists of projects – it had to persuade other ministries to carry out these projects. So, for example, the

Health Ministry needed to build a new health clinic or develop a psychosocial program for that community. But the Health Ministry had not been included in the collective reparations planning process. As a result, communities complained that their expectations were not always met as anticipated. They criticized the VU staff for their attitudes or the slow pace of the implementation. In May 2015, for example, there was a collective victims' protest in Bogota in which protesters demanded the dismissal of certain functionaries for "demeaning and abusive treatment," particularly of collective victims.<sup>21</sup> But the problems were not just due to the VU bureaucracy attitudes and staff turnover, but also to the very way the reparations process was conceived and organized, in which the VU did not have the power to implement the collective reparation lists.

The VU helps to sustain the credibility of the national project by creating a strong narrative of the impact of the systemic violence on Colombian communities and the victims' needs to become fully active citizens. Still, this is not sufficient to maintain, much less build, the national public consensus. The VU is embedded in a complicated social system comprised of victims, political entities and processes, and citizens. The VU must evolve its current strategies and tactics so that it can transform the current social system in which it is embedded from one of resistance to one of collective mobilization. For example, if the VU could involve representatives of other agencies and ministries to work with the communities in the collective reparations planning process, it could potentially mobilize more political will and resources for collective reparations.

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<sup>21</sup> "Toma Pacífica en la Unidad de Víctimas," 21 May 2015. *El Tiempo*. Accessed 21 May 2015 at <http://www.eltiempo.com/politica/victimas-se-toman-la-sede-de-la-unidad-de-victimas/15792144>.

### **Component Three: Victims' and beneficiaries perspectives on reparations and the VU**

The third component of the study examines the VU's implementation of reparation measures from the perspective of its beneficiaries, and more broadly, victims of the armed conflict. In addition to the individual and group interviews with key stakeholders discussed above, team members designed a randomized survey of 3,136 Colombian adults, including many victims, both victims who had received reparations and those who had not yet received reparations. The data collected provide a rich and comprehensive resource for analyzing victims' perspectives about the VU's efforts to implement comprehensive reparations measures.

The survey focused on three groups among the population: 1) the general population; 2) victims in the registry (registered respondents), and 3) victims who had registered and who had received at least one form of reparation, usually financial compensation (repaired respondents). We use the term "repaired" to refer to respondents who have received reparation, although we understand this may sound odd at first in English, because it is the way Colombians refer to the process in Spanish and how they translate it into English. But also because Colombian reparations are so diverse, we can't use other more common synonyms in English, such as compensated or indemnized, because these refer, for example, only to specific parts of reparations, such as financial payments.

The goal of the survey was to answer a number of research questions from beneficiaries' perspectives. In general, we sought to capture victims' self-reported perceptions of the program's various reparations measures. More specifically, we sought

to gauge the program's successes and challenges in terms of social cohesion and what the VU defines as "transformative" reparations; that is, overcoming moral, emotional and physical damages, and contributing to socioeconomic stabilization. Because this is a state-based program, and because attitudes toward the state and its role in the conflict vary quite dramatically in Colombia, we also sought to measure victims' and citizens' confidence in the state and perceptions of the rule of law in Colombia, and to analyze their relationship to the reparations program. Finally, because Law 1448 outlines both individual and collective reparations measures, we sought to identify the effects that collective victims (such as ethnic groups or institutions like schools) report. These include participation in diagnosis of damages, the formulation of a collective reparations plan, the strategy for rebuilding social fabric, and the implementation of collective reparations plans.

The sample of the general population was split nearly evenly between male and female respondents. The registered and repaired populations contained many more female respondents than males, because when victims of homicide and/or disappearance ("indirect victims of homicide") were randomly selected from the RUV's database, a close relative responded to the questionnaire, frequently a female relative.

In terms of diversity, among the general population, most respondents self-identified as mixed (48%) or white (30%). The repaired population was roughly similar, with 52% self-identifying as mixed and 23% as white. The registered population exhibited slightly more diversity, with 40% identifying as mixed, 23% as white, 13% as Afro-Colombian, and 10% as black.<sup>22</sup> The general population reported on average a

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<sup>22</sup> This is consistent with evidence that Afro-Colombians have suffered the Colombian conflict disproportionately. See for example "Internal Displacement in Colombia: Fifteen Distinguishing Features" in *Disaster Health* 2:1, 1–12; January/February/March 2014

higher level of education than the registered and repaired populations, with 22% having only primary education or less, compared to 46% for the registered and 48% for the repaired.

There were high levels of violence and victimhood among the individuals surveyed, even among the general population. Forty-five percent of the adults among the general population reported having experienced some form of conflict-related violence either directly or indirectly and 26% of the general population considered themselves victims of the armed conflict. Among registered and repaired victims, almost everyone reported having experienced direct forms of violence, including experiencing the killing of a household member, having been forced to abandon land or experience destruction of goods / properties, or having experienced harassment by armed groups. With respect to perception of harm, registered and repaired respondents described the harm they suffered overwhelmingly as psychological/mental or emotional, but also as material/economic, moral, physical, and social. Respondents among the general population who suffered some form of violence or self-identified as victims of the conflict also categorized their harm in roughly the same proportions. These are self-reported results and the veracity of those claims cannot be asserted. However, perceived victimization underlies perceptions and attitudes about reparations.

The survey revealed attitudes about the definition of reparations and how they should be administered. Law 1448 of 2011 embodies a complex definition of reparation involving compensation, rehabilitation, restitution, satisfaction, and guarantees of non-repetition. A majority of survey respondents, however, defined reparations as a general form of compensation (financial, material or symbolic). A smaller number (26% of the

general population and 11% of registered victims) defined reparations as the restitution of land and housing. The majority of all three groups responded that reparations should be given individually, while 17% of registered, 19% of repaired, and 29% of general population felt that reparations should be given collectively. About two-thirds of respondents indicated that having some form of official recognition of victims was important or very important and a majority also found it important to very important to establish memorials for what happened during the armed conflict.

