Breaking the Silence
IN SEARCH OF COLOMBIA’S DISAPPEARED

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Cover art: “Faces of the Missing.” Armed groups have seized thousands of people, who are often never heard from again. Each day their families wait, hoping for some news of their whereabouts. Denied the most basic right to closure—a body to bury, a casket to adorn, a grave to visit—the nightmare for these families never ends.

“Faces of the Missing,” as well as quilt on back cover, are from “Remember Me,” a project of Lutheran World Relief (LWR) created in collaboration with Colombian partners Fundación Manuel Cepeda Vargas, Agenda Caribe and Asociación MINGA. “Remember Me” contains original artwork inspired by the experiences and testimonies of victims of violence in San Onofre, Sucre and the province of Putumayo, particularly the communities of La Hormiga and San Miguel. Lutheran World Relief is presenting “Remember Me” at venues throughout the United States. Reproduced with permission from Lutheran World Relief. To learn more, including information on how the exhibit can reach your community, visit: remember.lwr.org
“To the torment of absence is added the sorrow of doubt”
“Without seeing the body, no one can give a loved one up for dead. There’s no end point … mourning remains in a piercing suspense … there’s no death, physical or legal … life is up in the air … death is not followed by a decisive lament but a limbo … the doors and windows of the house are always open, waiting for a perhaps yes, perhaps no. To the torment of absence is added the sorrow of doubt.”

–Alfredo Molano

In Colombia There Are 30,000 Disappeared: What Does the Media Say About This? Rally, Bogotá, May 2010
Colombia has one of the highest levels of forced disappearances in the world. Mention the word “disappearance” in the Latin American context and most people think only about Chile, where 3,000 people were killed or disappeared, or Argentina, where some 30,000 people were disappeared in the “dirty war.” Yet new information is emerging that is unveiling the tragic dimensions of Colombia’s missing.

Little attention has been paid to disappearances in Colombia. This may be simply because the death toll from assassinations, massacres, criminal murders, and battlefield casualties—where there are bodies—is so high that disappearances have remained out of focus. The government’s ability to project an image of success has also served to make disappearances, along with other human rights abuses, less visible. That the conflict is still raging makes it hard to bring attention to a crime where the proof is by definition invisible. The Colombian government and international community’s response to the problem of disappearances has been delayed and inadequate, even in contrast to the limited programs and legal recourses available to other victims of the conflict.

Since 2007, the Colombian government has begun to improve the ways in which disappearances are registered. As new and older cases are entered into a consolidated database, numbers are increasing dramatically by the month. As of November 2010, Colombia’s official government statistics list over 51,000 disappearances, a figure that includes missing persons who may be alive, while the Attorney General’s office speaks of over 32,000 “forced disappearances.” More than 1130 new cases of forced disappearance have been officially registered in the last three years. However, the full total remains unknown. Many cases have yet to be entered in the database, and many disappearances are not registered at all. Earlier claims by associations of families of the disappeared of some 15,000 forced disappearances, far from being an overestimation, now look to have vastly undercounted the tragedy’s enormous scope.

In Colombia, victims of forced disappearances include human rights defenders, trade unionists, Afro-Colombian and indigenous people, and young men and teenage girls in rural conflict zones, amongst others. In the 1970s and 1980s, many victims disappeared following detentions by the police or military. Left-wing guerrillas also killed and disappeared people.

As the paramilitary phenomenon expanded in the 1990s, so too did the cases of those disappeared by paramilitary forces, the right-wing insurgent groups that were aided by members of Colombia’s official security forces.

Paramilitaries often destroyed the bodies of their victims, burying the bodies in unmarked graves or throwing them into the rivers. By 2004-05, Colombian human rights groups began reporting allegations of soldiers detaining people, who then disappeared and were later found dead and claimed by the army as guerrillas killed in combat. By 2010, cases involving more than 3,000 alleged executions of civilians by the armed forces were registered in the civilian justice system.

Forced disappearance has been used as a tool to control communities and silence dissent by eliminating the leadership of social movements, community organizations, and political opposition, instilling fear in those left behind.

Colombia has developed an advanced legal framework for addressing forced disappearances, but this framework is rarely
effectively applied. The 1991 Constitution prohibits forced disappearances. However, it was not until 2000, after a protracted campaign by associations of families of the disappeared, that a law was passed prohibiting forced disappearance and allowing for criminal prosecution. Law 589 sets up a National Search Commission, a consolidated National Registry of Disappeared People, and an urgent search mechanism to locate missing people. Victims’ rights may be strengthened with the August 2010 passage of Law 1408, which seeks to “pay tribute to the victims of the crime of forced disappearance and establish mechanisms for their location and identification.”

The demobilization agreement between the government and paramilitary forces set in motion dramatic changes that affected the treatment of forced disappearances. Paramilitaries seeking to reduce sentences under the Justice and Peace law governing demobilization were required to identify their crimes, including the location of their victims’ bodies. Thousands of cases of disappearances came to light. However, sentences were limited to 5 to 8 years even for the most heinous crimes, and only two paramilitaries have so far been convicted under this transitional justice framework.

Recommendations:
(see complete recommendations on page 25)

- The Colombian government should strengthen the National Search Commission by ensuring high-level interagency participation and implementation of its recommendations, and should strengthen and adequately fund the Virtual Identification Center. It should ensure vigorous implementation of the National Search Plan to locate the disappeared, strengthen the centralized database and make public analysis of changing statistics of forced disappearances.

- The Colombian government should design a government-wide strategy to guarantee the rights of victims during searches, exhumations and judicial proceedings, provide effective protection for relatives of victims of disappearances and for witnesses, and ensure that victims’ families can readily access humanitarian assistance without a death certificate.

- The U.S. government should encourage the Colombian government to take the above steps. USAID should expand its existing funding to associations of relatives of the disappeared, human rights groups and independent organizations with forensic and missing persons expertise, with a focus on educating victims’ families to exercise their rights, as well as legal and humanitarian assistance. USAID should use its funding to leverage collaborative efforts between civil society, academia and government to elevate societal awareness about and develop public
policy regarding disappearances. The U.S. government should expand its funding for technical support and training to collect DNA samples from family members, investigate cemeteries and conduct exhumations.

The U.S. State Department should use the human rights certification process to encourage the Colombian government to effectively prosecute cases of disappearances in which security forces are alleged to be involved, as well as threats and attacks against relatives and victims’ associations. The State Department should suspend assistance to units of the Colombian armed forces where such forces are credibly alleged to be involved in extrajudicial executions and disappearances.

Who are the victims, who are the perpetrators?

In Colombia, victims of forced disappearances include human rights defenders, trade unionists, Afro-Colombian and indigenous people, and young men and teenage girls in rural conflict zones. Members of the LGBT community, homeless people and others identified as “undesirables” have also been victims of killings and disappearances through so-called “social cleansing” campaigns.

In the 1970s and 1980s, many victims, often urban activists or students, were believed to be disappeared following detentions by the police or military. From the 1990s to the present, disappearances have expanded from those targeting activists to a more widespread “tool of terror” used throughout the countryside, according to Gloria Gomez, director of Asfaddes, one of the principal organizations representing relatives of the disappeared. Disappearances often seem aimed at “disarticulating social movements” and controlling rural communities.2

Colombia’s armed forces and police and all illegal armed groups have been responsible for disappearances. Left-wing guerrillas killed and disappeared people, and kidnapping and forced recruitment, including of children, by the guerrillas were also sometimes classified as disappearances.

