

SEVENTEENTH HALF-YEARLY REPORT OF THE SECRETARY GENERAL TO THE PERMANENT COUNCIL ON THE MISSION TO SUPPORT THE PEACE PROCESS IN COLOMBIA (MAPP/OAS)

The following half-yearly report is submitted pursuant to Resolution CP/RES. 859 (1397/04), in which the Organization of American States asks 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).

1. GENERAL CONSIDERATIONS

This report seeks to provide a succinct summary of progress made in those components that, institutionally speaking, constitute the basis of the peace process and which the MAPP/OAS is charged with monitoring.

The report refers first to the Transitional Justice Framework and, in particular, to progress made with implementing the Victims and Land Restitution Law, Law 1448 of 2011, and its enabling regulations, passed by Congress at the behest of the Government of President Juan Manuel Santos. It also describes the efforts of the Ministry of Agriculture, through the Special Administrative Unit for Restitution of Seized Lands (UAEGRTD) and the Colombian Rural Development Institute (INCODER), among other institutions. Mention is also made of the status of the peace process with regard to comprehensive reparation for victims and of the risks they face.

Mention is also made of advances and setbacks encountered with the Justice and Peace Process, which led to the amendment of Law 975/05 aimed at providing those involved in the proceedings with greater legal certainty and at expediting the judicial process.

At the same time, the report addresses achievements with respect to reintegration into society based on the current Government's new approach, while underscoring aspects requiring the authorities' attention. The report also summarizes the principal conclusions and recommendations prompted by the aforementioned issues.

The start of negotiations with the Revolutionary Armed Forces of Colombia (FARC) constitutes an important move toward ending the conflict in Colombia and the possibility of sustainable peace. The General Secretariat welcomes this opportunity and recommends that this new process bear in mind the experience gained with the so-called "Self-Defense Forces," with respect to disarmament, demobilization, and reintegration and to the Transitional Justice framework constructed for that purpose, because that experience affords lessons that could be applied to the new process with the FARC.

2. TRANSITIONAL JUSTICE

Implementation of Law 1448 of 2011

Land restitution

The process of implementing the Victims and Land Restitution Law is gradually evolving. Its launch began in January 2012 and the State has been working steadily and resolutely to build up the new institutional framework. The results of these efforts will start to be seen in the medium term. Having said that, the Mission notes that the active participation of all sectors is needed as the process moves forward, as is its open and transparent dissemination so as not to build up false hopes in victims and their communities. At the same time, the Mission notes with concern that there has been a rise in the percentage of victims with claims who have been threatened. Therefore, the biggest challenge of land restitution remains the security and protection of those involved in claims and their associations.

The Inter-American Commission on Human Rights (IACHR) concurs with the MAPP/OAS since it continues to receive information suggesting a rise in the risks to victims. In that connection, the number of precautionary measures granted by the IACHR in this specific context of violence increased in 2012.

In its last report, the MAPP/OAS identified a number of challenges and obstacles on which progress has been possible as the months have passed. One such was the lack of clarity as regards the competent authority to examine cases under the Justice and Peace Law. In that connection, the Mission applauds the agreement between the UAEGRTD and the Office of the Prosecutor General for addressing these cases.

Another important obstacle mentioned in the last report had to do with the handling of information on land ownership and its formalization in Colombia. This is a crucial aspect of the restitution processes and one on which problems had arisen in terms of its safekeeping, protection, and conservation, given that there had been instances of theft or burning of information, apparently involving a number of local law enforcement officials in certain subnational entities. In an interlocutory order dated July 3, 2012, the Constitutional Court instructed INCODER, in coordination with UAEGRTD, the Historical Memory Center, and the National Archive, to take the necessary steps to maintain, protect, and preserve physical and microfilm files. The Mission appreciates the importance of these precautionary measures ordered in the interlocutory injunction.

In spite of the progress seen in the period covered by this report, as it has on previous occasions, the Mission reiterates the need to continue strengthening mechanisms for national-subnational linkage and coordination, in order to integrate policies at the national, departmental, and municipal level with the aim of providing victims with a swift and coherent response as well as correcting the faults and gaps identified by the Constitutional Court where assistance to displaced persons is concerned. Information collected in the field shows that some communities feel abandoned and that measures to remedy their dispossession have stagnated or backtracked. This is the case in regions such as east Antioquia, where, after the erstwhile Regional Property Restitution Committee had documented some 200 cases, it is now unclear how the new institutional framework proposes to move matters forward. Furthermore, in a visit to the municipalities of Mocoa, Puerto Asís, Puerto Caicedo, Valle de Guamuez, and San Miguel in the Department of Putumayo, attention was drawn to the lack of coordination between the two levels. Situations such as these are repeated in different

parts of the country and there is widespread uncertainty as to how long it will take to process claims in non-priority cases.

Every level of the institutional framework must have the necessary human, technical, and financial resources, as well as adequate information, to effectively guarantee the human rights of victims to restitution of their lands and restoration of their property rights. To ensure the proper implementation and sustainability of the restitution process in provincial areas, the participation is essential of stakeholders—such as local authorities—in the coordination bodies that will implement and roll out the Register of Forcibly Abandoned and Dispossessed Lands. The Mission highlights the invitation to a workshop extended by the Superintendency of Notaries Public and Registries to all the institutions involved in the restitution process, in order to link and choreograph efforts. Such initiatives are necessary and need to be permanent in order to solve problems as they arise in the implementation process.

Through its work in the regions, the MAPP/OAS has collected information on risks facing the land restitution process. To begin with, communities show little confidence in the institutions in charge of the restitution process at the local level, which, from the way in which they have acted in the past in consolidating dispossessions, they regard as being linked to either legal or illegal interest groups. Second, the victims are unfamiliar with the procedures that would ensure their effective exercise of their rights, while their organizational and representation capacity within organizations is variable. Finally, communities regard the large industrial projects in the restitution zones as an obstacle with a major impact thanks to the absence of a "socialization" strategy with the communities themselves.

