

Parallel report about the situation of the migrants, refugees and victims outside of Colombia for the Committee of Economic, Social and Cultural Rights

September 2017

Geneva, Switzerland

Who are we?

We are different organizations of Colombians who live outside of the country, which represent sectors of migration, refugees and victims abroad.

Once the process of rapprochement between the government of the President Juan Manuel Santos and the FARC -EP began, it was decided to hold different meetings abroad that allowed the construction of proposals for migrants and refugees to be taken to the Havana table and this Way to make visible the human rights situation of Colombians abroad. In 2012 a meeting was held in Lausanne (Switzerland) where 200 Colombians from different European countries participated.

Subsequently in 2014 a virtual meeting was held with the participation of 21 countries where it was exposed more than 600 cases of foreign victims, the final document was delivered to the negotiating table of Havana and to the High Commissioner for Refugees (UNHCR).

Then in 2015 a meeting was held in Barcelona (Spain), in 2016 it was based in Tynset (Norway), Geneva (Switzerland) and in 2017 in Vienna (Austria). In addition, meetings have been held in Mexico, Ecuador, Argentina and other countries.

All these meetings carried out by different associations of Colombians abroad have aimed to draw the Colombian government's attention to the situation of migrants, refugees and victims abroad and to generate proposals for the attention of migration in general.

It has been emphasized to ask for spaces of participation in the implementation process of the agreements reached in Havana between the government and the FARC -EP and now at the negotiating table between the government and the ELN in Quito - Ecuador.

For the preparation of this parallel report, a matrix was drawn up which was sent to different associations around the world. Presentations were held, Colombians and different migrant associations participated in Madrid (Spain), Milan (Italy), Geneva (Switzerland) And Lyon (France); Contributions from Colombian associations in Sweden, Spain, France, Switzerland, Italy, Canada, Venezuela, Germany, the Netherlands, Belgium and Mexico were received via e-mail.

Migrants:

Colombia is a country with bad records in the world, is the first country with internal displacement, the country with the largest number of forced disappearances in America, etc. The study "Migration Profile of Colombia 2012", carried out by Migration Colombia, the National Department of Statistics of Colombia (DANE) and the Ministry of Foreign Affairs of Colombia shows that Colombia is also the country with the highest number of emigrants in South America.

This study represents a serious failure of the Colombian State as it does not provide a specific number of Colombians living abroad. For the National Department of Statistics of Colombia, there are 3,378,345, Colombians living abroad, but for the Ministry of Foreign Affairs the estimate amounts to 4,700,000. In the other hand the World Bank presents a figure of 2,122,100 people who are settled outside of Colombia.

A survey carried out by 100 associations of Colombians abroad estimated that about 8 millions of Colombians live abroad.

This reflects the Colombian governments lack of interest in knowing the exact number of fully identified Colombians abroad. It is clear that there are no fair policies regarding immigrants, much less a policy that allows them to return to their respective countries without affecting their dignity or some sort of reparation policy that would protect them from being victims of abuse while abroad.

The National Development Plan of Colombia, 2010-2014 "Prosperity for All", establishes that the Ministry of Foreign Affairs is responsible for articulating the migration policy, which promotes the characterization of the migrant population by creating and consolidating social networks, the management of labor migration flows, the attraction of human capital and the expansion of social services for migrants. Although it has been shown that this Ministry is charge of some procedures of documentation, legalization, and collection.

The good intentions of the Development Plan are not reflected; The design of foreign policy, Colombian embassies and consulates promote Colombia as a paradise for foreign investment. In their design, embassies and consulates do not fulfill the fundamental task of ensuring the human rights of Colombians abroad.

The Colombian State does not give enough importance to the Colombian migrants in despite that their roles in the national economy are equivalent to a high percentage of GDP.

Also it does not possess equity in political participation. There is only one representative from the outside who does not meet the expectations and defense of the immigrant outside and within the country. About 8 million citizens who could contribute at least 8 senators of the Republic, have a single representative to the House of Representatives (lower house).

According to figures from the Balance of Payments of the Banco de la República, between 2000 and 2008, remittances increased from US \$ 1,371 million to US \$ 4,700 million. The transfers declined between 2009 and 2014 to US \$ 3,890 million in 2012.

The year 2016 closed with a figure of US \$ 4,858.7 million, which represents a fall of 5.1% in relation to what was recorded in 2015. In the month of January 2017 remittances reached US \$ 380 million.

Remittances sent to Colombia by migrants represent half of the oil exports and exceed those of coal and gold. Almost \$ 15 billion Colombian pesos of remittances represents 1.7% of Colombia's GDP. The largest resources come from the United States 33.2%, Spain (13.7%) Panama (3.4%) and Chile (3%).

The impact of remittances on the Colombian economy is positive, usually resources often reach specific areas of the country which generates significant economic support for thousands of families who depend exclusively from the resources that their families send from abroad.