As the paramilitary phenomenon grew exponentially by the 1990s, so too did the case of those believed to be disappeared by paramilitary forces, the right-wing insurgent groups that were often aided by members of Colombia’s security forces. Colombians are only beginning to see the grim outline of the toll of those disappeared by paramilitaries. Paramilitaries often destroyed the bodies of their victims, burning them or cutting them with chain saws, burying the bodies in unmarked graves on ranches, riverbanks or the outskirts of cemeteries, or throwing them into the rivers. Reports have emerged that paramilitaries had crematory ovens to burn bodies, in Catatumbo and even on the outskirts of Medellín.3

Colombia’s main daily, El Tiempo, ran a remarkable series in April 2007, “In search of Colombia’s 10,000 dead,” drawing attention to the clandestine graves throughout the country and using information that was beginning to be revealed in the hearings for the paramilitary demobilization process. The articles detailed how paramilitary groups not only designed a method of cutting up human beings into pieces, but actually taught the practice by using people who were brought to training camps for this purpose. “They were old people who were brought in by truck, alive and tied up,” a paramilitary combatant explained. “The instructions were to cut off their arms and heads, to quarter them alive. They started crying and asking us not to hurt them, they had families.”4

Signs at March, Bogotá, May 2010

Movimiento de Víctimas de Crímenes del Estado

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Colombian human rights groups began reporting in 2004-05 that they were hearing greatly increased allegations of groups of soldiers detaining people, who were later found dead, dressed in guerrilla clothing, and claimed by the army as killed in combat. This “false positive” scandal was another form of forced disappearance. In 2007-08, mothers in Soacha, outside of Bogotá, reported their sons missing; as many as 22 young men from the area had been recruited by criminal or paramilitary gangs and delivered to soldiers who killed them in order to inflate their body count.

The United Nation’s Special Rapporteur on Extrajudicial Executions, Philip Alston, found that soldiers had committed these killings “in a pattern that was repeated around the country. Although these killings were not committed as part of an official policy, I found that many military units engaged in so-called ‘false positives’ in which victims were murdered by the military, often for soldiers’ personal benefit or profit. Victims were generally lured under false pretenses by a ‘recruiter’ to a remote location and then killed by soldiers who report that there was a ‘death in combat,’ and take steps to manipulate and cover-up the crime scene. Within the military, success was equated with ‘kill counts’ of guerillas, and promoted by an environment in which there was little or no accountability. Soldiers simply knew that they could get away with murder.”

By 2010, cases involving more than 3,000 alleged executions of civilians by Colombian security forces were registered in Colombia’s civilian justice system. By 2009, as international pressure and steps by the Colombian government led to a decrease in new cases of extrajudicial executions, Colombian human rights groups reported an increase in disappearances, some of which could be killings by the army. More cases now registered as disappearances may prove to be extrajudicial executions by official security forces.

Indeed, the Colombian human rights group Corporación Jurídica Libertad notes that between January and May 2010, over 150 disappearances were reported in Antioquia alone.

Disappearances are far from a problem of the past. The task that confronts Colombia
A Movement for the Disappeared

A Colombian movement to protest disappearances emerged in 1982, when the Association of Families of the Detained-Disappeared, Asfaddes, was created in reaction to disappearances, often attributed to the police, during the presidency of Belisario Betancur. Inspired by Argentina’s Mothers of the Plaza de Mayo, the members organized white carnation marches and sought to visibilize the plight of their missing relatives. Union leaders, community leaders, student activists, members of the Unión Patriótica party and campesino leaders were among the victims.

In November 1985, a dozen people disappeared following the army’s takeover of the Palace of Justice from the M-19 guerrillas who were holding the Supreme Court justices hostage. Seen by witnesses being removed from the palace by members of the army, these eight Supreme Court cafeteria workers, three visitors to the Supreme Court, and one guerrilla were believed to be held in military garrisons, and subsequently killed. Their families began a 25-year struggle for justice, and to uncover the truth about what had happened to them.

Another emblematic case was the disappearance of Nydia Erika Bautista. After the thirty-year old student, mother and civilian supporter of the M-19 disappeared on August 30, 1987, her family launched a tireless search for her. When a soldier confessed, her body was eventually found in 1990 and exhumed by judicial authorities, with signs of sexual abuse, torture, bound and blindfolded.

“To find Nydia was a historic feat, because few disappeared people were found in those days,” said her sister, “and after so many years we had lost hope. We could give her honors in the cemetery, return her name to her, return her family, her dignity, because they wanted to make her become just a thing and we wanted her to become again a human being with rights.” As a result of the family’s dedicated investigation, the high-profile case led to the first dismissal of a general for human rights abuses. However, he was never sent to trial. Forced to flee the country because of death threats, the family founded in exile an organization for the disappeared, and in 2007 returned to work in Colombia. Today, the family continues to fight for justice.

As political violence, including forced disappearances, escalated throughout the 1980s, human rights and victims’ groups sought to bring international attention to the issues of disappearances. In 1988, they secured a visit of the United Nations’ working group on forced disappearances.

The relatives’ associations and their human rights allies set their sights on creating the legal framework to advance their cause.

Along with their protests with the photos of their loved ones, relatives of the disappeared took matters into their own hands and formed search committees, sometimes with the support of judicial authorities, to go to garbage dumps, morgues, and cemeteries to look for the disappeared. But the relatives' associations and their human rights allies also set their sights on creating the legal framework to advance their cause. The groups advocated for the creation of a proper registry of those detained by the police and military, as arbitrary and clandestine detentions left those in captivity vulnerable to torture and disappearance. They advocated for a law that recognized forced disappearance as a crime, an important achievement described in the next section. Over the years, victims’ associations have been supported in their quest for better laws and justice in cases by Colombia’s major human rights groups, including the Committee in Solidarity with Political Prisoners, CINEP, the José Alvear Restrepo Lawyers’ Collective, MINGA, Corporación Jurídica Libertad, and the Colombian Commission of Jurists, among others.
Nydia Erika Bautista: Twenty-Three Years Without Justice

Nydia Erika was the oldest daughter of a working family. She was also a mother, a sister, a student, a volunteer with poor communities and a civilian supporter of the left-wing M-19 guerrilla movement. On August 30, 1987 she was disappeared. Ever since, her family has fought for truth and justice. The struggle has cost them dearly, as both Nydia’s mother and her husband died from the stress and heartbreak. But the family never backed down from their epic quest for answers, exploring all avenues for justice.

As soon as Nydia went missing, her family started to search for her. They made hundreds of announcements on buses, plastered her photo across Bogotá, and organized marches. This went on for three long years.

Finally in 1990, a sergeant from Army Brigade XIII informed the Inspector General’s office of a number of women the brigade had disappeared and killed and the location of their bodies. One of those bodies belonged to Nydia Erika. It revealed signs of torture and sexual abuse.

Only when Nydia’s body was found could her family start to seek justice. In response to their demands for justice, the family was threatened and five members were forced to leave the country due to safety concerns. Investigations carried out by the Inspector General and Attorney General’s human rights units showed evidence of the government’s responsibility. The Tribunal of Litigation condemned the Colombian state for Nydia Erika’s disappearance, torture and assassination in 1995.

As a result, in July 1995 the Inspector General’s Human Rights Commissioner at the time, Hernando Valencia Villa, ordered the dismissal of General Alvaro Velandia Hurtado and three non-commissioned officers from the XIII Brigade. Nevertheless, three days after the decision, then-President Ernesto Samper awarded General Velandia Hurtado the...
investigated the disappearances of three of his relatives. Families often are displaced following their family members’ disappearance. Most frequently, those who are disappeared are men, and their disappearance leaves their wives and children economically vulnerable—and all the more so, if they are forced to abandon their farms, livelihoods and homes.

**Good Laws, Less Action**

Colombia has developed an advanced legal and institutional framework for addressing forced displacement, but this legal framework is rarely effectively applied. Colombia’s 1991 Constitution prohibits forced disappearances. However, it was not until 2000, after six failed attempts since 1988 and a protracted campaign by Colombia’s associations of relatives of the disappeared and human rights groups, that a law was passed, Law 589, which expressly prohibits forced disappearances and allows for criminal prosecution in these cases. Prior to that time, these cases were difficult to prosecute without the evidence of a body to indicate that a crime had occurred.

Law 589 places responsibility on the state to take actions to locate victims of forced disappearance, although it identifies forced disappearance as a crime that can be committed by non-state as well as state actors. It sets up a National Search Commission (*Comisión Nacional de Búsqueda*), a National Registry of Disappeared People, and an Urgent Search Order of Merit. A month later Inspector General for Human Rights Valencia Villa had to leave Colombia because of constant death threats. It took two months of national and international pressure before the decision to remove the general and three non-commissioned officers officers from the army was enforced. During this time Nydia’s mother died.

But the ordeal for Nydia’s family did not end there. In 1996, two non-commissioned officers involved in the case were sent to jail, but in 1997 the military justice system opened an investigation into the case claiming jurisdiction, which the Supreme Judicial Council upheld, resulting in the release of the officers. The family was then required to dig up and return Nydia’s body in order for DNA samples to be retaken. Nydia’s sister, Yanette, said that she nearly didn’t withstand the stress and heartache. “The situation made me so sick, so sick that I was hospitalized for six months and I nearly died,” she said.

