



COMISIÓN COLOMBIANA DE JURISTAS

Organización no gubernamental con status consultivo ante la ONU
Filiat de la Comisión Internacional de Juristas (Ginebra) y de la Comisión Andina de Juristas (Lima).
PERSONERÍA JURÍDICA: RESOLUCIÓN 1060, AGOSTO DE 1988 DE LA ALCALDÍA MAYOR DE BOGOTÁ.

After the Approval of the Law of Impunity (Bulletin number 5)

LET'S KEEP THE FEET ON THE GROUND

It is illusory to think that peace will result from negotiations that keep the power of the paramilitary intact

*“There are even some who propose totally dismantling paramilitarism. Such proposals are quite respectable, but **let's keep the feet on the ground**. These proposals are either terribly naïve or they have other purposes that I do not dare specify”.* This statement was made by the Head of the “OAS Mission to Support the Peace Process” in Colombia (MSPP/OAS) during a follow-up session on the progress of the negotiations with the paramilitary (in Bogota, on February 24, 2005, at Residencias Tequendama). It is worth analyzing what those “other purposes” that the OAS official did not specify are.

1. The End of Ties between State Agents and Paramilitary Groups

Establishing solid peace in this country requires military and police forces that are committed to defending and guaranteeing the constitutional order. Taking into consideration that State security forces have been involved in the formation of paramilitary groups, the Government must acknowledge this crude reality and dismiss and punish State agents who are accomplices of the paramilitary, in order for such violations not to continue.

However, in this negotiation process, *“efforts aimed at establishing the truth regarding the events occurred and the degree of official involvement with the paramilitary have not yet been detected”* (Inter-American Human Rights Commission (IAHRC), Report on the Demobilization Process in Colombia, Washington D.C., December 2004). On the contrary, under the “democratic security policy”, the present Colombian Government’s favorite program, the Public Forces have carried out large military operations in various areas of the national territory, which, in many cases, have led to a consolidation of the paramilitary groups. For example, the military operation “Patriot Plan”, being carried out in the South of the country (in the provincial departments of Meta, Caquetá, Guaviare, and Vichada) with United States military support, illustrates paramilitary group strengthening in zones allegedly recovered by Government troops. By visiting the affected areas, the Colombian Commission of Jurists has been able to confirm that the paramilitary strictly control important sectors of the civilian population in said provincial departments. They impose their rules for co-existence and mandatory payments on merchants and peasants alike; they temporarily or permanently take over the citizens’ dwellings; and they submit the women to sexual slavery, to name but some of the attacks perpetrated against the civilian population.

The State agents’ responsibility in such human rights violations is not limited to their merely tolerating the abuses perpetrated by paramilitary groups. For example, in the South of Caquetá, there is evidence of joint kidnappings and homicides and members of the military forces have threatened the population announcing future paramilitary attacks.

2. A Guarantee That There Will Not Be a New Version of Paramilitary Groups

The State' duty to absolutely control weapons is a basic assumption for guaranteeing the citizens' security. Granting civilians the possibility of using weapons of war has led in this country and in others to the formation of paramilitary groups, to the degradation of armed conflicts, and to committing human rights violations. Promoting regulations that authorize civilians to handle weapons that are restricted to the Military Forces, such as 1965 Decree 3398 (Article 33 Paragraph Three) and 1994 Decree 356 that created private associations, known as "Convivir", aimed at defending the territories considered high-risk territories or territories of public interest, has facilitated the creation of paramilitary groups. It is thus clear that a process aimed at overcoming paramilitarism must abstain from resorting to this type of measure.

However, the Government persists in its proposals to design mechanisms that continue involving civilians in labors proper to the military. In August of last year, it issued a decree authorizing the Military Forces to contract demobilized combatants in exchange for an economic bonus of which the Ministry of Defense would be in charge (2004 Decree 2767).

3. Returning Lands to Their Owners

A genuine peace process must act against the causes of widespread, systemic human rights violations and, to do so, it must take into account that "*victims who have had their lands or their property taken away due to violence perpetrated by actors in the armed conflict are entitled to measures of restitution*" (Inter-American Human Rights Commission (IAHRC), Report on the Demobilization Process in Colombia, Washington D.C., December 2004).

Notwithstanding, the Government policy has continued favoring violent forms of obtaining and holding lands. For example, in the provincial department of Chocó, in the Jiguamiandó and Curbaradó river basins, an area where Afro-Colombian communities live on lands for which they have a legal title (1993 Law 70), paramilitary groups, with the support of Army troops, have continued taking over lands after perpetrating murders and other human rights violations. The lands so obtained are aimed at the extensive cultivation of African palm and at cattle raising. The cultivations are protected by the Army despite their being in the hands of persons who are not their legal owners (Regarding this matter, see: Inter-American Human Rights Court, March 6, 2003, provisional measures requested by the Inter-American Human Rights Commission regarding the Republic of Colombia, case of the Jiguamiandó and Curbaradó communities; and People's Ombudsman's Office, Defense Resolution number 39 dated June 12, 2005).

From 1996 to now, these communities have been the victims of at least 12 forced displacements and of other multiple violations of their human rights. The Government is not forwarding any actions to reestablish the rule of law in these territories, nor in others that suffer similar conditions; it should return the lands to their rightful owners and grant reparation for the damage caused. In addition to being unfair, this, in practice, indicates a mere appearance of demobilization because the paramilitary groups are actually keeping their economic capacity to be able to replace their weapons and continue recruiting combatants. And, indeed, they have been doing just that.

4. Strengthening Democracy

Democracy is the propitious terrain on which to achieve peace. This means guaranteeing equitable order and the possibility of freely electing and being freely elected by vote. In Colombia, *“the stability of the democratic institutions are affected by deep social inequality and high indexes of violence”* (Inter-American Human Rights Commission (IAHRC), Report on the Demobilization Process in Colombia).

In the above point, with the example of the case of the Chocó Afro-Colombian communities, we illustrated that democracy is not strengthening because the Government is not doing what it is supposed to, which is to guarantee overcoming social inequality. On the contrary, it is contributing to worsening inequality. Furthermore, regarding the possibilities that persons have of freely participating in the upcoming elections in 2006, the question that congressperson Gina Parody brought up last June 21, the day on which the law called “Justice and peace” was approved, is very relevant, *“What will happen to the candidates who oppose the paramilitary in some regions in the country?”*.

This Representative of the Chamber of Representatives is a militant member of the President of the Republic’s political group and was co-author of a bill of law to regulate the negotiation with the paramilitary in a manner respectful of the victims’ rights, a bill of law that was never supported by the Government. She posed this question because when she tried to oppose the bill of law that guarantees impunity, she was booed out of Congress, *“with the vehement support of the High Commissioner for Peace and the Vice-Minister of the Interior and Justice”*, amidst what the press qualified *“a sad show of intolerance”* (Newspaper *El Tiempo*, Bogota, June 23, 2005, pages 1-4 and 1-24).

Conclusion

These “other purposes” of those who have insisted in the need to dismantle paramilitarism in this country in order to obtain genuine peace are not different from those expressly set forth in the MSPP/OAS central mandate motivated by the *“main concern for promoting and defending human rights, justice, and reinforcing trust and security”* (pursuant to OAS Permanent Council Resolution CP/RES.859 (1397/04)). Thus, it is the OAS Mission in Colombia who has to **keep its feet on the ground**. If not, the immense impunity granted to the paramilitary through this law and these negotiations seems to have more probability of accentuating the war than leading to peace in Colombia.

Bogota, June 21, 2005

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