

***“A glance at the Collective Reparation Program in Colombia:  
Between assistance, resistance and achieving justice”***

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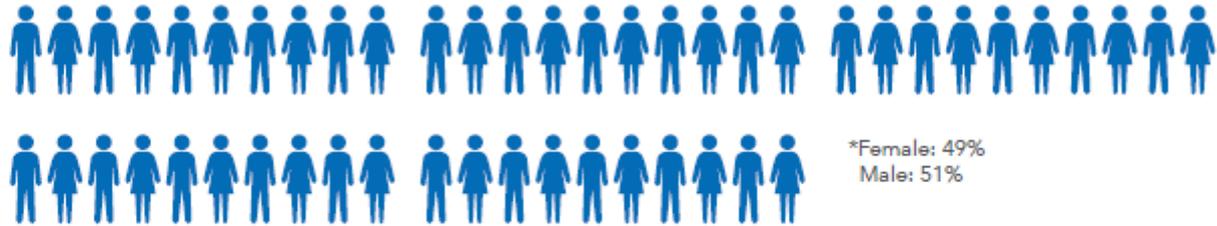
DSA Ireland Annual Conference 2016:  
‘Beyond Aid? Innovative Models for Achieve  
Justice’  
24-25 November, 2016  
Dublin, Ireland



## Number of People living in Conflict-affected areas and with Humanitarian Assistance

TOTAL POPULATION

48.3<sub>M</sub>



NUMBER OF PEOPLE LIVING IN CONFLICT-AFFECTED AREAS

16.9<sub>M</sub>



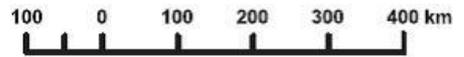
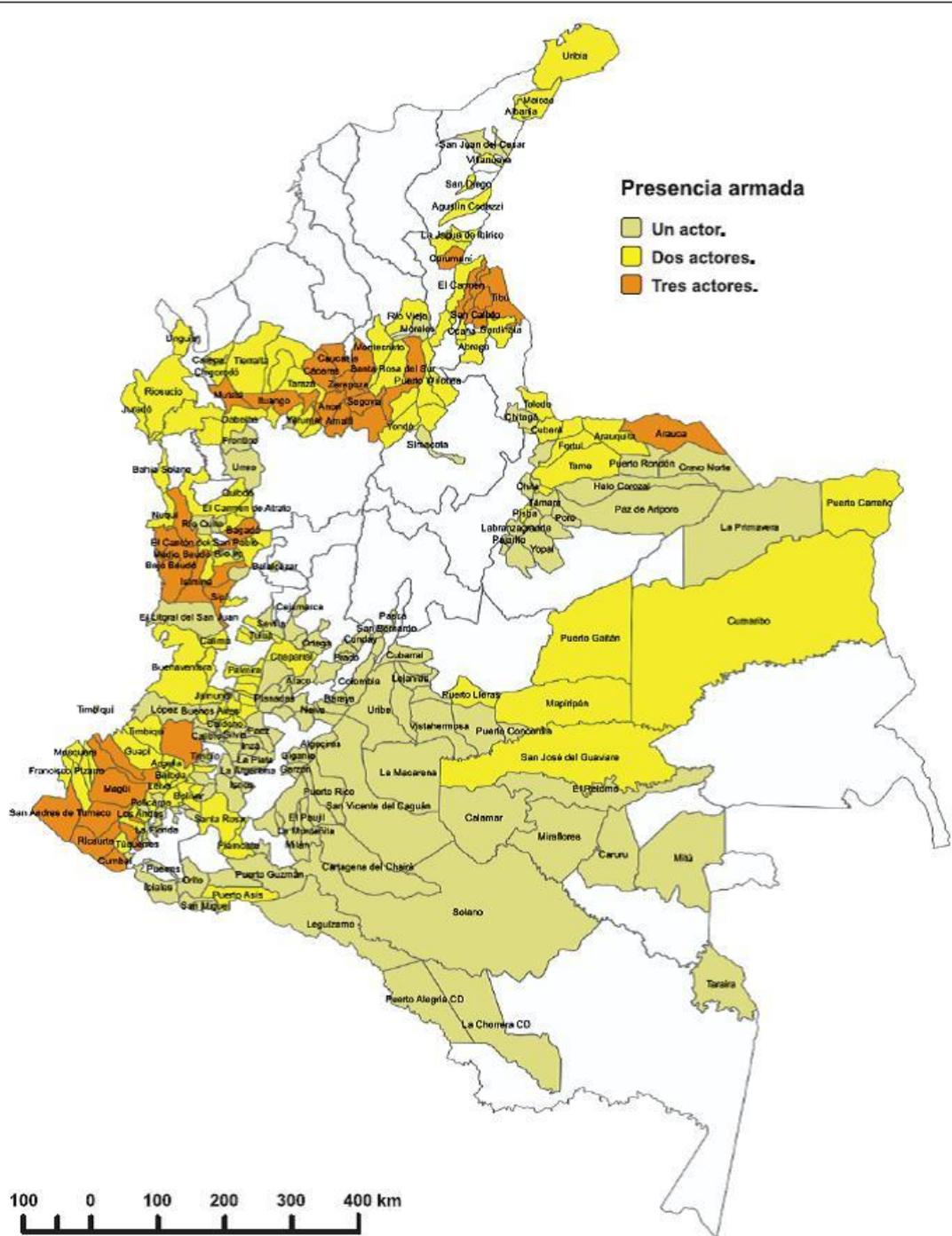
NUMBER OF PEOPLE WHO NEED HUMANITARIAN ASSISTANCE

5.8<sub>M</sub>

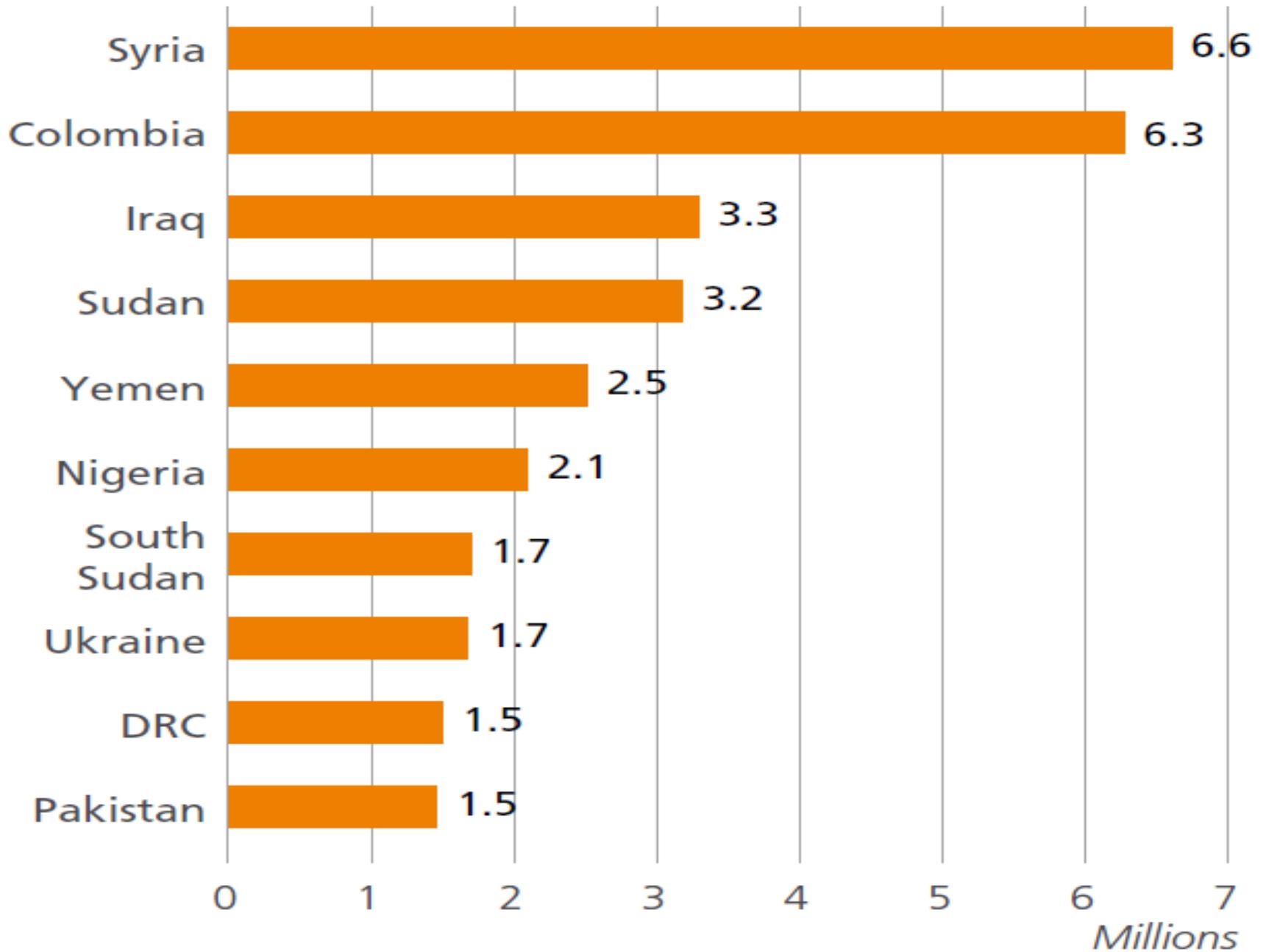


¿where is the conflict running and  
the reparation process  
implemented?





