

Submission by the United Nations High Commissioner for Refugees
For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: *Fourth Cycle, 44th Session*

COLOMBIA

I. BACKGROUND INFORMATION

Colombia ratified the *1951 Convention relating to the Status of Refugees* in 1961 (the “*1951 Convention*”), acceded to its *1967 Protocol* in 1980 and has signed the *1984 Cartagena Refugee Declaration*. Moreover, Colombia acceded to the *1954 Convention relating to the Status of Stateless Persons* (the “*1954 Convention*”) in 2019, as well as to the *1961 Convention on the Reduction of Statelessness* (the “*1961 Convention*”) in 2014.¹

Colombia is a country affected by many decades of armed conflict and violence, which has caused large-scale internal displacement. In recent years it has received some 500,000 Colombian returnees, is serving as the largest host country for Venezuelan refugees and migrants, while being confronted with complex mixed movements across the continent.

Colombia hosts close to 3 million Venezuelan refugees and migrants. The regularization of some 2,4 million Venezuelans through the Temporary Protection Scheme is advancing well, but their effective socio-economic inclusion and achievement of self-reliance remain a challenge amid high levels of unemployment and informal labour, exploitation of people on the move and the risk of forced recruitment and conflict-related displacement, often also affecting refugees and migrants.

With an average of 900 new asylum applications per month (1,000-1,500 persons) the pressures on the asylum system are considerable. Despite several initiatives to strengthen asylum capacity, there continues to be a backlog of some 22,700 asylum claims.

Due to the armed conflict in Colombia, a total of 8,391,662 people became victims of internal displacement in Colombia between 1985 and 2023. Under President Gustavo Petro, the Government of Colombia has placed the advancement of the peace process as a key priority. Its concept of “Total Peace” encompasses peace talks with irregular armed groups, negotiated surrender of criminal gangs and a dialogue with communities throughout the country, particularly in underserved areas where the State has been absent for decades. Despite the ongoing peace negotiations and notwithstanding the high expectations generated by the peace agreement with the FARC-EP guerrilla in 2016, confrontations between armed groups have further intensified with an increased number of irregular armed actors seeking control over strategic territories with high levels of forced displacement and confinement of communities, mainly in the departments of Chocó, Nariño, Antioquia, Valle del Cauca, Norte de Santander, and Arauca.

2022 reflected a serious deterioration of the humanitarian situation in Colombia, with at least 185,000 persons forcibly displaced, the occurrence of 176 large scale internal displacement events and the confinement of some 102,000 persons, with violence disproportionately

¹ Through Decree 330/2016 Colombia formalized the deposit of the *1961 Convention* and made a reservation to Article 14 of the *1961 Convention* as follows: In accordance with the provisions of article 17(1) of the Convention, the Republic of Colombia makes a reservation to the effect that it does not recognize the jurisdiction of the International Court of Justice with regard to the disputes that may arise between Contracting States concerning the interpretation of application of the Convention.

affecting indigenous and Afro-Colombian peoples.²

Colombia has a strong legal and public policy framework to respond to the internal displacement situation, including the permanent follow-up of the Constitutional Court which declared an Unconstitutional State of Affairs in 2004, through the landmark decision T-025/04, that is still in force. Despite the legal framework, and considering the continuity of the humanitarian situations, more than 6.8 million IDPs³ still require assistance, solutions, and access to reparations. The rural reform, peace negotiations, social inclusion and the priority being given by the Government to underserved communities in the Pacific and other conflict-affected areas, is opening opportunities for solutions. UNHCR continues to support conflict-affected communities in terms of return, relocations and legalizations of urban settlements. In the context of the Government's new political agenda, UNHCR is seeking to accelerate solutions for IDPs based on the good practices developed over the past years.

Colombia's role as a co-organizer of the second Global Refugee Forum in December 2023, in representation of the Americas region, will be a great opportunity for the Government to demonstrate its leadership in the area of human mobility issues; transitional justice, truth and reconciliation; develop regional initiatives for a more coordinated refugee response; give visibility to good practices and strengthen responsibility-sharing mechanisms in a spirit of solidarity, putting persons at the centre of the response, in the context of the new peace agenda.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to 3rd cycle UPR recommendation no. 120.43: "Implement the Transitional Justice System, the Commission on Truth, Coexistence and Non-repetition and the Special Unit for the Search for Persons deemed as missing in the context of and due to the armed conflict, as agreed in the peace agreement (Norway)."

