



## **UNITED NATIONS CALLS COLOMBIA INTO ACCOUNT FOR NOT COMPLYING WITH ITS HUMAN RIGHTS COMMITMENTS**

The U.N. Commission on Human Rights begins to be impatient with the Colombian Government. In the Chairperson Statement on Colombia, adopted on April 21, 2004, "the Commission reminds the government of Colombia of its commitment to take into account and implement the recommendations contained" in it<sup>1</sup>. This admonishment was a result of the fact that last year the Government exceeded in its non-compliance of the recommendations, to the point of disavowing the commitments adopted in the Commission, giving as an excuse that the President of the Republic had not been consulted about those precise commitments.

Therefore, this year the Commission has been cautious, so that the same story will not be repeated next year. As a start, the Commission makes a special call "on the international community to continue to support the prompt implementation (...) of the recommendations of the High Commissioner for Human Rights"<sup>2</sup>. The international community has expressed itself through a group of 24 countries (G-24) that met in London in July-2003 with the Colombian government, and adopted the London Declaration. This Declaration underscores the compliance of the recommendations as a framework for the international co-operation policies with Colombia. The G-24 will meet again with the Colombian Government in November 2004, and therefore the Commission considers that this "will be an appropriate occasion to assess progress in this regard, as well as in the implementation of the London Declaration."<sup>3</sup> In this respect, the Presidential Counsellor for International Co-operation had declared on October 27, 2003 that the Colombian Government had not signed that Declaration and that therefore, "if there were any commitments, they were not the Government's".<sup>4</sup> Consequently, the Commission reminded the Government that the London Declaration "was adopted by the Government of Colombia and other Governments."<sup>5</sup>

The recommendations and commitments that the Commission wants to be implemented cover several grave subjects. One of them is the "anti-terrorist Statute" that, against precise recommendations of the Commission, gave judicial police powers before civilians to the military. On this subject, the Commission Chairperson's Statement "stresses the Government's responsibility to fulfil the obligations it has undertaken under the relevant

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<sup>1</sup> Paragraph 36.

<sup>2</sup> Paragraph 10.

<sup>3</sup> Paragraph 37.

<sup>4</sup> Meeting with non-governmental organizations and other civil-society organizations, organized by the International Cooperation Agency. High officer of UNDP attended the meeting, held on the Dann Carlton Hotel at Bogotá.

<sup>5</sup> Paragraph 9.



## COMISIÓN COLOMBIANA DE JURISTAS

Organización no gubernamental con status consultivo ante la ONU  
Filial de la Comisión Andina de Juristas (Lima) y de la Comisión Internacional de Juristas (Gir

international human rights instruments."<sup>6</sup> Both the "alternative punishment" bill and Decree 128 of 2003 that permit pardon to demobilised combatants, even when they have committed war crimes or crimes against humanity, are aspects on which the Chairperson also highlights the need "to be undertaken in line with relevant international law (...)."<sup>7</sup> Similarly, on the issue of the stigmatisation of NGOs by the President of Colombia, "the Commission reiterates its particular concern regarding the climate of hostility which has been generated regarding the work of human rights defenders", and "calls on the Government of Colombia to ensure that no generalised public statements are made which might serve to endanger the rights of people involved in the defence of human rights or in trade union movements."<sup>8</sup>

Regarding the principle of distinction between combatants and non-combatants, the Statement makes a special call to respect this principle as well as those of limitation, proportionality, and immunity of the civilian population.<sup>9</sup> This call is of paramount importance, as it contradicts the official policy, expressed by the President of the Republic, who has affirmed that he does not believe in the principle of distinction and that in Colombia all persons are combatants. This erroneous belief has been the basis for programs such as the network of informants, in which the Government wants all 44 million Colombians to participate, under the orders of military commanders. The Commission also expresses its concern at the role of this network of informants.<sup>10</sup>

The Commission makes a special call so that the proposed bill to reform the judiciary (submitted by the Government to the Congress) tackles the problems related to access to justice, independence of the judiciary, impartiality and the problem of impunity, "underlining the important role of the Constitutional court in the defence of human rights, democracy and the rule of law."<sup>11</sup> This should be taken into account by the members of the parliament that are now studying the proposed bill, which contradicts the Commission's call, and which seeks to restrict the "tutela" judicial action for protection of human rights as well.

The biggest concern of the Commission relies on the continuing critical human rights situation in the country, despite the information handed by the government that shows the decrease in some of the violence indicators. The Commission "remains deeply concerned by the still extremely high numbers of Internally Displaced persons (IDPs)"<sup>12</sup>, and for the persistent violation to the right to life of "trade unionists, human rights defenders, journalists, departmental officials (...), members of the "Unión Patriótica", community

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<sup>6</sup> Paragraph 16 (c).

