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JUSTICE AND PEACE-BUILDING IN COLOMBIA

Considerations on the role of justice in the context of the dialogue between the government and paramilitary groups

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EXECUTIVE SUMMARY

On July 1 the negotiating process officially began between the Colombian government and the so-called United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia, AUC), the largest paramilitary force operating in the country. Civil society and the international community are yet to be included and it is unlikely that the demobilization of all AUC members will meet the agreed target deadline of December 31, 2005. However, the fact that the process is still in place is a sign of hope on the road to peace in Colombia.

Across Colombia and the international community, the disarmament talks have been met with scepticism or cautious support for a variety of reasons. Such scepticism finds its roots in lessons learned from other peace initiatives that point to the sustainability of the process as the determining factor for success.

It is the purpose of this paper to address the following questions: Can the Colombian judicial system, in its current state, guarantee that the truth will be established, that the perpetrators of human rights violations will be prosecuted, that victims will be accorded reparations, and conditions for reconciliation will be created? What can civil society and the international community do to assist Colombia's judicial system in the pursuit of these goals in the context of the on-going dialogue between the government and the paramilitaries?

RESUMEN

El primero de julio se inició formalmente el proceso de negociación entre el gobierno colombiano y el sector mayoritario de los grupos paramilitares que operan en amplias áreas del país, las llamadas Autodefensas Unidas de Colombia (AUC). Aún no se ha logrado la presencia de la sociedad civil y de la comunidad internacional, y parece poco probable que se logre la desmovilización de la totalidad de las AUC antes del 31 de diciembre de 2005, conforme a lo pactado. Sin embargo, la continuidad del proceso es una señal alentadora en el camino hacia la construcción de la paz entre los colombianos.



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Asimismo, existen sectores de opinión nacional e internacional, que cuestionan, o apoyan con reservas, este proceso por distintas razones. Esta duda razonable se fundamenta en la experiencia de otros procesos de paz que demuestran que lo más importante es que estos sean realmente sostenibles.

El presente trabajo se propone abordar los siguientes interrogantes: ¿La actual administración de justicia en Colombia puede garantizar que, con sus acciones, se establecerá la verdad, someterá a proceso judicial a quienes han violado los derechos humanos o han sido infractores del derecho internacional humanitario, reparará a las víctimas y creará condiciones para la reconciliación? ¿Qué papel pueden desempeñar la sociedad civil y la comunidad internacional para apoyar al sistema judicial colombiano en el cumplimiento de sus metas en el marco de las actuales conversaciones gobierno-paramilitares?

RÉSUMÉ

Le 1er juillet, le processus de négociation a officiellement débuté entre le gouvernement colombien et les soi-disant *Autodefensas Unidas de Colombia* (AUC), la plus importante force paramilitaire du pays. La société civile et la communauté internationale n'ont pas encore été incluses et il est peu probable que la démobilisation de tous les membres de l'AUC se fera à la date convenue du 31 décembre 2005. Toutefois, le fait que le processus est toujours en place est un signe encourageant pour la paix en Colombie.

En Colombie et au sein de la communauté internationale, les discussions sur le désarmement ont fait naître scepticisme et prudence pour diverses raisons. Un tel scepticisme résulte des leçons apprises d'autres initiatives de paix qui montrent que la soutenabilité du processus est un facteur déterminant de succès.

Ce document pose les questions suivantes : le système judiciaire colombien peut-il, dans l'état actuel des choses, garantir que la vérité sera établie, que ceux qui ont violé les droits humains seront poursuivis, que les victimes recevront réparation et que les conditions pour la réconciliation seront créées? Que peuvent faire la société civile et la communauté internationale pour aider le système judiciaire colombien à poursuivre ces objectifs dans un contexte de dialogue continu entre le gouvernement et les paramilitaires?

INTRODUCTION

On July 1 the negotiating process officially began between the Colombian government and the so-called United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia, AUC), the largest paramilitary force operating in the country. Later that month, on the 28th, three AUC commanders addressed the Colombian Congress. Among them was the paramilitary group's leader, a man facing US extradition on drug-trafficking charges.

According to the Bogotá newspaper *El Tiempo*, this led US ambassador to Colombia William Wood to comment the following day: "It's odd that those who routinely break the Law are allowed to address the institution that passes such laws."

