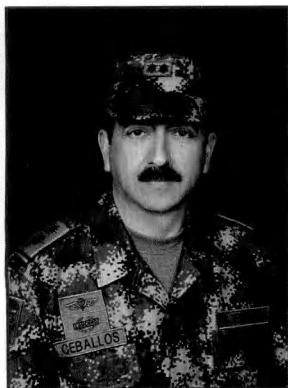


» Editorial



**MG. EDGAR CEBALLOS
MENDOZA**

Director
Escuela Superior de Guerra

Durante casi 200 años, Colombia ha experimentado un desarrollo progresivo en diversos escenarios incluyendo avances en materia de defensa y seguridad acordes a los contextos actuales. Para alcanzar estos logros ha sido necesaria una dinámica relación entre equipamiento militar, la capacitación e investigación académicas. Este exitoso esquema ha sido fundamental para que las Fuerzas Militares del país mantengan su capacidad de combate frente a las diferentes formas de violencia que atentan contra la tranquilidad de los ciudadanos y la prosperidad de la nación.

En ese esfuerzo permanente y fiel a su misión, la Escuela Superior de Guerra aporta trabajo académico y directrices acordes a las exigencias de la educación superior, enmarcadas en las políticas de Estado para reforzar las habilidades del personal militar que se desempeña como asesor del Alto Mando y del Gobierno Nacional. Como una forma de expresión de la labor, los ensayos publicados en la octava edición de la revista "Estudios en Seguridad y Defensa" motivan a la crítica constructiva y sana reflexión en temas concernientes a esta especialidad, además significativos para el devenir de Colombia en un entorno internacional.

Los documentos publicados en esta ocasión son estudios que de una u otra forma permiten la revisión de las actuales y próximas misiones de las Fuerzas Militares de Colombia. Contenidos que están orientados al fortalecimiento de las ciencias, las técnicas castrenses y las políticas institucionales. Cada una de estas investigaciones desde una óptica interdisciplinaria y con amplio fundamento teórico, contribuye al análisis de los desafíos y dilemas de la seguridad global y en particular dadas las características propias del caso colombiano. ═

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» La Corte Penal Internacional en África: la dirección política de su intervención

Este artículo debate el elemento de la discreción política que se ha presentado en cada una de las cuatro intervenciones que la Corte Penal Internacional ha llevado a cabo en África a través de la descripción de los patrones comunes presentados en ellas. Busca así ejemplificar los mecanismos de conducta política que este ente judicial internacional antepone a la provisión de justicia en el terreno de sus intervenciones.



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Hasta hoy, la Corte Penal Internacional (CPI) ha reconocido en cuatro Estados situaciones en las que presuntamente algunos individuos, entre agentes estatales y no estatales, fuesen los responsables de la comisión de ciertos crímenes que son de competencia del tribunal. Los casos registrados se ubican en la República Centroafricana, República Democrática del Congo, Sudán y Uganda, conocidos por ser los laboratorios de intervención de un tribunal que, aunque viene trabajando desde el año 2002, aún se encuentra en pleno proceso de legitimación como una entidad efectiva en el contexto internacional. Este arduo proceso ha llevado a que en un período relativamente corto se hayan dictado 13 órdenes de detención en contra de individuos sindicados de crímenes de guerra y de lesa humanidad. Sin embargo, sólo cuatro de estas órdenes han terminado con la captura efectiva de los mismos. Por otra parte, sólo una persona¹ ha comparecido voluntariamente ante la CPI, lo que extiende a 14 el espectro de expedientes individuales abiertos en la Haya.

De este panorama se deduce una característica fundamental. Los cuatro Estados concernidos están situados en África. Tres de ellos hacen parte del Estatuto de Roma² y han remitido unilateralmente sus situaciones ante la CPI. El otro Estado, Sudán, ha sido incluido dentro de las investigaciones del tribunal penal gracias a la remisión realizada por el Consejo de Seguridad de las Naciones Unidas³, luego de un estrecho proceso de regateo político. No obstante, surge una duda en el momento de evaluar el escenario. Si la CPI es un ente procesal con vocación geográfica universal, ¿Por qué sólo hasta ahora se han conocido las situaciones de algunas naciones africanas? Una primera perspectiva haría hincapié en los rasgos más comunes que estos cuatro Estados detentan: (i) procesos de independencia acelerada; (ii) fuertes tensiones étnicas; (iii) un constante clima de inestabilidad política; y (iv) la subsiguiente mecanización de la violencia como herramienta de acción social.

Estos factores, pueden ser tomados *a priori* como los que han conducido a que la CPI haya decidido extender su acción en esta región del mundo. Sin embargo, existen también motivaciones políticas tanto del tribunal como de algunos Estados que abogan -o no- por la continuidad de su acción. Estas son en ocasiones olvidadas pese a ser elementos inequívocos en el desarrollo de investigaciones de este ente judicial internacional.

Por esta razón, el presente escrito buscará describir las similitudes fácticas que en cada una de las cuatro situaciones de intervención se han venido desarrollando, para así, evaluar los elementos que han determinado la apertura de las investigaciones desde la esfera de la dirección política internacional. Esto con el fin de indagar sobre los principales marcos de conducta que la CPI podría llegar a utilizar al momento de abrir un nuevo escenario de intervención en cualquier otro punto del globo.

> Rasgos comunes de los Estados intervenidos

Para comenzar a hablar de los códigos de conducta que se evidencian como similares en cada uno de los cuatro Estados en los que la CPI ha intervenido, hay que tener en cuenta: el mismo momento de la remisión en cada situación, la forma en que ésta fue efectuada y el lapso en el cual cada una de las investigaciones fue iniciada.

La Uganda de Yoweri Museveni⁴, fue el primer Estado que hizo parte del Estatuto de Roma y que decidió remitir de manera unilateral su caso ante el tribunal, ya que en apariencia no

1 Este sujeto, presunto líder del "Justice and Equality Movement" que opera en Darfur, responde al nombre de Bahr Idriss Abu Garda. Compareció voluntariamente ante la CPI el 17 de mayo de 2009 y en su audiencia, se estableció que la confirmación de los cargos en su contra se llevará a cabo en 2009. Ver: Corte Penal Internacional. Abu Garda est arrivé dans les locaux de la Cour pénale internationale. En <http://www.icc-cpi.int/Menu/Go?id=396e8b4e-d618-4dce-a444-6c0ea6634c44&lan=fr-FR>. Consultado el 20 de junio de 2009.

2 109 Estados han ratificado el Estatuto de Roma a julio de 2009.

3 S/RES/1593 (2005), 31 de mayo de 2005.

4 Antiguo líder guerrillero y presidente de Uganda desde 1986.

» Más allá del conflicto postconflicto y perpetuación de la violencia: diez ideas para una agenda de investigación

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Construcción de Paz,
Reproducción de la Violencia.

El artículo resalta la necesidad de impulsar desde el ámbito académico la investigación sobre las condiciones y características específicas del escenario de postconflicto en Colombia, de tal manera que sirva como insumo para el diseño y la ejecución de políticas que contribuyan eficazmente a la construcción de la paz y la seguridad, y contengan el riesgo de reproducción de la violencia.



Justificación

El estudio y análisis de los escenarios y condiciones de postconflicto que tendrán que encarar el Estado y la sociedad colombianos, una vez se resuelva la problemática de seguridad que actualmente encarnan las organizaciones armadas ilegales, constituye un imperativo tanto político como estratégico. **Político**, por cuanto el éxito del Estado en neutralizar y desarticular estas organizaciones sólo será real en la medida en que sea sostenible y en tanto se traduzca en una verdadera reducción de la violencia y de las amenazas a la seguridad, no sólo del Estado y las instituciones, sino a la seguridad humana¹; lo cual dependerá, en buen grado, de las condiciones postconflicto y de la capacidad y habilidad del Estado para afrontarlas constructivamente. Y **estratégico**, puesto que una valoración adecuada de los posibles escenarios de postconflicto, con las particularidades que les sean propias y los riesgos que los caracterizan, constituye un insumo fundamental que no puede ser subestimado por los trazadores de políticas y los tomadores de decisiones, tanto por lo que dicha valoración puede ofrecer como herramienta anticipatoria, como por lo que puede aportar a la hora de definir las acciones que deben emprenderse en el presente, en función de su impacto potencial en el futuro.

Como objeto de estudio, el *postconflicto* es un área relativamente reciente dentro de los estudios de seguridad, que sólo vino a adquirir entidad propia en el contexto de la Postguerra Fría y en la que hasta ahora han primado los análisis casuísticos y empíricos (Paris, 2004; Stedman et Al., 2002). Sin embargo, aunque eventualmente precaria, sobre esta base se han ido construyendo ya algunos modelos (Collier et Al., 2003) que pueden proporcionar algo más que reglas de sentido común y buenas prácticas aprendidas sobre la marcha, a la hora de emprender el esfuerzo de -por lo menos- perfilar los temas y desafíos de los que una sociedad tendrá que ocuparse en el postconflicto. A partir de una exploración preliminar de la literatura existente, se proponen a continuación diez ideas que podrían alimentar una agenda de investigación centrada específicamente en los factores o condiciones subyacentes que, en el caso colombiano, podrían posibilitar la perpetuación de la violencia en el postconflicto, haciendo nugatoria tanto una victoria militar del Estado como una terminación negociada de la confrontación.

1. Pertinencia y necesidad

Cualquiera que sea la forma que tome la terminación del antagonismo armado entre el Estado y las organizaciones armadas ilegales, ya sea la de la victoria militar del Estado o la de la negociación y la suscripción de los correspondientes acuerdos de paz, el Estado y la sociedad colombiana se verán abocados a un escenario de postconflicto y de construcción de la paz, que traerá consigo retos y desafíos específicos.

La construcción de la paz consiste en un conjunto de “acciones dirigidas a identificar y apoyar estructuras tendientes a fortalecer y solidificar la paz para evitar una recaída en el conflicto” (ONU, 1992), y en particular, a proporcionar a las sociedades las herramientas y recursos necesarios para afrontar con éxito los dos principales desafíos característicos de la etapa postconflicto: la recuperación económico-social y la reducción del riesgo (Collier, 2007). Para ser verdaderamente efectiva, la actividad de construcción de la paz debe iniciarse aún en medio del conflicto (Rettberg, 2002), ya que:

- (a) contribuye a evitar un escalamiento mayor de la violencia y a mitigar su impacto presente,
- (b) permite anticipar retos futuros y diseñar estrategias de intervención,
- (c) puede contribuir a la transformación del conflicto, y
- (d) genera un capital social e institucional, tanto interno como internacional, imprescindible en el escenario inmediatamente posterior.

1 Uno de los efectos inmediatos de la superación del actual panorama de seguridad, es decir, de la terminación del conflicto armado, tendrá que ver con el desplazamiento paulatino del referente de la seguridad del Estado hacia el individuo (de la seguridad Estado-céntrica a la seguridad humana).

diversas instancias de regulación de la vida social que abarcan desde modelos de conducta hasta mercados (legales e ilegales), pasando incluso por el proceso político, en especial luego de la profundización en la descentralización que tuvo lugar a partir de 1991, en virtud de la cual las administraciones locales y regionales fueron convirtiéndose en objeto de deseo de las organizaciones armadas ilegales (no sólo como fuente de recursos sino como fuentes de dominación mediante el arbitraje de ciertos derechos estrechamente vinculados a las competencias que les son propias).

Así, el negocio del narcotráfico, la tenencia de la tierra, el comercio de armas, el mercado de la violencia (la oferta y demanda de la violencia -como actividad profesional y especializada- para resolver disputas y controversias al margen del Estado), entre otras actividades, han sido objeto de regulación, a lo largo de los años, mediante instituciones que han resultado de las distintas dinámicas que han informado el conflicto armado. Esta institucionalidad paralela compite con el Estado, o en algunos casos (como en las economías ilegales, en las que por definición el Estado no dispone de mecanismos de intervención) lo sustituye. De alguna manera, supone la consolidación de un orden refrendado o garantizado por los actores armados, y se traduce muchas veces en prácticas socialmente reconocidas (Camacho, 1991), por ejemplo entre el campesinado cocalero del sur del país.

7. El fin del conflicto como desinstitucionalización

Lo anterior impone una consideración adicional en el análisis e identificación de potenciales escenarios de postconflicto y construcción de la paz en Colombia. ¿Hasta qué punto la terminación del conflicto implicará algún grado de desinstitucionalización⁶, y por lo tanto, de anarquía en esos ámbitos de la vida social que hasta ahora han sido regulados con base en las interacciones de los distintos actores armados? ¿Cuál sería el impacto en el mercado de la violencia, de la liberación de una abundante mano de obra especializada (la de excombatientes insuficientemente reintegrados a la vida civil), en medio de un escenario en el que existe una actividad altamente lucrativa (el narcotráfico) que habría quedado acéfala (una vez más) como consecuencia

del desmonte de las estructuras armadas ilegales que controlaban buena parte del negocio?

Si en cualquier circunstancia el período de postconflicto es particularmente inestable y puede traer consigo un desbordamiento de nuevas tensiones y violencias, en el caso específico de Colombia es aquí donde podría radicar el mayor de los riesgos, y en donde se requiere mayor atención, tanto de los trazadores de políticas y tomadores de decisiones, como de los operadores de seguridad. La terminación del conflicto, en efecto, implicará el desmonte de las estructuras armadas ilegales. Pero ese desmonte implicará también la liberalización (la desregulación o la desinstitucionalización) de diversas actividades y de varios mercados en los que se transan determinados bienes y servicios con incidencia directa en la seguridad de la ciudadanía y la estabilidad de las instituciones políticas legítimas.

En esa perspectiva, el postconflicto podría implicar para Colombia una multiplicación de las fuentes de inseguridad, una ampliación y dispersión de la violencia, y un incremento en la competencia por el control de determinadas actividades (lícitas e ilícitas) por diversos medios (predominantemente violentos), que podría traducirse en un incremento de la criminalidad común, en un reforzamiento del poder de las organizaciones macrocriminales, en una intensificación del riesgo de corrupción y de captura de las instituciones democráticas, entre otros.

8. La construcción de la paz como intervención

Por lo tanto, la construcción de la paz en Colombia debe ser abordada como intervención del Estado para compensar el vacío de regulación que podría dejar la desmovilización y desarticulación de las estructuras armadas que han arbitrado, desde la ilegalidad, diversas actividades en ámbitos no menos diversos de la vida social.

La definición de esos mecanismos de intervención deberá partir del reconocimiento de que la terminación del conflicto cambiará radicalmente el panorama de la seguridad en Colombia, liberará recursos y espacios para la circulación de la violencia, y planteará desafíos para los cuales los operadores de seguridad y de justicia pueden no estar adecuadamente adaptados, pues no se inscribirán en el marco de lo que hasta ahora ha sido el centro de sus preocupaciones.

En algunos ámbitos las alternativas de intervención serán más restringidas que en otros. Por ejemplo, en el tema de narcotráfico, el modelo actualmente vigente, basado en el prohibicionismo y la ilegalización,

6. El término se emplea aquí en función del concepto previamente formulado de institución como mecanismo regulatorio de la vida social. No implica ni una legitimación ni un reconocimiento de ningún tipo del control que, por cualquier medio, pero especialmente por la fuerza, puedan ejercer algunos actores sobre ciertos sectores de la población y sobre algunas de sus actividades.

6. Collier, P. and A. Hoeffler, (2004). Greed and Grievance in Civil War, *Oxford Economic Papers*.
7. Collier, P., Hoeffler, A. y Söderbom, M. (2007). Post-conflict risks. Paper presentado en la Conferencia sobre transiciones postconflicto, organizada por el Banco Mundial en Washington D.C, abril/mayo de 2007.
8. Collier, P., L. Elliot, H. Hegre, A. Hoeffler, M. Reynal-Querol y N. Sambanis (2003). Breaking the Conflict Trap: Civil War and Development Policy. World Bank Policy Research Report. Oxford, UK: Oxford University Press.
9. Collier, Paul y Nicholas Sambanis, (2002). Understanding Civil War. A New Agenda, *Journal of Conflict Resolution* 46(1).
10. Crocker, Chester A., Hampson, Fen Osler y Aall, Pamela (2001). Turbulent peace: The challenges of managing international conflict. Washington: USIP Press.
11. Doyle, Michael W y Sambanis, Nicholas (2006). Making War and Building Peace: United Nations Peace Operations. Princeton: Princeton University Press.
12. Fearon, James, (2004). Why Do Some Civil Wars Last So Much Longer Than Others? *Journal of Peace Research* 41(3).
13. Fischer, Thomas (s.f.) Colombia: Estado débil sin territorialidad entera. Una visión histórica. (Mimeo).
14. Fortna, Virginia (2004). Peace Time: Cease-Fire Agreements and the Durability of Peace. Princeton: Princeton University Press.
15. Gleditsch, N.P., P. Wallensteen, M. Eriksson, M. Sollenberg and H. Strand, (2002). Armed Conflict 1946-2001: A New Dataset, *Journal of Peace Research* 39(5).
16. Harbom, Lotta, Högladh, Stina y Wallensteen, Peter, (2006). Armed Conflict and Peace Agreements, *Journal of Peace Research* 43(3).
17. Human Security Centre (2007). Human Security Brief 2006. Disponible en: www.humansecuritybrief.info Consultada el 28 de octubre de 2009.
18. Informe Nacional de Desarrollo Humano para Colombia (2003) El conflicto, callejón con salida. Bogotá: PNUD.
19. Lund, M (1996) Preventing Violent Conflicts: A Strategy for Preventive Diplomacy. Washington: USIP Press.
20. Luttwak, Edward, (1999). Give War a Chance, *Foreign Affairs* 78(4).
21. ONU (1992). An Agenda for Peace: Preventive diplomacy, peacemaking and peacekeeping. Report of the Secretary-general, United Nations GA and SC, A/47/277, S/24111. 17 June 1992. Disponible en: www.un.org/Docs/SG/agpeace.html Consultada el 28 de octubre de 2009.
22. Pizarro Leongómez, E., (2002). Colombia: ¿Guerra Civil, guerra contra la sociedad, guerra antiterrorista o guerra ambigua?, *Análisis político* 46.
23. Pizarro Leongómez, E. (2006). *Las Farc-Ep: ¿repliegue estratégico, debilitamiento o punto de inflexión?* En: Instituto de Estudios Políticos y Relaciones Internacionales (2006) Nuestra guerra sin nombre: Transformaciones del conflicto en Colombia. Bogotá: Norma.
24. Posada-Carbó, E. (2001). ¿Guerra civil? El lenguaje del conflicto en Colombia. Bogotá: Alfaomega-Ideas para la Paz.
25. Paris, R. (2004). At War's End: Building Peace after Civil Conflicts. Cambridge UK: Cambridge University Press.
26. Rettberg, A. (Coord.) (2002). Preparar el futuro: conflicto y post-conflicto en Colombia. Bogotá D.C: Fundación Ideas para la Paz / Universidad de los Andes / Alfaomega editores.
27. Sambanis, Nicholas, (2004). What is Civil War? Conceptual and empirical complexities of an operational definition, *Journal of Conflict Resolution* 48(6).
28. Stedman, S.J., Rothchild, D. S. and E. M. Cousens (2002). Ending Civil Wars: The Implementation of Peace Agreements. Boulder Colorado: Lynne Rienner.
29. Thakur, R., (2004). A political worldview, *Security Dialogue* 35(3).
30. Uribe, M. (1999). Las soberanías en disputa: ¿conflicto de identidades o de derechos? *Estudios políticos* 15.
31. Walter, Barbara (2002). Committing to Peace: The Successful Settlement of Civil Wars. Princeton: Princeton University Press.