# NUMBER OF IDPs BY CONFLICT AND VIOLENCE 2015



More than

**6 million**

people were

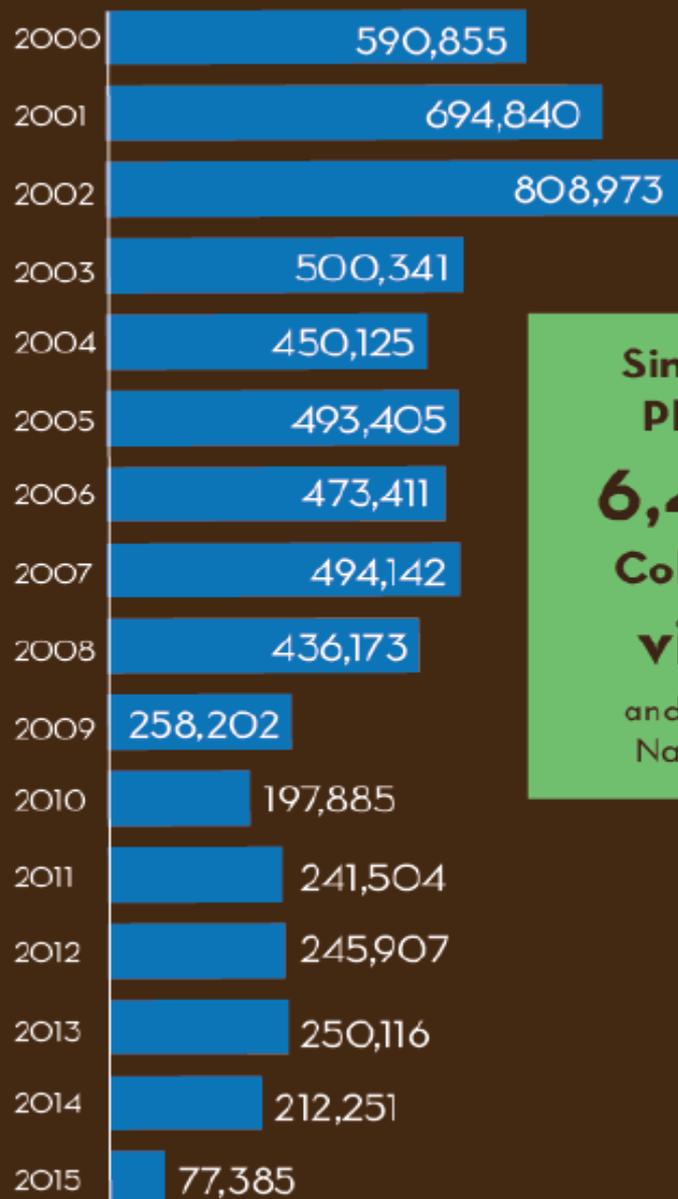
**victimized**

during

Plan Colombia.



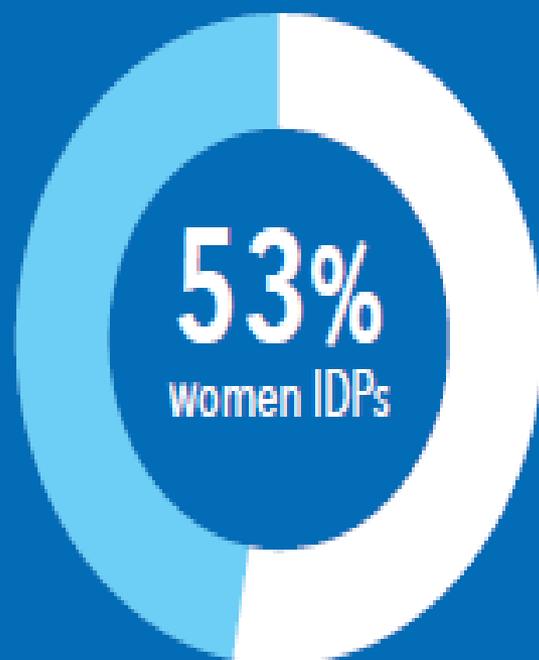
## Victims Registered by Year Victimized from 2000 to 2015



Since the start of  
Plan Colombia,  
**6,424,000**  
Colombians were  
**victimized**

and registered with the  
National Victims Unit.

## IDPs BY SEX



## CHILDREN WHO ARE IDPs

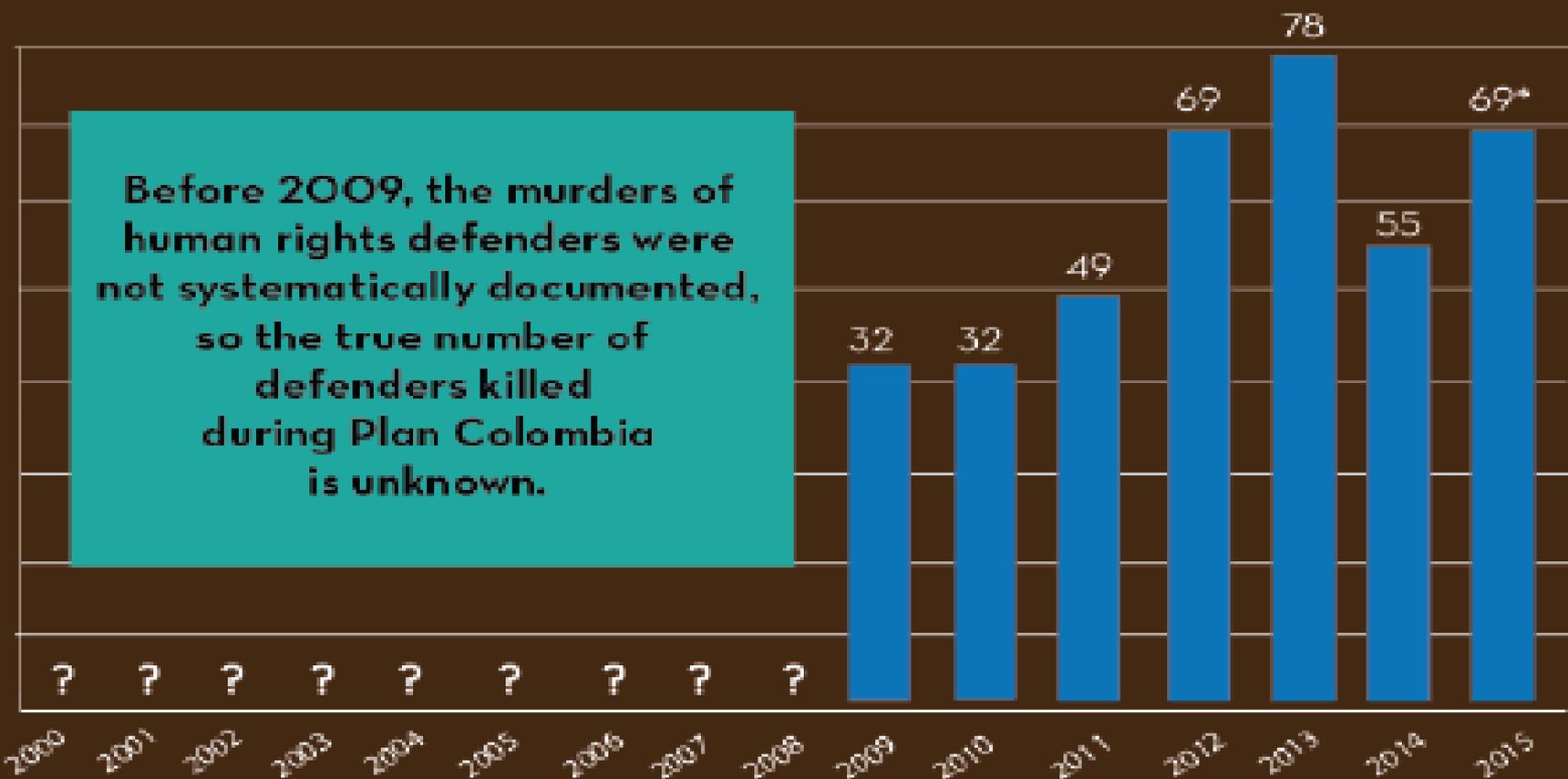
2 out of 4  
IDPs are children



# Almost 400 human rights defenders murdered

between 2010 and 2015.

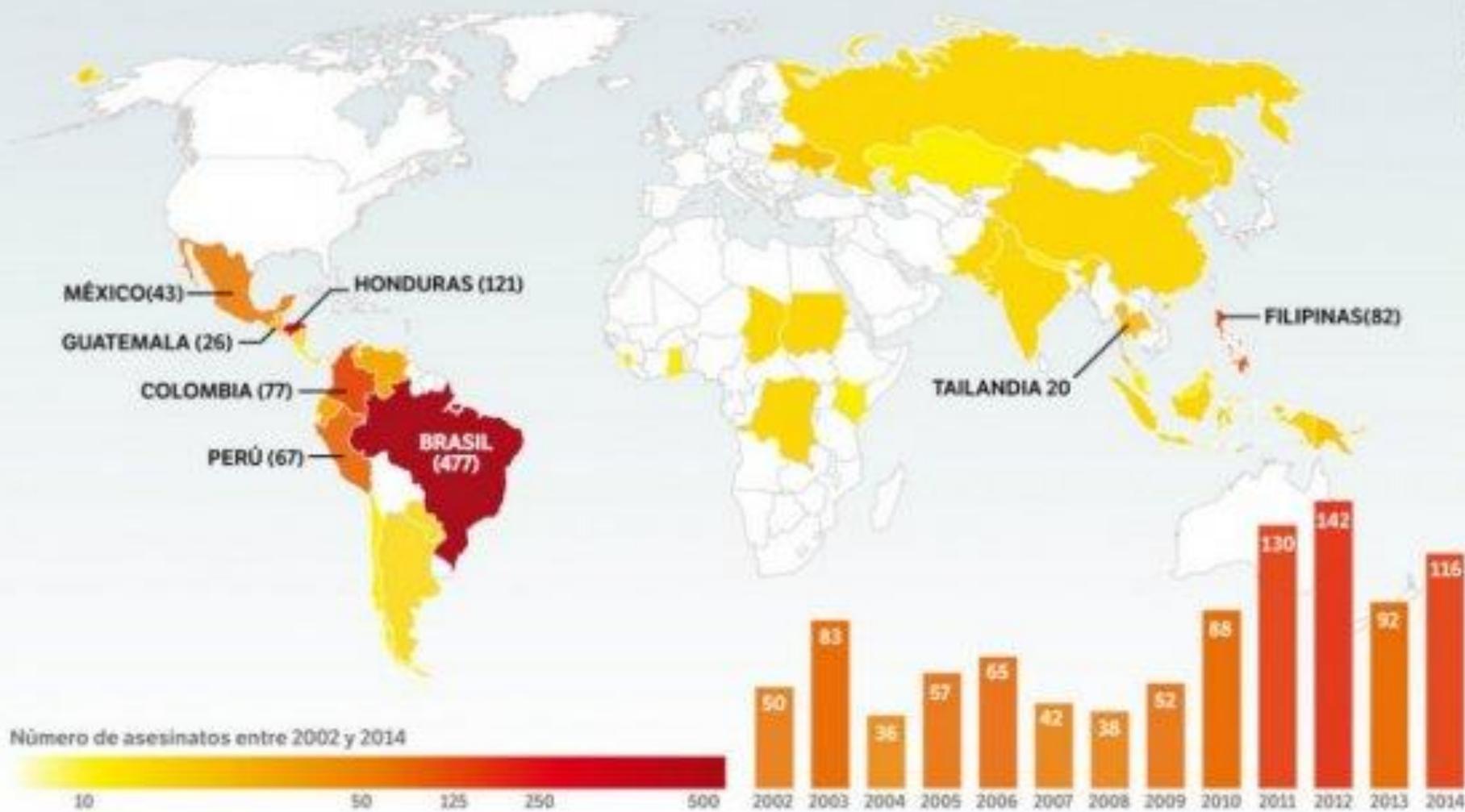
## Human Rights Defenders Murdered from 2000 to 2015



