

# THE PARTICIPATION OF FAMILIES OF MISSING PERSONS AS A KEY TO PROGRESS:

RECOMMENDATIONS TO STRENGTHEN THE  
EFFORTS OF COLOMBIAN INSTITUTIONS.

This paper describes the forms and importance of civil society participation in the process of accounting for missing persons in Colombia and the legal, institutional, political and financial challenges to participation faced by families of the missing. The paper presents the right to participation as an essential component of the State's efforts to fulfill its obligation to account for missing persons.

The document highlights critical areas for action to enhance the involvement of families and civil society in the search process, thus contributing not only to peace building but also to social development in compliance with human rights.

## I. CONTEXT OF DISAPPEARANCE IN COLOMBIA

1. To date, there are more than 9.1 million victims registered in the Single Registry of Victims of the internal armed conflict. The Search Unit for Missing Persons recognizes the existence of 120,000 missing persons, of whom at least 109,000 are reported in the National Registry of Missing Persons (76 percent male and 24 percent female). As each missing person has an average of at least five direct relatives (parents, spouse, children, siblings), we can estimate that there are at least 600,000 people throughout Colombia looking for their missing relatives. This number multiplies exponentially as time passes and new generations inherit the family mandate to search for their relatives. In Colombia, the timeframe of cases stretches from recent months to more than half a century ago.

2. Disappearances have occurred as a result of action by the State, or action by individuals who may have been instructed or allowed by the State to remove victims from the protection of the law; disappearances have also occurred in the context of armed confrontations; in the context of organized crime, including human trafficking; and in the context of other human rights violations, such as extrajudicial executions; and they have occurred where the human remains of murder victims have been hidden by perpetrators.



1 As of 2 June 2021, there are 9,134,347 victims registered in the Unified Registry. Retrieved from <https://www.unidadvictimas.gov.co/es/registro-unico-de-victimas-ruv/37394>.

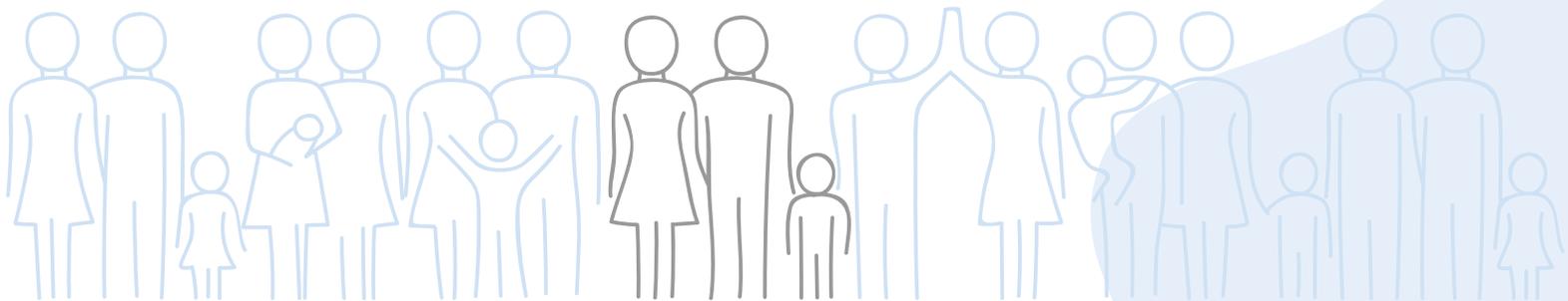
2. As of 29 April 2021, the National Registry contains 109,082 missing persons cases. Retrieved from [Life: Datos de vida \(medicinallegal.gov.co\)](#).

