

The Colombian Conflict: For the Rights of the Victims

1. Introduction

The Catholic Agency for Overseas Development (CAFOD), the Scottish Catholic International Aid Fund (SCIAF), Trócaire, The Irish Catholic Agency for World Development, and the Social Department of the Colombian Catholic Church (SNPS) are committed to a negotiated solution to the internal armed conflict that has afflicted Colombia for more than forty years. This commitment forms the basis for an international campaign of information and advocacy by the Colombia Working Group of Caritas International under the title *Peace is Possible in Colombia*.

The Catholic Church in Colombia believes that to produce a lasting solution to the country's internal armed conflict it is vital to guarantee the voice and active participation of the many thousands of victims of paramilitary, guerrilla, state and other violence in Colombia. They must have access to truth, justice, reparation and non-repetition of the abuses committed against them, as is their right enshrined in international and national law. Only if this is achieved will conditions be created which will make peace and reconciliation possible.

This document examines the situation of the victims of the Colombian conflict, identifies central concerns that need to be addressed, and presents recommendations for action. It draws primarily on analyses from the Colombian Bishops' Conference, supported by data from other governmental and non-governmental sources. Because the situation of the victims cannot be understood without reference to the demobilisation of illegal armed groups and individual fighters between 2003 and the present (generally referred to as the Justice and Peace Process after the title of the principal law that governs it), the document also analyses this process. The law was intended to "facilitate peace processes and the individual and collective reincorporation of members of illegal armed groups, guaranteeing the rights of the victims to truth, justice and reparation".¹

2. The Colombian internal conflict and its victims

The country has suffered from over forty years of internal armed conflict involving guerrilla organisations, right-wing paramilitary groups and the national armed forces. As a result of this conflict, Colombia is faced with one of the world's highest levels of human rights violations with a disproportionate, generalised, and systematic impact on the civilian population.

¹ Ley 975 de 2005, Preamble

According to figures of the United Nations High Commission on Refugees (UNHCR), Colombia is second only to Sudan in the number of internally displaced persons. In the period between 1985 and 2008 it is estimated that over 4.5 million people were forcibly displaced in Colombia,² the equivalent of 10 per cent of the population of the country. Many of the forcibly displaced in Colombia experience this violent dislocation repeatedly, and have been pushed into long-term poverty. A recent survey of the internally displaced in Colombia found that 97 per cent were living below the poverty line.

Colombia has also suffered high rates of forced disappearances, massacres, selective assassinations, kidnappings and a largely hidden epidemic of gender-based violence. Additionally, Colombia has the highest number of victims of anti-personnel landmines, and is the only country in the world where landmines continue to be laid. Between 1990 and 2008, 7,451 Colombians, including 372 women and 722 children, were victims of these mines.³

The overwhelming majority of the victims of the conflict have been civilians: poor farmers, indigenous and African-Colombian populations, community activists, trade unionists, human rights defenders and many thousands of ordinary people caught in the cross-fire between the armed groups.

“I was forced to flee my home with my daughter when illegal armed groups burnt down my home in the countryside. I now live in a shanty town in Huila with my daughter, who is eight years old. My home is a little shack made out of wood and plastic. There is only one bedroom and I have no toilet or running water.” AB, a single mother aged 44 from Huila.

The “typical” victim of the conflict in Colombia is a poor woman, single-head of household, she earns minimum wage, only has minimum primary school level education and has been displaced by violence. *From the National Reparation and Reconciliation Commission CNRR’s profile of a ‘typical’ victim*

The impact of forced displacement on Afro-Colombian and indigenous communities has been dramatic, both in terms of the disproportionate targeting of these traditionally marginalised populations by armed groups, but also in the scale of their dispossession from their communally owned lands. In 2009, the Constitutional Court found that Afro-Colombians were one of the most impacted groups, with nearly half of the entire Afro-Colombian population affected by internal displacement.