Across Colombia and the international community, the disarmament talks have been met with scepticism or cautious support for a variety of reasons. Foremost among them is a concern, echoed by the International Crisis Group, regarding the levels of immunity paramilitary combatants may be granted:

"... the Colombian government is only negotiating with one armed group --the paramilitaries-- so the critics fear that negotiations will lead not to reconciliation but to impunity and legalization of illegally acquired assets of paramilitary leaders and their supporters."

An outcome such as this could derail the healing process and spur sentiments of hatred and the urge for retribution. Under these conditions, the peace process could set the stage for a relapse into violence.

Such scepticism finds its roots in lessons learned from other peace initiatives that point to the sustainability of the process as the determining factor for success.

Sustainability can be guaranteed primarily through the implementation of truth-revealing efforts, the legal prosecution of perpetrators of hideous crimes, reparations for the victims, and a healing process involving the victims, the perpetrators and the community. Sustainable peace and reconciliation processes² must ensure that the crimes that took place

in the course of the armed conflict never happen again. To achieve this, no crime may go unpunished and no offence unforgiven. In pursuing this goal, judicial institutions take on a decisive role.

It is the purpose of this paper to address the following questions: Can the Colombian judicial system, in its current state, guarantee that the truth will be established, that the perpetrators of human rights violations will be prosecuted, that victims will be accorded reparations, and conditions for reconciliation will be created? What can civil society and the international community do to assist Colombia's judicial system in the pursuit of these goals in the context of the on-going dialogue between the government and the paramilitaries?

This paper will also offer recommendations on the role of civil society and the international community in facilitating the viability of this process, enhancing its long-term sustainability, encouraging the reconciliation of the long-suffering Colombian society as well as improving the administration of justice.

PARAMILITARY GROUPS: BACKGROUND AND LEGAL STATUS

Perhaps, the first element to consider is that paramilitarism is not new to the Colombian context, nor was it always considered illegal, as AUC top leader Salvatore Mancuso pointed in a speech delivered at the disarmament talks' opening ceremony:

*"It has been a long road for the self-defence forces, beginning in San Juan Bosco Laverde, San Vicente de Chucurí and Puerto Boyacá, in 1982, and culminating in Santa Fé de Ralito today, 1 of July, 2004 (...) 1968's Law #48 remained in force even towards the late 1980s, providing the armed organization with a legal backdrop for its actions."*¹³

In the mid-60s, to counteract the first outbreaks of guerrilla warfare by the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), the Colombian government had indeed passed legislation such as that referred to by Mancuso. Under such legislation, decrees initially intended to be enforced exclusively while the country remained under a state of "public order disruption" became permanent laws.

Validated by such legal instruments, armed units made up of civilians were created to assist the army and police in their counter-insurgency efforts:

*"The Defence Ministry, through authorized command elements, may use discretionary powers to sanction civilian ownership of weaponry intended for exclusive military purposes."*¹⁴

Thus began the rise of Colombian paramilitarism, supported by legal foundations and as part of a State-sponsored counter-insurgency strategy. But once the validating legislation was repealed, the creation and financing of, and involvement with, armed civilian units became a crime. By way of example, Decree 1194, issued on June 8, 1989, prescribed "(...) a sentence of 20-30 years in prison and a fine equivalent to 100-150 times the legal minimum monthly salary" for those that "promote, finance, organize, lead, encourage (the) affiliation of individuals with irregular armed units (...) inaccurately referred to as paramilitary."¹⁵

On the other hand, it is estimated that a sizable number of the paramilitary forces negotiating with the government today were recruited from the ranks of private armies involved in drug-trafficking, and that some of their leaders are drug kingpins themselves. Obviously, in such cases there was never a political motive for their involvement in the counter-insurgency efforts, as contended by domestic and international authorities who have laid drug charges against them. The connection between the paramilitary groups and the drug traffic has been well researched and documented⁶, and a witness interviewed by Human Rights Watch "... described the distinction between drug traffickers, paramilitaries, and the Colombian Army as virtually non-existent."¹⁷ And the drug traffic and its private armies are not new on the Colombian stage, either.

