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HUMAN RIGHTS IN

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The human rights crisis – its causes, who is responsible for it and the possible solutions – has long been a matter of controversy in any discussion about Colombia and its long-running conflict.

Given that there continue to be diverging and seemingly incompatible views on how the human rights crisis is developing, this conference is very timely since it gives us an opportunity to examine some of the prevailing myths and realities that exist with regard to the human rights situation.

The central question we should look at today hinges on whether Colombia is, as the government claims, undergoing an irreversible renaissance in which there is relative peace, rapidly decreasing levels of violence, genuine demobilization of tens of thousands of illegal combatants and justice for victims of human rights violations. Or whether, on the contrary, the nature of the humanitarian crisis has, once again, simply changed.

The Colombian conflict is extremely complex and full of subtle nuances. While it is very difficult to try and quantify the number of abuses, there have clearly been some improvements over the past few years in the levels of some types of violence: there has been a considerable fall in the number of kidnappings as well as in the number of civilians killed for reasons connected with the armed conflict. It should also be said that the security situation in some of the more heavily-populated urban areas, as well as on many of the main roads, has improved dramatically. This is to be welcomed and must come as a relief to millions of Colombians who just want to get on with living their lives free from fear.

But in welcoming these improvements, we must not be blind to the other Colombia, in which millions of people continue to bear the brunt of this bloody conflict. Their voices are being silenced because their stories vividly and convincingly belie the official line that maintains that Colombia has largely overcome its bloody past. These other Colombians include the hundreds of thousands who are still being displaced by the conflict, the growing number of civilians who are killed every year by the security forces, the hundreds of disappeared, the children as young as 12 recruited as cannon-fodder by both paramilitary and guerrilla groups, the activists and peasant farmers detained arbitrarily by the armed forces, the people, many of them children, killed or maimed by landmines, the women raped by the warring parties, the

communities persecuted because they are wrongly suspected of aiding and abetting enemy combatants, and the victims of kidnappings and indiscriminate bomb attacks in urban areas.

For these people the violence, in all its harshness and barbarity, goes on.

On the other hand, given the Colombian conflict's long history of impunity, few could have predicted that at least a few of the influential politicians, high-ranking public officials and senior military officers who have links with paramilitary groups would now be facing legal proceedings of some kind, or at least a criminal investigation, for such crimes. Many people, both in Colombia and abroad, have expressed great amazement at the scale of the problem, as if national and international human rights organizations had not been alerting them to this terrible phenomenon for decades. Warnings that invariably fell on deaf ears, while successive Colombian governments denied that there was any problem at all.

Even today, when it is no longer possible to go on refuting the evidence, some State institutions are still refusing to accept personal and institutional responsibility and have even tried to take credit for the current torrent of revelations, claiming that they were only possible thanks to the paramilitary demobilization and the Justice and Peace Law. But the ones who should really be thanked for getting investigations into these deep-rooted, institutionalized links under way – and let's be clear that these cases are just the tip of the iceberg – are the Supreme Court, the Procurator General's Office and the Human Rights Unit at the Attorney-General's Office, as well as all the courageous journalists and human rights defenders who have investigated the issue and kept it alive, often at great personal cost to themselves.

The Colombian Government has repeatedly asked Amnesty International to acknowledge that the much-lauded apparent demobilization of 32,000 paramilitaries has been a unique and overwhelmingly positive process. Amnesty International does not share that view.

Let me make Amnesty International's position on the demobilization process quite clear. We expressed serious doubts about it right from the start. Our stance demonstrates the commitment we have to the rights of victims and stems from the organization's long experience of observing similar processes in other countries as well as from our understanding of what constitutes effective demobilization.

The search for truth and justice in any conflict situation is fraught with difficulties and obstacles. But for such a process to be a real success, it must have human rights, including the principle of "non-repetition", at its core. Human rights are not something to be tagged on to a peace or demobilization process to make it more acceptable; they are, or ought to be, the crucial component for achieving a just and lasting peace. They are a constant that should be applied to all peace and demobilization processes, whether they involve the paramilitaries or the guerrillas.

International standards make it clear that the rights of victims cannot be jeopardized. The current demobilization process abjectly fails to comply with that principle

- by failing to ensure that victims are fully involved;
- by not ensuring that demobilized combatants are genuinely removed from the conflict;
- by failing to ensure that the paramilitaries and their backers are properly held to account; and
- by not offering full reparation to the victims and their families.

Some have said that forgoing justice for the sake of peace is a price worth paying, but the demobilization process and the Justice and Peace Law that paved the way for it have brought neither peace nor justice.

The paramilitary machine is turning the so-called demobilization process into a farce. Most of its combatants, many of them guilty of war crimes and crimes against humanity, have already benefitted from *de facto* amnesties under Decree 128. It is highly unlikely that the crimes they committed and the role they played, as well as the role played by those who gave them material and political support, will ever be investigated or that their victims will receive the justice they so desperately desire and have a right to expect.

It is true that most of the paramilitary leadership may end up being deprived of their freedom for their part in some of the worst human rights atrocities for at least a few years but, at the moment, whether this time will be served in prison or some kind of luxury accommodation is simply a matter for conjecture. The prospect of a prison sentence, however, is unlikely to cause many sleepless nights for the third parties, the ones who were the main architects of the paramilitary project and without whom the Mancusos and Castaños of this world would never have managed to become such efficient killing machines. Everyone who has knowingly and willingly supported the paramilitary project – senior military commanders and government officials, regional political bosses, members of the country's financial sector, other governments and international corporations – are probably sleeping easier knowing that the chances of their crimes coming to light as a result of this process are practically non-existent.

