



Report for the UN Committee on Social and Cultural Rights about Colombian political exiles and their rights before the implementation of the peace agreement between the Colombian state and the FARC-EP Geneva, Switzerland

18 and 19 September 2017

Constituent of exiles who have been/are pursued by the Colombian state

About our association

We are the “Constituent of political exiles who have been/are pursued by the Colombian state” (Constituyente de Exiliados/as Políticos Perseguidos por el Estado Colombiano), an international non-profit association, which comprises a great number of people who have been forcibly displaced outside of national borders to the whole world, and which has its main seat in Brussels, Belgium.

The big boom of Colombian exile began in 1980. Since then, for over 37 years, we have waited for a recognition as political subjects, as well as for a dignified return. Long years, in which we exiles have developed a great deal of solidarity activity with the Colombian social and popular movement from abroad, always with the goal of seeing Colombia in peace and with social justice.

The hope of achieving the long-awaited peace rejoiced us on August 26 of 2012, when the Colombian government and the guerilla of the FARC-EP announced the beginning of the peace process in Havana, Cuba. Therefore, the political exiles called an assembly in September 2013 in Paris, France. We concluded that our condition as direct victims of the social and armed conflict made it necessary to participate in the peace process, specifically in the fifth point of the established agenda, regarding the victims.

In November 2014 in Bilbao, Spain, we organized the first meeting of Exiles, with the
Contac email: info@exiliocolombiano.org
Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)
Facebook: Constituyente Exiliados/as Políticos
Web site: www.exiliocolombiano.org



participation of 100 people, representing associations, cultural groups, political organizations, both groups and individuals. There, we took the decision to constitute ourselves as an organization in pursuit of our rights, naming us “Constituent of political exiles who have been/are pursued by the Colombian state”. In this meeting, we gathered the propositions of exiles in over 15 countries and submitted them to the United Nations in Geneva, Switzerland and to the Colombian government, in order for them to be delivered to the negotiating table in Havana, Cuba.

In March 2017 we organized the second meeting of the “Constituent of political exiles who have been/are pursued by the Colombian state” in Berlin, Germany. The assembly gathered opinions and propositions of the exiles from the Spanish state (Madrid, Valencia, Bilbao, Córdoba), Switzerland, Belgium, Sweden, Italy, Austria, United States of America, Great Britain, Venezuela and France. As direct victims of the conflict, we exiles spoke for a resolute support of the implementation process of the final agreement, signed on November 24 of 2016 in the Colón theatre, fundamentally the point regarding victims and the creation of a truth commission, since we were told insistently that the “victims are the central point of the agreement”.

We point out the responsibility of the Colombian state through its acts and/or omissions, in our forced displacement outside national borders. We consider that the State must indemnify us in the implementation of these agreements for the material losses (consequential damages and loss of profits), as well as for the moral and psychological damages it has inflicted upon us. Equally, we agreed among others on the elaboration of the Statute of the Exile, as a draft legislation for the Congress of the Republic of Colombia. It should gather the main claims of political exiles regarding truth, justice, non-repetition, dignified reparation and the return with guarantees.

On the other hand, our exile association develops a series of activities aiming the organization of people and families who, being victims pursued by the Colombian state and paramilitary groups, were forced into political exile. Furthermore, in order to guarantee a complete peace, we support the peace conversations between the Government and the ELN insurgency, which are currently taking place in Quito, Ecuador.

A Nation in exile

Contac email: info@exiliocolombiano.org

Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)

Facebook: **Constituyente Exiliados/as Políticos**

Web site: www.exiliocolombiano.org



The exerted “violence” in Colombia over the past 70 years, with an armed, political and social conflict since 53 years, aimed at the social, trade union and political opposition movement, with the purpose of destabilizing or banishing the exercise of claims regarding social rights, which historically have been considered as a “threat for the State security”. Therefore, many social and political leaders systematically became the target of state agents and paramilitary groups. This violence has been exerted through the implementation of the “internal enemy doctrine”, which constructed those, who just intended to oppose, as enemies.

The “violence” and the social, armed and political conflict forced hundreds of thousands of victims into individual and collective exile, as a modality of forced displacement beyond national borders and the only possibility to safeguard their physical and psychological integrity from threats and/or fundamental Human Rights violations. Therefore, exile becomes a fact and a reality, which is impossible to hide, and cannot longer be ignored in the contemporary history of Colombian political violence and armed conflict.