Sources: Somos Defensores, United Nations Office of the High Commissioner for Human Rights, El País

\*The number of human rights defenders killed in 2015 is based on UN documentation through August 2015

## Más de 1.000 defensores de la tierra han sido asesinados entre 2002 y 2014



### Año 2014: 116 asesinatos vinculados a las disputas por la tierra

53 asesinatos relacionados con diversas disputas por la posesión y explotación de la tierra

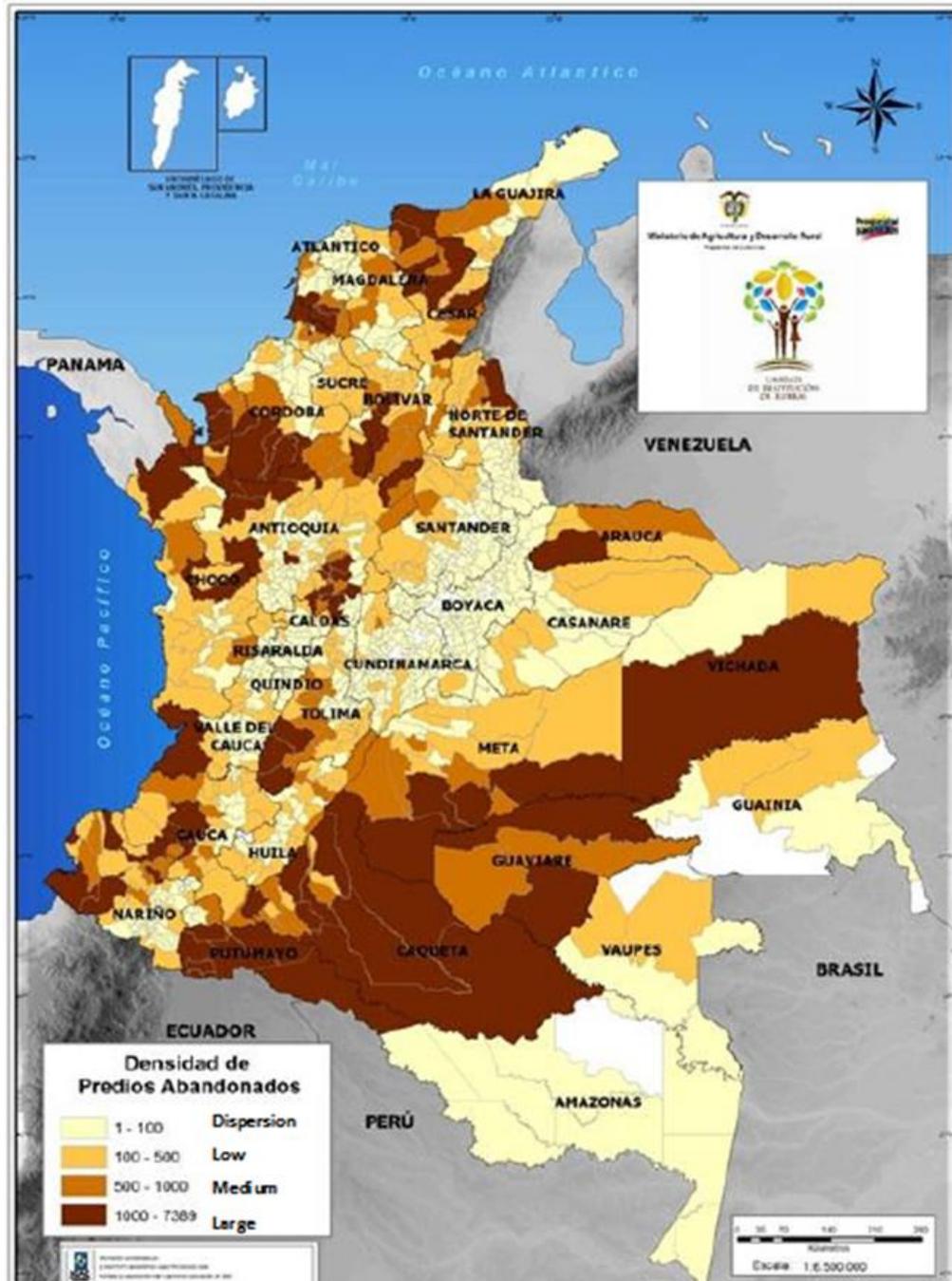
25 relacionados con la industria minera y extractiva

14 por presas hidroeléctricas

14 por la agroindustria

10 por la tala

# Areas of highest density of abandonment and dispossession of land



## Reparations and inclusion or inclusion through reparations: The size of the problem

The Government responds to armed conflict victims' rights through the Victim's Law and Land Restitution (2011) to provide legal and material reparations in such cases and victim recognition in the peace agreement. Measures of assistance, care, reparation (collective and individual) and restitution land rights are issued as a transitional justice process, involving communities and institutions in a big challenge for the implementation, with a new big bureaucracy, technical and juridical processes that these imply.

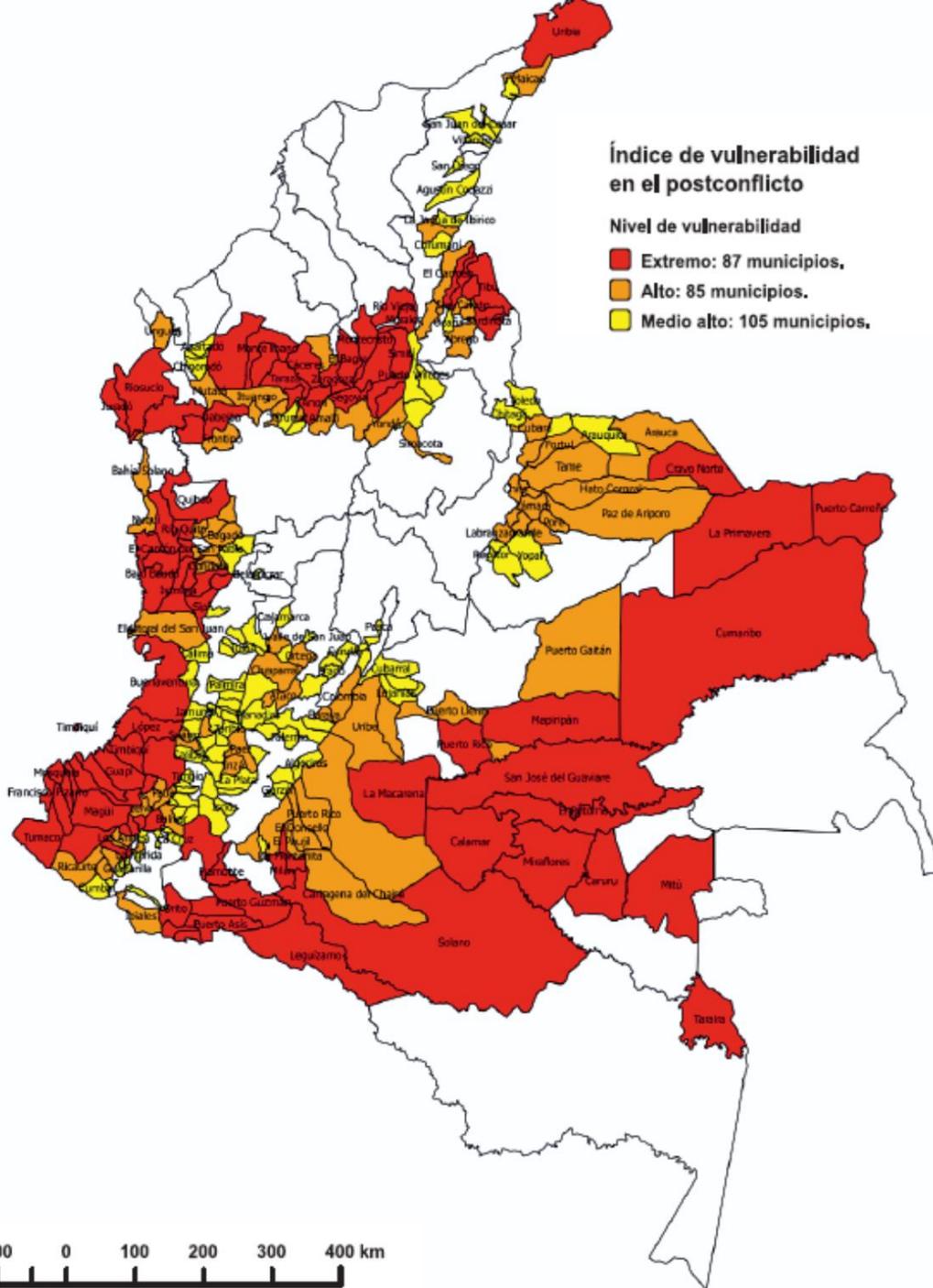
Almost 50% are women and children; almost the 15% of the Colombian population requires reparation and this exceeds the currently allocated economic and technical resources; particularly in the most vulnerable areas in a scenario post FARC agreements.