3. International Convention for the Protection of All Persons from Enforced Disappearance, Law 1408 of 2010, Homage Act.

3. Victims are not only those who disappear. Victims are considered to be persons, groups of persons or communities who, as a result of the enforced disappearance, have suffered individual or collective harm to their physical, psychological or moral integrity.<sup>3</sup>
4. In Colombia, the majority of missing persons have been men. Even when the missing person is a woman, the search has been conducted and led mostly by women, who, in their role as mothers, spouses/partners, sisters and daughters, have driven the process of reporting, searching, and maintaining advocacy and visibility of the issue. This role carries a social and economic burden that often accentuates precarious socioeconomic conditions.
5. The situation of families searching for missing persons in Colombia is related to immediate social, political and economic circumstances, and they are often confronted by conditions of poverty and violence that exacerbate their vulnerability and make their participation in the search process even more difficult. According to the National Administrative Department of Statistics (DANE)<sup>4</sup>, 42.5 percent of all Colombians live in poverty and 15.1 percent live in extreme poverty.
6. As well as the above, violence in the regions has continued even after the signing of the peace agreement with the former FARC guerrilla.
7. In addition to socioeconomic conditions, families of missing persons face additional vulnerabilities in their physical and mental health, social vulnerabilities related to stigmatization, forced displacement and other circumstances, and, among others, legal vulnerabilities due to the gaps left by the disappearance of a person.

## II. THE RESPONSIBILITY OF THE STATE

8. As established in the human rights framework, and articulated in the Paris Principles, the disappearance of persons entails an attack on the life, security and integrity of persons. Therefore, regardless of the cause, the profile of the victim, the context or the perpetrator, the disappearance triggers the obligation of the Colombian State to conduct effective investigations that can independently, impartially, officially, promptly, adequately and completely determine and deploy means to establish the facts, including the context and cause of the disappearance, and if applicable the death, and determine responsibility for the crime.<sup>6</sup>



<sup>3</sup> Convención Internacional para la Protección de Todas las Personas Contra la Desaparición Forzada, Ley 1408 de 2010 Ley de Homenaje

<sup>4</sup> <https://www.dane.gov.co/index.php/estadisticas-por-tema/pobreza-y-condiciones-de-vida/pobreza-monetaria>

<sup>5</sup> El castigo a los responsables de la desaparición se da con base en la legislación penal, que en Colombia determina ha establecido en su normatividad que la desaparición forzada es un delito que puede ser cometido por agentes del Estado o por particulares. (Código penal colombiano. Ley 599 de 2000, Artículo 165). De igual forma el marco jurídico reconoce también que las desapariciones se pueden dar por diferentes causas como aquellas antecedida por el secuestro, el reclutamiento forzado, la trata de personas, las ejecuciones extrajudiciales entre otras, lo cual construye un universo de víctimas más grande y una serie de retos adicionales.

**9.** States have a responsibility to account for all missing persons, regardless of their origin and the causes of their disappearance (armed conflict, human rights violations, other causes), or whether or not the State is responsible.

**10.** Likewise, the State has the obligation to guarantee the rights of all families to truth, justice, reparation and non-repetition. This responsibility must be carried out in an effective and transparent manner that meets the needs of the families of the missing and civil society in general.

**11.** The State also has a responsibility to give effect to the various human rights of the families of missing persons throughout the process of accounting for their relatives. Basic rights that are activated during the process include the right not to be discriminated against, the right of access to justice, the right to information, and the right to privacy, among others.

**12.** The rights of family members are impacted and violated by the disappearance. In particular, the undefined legal personality of the missing person limits the right to family life, marital status, access to property and numerous other economic and social rights of families. The State therefore also has an obligation to ensure legislation, public policies and programs that guarantee or remedy the access of family members to these rights.

**13.** Since the families of missing persons are the subject of rights, efforts to account for missing persons go beyond the humanitarian objective of alleviating pain, and are framed in terms of restoring the capacity of the State to fulfill its central obligation to guarantee the fundamental rights of individuals.

**14.** The Peace Agreement with the FARC lays out different typologies and types of impact of participation<sup>8</sup>, enabling victims to be at the center of the Agreement, especially based on the principles of Recognition<sup>9</sup>, related to the recognition as subjects of rights and at the same time the recognition of responsibility of actors involved in the violation of the rights of others, and the principle of Satisfaction of Rights<sup>10</sup>.



<sup>7</sup> See Brewer, J. Peace Processes: A Sociological Approach, summarized in: Impunity Watch, Research Report 'Restricted Access' Promises and Pitfalls of Victim Participation in Transitional Justice Mechanisms 2017.

<sup>8</sup> White, S.C. (1996) Depoliticizing development: the uses and abuses of participation, In: Pearce, J. (2000) Development, NGOs, and Civil Society: Selected essays from Development in Practice, Oxford: Oxfam.