Those who became involved with the AUC via the drug traffic, having already ran afoul of the law due to their membership in, or leadership of, paramilitary groups, have compounded their legal woes by committing crimes pertaining to the traffic of illegal substances. Such transgressions and their perpetrators are of interest to law enforcement agencies throughout the international community. The United States would be particularly interested in prosecuting and punishing drug-traffickers. In fact, US authorities have already

(...) paramilitarism is not new to the Colombian context (...)

requested the extradition of prominent paramilitary figures on drug charges, which is expected to pose obstacles for the on-going disarmament negotiations.

Members of paramilitary groups, whether they became affiliated under the 1960s legal framework provided by the State or through the drug traffic, can be held accountable for human rights violations and transgressions of international humanitarian law perpetrated against civilians in Colombia in the course of the last 30 years. They can face prosecution for issuing orders leading to the commission of the crimes, their direct participation in them, or because said transgressions were committed in representation and on behalf of the irregular armed force currently discussing disarmament terms with the Colombian government.

Perhaps, they are aware of how complicated their legal situation is. In interviews and in the AUC top commanders' speeches delivered before the Colombian Congress, the paramilitaries have made it clear that incarceration is not an option they would willingly accept and that they would apologize to the victims of the conflict.

"Prison cannot be the reward for our sacrifice on the Motherland's behalf: ridding half the nation of the scourge of the guerrillas, and keeping our country from turning into another communist stronghold, like Cuba, or the Nicaragua of yore," stressed Mancuso before the Colombian legislature, while Iván Roberto Duque, a.k.a. Ernesto Báez, said:

"(...) on behalf of the members and leadership of the Peasants' Self-Defence forces, I humbly beg the families and friends of all the victims, friend and foe alike, of this tragic war tearing our Motherland apart, for their forgiveness. We apologize to the Colombians who have suffered, both in spiritual as well as material terms, the consequences of the violence."¹⁸

JUSTICE IN COLOMBIA: PROSECUTING THE PARAMILITARIES

The AUC appear to be trying to obtain high levels of impunity for their crimes and to avoid prosecution. Working to their advantage is the inherent weakness of the Colombian judicial system when it comes to capturing and punishing criminal offenders like the paramilitaries.

This weakness has been studied from different perspectives. It has been argued that the Colombian judiciary is in a deep crisis, beset by institutional and financial troubles, poor credibility, corruption, and a lack of democratic accessibility.⁹ Despite differences in approaches and perspectives, all studies agree that in Colombia the courts are overflowing with cases and justice is slow.

With regards to the system's sluggishness and congestion, Colombia's former Deputy General Prosecutor warned in 2002:

"(...) we have overlooked the fact that the actual capacity for administering justice is being increasingly stretched thin by virtue of the sheer (case) volume and because any judiciary would be dwarfed by a crime situation like the one we are faced with."¹⁰

Delay problems and case overload in courts would be compounded by the new files to be opened for violent crimes perpetrated by the paramilitaries who join demobilization and reintegration programs.

As Mr. Santiago Cantón, from the Inter-American Human Rights Commission, pointed in a recent interview with *El Tiempo*, "(...) Colombia does not have a simple legal framework and that can complicate matters. There are a number of different laws, decrees, prorogations, etc., regulating individual demobilization, and the law for alternative sentencing, an important element of the collective demobilization process, is yet to be added to the list."¹¹

The Judiciary is also perceived as the weakest branch of government since, traditionally, it has been subordinated to the Executive. Successive administrations have restructured it to meet particular historical requirements and, for a long time, public servants in the Judiciary branch were political appointees from the ranks of Colombia's two traditional political parties.

In the last few decades, groups operating outside the law have imposed their own rules and self-justified justice in the areas under their control. During the decade of the 50s, commonly referred to as "*la violencia*" (the violent years), guerrilla groups operating in eastern areas of the national territory promulgated the first *Ley del Llano* (Law of the Plains) and the *Vega Perdida* Constitution¹² while more recently, in 2002, the FARC guerrillas claimed to have enacted Laws 002 and 003.¹³ According to numerous interviews and field studies, today's guerrillas become administrators of justice.

A significant insight into AUC's attempts to emulate judicial practices can be obtained from separate interviews with Carlos Castaño¹⁴ and Isabel Bolaños,¹⁵ a Self-Defence unit's leader, respectively conducted by Mauricio Aranguren and journalist Patricia Lara Salive.