The case was returned to the civilian justice system in 2000. But in September 2003 the Attorney General’s human rights unit ruled to close the case, absolving General Velandia Hurtado and the three non-commissioned officers of all guilt. In its decision, the Attorney General’s office did not take into consideration all the evidence and witness statements and instead ruled that the M-19 had been responsible for Nydia’s disappearance, despite, according to the family, no evidence to support this. The family appealed the decision, but seven years later they are still fighting for justice.

General Velandia Hurtado fought the 1995 decision to dismiss him and in 2002 was reinstated as general and named dean of the State Military University Nueva Granada. He remained active in the armed forces until the end of 2009 when the State Council confirmed the Inspector General’s 1995 ruling to dismiss him. This is one victory for the family. Nevertheless, 23 years after the crime was committed, those responsible for Nydia’s death have still not been prosecuted in the criminal courts.

The Bautista family created a nongovernmental organization to advance the cause of families of the disappeared, the Nydia Erika Bautista Foundation for Human Rights.

“Everything is as it was 23 years ago and everything has changed. Just as we did 23 years ago, we continue to dream that justice will come one day. But now we don’t celebrate mothers’ day, or birthdays or Christmas anymore. We still have the company of Nydia, our mother and Toñin [Nydia’s husband], but now it is from heaven,” Nydia’s sister Yanette said.
Mechanism to Prevent Forced Disappearances. The government is obliged to set in motion the search mechanism within 24 hours after being contacted.

The National Search Commission consists of representatives of the Attorney General, Inspector General, Ombudsman, Defense Ministry, Presidential Human Rights Office, Coroner’s office (Medicina Legal), Asfaddes and the Colombian Commission of Jurists. The commission has the authority to support and promote searches for the disappeared and design search strategies; support and promote investigations into disappearances; recommend measures to prevent disappearances and recommend measures to protect witnesses and family members. But the bulk of the activities must be carried out by the relevant governmental agencies rather than the commission’s own minimal staff.

It is laudable that the commission exists and that it is made up of the appropriate government agencies as well as representatives of the disappeared. However, low-level attendance by government agency representatives without decision-making authority limits its effectiveness. The commission lacks the authority to compel government agencies to take action; it can only recommend, and according to the commission’s coordinator, its recommendations are only partially followed. According to the International Commission on Missing Persons, as of 2008, eight years after Law 589’s passage, “few search mechanisms have actually been activated and even in the cases where they have been, results have been limited.”

Starting in 2003, the National Search Commission carried out a pilot project in Casanare, with five visits to the area. The project determined that large numbers of disappearances went unreported in Casanare, and often were recorded as other crimes, such as kidnappings and forced recruitment. The study found that lack of technical capacity, threats against judicial authorities, lack of knowledge about governmental responsibilities in cases of disappearances, and lack of support from security forces to visit conflict areas hampered government action. Moreover, the commission found that reaching out to witnesses and family members of the disappeared could place them in danger. Among its other results, the pilot study found that unidentified bodies—NN, for no name—were buried in many of Casanare’s cemeteries, and that only 6 of 21 cemeteries had a proper registry of bodies.

In 2007, members of the National Search Commission, aided by the independent forensic group Equitas, and using recommendations from the Casanare pilot, produced a National Search Plan. The plan laid out four steps: consolidate and strengthen the national database; provide legal and psychosocial support to families of victims; establish benchmarks and procedures for return of bodies to families of victims; and establish an effective search of clandestine cemeteries and identification of bodies. The plan was a step forward, laying out the tasks needed in order to identify the scale of the problem of forced disappearances, and to set in motion processes to identify who has been disappeared, the perpetrators of disappearances, and the location of the disappeared, alive or dead. Despite the positive nature of the National Search Plan, inadequate coordination among the agencies making up the commission limited its implementation. The National Search Commission is conducting extensive training for members of various government agencies in order to improve implementation of the search mechanism and other necessary actions.

In December 2007, a Virtual Identification Center, which coordinates operational activities of government agencies relevant to exhumations, identification and handover to families, was established. The capacity to investigate and identify the disappeared has been considerably improved by this center’s activities, according to the International Commission on Missing Persons.
Despite advances in the legal framework regarding disappearances, most disappearances are never vigorously investigated, and a only tiny percentage of those investigated have been successfully prosecuted. Therefore the court ruling in June 2010 that convicted a retired general for the disappearances of cafeteria workers that followed the army takeover of the Palace of Justice, while a quarter-century in the making, was a historic step forward. But the President and army command’s reaction to this (see box) gravely marred the outcome of even this one landmark judgment. Death threats forced the judge to leave the country, the victims’ lawyers endured repeated threats, and the Attorney General dismissed the prosecutor who had handled the case.

The Cafeteria Workers: Justice at Last, but at a Price

Alejandra Rodriguez has been searching for her father her whole life. She was only a month old when he and 11 others were disappeared by the armed forces from the Palace of Justice. She is now 25 and studying to be a lawyer so she can defend victims’ families like her own who have been forgotten by the state.

In 1985, the M-19 guerrillas had seized the Palace of Justice, taking the Supreme Court judges hostage. In the army’s no-holds barred retaking of the Palace, more than 100 people were killed, including 11 of the 24 Supreme Court justices. Twelve people, including eight people who worked in the court’s cafeteria, three visitors and a guerrilla were seen by witnesses being taken alive from the palace by the army. However, Alejandra says the government has always denied that any people were disappeared and it has been a constant struggle to get any information.

“Every time the government denies that people were disappeared from the Palace of Justice, it’s like they are disappearing our loved ones all over again,” Alejandra said.

After 25 years of struggling for truth and justice, the families of the disappeared saw some justice. But, it comes at a price. In June 2010, Colonel Plazas Vega was sentenced to 30 years in prison for his role in the forced disappearances after the siege. However, President Alvaro Uribe went on national television surrounded by the military’s high command to vehemently attack the Court’s ruling. In a joint press conference with visiting Secretary of State Hillary Clinton, Uribe said that Colonel Plazas Vega was “simply trying to fulfill his duty.”

María Stella Jara, the judge who handed down the sentence to Colonel Plazas, left the country after receiving multiple death threats to her and her family. Colombia’s Attorney General dismissed the prosecutor in the case, calling her inefficient—a label vigorously contested by Colombia’s human rights groups. The families of the disappeared say they are scared for their own safety after Uribe’s remarks. They also say that Colonel Vega is not actually in jail, but rather is detained in a military base in Bogotá, and has appealed his case. They ask that he serve his jail time as ordered by the court.

While the families may have some justice, they still, after 25 years, do not know the full truth and their loved ones’ bodies have never been returned. Several family members have died without ever knowing what happened to their loved ones. Others go on fighting.

Pilar Navarrete was 20 with four young children when her husband, Hector Jaime Beltrán, was disappeared and said the uncertainty has been very hard to live with.

“All this time we’ve had no information. All of us, the parents, children, partners, have suffered so much psychologically. It has been torturous,” Pilar said.
The Justice and Peace Law: Some Truth, Little Justice

The demobilization agreement between the government and paramilitary forces and the passage of the Justice and Peace law governing demobilization, Law 975 of 2005, set in motion dramatic changes and significant government action that affected the treatment of forced disappearances. Paramilitaries seeking to reduce or avoid sentences were required in their confessions to identify their crimes, including the location of their victims’ bodies. A special unit of the Attorney General’s office, the Justice and Peace Unit, was set up that focused on investigations of paramilitary crimes, following up on these confessions and performing exhumations. The Justice and Peace Unit and other government agencies conducted special days of outreach to victims in which many cases of disappearances were registered. Thousands of cases of disappearances that had never begun to be reported came to light. Exhumations generated hope and interest on behalf of thousands of families who started reporting their cases. Media that had largely ignored the disappeared began to cover the issue, including a heartrending series by *El I*

“I Kept Hoping They Would Be Returned Alive”

A big white teddy bear sat on top of one of the little coffin boxes, and red roses on the other three. The remains of the four sisters were finally being returned to their mother, Blanca Nieves Meneses, 10 years after they disappeared.

“I never thought that this is the way they would be returned to me,” said their surviving sister Nancy.