<sup>9</sup> Final Agreement for the termination of the conflict and building of a stable and lasting peace. Signed between the Government of Colombia and the FARC E.P. on 24 November 2016. Point 5.1. Page 127

<sup>10</sup> Ibid.



### III. WHAT IS PARTICIPATION?

**15.** In addition to the above rights, the relatives of missing persons also have the right to participation. This should be understood as a right in itself and as a means to achieve the other rights. Participation is manifested as follows:

#### **Access to Rights**

**16.** Victims are holders of rights regulated by norms, so guaranteeing participation means guaranteeing compliance with requirements and due process. Participation allows families to know their rights and to access the mechanisms dictated by law. This includes being able to report the missing person and to request activation of mechanisms for the protection of their rights.

#### **Participation as mobilization**

**17.** Participation is manifested as the right of every individual to freedom of expression, freedom to organize and mobilize, and to publicly communicate their demands. In the issue of missing persons, the mobilization of families has been central to the achievement of demands.

#### **Participation in the creation of legislation and public policy to account for missing persons**

**18.** The participation of families implies the existence of formal mechanisms that allow society to participate in the creation of legislation, and the development of institutions and public policies that guarantee their rights.

## Formal participation in institutions in decision-making on actions that impact the rights of families

**19.** Participation entails direct action or through representatives, either informally (but with genuine impact) or formally, in state mechanisms that recognize families and civil society as decision-makers with a voice and a vote. This form of participation also ensures that families contribute to the design and implementation of official strategies to search for, locate and identify missing persons, the arrangements for reunion with family members or the dignified return of human remains, and the design of reparation and commemoration strategies.

## Participation as the individual and social process of commemoration the missing.

**20.** Hand in hand with mobilization, commemoration is a form of participation that allows families to carry out activities in the private and public expectation of remembering their relatives.

# IV. WHAT IS THE RELEVANCE OF FAMILY INVOLVEMENT?

## Participation as a key to social transformation

**21.** Participation not only makes it possible to enforce the rights of families, it is also a vehicle for legitimacy and impact, through transparency and legality. Victims are holders of rights regulated by rules. Guaranteeing participation ensures compliance with requirements and due process in procedures.



## Impact

**22.** When families participate by reporting their relatives and providing information, they are contributing inputs that are essential for the process to be effective.

## Generating political will

**23.** When families participate effectively, they generate political will, which is essential for decisive action by the State to prioritize the issue.

## Transparency

**24.** When families participate, they generate information and play an essential role as overseers and promoters of transparency.

## Legitimacy

**25.** Without the possibility of participation, victims do not recognize the authorities' efforts as legitimate or their results as genuine. The 'legitimacy deficit' also has a negative impact on the willingness of families to continue providing information.

## Transformation

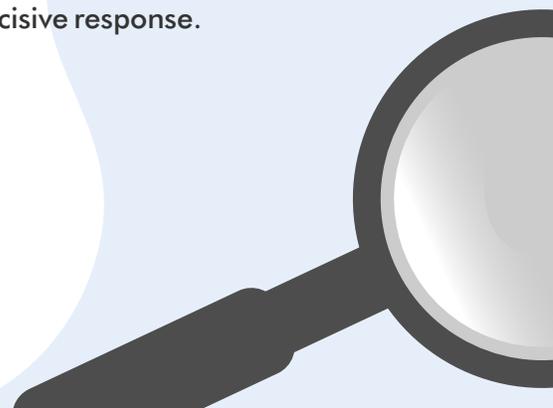
**26.** Participation gives victims a position within society, which leads to the transformation of their own identity and their relationship with and perception of institutions and the State.

## V. WHAT ARE THE DIFFICULTIES OR CHALLENGES FOR FAMILY PARTICIPATION?

### Shortcomings in the inter-institutional framework

**27.** The institutional framework to account for missing persons in the country is broad and involves a large number of institutions such as the General Prosecutor's Office, the National Institute of Legal Medicine and Forensic Sciences, investigative agencies such as the DIJIN and the CTI, the National Search Commission, the Ombudsman's Office, and judges, among others. In addition, as a consequence of the Peace Agreement, the Integral System of Truth, Justice, Reparation and Non-Repetition (SIJVRNR) was created, comprising the Truth Commission and the Special Jurisdiction for Peace and the Search Unit for Missing Persons (UBPD), with the mandate to lead the humanitarian and extrajudicial search for missing persons in the context of and due to the armed conflict.

