

SIXTEENTH QUARTERLY REPORT OF THE SECRETARY GENERAL TO THE
PERMANENT COUNCIL ON THE MISSION TO SUPPORT THE PEACE
PROCESS IN COLOMBIA (MAPP/OAS)

This quarterly report is presented in keeping with resolution CP/RES. 859 (1397/04), in which the Organization of American States instructs the Secretary General to report periodically to the Permanent Council on the work of the Mission to Support the Peace Process in Colombia (MAPP/OAS) and its continued ability to contribute to the fulfillment of the values and principles contained in the OAS Charter and the Inter-American Democratic Charter.

I. GENERAL REMARKS

The magnitude and complexity of the peace process in Colombia poses constant challenges to Colombian society and its framework of institutions. The objective of removing participants from the violence and seeking better conditions for victims and communities is not easy to achieve. It requires a national effort and the valuable assistance of the international community.

This quarterly report of the Secretary General on the Mission to Support the Peace Process in Colombia recounts significant progress, although there remain a number of difficulties inherent to a process of such magnitude. The progress includes the combined effort of the national government, the Congress of the Republic of Colombia, and all the institutions involved in the enactment of Law 1448, known as the Victims and Land Restitution Law of June 2011. It introduces numerous possibilities for progress toward comprehensive reparations to victims and strengthens the current peace process.

The year 2012 began with the implementation of the Law. Despite the swiftness of that process, some issues have also been encountered in certain areas—in particular, structuring and launching the institutions created by the law so they will work in coordination with existing institutions in the transfer of information and optimal use of resources.

Despite great efforts by the national government, a serious lack of security remains in some quarters of the country, including those where land restitution is taking place. Criminal gangs and illegal activities in these areas jeopardize the return of people displaced by the violence and the potential for repairing the social fabric there.

The General Secretariat calls attention to and condemns the murders and threats against victims and organizations linked to the process. It believes that all the institutions must, without delay, take up the challenge of guaranteeing the individual and collective security of the victims as an essential condition for the process's sustainability. This requires coordinated effort not only among state institutions but also with civil society organizations, communities, and international cooperation agencies.

To counteract these threats, we call upon the authorities to step up efforts through agile and differentiated protection mechanisms, to strengthen local institutions, and to continue fighting organized crime and corruption.

Prior reports have mentioned the importance of Law 975 of 2005, better known as the Justice and Peace Law. The Mission has noted the importance of making adjustments so that the Law may contribute effectively to the application of Transitional Justice in Colombia. In that

connection, it presented to the national government a diagnostic study on the process, including recommendations. That is why we emphasize pursuing the draft amendment to Law 975/05 presented by the Attorney General's Office and the complementary parliamentary proceeding that aims to expedite the judicial proceedings and fill a number of gaps.

In the context of reintegration, we recognize the work of the Colombian Agency for Reintegration (ACR). We emphasize that 90% of demobilized combatants have availed themselves of the benefits of Law 1424 of 2010. Nevertheless, it is vital to properly disseminate the new measures taken by the national government in the reintegration program, since the changes to certain aspects of the program are beginning to generate uncertainty among the demobilized population.

Finally, building scenarios and conditions for reconciliation is another of the great challenges in this phase of the process. We note the lack of public policy in that sense, reflected in too little institutional follow-up on the communities, which have been moving forward and implementing initiatives based on their own experience. Strengthening the reconciliation processes among various sectors of society is essential to guaranteeing lasting peace among Colombians.

II. TRANSITIONAL JUSTICE

As noted in earlier reports, Law 975/05 calls for resolving certain problems encountered in its implementation. Thanks to its monitoring efforts, the Mission identified successes and difficulties in the application of the Law. On that basis it proposed to the national government possible changes and reforms to adjust the procedure and make its objective achievable.

On the basis of these exchanges, and with support from various state institutions, civil society organizations, academic sectors, and think tanks, the MAPP/OAS prepared, and presented in October 2011, a "Diagnostic of the Justice and Peace Law under the framework of Transitional Justice in Colombia". This three-part document was coordinated by Mr. Baltasar Garzón. The first part discusses the phases of the special criminal proceedings under the Justice and Peace Law. The second explains specific difficulties in implementing Transitional Justice in Colombia. The third offers recommendations.