In terms of indigenous communities, last year the National Organisation of Indigenous Peoples in Colombia (ONIC) stated that 32 indigenous groups are at risk of disappearing, with forced displacement contributing notably to this crisis. According to CODHES, 13,500 indigenous persons became displaced in Colombia in 2008 alone. Indigenous communities in 2008 and 2009 faced both internal displacement and confinement by armed groups in which they were unable to leave, or receive adequate food, medicine and other essential supplies. One of the largest recent displacements in the Pacific coast department of Chocó took place in 2009, when 2,000 Embera indigenous persons were forced to flee the Baudó River area.⁴

² According to the Consultaria para los Derechos Humanos y el Desplazamiento (CODHES), the most well-known civil society organisation tracking such information.

³ “7.451 víctimas de minas antipersonal” [“7,451 Victims of Anti-Personnel Landmines”] *El Espectador*, March 2, 2009.

⁴ As stated in the Washington Office on Latin America’ document, *Special Concerns of Indigenous IDPs*, April 30, 2009

Labour union members and activists have been the victims of yet another category of human rights violations. The International Labour Organisation (ILO) has called union activity the most dangerous and risky activity in Colombia and, according to figures from the National Labour School, a union member has been murdered every three days for the last 21 years. This painful statistic translates into 2,534 victims murdered between January 1 1986 and July 30 2007. These 2,289 men and 248 women have lost their lives defending, demanding, or simply exercising their fundamental right to participate in labour unions.⁵

Sexual violence and sexual exploitation in the context of the armed conflict — which according to the Constitutional Court are among the most prevalent gender-related risks in the country — are examples of other major crimes where the state has not shown due respect to, or provided protection for, the victims. Women continue to face many obstacles in trying to denounce these crimes. The Attorney General's office is investigating 183 cases of sexual violence. Of these cases, 106 are attributed to members of paramilitary groups, 42 to members of the military or police, and 15 to guerrilla groups.⁶

In this sense, the universe of victims is so broad that it cuts across all sectors of society and social classes. It also extends across the entire national territory, as shown by the total area of land — some 5.5 million hectares (21,235 square miles) — from which victims have been forcibly displaced. This is the equivalent of 10.8 per cent of the farming area of the country.⁷

Landmines – the story of Olga⁸

In 2006, 65 children were injured by landmines.⁹ Olga stepped on a landmine in the region of Caquetá when she was eight years old. She lost her leg but she was too afraid to admit that a landmine had caused her injury, telling the hospital instead that it was a snake bite. The guerrilla groups in the region had threatened to kill anybody claiming to have been injured by a landmine. The army was suspicious of anybody arriving at the hospital with landmine injuries, believing them to be possible supporters of the guerrillas. Today, Olga cannot access rehabilitation or prosthesis because she is not on the official list of landmine victims.

3. Concerns at the current process

The Justice and Peace Law and its associated legal framework:

The Justice and Peace Law was negotiated with the paramilitary leaders who rejected earlier versions that were closer to meeting international norms covering transitional justice. By 2005, when the law was enacted, the maximum penalty, even for those who confessed the most heinous crimes against humanity, was set at eight years. There was a stipulation that if demobilised fighters wished to access the incentives offered by the law, they were obliged to provide full information on illegally obtained assets, turn over child soldiers, release kidnap victims, and cease all activities aimed at discouraging activities such as the free exercise of political rights.

⁵ *Cultura y Trabajo* magazine, Ed. No. 73, October 24, 2007.

⁶ Paramilitares y guerrilleros convirtieron la violencia sexual en arma de Guerra” [“Paramilitary Members and Guerrillas Turn Sexual Violence into a Weapon of War”] *Cambio* magazine, March 4, 2009.