**28.** This number of institutions represents the political will of the State to account for missing persons. However, it has also resulted in redundancies and inadequate coordination and clarity in processes and mandates. The complexity and redundancy of the institutional framework results in confusion, inefficiency and expense and undermines the State's coordinated and decisive response.



**29.** Coordination efforts by the different institutions that have a role in the missing persons issue are necessary. Families usually have to go to several institutions and submit the same information over the years to follow up on their cases. This entails additional time and expense, and a high emotional toll. In terms of the effects on participation, victims are limited to a passive role of providing information, which also revictimizes them.

### **The need for ongoing advocacy work**

**30.** The overburdening of the Colombian judicial system and institutions has resulted in little progress being made ex officio. Victims and their representatives constantly monitor and exert pressure on the authorities to comply with their duties to investigate, punish the perpetrators and satisfy the rights of the victims of disappearance.

**31.** In the current context of Covid-19 pandemic, communication with judicial officials has had to be via virtual means, which has meant an additional burden in terms of lack of internet access, lack of knowledge and additional procedures. Families report that, without their intervention and constant follow-up, search actions are not carried out and the necessary steps are not taken to find the missing person.

### **Insufficient institutional presence at the territorial level**

**32.** The opportunities for participation and representation related to the institutions that lead the search process have been reduced both in number and in the number of possible participants. This is in addition to an inadequate institutional presence at the territorial level that imposes additional limitations on the majority of family members who live in rural areas or outside of major cities to have direct interactions with officials. Likewise, although there are important efforts to establish opportunities for participation that cover the entire national territory, decision-making from the central level is still very strong, which means that sometimes the regional representatives of the institutions do not have the authority to make decisions and the families have reported that their presence in some cases is more nominal than real.

### **Lack of technical knowledge**

**33.** Participation requires that families understand elements of the legal, forensic, scientific and administrative process. In most cases, families and civil society organizations do not have such an understanding. Families of missing persons must have basic knowledge of institutional routes and steps in the process for their participation to be effective. The more informed they are about the process, the more effective they can be in defending their rights and holding the State and the international community accountable.

### **Areas of participation that are not accessible to all victims**

**34.** In the current context of participation before the SIVJRN, families are represented in the Advisory Council of the UBP. In addition, families have the possibility to send reports on their cases to the institutions. In order to do this, the families must be linked to a civil society organization since the submission of individual reports is not envisaged as there are other channels for this purpose. The organizations must have the capacity to follow up, which may entail logistical arrangements, and specialized knowledge in collecting



information and writing and editing reports. Many of them do not have the requisite technological, financial or human resources to do this.

### **Gaps in some institutional measures**

**35.** Institutional initiatives, although well-intentioned, lack in most cases indicators, goals and concrete timelines. Currently, there are two National Search Plans, one from the Commission for the Search for Missing Persons and the other from the Search Unit for Missing Persons (UBPD). Organizations and relatives of missing persons report a lack of general timelines for action or concrete follow-up indicators to ensure that they fulfill their role in making the search process more effective and efficient. Although there are initiatives to operationalize these plans, progress has been slow and families are presented with a confusing array of next steps.

### **Precarious security situation**

**36.** Security and the definition of clear routes to access protection mechanisms are indispensable in order to to guarantee permanent participation, especially for CSOs in the field. One of the issues of greatest concern to family members, organizations and the FARC Search Commission is the security of those who participate in the search processes and the attention that has been given so far to threats or situations of risk. In this context, the level of risk may actually increase as the full truth is demanded and as perpetrators face a loss of benefits if they do not cooperate.

### **There are no specific gender guidelines**

**37.** The vast majority of people reporting missing persons are women. In this context, a gender perspective is essential for them to participate in the process and for their rights to be guaranteed. The dual role that women must assume as searchers and as caregivers and providers, when faced with a disappearance, adds to the impediments to effective participation. Civil society organizations note that in institutions the gender approach must be practical as well as theoretical.

## **VI. HOW TO SUPPORT THE PARTICIPATION OF FAMILIES OF MISSING PERSONS?**

### **Promotion of family associations**

**38.** Family associations play an essential role in the process by collecting information on missing persons, often providing advice and counsel, lobbying government agencies and institutions to speed up and improve the process of locating the missing, and raising public awareness on the issue of missing persons.