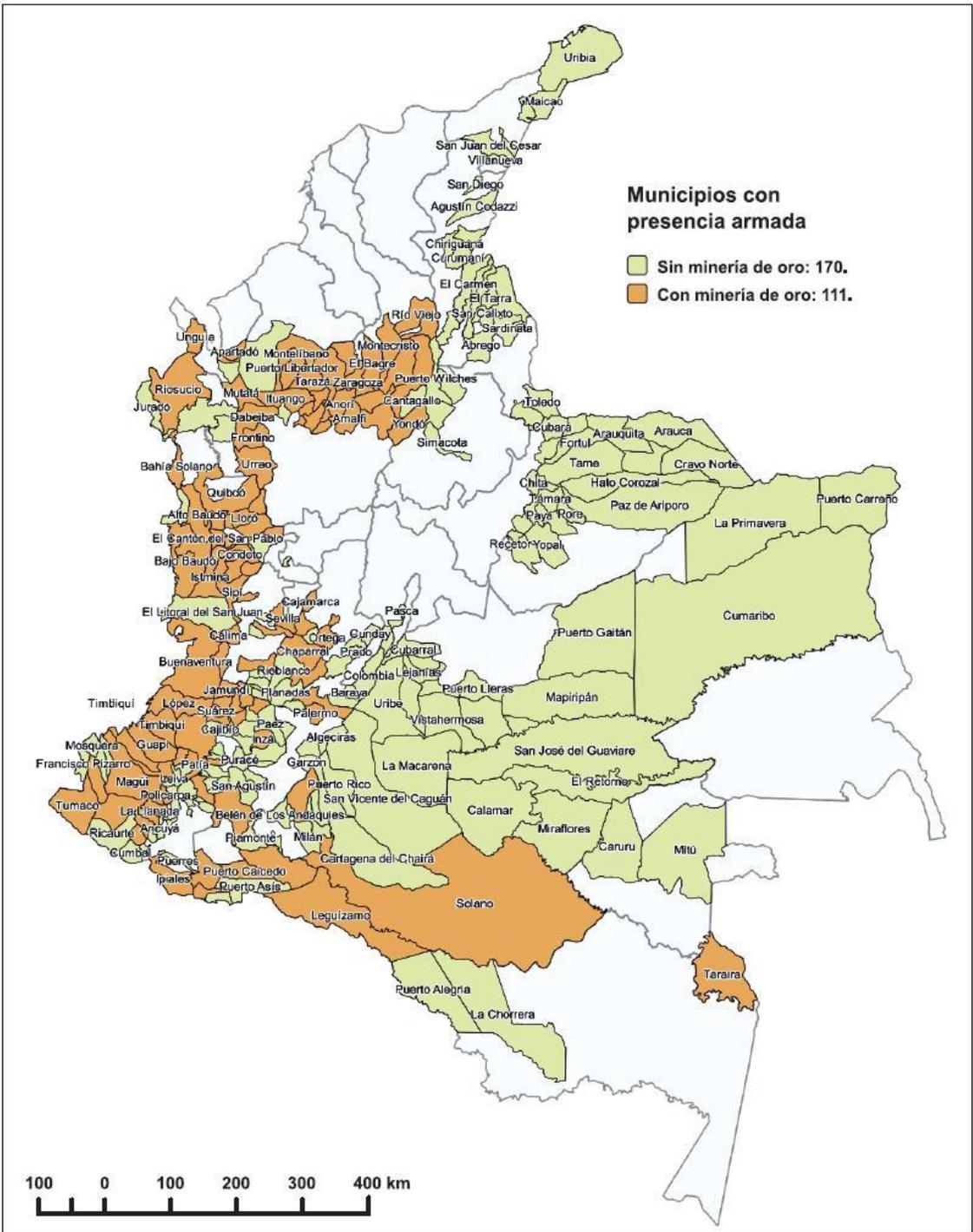
(Next Map)