Other difficulties hampering the restitution process that the Mission has encountered in the field have to do with economic interests in the land's ownership, the activities of illegal armed groups, and the use of legal and institutional mechanisms to oppose the process.

It is worth underscoring the role of the Public Prosecution Service (*Ministerio Público*) in helping to strengthen institutions as well as the trust that communities show in them. Its constitutional functions to safeguard and promote human rights, protect the public interest, and monitor the official conduct of persons who perform public duties are an important institutional guarantee. Within this framework, the role it plays in receiving complaints against public servants ensures victims' access to and participation in the process. This is particularly important in regions where the presence of paramilitary groups undermined relations between institutions and communities, which now have a chance to be mended following the collective demobilization of the *Autodefensas*, or so-called "self-defense forces."

One major success of Law 1448 of 2011 was the inclusion of mechanisms such as Victim Participation Roundtables,^{1/} aimed at ensuring their access to forums for the design, implementation, and evaluation of the comprehensive reparation policy at all levels. However, it is a concern that victims wishing to be admitted to these roundtables should be required to be members of legally

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1. Victim Participation Roundtables are intervention forums created by Law 1448 of 2011 at the local and departmental level, as well as the national level, for which there is a National Roundtable. The purpose of these roundtables is to offer victims the possibility of making an active contribution to the implementation, adjustment, and materialization of the Victim Law. The process is spearheaded by the Public Prosecution Service.

constituted organizations, particularly since multiple factors make their creation difficult, potentially making this an excessive requirement for them.

The General Secretariat also values highly the work of the Superintendency of Notaries Public and Registries in reviewing the registry status of a number of rural properties in violence-affected areas of the country through a special group known as the "Land Group." The Group has identified apparent irregularities in the activities of a number of registrars or their employees, notaries public, INCODER officials, and private citizens in land sales.

As with the institutions responsible for the restitution process, the provincial offices of the UAEGRTD should be strengthened by furnishing them with the necessary resources to carry out dissemination activities, especially in isolated and remote areas, with a view to managing application-processing and moving forward with activities in related micro-targeted zones. The mobile unit created for that purpose is a measure that could help to boost participation by victims.

An important achievement in the period covered by this report was the filing of a number of actions for restitution and formalization of land ownership with the civil courts of the circuit specializing in land restitution. Despite this accomplishment, coordination for the purpose of identifying effective and definitive measures for restoring rights needs to be strengthened, which would then inspire confidence in the process and give rise to an institutional action that seeks to have an impact without causing harm. It is crucial to create a mechanism for engaging communities, so that they can be informed, participate, and know their rights.

Given the sheer extent of abandoned and dispossessed lands, as well as victims' high expectations for a prompt restoration of the stolen lands, the General Secretariat recommends that the feasibility be analyzed of adding other supplementary, nonjudicial procedures, as defined in law 1448 of 2011. Those could be: (a) restitution through administrative proceedings aimed, on one hand, at correcting institutional processes that have violated rights through omission, delay, or possible fraud, and on the other hand, cases of abandonment in which the properties have not been occupied by third parties and the owners seek recognition of their rights to those properties; and (b) collective restitution proposed by civil society, based on Article 82 of the Law, the sole paragraph of which states: "The plaintiffs in an action may collectively pursue applications for restitution or formalization of ownership of properties registered with the Unit, in which their commonality stems from the fact that the dispossessed or abandoned properties adjoin one another, and from the time and cause of the displacement."

Special mention should be given to the adoption of a number of decrees with the force of law (Decrees 4633, 4634, and 4635 of 2011), which define the special and differentiated statutory framework of the public policy on assistance, protection, comprehensive reparation, and restitution of land rights of indigenous peoples and black, Afro-Colombian, Raizal and Palenquera communities. The General Secretariat values these decisions highly, since they are aimed at recognizing Colombia's ethnic and multicultural diversity and contribute greatly to the goal of reparation and reconciliation. The challenge for the institutional framework is for this inclusion to be achieved through consultative and participatory processes conducted with these communities.

In this context, in Cauca Department, the MAPP/OAS makes its presence felt on matters concerning transitional justice and land restitution, coaching INCODER on the implementation of agreements reached between the government and indigenous, peasant, and Afro-descendent

communities, as well as displaced victims of the armed conflict, regarding the adjudication of land for expanding reserves and assistance to displaced populations under those agreements.

It also appreciates the efforts that the Restitution Unit has made to include differentiated approaches in its procedures on behalf of women, boys, girls, and adolescents. At present, the Unit is endeavoring to ensure that micro-targeting processes observe gender and/or childhood criteria.

Furthermore, in the framework of the joint work areas between the MAPP/OAS and women's organizations, a review has been conducted of the obstacles that women face in obtaining restitution, and recommendations have been made to the Colombian Government on the inclusion of a gender and women's rights perspective in the implementing regulations for Law 1448 of 2011 on land restitution. Similar work has been done with regard to the protection of women in the framework of Decree 4912 of 2011, which has led to the adoption of Resolution 0805 of 2012 "enacting the specific Protocol with a gender and women's rights perspective." The purpose of this forum, of which the MAPP/OAS and various women's organizations are a part, is to exchange information, prepare diagnostic papers and recommendations, and influence policy with the aim of mainstreaming a differentiated and women's rights approach in public policy. In addition, its operational premise is non-duplication of efforts and coordination of its activities with those of other institutions and agencies in the international community. The Mission underscores the willingness of the National Protection Unit to give priority to these efforts.