The draft amendment to the Justice and Peace Law, proposed by the Attorney General's Office, is now under consideration by the Congress of the Republic. It deals with important points such as the need to prioritize cases, the inclusion of investigation guidelines, and the combination of procedural phases to render the process more expeditious for the benefit of the victims.

The Mission has said on prior occasions that one of the most critical aspects of the Justice and Peace process is the lack of verdicts five years after the enactment of Law 975/05, which has affected the credibility of the process and the responsible institutions. So the Mission recognizes the efforts of the tribunals and welcomes the issuance of three highly important decisions: (1) the conviction of José Rubén Peña Tobón, Wilmer Morelo Castro, and José Manuel Hernández Calderas, former combatants of the Victors of Arauca bloc—the first ruling on redress for sexual crimes, employing a gender perspective; (2) the individualized sentence and decision on comprehensive redress concerning former members of the North bloc of the AUC, Edgar Ignacio Fierro Flores, alias "Don Antonio," and Andrés Mauricio Torres León, alias "Jesucristo"; and (3) the conviction of Freddy Rendón Herrera, "El Alemán," to 53 years in prison and an alternate

sentence of eight years in prison for recruiting 309 minors into the Elmer Cárdenas bloc (BEC), aggravated conspiracy to commit a crime, and murder of a protected person.

Lastly, we note the ruling of second instance on events that took place in Mampuján, San Cayetano, and Isla Múcura in the Department of Bolívar, issued by the Criminal Appeals Division of the Supreme Court of Justice, in April 2011. In this ruling, the Court ratified the granting of an alternate sentence of eight years in prison to Edward Cobos Téllez, alias "Diego Vecino," and Uber Bánquez, alias "Juancho Dique." We welcome the reasoning and jurisprudence of the Court on collective damage, which also clarifies matters of victims' rights and punishability.^{1/} On January 18, in Mampuján, the second follow-up hearing was held, the aim being to verify compliance by the appropriate authorities with the reparations measures ordered in the ruling. The hearing was attended by 600 persons, including representatives of the victims and members of the community. This was the first tribunal session held at the place of the crimes—constituting in itself a measure of redress by recognizing the dignity of the victims and sending a message of respect and commitment from the magistrates to the communities affected by the violence.

Three years after the extradition of 14 former self-defense force commanders *postulados* (i.e., availing themselves of the benefits) under the Justice and Peace Law, there is evidence of various negative effects on victims' rights to the truth, justice, and comprehensive redress. The first is diminished victim participation in the voluntary depositions, caused in many cases by the absence of former commanders^{2/} and in other cases by insufficient dissemination and the victims' fear of participating. The second is a lack of guarantees of legal security for them and of individual security for their families and attorneys.

The present situation of incarcerated *postulados* needs attention. While we value the efforts by the National Institute of Penitentiaries and Jails (INPEC) to coordinate the Justice and Peace process and deal with the magnitude of demands it poses, there continue to be delays in the reduction of sentences of *postulados*, as well as overcrowding and threats.

Over two years since the murder of Diego José Martínez Goyeneche at the Picota Jail, no person has yet been brought to justice for it. Similarly, investigations should move forward on the deaths of Uberney Ocampo, on May 11, 2011, and Jhon Freddy González Isaza, on June 8, 2011. The latter had been transferred to the Barranquilla Jail for security reasons. The Mission also urges investigation of the alleged escape attempt by the *postulado* Ordany de Jesús Ramos, who was brought down by a guard at the penitentiary of Barranquilla, in July 2011. INPEC guards and staff are also at risk; in 2011, three guards assigned to Justice and Peace cellblocks were murdered outside the prison facilities.

There is overcrowding at seven of the eight Justice and Peace "patios" at the Chiquinquirá detention center, in patios 5 and 6 at Itagüí, and at the Central Patio of the Barranquilla Jail. We suggest conducting de-crowding workshops, such as those carried out in Itagüí by the Attorney General's Office and INPEC and observed by the MAPP/OAS.

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1. The Court ruled on when service of a sentence should begin to be counted under Justice and Peace, determining that it begins at the moment the *postulados* are deprived of liberty and placed in INPEC custody. This decision should expedite the processes, since in 2013 a large part of the former self-defense group commanders will have served eight years in prison.
 2. Before his extradition, according to the Prosecutor's office, the *postulado* Benguoechea Mola had announced the delivery of information on several mass graves; to date, these have not been found.