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» Política ambiental y actividades militares

Este artículo analiza el papel del sector militar, como parte de la estructura del Estado, en su relación con el medio ambiente. De igual manera, aborda el tema del impacto de variables ambientales en las actividades militares, tanto desde una perspectiva local como global, en la que los regímenes internacionales diseñados para la administración de los recursos naturales desempeñarían un papel primordial en el desarrollo de las políticas ambientales en el sector militar.

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Palabras clave: Sector Militar, Medio Ambiente, Actividades Militares, Políticas Ambientales.

Introducción

El poder de los Estados es tradicionalmente analizado en términos militares, económicos y geopolíticos. Recientemente, el papel del medio ambiente y de los recursos naturales en la determinación del futuro poder de las naciones, ha aumentado gradualmente hasta convertirse en un punto más o menos preponderante en las políticas nacionales e internacionales. El reposicionamiento de los temas ambientales es el resultado de la creciente conciencia respecto al valor y la importancia de los recursos naturales en el desarrollo de las naciones. En la actualidad conceptos como "Capital Natural"¹ son utilizados para incluir, en términos económicos, variables netamente ambientales en las políticas económicas, sociales y militares; facilitando una mejor valoración y administración de los recursos –aunque pudiera parecer insensato para algunos, la valoración económica de los recursos naturales, ha permitido el desarrollo de políticas más responsables que incluyen en sus análisis los patrones y tendencias en el consumo de bienes y servicios proveídos por el medio ambiente. En consecuencia, la valoración económica de los recursos naturales ha llevado a la ejecución de mejores estrategias y políticas para la explotación de los recursos naturales y la obtención de sostenibilidad ambiental²; a su vez, éstas -las políticas y estrategias- influyen positivamente en el desarrollo, administración y apreciación del poder del Estado.

En este orden de ideas, en septiembre del año 2000, los representantes de 189 países del mundo reconocieron la importancia del desarrollo sostenible como eje del futuro de la humanidad, por lo cual los Objetivos de Desarrollo del Milenio³ (ODM) fueron establecidos. Aunque el camino hacia el cumplimiento de las metas del milenio es muy etéreo y los objetivos parecen químéricos, algunos avances en cuanto a las políticas ambientales han sido alcanzados a la fecha. El principal objetivo de este documento es hacer un análisis de las políticas ambientales en el sector militar como un primer paso hacia el robustecimiento de los temas ambientales para las fuerzas militares⁴ y su papel como parte de la estructura del Estado.

> Políticas internacionales y medioambiente

La importancia del medio ambiente y su administración en la esfera militar es, en general, un tema reciente y vagamente estudiado. Esto se debe a que el principal propósito de las fuerzas militares es proteger y defender la soberanía y los intereses del Estado. Sin embargo, ello no implica que los recursos naturales, como fuente y provisión de bienes y servicios, no hayan sido tenidos en cuenta en el desarrollo de las actividades militares. Aunque en general los ejércitos del mundo dan, de manera implícita, un valor marginal a los temas ambientales en sus actividades, éstos sí ejercen gran influencia sobre los recursos naturales -sólo en algunos casos el Capital Natural y el deterioro ambiental son estimados como

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- 1 Capital Natural -el medio ambiente- es definido como el inventario de activos -recursos- (tales como el suelo, la atmósfera, los bosques, el agua, los humedales, etc.) que proveen un flujo de bienes y servicios utilizables; éstos pueden ser renovables o no renovables, comercializables o no comercializables. Ver: Goodland, Robert. (1995). *The Concept of Environmental Sustainability*. Annual Review of Ecology and Systematics, Vol. 26.
 - 2 Nuevamente se utiliza la definición entregada por Goodland, en la que se advierte que la sostenibilidad ambiental implica la sana utilización de los recursos a partir de la ecuación fuente-consumo-reabsorción en la que la fuente son los recursos, el consumo implica la utilización del capital natural para actividades humanas y la reabsorción (la etapa más importante) es decir, mantener la capacidad del medioambiente de recuperarse y renovarse para poder proveer bienes y servicios sin afectar el balance natural de los ecosistemas.
 - 3 Los Objetivos de Desarrollo del Milenio, establecen metas claras para la reducción de la pobreza, del hambre, de las enfermedades, del analfabetismo, de la degradación ambiental y la discriminación para el 2015. Por lo tanto, 189 naciones se han comprometido con los Objetivos del Milenio de las Naciones Unidas a reducir la pobreza mundial en un 50% para el 2015.
 - 4 Entre los temas ambientales para las fuerzas militares se encuentran la reducción del impacto de sus actividades y mejoramiento de su misión.

Bibliografía

- Durant, Robert F. (2007). Greening of the U.S. Military: Environmental Policy, National Security, and Organizational Change. Georgetown University Press.

Artículos de Revista

- Arenas Cañón, Alexander, (2009). Conflicto, Ambiente y la Seguridad del Estado. Estudios en Seguridad y Defensa. Vol. 4 No. 1 Pp. 35-41.
- Goodland, Robert, (1995). The Concept of Environmental Sustainability. Annual Review of Ecology and Systematics, Vol. 26.
- Martins A; Ramos TB; Freire I. (1997). Os Empregos Verdes e a Política de Emprego em Portugal. Lisboa: Ministério do Trabalho e da Solidariedade, Direção Geral do Emprego e Formação Profissional, Comissão Interministerial para o Emprego. Cadernos de Emprego.
- Ram Nidumolu, C.K. Prahalad, M.R. Rangaswami (2009). Why sustainability is now the key driver of innovation. Harvard Business Review. Volume 89, Number 9.

- Ramos, Tomas; Alves, Inés; De Melo, Joao Joanaz, (2009). The state of environmental performance evaluation in the public sector: the case of the Portuguese defence sector. Journal of Cleaner Production.
- Ramos, Tomas; De Melo, Joao Joanaz, (2005). Environmental management practices in the defense sector: assessment of the Portuguese military's environmental profile. Journal of Cleaner Production 13.

Documentos institucionales y tesis de grado

- Arenas Cañón Alexander, (2007). La Amazonía Brasileña, Actores Extranjeros y la Internacionalización Implícita. Universidad del Rosario.
- Ministerio de Defensa (2009). Directiva 023 de Medio Ambiente para las Fuerzas Militares 2009.
- NATO (1996). Environmental Guidelines for the Military Sector. North Atlantic Treaty Organization, Committee on the Challenges of Modern Society. A Joint Sweden-United States Project.
- Programa de las Naciones Unidas para el Desarrollo PNUD. Objetivos de Desarrollo del Milenio: En: <http://www.undp.org/spanish/mdg/basics.shtml> Consultado el: 12 de agosto de 2009.



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» Creando escenarios de reconciliación: desafíos de la Ley de Justicia y Paz

Indudablemente, la Ley 975 de 2005 es una directriz fundamental de la política pública que se desarrolla actualmente en Colombia a raíz del proceso de desmovilización de grupos paramilitares. Esta norma constituye un paradigma mundial, pues propone un adecuado y novedoso equilibrio entre las exigencias de la justicia y las posibilidades de la paz. Sin embargo, el actual estado de cosas del país alberga fenómenos a los que esta norma, como corolario principal de la política transicional, debe hacer frente. El rearme, la reincorporación a la vida civil de los desmovilizados y la inclusión de las víctimas y de la sociedad civil en el proceso, suponen desafíos actuales e inaplazables en la agenda nacional, con el fin de construir escenarios sólidos y duraderos de reconciliación nacional.

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Introducción

Los Estados que experimentan procesos de transición hacia la paz y la democracia, se enfrentan a la tensión entre dos valores sociales fundamentales: la justicia y la paz. Por un lado, estos procesos deben hacer posible la garantía efectiva de los derechos de las víctimas a conocer la verdad de los delitos, a que sean perseguidos y sancionados sus perpetradores, y a recibir una reparación integral por los daños causados, pues a través de ésto es posible hacer el reconocimiento elemental de su dignidad humana. Pero por otro lado, la paz no es posible si las condiciones jurídicas y sociales no son suficientemente atractivas para quienes han propuesto dejar las armas. En estos casos la aplicación de la justicia ordinaria o tradicional, aunque proporcional, es ineficaz para conducir a la cesación de los hechos de violencia.

La justicia transicional es el modelo que se aplica en estos contextos. Por razón del reconocimiento de los Derechos Humanos como un asunto común y obligatorio para toda la humanidad, su aplicación en el mundo actual supone la generación de mecanismos suficientemente efectivos para asegurar la cesación de la violencia, pero también integrales para no permitir ni imponer la impunidad y el silencio.

El caso colombiano, marcado por decenios de violencia y conflicto, es hoy, con suerte, un escenario de transición hacia la paz. Desde el año 2003, cuando se inició el proceso de desmovilización de los grupos de autodefensa ilegal, fue imperioso crear un programa de Desarme, Desmovilización y Reintegración (DDR) de excombatientes, con el fin de establecer todas las herramientas de justicia transicional para su tratamiento. Herramientas logísticas, procedimentales, económicas, sociales, humanitarias y, por supuesto, jurídicas, estas últimas enmarcadas en la Ley 975 de 2006 ó “Ley de Justicia y Paz¹”. Esta norma se creó como complemento del marco normativo existente en la materia² y específicamente para la judicialización de perpetradores de delitos graves, no amnistiables ni indultables.

Beneficios de esta norma tales como la reducción de penas ordinarias de 30 ó 40 años de prisión a penas que no superan los ocho, son claramente generosos y, por lo mismo, polémicos. Sólo pueden justificarse dentro de la lógica y los objetivos de la justicia transicional, en donde únicamente son legítimos si a cambio de ellos existe una contribución efectiva a la paz durable y a la reconciliación nacional. De ahí la importancia de que, la LJP y, en el futuro, otros marcos jurídicos análogos, estén en constante evaluación por parte, tanto de sus operadores y protagonistas, como de la sociedad en general. Por lo anterior, el objetivo de este escrito es hacer una revisión general acerca de los desafíos que aún tiene la Ley en materia de reconciliación nacional, como derrotero principal para lograr una paz duradera.

1 En adelante LJP.

2 En materia de desmovilizaciones existen: la Ley 418 de 1997, la Ley 782 de 2002 y su decreto reglamentario 128 de 2003, los cuales establecen amnistías e indultos, pero sólo para quienes hayan cometido delitos políticos y conexos, nunca delitos graves.

> Desafíos en materia de DDR

Son innegables los beneficios que para la sociedad civil genera un proceso de desarme y cesación de hechos violentos. Según cifras de la Alta Consejería para la Reintegración de la Presidencia de la República, desde el inicio del proceso hasta marzo de 2009 habían abandonado las armas 50.000 personas³, lo cual evidencia voluntad y confianza en el proceso. Sin embargo, existen algunas dificultades en materia de desmovilización y reintegración que pueden lesionar estos avances.

La LJP se creó para quienes hubieran cometido un tipo específico de delitos. A quienes no tuvieran procesos o investigaciones abiertas por tales delitos, se les aplicaba la legislación complementaria, que preveía amnistías e indultos. Sin embargo, el 11 de julio de 2007, la Corte Suprema de Justicia emitió un fallo que modificaría este procedimiento. Para esta Corte, el paramilitarismo no constituye un delito político, por lo cual no puede ser objeto de amnistías o indultos. Así mismo, el simple hecho de pertenecer a un grupo de autodefensa configura el delito de "concierto para delinquir agravado", que establece de 6 a 12 años de prisión. A consecuencia de este fallo, quienes no cometieron delitos graves purgarán penas iguales e incluso más altas que quienes sí los cometieron y tienen penas de cinco a ocho años.

Por fortuna, el Gobierno Nacional y la Fiscalía General⁴, teniendo en cuenta la gravedad que implica este asunto para los 19.000 desmovilizados afectados pues impide su reinserción a la comunidad, dieron curso a un proyecto de ley que abre la posibilidad de que sean procesados mediante el principio de oportunidad que consagra el Derecho Penal Colombiano. En el mes de junio de 2009, el proyecto de ley fue aprobado en último debate en la Cámara de Representantes, y en el mes de julio fue sancionado por el Ministro del Interior

y de Justicia -quien cumplía funciones de Ministro Delegatario-, lo cual constituye un buen precedente para futuras negociaciones de paz.

Otro punto importante se refiere a la reintegración de excombatientes. La LJP se creó para la reincorporación de ex combatientes a la vida civil y se ocupa principalmente de los procesos de desarme y desmovilización, para lo cual se estipulan variadas disposiciones judiciales y procedimentales. Sin embargo, concluido el proceso, no existe claridad en esta norma legislativa ni en ninguna otra sobre la hoja de ruta que deberá seguirse en materia de reinserción a la vida civil.

El proceso de reintegración es precisamente el paso más importante y difícil en el camino hacia la paz. Según Natalia Springer, "...Cuando termina el proceso de desarme y desmovilización (generalmente con resultados muy pobres), lo único que puede decirse es que tenemos un cese al fuego en una sociedad mucho más fragmentada y dividida que la existente al inicio de la guerra⁵".

Por lo mismo, es fundamental que las políticas de reintegración sean más homogéneas y sistemáticas, que sean un asunto fundamental en la agenda legislativa y que no sólo sean responsabilidad del Ejecutivo. La Alta Consejería para la Reintegración y el Gobierno Nacional en general han hecho esfuerzos notables en este tema, pero es importante que el proceso sea integral, que tenga herramientas concretas que incluyan no sólo a los excombatientes, sino también a las víctimas, los desplazados y la sociedad civil que son quienes deben recibirlas y acogerlas. "Forjar adecuadas políticas de reintegración es fundamental, pues no es consecuente ofrecer a quienes se involucraron en el conflicto las mismas condiciones y el mismo escenario que las llevó a entrar en el conflicto. En este caso, no hay ningún incentivo para desarmarse ni reintegrarse en la sociedad⁶".

En el marco de este complejo proceso surge, además, un problema adicional, nefasto sobre todo para garantizar la no repetición de los delitos: el rearme. Según la Comisión Nacional de Reparación y Reconciliación (CNRR), en materia de desarme existen tres fenómenos que han fracturado el proceso⁷: el surgimiento de grupos rearmados⁸, disidentes⁹ y

³ Alta Consejería Presidencial para la Reintegración, ACR. En: <http://www.reintegracion.gov.co/app/ReintegracionenColombia/DDRenColombia/tabid/128/Default.aspx>. Consultado el 1 de junio de 2009.

⁴ En el mes de octubre de 2008, en el Foro "Camino jurídico aplicable a los procesos de paz y desmovilización presentes y futuros", se planteó ante el Congreso de la República el asunto referente a la falta de claridad sobre la judicialización de estos guerrilleros de bajo rango. Ante este panorama, el Fiscal General planteó la propuesta de que efectivamente a estas personas se les abrieran investigaciones, pero que se les aplicara el principio de oportunidad (esta propuesta fue acordada desde julio de 2008 entre el Gobierno Nacional, el Alto Comisionado para la Reintegración y el Fiscal). La iniciativa se estableció en un proyecto de ley aprobado ante la Cámara de Representantes, a pocos días de finalizar el período de sesiones ordinarias y sancionado por parte del Gobierno a principios de julio de 2009.

⁵ Springer, Natalia (2005). Desactivar la guerra: alternativas audaces para consolidar la paz. Bogotá, Aguilar. Pág. 246.

⁶ Ídem. Pág. 16.

⁷ CNRR, Informe No.1 (2007). Disidentes, Rearmados y Emergentes: ¿Bandas criminales o tercera generación paramilitar?. En: CNRR, http://www.cnrr.org.co/new/interior_otros/informe_1_DDR_Cnrr.pdf. Consultado el 20 de enero de 2009.

⁸ Quienes han reincidido en acciones armadas o criminales.

⁹ Quienes nunca se desmovilizaron y siguen delinquiendo.

emergentes¹⁰. Según el Informe No. 1 de esta comisión, hasta mayo de 2007 habían surgido más de 46 grupos de este tipo en todo el territorio nacional, lo cual es alarmante para el futuro del proceso de paz y debe ser un indicador de los problemas que aún existen en materia de adecuada reinserción.

> Los derechos de las víctimas en la LJP

En la LJP los derechos de las víctimas a la verdad, la justicia y la reparación, cuentan con mecanismos concretos para ser garantizados. Para darle más contenido y preponderancia a tales derechos, el 1º de octubre de 2007, la bancada liberal radicó ante el Congreso el proyecto de ley No. 157 de 2007, "por el cual se dictan medidas de protección a las víctimas de violaciones de la legislación penal, de normas internacionales de DDHH y del DIH". El 18 de junio de 2009, sin embargo, la plenaria del Senado negó el informe de conciliación de esta norma y el Ministro del Interior y de Justicia estableció que, por su vital importancia, este proyecto sería presentado nuevamente por el Gobierno Nacional, con las modificaciones necesarias para su viabilidad¹¹.

Conclusiones: las exigencias de la reconciliación

Si el concepto de reconciliación supone "el establecimiento o la reconstrucción de relaciones de confianza entre individuos en medio de radicales diferencias"¹², las políticas de justicia transicional deben abarcar lo mejor posible varios aspectos fundamentales. No habrá reconstrucción de sociedades fracturadas si existe impunidad, si no hay reparación integral y si persisten los hechos de violencia. Tampoco parece posible si los excombatientes no tienen herramientas para ser acogidos en la sociedad.

Sin duda, la LJP es una herramienta fundamental en materia de desmovilización, y como todas las normas, en el proceso de su aplicación se enfrenta a algunos

retos. Contar con una política de reincorporación más integral, en la que las víctimas y la sociedad civil tomen parte; contar con una política más homogénea que permita comprender y combatir de raíz fenómenos nefastos como el rearme; seguir trabajando en estrategias que generen confianza en el proceso para futuras negociaciones. Esos son los desafíos a los que hoy se enfrenta la LJP y todas las normas sobre transición hacia la paz que la acompañan.

La sociedad civil y las víctimas tienen derecho al reconocimiento de su dolor y a la reivindicación de su dignidad, por lo que el Estado debe crear en el presente las medidas necesarias para que eso sea posible; a cambio de ello, tienen la gran responsabilidad de construir un nuevo estado de cosas con sus antiguos agresores en el que, finalmente, puedan reconciliarse con el pasado y hacer pactos para la no repetición en el futuro.

Bibliografía

1. CNRR, Informe No.1 (2007). Disidentes, Rearmados y Emergentes: ¿Bandas criminales o tercera generación paramilitar?. En: CNRR, http://www.cnrr.org.co/new/interior_otros/informe_1_DDR_Cnrr.pdf. Consultado el 20 de enero de 2009.
2. Gamboa Tapias, Camila, (Comp.). (2006). Justicia Transicional: teoría y praxis. Universidad del Rosario, Bogotá.
3. Huber, Florian, (2007). La Ley de Justicia y Paz: desafíos y temas de debate. FESCOL, Bogotá.
4. Rangel, Alfredo, (2008). La Reincisión paramilitar: un balance. En: Fundación Seguridad y Democracia, FSD, <http://www.seguridadydemocracia.org/docs/pdf/especiales/informeEspecial19-3.pdf>. Consultado el 28 de febrero de 2009.
5. Salomón Moreno, Marta, (2005). El papel de la justicia en los procesos de reconciliación. UNIVERSITAS: Revista de filosofía, derecho y política. No.2. En: http://universitas.idhbc.es/n02/02-04_salomon.pdf. Consultado el 27 de febrero de 2009.
6. Springer, Natalia, (2005). Desactivar la guerra: Alternativas audaces para consolidar la paz". Bogotá, Aguilar.