Even more important for them, and for the paramilitary leaders who will soon be able to resume their lives free of any legal complications, will be the consolation of knowing that the wealth and political power, and in some cases military might, they have amassed over decades, at the expense of the thousands of Colombians who have been murdered and the millions who have been displaced from their land, will remain virtually intact, thanks to a government that is not prepared to tackle the structural foundations of the paramilitary project head on.

By not dealing with the political, military and economic paramilitary infrastructure at both national and international level, the government has ensured that it remains intact. Paramilitarism in Colombia will not be eradicated as long as its roots, which are still being protected and nurtured both inside and outside the country, have not been destroyed.

One of the fundamental roots of the problem is the vexed question of control of land and natural resources. Much of the wealth accumulated by the paramilitaries and the politicians and businesspeople who support them has come from the theft, often accompanied by violence or the threat of it, of millions of hectares of land belonging to hundreds of thousands of peasant farmers, and indigenous and Afro-descendent communities throughout the length and breadth of the country. So far around 50,000 people have formally requested compensation in the context of the proceedings involving paramilitary leaders. Of such requests, a fifth relate to the theft of land.

As part of the deal with the Colombian Government, the paramilitaries promised to hand over all their ill-gotten gains and restore them to their legitimate owners or their families. However, other than some property of little worth, they have so far not returned any significant stretches of land and Amnesty International seriously doubts they will ever do so. Why should they? Much of the land they stole has been passed on to third parties – the so-called *testaferros* – often relatives or friends, in order to conceal it. But rather than take a hardline stance towards such deception, the Colombian Government has repeatedly shown that it lacks the political will to bring the full weight of the law to bear on such people. As if that were not enough, the government has introduced legislation which will make it harder for the displaced to reclaim their land since it makes it easier for those who stole it to have their ownership of it legalized. Of all the victims of this long-running and brutal conflict, the displaced are the ones who have the least chance of finding justice.

It is of concern to us also that the international community has helped to facilitate these policies by failing to push strongly for a proper legal framework to be established and by funding projects that allow stolen land to be legalized.

Many of the victims of this conflict and their families, as well as non-governmental human rights organizations, have chosen to participate in the justice and peace process. Amnesty International respects and supports their decision to do so as well as the decision of other victims not to participate. We sincerely hope that some truth, and perhaps even some justice, will come out of this process and that, as a result, at least some of the victims of this terrible conflict will succeed in obtaining some form of redress. But others, such as Yolanda Izquierdo, who was killed in Montería in January, have already had to pay the ultimate price for seeking the truth. Unless steps are taken to ensure their safety, many more victims who are searching for the truth, and many of those supporting them, could end up paying with their lives. And let us also not forget the victims of abuses committed by the guerrillas or directly by the security forces for whom the Justice and Peace process is absolutely meaningless.

The real tragedy here is the opportunity that has been lost: the opportunity to put a stop, once and for all, to the pernicious phenomenon of paramilitarism, rather than simply tinkering about at its edges. By not dismantling its structure and power base, the government has ensured that the paramilitary machine will remain virtually intact.

Even though finding a lasting solution to this conflict will not be easy, a blueprint for doing so has been in existence for almost ten years. The recommendations repeatedly put forward by the United Nations High Commissioner for Human Rights, many of which have been persistently ignored by successive Colombian Governments, describe in detail the steps that the government and the country's guerrilla groups, who have also disregarded all the recommendations addressed to them, should take to resolve the human rights crisis. Given that, for the first time, the government has enthusiastically welcomed the most recent report on Colombia by the High Commissioner, we trust that such enthusiasm will encourage it to make serious efforts to comply, once and for all, with the human rights recommendations repeatedly made by the United Nations and the inter-American human rights system.

The international community, and especially the European Union and the United States, has had, and continues to have, a pivotal role in trying to help resolve the human rights crisis. As far as the United States is concerned, Amnesty International has stressed over and over again that the necessary conditions simply do not exist to ensure that US military aid does not contribute towards the committing of human rights abuses. It is clear that the US State Department's human rights certification process – which, by the way, only covers a small percentage of US military aid to Colombia – has proved totally inadequate in that respect. We hope that the new US Congress will take a stand against the policy of the Bush administration, vigorously exercise its powers of scrutiny and demand a thorough review of the relationship between the two countries.

The European Union's stance on a number of human rights issues has often been firm and constructive, and has been particularly commendable in the case of human rights defenders and trade unionists. Its position on the demobilization process, however, has wavered of late. Its initial insistence that it would not support any demobilization process that did not fully comply with international standards regarding truth, justice and reparation and in which the paramilitaries failed to respect their own ceasefire has gradually wilted away.

The softening of its stance – to the point that any criticism of Colombian Government policy is rare, if not non-existent – has only served to weaken the European Union's political influence on the Colombian Government.

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The first International Conference on Human Rights in Colombia 12 years ago – and the international campaign that flowed from it – marked the beginning of the European Union's commitment to Colombia.

This, the second International Conference, is an opportunity for the European Union, as well as the United States and other countries, to re-examine their current policies in order to ensure that any political and economic cooperation they provide serves to strengthen the rule of law and helps to end, rather than prolong, the human rights crisis.

Thank you all for your attention.

Susan Lee
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Americas Regional Programme

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