

The way to peace is through justice

Good morning. My appreciation to the Human Rights Committee of Congress, particularly the offices of James McGovern and Frank R. Wolf for organizing and convening this hearing on working for peace and justice in Colombia.

I. Transitional Justice Without Transition

In the last eight years, Colombia has approved several legislative frameworks that, by invoking the concept of transitional justice, have been hailed as advancing victims' rights to truth, justice, and comprehensive reparations, despite limited results and a lack of support for the overall integration of a plan for peace. The so-called Peace and Justice Law (Law 975 of 2005) and related legislation, has only resulted in 14 convictions, and if it has made any contribution to revealing the truth through the process of voluntary public confessions by demobilized paramilitaries, it is evident that this has not produced a corresponding reduction in the effect of paramilitarism. Monetary compensation for victims, announced as part of the overall reparations process, has been ineffective. As of July of this year, only 11 individuals who have applied actually received a legal determination of their claim, and Law 519 of 2012 in fact eliminated this form of reparations for victims.

For its part, the Victims and Land Restitution Law (Law 1448 of 2011) has had limited results and one of its obstacles continues to be the social and armed control that paramilitarism exercises over the country, as evidenced by the presence of so called "Anti-Restitution Armies."

A peace process that puts an end to the armed conflict in Colombia, in order to be viable and real, should include the demobilization of all actors in the armed conflict and putting an end to dirty war tactics. It means supporting a peace process that includes the demobilization of the guerrilla forces, and at the same time ensuring the dismantling of political and economic structures that feed into the violence; in particular: state agents, paramilitaries, and civilian sponsors of grave human rights and humanitarian law violations.

As such, CCAJAR proposes a formula, still currently under debate and construction, that will enable not just the end of the armed conflict, but moreover implies a future consolidation of peace through three elements: adopting guarantees of non-repetition; creating a Special Justice Tribunal for Peace; and the establishment of a Truth Commission.

II. Proposal for Guarantees of Non-Repetition

In order to prevent human rights violations from continuing, structural changes in the functioning of the State are needed. These include strengthening institutions of

investigation and protection, cleaning up the State, transformation of the economic and taxation systems, successful dismantling of paramilitarism, and other measures including:

- Successfully dismantle paramilitarism through investigation and effective sanction of its supporters;
- Purge the Armed Forces and state organizations, with the immediate termination of State officials implicated in human rights violations, either by action or omission;
- Revise and eliminate manuals, regulations, and legislation that contain statements characterizing sectors of the population as the “internal enemy”;
- Revise and purge State intelligence files and exclude all information on human rights defenders, trade unionists, members of opposition parties and political movements, and members of social organizations, among others;
- Adopt protocols and control mechanisms that regulate the use of force by State security forces at social protests, and as such abolish those laws that criminalize the exercise of peaceful protest;
- Address the economic and tax structures that perpetuate social injustice. Adopt formulas that guarantee community subsistence, the small farmer’s economy, and food sovereignty;
- Strengthen the Rule of Law and the power of civilian power over military power;
- Reduce military spending, the size of the Armed Forces, and ensure that those resources are dedicated to promoting economic, social, and cultural rights.

III. Proposal for a Justice Tribunal for Peace

In order for peace to be credible, firm, and lasting, it cannot and should not be synonymous with impunity for crimes against humanity, genocide, or grave infractions of international humanitarian law.

As such we propose the creation of a **Special Justice Tribunal for Peace**, in which all who wish to support a solid peace process by contributing to truth, reparation, and justice, and in particular supporting guarantees of non-repetition of crimes and contributing to the deconstructing of methods, practices, financing, and intellectual authors of crimes of an international character, should submit themselves. Those who chose not to participate in this Tribunal or, having submitted themselves have not contributed to the satisfaction of the rights of victims, should face prosecution in the national legal system, or face a possible action from the International Criminal Court.

- The character of this tribunal is confessional in nature, and would have two focuses: one on the crimes committed as part of the internal armed conflict in which guerrillas and members of the military responsible for war crimes would enter; a second on the crimes committed as part of the social, economic, and political conflict that deal with genocide, crimes against humanity and human rights violations.
- Amnesty and pardons relating to political crimes should be granted as broadly as possible for guerrilla groups who demobilize, taking into account the obligations and international standards that limit concessions to said criminal benefits to those who are responsible for crimes against humanity or war crimes.

- Criminal responsibility and sanction should be asymmetrical. The benefits granted should take into account differentiated sanctions for the perpetrators of state crimes, in which case the justice should be more drastic, and those individuals should be disqualified from future public office.
- The conditions in which criminal sanctions are carried out cannot be turned into a new crime against humanity, and especially not against the victims.

IV. Proposal for a Truth Commission

We propose a **Truth Commission**, which in no case should be substituted for the actions of judicial and disciplinary bodies. It will be officially sanctioned and will contribute to the clarification of the systematic and generalized human rights violations, war crimes, crimes against humanity and genocide, with special emphasis on state involvement in said crimes, as these are particularly serious given the State's grant of power and authority. The Commission's recommendations regarding institutional reforms, truth, justice and comprehensive reparations and means of non-repetition will be the foundation of a public policy of human rights.

Lawyers Collective, October 2013