10 Quienes surgieron ante el vacío de poder de los grupos desmovilizados.

11 ELTIEMPO, "Ley de Víctimas fue negada por el Senado tras decisión del presidente Uribe de no apoyarla". En: ElTiempo.com: http://www.eltiempo.com/colombia/politica/ley-de-victimas-fue-negada-por-el-senado-tras-decision-del-presidente-uribe-de-no-apoyarla_5473608-1. Consultado el 18 de junio de 2009.

12 Salomón Moreno, Marta, (2005). "El papel de la justicia en los procesos de reconciliación". UNIVERSITAS: Revista de filosofía, derecho y política. No. 2, pág. 38. En: http://universitas.idhbc.es/n02/02-04_salomon.pdf. Consultado el 27 de febrero de 2009.

► Desafíos y perspectivas del proceso de Desarme, Desmovilización y Reintegración: criterios para un programa de DDR

*Avance de investigación en DDR

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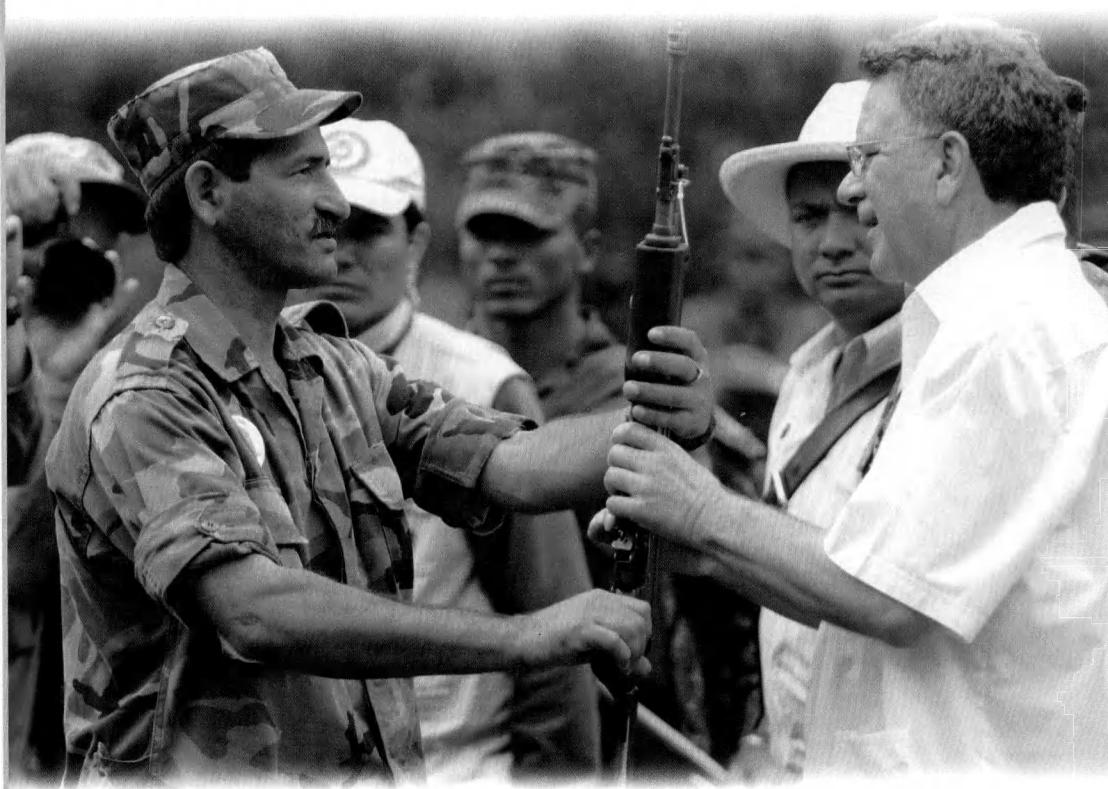
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El gobierno de Álvaro Uribe Vélez emprendió desde el año 2003 negociaciones de desmovilización con los grupos de autodefensa bajo el esquema conceptual de la Política de Seguridad Democrática. Estas negociaciones condujeron a las desmovilizaciones colectivas de algunas de estas agrupaciones, y en la actualidad, con la suma de las individuales, se cuenta con aproximadamente 48.000 desmovilizados. Aunque las desmovilizaciones colectivas han sido importantes para mitigar la violencia, es importante llamar la atención sobre las dificultades que se han presentado en el desarrollo del proceso. El grupo de investigación sobre Desarme, Desmovilización y Reintegración -DDR- de la Escuela Superior de Guerra ha enfocado su análisis en la identificación de las áreas críticas que el proceso actual presenta, en relación con los riesgos o amenazas contra la seguridad nacional. Para el objetivo de este documento, un área crítica ha sido definida como un aspecto de un proceso de DDR cuyos riesgos y/o amenazas para la seguridad nacional no han sido identificados en el desarrollo actual.

Con base en las entrevistas realizadas¹ para el desarrollo de la investigación, se identificaron como factores de riesgo del proceso de DDR en Colombia, entre otras, la pérdida de credibilidad de los desmovilizados frente al proyecto, el narcotráfico y el fortalecimiento gradual institucional en los antiguos territorios de influencia de autodefensas ilegales², el proceso inicial de conformación de políticas públicas conexas, la falta de seguridad y prestación de servicios públicos esenciales.

Para el Estado colombiano, estas áreas plantean el desafío de idear, concebir e implantar nuevos y ajustados programas de atención a los desmovilizados y a las comunidades afectadas por la violencia, las cuales en la mayoría de los casos, son receptoras de desmovilizados. Por lo tanto este documento está orientado a presentar, de manera previa, los principales criterios para un programa exitoso de DDR con énfasis en el área de la reintegración.

De acuerdo con lo anterior, la investigación permitió detectar dos subáreas críticas principales e interdependientes, sin perjuicio de tener en cuenta otras que también han incidido sobre las áreas identificadas, y que constituyen amenazas potenciales contra la seguridad nacional. Primero, como parte del área crítica institucional, se identifica como subárea los iniciales pasos para la construcción de presencia institucional en los territorios donde los desmovilizados han regresado. Y segundo, como parte del área crítica del proceso de DDR, se evidencia como subárea el reto del Estado para desmontar de forma definitiva el “trípode”³ de la estructura del poder de las autodefensas ilegales, donde llama la atención específicamente el rearme de algunos desmovilizados.

La primera área crítica denominada *Institucional* está constituida por cuatro factores fundamentales: primero, como consecuencia del cambio metodológico en la atención a los desmovilizados⁴, se presenta incertidumbre por parte de los beneficiarios en los entes que participan en DDR; segundo, se ha hecho más evidente el desafío en el control territorial del Estado a nivel regional; tercero, se observa una escasa participación de gobiernos locales en el proceso; y cuarto, se evidencia la necesidad de institucionalizar la aplicación de una política pública adecuada de DDR.

El caso de Colombia, tiene características que lo apartan de la experiencia de otros países. En primer lugar, el proceso de DDR se ha adelantado sin que lo haya precedido un acuerdo de paz. En segundo lugar, este proceso ha dispuesto de mayores recursos, capacidad institucional y humana, que en otros procesos internacionales, y ha contado con una economía en crecimiento. Y en tercer lugar, se estima

1 Para la elaboración de este estudio, aún en desarrollo, se han entrevistado 21 actores relevantes distribuidos entre participantes en el diseño de la política, quienes la desarrollan, analistas políticos y 24 desmovilizados, en su mayor parte cabecillas-mandos medios.

2 Interpretado por los entrevistados como que a pesar de los esfuerzos del Gobierno actual en llevar las instituciones del Estado a todos los rincones del país donde se carecía de presencia estatal, los antiguos territorios de influencia paramilitar cuentan con un legado cultural de desconfianza en las instituciones del Estado, situación que impide el aprovechamiento de las instancias de justicia pública y por el contrario, perpetúa la utilización de mecanismos de justicia privada.

3 En este caso “trípode” relaciona los aspectos social, político y económico como soporte para la existencia de las autodefensas ilegales.

4 La creación de la ACR en 2006.

que un gran número de personas serán reintegradas. Sin embargo, al comparar esta expectativa con los números obtenidos en otros procesos internacionales, resulta no ser tan alta. “Para dar un ejemplo reciente, en Liberia, cuando se inició el proceso, se estimaba que habrían cerca de 45.000 desmovilizados; sin embargo, se tuvo que terminar el programa cuando se llegó a los 110.000, sencillamente porque se agotaron los recursos. En Sierra Leona hubo 65.000, y 100.000 en Eritrea y Etiopía. En términos de la capacidad de Colombia, entonces, el volumen de desmovilizados parece relativamente manejable”.⁵

La segunda área crítica identificada se refiere al *desarrollo del proceso* en el mediano y largo plazo. Es importante considerar que el proceso ha estado enfocado tanto a la rehabilitación como a la reubicación laboral de los desmovilizados; sin embargo, se demanda compromiso por parte del sector empresarial. En este marco, el área de DDR considera como un factor crítico la dificultad de los reintegrados para acceder a las oportunidades tanto del programa como de las sociedades donde regresan. A continuación se explica cada una de las subáreas en el marco de las dos áreas críticas mencionadas.

a). Área Institucional: experiencias locales de desmovilización y reintegración

La investigación permitió detectar la necesidad de una aplicación efectiva de las políticas establecidas por el Gobierno Nacional a los desmovilizados. En esta tarea, el papel de las administraciones locales resulta fundamental. Según la investigación realizada por Kimberly Theidon y Paola Betancourt,⁶ es necesario pensar en los excombatientes no sólo como centro de estudio, sino también en su entorno social. Por esta razón, “es posible pensar en cómo articular procesos y políticas nacionales con procesos y propuestas locales y regionales”⁷. Los casos de Medellín, Bogotá, Buenaventura, Bucaramanga y Pasto evidencian la falta de homogeneidad en la presencia institucional y la relevancia que tiene lograr un trabajo mancomunado entre los gobiernos nacional y regional.

Al respecto, cabe resaltar que no se trata de crear dependencia del Estado, sino que se deben dirigir los esfuerzos al apoyo del potencial de las comunidades. Las labores adelantadas en esta dirección no serán siempre suficientes. Además, es importante crear alianzas entre el sector privado, los gobiernos locales y Organizaciones no Gubernamentales, ya que éstas contribuyen a generar confianza tanto en el proceso como en las instituciones. Por ello, se hace indispensable la coordinación entre la etapa de desmovilización y la de reintegración por una parte, y el apoyo productivo a comunidades y regiones por otra, pero como procesos interdependientes o, preferiblemente, como etapas de un sólo proceso.⁸ En este sentido, hace falta implementar mecanismos de monitoreo, integrales, que faciliten la evaluación precisa de cada conjunto de actividades.

En este orden de ideas, la respuesta institucional debe incluir tres temáticas: “la policiva o de persecución de esos delincuentes comunes, la de reintegración a la vida civil de los desmovilizados y la de reconstrucción local de las instituciones estatales en las regiones en donde las autodefensas lograron una influencia apreciable y hoy operan grupos ilegales de coerción y protección. Hasta el 2007, esta respuesta oficial se concentró en los dos primeros aspectos y el tema de la reconstrucción institucional no estuvo dentro de la agenda de prioridades del Gobierno.”⁹ Esta observación no ha perdido vigencia.

b). Área de desarrollo del proceso: reto del Estado para desmontar de forma definitiva el trípode de la estructura del poder de las autodefensas ilegales

El carácter cíclico de la violencia como consecuencia del reciclaje de recursos humanos y materiales de la guerra se expresa en la reincidencia de algunos desmovilizados y de grupos criminales cuyos miembros no se desmovilizaron, y constituye uno de los factores que dan sentido a la subárea crítica, el reto para desmontar de forma definitiva el trípode de la estructura del poder de las autodefensas ilegales.

5 Fundación Ideas para la Paz, (2006). Reconstrucción, Reinserción y Región. En: Cuadernos del Conflicto. Bogotá: Ideas para la Paz. Legis, Semana, Konrad Adenauer. Pág. 8.

6 Praxis: Instituto para la Justicia Social, Universidad de Harvard.

7 Programa de Naciones Unidas para el Desarrollo (PNUD), (2006). “La Justicia tiene la Palabra. En Hechos del Callejón Número 14. Bogotá. Pág. 5.

8 Fundación Seguridad y Democracia, (2007). Informe especial: El Rearme Paramilitar. Bogotá: Fundación Seguridad y Democracia. Pág. 13.

9 Romero, Mauricio. Disidentes, rearmando y emergentes: ¿Bandas criminales o tercera generación paramilitar? Informe N° 1. Bogotá: Comisión Nacional de Reparación y Reconciliación. Pág. 60. En: <http://www.cnrr.org.co>. Consultado el 20 de noviembre de 2007.

especialmente aquellas de cultivos ilícitos, se facilita el control territorial en la medida en que mandos medios de grupos desmovilizados tienen participación en los nuevos grupos y aprovechan las ventajas que les ofrece conocer las zonas de cultivo, los corredores del narcotráfico y ser conocidos en estas áreas.

Conclusiones

Considerando las complejas circunstancias (entre otros, narcotráfico, confrontación armada, procesos integrativos en la formación de un Estado-nación), en las cuales se ha desarrollado el proceso de desmovilización, se han derivado áreas críticas que plantean riesgos y amenazas a la seguridad nacional. Esto, sumado a la existencia del trípode del poder de las autodefensas ilegales, sugiere que la situación en Colombia, puede dar lugar a una nueva ola de violencia, salvo que se tomen las medidas políticas, económicas y sociales necesarias para evitar un mayor escalonamiento de la confrontación, previsible ante los hechos del rearme, los nuevos grupos armados vinculados de forma predominante con la lógica del narcotráfico. Este fenómeno permite advertir que la sociedad colombiana podría estar asistiendo a otra fase de la violencia, lo que conduce a repetir el círculo que ha degradado la confrontación armada en Colombia. Por ello, es fundamental que la identificación de los factores mencionados dé lugar a establecer una serie de criterios para llevar a cabo un programa exitoso de DDR que considere la creación de una estructura a nivel de ministerio caracterizada por los siguientes elementos:

1. Debe partir de las expectativas e ideales de los desmovilizados y no acogerse a diseños preexistentes.
2. Debe ser un sólo proceso y no funciones separadas dependiendo de las áreas funcionales del Ministerio de Defensa o de la Presidencia de la República.
3. La operación básica del DDR debe basarse en procesos descentralizados a nivel regional, coordinados a nivel nacional.
4. El rol a nivel central será el de establecer políticas y recursos, coordinar esfuerzos y, establecer con las regiones los mecanismos requeridos de creación de sinergias y monitoría.

5. Los encargados del programa a nivel regional deben estar revestidos de autoridad legal y recursos para estar en capacidad de ejecutar adecuadamente las políticas, planes y programas definidos, enmarcados dentro de la política nacional de DDR.
6. Debe haber constante retroalimentación de los comportamientos y actividades de los desmovilizados dentro del proceso de DDR en su conjunto, para cada una de las actividades y partes del proceso. Las nuevas tecnologías informáticas lo posibilitan.
7. Debe existir una monitoría permanente del proceso de integración de los desmovilizados a las comunidades. Monitoría basada en el cumplimiento de programas regionales y comunales.
8. La solución de problemas operativos no debe considerarse en términos coyunturales como respuesta a situaciones específicas, sino que deben remitirse a los criterios de diseño del programa y ser ventilados a nivel de la coordinación nacional. ≡

Bibliografía

1. Fundación Ideas para la Paz, (2006). Reconstrucción, Reinserción y Región. En Cuadernos del Conflicto. Bogotá: Ideas para la Paz. Legis, Semana, Konrad Adenauer.
2. Fundación Seguridad y Democracia, (2007). Informe especial: el Rearme Paramilitar. Bogotá: Fundación Seguridad y Democracia.
3. Escuela Superior de Guerra, (2007). Módulo Conocimiento de la Amenaza. Curso de Estado Mayor.
4. Oficina del Alto Comisionado para la Paz, (2006). Informe ejecutivo. Oficina del Alto Comisionado para la Paz. Bogotá.
5. Programa de Naciones Unidas para el Desarrollo, (2006). La Justicia tiene la Palabra. En: PNUD. Hechos del Callejón Número 14. Bogotá.
6. Programa de Naciones Unidas para el Desarrollo (2005). Los 10 temores del proceso de Desmovilización. En: hechos del Callejón. Bogotá.
7. Romero, Mauricio. Disidentes, rearmados y emergentes: ¿Bandas criminales o tercera generación paramilitar? Informe N° 1. Bogotá: Comisión Nacional de Reparación y Reconciliación.