## Índice de vulnerabilidad en el postconflicto

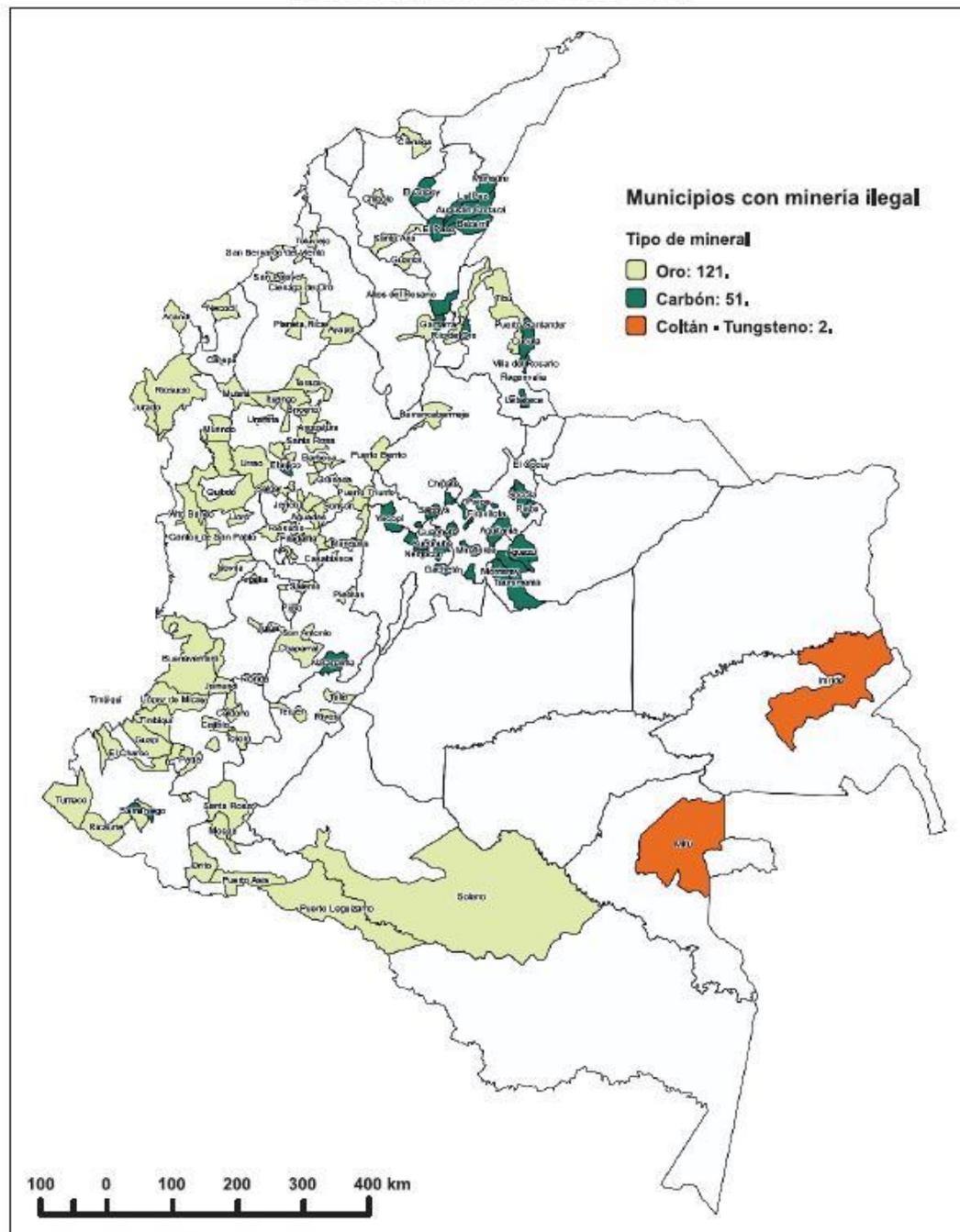
### Nivel de vulnerabilidad

- Extremo: 87 municipios,
- Alto: 85 municipios,
- Medio alto: 105 municipios,



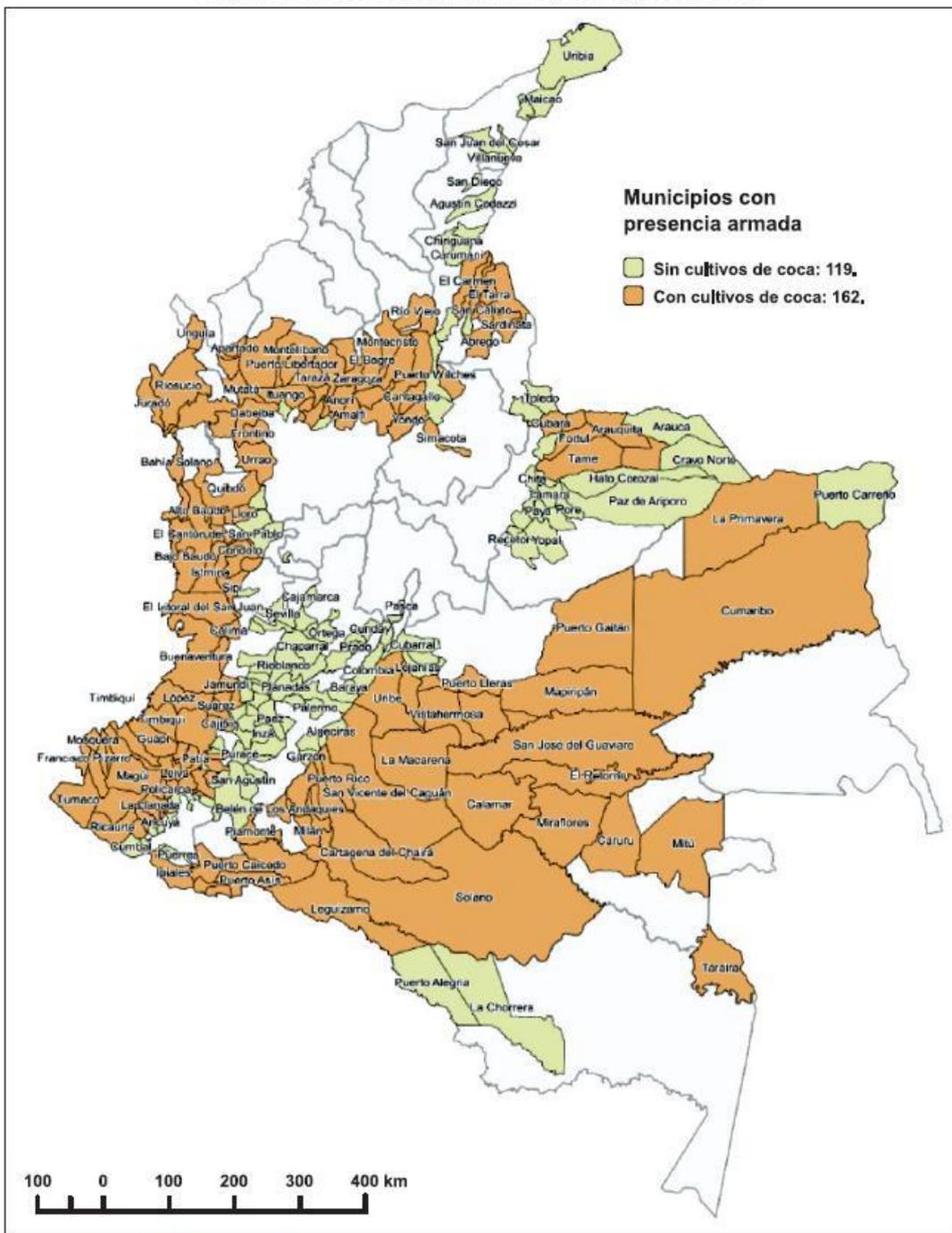


Mapa 3. Minería ilegal en Colombia

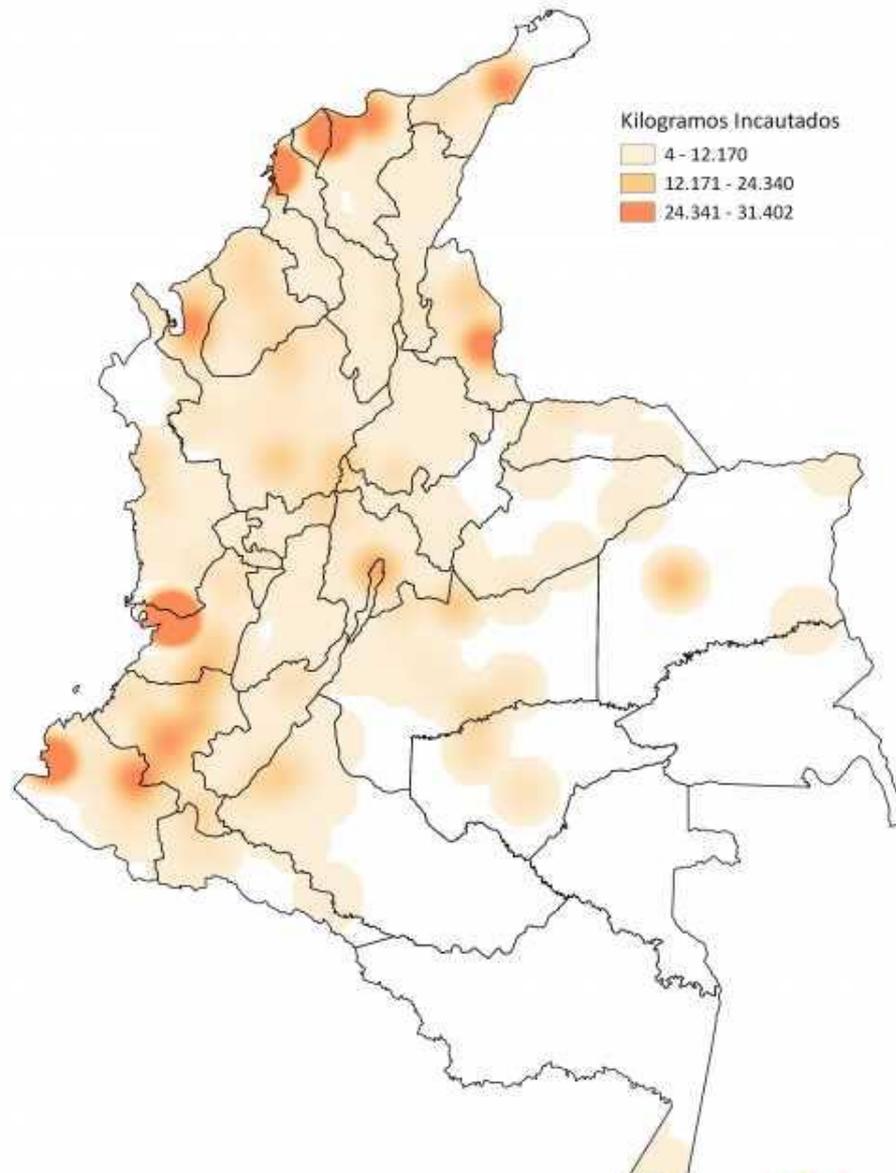


Fuente: Fundación Paz y Reconciliación.

Mapa 2. Cultivos de coca en municipios del posconflicto



## Incautaciones de Coca 2012 - 2014



How do reparations play an important role in this process of deconstructing / reconstructing collective identities, peasant and ethnic identities from the axis of victim citizenship or citizenship in order to get redress?

# **From IDPs to victims and the politic economic framework**

Lemaitre J.; Bergtora K. (2015), address the gap in the legal mobilization literature by exploring the impact of violent contexts on legal mobilization, adapting three concepts commonly used to explain collective action: frames, resources, and almost dangerous political opportunities. They also describe how in violent contexts mobilisation frames are unstable and constantly shifting.

Resources tend to vanish and political opportunities imply a significant risk and physical danger, in the specific IDP's processes (Law 387, 1997) to victims (Law 1448, 2011), opening the way from the communities vision and the enforceability of the rights.

# The move from the humanitarian assistance focus to a reparation focus

How some local communities had made this transition from displacement identities to victims' identities; the implications of the legal mobilisation as a grassroots organisations in violent contexts; the move from the humanitarian assistance focus to a reparation focus, changing the way in which the people defend and negotiate their owns rights in daily life, the generation of social mobilisation and reconstruction of the social fabric in their territories.

Therefore it is clear to see how communities and organizations are between an assistance based-model, the resistance to the economic extractivist model and trying to achieving justice constantly adopting the shifting framework.

## SOME VOICES....

*“[...] We are not only victims, we are farmers, workers, parents, leaders....Access to political power may have been a fundamental source of violent conflict, it will generate conflict rather than alleviate it...”*

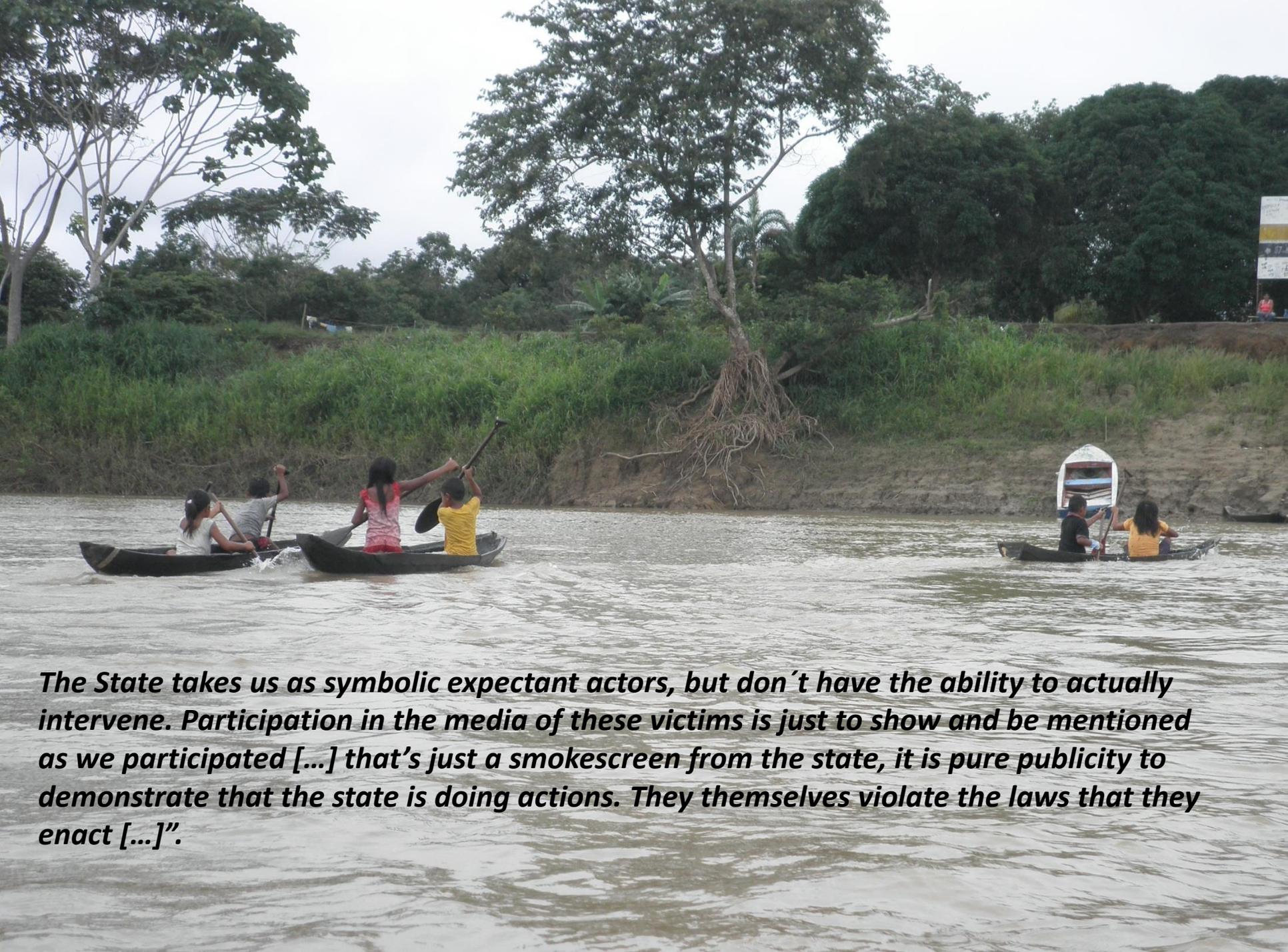
*“[...]The reparation is being handled as a favor, and not from an approach of guaranteeing rights, so that "give" what they want and how they want, regardless actually the differential approach, the needs and involvement of people which they are included . What happens is that by having their immediate needs addressed, some indigenous are compelled to accept these "favors", which eventually involves following the game[...]"*



***“[...]What about the people who stay in our territories? We want our territory for the future of our generations. Multinationals want to come in to our territories. if there are not empowered communities, we will lose a lot and again we will be displaced. Each project must contribute to empowerment, projects are not only circumstantial. Our experience demonstrated that displaced persons may prefer compensation than to return to a hostile environment [...]”***

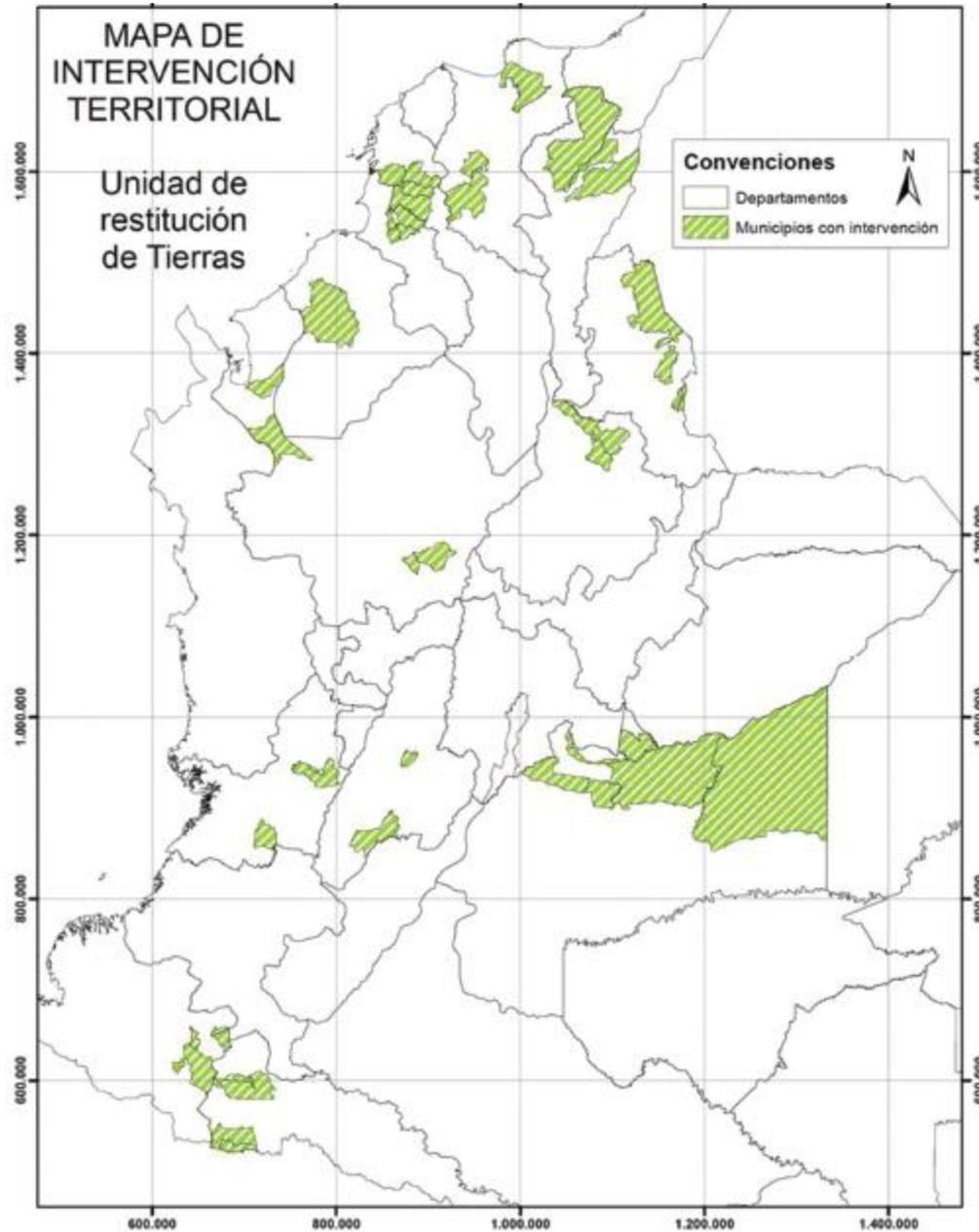
***“[...]The only choice to survive is to negotiate, to try to recover what we lost and not lose anything else[...].”***