<sup>7</sup> Paragraph 16 (b).

<sup>8</sup> Paragraph 32.

<sup>9</sup> Paragraph 18.

<sup>10</sup> Paragraph 26.

<sup>11</sup> Paragraph 27.

<sup>12</sup> Paragraph 29.



## COMISIÓN COLOMBIANA DE JURISTAS

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Filial de la Comisión Andina de Juristas (Lima) y de la Comisión Internacional de Juristas (Gir

leaders and local government officials."<sup>13</sup> "The Commission expresses the gravest concern at reports of summary, extra judicial and arbitrary executions attributed to the security forces" and notes the "increase in complaints in relation to forced disappearances, mainly perpetrated by paramilitary groups, but also directly or jointly attributed to the security forces."<sup>14</sup> "The Commission expresses its serious concern at increased reports of arbitrary and mass detentions in areas of military operations, accompanied in some cases by torture, forced disappearance and violations of due process."<sup>15</sup> The cases of "continuing support, collusion or complicity on the part of state agents with paramilitary groups" is a matter of specific "concern"<sup>16</sup> and is taken as a basis to call for "further progress" in the investigation of that complicity and in the fight against impunity<sup>17</sup>.

"The Commission expresses its concern regarding the continuing difficulties faced by the general Colombian population, including journalists and trade unionists, in fully exercising their right to freedom of opinion and expression."<sup>18</sup> Regarding the indigenous and afro-Colombian populations, the Commission "deplores the increase in selective violence against those communities, as well as the practice of confinement by the illegal armed groups" as well as the violation of their economic, social and cultural rights.<sup>19</sup> As a particularly vulnerable group, the Commission also "deplores the violations to the right to life of a big number of children".<sup>20</sup>

The negotiations of the Government with the paramilitaries motivated a deep concern of the Commission at the "lack of progress" towards what the Commission calls "comprehensive peace strategy"<sup>21</sup>, underlining the "need for any demobilisation to be undertaken in line with relevant international law and jurisprudence and in a manner that respects the right of the victims to truth, justice and reparation."<sup>22</sup> In addition, "the Commission strongly condemns all acts of violence and breaches of international humanitarian law which are being committed by paramilitary groups in violation of their declared ceasefire."<sup>23</sup>

The Commission strongly condemns all acts of violence and terrorism committed by paramilitary and guerrilla groups and it "strongly urges" them to "comply with international humanitarian law and to respect the legitimate exercise by the population of their human rights."<sup>24</sup> Regarding the FARC guerrilla, the Commission "deplores in particular their

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<sup>13</sup> Paragraph 31.

<sup>14</sup> Paragraph 25.

<sup>15</sup> Paragraph 26.

<sup>16</sup> Paragraph 23.

<sup>17</sup> Paragraph 16 (a).

<sup>18</sup> Paragraph 28.

<sup>19</sup> Paragraph 33.

<sup>20</sup> Paragraph 34.

<sup>21</sup> Paragraph 7.

<sup>22</sup> Paragraph 16 (b).

<sup>23</sup> Paragraph 21.

<sup>24</sup> Paragraphs 19 and 21.



## COMISIÓN COLOMBIANA DE JURISTAS

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frequent indiscriminate attacks with explosive devices and anti-personnel landmines, which have victimised hundreds of Colombians, both members of the security forces and civilians, including women and children."<sup>25</sup> "The commission firmly condemns the practice of kidnapping, whether for political or economic reasons, expresses its deep concern at the still high number of persons illegally and cruelly imprisoned in this way, and urges the immediate and unconditional release of all of them."<sup>26</sup>

As a result of this critical situation, "the Commission encourages the Government of Colombia to pursue its commendable intention to have the National Action Plan on Human Rights and International Humanitarian Law agreed by the end of June 2004, following full and transparent consultation with representatives of civil society."<sup>27</sup> Moreover, as last year, the Commission encourages the Government again to adopt international human rights instruments that have not been ratified, such as the recognition of the competence of the Committee Against Torture and the Committee on the Elimination of Racial Discrimination to consider individual petitions, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention against Torture and the Optional Protocol to the convention on the rights of the Child."<sup>28</sup>

Hence, the Colombian authorities have a tough job this year. It is now time to comply and honour these old and renovated commitments, that will now have increased supervision with the participation of the G-24, and which will be considered with special attention by the Commission on Human Rights in 2005. Furthermore, this provides civil society of a good reason to strengthen its monitoring over the human rights situation in Colombia.

April 22, 2004

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<sup>25</sup> Paragraph 22.

<sup>26</sup> Paragraph 24.

<sup>27</sup> Paragraph 15.

<sup>28</sup> Paragraph 4.