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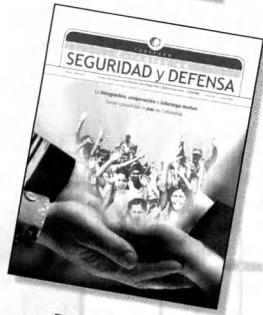
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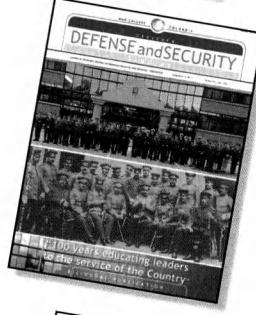
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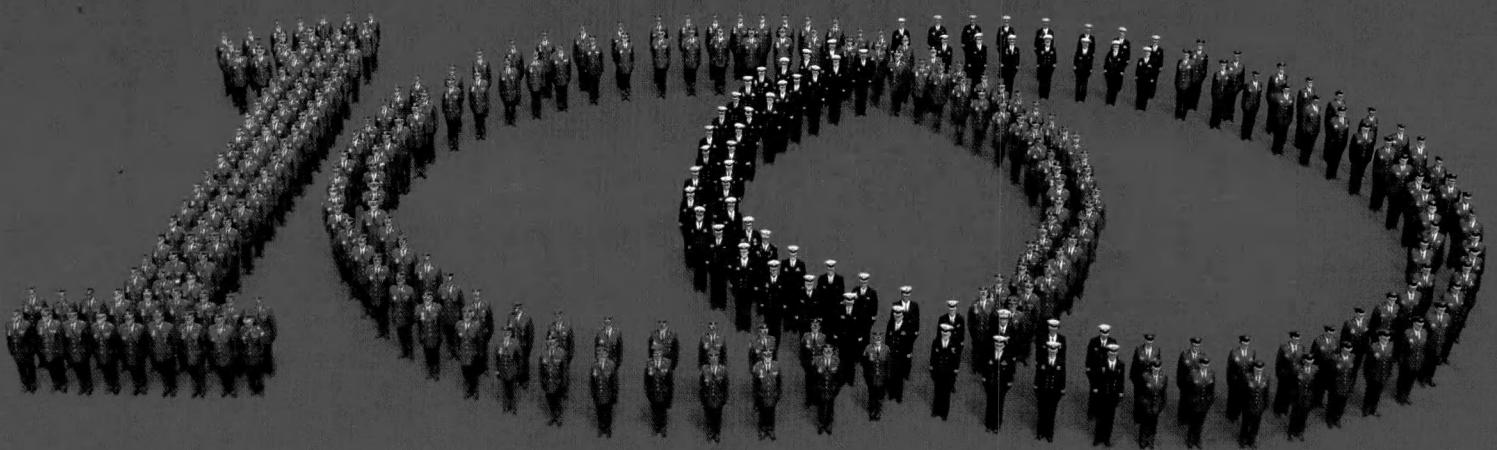


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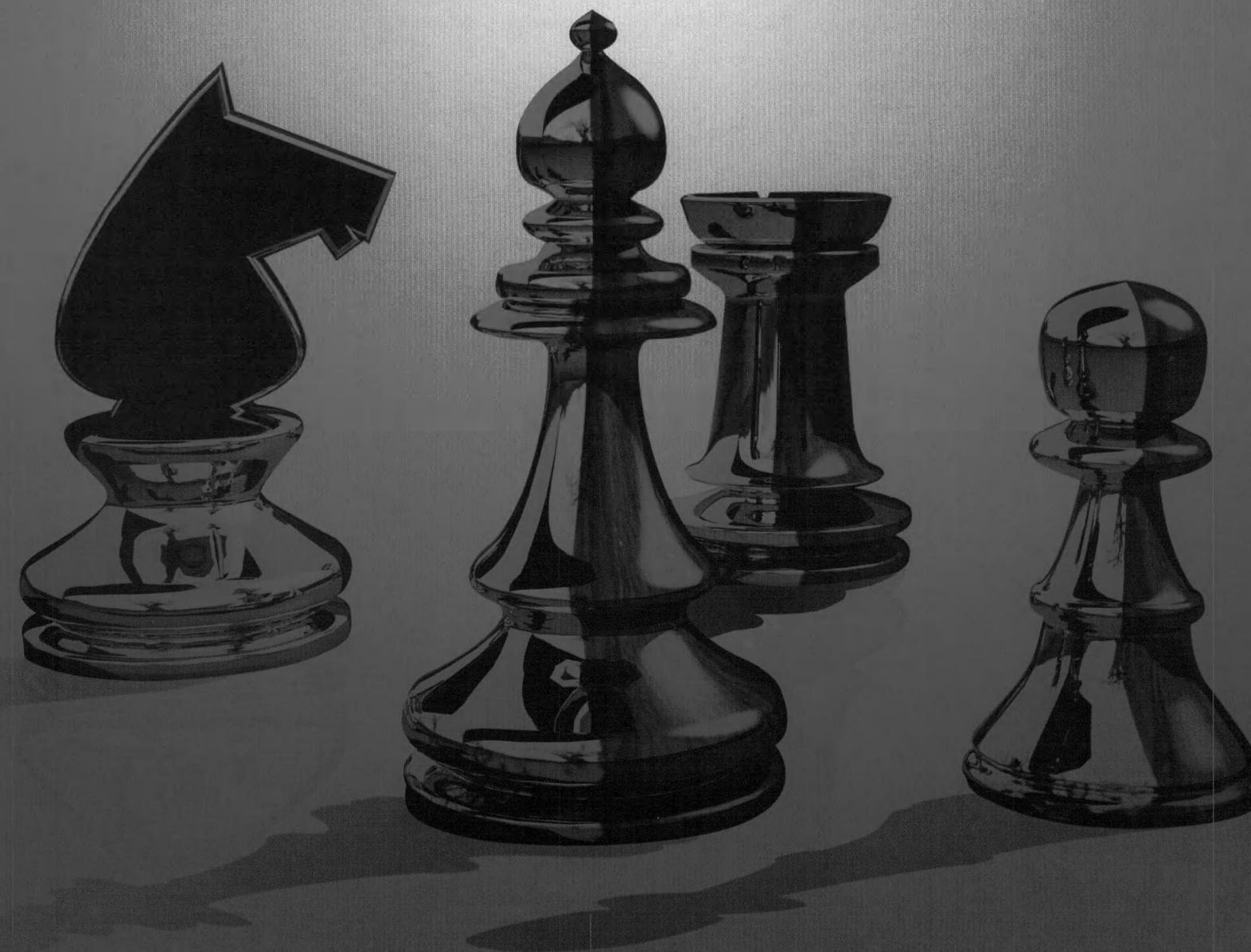
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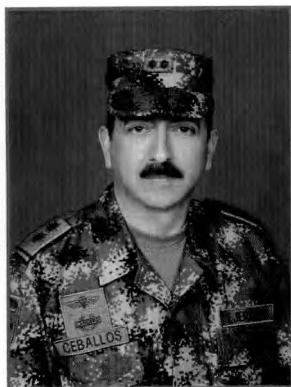
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► Editorial



**MG. EDGAR CEBALLOS
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Director of the War College

For almost 200 years, Colombia has experienced continuous developments in several areas including advances in national security and defense in accordance with current national and international contexts. In order to achieve this progress, it has been important to develop a dynamic relationship between the military apparatus and academic training and research. Correspondingly, this has allowed maintaining the military's combat capacity against multiple types of violence that pervade the peace and tranquility of Colombian citizens and the prosperity of the nation.

Consequently, the Escuela Superior de Guerra –War College- remains the fundamental benchmark of military thinking which, from the academy, reinforces the skills of the military personnel as socially responsible advisers to the military command and the national government. In keeping with this mandate, the essays published in the eight edition of this magazine "Defense and Security Studies" are instruments for analysis and objective critique regarding a number of subjects essential to this discipline and that are relevant for the future development of the country in an international framework.

The documents published in this edition allow revising current and future military missions for the Military Forces in Colombia; including scientific developments, military sciences, and institutional policies. From this perspective, this edition includes a series of proposals directed to improve the role of the military forces as a reference point for peace building given the particular characteristics of the Colombian case. ≈

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JOAQUÍN ROMERO,
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LTC. JEYSON VELANDIA,
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► The International Criminal Court in Africa: the political drivers of its intervention

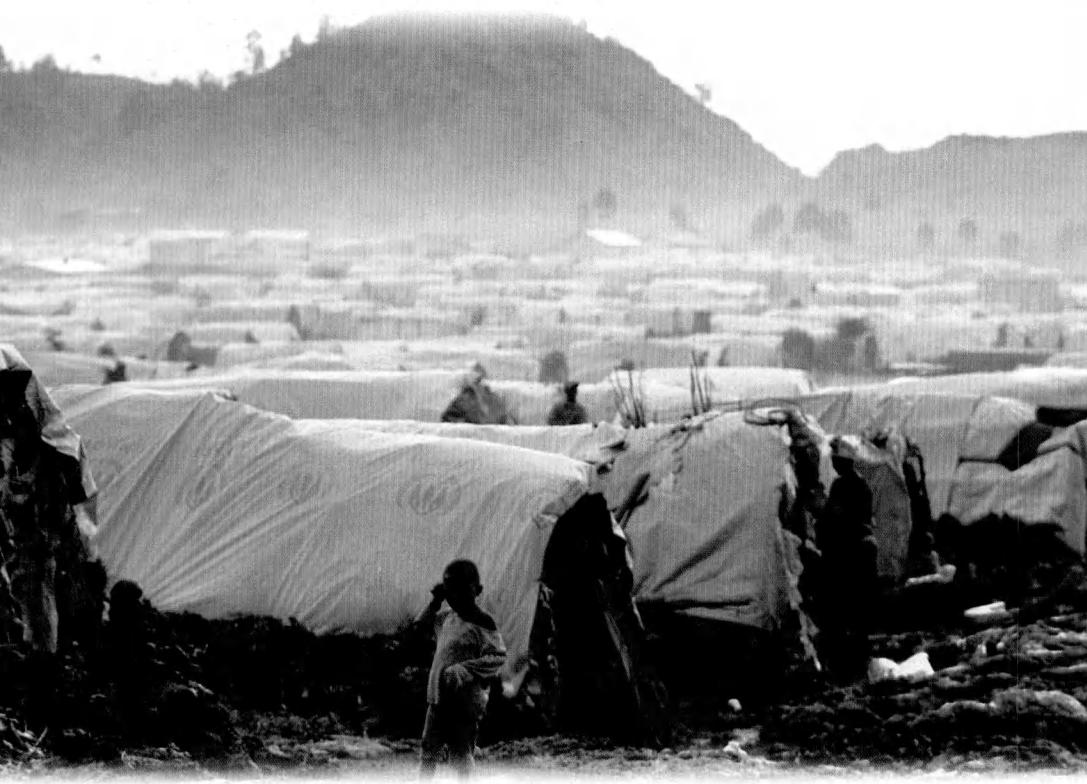
This article debates political discretionality exerted by the International Criminal Court in each of its four interventions in Africa, through the description and analysis of certain patterns of conduct common to all of the Court's interventions in these countries. As a result, this article attempts to present the mechanisms of political conduct superimposed by the Court on the provision of justice during its activities in Africa.

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Up until today, the International Criminal Court (ICC) has identified, in four different countries, a number of situations in which some individuals (among them, government officials and other non-government affiliates) are presumably responsible of committing a series of crimes falling within the competence of this court. These cases are found in The Central African Republic, The Democratic Republic of Congo, Sudan, and Uganda which have become the "guinea pigs" for the legal actions of the Court. Although the ICC has been operating since 2002 it is still undergoing a process of legitimization as an effective international legal system. However, this long process has not hampered the issuing of 13 arrest warrants against individuals for having allegedly committed genocide crimes and other war crimes. Nevertheless, only four suspects are under the Court's custody pending trial. On the other hand only one person¹ has voluntarily handed himself over to the ICC; this makes 14 the number of individuals with open cases in The Hague.

Under this panorama a fundamental characteristic can be inferred –common to the four countries: they are all located in Africa. Furthermore, three of these countries have ratified the Rome Statute² and have, unilaterally, submitted their cases to the ICC. The fourth country, Sudan, has been included in the Court's investigations after the United Nations Security Council³ referred its case following a narrow political bargaining within the UN. Nevertheless, after a brief appraisal of the facts, a question arises, if the ICC is an expression of legal power with a geographically universal task, why is it that only the cases of African countries have been subject of legal action by the ICC? A first quick glimpse of the whole situation, would allow distinguishing the most common characteristics of the four countries: (i) accelerated independence processes; (ii) strong ethnic tensions; (iii) a constant condition of political instability; and (iv) the subsequent use of violence as an instrument of social action.

These characteristics can be seen, *a priori*, as the main cause and reason for the Court's intervention in these countries. However, there may be other political motivations behind the court's behavior that may also explain why certain States defend –or not- the continuity of the actions of the court. These motivations seem occasionally to be overlooked; yet, they are unequivocal elements in the development of the investigations carried out by this international legal instrument.

For this reason, this document will attempt to describe the factual similarities shared by the four intervention cases and, from that point on, evaluate the elements that have determined and defined the beginning of the investigations from the viewpoint of international political governance. This analysis is made with the sole purpose of examining the main patterns of conduct followed by the ICC during an eventual or feasible intervention anywhere else on the planet.

> Common characteristics of the countries considered

In order to develop the idea of patterns of conduct followed by the court, which are common to all and each of the four countries examined by the ICC, it is important to keep into consideration three essential elements: the exact moment when the situation was submitted to the ICC, the way in which these submissions were made, and the lapse after which the investigations actually started.

Yoweri Museveni's⁴ Uganda was the first country -member of the Rome Statute- to submit its case unilaterally to the Court. It was believed by Uganda's officials that the court did not have jurisdiction over the specifically referred situation involving the members of the Lord's Resistance

1 Alleged leader of the "Justice and Equality Movement" operating in Darfur, his name is Bahr Idriss Abu Garda and voluntarily appeared before Pre-Trial Chamber I of the International Criminal Court on May 17th 2009. During his imputation audience the charges of which he is accused were confirmed for his trial in October 2009. Corte Penal Internacional. Abu Garda est arrivé dans les locaux de la Cour pénale internationale. In: <http://www.icc-cpi.int/Menus/Go?id=396e8b4e-d618-4dce-a444-6c0ea6634c44&lan=fr-FR>. Access in June 20, 2009.

2 109 countries have ratified the Rome Statute to July 2009.

3 S/RES/1593 (2005). May 31 2005.

4 Former guerilla leader and president of Uganda since 1986.

Army. Nevertheless, the files concerning the situation in Uganda had been on the court's attorney desk, Luis Moreno Ocampo, since December 2003. This was not the first time an investigation was officially opened by ICC officials. Likewise, the government of Joseph Kabila⁵ of The Democratic Republic of Congo referred unilaterally its situation to the ICC in March 2004. The investigation began just a few months later –in June the same year– and the attorney's office proceeded with the case regarding aggravating violence against civil population since, in appearance, some rebel groups, kivu and ituri, from the easternmost regions of the country had been protagonists. Meanwhile, the investigation regarding the situation in Uganda started in July after the court had made sure that, once the case was submitted, it would not be against the interest of justice⁶.

On the other hand, this interest for justice was closely linked to the delay to open the investigation regarding the situation referred by the government of Francois Bozizé president of Central Africa since December 2004. Only in May 2007 ICC officials were mobilized to the Central African Republic to initiate the investigation. This was also the result of a strong conflict of interests and diverging claims concerning the effective jurisdiction of the International Criminal Court among the members of the Central African courts. In the meantime, the United Nations Security Council had already submitted the specific situation of Darfur,⁷ in Sudan, to the Criminal Court in The Hague –since March 2005- which immediately opened the investigation in June that same year.

In any case, the time frame in which the Office of the Prosecutor of the ICC opened the on-field investigations in each country would be groundless or inconsistent –within the analytical framework proposed in this document- if the common characteristics of the four countries intervened by the court are not analyzed as well. As the result of a decolonization wave in Africa after the Second World War, these countries had to deal with the administrative and organizational failures produced by the colonists after they had departed from African lands. British in the case of Sudan and Uganda, French in the case of the Central African Republic, and Belgians in the case of The Democratic Republic

of Congo, rushed to abandon their former monopolies and mining exploitation niches during the decades of the 1960s and the 1970s. Pressed not only by the development of tenets such as self-determination, but by their own economies' profound fiscal ailments –provoked by the maintenance of the colonies- the path followed by the Europeans was to hastily abandon Africa. With it, the polarization of political power and the absence of lasting democratic mechanisms became the most evident consequences faced by the newly formed states –whose political borders had been ruler-drawn in European palaces⁸ – cut arbitrarily across tribal lands with no regard for ethnic, social, and cultural differences. As a result, political sectarianism and the instauration of dictatorships in all of the countries studied⁹ have had nuances of ethnic opposition that still exist and are the basis for the development of violence and conflict in each of them.

Acholi in Uganda; the Yakoma in Central African Republic; the fur and Zaghawa in Darfur and the Hutus in the Democratic Republic of Congo, to mention just a few of the best known ethnic groups that had been victims of extermination campaigns initiated by several political leaders a few decades ago. Their reactions respond to a talionic justice which ranges from taking up arms against each other, to the creation of armed groups such as the *Mouvement pour la Libération du Congo* (Movement for the Liberation of Congo)¹⁰, the *Front National pour la Libération du Congo* (Front for the National liberation of the Congo) and the *Lord's Resistance Army* or the *Justice and Equality Movement*. The impact and the outcome of the actions of these groups are evident even today after sexual attacks, pillaging, forced recruitments, and systematic exterminations are the means by which these groups operate.

In addition, it should be noted that, there is a great number of accusations against government institutions and officials which may as well be employing the same patterns of conduct previously described. The accusations made by different sectors of civil society around the commission of these crimes aim at both sides to the conflict so much in the past as it is today. These situations revolve around various dreadful characteristics of political instability and racial hatred –not to mention constant poverty and inequality known to be central catalysts of this common scenario- and have apparently

5 Son of murdered Laurent-Desiré Kabila and president of Congo since 2001.
6 This judgement is based on the idea that the ICC will abstain from initiating an investigation if such endangers the proper development of justice during a specific situation. Moreno Ocampo, Luis. Discours devant la Quatrième session de l'Assemblée des États parties 28 novembre - 3 décembre 2005. In: http://www.icc-cpi.int/NR/rdonlyres/0CBFF4AC-1238-4DA1-9F4A-70D763F90F91/278515/LMO_20051128_French.pdf. Access June 22, 2009.
7 This had become the main topic of international thinking for several governmental and non-governmental agencies, due to the humanitarian crisis which had displaced thousands of people to different countries.

8 It is worth remembering some historical details like the Berlin Conference in 1889 when the main European world powers at the time divided among them the whole African Continent.
9 In the case of Congo, it is worth mentioning Mobutu Sese Seko, in the case of Uganda Idi Amin, and finally in the case of Central African Republic, Jean Pierre Bokassa.
10 This group not only operates in Congo but also in the Central African Republic after the invitation of former president Felix-Ange Patassé.

become the reason and cause for the intervention of the ICC as a system capable of delivering justice. However, within the analysis of the reasons that led to the ICC's intervention in these countries a series of factors have to be taken into account in order to understand the political motivations underlying the court's actions. On the one hand, there is local political steering in the cases where the country unilaterally submitted the case to the court –not always obtaining the expected results- then comes the negotiations among states within the UN Security Council as the guarantor of peace, stability of the international system, and off course, the legitimization criterion which the court is currently undergoing.

> Political governance

A common political calculation made by government officials, who were in charge of submitting their country's case to the ICC, was the search for a mechanism to constrain rebel leaders in their territory –several of these groups still active today. The logic behind this decision was that if the ICC investigated the situation in Uganda, Central Africa and Congo then, the armed groups in these countries would have been more likely to offer a truce and begin negotiation talks in order to surrender their weapons and resolve local conflicts. However, the calculation was not accurate enough to predict its limitations and outcomes. For example, in the case of Uganda, the decision of submitting the case to the ICC not only promoted an intensification of hostilities by the Lord's Resistance Army but pushed the rebel group to also impact the Democratic Republic of Congo. This caused the communalization of a conflict that had been limited only to Kampala. In the case of Congo (despite the fact that three individuals are being processed by the international court after being captured) violence seems to prevail, and the leaders that remain do not command universal acceptance or keep on committing crimes; unfortunately they are not subject of effective coercion by the ICC whatsoever¹¹.

Now, in the case of the only situation submitted by the United Nations Security Council, it is important to assess the decision making process behind the UN's resolution to surrender this specific case to the ICC -keeping in mind that the UN is an expression of the international community's will. The constant accusations and the fast media coverage regarding mounting violence in the Darfur region –which increased exponentially in the dawn of this decade- provoked the reaction of the international community –mainly in the European

Union¹²- to take action on immediately. The ICC became an option as a mechanism for approach and coercion before the government of Al Bashir; known as one of the world's worst dictators and the cause of regional disruption.

However, it should be noted that, on the other hand, soft power is a valid and useful concept preferred by Europeans in the international arena. The reciprocity and defense of International Law is used as a means to enhance the legitimacy of the system. As a result, concerns over the situation in Darfur were transferred to the UN Security Council where, despite Russian, Chinese and American opposition the power of veto was not used. The United States did not halt the process after seeing this as an opportunity to lessen Al Bashir's actions; marked as a government unwilling to comply with the American model since the 1990s. In the case of China and Russia, although their economic interest in Sudan was considered –ranging from weapons to oil-, they preferred not to confront the rest of the members of the permanent Security Council by blocking the referral of the case to the ICC. However, there is doubt whether political factors will influence future referrals from the UN Security Council to the ICC. What would happen if France or the United Kingdom, members of the Rome Statute, put on the table the possibility of an intervention of the ICC in a country that is of interest to the United States? Will the United States hesitate to use its veto power to hinder the process?