At this ceremony in the offices of the UN High Commissioner for Human Rights in Bogotá, Colombia, the Attorney General’s office returned the remains of the four young women, the youngest just thirteen, to their family. A paramilitary leader had confessed, as part of the Justice and Peace process, to committing the murders. At most, those who carried out even the most unspeakable crime can receive five to eight years in jail under this transitional justice framework.

The CTI, Colombia’s forensic team, looked on. They seemed both proud to have helped return the remains and personally shaken by the emotion in the room.

“Their crime was to be young and beautiful in a war zone,” said one of the speakers. They were brutally killed by paramilitaries who operated, according to the human rights group Minga, “with total impunity” in the region.

Colombia’s Vice President Francisco Santos attended. He spoke of a family who had lost one son to the ELN, one to the FARC, and one to paramilitaries, and called for reconciliation.

“Today, one family can begin achieving closure and today, the government is strengthening its presence so that blood will stop flowing in Colombia.”

But he did not simply state that in this particular case, these unspeakable crimes had been committed by the paramilitaries.

After the young women were disappeared, their mother and sister waged a years-long struggle, at great risk, to achieve justice for Jenny Patricia, Mónica Liliana, Nelsy Milena and María Nely Galárraga Meneses. Their struggle became a catalyst for many other mothers in the region.
The Justice and Peace Law: Some Truth, Little Justice

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Tiempo on mass graves and excellent analysis by Semana magazine. The veil of silence began to be removed, but the wheel of justice still barely moved.

The law created a set of parallel institutions and processes to treat disappearances by the paramilitaries that, according to the International Commission on Missing Persons, “galvanized Colombia’s engagement in this process, but it also overran previous strategies.” The Justice and Peace Unit has carried out exhumations of 2989 graves since its inception, finding 3625 bodies; of those, 1070 have been identified and returned to their families. Human rights and independent forensic experts initially criticized the Justice and Peace unit for proceeding too rapidly, without adequate care to obtain the maximum information prior to and during the exhumations in order to fully investigate the crime, failing to adequately investigate related crimes such as torture, rape and post-mortem mutilation, and making insufficient effort to identify victims. The unit was also criticized for failing to consult adequately with families or consistently permit their presence at exhumations when requested. Political pressure to show results from the

“I am just a campesina from Putumayo who sows rice and corn,” Ms. Meneses explained. “But I tell all other mothers of the disappeared to keep searching. Justice should not be delayed,” she said, with bitterness. “Justice should arrive on time.” She spoke of the frustrations of trying to receive reparations or other help from the government.

Right after her daughters disappeared, Ms. Meneses and her remaining daughter Nancy sought help from local government authorities. The mayor told her he was afraid to help. “No one helped us, people were afraid, at that time they killed you for nothing,” said Nancy. Finally, the two women went directly to the paramilitary leaders. They told Ms. Meneses to “disappear yourself if you don’t want us to kill you too.” In October 2001, she left with her grandchildren for Nariño province, where she lived for five years. Back in La Dorada, Nancy continued searching for her sisters. In 2006, paramilitaries took over her mother’s house, where Nancy lived.

Finally, Ms. Meneses returned to La Dorada, where she herself located the graves of her daughters, and reported them to the Attorney General’s office. Many other families came to her to ask her to help them find their relatives’ graves. But the threats and attacks continued relentlessly, although paramilitary groups in the area were supposedly demobilized. Ms. Meneses and her daughter Nancy were both forced to leave, and their relative, Ligia Meneses, was killed in November 2007.

At the ceremony, a human rights activist approached us and said, “I just have to say, I just have to say, this happened in the context of Plan Colombia.” And indeed, this brutal killing and many others occurred as the United States heavily backed a Colombian army offensive into Putumayo in the early years of Plan Colombia, an offensive which expanded side by side with an increased paramilitary presence in the region.

She played the lyre, she liked to play mini-soccer, she liked best to eat fried eggs and french fries, she was an artist, were some of the memories as their relatives remembered them. The sisters Galárraga Meneses, Nelsy Milena, Mónica Liliana, Jenny Patricia, and María Nely.

Family of the Galárraga sisters, Campos de Cristo cemetery, July 2010
controversial Justice and Peace process played a role, since as the JPL process was failing to produce results in terms of court cases, large numbers of exhumations was one of the few quantifiable ways to demonstrate momentum. The Justice and Peace unit however appears to have made an effort to address these concerns regarding exhumations. One demonstrable change is that the rate of the identification of and return of victims' remains to their families has increased.

Like denouncing disappearances, investigating them and conducting exhumations are dangerous in a situation in which the conflict continues. According to the National Search Commission, one exhumation team disappeared and has not been found, and another was attacked, and a team member killed.\(^{19}\)

In terms of justice for forced disappearances, the Justice and Peace law (JPL) represents a step backward, because it reduces the 25- to 60-year sentences for committing disappearances mandated by the forced disappearance law to a maximum of eight years for those who confess their crimes. The shockingly limited number of people successfully tried under the JPL system is also deeply troubling. Five years after the passage of the law, only two paramilitary members have received even these reduced sentences.\(^{20}\) Edward Cobos Telez, alias Diego Vecino and Uber Banquez, alias Juancho Dique, received eight-year sentences for the forced disappearance and kidnappings of 1,194 victims in Mampuján and 11 victims in Las Brisas, Bolivar.\(^{21}\) They still await trial on some 6,000 other crimes, but the eight-year sentence cannot be increased.

An unfortunate effect of the Justice and Peace law was to divide the victims of forced disappearance. The institutions set up to administer the JPL are aimed at addressing paramilitary crimes, so while relatives of those disappeared by the paramilitaries can seek recourse there, relatives of those disappeared by guerrillas and the official security forces must turn to the National Search Commission, thus reinforcing divisions. Moreover, many victims' groups, including Asfaddes, strongly opposed the Justice and Peace law because of its inadequate provisions for truth and justice, and do not recognize its institutions, including the National Commission for Reparation and Reconciliation (CNRR), which offers services to victims.

According to Yanette Bautista, director of the Colombian nongovernmental organization Nydia Erika Bautista Foundation, the Justice and Peace unit has become the primary focus for forced disappearance cases. She contends that while this unit gains strength, the Attorney General’s human rights unit, which was originally tasked to deal with cases of forced disappearances, has been weakened. “There is incoherence between what the government said the Justice and Peace law was and what it is becoming,” Ms. Bautista said. This focus raises problems for the cases where the victim was disappeared by the guerrillas or the armed forces, as the human rights unit is weak and the JPL unit does not have jurisdiction.\(^{22}\)
Strengthening Victims’ Rights: Essential for Justice

The rights of victims of forced disappearance to participate fully in the search for the location of their loved ones and in the search for justice is acknowledged in the abstract in Colombia but often not fulfilled in reality. This is true both in the transitional Justice and Peace process and with regular judicial institutions. The relatives of disappeared persons (as opposed to the disappeared themselves) are not always properly understood to be victims, and indeed Law 589 does not recognize family members of the disappeared as victims. Victims often do not have sufficient familiarity with the legal process to properly exercise their rights, and government officials often do not understand their obligations to include victims in what they perceive as technical procedures. Judicial authorities often fail to understand that victims’ relatives can provide crucial evidence for carrying out searches for the disappeared and resolving crimes. While human rights groups provide legal support, it is limited, and the associations of relatives of the disappeared lack resources and are unable to provide coverage to many rural areas.

Providing security and protection to victims “may be the most crucial issue that influences the level of inclusion and participation of victims in judicial and search processes,” according to the International Commission on Missing Persons. Yet although protection systems exist, they are scarcely applied. Moreover, threats and harassment against relatives of the disappeared, lawyers and the groups that accompany them are almost never successfully investigated and prosecuted.

It has been difficult to bring cases of forced disappearance to justice. With some exceptions, as in the Palace of Justice case, judges and prosecutors are reluctant to prosecute cases of forced disappearance that occurred before the passage of Law 589 in 2000, establishing forced disappearance as a crime for the first time. Many disappearances are committed by state agents, who have greater capacity to cover up their crimes. Many forced disappearances attributed to the paramilitaries rely solely on declarations of demobilized paramilitary members participating in the Justice and Peace process, and more thorough investigations are not conducted. As in extrajudicial execution cases, many disappearance cases are lodged in the military justice system, where they do not progress, instead of being transferred to the civilian courts where, according to Colombian jurisprudence, they belong. The new accusatory system does not provide adequate status for victims and their lawyers to participate in legal proceedings. Under the old system, victims and their lawyers were a motivating factor that moved cases such as disappearances and extrajudicial executions forward. Under the new system, only the government prosecutors have legal standing, and they can be less motivated than the victims’ lawyers, often human rights advocates. Finally, many cases of forced disappearance are reported years after the fact or never reported at all.