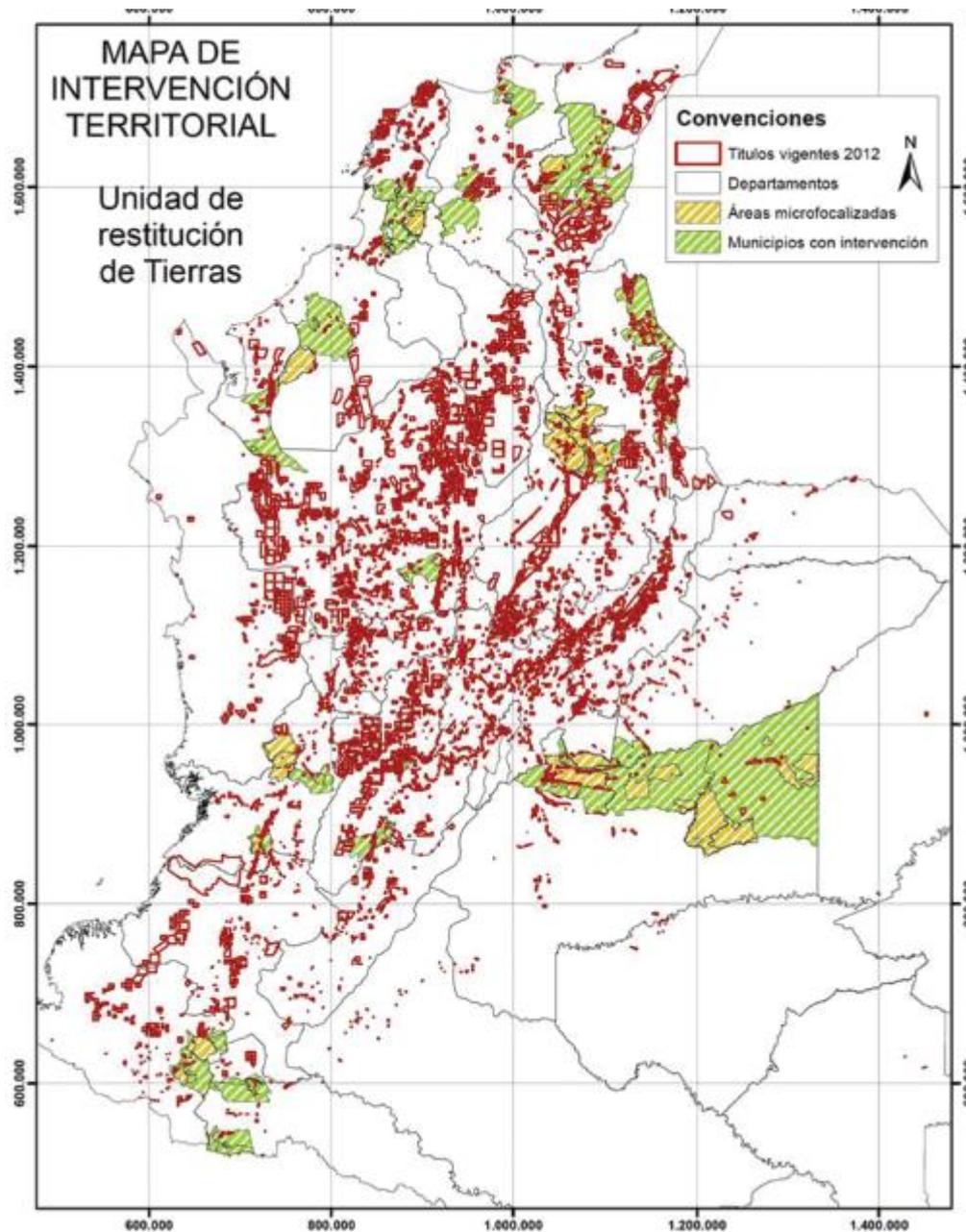


***The State takes us as symbolic expectant actors, but don't have the ability to actually intervene. Participation in the media of these victims is just to show and be mentioned as we participated [...] that's just a smokescreen from the state, it is pure publicity to demonstrate that the state is doing actions. They themselves violate the laws that they enact [...]”.***