⁷ Eleventh Report, Commission for Monitoring Public Policy on Forced Displacement, Bogotá, January 19, 2009

⁸ Case-study from ABColombia, Fit for purpose: how to make UK policy in Colombia more effective, March 2009

⁹ http://www.unicef.org/infobycountry/colombia_39301.html

Colombian human rights groups, including the SNPS, mounted a challenge to the law's constitutionality. In May 2006, the Constitutional Court issued a ruling removing some of the more controversial elements of the Justice and Peace Law. However, in September of the same year, the government responded by issuing Decree 3391 which revived some of these contentious articles, undermining the role of the Constitutional Court and removing safeguards against impunity.¹⁰

The Justice and Peace Law was vague about the nature of reparations; it allowed for economic and symbolic reparations, both individual and collective. It left open the possibility that government social programmes could be considered as reparations, a concept criticised by the Colombian Inspector General (*Procurador*) and the Inter-American Commission of Human Rights (IACHR) as permitting the government to label as reparations the minimal services it was already obliged to provide for its citizens.

The majority of the people who laid down their arms during the demobilisation process were members of the paramilitary Autodefensas Unidas de Colombia (United Self-Defence Groups of Colombia, AUC). The demobilisation process and the 'Democratic Security' approach have been central to President Uribe's two administrations (2002-2006 and 2006-2010). Official figures show that 31,671 members of the AUC were officially registered as demobilised between 2003 and 2006. In the separate process of individual demobilisation, a further 15,777 people are recorded to have laid down arms in this period. Nearly 12,000 of these belonged to guerrilla groups. Reduction in the number of illegal armed groups functioning in Colombia is, of course, of considerable importance. However, there were serious weaknesses in the design and implementation of the demobilisation process. Many of the paramilitary actors never demobilised or have remobilised in new forms, and both the FARC and ELN guerrillas continue to function, with the civilian population continuing to suffer the violent consequences of this reality.

So how successful has the Justice and Peace process been so far in fulfilling, as it promised to do, "the rights of the victims to truth, justice, reparation and non-repetition"?

Truth

Of the 47,448 people who have handed over their weapons during the current process (31,671 as a part of the collective demobilisation, and 15,777 individuals),¹¹ only 3,284 have decided to testify under the Justice and Peace Law. The majority of the demobilised fighters have benefited from Decree 128, which covered members of illegal armed groups who were not under investigation for human rights offences at the time of their demobilisation. These received *de facto* amnesties for any crimes they may have committed. There was no obligation for them to confess to criminal acts, nor to provide information about the acts of others, including those who provided political, economic or military support to them.

Furthermore, the Attorney General's office (*Fiscalía*) received just over 1,000 confessions, of which 951 were subsequently withdrawn, leaving only about 50 people who were prepared to testify. It appears that the overwhelming majority of the demobilised have gambled that the

¹⁰ Amnesty International (2008), *Leave us in Peace: Targeting Civilians in Colombia's Internal Armed Conflict*.

¹¹ Of the individual demobilisations, 9,559 were from the FARC, 2,088 the ELN, 3,682 the AUC and 448 from dissident groups. 13,200 were men, 2,577 women and 2,387 under 18: www.mindefensa.gov.co

justice system will fail to bring them to justice. As we will see, even the fifty may end up with a very favourable deal.

Consequently, the overwhelming majority of the paramilitaries were simply not obliged to confess to abuses they might have committed, or to provide information on the structure of their group, drugs-related activities or contacts and supporters. In July 2007, a ruling of the Supreme Court declared these benefits to be unconstitutional, and 19,000 cases were re-opened, to be dealt with under ordinary justice. Given the levels of impunity in Colombia, it will be very important to monitor the progress of these processes.

On the other hand, an unexpectedly large number of victims have presented themselves in the hope of uncovering the truth despite the fact that the legal framework does not guarantee legal representation for the victims. Neither does it enshrine their right to cross-examine those they allege were responsible for the abuses they or their families and loved-ones suffered. By September 2008, some 138,000 victims had filed reports under the Justice and Peace Law, of whom 80,000 were female.¹² Of the 80,000 women who have filed reports, only 625 women have filed as victims of sexual violence and of these 625, only 11 cases are currently being investigated by the Justice and Peace Unit.¹³ This disturbing level of under-reporting of cases highlights the invisibility of sexual violence as a weapon of war and the considerable obstacles that women face in order to access support and justice.