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<sup>12</sup> According to CIVICUS, “Latin America is a particularly hostile territory for activists, journalists and social, indigenous and environmental leaders”. Moreover, according to studies by Front Line Defenders, five Latin American countries – Brazil, Colombia, Guatemala, Honduras and Mexico – along with the Philippines, accounted for 85 percent of murders of human rights defenders perpetrated worldwide during 2017. Front Line Defenders, Stop the Killings. 2018. At <https://www.frontlinedefenders.org/en/statement-report/stop-killings>.



**39.** In 2019 ICMP identified the existence of 41 associations of relatives of missing persons (FAs) dedicated to the issue of disappearance present in 31 of 32 departments in Colombia and 50 non-governmental organizations (NGOs). In the last two years, the number has grown exponentially and now there is a record of more than 100 constituted FAs. Despite being numerous and present throughout the territory, with around 200 families per association, these organizations represent only 15 percent of missing persons. There is therefore a huge universe of unorganized relatives.

**40.** Existing organizations should therefore be strengthened to expand their membership and to expand the essential support they offer to their members, as well as to promote the creation of associations of relatives. The process of uniting the families of missing persons should also be promoted so that their action is coordinated.

**41.** Supporting the joint leadership and collaboration of family organizations promotes access to information and participation by a larger population, the formation of networks and the strengthening of civil society. This is especially important when leadership and networks reach victims or populations that, due to their location, their degree of vulnerability or other reasons, have fewer opportunities to participate.

#### **Seek unity of civil society.**

**42.** The forms of disappearance and the type of perpetrator result in the creation of "groups" according to the type of disappearance. The existence of these groups is used to advance specific interests or narratives, resulting in polarization, and the proliferation of distractions from the priority of accounting for all the disappeared.

**43.** It is therefore necessary to advocate for a strategy to help victims find common ground among themselves and to unite across political lines or differences over the causes of disappearance. Local and global networks of families of the disappeared and CSOs should be created, and coordination and cooperation mechanisms between such networks and relevant institutional actors should be encouraged. The rights of families of the disappeared can only be advanced if the families themselves become stronger advocates, with greater capacities, and if they can act and speak in unison.

**44.** Communication and coordination among different organizations and networks will also allow for processes of exchange of experiences that will help them to continue strengthening their technical capacities and tools to participate more effectively in the different stages of the process and before the different entities and institutions.

## Promote better interactions between civil society and institutions.

**45.** Searching for missing persons is an integral process in which family members have the right to be treated with dignity by all authorities. The guarantee of respect for human dignity includes accompaniment in the search process, their recognition as rights holders, the delivery of human remains of victims in accordance with cultural norms and customs, and the possibility for the families to be briefed, in an instructive and appropriate way, about information regarding the investigation. This point also includes the need to prioritize attention to implementing individual approaches as these are closely related to ways of dealing with mourning and cultural particularities that may be important to families.

## Capacity building

**46.** In addition to financial support to establish partnerships and facilitate their work, learning and development requirements are necessary to build capacity and strengthen the participation, advocacy and advocacy skills of civil society organizations. Civil society organizations must know the technical and operational elements of the process. Such processes should be capable of promoting a better understanding among local actors about the connections between gender equality, peacebuilding and other social issues and the issue of the missing, and of the importance of providing a space for civil society in the process.

## Promotion of family participation

**47.** The State should be the main promoter of the active participation in the search process of all families of all missing persons, regardless of their political affiliation, economic origin, ethnicity or role in the conflict.

**48.** State institutions should continue to implement strategies to generate the confidence, security and tools necessary for victims to report cases of missing persons and receive the assistance required to participate in all areas and phases of the process.

**49.** The efforts of the families of the disappeared underpin an effective process, and in Colombia the response of family members to the disappearance of their loved ones has been proactive and determined. This determined commitment can sustain the process in the long term, and it is therefore essential to sustain and promote it.