Finally, it is important to keep in mind that the ICC is an international institution created by a multilateral treaty as an expression of international will. As a result, its officials are responsible for administering its rules and regulations and are accountable for their performance and specific results. Large amounts of money are invested by the governments of Europe and Japan, which expect to be compensated through the provision of justice in those regions where the operations of the ICC are not especially strong or noticeable. In the case of Africa, due to the instability context previously discussed, added the constant accusations made by non-governmental organizations –which are used by the tribunal as a means to carry out the investigations- the delivery of results could be easily attained in comparison with other specific situations around the globe.

The work of the ICC was practically finished when ICC officials opened the investigations. Moreover, the court's prosecutors simply had to confirm all the facts and events for those responsible to be processed. It is not within the ICC's competence to make the arrests –still

11 Currently in the regions of Ituri and Kivu a number of illegal armed groups still operate such as the Congrès National pour la Défense du Peuple and the Forces pour la Libération de Rwanda.

12 Member of the ICC as whole.

have to be made- and, therefore, the court's officials can rest easy. However, it is worth asking whether the ICC would have decided to start any investigation at all in the case of a country that is not located in Africa. It is unfeasible that the quickness to provide results would have been the same, especially if the provision of justice goes against the interests of a government that supports –on paper at least- the actions of the ICC but, in a different context, the same government can be the custodian of individuals who have committed war crimes or crimes against humanity¹³.

Conclusions: The provision of justice and political governance

The interventions of the ICC in Africa –so far the only continent subject to the court's actions- respond to different criteria that go far beyond traditionally accepted considerations. For instance, it is true that the particular situation in each of the four countries has had changing patterns and different degrees of severity due to a great number of political interactions in which ethnic antagonism spurs all sorts of disputes. Moreover, ethnic rivalry has deepened instability within each of these societies. The role played by decolonization as well as the generalized and systematic use of violent means by local governments has thwarted and negatively influenced the provision of justice. On the other hand, although the characteristics and descriptions outlined for each country, in this article, may seem like the main catalysts for the court's intervention, they are not the fundamental reason why the ICC has taken part in these countries. It is fundamental and advisable to observe the political situation under which the interventions of the court occurred in order to determine how this international tribunal makes the decision of intervening or not in any given country. Both government officials and the international community in general have played a fundamental part in the political steering adopted by the International Criminal Court before, during, and after the investigations were opened in Africa. In sum, the political interests and calculations in each of the cases studied have been a basic determinant of the way, timing, and means depicted by the court during its interventions in the countries considered here.

The debate regarding the legitimacy of the provision of justice where justice is chimerical is still pending.

Nevertheless, it was the provision of justice that justified the creation of the ICC in the first place, and therefore, it should be the main driver behind the court's interventions. But yet again, in certain occasions, this organism seems to be an "appendage" of political agendas and interests, and loses its vital role in furthering the ideals of justice as a purely legal instrument. Today, while the cases of Afghanistan, Georgia, and Colombia¹⁴ could be the next to be submitted to the ICC by this court's prosecutor, the question of whether a political motivation could be fundamental or condition the way in which the decision to intervene in this countries is made raises several concerns. It is fundamental that the ICC continues to provide results and amplify its current scope in order to strengthen its international acceptance and consolidate its position as provider of justice. However, it is unfeasible that the court ceases being steered by certain political motivations contrary to the different aspects of the system, before it actually becomes an institution in charge of providing an immaterial good where there is none. ■

Bibliography

- Allen,T. (2006), Trial Justice: The International Criminal Court and the Lord's Resistance Army. Zed Books.
- Branch, A. (2007). Uganda's Civil War and the Politics of ICC Intervention. Ethics and International Affairs No. 21 Vol. 2. Pp 179–198.
- Dagne,T. (2009), The Democratic Republic of Congo: Background and current developments. Congressional Research Service Report for Congress R40108. Pp. 1-16.
- Salih, K. (2008), The internationalization of the Communal Conflict in Darfur and its regional and Domestic Ramifications 2001-2007. Arab Studies Quarterly. No. 30 Vol. 3. Pp. 1-24.

Electronic documents

- Apretosei, A.I. (2008). The International Criminal Court: Starting with Africa? PhD Dissertation: Peter Pazmany Catholic University. Budapest. P. 258. In: www.jak.ppke.hu/tanszek/doktori/letolt/aia_tezisa.pdf. Access June 21 2009.
- Moreno Ocampo, Luis. Impunity No More. En: The New York Times <http://www.nytimes.com/2009/07/02/opinion/02iht-edocampo.html> Access June 02 2009.
- Pfützer Tobias. Deutschlands Krieg gegen den Terror. Int: Connection e. V. <http://www.connection-ev.de/z.php?ID=135>. Access July 07 2009.
- S/RES/1593 (2005. In: http://www.un.org/Docs/sc/unsc_resolutions05.htm Access June 17, 2009.

13 In this point, the case of the NATO's mission in Afghanistan (ISAF) may be an interesting example if the accusations, in which this organization's troops omitted the provision of justice, are confirmed. As a result, what would be the role of the European governments involved? Pfützer Tobias. Deutschlands "Krieg gegen den Terror". In: Connection e. V. <http://www.connection-ev.de/z.php?ID=135>. Access July 07, 2009.

14 Moreno Ocampo, Luis (2009). Impunity No More. In: The New York Times. <http://www.nytimes.com/2009/07/02/opinion/02iht-edocampo.html>. Access July 02, 2009.

» Beyond conflict post conflict and violence perpetuation: ten ideas for a research agenda

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This article highlights the need to encourage academic research on the conditions and specific features of post conflict scenarios in Colombia, in a way that becomes a significant input for the design and execution of policies that will effectively contribute to the construction of peace and security as well as prevent the risk of future violence in that country.



Key words: Post conflict, Colombian Conflict, Peace-building, reproduction of violence.

Justification

The study and analysis of feasible post conflict conditions and scenarios faced by Colombia, once current security concerns -inflicted by the illegal armed organizations- have been resolved, is a paramount political and strategic issue for the country. It is **political** given that a successful neutralization and disarticulation of these organizations will only be real as long as it is sustainable and is translated into a tangible reduction of violence and other threats to security not only for the government and its institutions but, more importantly, for human security¹; this will fundamentally depend on post conflict conditions and the government's capacity and capability to effectively address the fundamental sources of conflict. It is **strategic** because an adequate assessment of feasible post conflict scenarios is, with its attributes and potential risks, a central input that can not be underestimated by policy-makers and decision-takers; both for its valuable insights as an anticipatory tool, as well as for its contribution to the definition and implementation of specific actions today, which may eventually have a relevant impact in the future.

As an object of study, *post conflict* is relatively new within security analysis and has only acquired certain identity during the Post Cold War period. Moreover, empirical and case studies have been the primary approaches for its analysis (Paris, 2004; Stedman et al, 2002). Nevertheless, although it might eventually seem precarious, several models have been built on this foundation (Collier et al, 2003) that may provide more than just rules of common sense and good practice in the development and outlining of the issues and challenges faced by society during post conflict periods. From a preliminary review of existing literature, this document proposes ten ideas that could enhance an investigation agenda centered, specifically, on the underlying factors and conditions that, in the case of Colombia, could result in the perpetuation of violence during post conflict; which in turn would deliver not only a false military victory but a feeble end to the conflict.

1. Relevance and need

Whatever the form taken by the armed conflict between Colombia and the illegal armed organizations when the confrontation is finished, either due to a military victory over these groups or after peace negotiations are carried out and accords have been signed, the Colombian government and society will have to tackle the respective challenges and complications common to any post conflict period.

Peacemaking and peace-keeping must come to include "comprehensive efforts to identify and support structures which will tend to consolidate peace and advance a sense of confidence and well-being that prevents new conflicts" (UN, 1992) and, in particular, provide societies with the necessary tools and resources to successfully tackle the wide range of challenges related to the stages of post conflict: socio-economic recovery and the reduction of associated risks (Collier, 2007). In order to be truly effective, peace-building processes must start during conflict itself; at least for four major reasons (Rettberg, 2002):

- (a) It contributes to prevent rising violence and mitigate its present impact,
- (b) allows anticipating future challenges and designing intervention strategies,
- (c) contributes to the transformation of the conflict,
- (d) generates the social and institutional capital within the country and internationally –fundamental for the future stages in the process.

¹ One of the immediate effects after all current security issues are resolved, in other words when the armed conflict is over, has to do with the gradual transition from state security to human security in Colombia.

Furthermore, any activities directed towards peace building can not be the result of some random quirk of fate caused by luck or the caprice of some distant actors (governmental, non governmental and/or international) but ought to be the response to an accurate diagnosis of the concrete reality and conditions of the conflict. This implies, on one hand, taking into account the experiences acquired in other contexts and the lessons learned by other actors that have had the opportunity to participate in these types of post conflict scenarios (international cooperation agencies for example); but simultaneously, it supposes the recognition of certain features that reflect the unique characteristics that violence has adopted during the conflict, during its expansion and contraction cycles, as well as its impact on domestic politics, culture, economics, and society at large. Many of these unique features may in fact, have existed prior to the outbreak of the conflict itself, and may follow an independent rationale; nevertheless, it is usually associated with the conflict².

Probing all possible post conflict scenarios for Colombia and identifying the specific factors that could condition them is, therefore, a priority that must be addressed even before the cessation of hostilities. This would offer all actors –particularly state security organisms- optimal criteria for effective decision making and intervention, first for the containment and neutralization of the effects of the confrontation, and then, for the consolidation of a lasting peace –this is most important during the first five or seven years after conflict has been resolved when the risk of new conflict is highest. In the end, “*The post conflict peace is typically fragile: the typical country faces around a 40% risk of reversion to conflict during the first decade of peace. As a result, nearly half of all civil wars are due to post-conflict relapses. Both external actors and the post-conflict government therefore rightly give priority to reducing the risk of conflict*” (Collier et Al., 2007).

2. The end of conflict does not mean the beginning of peace

Although the discussion of whether there is or there is not conflict is far from being solved -neither in academic circles nor in politics- (Sambanis, 2004), there seems to exist a relatively strong degree of consensus with regards to two fundamental concepts: its duration

and the lethality of combats between permanent armed organizations.

For example, the Stockholm International Peace Research Institute (SIPRI) asserts in its analysis about armed conflict that “*All conflicts that have resulted in at least 1000 battle-related deaths in a single year. Once a conflict has reached the threshold it continues to appear in the annual tables of conflicts until the contested incompatibility has been resolved and/or until there is no recorded use of armed force, resulting in deaths, between the parties and concerning the same incompatibility during the year*”³. Simultaneously, for analytical purposes a conflict is considered to be over only if peaceful conditions remain stable after five years since the end of the armed confrontation without violent outbreaks during the same period.

The way in which the conflict is handled and finished is, in the beginning, unimportant. However, reality has proved otherwise (although for some annalists peace is more sustainable if the conflict has been solved as a result of a military victory of one of the parties to the conflict) (Luttwak, 1999) –this hypothesis seems to be supported, partially at least, by some statistics (Human Security Centre, 2007). This tenet, however, leaves out the fact that in certain occasions, military victories are unattainable, and therefore, negotiated solutions become not only a strategic option but the only possible recourse. In any case, whether the conflict is resolved through military means or as a result of negotiations post-conflict scenarios are not a peaceful picture, but rather a process for the reconstruction of peace, and therefore, a process that could evolve into a long-lasting peace, or at least, a stable peace, or on the contrary, slowly degrade and eventually result in new crisis or even war (Lund, 1996).

Thence, the end of a conflict can not always be compared with the establishment of peace or with the reestablishment of optimal security conditions. Peace building and the consolidation of security are tasks that should be projected for periods beyond the end of the military confrontations and the demobilization of the armed groups; because the consequences of any given conflict go far beyond conflict itself and could even be perpetuated and generate new conflicts (Collier Al., 2003).

2 “Naturally, the problems associated with war do not start when fighting begins. They were present before and may have precipitated, and even generated, the civil conflict” (Chen et Al., 2007).

3 These and other criteria under which the analysis and statistics made by the institute can be reviewed at: <http://www.sipri.org>

3. If the solution to conflict is negotiated, the precariousness of the peace accords has to be recognized

It is important to understand that the chances of reversion to conflict tend to be higher if the original conflict was resolved after a process of peace negotiations. Several factors may explain this vulnerability:

- a) the high number of implicit transactions during negotiations,
- b) lack of trust among the parties (which can be translated into new security dilemmas),
- c) the fragility of the institutions in charge of assuming all reconstruction efforts, and
- d) slow reforms that do not match the expectations of the parties, among other reasons.

On certain occasions the risks of violent outbreaks increases as a result of peace accords built on "maximalist" and "omni-comprehensive" perspectives that, in the practice, make of peace an unfeasible and unverifiable end (which ultimately could give rise to the feeling of "deceit" and "frustration"). On other occasions, the risks of violent outbreak develop because, from a very narrow perspective, peace accords attempt to juxtapose peace with demobilizations and the dismantling of illegal armed groups without actually dealing with the fundamental structures and factors that provoked the emergence and perpetuation of the conflict in the first place.

A revision of the contents of several peace accords around the globe between the governments and warring factions, allows concluding that these agreements are not lasting solutions to crisis and that these revolve around political and military topics (Human Security Centre, 2007). The political provisions included in peace accords have to do, fundamentally, with holding new elections, the formation of an interim government, the inclusion of leader-revels as part of the government, the transformation of former armed structures into political parties, and the establishment of diverse power sharing mechanisms. In the military sector, peace accords include ceasefire and security arrangements as well as occasional amnesties, the disarmament and incorporation of rebels into the regular army, and the deployment of peace-keeping missions.

Nevertheless, even if the above mentioned provisions are adequately enforced, they seem insufficient to the maintenance of future security and peace conditions. In other words, "*The provisions of a peace accord may constitute necessary steps toward consolidating peace, but they frequently neither deal adequately with the problems that led to the war nor create an environment conducive*

to resolving future conflicts peacefully. In consequence, the reform process must also be deepened during the consolidation phase to enable fundamental political, economic, and social grievances to be addressed, whether they are enshrined in the peace agreement or not" (Ball, 2001).

4. Reasons for the precariousness of peace accords

The apparently inherent precariousness of peace accords, in general, seems to emerge out of the idea that these type of accords are negotiated based on a political discourse (on the part of all warring factions) underpinned by a sequential justification of their past actions and the use of armed means as the main cause for violent insurrection; in contrast, the political discourse of the government hinges on the maintenance of the constitutional order and the security of the state. Accordingly, less public agendas, which actually enclose the real interest of the parties, are kept confidential (hidden) or in the best case are implicitly understood. Moreover, the real factors are never disclosed but remain the most important driver of conflict throughout time.

In fact, there seems to be more consensus among academicians regarding the idea that violent insurrections (whatever their type or origin) will simply occur. In addition, the feasibility thesis seems to further explain how conflicts develop "*where insurrection is feasible it will occur, with the actual agenda of the rebel movement being indeterminate*" (Collier et Al., 2007).

This fundamentally explains how societies that have been subject to conflict and currently undergo a series of political transitions are especially prone to the emergence of new conflicts and to experience new forms of violence. In other words, any political and military provisions contained in most peace accords may facilitate the demobilization and even the reintegration of former combatants; however, they will not necessarily have a relevant impact on the final outcome –which should include the security of the state as well as other social and economic concerns. Therefore, their impact on the creation of the conditions that may prevent future violence outbreaks is meager and, as a result, violence will persist (probably under more blurry but equally destructive forms). Any efforts to reach lasting peace will prove futile unless peace accords are simultaneously implemented with a series of interventions to fight the conditions that fostered and reinforced violence (these should also tackle any other conditions that developed as result of the conflict itself, and which might have evolved to become independent entities, and therefore, could outlive the conflict and be reproduced even in the absence of the original cleavages).

5. The complexity of the Colombian armed conflict

The previous considerations are especially relevant for Colombia, a country where the conflict between the state and illegal armed forces has taken a series of special characteristics that fundamentally differentiates it from other conflicts. Consequently, it is impossible to compare it to other conflicts that may seem similar⁴. Indeed, the so called "Colombian armed conflict" or better yet "the problem of internal security" in Colombia is characterized by five distinctive features:

- (a) **Multiple:** it involves a great number of actors competing and fighting among them. As a result, this conflict can not be understood as a mere confrontation between the government and some rebel forces (terrorist organizations); this is why it is also possible to refer to it as a compendium of "conflicts" rather than just one "conflict".
- (b) **Intertwined:** given that none of the actors involved can impose their own dynamic and stance. In several occasions, their capacity of intervention is conditioned by the conduct of the others. This situation makes it difficult to distinguish and isolate the independent variables that may have an effect over their actions.
- (c) **Superimposed:** it is simultaneously the cause and the effect of other types of violence, from which it may profit or even become a fostering factor (Camacho, 1991).
- (d) **Mutable:** it is difficult to defend the idea of a well organized and solid identity for the actors involved in the conflict due to their long history and a series of changes that range from simple generational changes to the context in which they originally developed or, for example, their status in 1982, or their current situation (Pizarro, 2006).
- (e) **Multidimensional:** this is due to the plurality of the actors involved; the links that exist between them; their interdependence; and the degree in which the dynamics of their bonds has affected other social patterns and outcomes.

Any efforts directed to anticipating future post conflict scenarios and future peace building agreements must encompass all relevant aspects and issues of the conflict including the characteristics we have just mentioned. Nevertheless, the problems raised by the characteristics

of the Colombian conflict can not be tackled during peace negotiations or any other peace agreements, not even in the hypothetical scenario of negotiations that would include all social and armed actors involved in these series of relationships and dynamics. The parts are all, in any case, immersed in the idea of an "armed conflict".

6. The Colombian conflict and its "institutional" dimension

The "complexity" of the effects of the Colombian conflict is more notorious in what could be called its institutional dimension. In a more broad sense, institutions are regulatory mechanisms at the interface between social and cultural relations in which all social actors synchronize their own expectations and manage to regulate social dynamics and rights.

Although Colombia does not qualify as a Failed State, it could be asserted that Colombia has traditionally been a partially dysfunctional and intermittent country. This intermittency and dysfunctionality has been fostered by other factors such as:

- (a) its geography and the difficulties it has posed on the state, added the government's inability to consolidate an effective control over the territory⁵;
- (b) Colombia's historical weakness in terms of hegemony and political dominance reinforced by fragile fiscal and regulatory mechanisms;
- (c) a slow, delayed, and insufficient social citizenship incapable of incorporating the majority of society in the use and exercise of their own rights (for example by substituting the privileges administered by the local powers);
- (d) the existence of fragmented elites without sufficient social foundations and a lack of conscience of their role as leaders (INDH, 2003); and finally,
- (e) the proliferation of certain "alternative orders" for the regulation of social networks and social behavior (Uribe, 1999).