On the other hand, given the small number of crimes of sexual violence reported and confessed under the Justice and Peace process, the institutions need to continue incorporating the differentiated gender perspective. We value the special emphasis the Prosecutor General has placed on this matter by appointing, within the Justice and Peace Unit, a specific prosecutor for crimes related to gender violence in the context of armed conflict.

III. VICTIMS AND LAND RESTITUTION LAW

An important milestone in the period covered by this report was the enactment of Law 1448/11, known as the Victims and Land Restitution Law, which affords numerous possibilities for progress toward comprehensive redress to victims and for thereby strengthening the present peace. Positive aspects include: (1) the grouping, in a single legal text, of measures for victim assistance, care, and redress; (2) the establishment of an institutional framework to strengthen state and regional capacity for effective care; (3) the incorporation of land restitution mechanisms; (4) the introduction of important criteria regarding assistance to victims in judicial proceedings, such as judicial assistance, advisory services, and support.

An important challenge is structuring and setting in motion the institutions created by Law 1448 of 2011, such as the National System for Care of and Comprehensive Reparations to Victims, the Special Administrative Unit for Care of and Comprehensive Reparations to Victims, and the Special Administrative Unit for the Handling of Seized Lands (UAEGTD). Success in this effort will require a guarantee of coordinated joint efforts by these institutions and those already standing, especially in terms of knowhow and information transfer, in order to maximize resource use and seek ways to bring about a coherent, harmonious framework of institutions.

Under Article 159 of the Law, it is necessary to strengthen interagency coordination for active participation not only by bodies at the national and regional levels but also by victims. It is essential that there be complementarity and coordination of the functions arising from the mechanisms of Laws 1424 of 2010 and 1448 of 2011, on the recovery and preservation of historical memory.

Victims are also confused as to the limits of competencies under Law 975 of 2005 and Law 1448/11, on aspects such as indemnification by administrative means, *subsidiary sentences* (condenas en subsidiaridad), and humanitarian aid and assistance. The Mission also found that the fund for administration of seized lands, created by Law 1448/11, has been mingled with the fund for reparations to the victims of the violence under Law 975/05. Rural immovable property entered into that fund could be transferred to the lands fund, as long as this does not affect the reparations process. The Government should define in which cases rural real property entered into the victim reparations fund could be transferred to the fund for UAEGTD, without affecting specific reparations allocations under Law 975 of 2005.

It is urgent to define clearly the criteria for determining which cases will continue to be heard under the Justice and Peace Law and which will be heard under the land restitution process. The MAPP/OAS believes the more advanced cases should remain under Justice and Peace, in the interest of efficiency and preserving what has already been accomplished.

Understanding the complexity of the institutional structure needed for comprehensive redress to victims, the state has created means and strategies for coordination among the various ministries, programs, units, and departments with competence to care for, protect, and restore the rights of victims. Of utmost importance to the land restitution process is maintaining security in

territories where restitutions are to take place, both for the communities located in these regions and for the claimant victims. The persistence of illegal activity in some of these areas alerts us to the need to evaluate and deal with risks that will arise in this process. The risks mostly involve the presence of armed groups and illegal activities that generate violence.

The greatest challenge of the land restitution process is effectively protecting the families involved so they may return to the properties conveyed to them without risking their lives. In 2011, various leaders linked to the restitution process were murdered, raising an alarm concerning the upcoming restitutions. The Mission is worried that murders and threats, together with the lack of security guarantees, have caused leaders and persons connected with land restitution to keep a low profile and, sometimes, to stay away from the reporting and monitoring mechanisms, significantly harming the process.^{3/} The Inter-American Commission on Human Rights (IACHR) granted precautionary measures in 2010 to eight members of a single family who were in immediate danger because of their defense of the rights of displaced persons of the "La Alemania" estate, San Onofre property, Department of Sucre.^{4/}

The General Secretariat considers it appropriate to establish means of collective prevention and protection to complement the individual measures. To that end, the MAPP/OAS has been working intensively with the human rights platforms, boards, and organizations in Colombia, discussing proposals for effective protection that would guarantee the sustainability of the process. It also attaches high importance to guaranteeing the economic sustainability of the returns so that they will last. This poses a great economic challenge to the Colombian state, requiring long-term investment to facilitate repair of the social fabric, as well as placing priority on infrastructure and development projects in the return locations.