For the “Constituent of political exiles who have been/are pursued by the Colombian state”, political exile is a State crime. Expatriation is the result of violence, exerted through a politics of pursuit and terror strategies against social and political leaders, trade unionists, Human Rights defenders, journalists, teachers, students, environmentalists, and in general, against thousands of base activists opposing the regime.

The United Nations Organization, through the Office of the High Commissioner for Human Rights –UNHCR- is the most important humanitarian protection system for expatriates. According to the UNHCR, until December 31 of 2013, there were 396.633 colombians with a refugee status, allocated in over 51 countries.

To this number we have to add a great number of exiles who were protected with the reufgee status, and who, over the years and facing the impossibility of a dignified return to a contry in peace, had to become citizens of the receiving countries in order to obtain stability and protection for them and their families. Acquiring the nationality of the receiving country implies an

Contac email: info@exiliocolombiano.org

Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)

Facebook: [Constituyente Exiliados/as Políticos](https://www.facebook.com/ConstituyenteExiliados/asPolíticos)

Web site: www.exiliocolombiano.org



automatic removal of the national registers of refugees or asylum seekers.

There are other organizations besides the UNHCR, which study the exile issue. A study carried out by the research team of the “Constituent of political exiles who have been/are pursued by the Colombian state”, for instance, found out that the UNHCR is not the only humanitarian organization mediating for exiles: there are also social and Human Rights organizations, groups of feminists, women, trade unionists, workers, students among others, who have accompanied and received in different programs dozens of thousands of Colombians.

This research maps the geographic location of Colombian exile as follows: over 144.000 exiles are in North America, 92.000 in Central America, around 580.000 in South America, 24.000 in Europe, 1.050 in Asia and 680 in Africa. Summed up, this results in 841.050 Colombian exiles.

Furthermore, the study shows that the exiled come from over 701 municipalities in Colombia, which correspond geographically to the territory of political and armed conflict.

These numbers are alarming: around 225.000 people have been born in political exile outside our country: they are the children and grandchildren of exile, and the reunified families and/or families in the process of integration in exile. Added to the total of Colombian exiles, this exceeds a million people, a population which we name “**a Nation in exile**”.

Furthermore, it must be noted that a great amount of people are not included in this numbers. On one hand those people, who fled the country because of violence related to the internal conflict, but preferred to construct themselves as migrants in order to break any links to a painful or traumatic event, which could perpetuate a vulnerability or danger situation. On the other hand, most of the victims in exile are unaware of the legal framework of international protection granted by the refugee status. This means, that although they are victims, they don't know that they could be recognized as such.

We cannot fail to mention the severe consequences of exile from a political and social perspective. First, exile breaks processes of social organization and qualification of groups in political struggle, which weakens mobilization and establishes a collective discouragement. The

Contact email: info@exiliocolombiano.org

Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)

Facebook: [Constituyente Exiliados/as Políticos](https://www.facebook.com/ConstituyenteExiliados/asPoliticos)

Web site: www.exiliocolombiano.org



exiled suffers simultaneously the impotence of not being able to keep on fighting for his/her ideals, and of not being able to contribute to the social organizations, to which he/she belonged.

Second, exile breaks individual and familiar processes, deriving from the social and cultural uprooting in Colombia. The exiled face major psychosocial problems as a consequence of violence and social and armed conflict, as well as of the hardships of social and professional integration in the receiving country.

It is necessary to also stress on the **re-victimization**, that we exiles have been subjected to. Since 2004, under the government of Álvaro Uribe Vélez, which the so called “Operación Europa”, the DAS (Political secret service) spied on hundreds of exiles, officials of European institutions, the UN and at least twenty Human Rights organizations in Spain, France, Switzerland and Belgium. Regarding this issue, there are two criminal accusations in Brussels and in Madrid against Álvaro Uribe, Jorge Noguera and Germán Villalba, who are accused of international espionage. Currently, we are concerned to note not only that the government of Juan Manuel Santos is spying on organizations, European citizens and exiles, but also that the paramilitary machinery of terror and death has been exported to receiving countries of the exiles. This is the case in Madrid, Spain, where paramilitaries threatened two members of our association, among them our vice president. We have denounced this to the competent authorities. To this day, this process of espionage and death threats against exiles remains in total impunity.

In spite of the peace agreement between the Colombian state and the FARC-EP, the persecution, threats, forced displacement and targeted killing of social leaders, political opponents, Human Rights defenders and insurgents, who were granted amnesty and pardon, as well as their family members, has not ceased. So far, in 2017 until July 19 we have the outraging number of 56 murdered: 41 social leaders, 6 guerilleros who were granted amnesty and/or pardon and 9 of their family members.