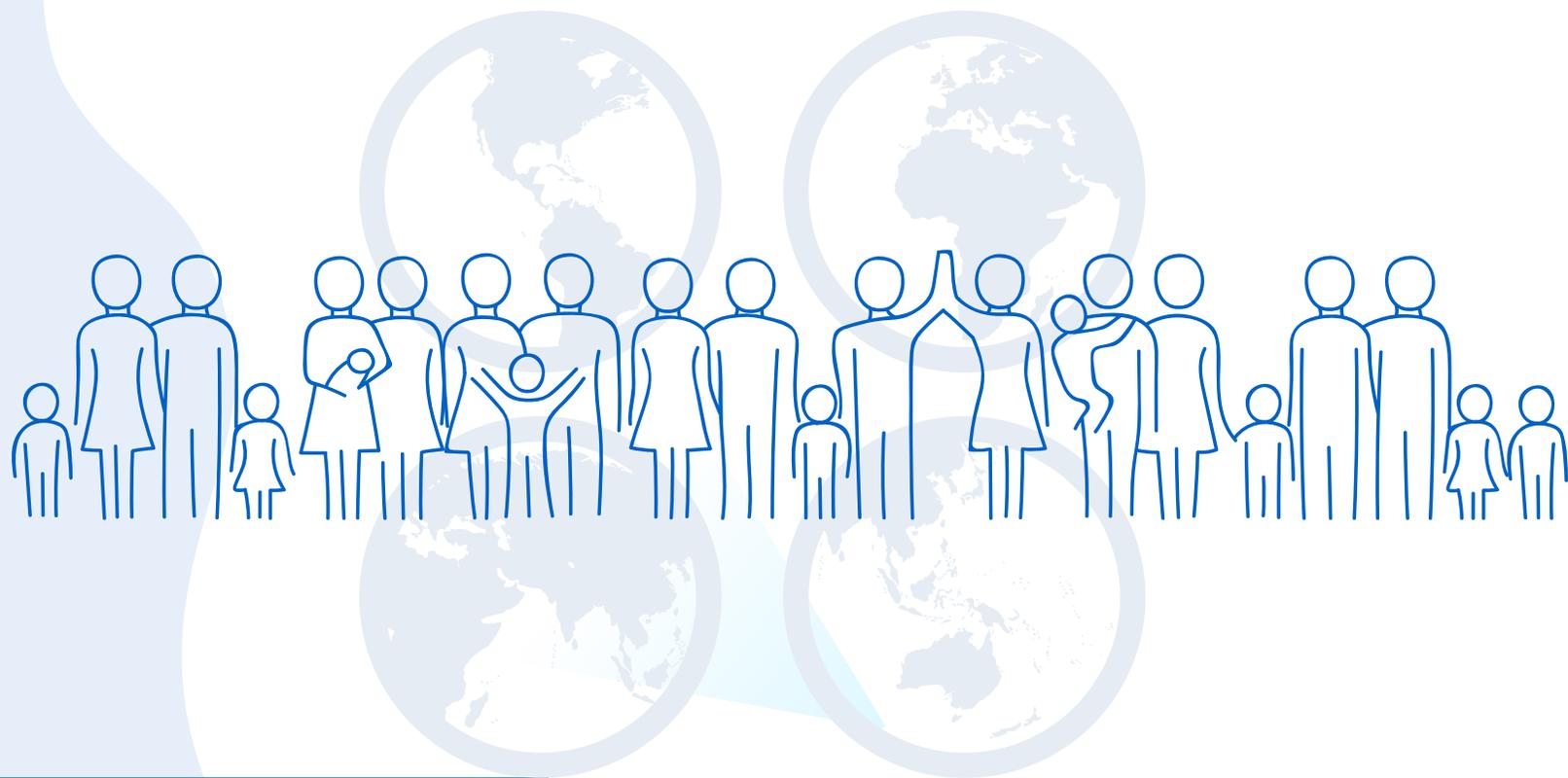
### Support for commemoration activities

**50.** For the organizations of relatives of missing persons, it is essential to commemorate dates of disappearance: this allows them to remember their loved ones, to demand an effective search and to reject any repetition of such events. It allows families to come together and recognize one another, to share pain, and to show solidarity .

**51.** Artistic works have been not only a process of emotional recovery, but also a strategy to make the issue visible by applying crafts in which they are experts. It is necessary that these processes have a broader impact on the general population, which, despite the centrality of disappearance in the conflict, remains uninformed about its impact and its relationship to the rule of law and security.