Due to its heterogeneous character, Colombian justice has been described as resembling a "kaleidoscope picture."¹⁶ According to the Network for Community Justice and Treatment of Conflicts, nearly one fourth of Colombia's municipalities have implemented, formally or informally, alternative mechanisms for conflict resolution, such as equity conciliators, mediators, justices of the peace, or traditional authorities in the case of ethnic minorities. This points to a solid record of community involvement in the administration of justice that complements the State's jurisdictional activity. The Network is made up of 32 institutions involved in research, capacity building, and promotion of the alternative conflict resolution mechanisms in over 150 municipalities, including the five largest urban centres.¹⁷

Colombia is, therefore, a country teeming with legal pluralism in which normative orders and conflict resolution mechanisms are juxtaposed and overlap, coexist and clash with one another. This translates into a considerable wealth of experience as far as conflict resolution is concerned.

The State's Judiciary, plagued by internal and external adversities, including poor credibility among the population, will have to clarify the paramilitaries legal situation in the eyes of Colombian laws, with the aid of legislation passed by the national legislative body and the political will and requirements the government brings to these negotiations. Still, as it stands today, it is virtually impossible for the Judiciary to define the legal situation of each and every person of the 10,000 paramilitaries that would lay down their weapons.

Therefore, it will be imperative to simultaneously focus our efforts in three different directions, namely implementing a truth-finding strategy and creating special tribunals to expose and prosecute crimes perpetrated by the AUC. Also, establishing tools and mechanisms to allow individuals and communities to heal and forgive, as well as facilitate the reintegration of former combatants and the repair of the war-torn social fabric.

The participation of civil society and the international community¹⁸ is key if progress is to be made because of the knowledge and experience they can bring to the negotiations and because their involvement guarantees transparency, credibility, as well as the contribution of human, technical and financial resources. As the Colombian government's High Commissioner for Peace pointed out, the problem lies in that neither one is sitting at the negotiating table, nor are they decisively throwing their support behind the process.¹⁹

NOTABLE ABSENCES

It can be argued that, in the context of the government-AUC talks, the Judicial branch's exercise of jurisdiction so far lacks a clear transitional justice perspective, well-defined long-term goals in terms of restoring trust in the democratic process, as well as the support of the international community.

As for civil society, its voice is yet to be heard in these talks. Conspicuously absent from the dialogue are organizations that for years have kept a close eye on violations of human rights and international humanitarian law perpetrated by armed actors in the conflict. Also not included in the negotiations are those organizations that promote and monitor community efforts in conflict resolution.

Another noticeable absence is that of the victims and their families, as well as the organizations they have created, whose involvement is

supported by renowned writers. In her column for the weekly *El Espectador*, Marianne Ponsford said:

"(...) defending the victims of the war in Colombia is not, like some politicians claim, something that "pinkoes do", or communist NGOs, or a few anti-Uribe idiots, for that matter (...) Don't you think that Salvatore Mancuso should have been made to hear what a victim had to say? Didn't the families of the hundreds of thousands of Colombians murdered by the paramilitaries deserve to have a voice representing them there that day? Ah, but no. When an irate Iván Cepeda held up, screaming, a photograph of his father, murdered by those addressing Congress, he was told to be quiet."²⁰

Should it remain as is, this dialogue will become at best a give and take, with all parties involved endlessly exchanging tradeoffs, and ending up in the best-case scenario in the demobilization of thousands of paramilitaries. It will not, however, make any significant contribution to national reconciliation or improvements in the administration of justice, in particular.

RECOMMENDATIONS ON CIVIL SOCIETY PARTICIPATION

In Colombia, civil society is well organized and, ostensibly, some sectors should hold permanent seats at the negotiating table. These include:

- a. *Human rights institutions*, which have built a mutually respectful relationship with the Colombian government and have earned domestic and international credibility. Some of them include the Centre for Popular Research and Education (CINEP), Justicia y Paz (Justice and Peace), Centro Cristiano para la Justicia Paz y Acción no Violenta (Christian Center for Justice, Peace and Non-violence), the Colombian Commission of Jurists, the MINGA Association for Alternative Social Policy, and the “José Alvear Restrepo” Lawyers’ Collective.
- b. *Organizations that promote peace processes*, namely the Ideas for Peace Foundation, the Social Foundation (Fundación Social), the Civil Society’s Permanent Assembly for Peace, the Citizens’ Mandate for Peace, the Peace Observatory, and the Network of Initiatives for Peace and Against War (REDEPAZ).
- c. *Organizations for relatives of the disappeared and other victims* of the AUC, like the Association of Family Members of the Detained and Disappeared (ASFADDES), and the Victims’ Association.
- d. *Institutions involved in conflict resolution and/or promoting community-centred forms of non-violent conflict resolution*, such as The People (El Común), the Social Corporation for Participatory Action (Corporación Social de Acción Participativa), the Surcos Foundation, the

Colombian Equity Conciliators Association, the Escuela Ciudadana Association, the Association of Projects for the Cauca Region, the Convivamos Corporation, as well as the networks that affiliate these and other institutions addressing these issues.

Although all these organizations are well experienced in public speechifying, parliamentary lobbying and public education efforts, they will have to channel those skills and resources so that they are conducive to a successful negotiation. Through its cooperation initiatives, the international community can play a supporting role facilitating institutional collaboration on related projects, as well as promoting closer ties between civil society and the government.

It must be stressed that the highest numbers of casualties from AUC’s actions have been civilian. As Mauricio Vargas’s weekly column points out in the August 1 issue of *Cambio Magazine* with regards to the paramilitaries’ leaders appearance before Congress:

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"What is so epic about slaughtering unarmed peasants under suspicion of collaborating with the guerrillas? The truth is that the AUC hardly ever came face to face with the FARC or the ELN in combat."²¹

Whether as victims of the armed conflict or as contributors of relevant expertise and information, there must be a civilian presence during the negotiating process.

Rationale for civil society participation

First, it is important to point out that the role of civil society in the disarmament talks does not replace the responsibility of the parties involved to reach an agreement, nor does it steal the limelight away from either of them. Likewise, civil society cannot be held accountable for the outcome of the negotiations if they are not participants.

It is recommended that the best role for civil society would be that of a third party with a vested interest in having the truth revealed, as well as facilitator of the dialogue and the search for agreement.

Therefore, suggested goals for the civil society's participation in the negotiations with the paramilitaries include the following:

- a. Submit reliable information that allows exposing the truth on issues whose resolution may efficiently lead to reparations, forgiveness and national reconciliation.
- b. Formulate solutions for legal complications stemming from the paramilitaries' demobilization and reintegration process.
- c. Submit proposals for legal normative mechanisms and instruments aimed at repairing damage to the social fabric caused by the paramilitaries.
- d. Promote public education to raise popular support for the process.
- e. Keep the public informed of developments in the talks and collect new relevant information that may contribute to progress in the negotiations.

Civil society: Key actors

Civil society participation must be promoted and guaranteed through the work of, at least, three types of institutions: those who can contribute reliable statistics and thoroughly documented information on cases of gross violations of human rights; those that represent victims or their families whose victimizer is known (or suspected); and those with non-violent conflict resolution.

The first type of institutions may collaborate to advise on the limits to the levels of impunity granted to the paramilitaries once demobilized. Likewise, the specific information they can provide will contribute to allow no crime to escape public acknowledgement and no general amnesty to be granted since the latter tend to obscure who and what is being pardoned. These organizations have the right to collate their data with that of the other parties in the negotiations, and apprise them of their findings.

The organizations formed by the victims and/or their families have a right to learn first-hand from the perpetrators the reasons why they were victimized. Also, they can shed light on the victim(s) actions prior to the crime in question, and describe the extent of the

damage inflicted both at the family and the social levels. The perpetrator(s) must come face to face with the consequences of their actions. This group plays an essential role in developing a collective and historical memory far more inclusive and comprehensive than any media reports or those of national or international human rights organizations.

The third group, made up of institutions specialized in conflict resolution, can facilitate progress in the dialogue by suggesting reasonable solutions. It can also provide a link between the negotiating process and broad sectors of public opinion. Likewise, it can offer expertise in designing proposals for the implementation of mechanisms for social condemnation of the paramilitaries actions, or develop public policy projects with a focus on restorative justice.

The role of the civil society at the talks would be that of a third party looking to support the truth-finding effort, as well as a facilitator, not a deliverer of justice.