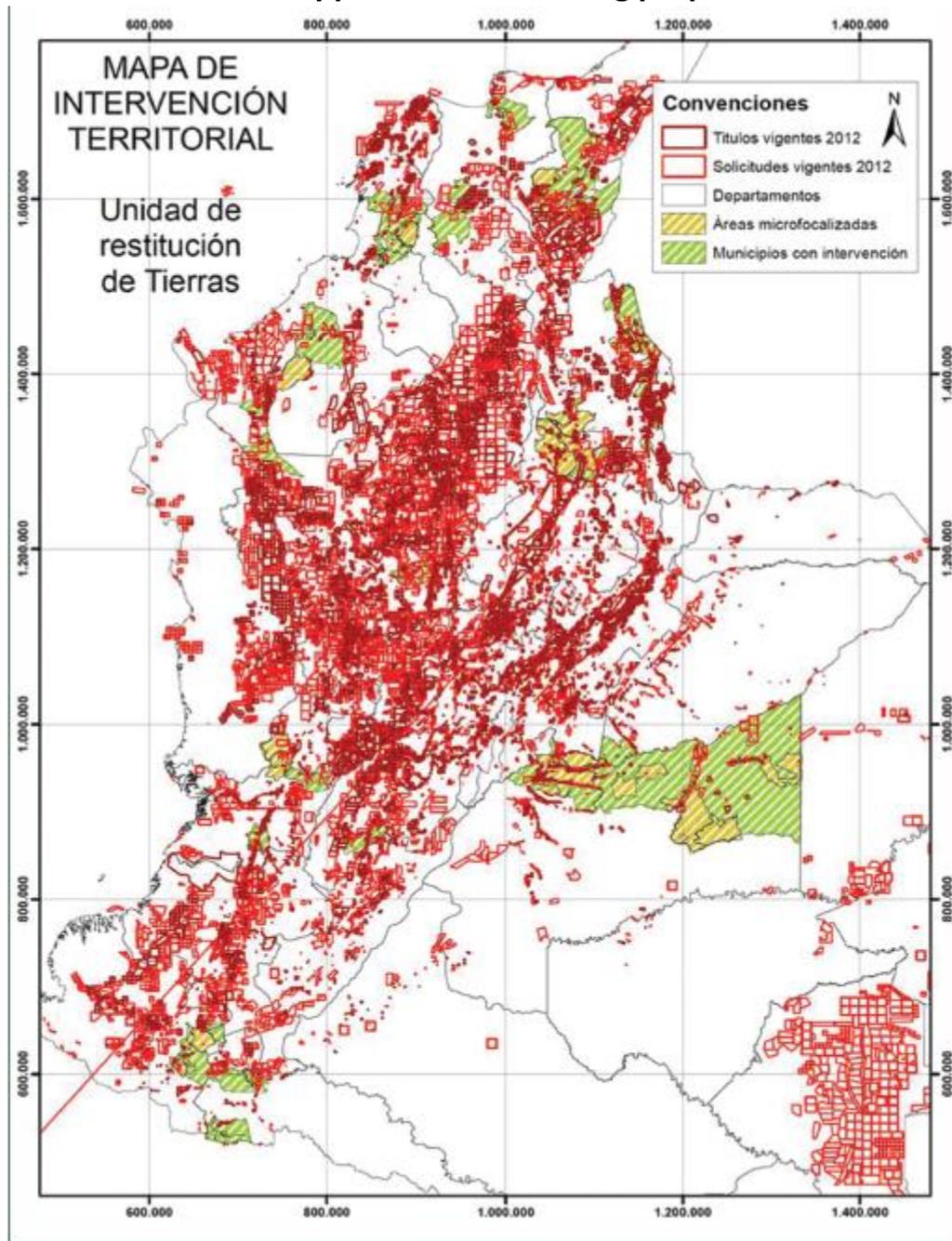
# Territorial intervention 2014



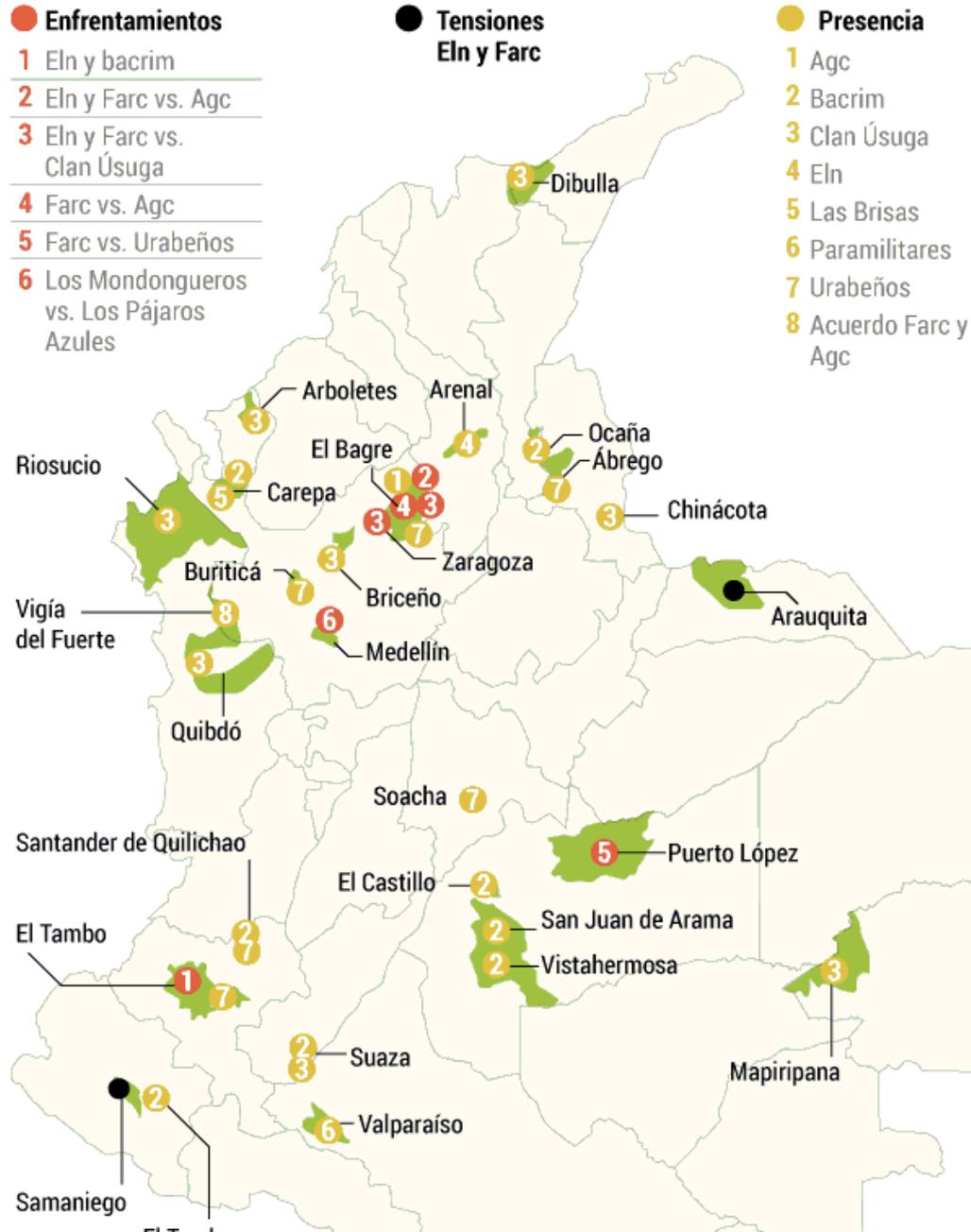
# Current mining concessions



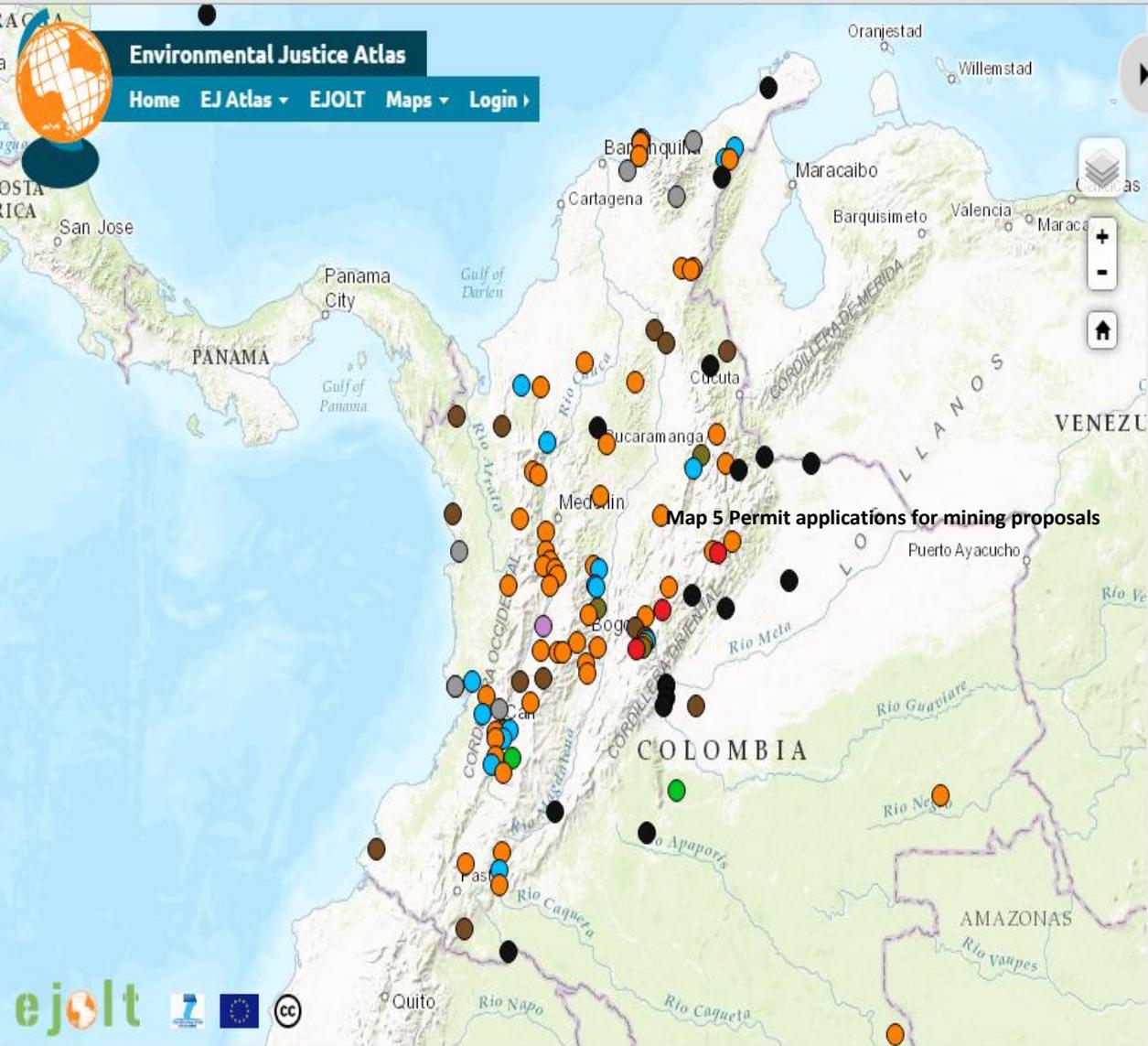
# Permit applications for mining proposals



# Combates, tensiones y presencia de grupos armados al margen de la ley







**Legend**

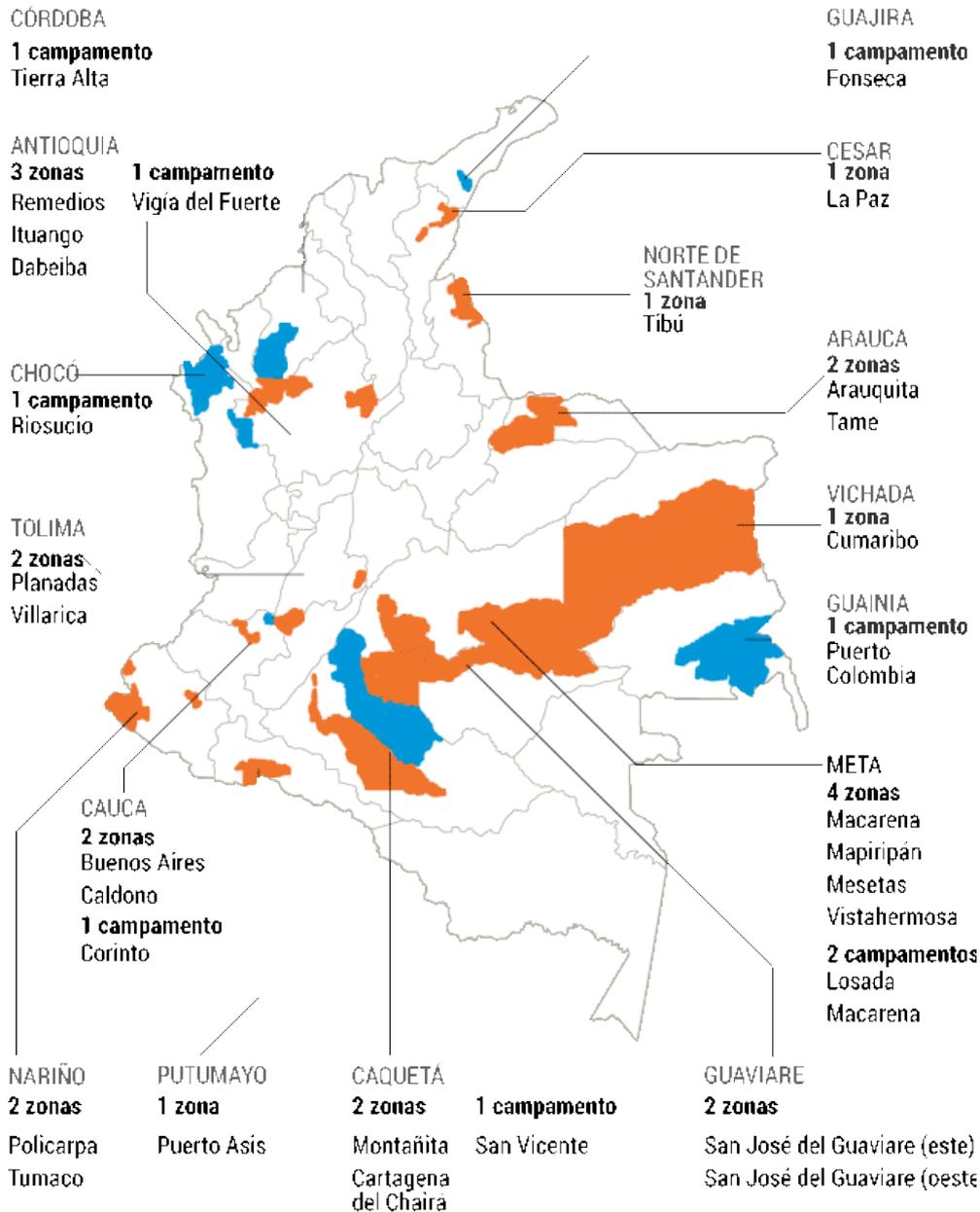
- Nuclear
- Mineral Ores and Building Extractions
- Waste Management
- Biomass and Land Conflicts
- Fossil Fuels and Climate Justice
- Water Management
- Infrastructure and Built Environment
- Tourism Recreation
- Biodiversity Conservation Conflicts
- Industrial and Utilities Conflicts