As for security conditions in the restitution areas, the Mission has observed that the communities perceive the government strategies for dealing with outlaw groups as a significant improvement in the military and judicial areas, but believe that the presence and investment in the social and community arenas are insufficient, contributing to the perpetuation of illegal activity in some regions. These dynamics are most evident in Catatumbo, northern Santander, southern Cauca department, southern Chocó, southern Córdoba and Lower Cauca (Antioquia), Urabá (Antioquia), Darién (Chocó), Cesar, Magdalena, southern Bolívar department, and the eastern plains (Meta, Guaviare, Vichada, and Casanare). It is hoped that the new consolidation plans strategy will yield progress in that sense.

Sustainable restitution depends largely on return conditions that allow for repair of the social fabric, and here security plays a decisive role. If the environment to which victims return is still threatening, it will be very difficult to create the conditions for effective exercise of their restored rights.

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3. Cases such as those of Ana Fabricia Córdoba, Henao Arteaga, coordinator of the Unit to Fight Criminal Gangs in Antioquia (CTI), Edquir José López, former defense attorney, alias 'Pedro Bonito' (who testified to Justice and Peace on links between businesspersons, politicians, and the paramilitaries), and David de Jesús Góez Rodríguez, who were murdered in June and July in the department of Antioquia, demonstrate the magnitude of the problem, of increasing concern to civil society and to the Mission as a serious threat to the process.
 4. Julia Isabel Torres, Mabelis Martínez Torres, Luis Miguel Martínez Torres, Álvaro Javier Martínez Torres, Kelly Johana Martínez, Luis Fernando Martínez, Isabel Sofía Martínez, and Luz Nellis Martínez. See: IACHR. Precautionary measures granted by the IACHR in 2010. At: <http://www.IACHR.oas.org/medidas/2010.sp.htm>.

In December 2011, the National Security Council took steps to guarantee security in the land restitution process, selecting 12 macro-regions in which to begin it, with priority on Montes de María, Magdalena, Cesar, southern Meta, Tolima, and Antioquia. The target municipalities were to be determined by local restitution operating committees. Similarly, in January of this year, in the city of Montería (Córdoba), the first office of the Special Administrative Unit for the Handling of Seized Lands was opened. A commitment was made to open 21 offices in 17 departments to serve 221 municipalities. This will happen in the first months of the year.

To date, the Special Administrative Unit for Restitution of Seized Lands has reported 8,087 requests, involving 549,648 hectares⁵. Twenty-two judges and 15 special magistrates will be appointed to hear restitution cases. The departments with the highest numbers of requests are Meta, Casanare, Antioquia, Arauca, and Bolívar.

The Mission has identified a number of challenges in the implementation of the lands policy, such as:

- Protection of information. There is a serious threat of loss of the information held by the institutions. Urgent preventive measures must be taken to safeguard and protect this material.
- The advisability of applying lessons learned in the Justice and Peace process. These include the need for trained personnel with experience in assistance and institutional representation; the importance of establishing criteria for selection and prioritization under Transitional Justice, so that redress in non-contentious cases may be accomplished through administrative actions; and the importance of institutional coordination at all levels, so that local and departmental authorities feel actively involved, thereby promoting greater sustainability.
- Development of alternative conflict resolution mechanisms by the communities themselves, whether through equity conciliators or through justices of the peace.

Finally, on July 21, 2011, an addendum to the MAPP's mandate was signed by President Juan Manuel Santos and the General Secretariat, entrusting the MAPP/OAS with follow-up and monitoring of land restitution in the context of the comprehensive lands policy as a component of comprehensive redress to victims of forcible displacement and land seizure.

The addendum reaffirms the work the Mission has been doing in this area and stresses the General Secretariat's commitment to continue supporting the Colombian Government and society in their efforts to provide redress to the victims and move toward peace and reconciliation in Colombia. It emphasizes the political will of the Colombian Government to promote this initiative amid complex security issues.