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Expected outcome

Civil society participation in the current negotiations is expected to generate:

- a. An exhaustive information base allowing judicial authorities to become acquainted with some of the crimes brought up in the course of the talks and form an opinion on the matter, identifying those responsible and understanding the events' background.
- b. Civil society involvement can also help create a suitable environment for reconciliation between the victims, the victimizers and the State.
- c. Proposals for a public policy of judicial reform, as well as coordinating procedures and cooperation between the judiciary and non-violent conflict-resolution community efforts.
- d. A strategy for the paramilitaries' reintegration to civilian life. This strategy should not be confined to a list of benefits and opportunities to be offered. Rather, it should focus on facilitating the healing process and on allowing communities to forgive and accept the former paramilitaries in their midst again.

RECOMMENDATIONS FOR INTERNATIONAL ENGAGEMENT

With regards to these talks, much of the international community has remained on the sidelines, although not all states have chosen to do so for the same reasons.

The international actors whose presence at the talks is key to a successful outcome might not share the same objectives in participating. Yet, they would all be most willing to lend credibility to the negotiating process and act as guarantors, once a final agreement is reached.

It is recommended that any international involvement pursue the following goals:

- a. Share experience and lessons learned from past demobilization and reintegration processes, whether successful or not.
- b. Submit proposals for different transitional justice models that could be applied and report on their practical results in similar processes.
- c. Offer guidance in the development of instruments, mechanisms and norms that facilitate the efficient administration of restorative justice.
- d. Assist communities, once their territories are paramilitary-free, in the restoration of the social fabric, as well as local and state institutions.
- e. Promote and support with technical, financial and human resources the establishment of a truth commission capable of exposing the crimes committed, as well as the perpetrators, the instigators and those who benefited from the transgressions.
- f. Verify the implementation of accords resulting from the negotiations.

Who should participate?

- a. *The governments of states that support the dialogue, which may be represented on a permanent basis by their respective ambassadors*

or, temporarily, by ad-hoc delegates, who would attend the negotiations on specific occasions in response to particular demands or extraordinary circumstances.

- b. *Experts and research organizations and institutions.* For the success of the negotiations, it is crucial that international experts in the areas of restorative and transitional justice, as well as armed conflict reparations and truth commissions participate of the dialogue.²²
- c. *Cooperation agencies* that could eventually contribute financing and technical assistance to provide a transitional safety net for the demobilized combatants prior to their reintegration into productive society, and to sustain their economic and social endeavours once they have surrendered their weapons and resumed their life as civilians, as well as to support local, regional and nation-wide truth commission efforts.

(...) the main purpose of an international presence in the talks is to add legitimacy to the dialogue (...)

- d. *Regional or global multilateral organizations, equipped with a clear mandate to act in the context of this type of dialogue and with permanent representation at the negotiating table that they can attest to the content of the accords and verify their implementation.*

Desirable outcome

Provided that the main purpose of an international presence in the talks is to add legitimacy to the dialogue, it is suggested that every step of the process and every agreement reached is underwritten by the international delegates acting as witnesses. Furthermore, with the international community representatives being empowered to verify the implementation of all agreements signed, every stage and accord in the process will earn increased credibility. It is recommended that the text of the accords and the outcome of their subsequent verification be released in publication form, thus contributing to the transparency of the process and the participation of the international community.

CONCLUSIONS

At the time this paper was completed, the negotiating process between the AUC and the Colombian government was still underway. Civil society and the international community are yet to be included and it is unlikely that the demobilization of all AUC members will meet the agreed target deadline of December 31, 2005. However, the fact that the process is still in place is a sign of hope on the road to peace in Colombia.

To a certain extent, an improvement of the current negotiating conditions and any changes in the direction of the process would be contingent upon the actions of civil society and the international community. Both could play a crucial role in building the capacities of the legal instruments within the judicial system that will tackle the task of finding the truth about the AUC's crimes.

With these actors' involvement, it may be possible to conduct an overhaul of the state's justice system, strengthening it, while community non-violent conflict resolution and regulatory efforts are consolidated.

All changes to the judicial system should be geared toward establishing the necessary conditions for greater efficiency and effectiveness in its truth-revealing role.

A first step in that direction would be for international experts, cooperation agencies and non-governmental organizations of different nations to establish agreements with civil society institutions to develop and implement a system to monitor and follow up on the judiciary's performance.