Comprehensive Reparation to Victims

Through its coaching and monitoring work, the Mission has identified progress and obstacles in the implementation of the victim assistance, reparation, and participation measures envisaged in Law 1448 of 2011.

The following progress, in particular, was noted: drafting of regulatory decrees and the National Victim Assistance and Comprehensive Reparation Plan contained in CONPES documents 3712 and 3726; progress in terms of formulating reparation road maps; the Resource investment coaching program; the participation protocol, action plan design guidelines, and consensus building with a number of groups regarding implementation of collective reparation road maps through negotiation of offers.

In addition, the roll-out of these instruments at provincial offices of the Victim Assistance and Comprehensive Reparation Unit (UARIV), coupled with the strengthening of infrastructure and staff within the Unit and at its provincial offices, constitute advances toward guaranteeing victims' rights.

It is worth noting that coordination among all the agencies that comprise the National Victim Assistance and Comprehensive Reparation System is a prerequisite for effectively guaranteeing the rights recognized in Law 1448 of 2011. Such coordination should not exist only at the national and subnational level; the General Secretariat encourages institutions to better coordinate their functions in order to generate high-impact measures on the ground, strengthening coordination within the Unit.

The General Secretariat is concerned at the lack of effective participation by victims in the forums envisaged in the Law, which was evident from the fact that the First Follow-Up Report on Law 1448 of 2011 was presented in the name of the Oversight Agencies Follow-Up Committee as

opposed to the Follow-Up and Monitoring Committee established in the Law, owing to the failure to appoint the three victims' representatives.

It is vital to adopt mechanisms that ensure effective participation by victims, taking into account criteria such as material equality, equity, participatory and pluralistic democracy, disclosure, and the election of representatives who genuinely have the interests of all the victims at heart.

As regards reparation measures, the efforts should be highlighted of the Victims Unit in choreographing the institutions responsible for implementing the reparation measures in the Mampuján case, via the establishment of four thematic roundtables with the participation of victims and institutions.

The General Secretariat also highlights the work of the Unit to prevent and mitigate potential risks in communities applying for reparation through its coaching program on compensation payment. This coaching has encouraged victims to participate in each stage of the program's design and implementation, enabling the introduction of variables with respect to security and restoration of confidence within communities as well as between communities and government institutions. Institutions need to be alert to the possible consequences of implementing reparation measures; in its coaching activities in Mampuján, the Mission identified a number of factors that could usefully be taken into account for future cases:

- risks of weakening the social fabric if intercommunity dialogue forms are not set up for reaching agreements on decisions that affect them;
- loss of confidence in the State on the part of the victims if clear and real work plans, schedules, and budgets are not established for institutions to implement measures;
- limited effectiveness of reparation measures if they fail to take into account differentiated criteria that address the specific circumstances of communities and of different population groups;
- increased exposure to risk for victims if negotiations and proceedings on compensation are not conducted privately;
- deepening of existing inequities between men and women if payment of compensation is not accompanied by governmental programs to address domestic violence and foster gender equity; and
- increased risk of young people becoming caught up in criminal groups that, in turn, threaten the security, well-being, and property of victims as well as encouraging them to resort to inappropriate means to protect themselves, such as buying firearms for self-defense.

As part of efforts to identify collective damages, the MAPP/OAS has coached institutional coordination efforts by the Office of the Attorney General, social actors, and institutions on issues surrounding historical memory and collective reparations, with a view to consolidating dialogue forums aimed at agreeing on joint working strategies.

Institutions are encouraged to give greater emphasis to victim rehabilitation measures, as well as to strengthening psychological and psychosocial assistance for children and youth, who are especially vulnerable to the effects of armed conflicts.

The General Secretariat would like to acknowledge the efforts of a number of subnational entities and institutions to set in motion the preparation of plans of action and installation of victim participation forums in the contexts envisaged by the Law. It is important to continue monitoring their fulfillment in the formal and material senses, particularly in terms of the policy's adoption at the subnational level, providing victims with adequate responses and ensuring their effective participation

The Secretariat is troubled by the delay in building the memorial planned since 2006 using the material resulting from melting down the weapons surrendered by the *Autodefensas*. It is hoped that the logistical, institutional, and financial effort required to collect, register, ship and melt down the weapons will not have been in vain, since building the memorial is a hugely significant act of symbolic reparation.

Considerable progress has been made in the process of reconstructing the district of El Salado, in the municipality of Carmen de Bolívar (Bolívar). June 16 saw the inauguration of the *Casa del Pueblo* (The People's House), a project that received support from *Fundación Semana* and a large number of private organizations, and which was carried out based on the experience of ethnographic researchers who lived in the community. The aim was for the community itself to decide what purpose the House should have. This is an example of a successful initiative carried out with the support of the private sector aimed at helping, with the commitment of institutions, to transform the lives of communities shattered by violence, principally by rebuilding the social fabric.

Risk conditions

The General Secretariat has identified ongoing difficult conditions in some areas of the country in terms of security and the state of the social fabric, which could hinder the process being undertaken by the Government, especially as regards restitution. Before Law 1448 of 2011 was enacted, leaders were being murdered and reports of threats against accusers had been on the rise. Decisions taken in this regard must therefore take into account the country's complex socio-economic conditions at the time a comprehensive risk analysis is conducted, linking the security situation to social and institutional capacity in the territories because, as the MAPP/OAS observed on the ground, the latter play a crucial role in the sustainability or fragility of the process.

This provides an opportunity to examine risk in Colombia from a more comprehensive standpoint, beyond military measures, to take into consideration strategies geared towards institutional strengthening and institutional capacity and strengthening and capacity-building in communities as sustainable tools to protect these communities from illegal groups. As a contribution to this endeavor, the Mission developed a model for monitoring security for and risk to restitution, which was put to the test by way of a case study on three Colombian municipalities, the findings and recommendations from which were delivered to the National Government.

