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Item 2: The Human Rights Situation in Colombia

Amnesty International's written statement to the 34th session of the UN Human Rights Council (27 February – 24 March 2017)

Amnesty International reiterates its support for the work of the Office in Colombia of the UN High Commissioner for Human Rights ('the Office') to improve respect for human rights and welcomes the Colombian government's decision to renew the Office's mandate for a further three years.

In light of the peace agreement signed between the Colombian government and the Revolutionary Armed Forces of Colombia (FARC) on 24 November, the Office's role in human rights monitoring is now even more critical, and should be strengthened to meet the many human rights challenges that are likely to arise during the implementation of the agreement.

Most crimes under international law and human rights violations and abuses in Colombia are occurring outside the context of direct combat between the parties to the conflict. This is particularly the case for attacks against human rights defenders, especially community and social leaders. It is therefore vital that the special political mission created by Security Council resolution 2261(2016) to monitor and verify the bilateral ceasefire and cessation of hostilities, or any other mission to be created based on the peace agreements, include a human rights component and ensure it works hand-in-hand with the Office.

The peace process

The peace agreement marked the official end to a conflict that had endured for more than five decades, and which had involved crimes under international law committed mostly against civilians, and endemic impunity. All the parties to the conflict – guerrilla groups, the security forces, and paramilitary structures that often operated, and in some cases still do, in collusion with or with the acquiescence of state actors – have been responsible for such crimes. These included forced displacement, enforced disappearances, unlawful killings, torture, and crimes of sexual violence. Very few of those suspected of having criminal responsibility for such crimes have been brought to justice.

The success of the peace agreement, and any future peace deal with the country's second largest guerrilla group, the National Liberation Army (ELN), will largely depend on whether the Colombian authorities succeed in putting a definitive end to human rights abuses and violations and are able to bring to justice those allegedly responsible for war crimes and crimes against humanity in line with international law. The sharp reduction in combat-related violence affecting civilians over the last year is a positive start. In the longer term, much will depend on implementing an effective demobilization, disarmament and reintegration process, ensuring the safety of FARC combatants who demobilize and of those perceived as their sympathizers, and combatting and dismantling paramilitary groups.

The peace agreement is a step forward in terms of realizing victims' right to truth, justice and reparation, especially compared to the failure of previous peace processes in Colombia to take such rights into account, and it includes some positive features. However, and despite some modifications

to the agreement after it was rejected in a referendum on 2 October 2016, it falls short of international law and standards on victims' rights. Amnesty International has criticized the proposed sanctions for those responsible for crimes under international law since these appear inconsistent with the gravity of certain crimes. It has also criticized a definition of command responsibility that is contrary to Colombia's obligations under international law since it could prevent FARC and security force commanders being held to account for crimes committed by their subordinates.

The Amnesty Law, which was approved by Congress on 28 December 2016, will benefit members of the FARC and the security forces not under investigation for, or convicted of, crimes under international law. It will also pave the way for the conditional release, under certain circumstances, of those who have served at least five years in prison for crimes under international law. However, the law contains several ambiguities that may enable many human rights abusers to evade justice.

Human rights defenders and communities and groups at risk

Despite the peace process, there has been a disturbing increase in attacks against human rights defenders, especially community leaders, as well as land rights and environmental activists and those campaigning in favour of the peace process and against impunity, mainly in rural areas. Indigenous, Afro-descendant and peasant farmer communities continue to face human rights abuses and violations,

According to the NGO Somos Defensores, around 80 human rights defenders were killed in 2016 compared to 63 in 2015. By 30 January, a further 17 cases had been reported, of which 10 had been confirmed. Killings this year have included those of Afro-descendant community leader Emilsen Manyoma and her partner Joe Javier Rodallega, who were last seen alive on 14 January and whose bodies were discovered on 17 January in Buenaventura, Valle del Cauca Department, and Aldemar García Parra, a land rights activist from El Hatillo, Cesar Department, who was shot dead on 7 January.

Many of the death threats levelled against human rights defenders and other activists have been attributed to paramilitary groups, but in most cases it has been difficult to identify the groups responsible many of the killings. However, the nature of the human rights and community work carried out by the victims suggests that many may have been killed because they were perceived as a threat to the economic and political interests of particular armed groups.

In the context of the increasing risks faced by human rights defenders and other activists, it is imperative that the state's National Protection Unit, which provides physical protection measures for some of those at risk, adopts more effective and comprehensive protection mechanisms. These should include preventative and collective measures to ensure the safety of at-risk communities.

Role of the international community

The international community should continue to support the Colombian authorities' efforts to ensure that the peace agreement is implemented in such a way that it can guarantee an end to widespread human rights abuses and violations and an end to impunity. These efforts should be directed to ensuring the full enjoyment of human rights and, in particular, the right of victims to truth, justice and reparation, including guarantees of non-repetition, in line with international law and standards.

The Office in Colombia of the UN High Commissioner for Human Rights should continue to offer advice to the Colombian authorities on issues related to victims' rights to ensure that the peace agreement is implemented in line with international law. Irrespective of the peace process, Colombia still has an obligation to ensure that all those suspected of criminal responsibility for crimes under international law are effectively brought to justice in fair trials.

The Office also continues to have a key role in monitoring and reporting on the human rights situation during the implementation of the peace agreement, in close coordination with the UN political mission. In order to provide a more effective international human rights monitoring mechanism, Amnesty International reiterates the importance of strengthening the Office and of providing the observer mission with a clearly-defined human rights component working in close collaboration with the Office.

Amnesty International therefore urges Human Rights Council members and observer states to:

- Raise these concerns and recommendations in the Council debates and bilateral dialogues with with the Colombian government.
- Urge the parties to the agreement to implement fully and without delay the UN High Commissioner's recommendations and human rights recommendations of other UN bodies.
- Call on the Colombian authorities to implement effective measures to prevent crimes under international law and human rights abuses and violations, including by dismantling paramilitary groups and breaking their links with state actors.
- Remind the Colombian authorities of their obligation to ensure independent criminal investigations of all those suspected of responsibility for crimes under international law, and full reparation for victims and truth seeking, in line with international law. The authorities must focus on ensuring that investigating "the most serious and representative" cases, as is stipulated in the peace agreement, is not used as a pretext for abandoning the investigation of certain cases.
- Insist that the Colombian authorities adopt more effective measures to guarantee the safety of groups and communities at particular risk, including Indigenous Peoples, Afro-descendant and peasant farmer communities, as well as human rights defenders and other activists.
- Call on the Colombian authorities to guarantee the effective participation of civil society, including Indigenous People, Afro-descendant and peasant farmer communities, human rights defenders and victims' and women's organizations, in all aspects of the implementation of the peace agreement.
- In recognition that conflict-related violence mostly occurs outside the context of direct combat between the parties to the conflict, advocate providing the UN observer mission with a human rights component to complement the role of the Office in Colombia of the High Commissioner for Human Rights, whose monitoring and reporting role should be strengthened.