These factors, among others, prove that the adequate conditions for the protection of the lives of exiles, who want to return with guarantees of truth, justice, reparation and non-repetition, do not yet exist.

Contac email: info@exiliocolombiano.org
Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)
Facebook: **Constituyente Exiliados/as Políticos**
Web site: www.exiliocolombiano.org



Implementation of the Final Agreement between the Colombian government and the FARC-EP

The fifth point regarding victims of the conflict, establishes the *“integral system of truth, justice, reparation and non-repetition”*, including the special peace jurisdiction and the commitment on Human Rights (*“Sistema Integral de Verdad, Justicia, Reparación y No Repetición”*, incluyendo la *Jurisdicción Especial para la Paz; y Compromiso sobre Derechos Humanos (SIVJRNR)*). It begins with the following statement: **“The compensation of the victims is central to the agreement between the national government and the FARC-EP”**. For that purpose, we must adhere to the fifth point of the agreement, which alludes to the “Declaration of principles”, from June 7 of 2014.

The above means that the implementation of the agreement demands the recognition of all the victims of the armed conflict and the obliged application of the Integral system of truth, justice, reparation and non-repetition, SIVJRNR. The conglomeration of political exiles is a part of the total number of victims of the armed conflict. Therefore, it must be compulsorily acknowledged as such and to be recognized with all of the rights, which emanate of the condition as victim.

As stated by the fifth point of the final agreement, the victims have receive a “differential” treatment. The political exiles are a victim collective with specific characteristics, which are not applicable to the general universe of victims. This requires particular dispositions in order to satisfy their rights, taking into account their specificity. Not doing so would leave a rather big collective of victims outside of the implementation. This would consequently mean an incomplete implementation and a non-fully compliance of the Peace Agreement, which would be inadmissible.

As we told the negotiating table in Havana, and have repeatedly stated in multiple occasions, the law 1448 of 2011 (the “law of victims and land restitution”, processed and approved unilaterally without the participation of victims, or other parties in the conflict, before the peace agreement) does not cover the political exiles. It completely ignores the victims abroad, and only mentions them in the section 204, to establish the State’s duty of informing and guide them in their

Contac email: info@exiliocolombiano.org
Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)
Facebook: **Constituyente Exiliados/as Políticos**
Web site: www.exiliocolombiano.org



rights, irrespective of special circumstances surrounding them. Neither does so the regulatory decree 4800 of 2011; section 149, which fails to consider international forced displacement as a victimizing event, which should be subject of reparation. Therefore, the law 1448 of 2011 is not applicable to the political exiles.

With great concern, the constituent of exiles is observing the non-compliance of the implementation of the peace agreement on the part of the Government regarding the failure to issue laws and decrees, which should be in force by now in accordance with the agreement. This regards subjects such as: land owning, electoral system, democracy, reconciliation of Colombians, security measures for social leaders, Human Right defenders, political opponents, demobilized insurgents, among others, dismantlement of paramilitary groups, the amnesty and pardon law for the release of guerilleros, the construction of housing and social spaces in the “zonas veredales”, where the demobilized insurgents are living, among others.

We greatly value de Second Mission of the United Nations, unanimously approved by the Security Council on July 10 of 2017, to monitor compliance with the peace agreement. This mission is a challenge for the Government, which cannot ignore or breach what was agreed. Doing so would imply a high political cost, not only nationally, but also vis-à-vis the international community, which could consider Colombia as a failed State.

Claims to the Colombian State

In light of both the previous ideas and the frame of mandatory inclusion of victims of international forced displacement (exiles) regarding the implementation of the fifth point of the peace agreement, our association has embarked on the task of developing a “Statute of the Colombian Political Exile”. The goal is to gather the basic claims we have access to because of the unfair pursuit by the State and the paramilitary groups in the context of the political, social and armed conflict. We intent this statute to become a law. Among our claims to the Colombian State are the following:

Contac email: info@exiliocolombiano.org
Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)
Facebook: Constituyente Exiliados/as Políticos
Web site: www.exiliocolombiano.org