Under these conditions the conflict –and the myriad of actors, dynamics and logics associated to it– has persisted and several institutional structures have developed within it. These structures have grown both to influence most social instances regulating social

⁴ This complexity includes the "definitional debate" of whether Colombia is actually experiencing an armed conflict at all or rather a civil war or a war on terror. Moreover, the term "ambiguous war" with which the complexity of the problematic has been questioned is also included Cfr. Pizarro, (2002); Posada Carbó, (2001).

⁵ It is worth mentioning that the lack of political will to ensure the spatial connectivity in the national territory. Cfr. Fischer, sf.

behavior and develop illegal and legal markets that have permeated politics (especially after the enlargement and strengthening of decentralization mechanisms included in the constitutional reform of 1991 –these reforms provoked massive influence of the illegal armed organizations in the management of local and regional affairs including the administration of the economy and the exercise of power.

Drugs trafficking, illegal land tenure systems, arms trafficking, and markets of violence (the supply and demand of violence –seen like a professional and specialized activity- as a means to resolve disputes and controversies regardless of the government) among other illegal activities have been permanently dealt with by the government; however, the persistence of illegal activities has spawned several illegal institutions encouraged by the armed conflict itself. These parallel institutions compete with governmental institutions or, in other cases, simply replace the governmental apparatus (for example for the illegal activities for which the government does not have the resources, management skills, or technology to attend to the needs of the population or intervene with a rather effective approach). In a way, it supposes the consolidation or ratification of a new order guaranteed by the armed organizations and recognized, many times, as a socially accepted practice by several communities (Camacho, 1991).

7. The end of the conflict as deinstitutionalization

This reasoning poses a challenge to practical approaches to the analysis and construction of post conflict scenarios and peace building in Colombia, for example: to what point, the end of the conflict will imply a certain degree of deinstitutionalization⁶, and therefore, of anarchy in those sectors of society that have been permeated and regulated by different armed organizations? Or, for instance, in the case of the markets of violence, what would be the impact of a sudden increase in potentially specialized "criminal labor" (ex-combatants insufficiently reintegrated to civil life) amid a scenario in which a highly lucrative and headless activity such drug trafficking may attract a considerable number of this unemployed and accessible population?

Post conflict in Colombia may be a particularly vulnerable period that could soon result in the reactivation not only of violence, but of other tensions associated to it. It is this situation that, in particular, raises the greatest risks for the country and therefore, represents the utmost challenge for Colombian policymakers and decision takers as well as for the security apparatus. The end of the conflict will, indeed, bring along the dismantling of the illegal armed structures but also will leave the door open (deregulation and deinstitutionalization) to numerous illicit activities that may prove harmful to national security and to the stability of legitimate political institutions.

Under this perspective, for Colombia, post conflict may signify greater risks due to the multiplication of the causes of insecurity and the amplification and dispersion of violence. Moreover, the risks augment as a result of mounting competition to secure and control certain licit and illicit activities, through also illicit means on the part of formerly suppressed or illegal groups. This would result in an absolute increase of criminality and a reinforcement of macro-criminal structures with the intensification of the risk of corruption and the monopoly of the democratic institutions among other negative effects.

8. Getting involved with Peace building

Therefore, in order to make up for the plausible lack of regulation, control and monitoring, peace building efforts in Colombia must be approached by the government immediately after the demobilization and disarticulation of illegal armed structures has been achieved; it is worth pointing out that several illegal organizations in Colombia have controlled and commanded a great range of social, cultural, and economic activities throughout decades.

The definition of the mechanisms used for peace building must incorporate and recognize that the end of the conflict will fundamentally alter security and welfare conditions in Colombia. Moreover, the end of the conflict will liberate resources and leave open spaces that could spawn violence and instability across an already-fragile peace and, simultaneously, it will generate a number of challenges for security and justice organisms –which may, in fact, be inadequately prepared to face these conditions; up until now their job has been rather narrow and centered around other issues and therefore, they lack the skill needed to cope with a range of unprecedented situations which may come up during the post conflict phase.

In certain ambits intervention alternatives will be more restricted than in others. For example, regarding drug trafficking, the current model –based on prohibitionism-

⁶ The term is used here according to the previously analyzed concept of institution as a mechanism that regulates social behavior. It does not imply the legitimizing or the recognition of control exercised over certain populations or their activities by any of the parties to the conflict by any means but especially by force.

has been unable to effectively address the threats imposed by this phenomenon. Such ineffectiveness will only condition the wide range of possibilities⁷. However, an investigative and planning effort has to be made in order to prevent drug trafficking from becoming –during post conflict- the main source and multiplier of violence and an obstacle towards the construction of lasting peace –drug trafficking has nothing but taken the conflict to frightening levels in the past.

9. The role of the security apparatus

It was anticipated in the previous subheading that the constraints inherent within post conflict pose a great number of considerable challenges to any security apparatus. The first of these challenges has to do with the, no less naïve, demand for the immediate reduction of military spending and manpower based on the wrong assumption that the end of the conflict will bring along lasting peace and the reestablishment of security. This demand may be met and fulfilling in other contexts, however, for Colombia the complexity of conflict dynamics, which we have examined in previous pages, makes it one of the most daunting cases for intervention and solution.

Although, with the end of conflict the threats to security will change, this does not mean that –*ceteris paribus*- security conditions, in general, will have improved, on the contrary, just as we have been trying to elucidate in this document, post conflict conditions will tend to deteriorate and crumble. As a result, the institutions in charge of the security of the nation ought to be preparing their own post conflict agenda and concur with it during the decision making processes that will follow; a stage during which, the priorities, goals, and strategies post conflict will be defined along the already lengthy path to peace.

10. Human security and the individual as reference

Finally, a research agenda directed towards the identification and characterization of feasible post conflict scenarios and peace building must take into account radical changes in the dominant paradigm of security if future efforts are to affect real change for

peace. The state has always been central to security efforts even within the development of President Uribe's Democratic Security and Defense Policy, but particularly as a consequence of the actions and political discourse of the subversive and illegal armed forces throughout the years. Now, during a post conflict phase -in which rapid delivery of a "peace dividend" is critical to establishing or maintaining the credibility of the government and to avoiding the appearance of new risks and threats- it is important to take into account the importance of security for an expanded definition of human security where the individual will become the point of reference for social reconstruction (Thakur, 2004).

The idea of the individual as the key of social reconstruction, in agreement with the demands of any post conflict phase (socio economic recovery and the containment of risks), supposes the redefinition of the role of security and justice, the reconfiguration of security agendas, a broader understanding and appreciation of the actors involved in the conflict for the definition and implementation of security policies, and in consequence, the elaboration of securing and desecuring processes in compliance with peace building and the needs inherent to its consolidation.

Despite the numerous objections that could raise against the theory of human security, this concept may provide a sound basis as a starting point from which a research agenda for post conflict and peace building can be developed: this may not only allow the construction of a wide frame to tackle emerging challenges after the end of the conflict, but can also contribute to the identification of criteria for priority setting during the allocation of intervention mechanisms, the distribution of duties, resources, and loads. All these elements are fundamental to ensuring that violence is not perpetuated beyond the end of the conflict. ≈

Bibliography

1. Ball, N. (2001). The Challenge of Rebuilding War-Torn Societies: Crocker, Chester A., Hampson, Fen Osler y Aall, Pamela (2001). Turbulent peace: the challenges of managing international conflict. Washington: USIP Press.
2. Becker, G. (1968). Crime and Punishment: An Economic Approach, The Journal of Political Economy 76: 169-217.
3. Berdal, Mats y David Malone (editores) (2000). Greed & Grievance. Economic Agendas in Civil Wars. Boulder, Lynne Rienner.
4. Camacho Guizado, A.. (1991). El ayer y el hoy en la violencia en Colombia: continuidades y discontinuidades, Análisis político 12.

⁷ In his analysis of the factors that lead to civil wars, Collier (2004) includes the availability and access to primary natural resources highly valued in the internationally. He concludes that the international community "must leave out of the market any rebel organization" according to the model that represents the Kimberly Process. His analysis is, however, feeble when the resources used by illegal organizations are already "beyond the markets" since these are already illegal, like in this case drugs.

5. Collier, P. (2004). Civil Wars: the Global Threat of Local Strife. The International Bank for Reconstruction and Development / The World Bank.
6. Collier, P. and A. Hoeffler, (2004). Greed and Grievance in Civil War, *Oxford Economic Papers*.
7. Collier, P., Hoeffler, A. y Söderbom, M. (2007). Post-conflict risks. Paper presentado en la Conferencia sobre transiciones postconflicto, organizada por el Banco Mundial en Washington D.C, abril/mayo de 2007.
8. Collier, P., L. Elliot, H. Hegre, A. Hoeffler, M. Reynal-Querol y N. Sambanis (2003). Breaking the Conflict Trap: Civil War and Development Policy, World Bank Policy Research Report. Oxford, UK: Oxford University Press.
9. Collier, Paul y Nicholas Sambanis, (2002). Understanding Civil War. A New Agenda, *Journal of Conflict Resolution* 46(1).
10. Crocker, Chester A., Hampson, Fen Osler y Aall, Pamela (2001). Turbulent peace: the challenges of managing international conflict. Washington: USIP Press.
11. Doyle, Michael W y Sambanis, Nicholas (2006). Making War and Building Peace: United Nations Peace Operations. Princeton: Princeton University Press.
12. Fearon, James, (2004). Why Do Some Civil Wars Last So Much Longer Than Others?, *Journal of Peace Research* 41(3).
13. Fischer, Thomas (s.f.) Colombia: Estado débil sin territorialidad entera. Una visión histórica. (Mimeo).
14. Fortna, Virginia, (2004). Peace Time: Cease-Fire Agreements and the Durability of Peace. Princeton: Princeton University Press.
15. Gleditsch, N.P., P. Wallensteen, M. Eriksson, M. Sollenberg and H. Strand, (2002). Armed Conflict 1946–2001: A New Dataset, *Journal of Peace Research* 39(5).
16. Harbom, Lotta, Högladh, Stina y Wallensteen, Peter, (2006). Armed Conflict and Peace Agreements, *Journal of Peace Research* 43(3).
17. Human Security Centre (2007). Human Security Brief (2006). In: www.humansecuritybrief.info.
18. Informe Nacional de Desarrollo Humano para Colombia (2003). El conflicto, callejón con salida. Bogotá: PNUD.
19. Lund, M (1996). Preventing Violent Conflicts: a Strategy for Preventive Diplomacy. Washington: USIP Press.
20. Luttwak, Edward, (1999). Give War a Chance, *Foreign Affairs* 78(4).
21. ONU (1992), An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping. Report of the Secretary-general, United Nations GA and SC, A/47/277, S/24111. 17 June 1992. In: www.un.org/Docs/SG/agpeace.html Access:
22. Pizarro Leongómez, E., (2002). Colombia: ¿Guerra Civil, guerra contra la sociedad, guerra antiterrorista o guerra ambigua?, *Análisis político* 46.
23. Pizarro Leongómez, E. (2006). *Las Farc-Ep: ¿Repliegue estratégico, debilitamiento o punto de inflexión?* Instituto de Estudios Políticos y Relaciones Internacionales (2006). Nuestra guerra sin nombre: transformaciones del conflicto en Colombia. Bogotá: Norma.
24. Posada-Carbó, E. (2001). ¿Guerra Civil? El lenguaje del conflicto en Colombia. Bogotá: Alfaomega-Ideas para la Paz.
25. Paris, R. (2004). At War's End: Building Peace after Civil Conflicts. Cambridge UK: Cambridge University Press.
26. Rettberg, A. (Coord.) (2002). Preparar el futuro: conflicto y post-conflicto en Colombia. Bogotá D.C: Fundación Ideas para la Paz / Universidad de los Andes / Alfaomega editores.
27. Sambanis, Nicholas, (2004). What is Civil War? Conceptual and empirical complexities of an operational definition, *Journal of Conflict Resolution* 48(6).
28. Stedman, S.J., Rothchild, D. S. and E. M. Cousens (2002), Ending Civil Wars: The Implementation of Peace Agreements. Boulder Colorado: Lynne Rienner.
29. Thakur, R., (2004). A political worldview, *Security Dialogue* 35(3).
30. Uribe, M. (1999). Las soberanías en disputa: ¿conflicto de identidades o de derechos? *Estudios políticos* 15.
31. Walter, Barbara (2002). Committing to Peace: The Successful Settlement of Civil Wars. Princeton:

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» Environmental policy and military activities

This article analyzes the role of the military sector, as part of the structure of the state, and its relation with the environment –natural resources- in general. Moreover, this article discusses the incorporation of environmental variables in military activities from a local and international perspective, in which the international regimes designed for the administration of natural resources would play an important role in the development of environmental policies for the military sector.

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Introduction

The power of States is commonly assessed in military, economic, and geopolitical terms. More recently, the role of the environment and natural resources in the composition of the future power of nations has gradually increased to become a more or less important topic within national and international policies. The repositioning of environmental topics in the national agendas is the result of a growing awareness of the value and importance of natural resources for the development of all nations. Currently, concepts such as Natural Capital¹ are used to include, in economic terms, environmental variables within economic, social, and military policies; this has made possible a better appraisal and management of natural resources –even though, to some this may sound absurd, the economic appraisal of natural resources has allowed the development of more conscientious policies which include in their analysis the patterns and drivers for the consumption of the goods and services provided by the environment. As a consequence, considering the environment as an important economic variable has allowed the development and execution of better strategies and policies for the use of natural resources and the attainment of environmental sustainability²; simultaneously these –the policies and strategies- have a positive influence in the development, administration, and assessment of the power of nations.

One of the most important internationally inclusive attempts to consolidate major global challenges, including environmental degradation, is the Millennium Development Goals (MDG)³. The result of the international recognition of the importance of sustainable development as the fundamental axis for the future survival of mankind, in September 2000, the representatives of 189 countries signed the MDG. Although the road to the achievement of the goals is still very ethereal and the objectives seem chimerical, some advances regarding environmental policies have been made to date. The main purpose of this document is to make an analysis of the environmental policies in the military sector within a framework of international environmental agreements, as a first step towards the consolidation of environmental topics for the armies⁴ and their role as part of the structure of the state.

> International policies and the environment

The role of environmental management in the military sector is, in general, a recent and barely studied issue. This is mainly due to the fact that the foremost task of a country's armed forces is to defend and protect its sovereignty and interests. However, this does not mean that natural resources, as a source and provider of goods and services, had never been taken into account by the armies in the development of their activities. Although the armies of the world give, in an implicit manner, a marginal

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- 1 Natural Capital –the environment- is defined as the inventory of assets –resources- (such as soil, the atmosphere, forests, water, wetlands etc.) that provide a flux of usable goods and services; these can be renewable or non-renewable, tradable or untradeable. Goodland, Robert. (1995) The Concept of Environmental Sustainability. Annual Review of Ecology and Systematics, Vol. 26 (1995).
 - 2 Again Goodland's research serves to explain the term Environmental Sustainability, which is the "healthy" use of natural resources from the equation source, consumption, and waste.
 - 3 The Millennium Development Goals establish a series of clear objectives for the reduction of poverty, hunger, disease, analfabetism, environmental degradation and discrimination by 2015. Therefore, 189 nations have committed to the Millennium Goals to reduce poverty by 50% by 2015.
 - 4 Among environmental topics for the military is the reduction of the impact of their activities for the improvement of their mission.

value to environmental topics during the development of their mission, the armed forces exercise a great impact over natural resources –only in some cases the Natural Capital and environmental degradation are deemed as important for military and national policies, mainly due to its social, political, economic and military implications (this is the case of Island States⁵). Consequently, the activities to equip and train the armed forces will have environmental repercussions just like any other human activity. The impacts extend to problems such as the indiscriminate exploitation of forests, the consumption of water sources, pollution, the production of nuclear and toxic wastes, and global warming among several others.

Today, a series of international treaties and agreements influence the development of national environmental programs; moreover, these may be a source for guidance regarding the way policies for the administration of natural resources and environmental protection should be integrated into military activities; these include: The Rio Conference 1992, The Maritime Pollution Protocol, The Montreal Protocol, The Basel Convention, The Bonn Convention, the Kyoto Protocol and the United Nations Environmental Program (UNEP). Likewise, the International Organization for Standardization (ISO) has published a series of norms for the administration and management of natural resources; (ISO 14001 -2001- Environmental Management Systems -EMS- and ISO 14031 Environmental Performance Evaluation -1999). These norms are not for the exclusive use of private companies but for all sorts of organizations included the armed forces.

Nevertheless, the North Atlantic Treaty Organization (NATO) leads the development of environmental policies and mechanisms as guidelines for the military sector in the world⁶. The NATO emphasizes the responsibility of all citizens in the construction of sustainable development and the military sector is not an exception⁷. Moreover, this organization underlines the idea that “military activities, in general, have environmental impacts just like any other human activity and as members of the state in charge of national security and defense”.

In 1969, NATO established the Committee on Challenges of Modern Society (CCMS) to offer cooperation in topics that concern all nations regarding environmental protection and other environmental issues. Through the CCMS, NATO member countries lead research projects on a wide range of international environmental topics such as: cross-border water and air pollution, sea and ocean pollution, and several other environmental concerns that result from the use of modern technologies⁸. Additionally, one of the main topics studied by the Committee is the link between environmental deterioration and state security⁹.

In the specific cases of certain NATO member countries –Portugal, The United States, and Sweden– environmental practices include, for example, having a designated environmental professional responsible for environmental issues, environmental training of personnel, environmental management systems knowledge implementation, environmental programs, research and development, environmental cooperation with stakeholders, environmental standards for suppliers, among others. Simultaneously, NATO member countries have committed to develop programs that allow evaluating the environmental impact of military activities in their countries and to implement the results in the environmental policies and strategies.

> Linking the military sector and the environment

NATO's Environmental Guidelines for the Military Sector¹⁰ asserts that it is every citizen's responsibility to contribute to sustainable development and the military sector is not an exception, in addition, “the military sector should comply with environmental policies and laws established for the rest of society, except in extreme circumstances, in which its mission to defend the nation and its sovereignty may be at risk”. By acting in an environmentally responsible manner, the military sector is able to exert significant influence on society.

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- 5 Environmental degradation is a risk to the security and the interests of some Island States. For example a raise in ocean levels could prove catastrophic for countries such Japan, Taiwan or Cuba as well as for other low territories like the Netherlands and Florida. Arenas Cañón Alexander. (2009). Conflict, Environment, and State Security. Security and Defense Studies. V. 4 N. 1. Pp. 34-40.
 - 6 In the case of the NATO the guidelines are designed for member countries. Nevertheless they apply to several other contexts internationally speaking since it establishes the theoretical foundations and procedures that may apply to every army in the planet.
 - 7 North Atlantic Treaty Organization (NATO) (1996). Environmental Guidelines for the Military Sector. North Atlantic Treaty Organization, Committee on the Challenges of Modern Society. A Joint Sweden-United States Project; 1996. P. 13.

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- 8 NATO. (1996). Environmental Guidelines for the Military Sector. North Atlantic Treaty Organization, Committee on the Challenges of Modern Society. A Joint Sweden-United States Project. P. 10.
 - 9 Linking environmental changes and state security is a rather recent topic. In general, one of the main links between state security and the environment is the development of violent conflict and the incapacity of human societies to adapt to environmental changes. For further information regarding this topic. Arenas Cañón Alexander. (2009). Conflict, Environment, and State Security. Security and Defense Studies. V. 4 N. 1. Pp. 34-40.
 - 10 NATO. (1996). Environmental Guidelines for the Military Sector. North Atlantic Treaty Organization, Committee on the Challenges of Modern Society. A Joint Sweden-United States Project. P 13.