Colombia is a country that has left the responsibility of their citizens to other countries. There are no agreements with host countries in which an exile enjoys at least primary care (health, housing and food).

Refugees:

According to figures from the United Nations High Commissioner for Refugees (UNHCR) until 2013, there were 396,633 Colombians in refugee status scattered across more than 51 countries. In 2013, Colombia was among the 10 countries in the world that more national refugees have; Occupying the first place in Latin America.

Silvana Insignares, a researcher in the Department of Political Science and International Relations at the "Universidad del Norte in Barranquilla (Colombia)", says that refugees, " Are people which have had faced situations of uprooting that have had to endure economic, social and Cultural, and the Colombian State has not generated enough channels for these people to have their integral reparation. "

UNHCR support that the Government of Colombia has been kept apart from the creation of a solid and real comprehensive reintegration framework for what has been named "victims abroad". A report by Martin Gottwald, UNHCR's deputy representative in Colombia, underlines "the lack of reintegration assistance to refugees who do not return through foreign consulates, and the lack of agreements with countries hosting refugees to guarantee the local integration of the Colombians ".

A figure that shows the inability of the State to recognize the quality of victim to the people who left the country because of the violence, is the only record of Victims. As of May 2016, only about 9,000 victims had been recognized abroad in the Single Register. For the Center of Historical Memory, "the Victims Unit has admitted that the road to reparation for all victims outside the country is only at the beginning and legal barriers must be overcome and public policies must be conceived to protect the rights of exiles as displaced people".

It is necessary to clarify that for a victim of the Colombian conflict to be registered in the Single Victims Registry he/she should approach the nearest consulate in the host country or, failing that, an embassy, but it is necessary to clarify that refugee status prevents the Refugees to "Colombian territory" for a certain time.

In the agreement with the FARC - EP, refugees are part of what are known as "atypical victims" of the conflict, as a population that has not been clearly identified or characterized. However, in the agreements, there is progress in relation to what was stated in the Victims' Law, where they were classified as "victims residing abroad", a general term that was not accompanied by a detailed review of what was to be the form to repair them".

Thus, in paragraph 5 of the text drafted in Havana, they are granted a special category of refugees, which is part of the Victims' Agreement, stating that they are part of a group for which the State must design special protection measures.

Finally, despite the plethora of requests made by associations of Colombian victims and non-governmental organizations abroad to create a subcommittee on refugees within the framework of the peace negotiations, the Colombian government situation continues unchanged.

In the face of Economic, Social and Cultural Rights, we want to make some clarifications:

A. The right to work and the rights of workers.

The situation of Colombians abroad is different in each host country; in general terms we can identify the

following situations:

1. As victims abroad and refugees in different countries, we are invisible to the full application of basic rights such as the right to work. There is stigmatization because of being refugees and in some cases inability to access the labor market. In some residence permits (Switzerland), which are given once a refugee status is granted, the fact that they are refugees is stipulated in the letter and this creates fear for employers.
2. In almost all European countries the work offered to refugees or victims abroad is work that the citizens of the countries of Europe don't accept, there is no recognition of the work experience acquired in Colombia and cannot be validated in the host countries. Refugees, victims and migrants have to start from scratch by doing low-skilled and low-paid jobs in order to survive. Although there is the right to unionize, this right is not exercised for fear of losing work as foreigners are more likely to join the ranks of unemployment.
3. The unemployment in young people and women who have become head of the family is disturbing due of the victimizing events that have suffered which lead them to have no possibility of entering or finding a decent first job that guarantees survival.
4. In some countries, the pension contributions made by victims, refugees and migrants do not add up to what they had already paid in Colombia. For example, if a Colombian abroad would like to continue contributing to the pension in Colombia he/she should make a double payment, one in the host country and another in Colombia.
5. The costs for sending remittances to Colombia is very high, which means that many prefer to use non-legal ways to send money to their families in Colombia
6. The vulnerability of victims abroad is aggravated by disarticulation, regulatory silence and by the lack of interest of Colombian authorities and institutions. The Colombian Government has so far not created effective mechanisms through cooperation agreements between countries, where programs/training and employment plans are implemented to ensure that victims abroad and refugees can choose to set up their own company or entering an increasingly competitive labor market. It is regrettable that the Colombian State does not recognize the relationship between economic problems, lack of employment and opportunities and social inequality as a source of displacement of people. Consequently, there are no serious policies to help displaced people abroad.
7. It is essential that the Colombian government supports initiatives of victims and migrant associations and to direct economic resources to strengthen plans and programs that they develop.
8. For those Colombians abroad who want to build their own company or generate their own income, there is no support from either the institutions of the host countries or the Colombian government.
9. Colombians abroad have difficulty in submitting to the public competitions they make in Colombia, could use the computer technologies and facilities of the Consulates, Embassies or Missions of Colombia abroad to do this process.