The General Secretariat is concerned that, as the process of reclaiming land and territorial rights moves forward, people connected to it continue to be murdered. The deaths of Manuel Ruiz, a

lead activist in the restitution of lands belonging to the Curvaradó and Jiguamiandó communities in Chocó, and of his 15 year-old son, Samir Ruiz Gallo, in Urabá, like the June 15, 2012 murder of Jairo Mejía Martínez in the Guateque township near Montería, Cordoba, makes it clear that these areas of the country continue to be the most unsafe for land claimants.

Other security-related problems have to do with demobilized self-defense groups engaged in acts of violence against land restitution leaders, using financial inducements or threats, as was the case in the rural town of Montería. Most disturbing is that one of the properties involved is the focus of the UAEGRTD.

In order to meet these challenges, it is recommended that the Government include the following components in any strategy implemented: i) measures to monitor the presence of armed groups that could pose an active threat to land restitution and act as direct aggressors, or groups that operate as allies of local mafias and continue to affect communities; ii) building trust in local institutions and in the measures implemented, especially where the stigma of weakness or lack of confidence persists, or where institutions are perceived as associated with or co-opted by the illegal forces; and iii) increasing social and organizational skills of victims and their communities, with a view to reducing their vulnerability to risk, especially those that are subject to land restitution.

The activities of the security forces have also sometimes adversely affected communities, as clashes with illegal armed groups coupled with pressures from criminal gangs are causing entire families to be displaced in areas that are the focus of restitution. To date, critical situations have been reported in the departments of Nariño, Putumayo, Cauca, Antioquia, and Norte de Santander, where peasant, Afro-descendant, and indigenous families have been displaced from their hometowns, with serious effects in humanitarian terms.

The Mission reports with concern that officials in charge of the restitution process are being threatened by a variety of operatives. In regions like Meta, Norte de Santander, and Apartado (Antioquia), where there is early progress, the National Protection Unit (NPU) has already done risk analysis of territorial leaders. The risk level for territorial director Meta having been assessed as extraordinary, the Unit has decreed and facilitated protection measures.

Working on the ground, MAPP/OAS has known victims who have been threatened by the so-called "Anti-Restitution Army" and has witnessed the dread that this name instills in communities. However, the Mission has not been able to verify that this group in fact exists as a national military structure, but as a threat in very specific places of the country. Even so, it should be borne in mind that its name and its threats are real for the victims and it is the duty of the authorities to establish that it exists, and just how big it is.

For its part, the IACHR has received concrete information about the activities and statements by these groups, whose objective is, by their own definition, to prevent land restitution taking effect for victims. It calls upon the State to establish that these "armies" do exist and to take steps to prevent the risk and violence that they unleash.

Pressing ahead, the National Government is making progress with security for the restitution process by creating bodies like the Integrated Intelligence Center for Land Restitution (CI2RT²), both at the central level and in terms of its deployment across the country;^{3/} efforts being made by the National Protection Unit, or the security model announced recently by the Director of the National Police, General José Roberto León, aimed at providing land claim victims more protection, taking into account the needs of each region. The main challenge here is to link the various strategies developed by official institutions as part of the restitution process, and to link them from the central level to the regional levels.

It should also be noted that during this period the first conviction was handed down in a land claimant's murder case – the murder of Rogelio Martínez,^{4/} a claimant to a piece of property in San Onofre (Sucre). He had been granted protective measures by the Inter-American Commission on Human Rights (IACHR). According to the Superior Court of Bogota ruling, the crime was committed by members of a criminal gang identified as "Los Paisas." That same ruling also ordered the arrest of a demobilized operative.

Likewise, the Mission rejects threats against journalists, which are increasingly linked to the land restitution process. Local journalists are understood to be the most vulnerable because they are exposed to threats and retaliation by armed operators. This problem is on the rise in the departments of Cordoba, Antioquia, Bolivar, and Tolima. The General Secretariat urges State institutions to bolster security measures for all stakeholders involved in the land restitution process, in order to ensure their safety and success of the policy.

The Secretary General expresses special appreciation to nongovernmental organizations and victims' organizations, which have been proactively engaged in efforts to craft proposals on reparation and protection issues; they have made an invaluable contribution to the successful implementation of the policy and to peace in the country. In this context, an appeal is being made for the relevant authorities to continue strengthening protection measures for human rights defenders, and for the various bodies to take into account the organizations' recommendations in this regard.

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2. This mechanism for integrating the capabilities of the security forces and government agencies is spearheaded by the Ministry of National Defense and comprises the following bodies: Ministry of National Defense, General Command of the Armed Forces, Armed Forces (Army, Navy, and Air Force), National Police, Office of the Vice Minister for International Policies and International Affairs, Joint Chief of Military Intelligence and Counterintelligence, and Chiefs of Intelligence of the respective forces and the National Police, Ministry of Defense's Department of Public Security and Infrastructure, and the Director of the Special Administrative Unit for the Process of Restitution of Dispossessed Lands.
 3. A crucial aspect of this mechanism is its regional deployment, which, besides having a central Executive Secretariat, has created CI2RT executive secretariats at the regional level, on the areas of focus for land restitution, allowing proper alignment with Land Restitution offices nationwide.
 4. See Fifteenth Quarterly Report of the Secretary General to the Permanent Council, on the Mission to Support the Peace Process in Colombia (MAPP/OAS)

Justice and Peace Reform (Law 975 of 2005)

The Secretary General applauds the adoption of the amendments to Law 975/05.^{5/} In the past, the Mission has issued statements about the urgent need for amendments to be adopted to clarify the rules in order to strengthen legal certainty and legitimate expectations in the State.