According to the human rights ombudsman's office, 17.7 per cent of women victims of displacement reported sexual violence as the cause of displacement.¹⁴

Justice

The Colombian judicial system struggles in the face of woefully inadequate financial, technical and human resources. There are only 23 prosecutors in the Justice and Peace Unit of the Attorney General's office. Each of them has only three to four investigators and two to three legal assistants – meaning that each prosecutor has on average a caseload of more than 800 victims. In April 2008, it was revealed that only 8,634 victims of the more than 125,000 who had at that time registered had actually participated in the Justice and Peace hearings, and only 10,716 had received legal counsel from the Ombudsman's office.

Located only in Bogotá, Barranquilla and Medellín, the prosecutors have the responsibility to cover the entire national territory, including many areas still in conflict. The reduced number of investigations carried out into paramilitary activities before the demobilisation constitutes another obstacle. This is in addition to the slow uptake by the paramilitaries themselves which we mentioned in the previous section.

Three years after the Justice and Peace Law came into effect, not a single prosecution had been achieved. Of the 11,505 cases which have emerged through the testimonies of demobilised fighters, not a single one has been brought to a conclusion by the ordinary justice system. Many had already been archived for technical or evidential reasons before the current

¹² Eleventh report MAPP/OAS: www.oas.org/consejo/Documents%20DOC.asp

¹³ Mesa de Trabajo: Mujer y Conflicto Armado (2008), VIII Informe Sobre Violencia Sociopolítica contra Mujeres, Jóvenes y Niñas en Colombia

¹⁴ In Case-study from ABColombia, Fit for purpose: how to make UK policy in Colombia more effective, March 2009 data from the Human Rights Ombudsman office (Defensoría del Pueblo), Promoción y monitoreo de los derechos sexuales y reproductivos de mujeres víctimas de desplazamiento forzado con énfasis en violencia intrafamiliar y sexual, Bogotá, June 2008, p. 173.

process began. Bringing them to justice now constitutes a major challenge for the justice system.¹⁵

We are also profoundly concerned at the decision, made in May 2008, to extradite 14 principal paramilitary leaders. This was on the grounds that they had continued to be active in drugs trafficking and in commissioning acts of violence in breach of the condition under the Justice and Peace Law which prohibited them from committing further crimes. This decision was opposed by human rights organisations, including the SNPS, and by the IACHR, on the grounds that the decision not only affected "the obligation of the Colombian State to guarantee the rights of the victims to truth, justice and reconciliation" but also "interfere[d] with the efforts to determine the links between state agents and the paramilitaries".¹⁶

In the interests of justice, as well as truth, it is vital that the victims should be able to participate fully in the investigations, but they are subject to widespread intimidation and at least 17 have been murdered and around 200 have received threats.¹⁷ The Constitutional Court has judged the protection programme for victims and witnesses involved in the Justice and Peace process to be deficient and has ordered its reform.¹⁸ It is also the case that the procedures stipulated in the legislation do not guarantee that victims or their representatives may cross-examine the testimonies provided by the demobilised fighters. This goes against the clear guidelines of the UN Human Rights Commission which, in a 2005 resolution that has subsequently been emphasised by the Colombian Constitutional Court, encouraged states to ensure that victims should be guaranteed this right.¹⁹ Furthermore due to the situation of poverty that many victims are living in, many are not able to pay the transport costs to participate in the investigations.

Representatives of victims killed – the case of Yolanda Izquierdo²⁰

Yolanda Izquierdo, head of the People's Housing Association – OPV for its Spanish acronym – had taken on the leadership of a group of victims of paramilitary crimes to help them participate in the Justice and Peace tribunals. Yolanda started receiving threats. She alerted state authorities and asked for protective measures but did not receive a response. On 31 January 2007 Yolanda was murdered.

Reparation

The Justice and Peace Law states that the principal responsibility to provide reparations lies with the perpetrators of the abuses committed.²¹ But according to international norms, states should also establish national reparation and assistance programmes to cover situations where those responsible cannot or will not meet their responsibilities.²² The UN Human Rights Commission adds that states may make reparations available through legislative or administrative mechanisms which may be financed using national or international resources

¹⁵ Revista Semana "Luces y Sombras" 26 July 2008.