10. In countries like Italy the Colombian driver's license is not recognized, this in many cases prevents a stable job.

B. The right to social security

1. The pension contributions made in Colombia are not taken into account in the host countries as an addition to the pension. A universally recognized right that should be guaranteed by both the State of Colombia and the host States.
2. The right to health is guaranteed if you hold an asylum card, but you must present a residence and work card (Spain). In some countries undocumented migrants are denied the right to health.
3. The right to housing is guaranteed in collective buildings with few guarantees for integration; In some countries, these refugee "camps" isolate refugees and victims of the rest of society.
4. Any procedure that a victim must perform abroad or the refugee through the Consulates of Colombia, whether for a civil registry, post, declaration of survival, among others, have very high costs (about 120 euros by document) that seriously damage the economy of survival of the person in question. The National Government would have to take this situation into account and commit itself to determining the gratuity for any procedure carried out by the victim who is abroad as a measure of reparation.
5. In Spain, people who are vulnerable and have to collect a non-contributory pension of around 400 euros per month, do not receive any kind of advice and information from the Colombian Consulate so that they can carry out the corresponding actions to qualify for the pension. The national government should make a commitment so that all consulates give the necessary attention to the victims regarding this process.
6. The Colombian authorities would have to guarantee and expand social security coverage in pensions for those workers who have worked in Colombia and in another country; Guarantee the preservation of acquired rights without losing the benefits of moving or being forced to move to another country.
7. In Italy, for example, health is guaranteed only if it is an emergency. It is important that bilateral agreements are created so that they are valid and thus allow the right to a basic doctor like all Italians.
8. The institutions of the Colombian government do not respect nor apply the article 193 modified by decree 2282 of 1989, - commission by means of direct exhortation to the consulate to practice the procedures of conformity (Fiscal, superior council of the judiciary, ministry of foreign relations, etc.) -. This means that a Colombian resident abroad can provide evidence and declare in a consulate in case the governing bodies in Colombia require his presence. As this law is not being respected, the Colombian resident abroad is declared absent, giving reason to the accusing entity.

C. The right to education

In general terms there are great difficulties for the recognition of the diplomas acquired in Colombia, sometimes

it is not allowed and in others the procedures are eternal.

1. There is no recognition of diplomas acquired in Colombia, in countries such as Switzerland diplomas that have to do with health (medicine, veterinary, nursing, etc.) are not recognized and it is a must to studied again the whole career in order to practice the profession. The same happens in Italy where the Colombian diplomas are not recognized or do not have the same value as the Italian diplomas.

2. For the children of refugees who arrive that are 15 years old and older, it is almost impossible to access the university or to enter to any school, this makes impossible a true integration, generates frustrations and relegates them to low level jobs. In Spain, in order to pass a degree to the Ministry of Education, it is quite cumbersome since the syllabus that is provided for such homologation requires to re-study for 2 years. When you opt for a low-skilled job as a mason, restorer, waiter or security guard and you want to look for some type of free training related to the career has been studied, this is not possible. The free training you can choose is related to those low-skilled jobs.

3. The Colombian National Government has not yet created any type of agreement for refugees and victims abroad to have a more equal treatment of effective access to education. To this must be added that in Colombia many of the young people do not have the possibility to finish a university degree and in the host countries they cannot continue it.

D. Cultural rights

In this field can be included from cultural aspects in Colombia as the host countries and aspects such as political culture.

1. Within the Colombian political culture we can say that the right to vote for refugees and victims is "annulled" once refugee status is received; For compatriots there are all kinds of impediments to exercise the right to vote, long distances to vote, little information, there is no possibility to vote in computer, etc.

2. There is a lack of dissemination of political, academic, cultural and scientific facts originating in Colombia, as well as bilateral or multilateral agreements on migration, peace agreements, labor, social security and education with the host country.

3. The dissemination on the Single Victims Registry, for example, for Colombians abroad is very scarce; indeed, such dissemination is being carried out by victims' associations without any financial support from the national government or the Countries. The dissemination is based on the goodwill of some alternative media or Colombian social networks that facilitate their spaces to ensure that the victims are informed about these processes.

4. Another example of this lack of commitment of the Colombian government was the plebiscite to endorse the peace agreements. For any Colombian, it is easy to vote abroad, hours of travel between cities, high transportation costs, lack of pedagogy, no media coverage abroad of democratic processes, distrust of institutions, corruption and Crisis of representativeness, contribute to the abandonment that the Colombian State has with the migrants.