One of the points on which reform is moving forward is settling the date on which Law 975 of 2005 takes effect, given that the gamut of Justice and Peace Law includes crimes confessed up to the time of demobilization and not only up to the date on which the Law was enacted (July 25, 2005). This will allow many criminal acts committed by self-defense and guerrilla groups between that date and the demobilization to be confessed through voluntary depositions, contributing significantly to truth-telling and reparations for victims.

Against the backdrop of the release of arrested applicants for benefits under the Justice and Peace Law (*postulados*), the amendment provides for gradual withdrawal and a requirement of eight years served in prison and the granting of a substitute detention measure. This is subject to them remaining actively involved in the process and compensating the victims. In response and as part of its mandate, the Mission will monitor the granting of such measures and the applicants' commitment to continue collaborating with Justice and Peace even though they are released.

One of the most important contributions of Justice and Peace is that victims have been able to actively participate in the judicial process – which participation, in itself, brings a measure of satisfaction. The amendment stipulates that the concept of comprehensive reparation will be replaced by a concept of identifying the effects on victims. The huge challenge for institutions will be how to encourage this hitherto active participation to continue.

Another factor that could discourage victims from participating in the judicial process is that by following the Justice and Peace route, the judiciary will neither be able to determine reparation measures nor assess damages, as this will be done in application of the Victims and Land Restitution Law.

The amendment is clear in placing the entire comprehensive reparation under Law 1448 of 2011. The procedure for Law 975 of 2005 will continue to be applied only in restitution cases pertaining to property for which precautionary measure procedures have already reached an advanced staged. This means that the Prosecution must make available to the new institutions under the Victims and Land Restitution Law all properties that are part of the Justice and Peace process, to be used for reparation. Accordingly, effective coordination among the various institutions must be ensured, to guarantee victims their rights.

Another point worth underscoring is the required coordination between Comprehensive Victim Care and Compensation and the Special Administrative Unit for the Process of Restitution of Dispossessed Lands to achieve full compensation. The Mission will monitor any impact the measures have on the current process of restitution of lands and territories, being pursued under Law 1448, but, mainly, as it concerns victim expectations and rights.

5. On October 17, Senate plenary passed the amendment and on October 31 the House of Representatives and the Senate reconciled the text.

The Mission appreciates the cooperation that has been established between the Attorney General's Office and the Special Administrative Unit for the Process of Restitution of Dispossessed Lands and the contribution of the investigative agency in shedding light on the phenomenon of land grab and delivery of relevant information to the UAEGRTD.

Following suggestions put forth in other reports, the amendment advocates changing the focus of investigation and prosecution from scrutiny of each individual case to work designed to show the essence of each structure investigated. The Attorney General's Office has made significant effort and has to date achieved at least 25 macro-criminal contextualization of self defense groups. It should also be noted that Directive 001/12 has been implemented by the Attorney General's Office. It establishes the prioritization criteria for pursuing macro-criminal patterns in macro victimization scenarios.^{6/}

It is worth mentioning that with respect to prioritization, on June 12, 2012 the IACHR sent the State an information request, in exercise of its authority under Article 41 of the American Convention on Human Rights, in terms of insisting that the State has the duty to avoid and combat impunity, which the Court has defined as “the overall lack of investigation, arrest, prosecution and conviction of those responsible for violations of the rights protected by the American Convention.”^{7/}

Advances in the Justice and Peace Process

As of October 31 this year, the process comprises 14 individuals sentenced under 10 rulings, of which four are firm, and others are being reviewed by the Criminal Chamber of the Supreme Court on appeal. There are 1,126 requests for judicial hearings and 628 indictments. There were also 13 incidents of comprehensive reparation.

It is worth noting the ruling handed down against demobilized members of the *Bloque Vencedores de Arauca* on crimes of sexual violence, which offers a detailed explanation of the effect on and the harm done to victims, becoming a benchmark for future rulings. Nonetheless, the General Secretariat feels that crimes of sexual violence must be taken into account as an explicit criterion for prioritization, and judgments must seek to prove this crime, which is often invisible.

The IACHR agrees with the Mission's positive assessment of this ruling, which gives visibility to the problem despite the low rates of crimes of sexual violence being handled under Justice and Peace.

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6. The Mission has worked together with the Office of Public Prosecution in convening and conducting six socialization workshops on prioritization criteria set forth in the aforementioned Directive.
 7. IACHR. Statement by the Inter-American Commission on Human Rights on the scope and application of the Law of Justice and Peace in the Republic of Colombia. Inter-American Court of Human Rights *Mapiripán Massacre Case*. Judgment of September 15, 2005. Series C No. 134, par. 236-237; *of the Moiwana Community Case*. Judgment of June 15, 2005. Series C No. 124 par. 203; *Serrano Cruz Brothers Case*; Judgment of March 1, 2005. Series C. No. 120 par. 170; and *Gómez Paquiyauri Brothers Case*. Judgment of July 8, 2004. Series C. No. 110, par: 148.

Furthermore, although not much progress has been made in proceedings against extradited applicants,^{8/} the progress made in the cases of Salvatore Mancuso, Miguel Mejía Múnera, Guillermo Pérez Alzate, and Hernán Giraldo^{9/} is worth noting. The Secretariat wishes to note the coordination among prosecutors, applicants and their lawyers, and the centers where they are being held in the United States. In that connection, the visit by the Attorney General's Office to this country last July 9 to review and strengthen the bilateral cooperation agreements between the two countries is noteworthy. Among the matters agreed on at the meeting was the need for closer bilateral cooperation to continue analyzing the testimonies of paramilitary members extradited to United States in relation to the Justice and Peace process, in order to move forward with real reparations for the victims.^{10/}

The effort made by the prosecution, INPEC, and the Superior Council of Judicature for the collective allocation of 89 former members of the Calima Bloc was another good example of inter-institutional coordination. This achievement is being applauded as there has always been an insistence on the importance of voluntary depositions and other procedures being engaged collectively, using virtual media. Not only does this streamline the procedures but it also encourages truth- and memory-building.