IV. MAPP/OAS FOLLOW-UP ON COMMUNITIES AND VICTIMS

Together with the National Redress and Reconciliation Commission (CNRR) and the Victims Assistance Unit of the Office of the Public Defender, the MAPP/OAS followed up on and supported three initiatives to render assistance and advisory services to victims in the

5. Ministry of Agriculture and Rural Development. Progress report on implementation of, and issuance of enabling rules for, Law 1448 of 2011, concerning restitution of lands to victims of forcible displacement. Bogotá, February 13, 2012.

advanced phases of the Justice and Peace process, such as cases of comprehensive reparations in departments such as Tolima, Caldas, southern Santander, and Bolívar.

That follow-up yielded the following recommendations: (i) promote standardization of criteria among institutions in charge of the Justice and Peace process; (ii) strengthen the institutions of Justice and Peace; (iii) design differentiated victim assistance strategies and strengthen their local capacity; (iv) implement public policy through plans consistent with local circumstances; (v) evaluate and update the procedures and criteria adopted to date, with a view to guaranteeing victims' rights and promoting reconciliation; (vi) implement a strategy for monitoring the performance of public institutions under the Justice and Peace process; (vii) recognize the redressive nature of the judicial process; (viii) place priority on measures to optimize and call attention to the implementation of non-repetition guarantees.

The Mission has continued to follow up on and support mechanisms for rapprochement and work with victims and their communities, using a differentiated, do-no-harm approach with a gender perspective. In this period, five high-profile projects were completed:

1. Assistance to victims of representative villages of the Lower Cauca in Antioquia, executed with financial and technical support from USAID/IOM. The project supported 120 victims registered with Justice and Peace, from the *corregimientos* of Puerto López and Puerto Claver in the municipality of El Bagre and the *corregimiento* of La Caucana in the municipality of Tarazá. The main contributions of this initiative were the implementation of a special mode of assistance that included instruction in rights and the creation of a services fund to supplement what the institutions offer. The fund provided psychological and social assistance, vocational training, medical care, and food security projects.
2. In the *corregimiento* of Sabaletas, municipality of Buenaventura, the MAPP/OAS supported the Identity, Images, and Memory project, financed by the Embassy of Switzerland. A historical memory exercise using audiovisual resources allowed communities to recover their cultural wealth and thereby design their own means of peaceful resistance to outlaw groups and their own ways to mend the social fabric.
3. Also in Buenaventura, in the Cauca Valley, the Mission worked for over two years with organizations representing the Afro-descendant population--PCN^{6/} and Fundemujer^{7/}. Through community-building, these communities were accompanied in their efforts to influence the Justice and Peace process and the collective reparations policies, proposing the use of differentiated criteria in assessing collective damage and in means of effecting reparations. This experience is expected to serve as guidance for other Afro-descendant communities in Colombia.
4. In the department of El Cauca, the Mission followed up on 200 indigenous families through the Association of Indigenous Town Meetings of the northern Cauca. The aim was to recover indigenous law and methodologies based on the experience of ethnic groups, for application in the Justice and Peace process.

6. *Proceso de Comunidades Negras*, or Black Communities Process.

7. Foundation for Women's Development in Buenaventura and the Pacific Coast.

5. Completed in the municipality of Mesetas (Meta) was the equity conciliators project, the aim of which was to train community leaders in alternative conflict resolution mechanisms, with a view to strengthening the social fabric and empowering the populations of this area especially affected by the violence. The initiative was built on lessons learned in the earlier equity conciliators project, in the department of Córdoba, with resident leaders of the old Concentration Zone in 2006, and will be replicated in Montes de María (Bolívar) in 2012.

Now under way is a project in collaboration with the OEI (Organization of Ibero-American States) in the municipality of Tumaco (Nariño). Part of a comprehensive education program with Afro-descendant populations, it includes a strategy for preventing recruitment in an area vulnerable to this phenomenon.

Reconciliation is one of the great challenges the country must take up. It requires public policy that goes hand in hand with the process of truth, justice, and comprehensive redress to victims. We call for the adoption of the necessary measures and strategies to ensure its attainment.

Aware of the challenge involved in the restitution of lands and territories abandoned or taken from the victims, the Mission has begun to establish strategic alliances with civil society actors, such as human rights platforms, victims' organizations, and organizations working to protect the rights of women and other populations, so as to form thematic working groups that can contribute to and influence the land restitution process. Three boards were formed for this purpose—one on protection, another on security issues in the restitutions area, and a third on gender. The latter group has studied, from a differentiated perspective, the possible repercussions of the restitutions on women and on their access to the law.