The Colombian State has guaranteed the effective functioning of the Comprehensive System of Truth, Justice, Reparation and Non-Repetition, including the Special Jurisdiction for Peace, the Unit for the Search of Disappeared Persons, and the Truth Commission. In 2022, the Truth Commission presented its Final Report⁴, including a chapter on exile, highlighting resilience mechanisms of the victims and their contribution to the construction of peace. The report also contains an analysis of situations of forced displacement and confinement. Moreover, the JEP has prioritized the investigation of several macro-cases including the investigation of kidnappings, forced recruitment, extrajudicial killings, crimes committed against ethnic communities and several cases focusing on the regions most affected by the armed conflict. In the context of the ongoing peacebuilding processes, these initiatives present critical elements of reconciliation and transitional justice, in support of IDPs, refugees and Colombians in exile.

Linked to 3rd cycle UPR recommendation no. 121.1: "Accede to and fully implement the 1954 Convention relating to the Status of Stateless Persons (Philippines)."

² See, [data portal Colombia, desplazamientos masivos y confinamientos](https://data.portal.colombia.gov.co/dataset/desplazamientos-masivos-y-confinamientos); and <https://www.infobae.com/colombia/2023/01/24/hubo-un-deterioro-de-la-crisis-humanitaria-en-colombia-en-2022-segun-la-ocha/>; see also, [Informe Mundial 2023: Colombia | Human Rights Watch \(hrw.org\)](https://www.hrw.org/es/informe-mundial-2023-colombia)

³ Figures according to the Victim's Unit, the entity responsible for the attention and reparation of victims of the armed conflict in Colombia.

⁴ The report acknowledges over 450,000 homicides (and mentions up to 700,000) related to the armed conflict, 80% of whom were civilians, including over 6000 "falsos positivos" (young civilian men killed by the army and presented as guerrillas to increase the statistics of their performance). The report also refers to over 120,000 disappearances, 50,000 kidnappings, a cumulative total of more than eight million persons displaced internally and almost one million forced to flee abroad. See further: <https://www.comisiondelaverdad.co>

In October 2019, Colombia acceded to the *1954 Convention*. In the same year, the Government adopted Law 1997 and Resolution 8470⁵ of 2019 (*Primero la Niñez*) to guarantee the nationality of children born in Colombia to Venezuelan parents. Through the measure, more than 82,000 children were able to acquire Colombian nationality. The measure is still valid until August 2023, and its renewal is needed.

In line with its pledge in the framework of the Global Compact on Refugees, the Government issued the 2021 Law on Migratory Policy (Law 2136/21) which includes the commitment to develop a Statelessness Determination Procedure (SDP). The drafting process started in 2022 and the SDP is expected to get adopted in the coming months.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Effective implementation of the Victims Law

Linked to 3rd cycle UPR recommendation no. 120.36: “Guarantee continuity in the application of the Victims and Land Restitution Act, as well as the measures of comprehensive reparation for the victims of the internal armed conflict (El Salvador).”

The Victims Law was renewed in 2021 for a period of 10 years. Considering the continuation of the situation of armed conflict and violence in several regions of the country, the effective implementation of this law is crucial to ensure victims’ registration, humanitarian assistance and access to rights, including to truth, justice and reparation rights. Institutions also need to be strengthened to advance in the achievement of durable solutions for IDPs. Protection standards should be preserved in the context of an eventual amendment to Law 1448/2011.

More than 80 per cent of the victims of the armed conflict are IDPs, with some 6.8 million still requiring assistance, solutions, and access to reparations, and not having overcome the vulnerability generated by forced displacement. Structural policies to promote access to solutions have low levels of implementation. Despite the well-designed process of land restitution for example, progress to effectively guarantee restitution of disposed land to IDPs has been extremely slow. According to official figures, during the past 10 years only 32 per cent of some 39.000 restitution claims were resolved in substance.

Recommendations:

UNHCR recommends that the Government of Colombia:

- a) Maintain the integrality of the Victims Law, and enhance its implementation, advancing progressively towards solutions for IDPs, including prioritized access to land, housing and adequate opportunities to livelihoods; and,
- b) Comprehensively review its policy on prevention and protection, according to Constitutional Court Auto 894, including the review of the methodology to implement “shock plans”, to enhance efforts to implement collective protection measures through effective interinstitutional coordination, and to intensify the State’s civil presence in rural areas, to prevent new situations of internal displacement and confinement.

Issue 2: Full implementation of the Peace Agreement and the new Total Peace Policy

Linked to 3rd cycle UPR recommendation no. 120.17: “Ensure the effective implementation of the Final Agreement for Ending the Conflict and Building a Stable and Lasting Peace, prioritizing human, technical and financial resources as necessary, in strict application of the principles of transparency, participation and accountability (Uruguay).”

⁵ The Resolution 8470 of 2019 was renewed for 2 more years, by Resolution 8617 of 2021 valid until August 2023.