More than a year after the second instance ruling was handed down in the Mampuján, Las Brisas, San Cayetano, and Isla Múcura case, it is worth noting how swiftly the Attorney General's Office settled the warrant relating to the creation of an elite unit for confiscation of goods within the National Prosecutors' Unit for Justice and Peace, which has been investigating since February 2011 goods in one way or another in possession of the applicants. Residents have also welcomed the fact that after the judgment, the Police have been ensuring they have a constant presence in Rosas de Mampuján, María La Baja municipality, Bolívar Department.

Seven years after Law 975 of 2005 was enacted, only isolated initiatives for social reintegration into the halls of Justice and Peace are being reported. Among them are courses and diploma programs in Human Rights and International Humanitarian Law,^{11/} as well as symbolic reparation initiatives. The Mission hopes that once there is approval of the Justice and Peace Law amendment – which envisages a policy in this regard – this crucial aspect in terms of the social reintegration of the applicants can be strengthened.

Difficulties in the Process

With respect to the execution of the Mampuján, San Cayetano, Las Brisas and Isla Múcura ruling, problems have arisen with assuming a single position vis-à-vis the amount and type of compensation payment, between two criteria: the criterion of the court ruling, and that of the ruling on the subsequent concept of the Council of State, which reduces this figure, leading to discontent

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8. This statement coincides with the opinion issued by the IACHR which has insisted that the transitional justice system has not yielded the expected results in terms of trial and application of sanctions against perpetrators of serious crimes (Comments regarding State Communication of July 28 2012).
 9. With regard to cases of Miguel Mejía and Hernán Giraldo Múnera, they have been canceled, and their trails will therefore remain stalled, according to the IACHR.
 10. Under this concept, the IACHR stressed that extraditions remain a substantial obstacle to progress with the trial of the applicants under the Justice and Peace Law, shedding light on serious crimes and the victims' access to their rights to truth, justice, and reparation.
 11. Notably the courses at La Picota, Bucaramanga, and El Espinal.

among the victims. Finally, a final decision has been arrived at in this case, recognizing full compensation as established in the ruling.

Besides, the Justice and Peace ruling on this case establishes 32 warrants, including those related to the construction of roads, public infrastructure, and productive projects. According to the court's overview, however, only 5% has been carried out. The Victims Unit has taken the lead in coordinating the relevant institutions for compliance with the letters rogatory and to that end has established four working groups. Of note is the interest and initiative of the Hall of Justice and Peace of Bogotá in ensuring effective execution of that judgment.

The General Secretariat has been emphatic in pointing out that Justice and Peace rules should speak to a logic of Transitional Justice, with regard to prison conditions as well as differentiated prison treatment. While INPEC has made progress in providing this treatment, geared towards social reintegration and making those efforts operative, a trend towards abolishing the special regime for imprisonment of Justice and Peace applicants during the current period has been observed.^{12/}

Several prisons continue to have overcrowding and hygiene and health problems, among them the prisons at Barranquilla (Atlántico), Sogamoso (Boyacá), Cúcuta (Norte de Santander), El Espinal (Tolima), Palmira (Valle del Cauca), and Valledupar (Cesar). INPEC is being urged to find urgent solutions to these problems. Improvement projects carried out in health, sanitation, and prison treatment at the Chiquinquirá prison in Boyacá should be noted.

The Secretary General has called attention to the lack of progress in investigating the deaths of several applicants while they were in custody.¹³ A similar concern is that serious security incidents continue inside the prisons.

The need for a single, consolidated model for reincorporating detained applicants into society based on a differentiated approach taking into consideration gender, armed group to which they belonged, rank, and social status, is worth reiterating. The lessons learned over these years should serve as a basis for that model.

It is noteworthy that the Supreme Court of Justice has shifted focus from extraditions of Justice and Peace Law applicants. Approval for the extradition of José Gelves Albarracín, alias "El Canoso," to the United States could encourage applicants facing extradition requests to stop confessing acts. The Mission also believes that it cannot be forgotten that more than 50,000 acts unknown to the Colombian justice could be uncovered, investigated, and tried based on confessions made under the Justice and Peace Law, and that gaps in the rules and the lack of clear rules in procedures affected active participation of some applicants.

Finally, the General Secretariat is concerned about the condition of some of the property handed over to the Reparation Fund by applicants. These have been damaged when this could have

12. Resolution 06305 of 2009 issued by the director general of the National Penitentiary and Prison Institute (INPEC), establishing the "Special Internal Regime Regulation for Justice and Peace Prison Blocks and Wards."

13. Uberney Ocampo (May 11, 2011), John Freddy González Isaza (June 8, 2011), Diego José Martínez Goyeneche (July 17, 2011), and the death of Ordany de Jesús Ramos in July 2011 after a presumed escape.

been avoided. At this point, it should be noted that the Victims Unit is working hard to improve the conditions of property that was delivered in poor condition.

3. REINTEGRATION AND RECRUITMENT

As regards reintegration, this period was impacted by several political and legal decisions. After almost eight years of collective demobilization of the "self-defense forces", the Disarmament, Demobilization, and Reintegration (DDR) process reached a point of transition, the end of a cycle. The current Government is striving to consolidate reintegration as a State policy transcending programs relating to a specific period. This began with the CONPES mission in 2008 and continued with the transformation of the Office of the High Counselor for Reintegration into the Colombian Agency for Reintegration (ACR) and various changes associated with the implementation of Law 1424 of 2010.

Enforcement of law 1424 of 2010 involved a major logistical effort to reach all the demobilized throughout the national territory, many of whom were located in remote areas.^{14/} The strategy, implemented by the ACR and supported by the MAPP/OAS, was first to achieve massive dissemination of the Law. Now the challenge is to achieve effective implementation of all the measures envisaged in it.