V. REINTEGRATION

Since the outset of President Santos' tenure, the High Council for Reintegration, now called the Colombian Agency for Reintegration, has made great efforts to modernize the program's procedures and its assistance to beneficiaries. Seven years into the process, decisions must be taken for its continuance.

Issued in response to these challenges were Decree No. 1391 of May 11, 2011^{8/} and Resolution No. 163 of May 31, 2011,^{9/} which amend the content of Resolution No. 008 of March 2009, substantially changing the social and economic reintegration program.

The context for this change is the new "2011-2014 Strategic Plan," an important effort to change the ACR program in consultation with DDR (Disarmament, Demobilization, and Reintegration) actors in Colombia, with the participation of demobilized combatants. In addition to the internal transformation of the ACR, one of the positive aspects of this change is the different way of relating to demobilized combatants, led by the Director of the Agency and based on shared responsibility, dialogue, and direct contact with participants.

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8. Decree No. 1391 of May 11, 2011, on the economic benefits of programs to reintegrate the demobilized population.
 9. Resolution No. 163 of May 31, containing provisions to govern the requirements, characteristics, conditions, and obligations for access to and granting of the social and economic benefits of programs for reintegration of the demobilized population into civilian society; procedure for suspension and loss of such benefits and closure of the reintegration process.

The new rules mean substantial changes in the reintegration program. The first is that the program is no longer “voluntary” but now “compulsory.”^{10/} There are also “variable periods of coverage” for beneficiaries, depending on each individual’s personal characteristics upon entry into the program. This provision is positive, since it follows prior recommendations to establish a differentiated program.

The General Secretariat identifies as difficulties of the new rules the reduction of psychological and social coverage, which had been one of the strengths of the program, with a high level of coverage,^{11/} to a maximum of two years and six months. In addition, for budgetary reasons, certain economic benefits are reduced or eliminated and the conditions for receiving them are stricter.^{12/}

Another change affecting the reintegration process involves partial enacting of regulations for Law 1424 of 2010, declared executable by the Constitutional Court in October 2011.^{13/} The Court decided that information arising from that mechanism cannot be used in ordinary judicial proceedings as evidence against the demobilized person who avails him- or herself of the mechanism, against his or her relatives as listed in Article 33 of the Constitution of Colombia (spouse, permanent companion, kin to the fourth level of consanguinity, affinity two ranks removed, or one rank removed in civil law), or against demobilized combatants of the same illegal armed group.

Law 1424/10 establishes benefits for demobilized combatants who have not committed crimes against humanity. Arrest warrants for conspiracy to commit a crime are suspended in exchange for contributions to the truth and redress to victims. In December 2011, the MAPP/OAS collaborated with the ACR in locating and informing demobilized combatants who had not shown willingness to avail themselves of the benefits of Law 1424 of 2010, which established a deadline of December 28, 2011. According to ACR data, over 90% of demobilized combatants expressed agreement with the mechanism by signing the “standard prior verification form.”

The Mission wishes to emphasize again the great difficulty faced by many demobilized combatants in finding stable employment. Despite notable efforts by the Government and the ACR to involve the private sector through various mechanisms, such as forums, or the ratification

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10. This stems from the obligation of demobilized combatants to abide by the provisions of Law 1424, in the sense of contributing to the historical record of the truth and to redress and demonstrating their commitment to signing the “agreement to contribute to the historical truth and redress” provided for in Articles 2 and 3 of that Law. Every demobilized combatant must go through the ACR at some point. Article 2 of Resolution 163 establishes timeframes for the entry of any type of demobilized combatant into the ACR program, as well as the obligation of the ACR to notify the competent administrative and judicial authorities of their failure to appear within the timeframes established by the Law.
 11. By September 30, 2011, the cutoff date, the cumulative rate of coverage for workshop attendance was 99.3%, and 98.9% in family or community activities.
 12. Article 18, on “access to economic support for reintegration,” of Chapter II, Resolution 163, of May 31, 2011, stipulates that the demobilized combatant must “attend and perform 90% of the planned activities, in accordance with his reintegration track, under the benefits of psychological and social assistance, education management, and vocational training management,” and also that neither “attendance nor performance may be averaged out between benefits.”
 13. Judgment C 771 of October 13, 2011.

of the “Law on Formalization and First Employment” of February 2011,^{14/} the situation is critical in some regions of the country, such as Urabá, Santander, Putumayo, Bolívar, and Córdoba.