¹⁶ <http://cidh.org/Comunicados/Spanish/2008/21.08sp.htm>

¹⁷ See: <http://www.asambleaporlapaz.com/?q=node/96>

¹⁸ Constitutional Court, Judgment T496 of 16 May 2008, Presiding judge: Jaime Córdoba Triviño.

¹⁹ Colombian Constitutional Court, Sentence C-370, 2007

²⁰ Case-study from ABColombia, Fit for purpose: how to make UK policy in Colombia more effective, March 2009

²¹ Law 975, art. 43.

²² UN General Assembly, Basic Principles, 2006

and may be individual or collective in nature. The victims should be able to play a significant role in the elaboration and application of these programmes.²³

While some very limited progress towards achieving truth and justice has been made as a result of the Justice and Peace process, the results in terms of reparation have to date been much poorer. The most important element of reparations in Colombia revolves around the question of land. In their testimonies, the paramilitary leaders who choose to speak have been singularly unforthcoming about the assets they have seized, and the judicial system has been incapable of forcing greater disclosure.

The Justice and Peace Law established the National Commission for Reparation and Reconciliation – the CNRR – among whose many tasks is that of recommending and administering reparations through a National Victims Reparations Fund also established by the law. Despite the fact that it includes the participation of well-respected peace and human rights activists, the majority of organisations working with victims do not consider the CNRR to be independent of government. Among its recommendations was a proposal that demobilised paramilitaries could contribute to productive projects that would benefit themselves, displaced persons and other small farmers, and that this would constitute reparations. This prospect horrified victims' groups, who criticised it as a *forced reconciliation* scheme that would oblige displaced persons to live in proximity to, and be dependent upon, those who had victimised them.

This is particularly troubling as there is a near complete absence of mechanisms to clarify ownership when land titles have been lost, stolen, or never existed. Indeed the *opportunity principle*, which allows for the waiving of prosecution against individuals deemed to have cooperated with the authorities, is likely to result in the legalisation of stolen lands if the use of intimidation and violence has not done so first.²⁴

It is estimated that 5.5 million hectares of land were seized by paramilitaries over the years.²⁵ Current policies promoting the exploitation of natural resources, most recently biofuels, increase the risk that the lands of the displaced will end up, by dubious or downright illegal means, in the hands of agribusiness companies. These lands and other illegally acquired assets declared were supposed to be passed to the National Reparations Fund. However, according to the Inspector General's office, by mid-2008 only 21 rural properties covering 5,439 hectares, seven urban lots, clothing, 4,666 head of cattle and horses, eight vehicles, two helicopters, 739 million pesos, 70 pairs of shoes, and a television in bad repair had been handed over to the fund.²⁶ An even smaller amount has actually been returned to the victims. To obtain economic reparations, the burden of proof has been on the victim, who would have to know the true identity of those who perpetrated the crime and provide proof of what was stolen, including land titles. In countless cases, this is an impossibility

The Colombian government responded to this situation through the establishment of mechanisms to provide "administrative reparations", principally by way of Decree 1290 of 2008 which was introduced with the stated aim of providing reparations when the legal

²³ UN Human Rights Commission, Updated Set of principles for the protection and promotion of human rights through action to combat impunity, 2005, E/CN.4/2005/102/Add.1, Principle 32

²⁴ Established in the New Criminal Proceedings Law, 2005.