The Law contemplates several parallel actions that are currently under way. First, there are the prior investigations of all the demobilized who signed the "Single Prior Verification Form," to be carried out by Public Prosecutors' Offices specializing in Law 1424 of 2010. Then, there is the implementation by the authorities of the Transitional Justice mechanisms provided for in the Law. These include the establishment of the Historical Memory Center,^{15/} which has made progress in terms of staffing and structure and is currently engaged in internal efforts to define its strategy and approach and the measures required to enable the demobilized to contribute to the truth and reparation.

A positive view is taken of the start of investigations by the Public Prosecutors' Offices specializing in Law 1424 of 2010 in various parts of the country and considerable importance is attached to the need to continue endowing those offices and Ombudsmen's Offices with the human and material resources they need to fully comply with their task.^{16/} Another matter worth pondering and which is prompted by the on-site monitoring is the need to combine certain unified criteria in the questionnaires with the power each public prosecutor has to define and adapt them to the needs of the region. The Colombian Agency for Reintegration, the Office of the Prosecutor General, and the Historical Memory Center have all made considerable progress with inter-agency coordination, with a view to arriving at a consensus on the concepts involved and harmonious application of the law.

14. According to the ACR, the figure amounted to approximately 10,000 demobilized, divided into 5 categories, the two most important being those "who never entered the program" and those who "left it and became inactive."

15. Non-judicial truth mechanism envisaged by Law 1424 of 2010.

16. Take, for instance, the case of the Medellin Public Prosecutors' Office specializing in Law 1424. Monitoring has revealed the need for more material resources for the monitors as well as the lack of appropriate resources for the Ombudsman's Office that would enable them to accompany and support the prior on-site investigations (E.g., in Urabá).

Worth highlighting is the start-up of the Truth Accords Directorate inside the Historical Memory Center. It is trying to place the paramilitary violence in Colombia in context and to design and develop administrative procedures for eliciting information, using the demobilized covered by Law 1424.

As regards the participation of the demobilized in reconciliation forums in accordance with the spirit of the Law, and pending achievement of an institutional consensus,^{17/} the ACR has mainly focused on getting the new Social Service up and running. Thus, the Mission underscores the efforts to define methodology and the start of this component, which forms part of the reintegration road map and is one of the key factors in reconciliation.

It is important to stress that the Social Service actions must be distinguished from community reintegration and they must provide value-added in terms of reconciliation. The ACR has said that, in addition to Social Service, an internal exercise is being conducted to boost the skills of the demobilized actively participating in the program within their path to reintegration, with actions such as the incorporation of a module with historical memory, reconciliation, human rights, and citizenship components.

At this juncture in the reintegration process, an important milestone is the inclusion of reintegration in the Development plans of many local and departmental entities. Accordingly, it is important to underline the efforts of the ACR to support these initiatives, which^{18/} reflect the Colombian Government's intention to establish a State policy with respect to the DDR and thereby remedy the lack of inclusion of local authorities in the demobilization process.

It is worth noting the first graduation of a demobilized person from the ACR program last June in Bucaramanga (Santander), marking the start of an approximately three-year process of monitoring the individual in his civic environment. The ACR expects some 1,000 participants in the program to graduate over the next few months.

The security of the demobilized continues to be a topic deserving special attention because of its impact on the reintegration process, given that the persistence of environments associated with illegality and violence,^{19/} constitutes an economic opportunity for some of the demobilized, while posing a threat to those who decide not to take up arms again.

Thus, the General Secretariat welcomes the issuance of Decree 1225 of June 2012^{20/}, as well as the progress made by the ACR and the National Protection Unit with coordinating the procedures

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17. The ACR's "Protocol on Scenarios for Reconciliation: minimum Social Service conditions and Reparation by the demobilized within the framework of the reintegration process" (November 2011), p. 10 states that the actions for reparation to be promoted and developed under this Protocol will be geared solely to "Measures of Satisfaction and Guarantees that acts will not be repeated."
 18. On March 22, 2012, in statements published in "Portafolio," the Director of the ACR pointed out that it was worrying that only 53% of the departments and only 10% of the country's municipalities had included the subject of reintegration in their Development Plans.
 19. In the period covered by this Report, there has been a proliferation of groups and gangs associated with low-grade illegal economies, such as minor trafficking, extortion and the running of brothels.
 20. Decree 1225 of 2012 amends Article 6 of Decree 4912 of 2011 and, in paragraph 8, establishes that "At the request of the ACR, the Protection Unit will bring forward the evaluation of the risks faced by

required to certify the risk status of active demobilized persons in the reintegration process. That resolves the kind of institutional limbo in which active demobilized persons in the ACR's program have found themselves in respect of protection measures since the end of 2011, and which induced the ACR to adopt certain temporary measures.^{21/} It is worth noting that, as of now and in those cases in which the UNP determines the existence of a "special or extreme risk, and exceptionally" protection measures may be put in place for this population.^{22/}

4. CONCLUSIONS AND RECOMMENDATIONS

The General Secretariat acknowledges the major progress made by Colombia in the eight years that have elapsed since the beginning of the peace process. Although in some regions security conditions are still difficult, both institutions and communities have remained resolved to forge conditions more conducive to reparation for victims, institution building, and reconstruction of the social fabric. Accordingly, the OAS General Secretariat offers the following recommendations:

1. Implementation of the Victims and Land Restitution Law is under way and should therefore be analyzed and judged from this perspective. Accordingly, the willingness of the authorities and the Government to perform this task is much appreciated, as is the work of institutions such as the Public Prosecution Service (*Ministerio Público*) and the Superintendency of Notaries Public and Registries which inspire trust in victims and lend credibility to the process.