Another matter that needs special attention is the recidivism of demobilized combatants in criminal gangs. The Directorate of Carabineers of the National Police^{15/} reports that, from 2006 until mid-February 2012, law enforcement bodies had captured 11,524 members of these criminal gangs, including 1,680 demobilized combatants of the self-defense forces. This data indicates a recidivism rate of the 14.57% among demobilized combatants over total individuals captured, by virtue of their membership in criminal gangs. Each year sees an increase in the number of captures of criminal gang members by law enforcement bodies. Similarly, there have been increased captures of recidivist demobilized combatants. Preventing this population from viewing entry into or membership in a criminal gang as a viable option is a crucial challenge for the national government.

VI. CONCLUSIONS AND RECOMMENDATIONS

The General Secretariat recognizes the efforts of the Colombian state in enacting Law 1448/11. Although the Law entails enormous challenges, the political will of the national government is vital to making this process sustainable. The lack of resources and the complexity of its application will require participation by all sectors of society to achieve maximum effectiveness.

Without ignoring the importance of the progress achieved in these six years of application of the Justice and Peace Law, the Secretariat recognizes the initiative by the Colombian state to make the necessary changes by reforming Justice and Peace. We hope the bill now under consideration in Congress, expected to be approved in the upcoming legislative session, will correct the gaps and unclear passages noted. Legal security is one of the pillars on which any proceeding must rest; it strengthens genuine confidence in the state and establishes solid foundations for peace-building.

We note the efforts of the Ministry of Agriculture and Rural Development and other institutions to implement the land restitution policy under Law 1448/11. Nevertheless, we affirm once more that these processes must be accompanied in particular by effective victim protection, both individual and collective, to ensure comprehensive redress and a sustainable process.

Similarly, efforts should be made to achieve appropriate coordination among institutions at all levels, as well as clear definition of the competencies of the various authorities, so as not to duplicate efforts, to maintain efficiency, and to guarantee proper enforcement of rights concerning comprehensive redress to victims.

The military and judicial actions and strategies implemented by the national government to deal with the violence generated by criminal gangs are significant. Nevertheless, in view of the implementation of the Victims Law, more development of the social component and restoration of trust in local institutions are needed.

14. This Law provides fiscal benefits (for example, semi-fiscal contributions such as tax credits) for businesses that, in the case of reintegration, hire demobilized combatants under age 28, as long as they abide by the requirements under the Law.

15. Bulletin of February 21, 2012, of the Directorate of Carabineers and Rural Security of the National Police.

Finally, the General Secretariat believes that reconciliation must no longer be the ultimate aim of the process but should become a policy tied to the processes of Truth, Justice, and Redress. In that connection, it would be advisable for institutions to follow up on and strengthen community processes that pursue that aim and to assess the possibility of creating a public policy on the matter.

Recommendations

1. To expedite legislative reform of Justice and Peace and propose state policies for resolving problems with its application, so as to uphold the principles of truth, justice, and redress to victims that will make the system credible and effective.
2. To continue sentencing the highest former paramilitary commanders, according to prioritization criteria for choosing emblematic cases, demonstrating to Colombian society and the international community the state's willingness to continue pursuing the truth and justice.
3. To strengthen means of protection for victims, leaders, and communities involved in the Justice and Peace land restitution process and, in particular, to implement efficient mechanisms for individual and collective protection.
4. To apply the lessons learned in the Justice and Peace process to land restitution, in relation to the training of personnel, the establishment of prioritization and selection criteria, and institutional coordination at all levels.
5. That Colombian institutions adopt decisions that promote construction of public policy to foster reconciliation in the country, supporting and strengthening local initiatives.
6. To develop effective strategies for communicating with demobilized combatants and making them aware of the new provisions of the social and economic reintegration program.
7. To establish conditions for capitalizing on the progress made in assistance and comprehensive redress to victims by the CNRR through the new institutions created by Law 1448 of 2011.

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