Over two-thirds of the respondents in the general population (69%) indicated being aware of the existence of a State program providing reparations and assistance to victims of the armed conflict, compared to 81% among registered victims, and 88% among repaired victims. We are uncertain exactly how to interpret these numbers. On the one hand, it seems puzzling; in particular, that only 88% of repaired victims are aware of a state program of reparations. This could be due the fact that the VU was responsible both for distributing humanitarian assistance as well as reparations to victims of the conflict. It may be the case that registered and repaired victims who were receiving both humanitarian assistance and reparations from the VU may not have understood the distinction between the two. On the other hand, from the point of view of research on name recognition from other fields—either market research for firms or research for political campaigns – these numbers suggest that the Colombian reparation program has received a relatively high level of awareness and name recognition in a rather short period of time. Nevertheless, lack of knowledge was cited as a frequent barrier to engagement in the registering for reparations. For the general population, the media was the main source of knowledge of the victims' law and the VU. Registered and repaired

victims most frequently reported that they had learned about the victims' law and the VU from friends, family members, and neighbors.

The survey also assessed victims' perceptions of their right to participate in the formulation, implementation, and monitoring of the state's victims' policies. The vast majority of respondents in each group did not participate in such processes, generally because they were not aware of opportunities to participate. Only a third of the respondents thought the state had provided space for victims' organizations to participate in the formulation, implementation, or monitoring of the state's victims' policies.

We have argued above that it is essential that the VU prioritize more clearly which tasks it will undertake first. The survey supports this call for clear prioritization and clear communication about priorities. In qualitative interviews respondents noted that they felt the state's current system of prioritizing victims for reparation was random or based on luck. Two-thirds or more of the three sampled populations said that those most in need should be prioritized. The respondents did not define clearly what they meant by need, and such definitions might vary greatly. Nevertheless, there is genuine support for the idea that the VU should prioritize based on need.

The Colombia government had hoped that reparations would be an effective means of increasing confidence in the government and decreasing the demand for justice by victims. One of the most positive findings in terms of stated goals of implementing reparation is that repaired victims, and to a lesser extent registered victims, tend to have more positive views about the state in general and the state's recognition and support to victims in particular. While no causal link can be established, the results are suggestive of some association between reparations and positive perception of the state, in the sense

that respondents were more likely to have trust in the state and feel that the state cared about them. This association, however, could be stronger. The difference between repaired and registered respondents was still relatively small considering that repaired respondents had already benefitted from compensation. Furthermore, over half of repaired victims did not consider their compensation payments as a form of reparation and two-thirds said these payments had not delivered justice.

One of the most paradoxical findings of the survey is that respondents perceived that there are relatively high levels of corruption in the reparation process, but very few of them report that they have been actually asked for a bribe or have paid one.

The survey shows that victims' self-reported psychological needs appear as grave as their material needs, especially for indirect victims of homicide, who the VU has targeted for early compensation. Ideally, compensation awards should be accompanied by counseling and other measures to ensure that victims distinguish them from general humanitarian assistance and to maximize their reparatory effect. The VU's ability to deliver psychological follow-up and monitoring, however, is limited. In the Colombian reparations program, the ministry of health was given the major responsibility for provision of health needs of victims, including their psychological needs, and it has not yet been able to adequately respond to these needs. Likewise, the VU does not have the mandate or capacity to follow up on victims' needs, especially in light of the finding that four-fifths of repaired victims responded that they were never or rarely followed by the VU.

## **Conclusions**

We conclude by highlighting the main themes present throughout this chapter: the major accomplishments of the Colombian reparations program, and the huge challenges Colombia faces in delivering integral reparations to so many people, and thus its need to prioritize clearly. Among its accomplishments, the Colombia process is now the cutting edge of reparation programs worldwide and will be seen as a model for other countries in the future. The Colombian case suggest that reparations programs can be effective means of incorporating marginalized groups in society and building more trust in government institutions. But it also raises many possible challenges for the VU in terms of the size of the expectations such a complex and complete policy generates, and the difficulty in meeting such expectations. In order to manage these challenges, the VU and the Colombian government must work to prioritize the delivery of reparations and strategize how to do so within the limits of available resources in terms of available state budget and human capacity.

Colombia has made an impressive commitment to repairing victims of conflict and human rights violations. It has done so through Law 1448 of 2011; the creation, staffing, and funding of the VU; and through the peace agreement. The VU is an expression of a countrywide commitment to repair victims. In order for the VU and other parts of the Colombian government to carry out this mission, they will need to continue to receive the necessary financial resources and political support. To provide such a massive and unprecedented number of reparations, the country needs to think about how to integrate reparations policy into its broader political economy. In order to repair 15% of the Colombian population, the government as a whole will need to incorporate

reparations policy into its macro-economic policy. In future years, reparations will need to be considered in any discussion of political economy in Colombia. The financial resources necessary to successfully complete the mandate of reparations program may need to come from additional sources. In order to fulfill its commitments to repair individuals and collectivities harmed by conflict in Colombia, the country needs develop greater partnership with local level government, civil society and private sector to carry out the ambitious state sponsored program that has been launched. No amount of effort by the VU or other institutions of the Colombia state will be able to sustain this reparations program without the financial and political support from the government and from the society as a whole. In the context of a society still deeply divided on the peace agreement and its transitional justice provisions, it is not clear that such financial and political support will be forthcoming.