²⁵ *Revista Iglesia Sinfronteras*. No 310, mayo de 2008. p. 9

²⁶ "Relación de bienes ingresados al FRV," chart prepared by Procuraduría General de la Nación with information from Acción Social and *El Tiempo*. Cited in LAWG The Other Half of the Truth

processes fail. The decree sets a monetary value for different abuses. Clearly, economic restitution has its place, and, given the incapacity of the judicial system to deal with the hundreds of thousands of cases emerging as a result of the demobilisation process, it is to be welcomed that additional legislation has been passed. But the decree is seriously flawed in the crimes it defines and in the fact it excludes acts committed by state agents from its purview. This is particularly important in the light of recent revelations about extra-judicial killings carried out by the armed forces. The decree does not guarantee the participation of victims in the legal processes, thereby further marginalising them and making it less likely that truth will emerge. In fact, it tacitly assumes that the paramilitaries will not hand over the lands and properties they have seized over the years.

Non-repetition

Colombian human rights and victims' groups not only speak of the rights to truth, justice, and reparations — they also speak of the right to “non-repetition”. This means the victims' right to a guarantee that the violations will never take place again.

While there has undoubtedly been a massive demobilisation of paramilitary fighters, it is not clear that all those who participated in the ceremonies to hand over weapons had been active fighters; indeed in their testimonies some of the paramilitary leaders have admitted that people were recruited simply to take part in the ceremonies. This helps to explain why so many demobilised were registered when estimates at the start of the process suggested there were between 10,000 and 20,000 paramilitary combatants.²⁷ It also helps explain the fact that, despite demobilisation, there are still thousands of paramilitary fighters active in Colombia.

Estimates of total numbers of these “retreaded” or new paramilitary fighters vary widely. Figures produced at the start of 2008 generally suggested between 3,000 and 9,000.²⁸ It is hotly disputed whether these armed groups should be designated as paramilitaries or – the term used in official documents – as criminal groups. In 2007, the OAS Mission which was established to monitor the process reported the existence of 22 rearmed groups.²⁹ The US State Department's Human Rights Report for 2007 described them thus: “The AUC demobilisation led to a reduction in killings and other human rights abuses, but paramilitaries who refused to demobilise and new criminal groups continued to commit numerous unlawful acts and related abuses, including: political killings and kidnappings; physical violence; forced displacement; subornation and intimidation of judges, prosecutors, and witnesses; infringement on citizens' privacy rights; restrictions on freedom of movement; recruitment and use of child soldiers; and harassment, intimidation, and killings of human rights workers, journalists, teachers, and trade unionists.”³⁰ In other words, these groups are employing the same techniques of social control and threats as in the past and we are far from being able to guarantee that human rights abuses will not be repeated as a result of the process.

Despite the reverses suffered by the FARC in 2007 and 2008, any claims to victory by the government must be treated with scepticism. The guerrilla movements continue to show a

²⁷ See Amnesty International, *The Paramilitaries in Medellín: Demobilization or Legalization?*, 2005; AMR 23/019/2005

²⁸ International Crisis Group, *Colombia's new armed groups*, 10 May 2007:

<http://www.crisisgroup.org/home/index.cfm?id=4824&CFID=54445312&CFTOKEN=89141339>

²⁹ Organization of American States, “Tenth Report of the Secretary General to the Permanent Council on the MAPP/OAS Mission,” 31 October 2007

³⁰ www.state.gov/g/drl/rls/hrrpt/2007/100633.htm

complete disregard for international humanitarian law in making no attempt to avoid civilian casualties, the practices of hostage taking and the recruitment of juveniles, and in their continued use of landmines.³¹ In the absence of any signal from the state of an interest in negotiating with the guerrillas, it is likely that further haemorrhaging of the guerrilla forces will produce violence that is more random and creates even more victims.

While it is true that between July 2002 and December 2007 there has been a marked decline in armed confrontations and kidnappings and presumably politically-motivated murders, there were still 13,634 people killed apparently for political reasons in the period. Cases of torture remained alarmingly high, and according to CODHES, 2008 saw the largest increase in forced displacement in Colombia since 1985. A disturbingly high percentage of these abuses were committed by paramilitaries who, for most of the period, were supposedly adhering to a cease fire. Together with this there are the violations of International Humanitarian Law by the armed forces.³²