## VII. WHAT CAN BE DONE?

**52.** To meet challenges in regard to the effective participation of civil society, it is necessary to continue promoting a flexible and creative international strategy of cooperation that can provide long-term accompaniment, and can adapt to the contexts and needs that emerge along with the priorities of civil society at each stage of the process of searching for missing persons.



**53.** International cooperation must respect the autonomy of the interests of the organizations, allowing them to prioritize their actions and projects without political pressure or particular agendas<sup>14</sup>, and recognizing their local knowledge as the basis for defining priority lines of action.

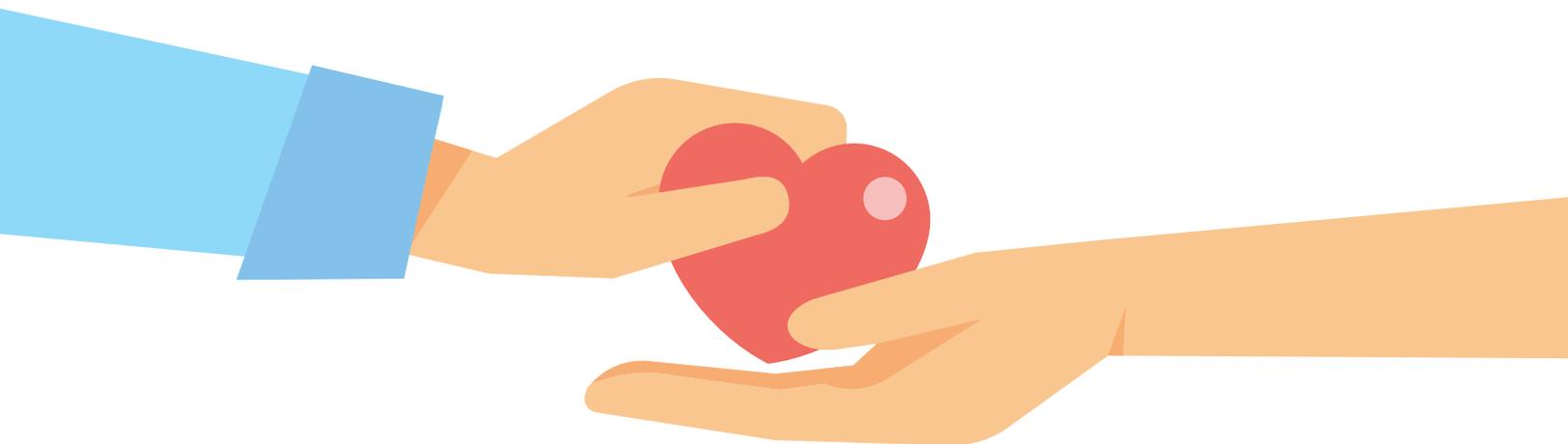
**54.** It is also important to establish information exchange processes in regard to organizations and thematic lines that are receiving support. This will broaden coverage to more organizations or larger areas of work.

**55.** Regarding the requirements to access financial support from international organizations, processes should be established that adapt to the different levels of experience and capacity of different organizations, ensuring that a lack of knowledge is not an obstacle to accessing funding. Most civil society organizations working on disappearance issues in Colombia are small, grassroots organizations that have recently emerged and do not have much experience in the administration of funds, as the life plans of members were different when they were confronted with the disappearance of their relative. The existence of different funding windows, accompanied by technical advice from international actors, will help the organizations to strengthen their management capacities as they advance their work on the issue of missing persons.

**56.** It is essential to continue to socialize the mandates, procedures, guidelines and participation manuals of the different institutions involved in the process of reporting missing persons to family members who have not had access to this information.

**57.** Given the importance of mobilization as a form of participation, the support of the international community is required to continue advocating for areas of activity for civil society, and addressing the security implications of reducing such areas.

**58.** Finally, political support from the international community is essential to increase the impact of participation. In this sense, international actors can continue to support civil society by creating spaces for dialogue and collaboration between civil society and institutions and by helping institutions to maintain family participation as a priority. In Colombia, political support from the international community also helps to reduce the stigmatization of those who search and it helps to highlight the fact that accounting for missing persons is a fundamental requirement for peacebuilding.



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