The link between the military sector and the natural resources is closer than it may appear. The military is not only responsible for the management of large areas of land but also operates industrial facilities, performs public service duties, is an important public purchaser and involves and trains a large number of people under an unified leadership. As such, it is an important social institution.¹¹ It also has great potential to harm or benefit the environment in a highly visible manner and not in a marginal way as many may believe¹².

Having access to all the territory means that military activities should be kept to a minimum in the areas destined for military activities -which may include artillery, bombing impact areas, and safety areas. This does not mean compressing the area used for military activities, but rather reducing the environmental impact of military training and military missions. It is worth noting that, in many cases, because of military land management practices in support of the various missions, plants and animals have found refuge and thrived. In fact, there are numerous examples of populations of endangered species that are found only on lands controlled by the military sector¹³.

In a similar way, in some countries, the military sector is the foundation for the development of regional land use models. Through military guidance community leaders and other major land owners are motivated to develop plans that support responsible industrial and community growth, while preventing violations on crucial natural resources and on those territories necessary for military activities. The quality of life in the regions can thereby be improved thanks to land use plans and harvest programs supported by the military¹⁴.

As the operator of industrial plants and the purchaser of enormous quantities of materials and equipment,

the military sector is able to influence the marketplace. If the military sector insists on purchasing only environmentally preferred products, manufacturers are motivated to adjust their product line to sell products to the military sector¹⁵. Although it might be said that these policies may affect the performance of the military, in fact, the studies made by NATO¹⁶, and the practical use of environmentally safe products made by several countries proves otherwise.

Finally, as the military are in charge of training and commanding a large number of people under a unified leadership it is an important social institution with an important degree of social responsibility. Military training is said to promote obedience and a series of behavioral values shared and accepted by most of its members. Therefore, the development of environmental awareness during military training for the members of the military, not only contributes to the better understanding and care of the environment but also to the strengthening of military activities in relation to the rest of society for its great potential to harm or benefit the environment noticeably.

> Environmental commitments in Colombia

National governments are responsible for the development and execution of laws and policies directed to the protection and management of natural resources within their territories. These policies should comprise national interests and needs while keeping into account environmental requirements and international commitments adopted by the country. In Colombia, the most recent document regarding environmental management regulations was published by the Ministry of National Defense, the Military Forces and the General Command under the name "Environmental Directive for the Military Forces 2009"¹⁷. Its main objectives include:

- Issue and publish environmental guidelines to be followed by the military sector in order to comply with the environmental policies implemented nationally;

11 Martins A, Ramos TB, Freire I. (1997). Os. Empregos Verdes e a Política de Emprego em Portugal. Lisboa: Ministério do Trabalho e da Solidariedade, Direção Geral do Emprego e Formação Profissional, Comissão Interministerial para o Emprego. Cadernos de Emprego. P. 18.

12 Military influence goes far beyond environmental concerns, however, for the purpose of this document, only the effects of military activities on the environment are kept into consideration.

13 Ramos, Tomas; De Melo Joao Joanaz. (2005) "Environmental management practices in the defense sector: assessment of the Portuguese military's environmental profile". Journal of Cleaner Production 13. P. 1120.

14 Nevertheless, in certain cases, military policies and activities have negatively impacted the environment. In the case of Brazil, for example, since the beginning of the 20th century until the end of the military dictatorships in the 1980s, the governments were characterized by a consistent use of geopolitical theories as part of the administrative rationale of the country. In fact, the military governments revolved around the strengthening and reinforcement of the country as an international power during 1964-1986. The geopolitical thinking influenced negatively environmental and development policies in the Amazonia and explains the support given to several international projects during the military governments. Arenas Cañón Alexander, "La Amazonía Brasileña, Actores Extranjeros y la Internacionalización Implícita". Universidad del Rosario (2007).

15 NATO. (1996). Environmental Guidelines for the Military Sector. North Atlantic Treaty Organisation, Committee on the Challenges of Modern Society. A Joint SwedeneUnited States Project. P. 10.

16 NATO's Environmental Guidelines for the military sector, sets a series of clear examples and practical regarding current environmental practices in several countries that have proven to be effective without actually thwarting military activities.

17 Ministerio de Defensa (2009). Directiva 023 de Medio Ambiente para las Fuerzas Militares 2009. Bogotá, Colombia.

- Establish the guidelines to give continuity to the implementation of the Environmental Management System for the Military; and
- Impart orders and instructions to prevent, mitigate, or compensate for negative environmental impacts caused by military units including, Operational, Major, Minor and Tactic units;

Similarly, the directive includes a series of pilot tests in selected military bases for the implementation of the environmental management, evaluation and assessment systems established by ISO.

As a result, the incorporation of environmental factors in military activities in Colombia has been developed as part of the commitment of the government with the environment and the responsible sustainability of the military sector. The development of the Environmental Directive for the Military Forces –other directives on the same topic have been previously published- as well as the large number of environmental initiatives and activities carried out by the General Command, are irrefutable proof of the commitment and the efforts made towards addressing and complying with the need of evaluating the environmental impact of certain military activities in Colombia.

Finally, the systems design for the protection and management of the environment in the military sector in Colombia –after the pilot programs have been implemented- must include mechanisms for preventing negative environmental impacts in current and future military activities¹⁸. It is worth mentioning that the incorporation of Environmental Management Systems in military activities does not pose any threat to the accomplishment of the military mission. On the contrary, EMS confirms military awareness of the importance of natural resources and their interest in protecting the national interest without negatively affecting society, the environment, and the state.

Conclusions

The lack, or the deterioration, of natural resources restricts economic and social development. Therefore, the integration of Environmental Management Systems

into the military sector can contribute to improving its image as a social institution. Moreover, EMS should be a first concern for governments in order to guarantee the sustainability of their military sector. Additionally, environmental awareness in the military can generate positive changes in society while preventing serious threats to the environment such as wars, social conflicts or the over exploitation of natural resources.

The integration of environmental management practices in the military should be a priority for all governments in order to guarantee environmental social and economic sustainability. The military should be aware of the environmental impact of several activities inherent to their mission. In a similar way, the military should comply with the need that the potential environmental impacts of certain activities should be assessed before a decision is made¹⁹. Nevertheless, in certain cases, it is still believed that the implementation of sound environmental policies, globalization and the internationalization of the economies are a major cause for the weakening of the state and, therefore, of the military.

However, reality seems to prove otherwise, sound environmental policies contribute to the strengthening of the power structures of the state. Additionally, states are important catalysts for the improvement of globalization and internationalization structures; including the development of environmental policies. Simultaneously, today, governments have improved their capacity to adapt to changes without necessarily losing their ability to govern or exercise power. On the other hand, although the mechanisms for policy making have improved, it should be noted that international policies tend to erode the capacity of the state to react to supranational mandates –even if these have been agreed upon by the state and signed voluntarily. Even so, international environmental policies designed to protect natural resources are limited; member states have no obligation to adopt them, and the policies lack any coercive power.

Bibliography

1. Durant, Robert F. (2007). Greening of the U.S. Military: Environmental Policy, National Security, and Organizational Change. Georgetown University Press.

18 Maintaining law and order in Colombia has resulted in negative environmental impacts. For example, aerial drug-spraying with chemical agents has had very negative, quantifiable, and measurable effects on the environment. In a similar way, aerial bombings to guerrilla zones and camps have provoked harmful effects on various ecosystems. However, the commitment of the military with the environment is tangible too. A number of environmentally friendly policies have been developed in order to reduce the impact of these military activities; moreover, environmental awareness regarding the goods and services provided by the natural resources has made great steps among military personnel in Colombia.

19 Ramos, Tomas; De Melo Joao Joanaz. (2005). Environmental management practices in the defense sector: assessment of the Portuguese military's environmental profile. Journal of Cleaner Production 13. P. 1119.

Magazine Articles

1. Arenas Cañón, Alexander. (2009). Conflict, Environment, and State Security. *Security and Defense Studies*. V. 4 N. 1. Pp. 34-40.
2. Goodland, Robert. (1995). "The Concept of Environmental Sustainability". *Annual Review of Ecology and Systematics*, V. 26.
3. Martins A; Ramos TB; Freire I. (1997). *Os Empregos Verdes e a Política de Emprego em Portugal*. Lisboa: Ministério do Trabalho e da Solidariedade, Direção Geral do Emprego e Formação Profissional, Comissão Interministerial para o Emprego. Cadernos de Emprego.
4. Ram Nidumolu, C.K. Prahalad, M.R. Rangaswami. (2009). Why sustainability is now the key driver of innovation. *Harvard Business Review*. Volume 89, Number 9.
5. Ramos, Tomas; Alves, Inés; De Melo Joao Joanaz. (2009). "The state of environmental performance evaluation in the public sector: the case of the Portuguese defence sector". *Journal of Cleaner Production*.

6. Ramos, Tomas; De Melo Joao Joanaz. (2005) Environmental management practices in the defense sector: assessment of the Portuguese military's environmental profile. *Journal of Cleaner Production* 13.

Institutional documents and graduation thesis

1. Arenas Cañón, Alexander. (2007). *La Amazonía Brasileña, Actores Extranjeros y la Internacionalización Implícita*. Universidad del Rosario.
2. Ministerio de Defensa (2009). *Directiva 023 de Medio Ambiente para las Fuerzas Militares 2009*. Bogotá, Colombia.
3. NATO, (1996). *Environmental Guidelines for the Military Sector*. North Atlantic Treaty Organization, Committee on the Challenges of Modern Society. A Joint Sweden-United States Project.
4. Programa de las Naciones Unidas para el Desarrollo PNUD Objetivos de Desarrollo del Milenio In: <http://www.undp.org/spanish/mdg/basics.shtml>. Access in: 12 August 2009.



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»Creating reconciliation scenarios: Challenges to the Law of Justice and Peace

Undoubtedly, Law 975 of 2005 is a fundamental directive, part of the transitional policy currently developed in Colombia as a result of the process of demobilization of paramilitary groups. This norm constitutes a global paradigm because it proposes a novel and adequate equilibrium between the demand for justice and the achievement of peace in Colombia. Nevertheless, this law seems to be facing a long road ahead regarding some fundamental aspects, both for national reconciliation and for peace as a plausible goal. Concerns such as the integral demobilization and reintegration of ex-combatants and the inclusion of the victims in the peace process pose challenging questions to the national agenda; therefore, the construction of sound and lasting reconciliation scenarios are fundamental steps for national well being.

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Introduction

States that experience transitional processes towards peace and democracy face tensions between two fundamental social values: justice and peace. On the one hand, these processes must effectively guarantee the victims' right to know the truth about crimes committed against them as well as guarantee that the perpetrators are timely prosecuted and sanctioned. The victims must have the right to be repaired by any damages caused to them, making possible the recognition of their human dignity. On the other hand, peace will not be attainable if the legal and social conditions are not attractive enough for those laying down their arms. In these cases the administration of ordinary or traditional justice, although proportional, is ineffective in the reduction of violence.

Transitional justice is generally thought to help prevent recurrence of violence and it is used in these contexts. In addition, we regard the recognition of human rights as a precondition and common standard for humanity which should be implemented in today's world. The implementation of Human Rights should spawn sufficiently effective mechanisms that ensure the reduction of violence and prevent impunity.

The case of Colombia, marked by decades of violence and conflict, is today directed towards peace. Ever since 2003, when the demobilization process of illegal self-defense groups began, it was urgent to create a Disarmament Demobilization, and Reintegration program (DDR) that would establish the instruments of transitional justice needed to prosecute of ex-combatants. The procedural, economic, social, humanitarian, logistics and legal instruments are framed in Law 975 of 2006 or "Law of Justice and Peace"¹. This norm was created to complement the existing legal frame² and, more specifically, for the prosecution of criminals who committed serious unpardonable crimes.

Great controversy has been generated nationally regarding the generous legal benefits given to some criminals, such as the reduction of thirty or forty year sentences to eight year sentences or even less. These benefits, however, can be justified only within the logic and objectives of transitional justice where benefits are legitimate if they contribute, effectively, to lasting peace and national reconciliation. Therefore, it is important that the LJP, as well as any other laws in the future, be under constant evaluation by their operators, beneficiaries, and by society in general. As a result, the purpose of this essay is to examine the elements and challenges inherent to the LJP regarding national reconciliation and its capacity to bring lasting peace.

>Challenges faced by the DDR program

The benefits generated by a process of disarmament and the cessation of violence are undeniable. According to figures provided by the Presidential High Council for the Reintegration of Armed Groups, to March 2009, since the process started, 50.000 people³ have laid down their arms; this demonstrates will and confidence in the process. Nevertheless, serious difficulties have been found in the process, which may seriously thwart the progresses made during demobilization and reintegration activities.

1 As from now LJP.

2 The laws concerning demobilizations are: Law 418 of 1997, Law 782 of 2002 and decree 128 of 2003. These establish amnesties but only to those who committed political crimes or similar. These laws do not apply to those who commit grave crimes.

3 Alta Consejería para la Reintegración. ACR. In: <http://www.reintegracion.gov.co/app/ReintegracionenColombia/DDRenColombia/tabid/128/Default.aspx>. Access in March 1, 2009.

The LJP was created to prosecute those who had committed a very specific type of crime. Those who did not have any legal process or criminal investigation in progress for such crimes included in the LJP were prosecuted under the complementary legislation which offered amnesties. Nevertheless, on July 11, 2007, the Supreme Court ruled to modify this practice. For this Court, paramilitarism is not a political crime, thus it cannot be subject of amnesties. For the same reason, the mere fact that a person belonged to a paramilitary group was enough to convict them of "Aggravated Join Aiding and Abetting", the penalty for this crime is six to twelve years of prison. Those who did not commit serious crimes will be sentenced to the same or higher penalties from five to eight years, as a result of this decision.

Consequently, the National Government, along with the General Attorney's Office⁴, taking account the importance and the impact of such situation, and the interests of nearly 19,000 demobilized people affected by the court's decision (given that it hinders their reintegration into society) introduced a bill into congress that would, amongst other measures, provide the accused the right to appeal to the "opportunity principle" in order to be prosecuted. In June 2009, the bill passed during the last debate in the House of Representatives. A month later, the Minister of Justice signed the law. This represents a good precedent for future peace negotiations in Colombia.

Another important aspect is the reintegration of ex-combatants. Although the LJP was created for the reincorporation of ex-combatants into civilian society, and as a means to develop disarmament and demobilization processes within a specific legal frame, these topics are merely mentioned in the document. The LJP makes no reference to the specialized institutions responsible for the reintegration of ex combatants. The Law merely

provides the outer framework, the general legal terms, hence, once the process is finished, the ex-combatant is no longer part of any legal process.

Nevertheless, giving precedence to this matter is indeed fundamental since it represents the most difficulty towards peace. According to Natalia Springer, "... when the disarmament and demobilization process is fully completed (generally with very poor results), the only thing one can say is, that we have agreed on the cessation of hostilities in a much more fragmented and divided society than before⁵".

Furthermore, it is fundamental that reintegration policies are more homogeneous and systematic, a fundamental part of the legislative agenda and not only the responsibility of the executive. The High Commission for Reintegration and the National Government has made great efforts to contribute to this topic, however, it is important that the process be inclusive, diverse, accountable, and that includes concrete instruments that comprise not only ex-combatants but the victims the displaced populations and civil society. As a result, "to forge suitable reintegration policies is essential. It is not consistent to provide to those involved in the conflict the exact same conditions that pushed them to it in the first place. Under these circumstances there would be no reason or incentive to lay down their weapons or reintegrate into society"⁶.

Rearmament is an ominous problem that affects any peace process; it arises, mainly as a result of the inconsistencies and insufficiencies of reintegration policies. According to the National Commission on Reparation and Reconciliation (NCRR), three phenomena have fractured the process⁷: the sprouting of rearmed⁸, dissident⁹, and emergent¹⁰ groups. According to the Commission's Report No 1 by May 2007 more than 46 of these groups had emerged all over the national territory. This is an

⁴ During the month of October 2008, in the forum "Camino jurídico aplicable a los procesos de paz y desmovilización presentes y futuros" the issue of low rank guerrillas and their due prosecution was raised before Congress. In this context the Attorney General proposed that these people were investigated, however, during their prosecution the Equal Opportunity Principle should be applied (this proposal was agreed on since July 2008 between the National Government, The Attorney General and the High Council for the Reintegration of Armed Groups). The initiative will be raised before congress during the first semester of 2009 according to the Vice-president.

⁵ Springer, Natalia, (2005). "Desactivar la guerra: Alternativas audaces para consolidar la paz". Bogotá, Aguilar, p. 246.

⁶ Idem, p. 16.

⁷ CNRR, Informe No.1, "Disidentes, Rearmados y Emergentes: ¿Bandas criminales o tercera generación paramilitar?", CNRR. In: http://www.cnrr.org.co/new/interior_otros/informe_1_DDR_Cnrr.pdf; Mayo 2007. Access January 20, 2009.

⁸ Those who have relapsed following previous demobilization.

⁹ Those who never demobilized and continue to commit violent crimes.

¹⁰ Those who appeared after some areas had been left empty by previously demobilized groups.

alarming trend against the peace process; moreover, it is an indicator of the serious problems inherent in the reintegration and socialization processes.

> The Victims' rights to the LJP

The constitutionality revision of the LJP establishes and guarantees the victims' rights to truth, justice, and reparation and the mechanisms through which they are enacted and executed. In order to endow such rights with a sound content and preponderance, on October 1, 2007, the liberal party introduced a bill in Congress "Law Draft No 157 of 2007, Senate, "to include protection measures for the victims of violations of the penal law, Human Rights, and Humanitarian International Law". On 18th June 2009, however, the senate denied the norm's conciliation report and the Minister of Interior and Justice, asserted that due to its vital importance this bill would be presented again by the National Government with the necessary amendments taking into account the objections raised against the first one¹¹.

Conclusions: reconciliation requirements

If the term "reconciliation" in a general sense supposes "the establishment or the reconstruction of confidence among individuals amid radical differences¹²"; therefore, transitional justice policies must include several fundamental aspects. Fractured societies may not be repaired if impunity endures, if violence persists, and if no integral reparation is attained. Nor will it be possible if the ex-combatants are not provided with the instruments necessary to return to society.

Undoubtedly the LJP is a fundamental mechanism for demobilization; nevertheless, as with any other law, it comprises several deficiencies that represent

serious challenges. It is not, as the law itself claims, a norm of reincorporation to civil life. Moreover, some of the challenges face by the LJP include: the development of a more comprehensive reintegration policy, in which the victims and society take part; the formulation of a more homogeneous policy that allows understanding and nipping in the bud dreadful phenomena such as rearmament; and finally, the development of strategies that boost trust in the process for future generations.

When reconciliation is seen as an abstract and vague concept, strategies that generate arbitration and conciliation spaces can hardly be designed. Civil society and the victims of crimes have the right to compensation, to the recognition of their pain, and to the vindication of their dignity. Moreover, the government must create the necessary measures to make this possible. For instance, the government is responsible for the implementation and design of a new state of things for civil and demobilized populations so that they can reconcile with their pasts in order to avoid future violence.