However, there could be improvement with the passage of Law 1408 in August 2010, which seeks to “pay tribute to the victims of the crime of forced disappearance and establish mechanisms for their location and identification.” The law is intended to address some of the remaining legal issues for forced disappearance not resolved by Law 589.
The law establishes that family members of disappeared people are considered victims. It creates mechanisms to facilitate the identification of the disappeared through the establishment of a database of genetic profiles of the disappeared. It also establishes the government’s obligation to create “memory sanctuaries” in places where, according to the Attorney General’s office, bodies or remains of victims of forced disappearance are believed to be located. The law also stipulates procedures for providing aid to the family members of the victims of forced disappearance.

Another major pending piece of legislation, the Victims Law, which was presented by the Santos Administration to the Congress in September 2010, will also cover victims of forced disappearance. It establishes the rights of the victims of the Colombian conflict, covering violations carried out by both the illegally armed groups and the armed forces. However, it must still successfully navigate a difficult course through the legislature.

In October 2010, Colombia became the twentieth country to ratify the United Nation’s convention on forced disappearance, allowing the convention to go into effect. This will permit the U.N. working group on forced disappearances not only to receive testimony from Colombia but to carry out investigations, and will provide another potentially useful tool for Colombian advocates and victims. This fulfills a dream and “a whole lifetime of struggle” by movements of families of the disappeared and human rights groups around the globe, and especially in Latin America.

**Counting the Disappeared**

On the second floor of the National Ombudsman’s office sat a young man, with an organized and efficient air, who acts as the coordinator for the National Search Commission. The commission consists of a small staff in four plain rooms, some filled with cardboard boxes of data yet to be entered. With pride and precision, Andrés Peña Andrade showed us the database.

Starting in 2007, the National Registry of the Disappeared was launched and the commission, along with other governmental agencies, particularly the Attorney General’s office, began entering massive records from a variety of sources to create one unified database on the disappeared. Since that time, the Colombian government has made progress on the arduous task of consolidating existing governmental databases along with new data into one more useful and consistent database known as SIRDEC (Sistema de Información Red de Desaparecidos y Cadáveres). All relevant government agencies can access and input information into SIRDEC. Since both reports of disappearances and reports of bodies found are entered into one database, matches can help to identify the disappeared. However, this kind of matching is not possible for the majority of cases of forced disappearance in which remains are skeletonized. Another limitation is that matches must be made manually rather than automatically.
Many of the records are being cross-checked and entered into SIRDEC from another database called SICOMAIN, which now lists over 66,000 disappearances. SICOMAIN will continue to serve as a “warehouse” of historical memory on the disappeared, including cases going back as far as 1938. Cases existing prior to 2007 however are being cross-checked and transferred into SIRDEC, and all new cases are supposed to be entered into SIRDEC. Of the disappearances listed in the various governmental databases, some are duplicates, which are gradually being eliminated.

Disappearances in general have been greatly underreported. The Attorney General’s office, based on its experience in carrying out special sessions to register disappearances in specific conflict zones, estimates that in hard-hit areas some 60 to 65 percent of disappearances go unreported. In the rural conflict areas where many disappearances occur, there are no offices of Medicina Legal (the coroner’s office), and local country doctors have the responsibility to perform autopsies and report them to Medicina Legal’s departmental headquarters. In many cases, due to difficult communications or lack of knowledge about their responsibilities, they fail to do so. Fear is also a powerful disincentive, not only to victims’ families but also to potential witnesses, local doctors, undertakers and local judicial and other government authorities, to reporting on bodies found in the many areas that are still experiencing a raging conflict.

Further complicating efforts to count forced disappearances is the fact that not all the disappeared, of course, are the result of political crimes. People may have run away, ended up in prison or hospitals, have been forcibly recruited, or have been the victim of ordinary crime.

Some of those listed as missing are located alive. However, according to the National Search Commission, “finding a person alive who has been disappeared in the Colombian context is not typical. Generally the victims of forced disappearance are tortured and subsequently executed by their captors, and in the great majority of cases, their bodies remain hidden or disappeared.”

A Statistical Picture of the Disappeared

What can we learn now about disappearances in Colombia from the consolidated database? The picture is still hazy in part because data from past years is still being entered. The number of victims in the database jumped by an average of over 1,000 per month from July-October 2010 alone, for example.

As of November 2010, the consolidated database includes over 51,000 disappearances. Of these, 7197 have been found alive, 1366 have been found dead, 460 are listed as “annulled,” and over 42,000 remain disappeared. Many of the 1366 found dead and the over 42,000 still disappeared may be victims of forced disappearance. The Attorney General’s office has been using the figure of over 32,000 forced disappearances, and the real total could be significantly higher.

Finding a person alive who has been disappeared in Colombia is not typical. Generally the victims of forced disappearance are tortured and executed by their captors.

While there is a category of “forced disappearance” in the database that encompasses over one-quarter of the total, this is likely considerably underestimated. In order to be listed as forcibly disappeared, those entering the data are supposed to consider a set of circumstances that make it more likely the person is a victim of forced disappearance, such as being the relative of a disappeared person, vulnerable to social cleansing campaigns, or a union leader. However, government personnel entering the data must choose between only two categories, “forced disappearance” and “unknown.” Since there is limited information about most cases, they may tend to enter “unknown,” which would then exclude a case from being counted as a forced disappearance. Even the young men who went missing in Soacha, which resulted in widespread media and international attention to the practice of extrajudicial executions, were classified as “unknown,” not “forced disappearances.”
Buenaventura: It’s Hard Even to Get Disappearances Registered

If your loved one is disappeared in Buenaventura, on the Colombian Pacific coast, you have to join a long waiting list before the case is even reported, let alone a search mission launched. For the family of a man we will call Jorge, this reality became heartbreakingly obvious. On September 28, 2009, two days after Jorge had disappeared, the taxi he drove was found abandoned. His family reported the case to the Attorney General’s office, asking for the urgent search mechanism to be activated. They returned eight days later, hopeful that the search might have uncovered some clues. However, they were told that the local Attorney General’s office was overwhelmed by cases and that they couldn’t activate an urgent search, as he would need to be in the national registry to do so and there was a waiting list. To date, the family has received no further information from the Attorney General’s office.

There has been a surge in forced disappearances in Buenaventura, which the authorities say is due to the illegally armed groups disappearing people rather than killing them openly in order to portray a false sense of calm. According to the national registry on displaced people, SIRDEC, 61 people have disappeared in Buenaventura as of August 2010, nearly 20 more cases than the same time last year. Since 2006 when the army’s presence in the port town was significantly increased, there has been a decrease in homicides, but an increase in forced disappearances. Between 2006 and 2009, 363 people were reported missing.

With a waiting list just to register someone as disappeared, there is likely to be a significant sub-registry in Buenaventura. Local nongovernmental groups—and even a local government representative—say that the delays in processing cases of disappearances are due in part to the local Attorney General’s office’s lack of resources, but also due to an apparent lack of interest by some of its staff in processing these cases.

Another reason for the sub-registry is that in many cases those responsible for the disappearance live in the same neighborhood as the victim. People do not denounce cases for fear of reprisal or because they are warned not to search for their loved ones. Miriam, the mother of a local fisherman who went missing, had this experience. “They sent someone to tell me that we should prepare the funeral arrangements and that we shouldn’t look for him because he had been dismembered and dumped in the ocean.”

Several mass graves have also been found in Buenaventura this year, and many more are believed to exist.

A spokeswoman for the local government, Ingrid Arroyo, said the discovery of these mass grave sites reflects the enormous problem of disappearances and impunity in Buenaventura.

Bodies are also often thrown into the waterways and mangroves around Buenaventura. Indeed, one small island off the mainland is known as “Skull Island.” Locals believe there is a clandestine cemetery there and fishermen have discovered bones and clothes caught in the mangroves around the island.