ENDNOTES

1. International Crisis Group, "Colombia: Negotiating with the Paramilitaries." *Latin America Report* 5, 16 September 2003, p.24.
2. *Reconciliation* is a widely debated term. In this paper, it is used according to Bloomfield's definition: "Reconciliation is an over-arching process which includes the search for truth, justice, forgiveness, healing and so on. At its simplest form, it means finding a way to live alongside former enemies not necessarily to love them... or forget the past in any way, but to coexist with them..." Bloomfield, David. "Reconciliation: an Introduction." *Reconciliation After Violent Conflict: A Handbook*, International IDEA, 2003. p. 12.
3. <http://www.colombialibre.org>. United Self-Defence Forces of Colombia (AUC) web page. Accessed on 7 August 2004.
4. Paragraph 3, article 33, decree law 3398, issued in 1965 and adopted as permanent legislation in article 1, Law 48 of 1968.
5. Article 1, law decree 3398.
6. See: Medina, Gallego Carlos; *Autodefensas, Paramilitares y Narcotráfico en Colombia*, ed. Documentos Periodísticos, 1990. Pécaut, Daniel; *Guerra contra la sociedad*, ed. Editorial Planeta Colombiana S.A., 2001. Corporación Observatorio para la Paz; *Las verdaderas intenciones de los paramilitares*, ed. Intermedio Editores, 2002. ICG report "Colombia: Negotiating with the Paramilitaries", 16 September 2003.
7. <http://www.hrw.org>. "The Ties That Bind: Colombia and Military-Paramilitary Links", p. 6-7. 2000. Accessed on 11 August 2004.
8. <http://colombialibre.org>. Accessed on 7 August 2004.
9. See: Nemogá Soto, Gabriel Ricardo. "Crisis judicial: enfoques diferentes, elementos constantes," *Pensamiento Jurídico* 4 (Universidad Nacional de Colombia Press, 1995); Sanabria, Mauricio. "La Justicia: entre la democracia y la modernización o entre el acceso y la eficiencia-," *Pensamiento Jurídico* 4 (Universidad Nacional de Colombia

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10. Pablo Elías Gonzalez, intervention, "Panel on Impunity and Justice Reform," *Where is the Colombian State Headed to?*, Bogotá D.C., 24-26 September 2002, ed. Nuevas Ediciones Ltda., 2003.
 11. <http://eltiempo.com-negociación>. 3 August 2004. "There can be no negotiating process without the victims' participation," says an Inter-American Human Rights Commission official."
 12. See Barbosa, Reinaldo; Guadalupe y sus centauros, ed. Cerec., 1992.
 13. <http://www.FarcEp.org>. Accessed on 12 August 2004.
 14. Aranguren, Mauricio; *Mi confesión: Carlos Castaño revela sus secretos*, ed. Editorial Oveja Negra, 2000
 15. Lara, Patricia; *Las mujeres en la guerra*, ed. Editorial Planeta Colombiana S.A, 2000, p. 133-192.
 16. Santos, Boaventura de Sousa and García Villegas, Mauricio; *El caleidoscopio de las justicias en Colombia*, ed. COLCIENCIAS, 2001.
 17. From interviews with Edgar Ardila and Rosembert Ariza, professors at the National University of Colombia and Santo Tomás de Aquino University respectively. Within the Network, Prof. Ardila is the Director for Academic Studies, and Prof. Ariza is Conciliation Network Director. For more information, see <http://reddejusticia.org.co>.
 18. Obviously, the Colombian State and its institutions will also play a leading role in this process. However, an in-depth analysis of that role is beyond the scope of this paper.
 19. <http://www.altocomisionadoparalapaz.gov.co>. "Intervention by High Commissioner for Peace, Luis Carlos Restrepo, during debates on the peace talks with the Self-Defense Forces at a Colombian Senate's Plenary Session," 3 August 2004, *Speeches and Declarations* 2004. Accessed on 12 August 2004.
 20. <http://elespectador.com>. 1 August 2004.
 21. <http://www.revistacambio.com>. 1 August 2004.
 22. Other country experiences have established that these processes require the diverse contributions of experts from a broad professional spectrum, including lawyers, psychologists, economists, etc.

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