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Colombia: Congress must not approve seriously flawed “Victims’ Law”

Amnesty International today called on the Colombian Congress not to approve the draft “Victims’ Law”. This draft followed the government’s watering down of the original bill, which would have gone some way towards guaranteeing reparation to the victims of the country’s 40-year internal armed conflict.

“The original draft did offer some hope of reparation to the numerous victims of human rights violations in the Colombian conflict. The new draft, if approved, will create a discriminatory hierarchy of victims, with those claiming compensation because of abuses by guerrilla and paramilitary groups more likely to receive it than victims of the security forces,” said Marcelo Pollack, Colombia researcher at Amnesty International.

Early next month, Congress is due to debate and vote on a draft law on “measures to protect victims of the violence” (Draft Law 044/08, House of Representatives, 157/07, Senate) -- known as the “Victims’ Law”. The original draft of the bill was changed beyond recognition by the pro-government majority in the First Commission of the House of Representatives following a vote on 13 November.

Under the current draft, victims of paramilitary and guerrilla groups will be able to receive almost immediate monetary compensation via administrative decision, whereas the victims of the security forces -- including the families of the thousands of victims of extrajudicial executions and enforced disappearances carried out by the security forces -- will only be compensated if and when the perpetrator is found guilty in a court of law and as long as the agent committed the crime with “intent or serious negligence”.

“Given the major problem of impunity in Colombia and the slowness of the justice system, it is highly unlikely that any of these victims will ever be compensated,” said Marcelo Pollack.

Amnesty International’s concerns regarding the bill include:

- Ambiguity about whether victims of violations of international humanitarian law (IHL) are included.
- The denial of compensation to future victims of the conflict and to victims of state agents other than the security forces.
- Failure to effectively address the restitution of millions of hectares of land misappropriated, mainly by paramilitary groups, and often violently, from millions of Colombians, especially Indigenous Peoples, Afro-descendants and peasant farmers.
- Failure to acknowledge the state’s “responsibility” in compensating victims, referring only to the fact that the state will compensate victims out of “solidarity”. This is a denial of the state’s responsibility in abusing human rights and violating IHL.
- The thousands of recent victims and their families of paramilitary violence will not be eligible for compensation, since the government continues to deny that such groups still operate following a

government-sponsored demobilization process.

“By excluding so many past, present and future victims the government is undermining their right to truth, justice and reparation, and is distorting the reality of the conflict, in which all parties continue to abuse human rights and violate IHL,” said Marcelo Pollack.

In a statement issued on 14 November, the Office in Colombia of the UN High Commissioner for Human Rights stated that in discriminating between different types of victims the bill failed to comply with international principles, including those in the UN General Assembly’s Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, which prohibits “any discrimination of any kind or on any ground, without exception”.