Since so much data has yet to be entered, it is hard to get an accurate picture from the database regarding how disappearances have changed over time. The current data indicate that overall disappearances climbed from 1993 to 2003, dropped from 2004-06, and then more than doubled in 2007, decreasingly slightly in subsequent years but remaining at a high level to the present. The improvements in counting starting in 2007 are likely a factor explaining the increase in that year. Forced disappearances, according to the National Search Commission, were highest during 2000 to 2003 (the first four years of U.S.-funded Plan Colombia; forced disappearances listed for those years are 1070, 1215, 1529, and 1271). The official database reveals that despite reductions, forced disappearances are still currently a serious problem: 499 forced disappearances in 2008, 437 in 2009, and
Searching for the Graves, including in Cemeteries

The search for the disappeared involves developing the consolidated registry and carrying out legal investigation on each of tens of thousands of individual cases. But, according to the National Search Plan, it should also involve a systematic search of the places where the bodies of the disappeared may be buried.

Forensic experts have suggested aerial photos and satellite mapping, particularly of riverbanks and certain ranches and other areas in Colombia’s conflict zones, in order to identify areas where there may be mass graves. So many bodies have been believed to have been dumped in rivers that a forensic expert suggests using computer modeling to map trajectories for bodies in the Magdalena River, for example, to identify areas where the bodies might be found. But a large number of Colombia’s disappeared are likely to be found in Colombia’s official cemeteries.

Many unidentified bodies (known as “NN”) are buried in the nation’s cemeteries. This does not mean that they are not victims of crimes. All over Colombia, the illegal armed groups and the official security forces used legitimate cemeteries as the dumping ground for their victims, just as they used clandestine gravesites on haciendas and riverbanks. Indeed, the Attorney General’s office has begun to survey cemeteries and to date has received information regarding 10,000 NN remains.
In 2009, the independent forensic group Equitas published a study of five cemeteries in Antioquia and Magdalena Medio. It concluded that bodies were being dumped on the outskirts of cemeteries by perpetrators, or by others who found bodies elsewhere and took them to the cemetery, and undertakers would then “do the favor” of burying the bodies as NN. In addition, members of the armed forces would bring bodies that it claimed were killed in combat.

Cemeteries lacked oversight and procedures to ensure that bodies were properly identified.

The Equitas study found that undertakers were often not aware of the proper procedures for preservation and tracking of buried remains of unidentified bodies, nor that they should notify authorities so that NNs can be entered into the national registry of cadavers. Clothing, which could provide information, was sometimes destroyed or disposed of separately. Cemetery records were inaccurate, with more bodies buried than entered in the registries. The NNs were often not entered in the SIRDEC database, so could not be crosschecked by those searching for the disappeared. Because the

The Macarena Grave Site

After Everardo Borda was killed by the army on January 16, 2008, his body was allegedly dumped in a clandestine grave site directly beside the military base of the Rapid Deployment Force (FUDRA) in Macarena, Meta, in central Colombia. According to the United Nations High Commissioner for Human Rights’ office in Colombia, the cemetery contains approximately 446 bodies of people claimed by the official security forces as killed in battle between March 2002 and June 2010, who are buried as “NN” or without names in the cemetery. Initially, Colombia’s Inspector General had reported an even higher number of NN. The United Nations suggested that these bodies come from the municipalities where the Omega Joint Task Force—which the FUDRA is part of—operates in the departments of Meta, Caquetá and Guaviare. Efforts by the Attorney General’s office to match bodies to disappeared people sought by their relatives in Macarena suggests that many of the NN are not from the immediate surrounding area but were brought from farther afield. The Omega Joint Task Force has received considerable U.S. support since 2005 and the municipality of the Macarena and the surrounding region has been a focus of U.S.-backed military efforts to recover territory from the guerrillas.

Everado’s father, Gerardo Borda, searched for his son for a year before he was finally notified that his body had been found in the grave site—and that the army had allegedly left him there claiming he was a guerrilla killed in combat. Mr. Borda, who is now sick and struggles to have the energy just to tell this story, says he doesn’t have the money to give his son a proper burial. But, he says that the deep pain he feels is shared by many other victims in the Macarena.

Recovery of the Macarena and the surrounding region from the left-wing FARC guerrillas has come at an enormous cost for the civilian population, which has often been stigmatized as belonging to the FARC. Dumar Zapata tells how he returned home on July 4, 2007 to find his house occupied by the army. The soldiers refused to allow him in and when he asked for his wife, Maria del Socorro, they told him that he should go look for her with the guerrillas, seeing as she and Dumar were part of the FARC. A few days later when he was allowed into his house, he found it destroyed and drops of blood across the
cemeteries had inadequate space, sometimes NNs were exhumed and reburied in mass graves. The cemeteries had little security, so that graves could be robbed or remaining evidence destroyed.43

The discovery of a large number of bodies in unmarked graves in La Macarena, Meta, is a disturbing example of this phenomenon. In 2009, a delegation of European members of parliament denounced the existence of up to 2,000 bodies in a mass grave—the number an initial Inspector General statement had cited.

The Colombian government was proudly using this area as a showcase of how the army, backed by U.S. aid and training, could retake and hold territory from the guerrillas. The Colombian government and U.S. State Department downplayed this news, explaining that the bodies were in a proper cemetery, buried in individual graves and fewer than the initial reports. Victims associations, human rights groups and members of the Colombian Senate’s Human Rights Commission organized a special public hearing in La Macarena on July 22, 2010 on “The Humanitarian Crisis in Meta,” which was

kitchen floor. He went searching for his wife and was finally told that a body by that description had been dumped in the mass grave site in the Macarena. The army claimed she was a guerrilla killed in combat.

The grave site in the Macarena is located between the official cemetery and the army base. It is full of crosses with nothing more than the dates of when the body was buried. Around 25 new graves have allegedly been filled this year in the site. Local human rights groups have been denouncing the existence of the clandestine grave site for over a year, but only now with international pressure are their concerns being heard. Only recently has the Attorney General’s Crime Scene Investigations Unit begun working at the scene. Regional human rights groups claim there may be other unmarked grave sites in the municipalities of Granada and Vista Hermosa.

Even if the bodies the army is dumping in this site belong to guerrilla soldiers killed in combat, it is still a violation of Colombian law and international humanitarian standards to leave their bodies in unmarked graves, without identifying the deceased, medical examinations to determine the cause of death, reporting to the relevant authority and then burial, if it is not possible to return the body to family members.

But, according to testimonies from those living in the area, it is quite possible that many of those unidentified bodies may belong to innocent civilians killed by the armed forces.

According to the United Nations High Commissioner for Human Rights office, “The lack of transparency over where the bodies came from, their identity and the circumstances of the deaths of people who are buried without identification in the cemetery of Macarena are particularly disturbing given the extensive practice of extrajudicial executions in the country reported by the Office in its annual reports since 2004…. The Department of Meta has been the department with the second-greatest number of extrajudicial executions investigated by the Attorney General.”44

It is imperative that these alleged extrajudicial executions be investigated and the Macarena mass grave site be carefully exhumed, and the bodies identified and remains returned to families.
attended by some 800 people, including relatives of the disappeared and killed. In response, then-President Uribe visited Macarena on July 25 and said: “Here the enemies of Democratic Security came a few days ago to increase slander against the Nation’s Army … terrorism uses a combination of forms of struggle, while some spokespersons call for peace, other spokespersons come here to Macarena to look to discredit the security forces and blame it for human rights violations.” The legislators and human rights defenders declared that the President’s statements put them in danger. On August 13, Norma Irene Perez, the president of the Human Rights Committee of La Unión in Macarena and a member of the organizing committee for the July 22nd hearing, was found dead.