According to the Krock Institute⁶, the institution responsible to follow up on the implementation of the Peace Agreement, only 26 per cent of the provisions have been fully implemented. Several bottlenecks have been identified regarding the rural reform, victims' rights and the ethnic chapter of the Agreement.

Recommendations:

UNHCR recommends that the Government of Colombia:

- a) Continue its efforts to fully implement the Peace Agreement signed with FARC, including the adequate funding and implementation of the Ethnic Chapter, the prioritization of IDPs in the access to the programs designed (such as the Territorial Plans for Development or the Rural Reform), and the implementation of the Truth Commission Final Report's recommendations; and,
- b) Use lessons learned from previous peace process negotiations, to guarantee that in the new Total Peace Policy the voices of the victims, including IDPs and persons in exile, are adequately heard, and that communities are protected during the negotiations, preventing risks against them or their leaders.

Issue 3: Prevention of gender-based violence

Linked to 3rd cycle UPR recommendation no. 120.143: "Continue taking effective measures to prevent sexual violence against women, and ensure that all cases of sexual violence are investigated, and perpetrators are brought to justice in a timely manner and victims are provided with support, including medical and psychosocial services (Malaysia)."

Sexual violence against girls and women continues to be one of the main causes of internal displacement. In 2022, the National Victims' Unit recorded 638 cases of conflict-related sexual violence (574 women, 43 men and 21 LGBTI). Conflict related gender-based violence affected indigenous and Afro-Colombians peoples and Venezuelan refugees and migrants who are often exposed to human trafficking and sexual exploitation.

Recommendations:

UNHCR recommends that the Government of Colombia:

- a) Adopt operational measures to prevent and address conflict-related sexual violence;
- b) Continue efforts to strengthen access to the asylum system and prioritize the processing of asylum applications related to victims of conflict related sexual violence, regardless of their nationality; and,
- c) Guarantee refugees' recognition as victims of the armed conflict in cases of conflict-related sexual violence.

Issue 4: Protection of Children in the context of the Armed Conflict

Linked to 3rd cycle UPR recommendation no. 120.154: "Ensure that the rights of children and adolescents, those who have been victims of forced recruitment and used by irregular armed groups, are fully protected and that their special vulnerability is taken into account during their reincorporation into civil society (Austria)."

Colombia is part of the 1612 Security Council Resolution for the monitoring and reporting of six grave violations committed against children in the armed conflict, including forced recruitment and use. According to the Government of Colombia⁷ there is a persistence of forced recruitment and use. There were 124 confirmed cases in 2022, including cases affecting refugees and migrants. An increased proportion of girls and indigenous and Afro-Colombian children were also affected. Underreporting is still high in several regions of the country. Forced recruitment and use persist as one of the main causes of internal

⁶ Krock Institute, <https://curate.nd.edu/show/m900ns09k63>.

⁷ Input to the Annual Report of the Secretary-General on Children and Armed Conflict to the Security Council and the General Assembly.

displacement.

Recommendations:

UNHCR recommends that the Government of Colombia:

- a) Further strengthens the implementation of the policy on prevention of recruitment, use, and sexual violence, enhance the Inter-Sectoral Commission for the Prevention of Recruitment and Use of Children (CIPRUNNA), and implement the Safe Schools Declaration, adapting the approach to the needs of indigenous, Afro-Colombian, refugee, and migrant children.

Issue 5: Protection of refugees and reintegration of Colombian returnees.

The high number of arrivals of refugees in recent years has posed significant challenges to the asylum system. Between 2017 and June 2022, the Government registered more than 46,000 asylum claims. Due to the limited capacities, the backlog of pending applications continues to grow, and the duration of the processing of the claims is excessive. The recognition rate continues to be very low. Decree 1067 of 2015 which establishes the refugee status determination procedure contains several gaps, in particular the absence of a provision allowing asylum-seekers to lodge their applications in international transit zones. Moreover, efforts to promote the socio-economic inclusion of refugees and the reintegration of Colombian returnees is crucial to ensure their effective access to rights and protection from discrimination and xenophobia.

Recommendations:

UNHCR recommends that the Government of Colombia:

- a) Issue an identification document with work permit that allows access to the right to formal work for asylum seekers in the country;
- b) Digitalize and modernize the asylum system, adopt diverse case processing modalities for asylum claims, and enhance the capacity and quality of decision-making to ensure more efficient processing in line with international standards;
- c) Develop a procedure to enable refugees to submit their asylum claims at migration checkpoints in transit zones;
- d) Implement recommendations of CONPES 4100, to promote the effective socioeconomic inclusion of Venezuelans, while continue its efforts to regularize Venezuelan population in the country;
- e) Advance towards the regulation to the Comprehensive Migratory Law (Law 2136/21), to design and implement effective public policies to promote re-integration of Colombian returnees.

UNHCR
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