5. Neither the current government of Colombia nor the previous ones have made it possible for the Colombian citizen, and even less the victims, as subjects of fundamental rights, but they see it as a business to dispatch remittances. If the Colombian authorities guaranteed the rights of Colombians abroad they would have a significant human capital that could be used for the benefit of the country, the vast knowledge in migratory experience and the experience that has been achieved in labor Qualified and unskilled; The same culture learned by force, and the experience lived from the street university of the developed countries. Not counting the children that have been forged in the universities and the brains that escaped today would return to the country with a better view of the world.

Recommendations for the State of Colombia:

We request that the Colombian State be recommended:

1. Hold a summit of States between Colombia and the host countries that will allow the definition of the situation of Colombian refugees and victims once the armed conflict in Colombia is over.
2. Make efforts to establish tripartite mechanisms with each host country and UNHCR, in order to achieve the local integration of Colombian refugees who do not wish to return. This process should involve exodus organizations so that those who want to stay do so with basic and sufficient guarantees without impairment of their rights both as Colombian citizens and refugees who attend International Humanitarian Law and the legal norms in force in the countries where they live.
3. Automatic recognition of statutory refugees as victims within the Single Victims System.
4. To carry out a population census and characterization of the Colombian population abroad.
5. Build the historical memory of migration, shelter and victims abroad as a mechanism of reparation, The Commission for Clarification, Truth, Coexistence and Non-Repetition, should create a specific commission for the Colombian diaspora, which will have to generate a special report on the exile and the Colombian migration. In this subcommittee, migrants should be represented and should have a different approach.
6. The economic reparation of refugees and victims overseas should be guaranteed in the same conditions they had at the time of leaving Colombia.
7. To form a group by different countries of the world, UNHCR, IOM, the government of Colombia and the different migration organizations, victims abroad and the Colombian refuge to follow up on the human rights situation be constituted of Colombians abroad.
8. The Ministry of Migration should be created by the Colombian State.
9. Support and establish agreements with the host countries for the better - labor, educational, sports and cultural of the migrants.

10. Support associations that watch over migrants and associations of victims of armed conflict, as well as human rights defenders.
11. To approve a law in which embassies and consulates can help and support artists, athletes from the Colombian diaspora who are in a calamitous state or inattention outside the national territory.
12. Guarantee voluntary return, return of victims, as well as guarantee to those who do not want to return at least a decent job in the host country; That an agreed, voluntary and guaranteed Return Plan be structured with the diaspora and the governments of the host countries. This demand and right should not be interpreted and assumed as the repatriation proposed by the European Union as an official policy.
13. To agree with universities and SENA vocational training courses in which vocational training gives a good result in both ways.
14. There should be a space and state guarantees for the participation of the Colombian diaspora in the implementation of the Havana agreements and the presentation of proposals to the Mesa de Quito with the ELN. Likewise, migrants, victims abroad and refugees, have full right to participate in all institutional spaces where their problems are addressed: National Truth Commission, National Historical Memory Center, Victims Unit, National Migration Board.
15. Proportional representation must be granted to migrants in the Colombian Parliament, granting them the proportionality that corresponds to them according to the number of Colombians living abroad as a special constituency and for this it is necessary to reform articles 171 and 176 of The Political Constitution of Colombia.

This report was compiled and written by Dilberto Trujillo Dussán, dilbertotrujillo@ridh.org

Presented by:

European Partnership for Development and Cooperation with Peoples. Alexander Muñoz, President. Madrid Spain. Verdeviche1968@hotmail.com.

European Association of Victims of the Colombian Armed Conflict - ASEVICOM. Willver Andrade. Secretary. Asevicom@hotmail.com. Madrid Spain.

International Human Rights Network - IHRL. Ramón Muñoz, Director. Rmunoz@ridh.org. Geneva, Switzerland.

Asociación Revivir, Victims of the Colombian Armed Conflict in Spain. John Jairo Romero, President, Valencia, Spain. Revivirvalencia@gmail.com

Association Vive el Barrio. Antonio Muñoz Cárdenas, president. Madrid Spain. Viveelbarrio@gmail.com.

America Spain Solidarity and Cooperation (AESCO). Presidencia@ong-aesco.org.

Congress of the Peoples. Europe. (Spain, England, Sweden, Switzerland, France, Italy, Belgium).

MALOKA, association culturelle latino-américaine, Neuchâtel, Switzerland. Asociacion.maloka@yahoo.com.

Cultural Association ESTUDIO 40 Arte Iberoamericano. E40galeria@gmail.com. Francisco Caballero Bejarano. ; Madrid Spain.

Social Forum for Peace, Lyon. France. Mesasociallyon@gmail.com.

Association Palenque, Collectif franco - Latino in Rhône Alpes. Lyon - France. Association-palenque@hotmail.fr.

International Association for Peace in Colombia and the World. Esperanza España, president. Aipazcomun@gmail.com Geneva, Switzerland.

Associazione Ruana. Milan, Italy. Info@associazionetuana.org. Azione.ruana@gmail.com

Diana Arias, anthropologist. Barcelona, Spain