The fact that the bodies were in a cemetery or in individual graves does not rule out evidence of massive human rights violations. According to the United Nations High Commissioner for Human Rights (UNHCHR) office in Colombia, which carried out an on-site investigation, an estimated 446 bodies are buried as NN in the Macarena cemetery, many without the proper procedure for autopsy, investigation of the scene where the killing took place, identification, and burial. The UNHCHR’s report asserted that the bodies were claimed by the official security forces as killed in battle between March 2002 and June 2010 and came from the municipalities where the Omega Joint Task Force operates in the departments of Meta, Caquetá and Guaviare. The cemetery was located between the army base and airstrip. The UNHCHR explained that the armed forces are supposed to adhere to certain procedures post-mortem to identify how people were killed, including when killed allegedly in battle, and to identify who they were, yet “especially before May 2007, the judicial controls over reported areas of combat and inspections of bodies were deficient.” The UNHCHR further pointed out that 588 disappearances are registered with the National Search Commission in Macarena and surrounding municipalities from 2002 to mid-2010, a total which it notes may not represent the full scope of disappearances in the zone. Finally, the UNHCHR indicated the problem was more widespread than this one cemetery, noting “the existence of a great number of unidentified people who are buried in other cemeteries in the country.”

In Colombia, the task of surveying areas for potential clandestine grave sites is scarcely begun. Little security protects existing sites, and evidence is disappearing.

**Humanitarian Assistance and Psychological Support**

Many family members need economic assistance after their loved one is disappeared, especially if that person was the economic provider for the family. Consuelo de Jesus David tells of how she, like many other women, struggled to feed her family after her husband was disappeared. When he went missing, she was forced to abandon their farm and had no way to provide for her family. She could not access government aid, as to do so she would have to report her husband as dead.

Like all victims of the war, families of the disappeared have the right to receive assistance from the governmental agency Acción Social. However, to access this assistance, Acción Social requires them to present the death certificate of their loved one and in order to do so they need to officially declare that the person is dead. This causes even more trauma for the family, as they actually have no idea whether their loved one is dead or alive. Furthermore, once they
Consuelo de Jesus David’s weathered face is overcome by tears as she tells of how guerrilla soldiers disappeared her son and husband 13 years ago. Consuelo’s son, Giraldo, 25, was finishing high school in Mutata municipality in Urabá province when he and his father, a poor farmer, were disappeared in December 1997. Consuelo reported the disappearances to the army and government authorities, but they offered no help. So, Consuelo set out by herself to look for her loved ones.

But then the guerrillas threatened her and she was forced to abandon the family farm and flee with three of her young children to Medellín. Without her husband and eldest son to provide for the family, Consuelo has struggled ever since to feed her family. Nearly thirteen years after her son and husband were taken, Consuelo still often wonders if they are alive. That is the problem with not knowing, she believes; you are never complete, never able to bury the dead. Consuelo also feels constant fear for her remaining children, concerned that they too could be taken from her.

Like many other women whose love ones have been disappeared, Consuelo has received psychological and emotional support from Madres de la Candelaria. The nonprofit was started by Teresa Gaviria in March 1999 after her only child, Cristian Camilo Quiróz Gaviria, 15, was disappeared in 1998 by the paramilitaries. Teresa has received numerous death threats for her tireless work to bring attention to the crime of forced disappearance and its impact on family members, while helping women search for the truth of what happened to their loved one. The organization unites victims of the different armed groups, bringing them together in a common quest. They join in a public demonstration every week since 1999 by a church in a plaza in Medellin to demonstrate that the families of those disappeared and kidnapped will not rest until they find the truth.

The search for truth is a long and painful journey and for many it yields no results. Ana de Dios Zapata, a staff member at Madres de la Candelaria, has been doggedly searching for her brother Humberto since he was disappeared on January 14, 2003. The paramilitaries who took Humberto threatened Ana many times, warning her that if she didn’t stop looking for her brother she would be the next one to vanish. She wasn’t deterred.

“I felt like I was on the brink of insanity. I went to where they [the paramilitaries] had taken him. I took boots and a spade with me, ready to dig up his body if I had to. I was crazy, I just wanted to have his body at least so we could bury him,” she says, recounting the months after Humberto, a taxi driver, went missing.

It wasn’t until a Bloque Metro paramilitary leader gave testimony in the Justice and Peace process that Ana learned the truth. She learned that her brother’s car had been stopped in the town of Cristales and that he and the other passengers had been tortured, killed and their bodies burnt along with tires—a method used to get rid of evidence. Ana has gone four times since then with the Attorney General’s forensic unit to the site where her brother was killed to try to find some of his remains. It wasn’t until the final visit that they found teeth that they are now examining to see if they belong to Humberto.

“There seems to be nothing left, only teeth,” Ana says in tears. “But, until I see real evidence I can’t rest.”
to accept as proof for enrollment a certificate showing that the disappeared person has been entered in the government’s database of the missing. However, it remains to see if this will be vigorously implemented.

Colombian organizations representing family members of the disappeared claim that Acción Social’s requirement of a death certificate is unnecessary and discriminatory. For example, families of people who have been kidnapped are not required to provide a death certificate nor such extensive paperwork. Laws that establish the government’s obligation to provide humanitarian assistance for victims of the conflict do not explicitly refer to victims of forced disappearance, as they do with victims of kidnapping, displacement, forced recruitment and terrorist attacks.50

The Inter-American Human Rights Court has referred to the forced disappearance of a family member as a form of torture. Indeed, this crime brings unimaginable suffering for family members, with loss magnified by uncertainty and lack of closure. Most family members of the disappeared are women; wives, daughters, grandmothers and sisters. The disappearance of their loved one often means they have to care for their families while also taking on the role of provider. They are often threatened and intimidated for reporting the forced disappearance of their family member and many have been forcefully displaced as a result.

Despite the severe and ongoing psychological impacts of forced disappearance, the Colombian government currently does not offer any specific programs for family members. In comparison, they do provide such programs for victims of forced displacement and for the families of those who have been kidnapped. As a result, victims’ families must turn to the few nongovernmental groups that are working on forced disappearance, but these are small organizations with limited resources. The majority of the U.S. government’s support for Colombia’s victims has been directed through Acción Social, thus meaning that currently very little of this aid is reaching families of the disappeared.

Conclusion: Breaking the Silence

There are some advances in Colombia in addressing the problem of disappearance, from the framework established by Law 589 to the creation of a National Search Plan, consolidation of a database on the disappeared and recent passage of Law 1408. These advances provide an institutional framework so that victims can begin to exercise and benefit from rights that too often remain on paper. Obtaining even these tentative achievements has been a monumental task. Every step along the way, according to veteran human rights lawyer Carlos Rodriguez Mejía, “Victims have fought for the laws and mechanisms that are now making possible some advances regarding the disappeared. But it has been years of struggle to get to this point.”51 And still, from Colombia’s fields and streets, people continue to vanish.

The recent history of forced disappearances in Colombia is a cautionary tale for the United States. Measures such as USAID funding for victims’ rights education, government and independent forensic work and other human rights programming, as well as U.S. diplomatic pressure on the Colombian government to end and punish extrajudicial executions and forced disappearances committed by its security forces, are helping to address these human rights crimes. But the military assistance and training the United States provided—and continues to provide—strengthened an army that greatly escalated forced disappearances and extrajudicial executions, and continued collaborating with or turning a blind eye to paramilitary violence, during the high water mark of U.S. funding. The U.S. government must ensure that all its policies help to curb human rights abuses and support victims in their quest for truth and justice.

Along with the recommendations included below addressed to the Colombian and U.S. governments, there’s a vital role to be played by scholars, journalists, faith-based organizations, and society at large. Colombia’s disappeared have been virtually invisible. For too long, the relatives of the disappeared and the few associations and human rights groups that accompany them have labored without adequate acknowledgment and support. It is long past time to help them break the silence.
Recommendations

To the Colombian government:

- Strengthen the National Search Commission by ordering high-level representatives from the offices of the Attorney General, Ombudsman, and Inspector General to attend its meetings and by ordering those agencies to fully implement its recommendations. Ensure that relevant agencies, including the Attorney General’s office, increase their inter-institutional coordination to locate and identify missing persons. Encourage the National Search Commission to collaborate with all of the organizations working on forced disappearance and representing the families of this crime. Establish disciplinary measures for government officials who willfully neglect their duties to implement searches and to order protection measures for witnesses.

- Strengthen and provide adequate budget resources for the Virtual Identification Center.

- Design a strategy to implement all of the phases of the National Search Plan, ensuring it benefits all victims of forced disappearance without discriminating on the basis of the date when the disappearance occurred. Draw upon the lessons of the Casanare pilot project to strengthen the search process. Train staff from the Attorney General’s human rights and Justice and Peace units regarding the National Search Plan methodology.