Role of Church and victims movements

The Catholic Church, in company with Protestant churches and faith-based organisations, has worked tirelessly to accompany Colombia's victims, and with a broad spectrum of victims' organisations in order to assert the central importance of unearthing the truth, seeking justice, and reparations and to build the basis of national reconciliation. Countless parish priests and lay groups dedicate themselves to this work. The SNPS itself runs important projects including the Testimony, Truth, and Reconciliation Project (TeVeré "I will see you again"), which helps victims to gather testimonies in the hope that they will be able to locate their loved ones or at least find out what happened to them. The RUT project documents the experiences of the internally displaced in several areas of Colombia and constitutes one of the most important and authoritative sources of information on stolen lands. The SNPS also carries out advocacy activities, supporting, for example, the original draft of the proposed victims law.

The Catholic view of peace and reconciliation

We believe that peace cannot be reduced to the absence of war, nor to a development model based merely on economic growth and a healthy investment climate. Real peace requires that the deep-rooted causes of the conflict be addressed. In the case of Colombia, this includes addressing social inequality and combating the economic causes of the conflict, which are rooted in the inequitable exploitation of land.³³

We recognise that the process of constructing peace and achieving reconciliation will be a long one, in which the whole nation needs to be actively involved, and that while we recognise that some progress has been made towards these goals, enormous challenges remain.

Conclusions and recommendations

It is very important that Colombia's institutions should prevail and that the deep economic, social and political rootedness of paramilitarism and of the guerrilla violence be brought to an

³¹ Around 3,000 people are presently being held hostage. According to Landmine Monitor Global Report 2008 Colombia now has the highest number of landmine victims in the world with 895 casualties in 2007 (193 people killed and 702 injured).

³² The Jesuit research institute CINEP recorded an increase of 34% between the first and second semesters of 2008: CINEP, "*Falsos positivos*" *Balance of the Second Semester of 2008*, Bogotá, April 2009.

³³ Including, but not exclusively by any means, in order to cultivate and export narcotics

end. Accepted international norms make it clear that the state has the duty to guarantee the investigation of human rights abuses and infractions of International Humanitarian Law, to pursue, capture, judge and punish those responsible through rapid, detailed, independent and impartial legal proceedings.³⁴ Truth, justice and reparation can only be guaranteed if the victims are able to participate actively, as of right, to cross examine, and to do so without fear.

However, the current legal framework does not fully satisfy international norms governing transitional justice. The original framework has been eroded rather than strengthened. Truth, justice and reparation remain precarious amid grave concerns at the erosion of the institutions and the consolidation of paramilitary power. In the meantime, despite the successes of Democratic Security Policy in confronting guerrillas groups, principally the FARC, they remain viable and active.

Our deep concern with the demobilisation and reintegration process is that rather than rooting out paramilitarism – and the equally serious guerrilla violence - the process has allowed the vast majority of those guilty of the most heinous crimes against humanity to go almost unpunished. Their roots in society when uncovered are largely ignored, and the rights of the victims are denied. If current conditions are not addressed there can be no true reconciliation, and the cycle of violence and abuse will continue. The defence and promotion of the rights of victims has not been a priority of the Colombian government and we are seriously concerned that in several cases highlighted in this document, it has in fact worked to undermine them.

The consolidation of security and the rule of law depends not only on a permanent police and military presence but also on the successful pursuit of truth, justice, reparations, non-repetition and reconciliation and, consequently, an end to the impunity that remains one of the underlying causes of the conflict. As a consequence we believe that both the United Kingdom and Irish governments and the European Union should reassess the terms of their foreign policy engagement with the country.

Recommendations to the British Government

We encourage the international community to support ongoing efforts to guarantee the right of the hundreds of thousands of victims to truth, justice, and reparation and to ensure the non-repetition of crimes. To this end we make the following specific recommendations:

1. We urge the international community to continue to play a responsible role in the facilitation of attempts to bring about a negotiated peace in Colombia, through diplomatic support, the offering of communication channels and support in the development of agendas for peace.
2. The UK Government and the EU should publicly, and regularly, comment on the rearmament, failure to demobilise and emergence of new groups of paramilitaries as well as the evolution of guerrilla activities. This should be carefully documented in

¹⁶ Convention of Belém do Pará, International Covenant on Civil and Political Rights, Inter-American Convention on Human Rights, and Convention against Torture.

the annual human rights report. Underplaying the problem of continued paramilitary and guerrilla violence only contributes to its persistence.