**Cases**

- ### Environmental Conflicts in Colombia
- [Acueducto río Pance, Cali, Colombia](#)
  - [Aerial Fumigation with glyphosate in the Putumayo, Colombia](#)
  - [Bahía Malaga, Colombia](#)
  - [Basuro de Navarro, Cali, Colombia](#)
  - [Bosques de Bahía Solano, Colombia](#)
  - [BP Exploration Company, Colombia](#)
  - [Cañaverales, La Guajira, Colombia](#)
  - [Caramanta, Antioquia, Colombia](#)
  - [Carretera Mulaló-Loboquerrero en el Valle, Colombia](#)

# Zonas y campamentos

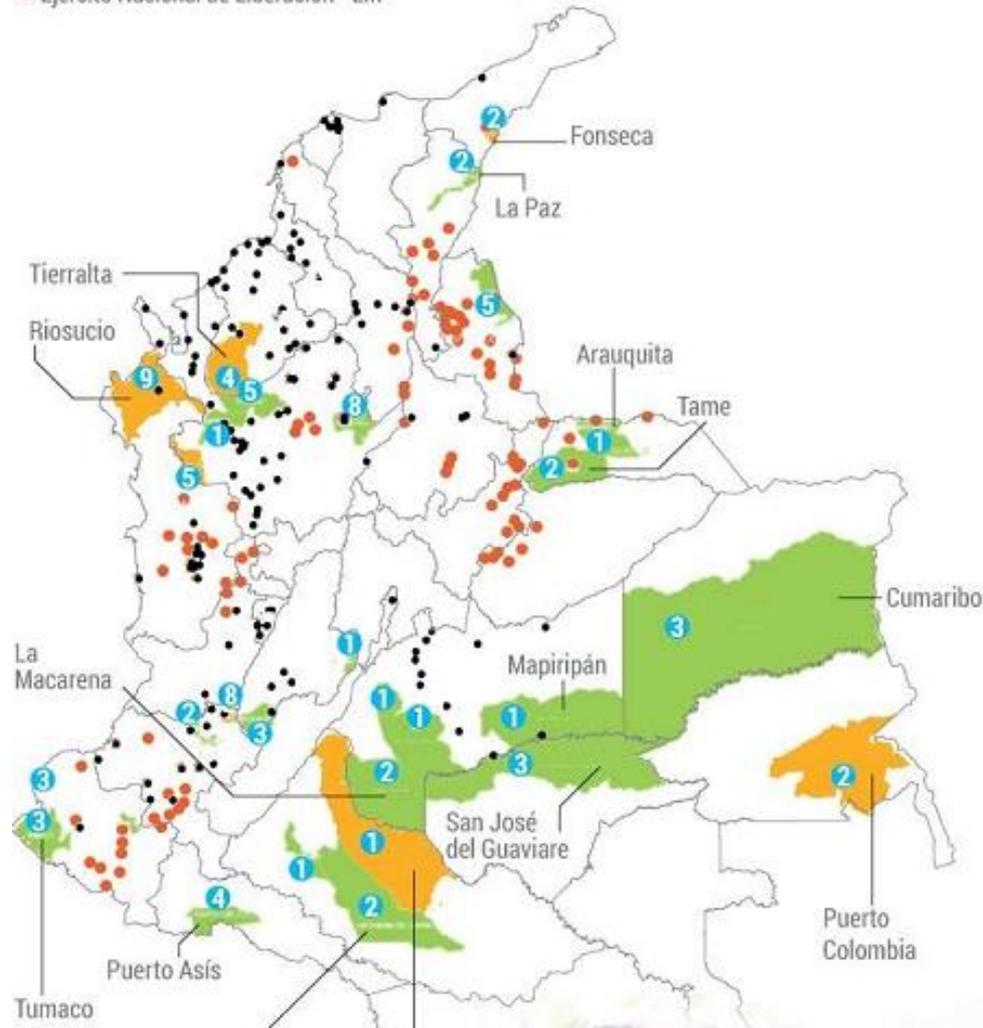
■ Campamento    ■ Zona veredal



**FARC  
CONCENTRATION  
ZONES FOR THE  
PEACE PROCESS –  
23 JUNE 2016**

## Presencia de organizaciones sociales en zonas de conflicto

- Número de organizaciones de DD.HH. por municipio
- Grupos de origen paramilitar
- Ejército Nacional de Liberación - Eln
- Campamentos para el establecimiento de miembros de las Farc
- Zonas Veredales Transitorias de Normalización para el establecimiento de miembros de las Farc.



I would like to highlight some points:

**First**, Communities, land claimants and HRD in general face insecurity because the continuing struggles among armed groups for local and regional power are linked with the political and economic interest.

**Second**, contradictions exist between development policies, reparation and restitution policies. There is a gap in the study of the relations between land policy in Colombia, postconflict and Transitional Justice. Land policy plays a significant role in our so-call postconflict, increasing the risk of conflict reproduction. A further aspect which must be addressed to consider the precise role of economic factors in creating and perpetuating conflicts. Restitution has become a big challenge.

**Third**, the regional challenges of the reparation process and peacebuilding includes one of the most important: land restitution. Restitution in Colombia has a questioned nature, which includes the struggles between local, regional and national political and economic elites.

In the last three years, the government, academia, the economic sector and social organizations have undertaken work to pay off the historic debt to the rural sector through the Mission for the transformation of the Agrarian Sector.

The new framework of land policy challenges and highlights the importance of contextual analysis for the design of land policy before and after the peace agreements.

**Fourth,** Restitution relates to techniques of governmentality. The state regulates to mitigate negative impacts and maximize opportunities in the land acquisitions. In other words, how the state updates, articulates and incorporates hard and soft methods, where subtle forms, less apparent and invisible violence are integrated with more direct and open violence, together with the massacres, dispossession and coercion, have been used and continue to use paternalistic ways of "colonization of the soul" or coaptation of hope; which in the case of Bolivia, calls (re)covert violence, in Rivera's words (2010), a benefactress logic with imperceptible effects that produce and reproduce exclusion in everyday existence.

Without a proper Census (the last was in 2005 and the last Agrarian Census after 40 years was in 2014), peasant and ethnic-based land rights challenged to identify the rights beneficiaries. Especially victims of forced displacement and dispossession or forced abandonment of lands and territories, in terms of access to property rights, displaced and widowed women have in the past often faced difficulties as they were usually not included as co-owners of the property.

**Fifth:** Centralism in the sense of how the state has managed the creation of spaces for dialogue between the civil population, civil society organizations and central institutions, but it is virtually impossible to talk about territorial peace if the way the central state is related to the regions continues.

There is a lack of capacity in the rural territories. The State talks about territorial peace but there is an absence of social policy in the territories. A Peacebuilding approach from the state as top-down process failed to properly engage the grassroots. Changing this is important to strengthen the relation intervention and statebuilding.

There are two conceptualizations of the territory, the notion of territory for Indigenous, Afrocolombian and Peasants, which is their life itself vs. the geometric territory of the State as a mechanism of segregation and control, resulting in identification techniques, control of production and ethnic identities.

In our workshops, personal interviews and visits to their territories, they highlight the following points: **Autonomy; Participation; Institutionality; Territoriality and local productivity; and Political Action.**

**Finally,** Individuals and collectives use singular negotiation strategies as an everyday resistance to survive: with the government and companies (case FPIC or the elaboration of the Reparations Plans) and coordinate with others legal and illegal organisations, which reveal the permanent reconfigurations of their territories.

The relationship between State and companies, has imposed logics and administrative changes in land rights ownership and in everyday life ; communities coexist in the territories with this corporate and state action, linked to the actions of legal and illegal armed groups, awareness in a greater or lesser degree an acceptance threshold, communities run between what is negotiable and what is not; without an appropriate social responsibility strategies of business and human rights.

## Challenges

-The greatest challenges in terms of compensating victims are the low efficiency of the judicial system, persistent threats against victims' rights campaigners and land restitution, the difficulties in assuring land restitution and actual land policy. Moreover, individual and communal monetary reparations for more than eight million victims represent a major financial challenge for the state.

-Currently, the programme is implementing a differential approach (gender, ethnic and social organization reparations) that aims to attend to the particular needs of certain groups. Although Colombia has greatly improved in terms of inclusion and progressive legislation, it is an inclusion without real representation.

-It is important to focus on territorial transitions in the implementation of the agreements. The implementation of the peace process claims to work on the territorial aspects of the agreements.

-There is a several territories who received the impact of the transformations and transitions from the armed conflict situation to the call posconflict, and that it's mean the process of normalization of the territories and the change from the control of the armed groups in some cases to the autonomy of the communities in the way of participation and the regulation of their own life's and the ways of organising the local frames in a territorial aspects; for example: who is going to control the local economies (included the illegal); the daily life, community organisation, participation.

## Challenges

-Fundamental aspects that Colombia should focus on to ensure equality are pointed out: the big gap between policies that guarantee the rights of victims and their application (especially at regional and local level), the persistence of armed conflict and the significant gap that persists in leadership in economic and political public spheres.

-Land grabbing in Colombia is not only an example of violent dispossession in a country at war, but more generally a historical reconfiguration of the relations between the state, national territories, the local and regional political elites, legal and illegal economic actors and the free market.

-This illustrates how social struggles against land grabbing can be interpreted as a complex entanglement and collision between regulatory regimes that seek to guarantee Human Rights and promote development policies (agrobusiness, mining, infrastructure) under the Colombian armed conflict. In this respect a greater coherence between Integrate local development and development policies, is needed in order to do this.

-Land monopolization and its repercussions on security, sovereignty, and food autonomy. Land-use management, access, land tenancy, and land reformation in Colombia.

## Challenges

-Integrating local development and development policies.

-The importance of equality and the empowerment of the grassroots organizations in post-conflict and their fundamental role in the reconstruction and the recovering of conflict. Ensuring gender equality, particularly in conflict-affected areas, is an additional challenge.

-The opportunity to frame the interest of communities more from the Economic, Social and Cultural (ESC) rights than the politics and civil rights, center in truth, justice and reparations- than a structural causes of conflict, the specific vulnerabilities should be based on transformative justice more than in a restorative and not only in a monetary compensation.

-The Human Rights framework is a powerful instrument to articulate the multiple dimensions of justice in defense of the multiple dimensions of livelihoods threatened by the expansion of extractives economies. However, the emancipatory potential of human rights politics depends on how the human rights framework is applied, interpreted and constructed in intercultural contexts.

## Challenges

-Violations of ESC rights can have a devastating effect, often extending over several generations, as victims are denied educational and health services, social protection, cultural and traditional activities and lose the opportunities of productivity. The violations of these rights have until recently not been central to the agenda of Transitional Justice.

-The paradox of being a subject in permanent transition in relation to their territories, since the displacement, through the confinement, restitution and resettlement in areas where they should continue to manage and negotiate their conditions of existence for dignity as political subjects.

**THANKS TO THE  
COMMUNITIES AND  
THANK YOU!**