2. The clearest obstacle to these efforts is the ongoing violence associated with illegal economies. Therefore, strategies should focus on mitigating risk, strengthening community capacities, and generating a sustainable institutional presence.

3. It must not be forgotten that the effective participation of the victims is essential if their interests are to be met. Participation must be construed as the essence and core of the policy of care and reparation for victims, because it is a mandatory and substantive right associated with the exercise of citizenship and a prerequisite for the effective exercise of other rights. For that, there has to be a stronger bond between not just the leaders, social organizations, and victims with respect to their community fabric but also with the institutions representing a State that guarantees that the conditions for the effective exercise of this right will be established.

4. It is extremely important to incorporate a gender and women's rights perspective in state initiatives relating to reparation and protection. The Secretary General insists that reconciliation should continue to be the ultimate goal of all the efforts undertaken, and for that reason it is necessary

the persons referred to in Article 8 of Decree 128 of 2003 or any other provisions that modify it, and who are in the process of being reintegrated in their positions..."

21. To address this situation, and on a temporary basis, the ACR issued Resolution 0205 of April 2012, which extends for up to "3 months" financial support for a demobilized person who is at risk or being threatened. The resolution also permits absence from the program while the competent authority completes its examination of the risk involved. This exception will be made on up to two occasions.

22. The same Article 6.8 of Decree 1225 states that "...In the event of special or extreme risk, and exceptionally, the National Protection Unit will implement the protection measures provided for in this Decree, when the ACR has, under its own powers, provided economic support to defray the costs of a transfer.

to strengthen community initiatives. With that in mind it is vital that the State disseminate its reconciliation policy so that these proposals can be structured and sustainable.

5. There is a pressing need to provide appropriate and effective protection to all the players involved in the different spheres of the peace process, such as officials, journalists, those claiming land, and human rights defenders. The State is duty-bound to guarantee the safety of these individuals so that the process can advance with certainty, transparency, and effectiveness. According to monitoring carried out by the Mission, state strategies aimed at maintaining adequate security in key parts of the country must be based on a comprehensive concept of risk that essentially includes institution and community building measures, in addition to military and police measures that enable the population to shield itself from the activities of illegal agents.

6. It is important to strengthen opportunities for working together with civil society, in which the various organizations and representatives can continue making constructive contributions to this process; their proposals must be borne in mind by decision makers in designing, implementing, and following up on public policies. The participation and contribution of a wide range of sectors guarantees the forging of points of consensus that may eventually provide opportunities for reconciliation.

7. Implementation of Law 1448 of 2011 and Law 1424 of 2010, as well as the Justice and Peace Reform, require harmonious coordination in the quest for more efficient institutions which generate certainty in communities and facilitate their ability to exercise their rights.

8. The Secretary General welcomes the adoption in the Colombian Congress of the amendment to Law 975/05.^{23/} This action will help to lend legal certainty to the process, which will ultimately lead to greater justice for victims.

9. We also call upon the authorities responsible for regulating and implementing the prison conditions of applicants detained in Justice and Peace detention centers to insure that detention conditions are adequate and respect the special regime established by law. Overcrowding, hygiene issues and precarious resocialization in a number of prisons create situations of insecurity and run counter to the very purpose of the special provisions.

10. With respect to Reintegration, the General Secretariat welcomes the Colombian Government's resolve to continue strengthening reintegration policy, which began at the national level with the approval of the National Council of Economic and Social Policy for Reintegration^{24/} and then, at the end of 2011, took another important step forward when the office of the High Counselor for Reintegration was transformed into the Colombian Agency for Reintegration. Also notable were the efforts of the ACR to insure that this policy was reflected at the local level by incorporating it into development plans. It is also necessary that this impetus be geared to incipient implementation of Law 1424 of 2010, in particular as regards its mechanisms for contributing to Truth, Historical Memory, and Reparation.

23. On October 17, the Senate in plenary session adopted the reform and on October 31 the House of Representatives and the Senate agreed on a final text.

24. CONPES document for the National Policy on the Social and Economic Reintegration for Persons and Illegal Armed Groups, December 1, 2008.

11. The General Secretariat draws attention to the ongoing recruitment of children and of the demobilized in some regions of the country where there are still illegal activities which force them to take part either directly or indirectly. Effective attention to this problem by the competent authorities will help remove a major obstacle to the reconstruction of the social fabric and the achievement of peace.

12. The Mission has been present to support the opportunities for dialogue and rapprochement that have taken arisen between the Government and indigenous communities in the department of the Cauca and trusts that these exercises will continue and bear fruit.

The General Secretariat especially welcomes the efforts of the National Government that have led to the start of the peace process with the FARC guerilla forces. It reiterates the commitment of the Organization of American States to support all efforts by Colombians that are conducive to peace and invites all sectors of society to support this important initiative.

It is appropriate therefore to thank all those countries that have helped open up this opportunity and to support the realistic agenda set by President Santos, which encompasses rural development, guarantees for the free exercise of political opposition, citizen participation, an end to the armed conflict, the fight against drug trafficking, and victims' rights. The OAS wishes to reaffirm its support for Colombia's peace initiatives and implementation of the agreements that result from those initiatives.

Finally, the General Secretariat reiterates its gratitude to the donor countries and friends of the Mission for the political and economic support they have provided during these past years, especially, Argentina, the Bahamas, Brazil, Canada, Chile, France, Germany, Great Britain, Guatemala, Ireland, Korea, Mexico, the Netherlands, Norway, Peru, Spain, Sweden, Switzerland, Thailand, and the United States. It would also like to convey its appreciation of the support and cooperation provided by the Spanish International Cooperation for Development Agency (AECID), the International Organization for Migration (IOM), and the German International Cooperation Agency (GIZ), and USAID.