- Strengthen the SIRDEC centralized database by ordering all relevant government agencies to fully participate, dedicating adequate resources to enter new information as well as the extensive backlog. Periodically review data collected to ensure data results in matches, and ensure a regular, systematic crosschecking of disappeared with bodies found. Train government agencies to better identify characteristics of “forced disappearance.” Produce public analysis of the changing statistics of forced disappearances on the National Search Commission website, including making it easier to see annual trends in disappearances, so as to catalyze responses to this problem and identify public policy improvements needed.

- Provide effective protection for the relatives of victims of disappearances, witnesses in these cases, government investigators and exhumation teams and nongovernmental organizations working on this issue. Vigorously investigate and prosecute threats as well as attacks against victims and witnesses.

- Develop the regulations for and fully implement Law 1408 in broad consultation with victims’ groups, nongovernmental organizations working on forced disappearance, the International Committee of the Red Cross, and the office of the UN High Commissioner for Human Rights. Ensure broad, deliberate consultation of victims’ rights legislation to guarantee the rights of all victims.
Design and implement a government-wide strategy created in consultation with victims’ families, human rights groups and victims’ associations, to guarantee the rights of victims during searches, data collection, exhumations and judicial proceedings, the minimum requirements for which are included in Law 1408. Provide via the Ombudsman’s office legal support for relatives of the disappeared. Ensure that victims linked to investigations in the human rights unit receive equal treatment to victims linked to investigations in the Justice and Peace unit (which are limited to victims of the paramilitaries).

Ensure that relatives of disappearance victims can more easily and quickly access humanitarian assistance, without requiring them to declare their loved one’s death in absentia. Train Acción Social staff to ensure full implementation.

Make visible the tragedy of disappearance in Colombia by the establishment of Memory Sanctuaries, as established in Law 1408, and also by other public commemorations, artwork, memorials, media and official reports on the measures taken to end this crime, in consultation with victims and human rights groups.

To the U.S. government:

The U.S. Embassy and State Department should encourage the Colombian government to strengthen and allocate sufficient resources to the National Search Commission and the Virtual Identification Center and implement the National Search Plan.

The U.S. Embassy and the State Department should urge the Colombian government to develop the regulations for and fully implement Law 1408 in broad consultation with victims’ groups, nongovernmental organizations working on forced disappearance, the International Committee of the Red Cross, and the office of the UN High Commissioner for Human Rights.

USAID should expand its existing funding addressing forced disappearances, including to associations of relatives of the disappeared, as well as human rights groups and independent organizations with forensic and missing persons expertise, to provide: a) education on how victims of disappearances can exercise their rights and how the search and identification process functions; b) legal support for the victims of disappearances; and c) humanitarian and psychosocial support to victims. USAID should use its funding to leverage collaborative efforts between nongovernmental groups, government agencies and academia to elevate societal awareness about and develop improved public policy regarding forced disappearances. The U.S. government should expand its funding for governmental/nongovernmental initiatives and technical support and training to collect DNA samples from family members of the disappeared, investigate cemeteries where NN are buried, conduct exhumations and carry out other essential forensic tasks.
USAID should also continue to provide funding to strengthen independent forensic organizations that can offer independent forensic analysis to identify bodies and the cause, manner and circumstances of death.

- USAID should urge Acción Social to ensure family members of the victims of forced disappearance can easily access humanitarian assistance and psychological support, including without providing a death certificate.

- The U.S. State Department should use the human rights certification process to encourage the Colombian government to make progress in investigating and prosecuting both old and new cases of disappearances in which security forces are credibly alleged to be involved, directly or through collaboration with illegally armed actors, as well as threats and attacks against relatives and victims’ associations. The State Department should suspend assistance to units of the Colombian armed forces where such forces are credibly alleged to be involved in extrajudicial executions and disappearances, as per the Leahy Law, enforcing this law more vigorously than is currently the case.

To Academia, Media and Civil Society:

- Colombian human rights groups, working closely with associations of relatives of the disappeared, should carry out collaborative investigative work on forced disappearances, much like the collective work on extrajudicial executions which helped to focus national and international attention on the “false positive” scandal. International human rights groups can help by disseminating these studies, participating in international missions and carrying out their own investigations.

- Colombian and international scholars and journalists, by focusing attention on this still overlooked issue, could help illuminate and propose solutions to the tragedy of forced disappearance and awaken broader Colombian society to its dimensions and human impact.

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Endnotes

2 Interview with Gloria Gomez, executive director of Asfaddes, Bogotá, July 8, 2010.
8 Founded in 1984 as a result of peace negotiations between the government of Belisario Betancur and the FARC guerrilla group, several thousand members of this political party have since been assassinated or disappeared.
9 Asociación de Familiares de Detenidos-Desaparecidos, Veinte Años de Historia y Lucha, Asfaddes: Con todo el derecho, 2003, p. 74.
10 Interview with Gloria Gomez, executive director of Asfaddes, Bogotá, July 8, 2010.
11 Interview with Andrés Peña Andrade, Coordinator, National Search Commission, Bogotá, July 2010.
Breaking the Silence


Interview with Equitas board member Carlos Rodriguez Mejia, July 9, 2010.


17 “The reality in the field is that there is a failure to properly document the characteristics of the entire crime scene due to security reasons, time restraints and lack of logistical and operational resources. This contributes to an exhaustion process that focuses on the recovery of mortal remains, with insufficient documentation of other evidence that could be important for establishing the circumstances of the crime, linkage among crimes/sites, or the probable perpetrator. The failure to identify and record evidence of all crimes (such as torture or the practice of using blindfolds and ligatures) will also contribute to a loss of information on the basis of which individual crimes may be linked together or indicate the probable perpetrator.” International Commission on Missing Persons, Colombia’s Response to Enforced Disappearances, April 2008, p. 25, http://www.humansecuritygateway.com/documents/ICMP_Colombia_ResponseToEnforcedDisappearances.pdf

18 Information from above two paragraphs is from Fundación Nydia Erika Bautista para los Derechos Humanos, Caso Gallaraga/Putumayo.


20 State Department, Memorandum of Justification Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces, 9 September 2010, p. 55.

21 Ibid., p. 55.

22 Interview with Yarette Bautista, director of Fundación Nydia Erika Bautista, July 2010.


25 The registry was formally mandated by the forced disappearance Law 589 of 2000, but creating it only gained momentum once the law’s regulations were passed in 2005.

26 The agencies that can have full access to SIRDEC are: the participants in the National Search Commission, namely the Attorney General’s office, Ombudsmen’s Office, Vice President’s office, Coroner’s office (Medicina Legal), Inspector General’s office, Fondelibertad, and victims association Asfaddes and nongovernment human rights group Colombian Commission of Jurists; the Defense Ministry, DAS Intelligence Agency, prison system (INPEC), National Statistics Agency (DANE), Social Protection Agency and National Civil Registry; and judicial police. Comisión de Búsqueda de Personas Desaparecidas, Instrumentos de Lucha contra la Desaparición Forzada, febrero 2010, p.167.

27 A public version of the database is available at www.medicinallegal.gov.co, so that victims, or at least their representatives, can access the data. The publicly available data includes the names of victims and the steps that government agencies are taking to locate them.


29 Ibid., p. 194.

Back cover art: “Mis girasoles,” “My Sunflowers.” By Blanca Nieves Meneses. Reproduced by permission from Lutheran World Relief. On January 1, 2001, armed paramilitaries captured Ms. Nieves Meneses’ four daughters. They were never seen again. To honor their memory and grieve their loss, their mother, Blanca Nieves Meneses, stitched this quilt from their clothing. She calls her daughters “my sunflowers.” See the story of Yenny Patricia Galárraga, Mónica Lilian Galárraga, Nelsy Milena Galárraga and María Nelly Ramirez Meneses in box on pages 12 and 13.

This quilt and front cover are from “Remember Me” a project of Lutheran World Relief (LWR) created in collaboration with Colombian partners: Fundación Manuel Cepeda Vargas, Agenda Caribe and Asociación MINGA. “Remember Me” contains original artwork inspired by the experiences and testimonies of victims of violence in San Onofre, Sucre and the province of Putumayo, particularly the communities of La Hormiga and San Miguel. Lutheran World Relief is presenting “Remember Me” at venues throughout the United States. To learn more visit: remember.lwr.org
See the story . . . in box on pages 12-13.