Recognition of the exiles

1. Both collective and individual recognition of the exiles as victims of the armed conflict and as political actors in demand of recognition of their rights.
2. That neutral bodies (among them the UNHCR and the IMO) conduct an international census of exiled victims of the Colombian State through its acts or omissions (regardless of the refugee status), with the aim of the recognition of their rights. This census has to be strictly confidential and include guarantees related to the international protection protocols (Geneva 1951).
3. An adequate representation of the exiles abroad as victims of the armed conflict in all processes affecting them regarding the implementation of the peace agreement (specially the fifth point) and any other monitoring and supervisory body of policy implementation.
4. The implementation of a support fund (prescribed in the fifth point of the agreement) for victims of the State in exile that prioritizes social security, labor and social integration, academic qualifications, the right to decent housing, as well as mechanisms of recognition of degrees and diplomas acquired in Colombia, in the receiving country.
5. The establishment of adequate criteria for the integral reparation of all the victims of the social and armed conflict in exile.
6. The implementation of the agreements and programs to facilitate family reunification with the governments of the receiving countries, for those who decide against voluntary return.
7. The cessation of espionage and pursuit operations, as the “Operación Europa” and others, which are still taking place against exiles. The respect for the right to life, personal integrity, freedom and privacy.
8. Special permanent protection and safety guarantees for the people covered by temporary shelter, after their return to Colombian territory.
9. Access to the intelligence files within the framework of international operations against exiles and NGO's.

Truth, Justice and Reparation for the exiles

Contac email: info@exiliocolombiano.org

Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)

Facebook: Constituyente Exiliados/as Políticos

Web site: www.exiliocolombiano.org



1. The recognition in the national legislation as direct victims of the social and armed conflict of those, who have been granted the refugee status, according to the Geneva Convention of 1951. **This will be sufficient proof to access full rights in their condition as victims of the social and armed conflict.**
2. The realization of symbolic public events, both in national and international territory, for the recognition of the exiles as victims of the armed, political, economic and social conflict.
3. The recognition of the time in exile as a contribution period for pensions and old age, disability and death insurances. If it be the case, the State should assume the payment of the social contributions retroactively, because of its responsibility by acts or omissions for our forced exile and our consequential inability to meet these contributions.
4. The compensation or integral reparation of material, moral and psychological losses, in the amounts established in each individual case of the victims, according to the customary procedures in the contentious administrative proceedings for the valuation of damages.
5. The declaration of invalidity of all destitution, firing and/or contract termination decrees and/or resolutions because of abandonment of office for all public and private servants, who were victims of international forced displacement. As consequence, the possibility to access the same or better posts without solution of continuity, to those they performed until the moment they were forced to leave the country because of the conflict.
6. The implementation of mechanism and spaces, which enables the exiles to participate in the construction of truth and historic memory.
7. The implementation of the Truth Clarification, Coexistence and Non-repetition Committee. It should guarantee the access to information that contributes to investigations to establish criminal behaviors targeting individuals belonging to social and political movements, causing their forced departure of the country. It should identify the intellectual and material perpetrators in Crimes of State, in order to provide guarantees of non-repetition.

Return of the exiles

1. The implementation of a financial assistance plan for:
 - 1.1 The repatriation of those exiles and their nuclear family, who wish to return to their

Contac email: info@exiliocolombiano.org

Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)

Facebook: [Constituyente Exiliados/as Políticos](#)

Web site: www.exiliocolombiano.org



country on a voluntary basis. This financial assistance will prioritize medical and psychological attention, work placement, academic formation, access to decent housing and the recognition of the titles and diplomas acquired abroad.

- 1.2 The economic assistance fund for exiles will also promote the wellbeing of the exiles and their families in the receiving countries, who decide against voluntary return. In this case, the conventions will be adjusted to guarantee the recognition of Colombian titles and diplomas in the countries of residence.
2. The creation of a return mechanism without losing the asylum status, whilst the exiles ascertain that there are real guarantees for a definite return to the country. International humanitarian and political organizations, as the UNHCR and different European institutions should accompany this process. If the exiles prove the lack of guarantees, they must have the possibility to return to the receiving country.

In regard to the non-compliance by the Government in the implementation of the peace agreement, we, the members of the Constituent are deeply worried about the lack of conditions and guarantees, which would allow the exiles to pursue a dignified return to the country of origin with safety, peace, truth, justice, reparation and non-repetition, as it is our right. Notwithstanding, we, the victims are repeatedly told to be the center of the peace agreement.

Contac email: info@exiliocolombiano.org
Twitter: [@Constituyenteex](https://twitter.com/Constituyenteex)
Facebook: Constituyente Exiliados/as Políticos
Web site: www.exiliocolombiano.org