3. We urge the UK Government to engage in a process of public consultation, including civil society organisations, particularly groups of victims of all armed groups, in order to define their policy towards Colombia in terms that take into account the needs of the victims.
4. EU and FCO officials, ministers and parliamentarians should deepen their understanding of the situation of victims in Colombia, and we invite them, in conjunction with the SNPS, CAFOD and SCIAF, to monitor processes affecting victims, including the implementation of the Justice and Peace Law and proposed victims bill and other proposals intended to improve their treatment.
5. The UK Government and the EU should continue to support and protect organisations that work with and support vulnerable populations and victims. This should include incorporating statements of support into official speeches, speaking publicly when defenders and victims receive death threats and regular visits by the ambassador, embassy staff and visiting, high-level British Government and EU officials to these organisations and facilitating visits by victims' organisations to Europe. These signs of support should encompass a wide range of organisations, and should include victims of all armed groups.
6. The UK Government and the EU should increase funding for victims' organisations at local, regional and national level and victims' rights to truth, justice and reparation, for example in the case of the UK via its Human Rights and Democracy Fund. A strong focus should also be placed on strengthening psycho-social support for victims and actions to preserve historical memory.
7. We call on the UK Government and the EU, during negotiation of the bilateral Free Trade Agreement with Colombia, to be fully cognisant of potential human rights violations that may be committed as a result of European commercial activity, in particular in relation to land use and the exploitation of natural resources. We urge the EU to carry out an examination of these issues to ensure that funding does not support any project on land obtained by violence, as contemplated in the guidelines for association agreements.

Recommendations to the Irish Government

We encourage the international community to support ongoing efforts to guarantee the right of the hundreds of thousands of victims to truth, justice, and reparation and to ensure the non-repetition of crimes. To this end we make the following practical recommendations:

1. We urge the international community to continue to play a responsible role in the facilitation of attempts to bring about a negotiated peace in Colombia, through diplomatic support, the offering of communication channels and support in the development of agendas for peace.
2. The Irish Government through EU channels should publicly, and regularly, comment on the rearmament, failure to demobilise and emergence of new groups of

paramilitaries as well as the evolution of guerrilla activities. This should be carefully documented in the annual human rights report. Underplaying the problem of continued paramilitary and guerrilla violence only contributes to its persistence.

3. EU officials and officials from the Department of Foreign Affairs (DFA), ministers and parliamentarians should deepen their understanding of the situation of victims in Colombia and we invite them, in conjunction with Trócaire and Caritas International, to monitor processes affecting victims, including the implementation of the Justice and Peace Law and proposed victims bill and other proposals intended to improve their treatment.
4. The Irish Government and the EU should continue to support and protect organisations that work with and support vulnerable populations and victims. This should include incorporating statements of support into official speeches, speaking publicly when defenders and victims receive death threats and regular visits by EU officials to these organisations and facilitating visits by victims' organisations to Europe. These signs of support should encompass a wide range of organisations, and should include victims of all armed actors.
5. We call on the Irish Government and the EU, during negotiation of the bilateral Free Trade Agreement with Colombia, to be fully cognisant of potential human rights violations that may be committed as a result of European commercial activity, in particular in relation to land use and the exploitation of natural resources. We urge the EU to carry out an examination of these issues to ensure that funding does not support any project on land obtained by violence, as contemplated in the guidelines for association agreements.

Acknowledgments

CAFOD, SCIAF and Trócaire would like to express their thanks to Mgr Héctor Fabio Henao and Mauricio Martínez for their research, and to James Lupton for his help with the English document. Above all, we wish to acknowledge the bravery of the victims of violence, and Colombia's human rights defenders who help create the space for their stories to be told.

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