Bibliography

1. CNRR, Informe No.1, (2007), "Disidentes, Rearmados y Emergentes: ¿Bandas criminales o tercera generación paramilitar?". In: CNRR, http://www.cnrr.org.co/new/interior_otros/informe_1_DDR_Cnrr.pdf; Access in January 20, 2009.
2. Gamboa Tapias, Camila, (2006) (Comp.), "Justicia Transicional: teoría y praxis", Universidad del Rosario, Bogotá.
3. Huber, Florian, (2007), "La ley de Justicia y Paz: desafíos y temas de debate". FESCOL, Bogotá.
4. Rangel, Alfredo, (2008). "La Reinserción paramilitar: un balance". Fundación Seguridad y Democracia, FSD. In: <http://www.seguridadydemocracia.org/docs/pdf/especiales/informeEspecial19-3.pdf>. Access in February 28, 2009.
5. Salomón Moreno, Marta, (2005), "El papel de la justicia en los procesos de reconciliación". UNIVERSITAS: Revista de filosofía, derecho y política. No.1 In: http://universitas.idhbc.es/n02/02-04_salomon.pdf. Access in February 27, 2009.
6. Springer, Natalia (2005), "Desactivar la guerra: Alternativas audaces para consolidar la paz". Bogotá, Aguilar.

11 El Tiempo. "Ley de Víctimas fue negada por el Senado tras decisión del presidente Uribe de no apoyarla". In: ElTiempo.com: http://www.eltiempo.com/colombia/politica/ley-de-victimas-fue-negada-por-el-senado-tras-decision-del-presidente-uribe-de-no-apoyarla_5473608-1. Acces June 18, 2009.

12 Salomón Moreno, Marta, (2005). "El papel de la justicia en los procesos de reconciliación". In: UNIVERSITAS: Revista de filosofía, derecho y política. No.2. Pp. 38. In: http://universitas.idhbc.es/n02/02-04_salomon.pdf. Access February 27, 2009.

» Challenges and perspectives of the Disarmament, Demobilization, and Reintegration process (DDR): criteria for a DDR program

* Progress on DDR research

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Since 2003 the administration of Alvaro Uribe Vélez has undertaken a number of demobilization negotiations with self-defense groups under the conceptual scheme contained in the Policy of Democratic Security. These negotiations led to the collective demobilization of some of these groups which, added individual demobilizations, represent approximately forty eight thousand demobilized people. Although collective demobilizations have advanced and been important to mitigate violence, it is important to bear in mind some difficulties in the development of this process. The Research Group on the DDR (Disarmament, Demobilization, and Reintegration) of the War College has focused its analysis on the identification of critical areas present throughout this process, in relation to feasible risks and/or threats against National Security. In this document, a critical area has been defined as: an aspect of a DDR process in which risks and/or threats to National Security have not been identified in terms of their impact on National Security and Defense.

In this sense, based on the interviews made¹ during the development of this research, the DDR group identified as critical areas -in the Disarmament, Demobilization, and Reintegration process in Colombia- among others: the lack of credibility of demobilized people regarding the process; drug trafficking; the gradual institutional strengthening in territories formerly influenced by illegal self-defense groups²; the initial process for the creation of related public policies; and the lack of security and essential public services in the areas affected by paramilitarism.

For Colombia these critical areas raise challenges for devising and implementing programs to assist demobilized people and communities affected by violence which are, in most cases, recipients of demobilized people. Therefore, this document is oriented to present a first glimpse of the most important criteria for the development of a successful DDR program with emphasis in the area of reintegration.

Consequently, this investigation has detected two main critical and interdependent sub-areas –without prejudice to other sub-areas that have also affected the two identified- and in this sense, there is a relation on potential threats against National Security. First, and as a part of the institutional critical area; the sub-area regarding the lack of institutional presence in those territories where demobilized people have returned. And second, and as part of the critical area of the DDR process; the sub-area regarding the challenge of completely disassembling the “tripod”³ within the power structure of illegal self-defense groups –with special reference to the rearmament of some demobilized people.

The first critical area, called Institutional or Governmental, is composed by four fundamental factors: first, methodological changes in the attention to demobilized⁴ people resulted in skepticism -on the part of the beneficiaries- towards those institutional organizations participating in DDR programs; second, the lack of regional territorial control is more explicit; third, certain

1 For this study 21 relevant actors -among participants in the designing of the policy, those who implement it, as well as 24 Guerrilla's medium rank personnel and policy analysts- have been interviewed.

2 Despite the efforts of the Uribe administration to bring national institutions to every corner of the country where the institutional presence was absent; the areas of influence of paramilitary groups still have a cultural legacy of distrust in the institutions of the state. As a result, profiting from public justice has been difficult, and the use of private justice mechanism has persisted.

3 In this case Tripod refers to social, political, and economic aspects that support the existence of paramilitary organizations in Colombia.

4 The creation of the ACR in 2006.

weakness has been identified in the participation of local governments; and fourth, there are deficiencies in the application of a consistent public DDR policy.

The case of Colombia has certain characteristics that differentiates it from the experiences of other countries. First, the DDR process has been implemented without a previous peace agreement. Second, in this process, greater resources have been invested as well as greater institutional and human capacities have been deployed; all within an economy that works relatively well. And last, there are a large number of people expected to be reintegrated into society. However, these numbers are small when compared to those in other international processes. "A recent example is that of Liberia: when the process began, nearly 45,000 demobilized people were expected; however, the program had to be ended when it reached 110,000 people, because all resources had been exhausted. Similarly, in Sierra Leone 65,000 people demobilized; and 100,000 did likewise both in Eritrea and Ethiopia. In terms of capacity, in Colombia, the volume of demobilized people seems relatively manageable".⁵

In this sense the second critical area identified arises as its development for the medium and long term. It is also important to consider that the process is not really about rehabilitation but about employment relocation, which is why companies must commit and play an important role. Therefore, the DDR area considers as critical issues: a) the lack of preparation of those participating in this process, b) the difficulty for reintegrated people to access opportunities contained in the program as well as opportunities offered by society. After having established the two critical areas and some of its sub-areas, we will refer next, with some detail, to some of the sub-areas previously mentioned:

a). Institutional Area: local demobilization and reintegration experiences

Throughout this research, we have found the need to properly and effectively apply the policies established by the National Government to deal with demobilized people. Nevertheless, the role played by local administrations is fundamental to this purpose. According to the research made by Kimberly Theidon and Paola Betancourt⁶ it is necessary to think about ex-combatants not only as the subjects of study, but also about their

social environment. Therefore, "it is possible to think about articulating national processes and policies with local and regional processes and proposals."⁷ The cases of Medellín, Bogotá, Buenaventura, Bucaramanga, and Pasto demonstrate the lack of homogenous institutional presence and the importance of joint actions between the national and regional governments.

It is worth mentioning that the real purpose here is not to generate dependency on the State, but to support potentialities within all communities. Additionally, it is important to create alliances between the private sector, local governments, and nongovernmental organizations. This would help generate trust, not only in the process but also in the institutions. Therefore, it is necessary to coordinate both, demobilization and reintegration processes, on the one hand, and productive communitarian and regional support initiatives on the other, whether as interdependent processes or, preferably, as a single process.⁸ Despite the efforts, during these processes, there have been problems for the elaboration and implementation of monitoring mechanisms that facilitate precise evaluations.

Institutional responses ought to include three aspects: "the persecution of illegal groups, the reintegration of demobilized people to civil life, and the reconstruction of local governmental institutions in regions where self-defense groups obtained an appreciable influence and where illegal groups of coercion and protection operate. Up until 2007, the official response has been concentrated on the first two aspects; however, the issue of institutional reconstruction has not been included within governmental priorities."⁹ This statement is still valid today.

b). Process Development Area: difficulty of the State to completely disassemble the "tripod" within the power structure of illegal self-defense groups

The cyclical character of violence -as a result of recycling human and physical resources- is evident in the recidivism of some demobilized people and some

5 Fundación Ideas para la Paz. (2006), "Reconstrucción, Reinserción y Región". In: Cuadernos del Conflicto. Bogotá: Ideas para la Paz. Legis, Semana, Konrad Adenauer. P. 8.

6 Praxis: Instituto para la Justicia Social, Universidad de Harvard.

7 Programa de Naciones Unidas para el Desarrollo (PNUD). (2006). "La Justicia tiene la Palabra". En Hechos del Callejón Número 14. Bogotá: P. 5.

8 Fundación Seguridad y Democracia. (junio de 2007). "Informe especial: El Rearme Paramilitar". Bogotá: Fundación Seguridad y Democracia. P. 13.

9 Romero, Mauricio. (2007). Disidentes, rearmaos y emergentes: ¿bandas criminales o tercera generación paramilitar? Informe N° 1. Bogotá: Comisión Nacional de Reparación y Reconciliación. In: Comisión Nacional de Reparación y Reconciliación <http://www.cnrr.org.co>. P. 60. Access in November 20, 2009.

members of criminal groups who did not demobilize; some have intermingle with demobilized recidivists. This is one of the central factors supporting the critical sub-area regarding the difficulty to completely disassemble the "tripod" within the power structure of illegal self-defense groups.

Basically, the rearmament phenomenon refers to the existence of private armed structures, different from guerrillas (it should be noted that private armed groups should have already been demobilized).¹⁰ This phenomenon arises as a result of two fundamental factors: first, the incapacity of the DDR process to effectively respond to the expectations of demobilized people –expectations that are fomented by the government itself; and second, cultural, economic, and political limitations.

Cultural limitations include communities that reject any groups of reintegrated people; the economic limitations are marked by the absence of opportunities that allow demobilized people to get a job or find a legal and stable income; and finally, political limitations are characterized by the absence of political will of local elites to thrust reintegration processes, as well as the lack of an active role of local administrations in reintegration processes. During the process of rearmament some demobilized people drift to some of the criminal structures, others become members of criminal groups which undergo a myriad of transformations due to enduring economic incentives such as drug trafficking.

Under this scenario four reasons may explain the risk of expansion of the power of these structures as well as violence: first, governmental limitations to enforce social order consistent with norms, conducts, and the rule of law; second, the lack of dynamism in productive sectors which restricts work opportunities for demobilized people and for young people subject to be recruited by these groups; third, the physical and human availability of knowledge and resources necessary to rearm criminal groups; and finally, the necessity to protect drug trafficking.

The persistence of drug trafficking as an incentive of criminal activities can be explained as follows: "drug trafficking organizations have greater possibilities to be successful if they are able to build up armed groups, expropriate their competitors or impose disadvantageous conditions to other organizations with whom they may negotiate. Political Influence is also needed in order to avoid persecution on production, distribution and money-laundering processes. Sooner or later these "emergent groups"¹¹ mutate from "being

military organizations that serve drug trafficking" to "being private armies that seek to have control over local governments".¹²

In fact, due to the absence of options and mounting productive failures, reinserted population is "qualified labor" subject to be recruited by illegal armed groups, delinquency or drug trafficking. That was, indeed, what happened in Central America. Although political violence is reduced, violence tends to increase and be more generalized.¹³

> The rearmament phenomenon

Although rearmament is still undergoing a process of transition –the characteristics of these illegal armed organizations as well as their definitive structures aren't clear yet¹⁴ it has been verified that people within these groups had previously demobilized from self-defense organizations –low and medium rank combatants from the United Self-Defense Forces of Colombia (AUC)¹⁵. However, most of the members in these organizations come from backgrounds different from those of the demobilization programs.

In the categorization of the rearmament phenomenon, a series of fundamental elements have been identified, such as: the influence of the economic, political, and social power of recently created illegal organizations; some embodiments of the conflict such as mafias controlling contraband markets; and the formation of new self-defense organizations. This is best explained by the idea that the will of "ex-combatants" is not enough to rearm a self-defence group project-like the AUC- in the region: specific characteristics of local societies are also necessary, therefore, they must be propitious for the continuation or the appearance of hegemonies led by private armies."¹⁶

In this context, three types of criminal groups have been distinguished: dissidents, rearmed, and emergent, which

12 Fundación Seguridad y Democracia. Op.cit. P. 25-27.

13 Programa de las Naciones Unidas para el Desarrollo (PNUD). (octubre de 2005). "Los 10 temores del proceso de Desmovilización". In: Hechos del Callejón. Bogotá: No. 8, P. 3.

14 Fundación Seguridad y Democracia. Op.cit. P. 1.

15 According to a report issued by the DIJIN (Central Directorate of the Judicial Police and Intelligence) in January 2009, 18% of paramilitary men killed in combat had been formerly demobilized. Informe Control y Monitoreo. Ponal, 2009. Available online at: www.verdadabierta.com/web3/archivo10-desmovilizaci-n-y-desarme?informe-sobre-control-y-monitoreo2009. P. 12. Online Access May 30, 2009.

16 Fundación Seguridad y Democracia. Op.cit. P. 12.

10 Fundación Seguridad y Democracia Op.cit. P. 11.

11 The term "emergent" will be considered in the rearmament section.

continue replicating the tripod within the power structure of self-defense organizations. Dissidents, "reflect the persistence of "second generation" paramilitarism in which, self-defense organizations would become criminal organizations with certain proclivity to social and political control". Rearmed are the result of the fragmentation of unstructured organizations and the recycling of formerly demobilized people; this groups maintain coercion structures on local populations. Emergent, are groups that occupy territories previously controlled by self-defense groups in this case the AUC; these groups, however, maintain the same objectives that former self-defense groups had.¹⁷

In this context, in terms of threats and risks to National Security, it has been possible to observe, within the rearment of demobilized groups, a number of problems that deserve special attention: a) the lack of territorial control on the part of the state, and b) the development of Emergent Criminal Gangs (ECG). In the social and economic context within which these phenomena appear, drug trafficking has been, without any doubt, the most powerful incentive for the rearment and recidivism of demobilized people.

Whatever the category established for these groups is -rearmed, dissident or emergent- their primary target is to control territories for drug trafficking as well as any other illegal means of income. Therefore, these groups have developed and maintained close relations with drug trafficking to the point that it has become part of their economic process, needed to fuel their private armies. In addition, these groups have displaced many farmers which, has resulted in distortions in land distribution and property. The rearment or expansion of these groups depends on the characteristics of each region, concretely, among others, depends on the existence of illicit plantations. Additionally, Colombian communities continue to suffer the most dramatic effects and consequences: "with their criminal actions these groups [...] plan and control intimidation strategies against civilians; similar to those employed by former self-defense groups."¹⁸

These groups are part of a dynamic phenomenon known as "violence recycling". This is an important aspect, since one of the greatest fears throughout a DDR processes is the possibility that demobilized people may indeed not be ready to give up criminal activities. It is here where the efficiency and effectiveness of the government can yield significant and lasting results. The Government must be ready to rapidly close the time gap from the

moment demobilized people surrender their weapons to the establishment of reintegration programs.

After consulting with diverse sources -that have identified the rearment phenomenon in some regions¹⁹- there is some consensus when it comes to locating zones where alterations to public order are connected to the rearment of illegal groups. These sources indicate critical situations in: Nariño, Chocó, Valle Del Cauca and Putumayo, Urabá and Suroccidente Antioqueño; Costa Caribe, Guajira, Magdalena, Bolívar, Atlántico, Córdoba, Cesar and Sucre; Llanos Orientales, Meta, Vichada, Arauca and Casanare; Norte de Santander: some areas in Magdalena Medio, Sierra Nevada and Catatumbo.²⁰

After delimitating these zones, the existence of at least thirty-four labels or names of illegal armed groups in twenty-two departments of the country has been verified; these groups are present in approximately two hundred municipalities; that is twenty percent of the municipalities of the country. It is believed that thirty four labels could recruit three thousand men;²¹ nonetheless, it is impossible to determine accurately the amount of demobilized people participating in those groups – nonetheless, it is believed to be small.

Regarding territorial control over these zones -contrary to their predecessors- current illegal groups have less power and influence. However, the presence of these groups in drug plantation areas is facilitated by medium rank commanders who knowing the areas and drug trafficking corridors can influence the areas and its population.

Conclusions

The process of collective demobilization occurred after negotiations with self-defense groups; however, and as a result of an unsolved and complex

19 A well known phenomenon in Colombia that resulted after the demobilization of the EPL and Castaño during the 1990s and the appearance of the first illegal self-defense groups under the command of Carlos Castaño in 1994.

20 Fundación Seguridad y Democracia Op.cit. P. 19. This is a political division taken directly from the source; however, it does not necessarily correspond to the actual political division of the country.

21 Escuela Superior de Guerra. Módulo Conocimiento de la Amenaza. Curso de Estado Mayor. (2007). By the Arcoiris Foundation had reported a number of ten thousand men. Fundación Nuevo Arco Iris: "Ex parás son hoy bandas armadas al servicio del narcotráfico". 12 February 2008. In: <http://www.nuevocardiris.org.co/sac/?q=node/238>. Access, March 2009. Presidential Reports for 2009 state that while in 2007 there were nearly 4,000 men by 2009 there are only 2,544. Presidencia de la República "Bandas criminales del narcotráfico se han reducido 57% en dos años". In: <http://web.presidencia.gov.co/sp/2009/marzo/09/06092009.html>. Access, March 2009.

17 Romero, Mauricio. Op.cit. Informe N° 1. P. 45.

18 Fundación Seguridad y Democracia Op.cit. Bogotá: P. 20.

armed confrontation in Colombia -within which this demobilization has been carried out- several critical areas, that may threaten National Security, have been identified. These threats, in addition to the tripod of power of self-defense groups, suggest that the confrontation in Colombia, far from being solved, may perpetuate, unless some political, economic, and social measures are taken in order to avoid its aggravation. Future deterioration of the confrontation will be the result of the rearment and development of new groups linked with drug trafficking. These phenomena may be the prelude to a new era of violence in Colombia which may aggravate the conflict. This is why, it is fundamental to learn from previous experiences in order to establish a series of criteria for a successful program of DDR.

1. It has to be the result of the expectations and ideals of demobilized people and not the result of previous structures.
2. The DDR must be thought of as one process and not like separated functions depending on different functional areas.
3. The basic operation of DDR must be based on decentralized processes at regional level.
4. The National Government should only define policies as well as coordinate and fund all negotiation activities.
5. Personnel in charge of the program, at regional level, must be provided with legal authority and resources; they should not be considered as an appendix of the Governmental structure.
6. Careful feedback on the activities of demobilized people within the DDR process must be given to participating parties. New telecommunication and computer technologies facilitate this process.

7. Permanent monitoring of demobilized people within communities must be made. The monitoring must be founded on the achievement of regional and local programs.
8. Solutions to operative problems must not be considered in conjunctural terms as a response to specific situations, these should result from the criteria established in the design of the program.

Bibliography

1. Fundación Ideas para la Paz, (2006), "Reconstrucción, Reinserción y Región". Cuadernos del Conflicto. Bogotá: Ideas para la Paz. Legis, Semana, Konrad Adenauer.
2. Fundación Seguridad y Democracia, (2007), "Informe Especial: El Rearme Paramilitar". Bogotá: Fundación Seguridad y Democracia.
3. Módulo Conocimiento de la Amenaza, (2007), Escuela Superior de Guerra. Curso de Estado Mayor.
4. Oficina del Alto Comisionado para la Paz, (2006), Informe ejecutivo. Oficina del Alto Comisionado para la Paz. Bogotá.
5. Programa de Naciones Unidas para el Desarrollo, (2006), La Justicia tiene la Palabra. In: Pnud. Hechos del Callejón Número 14. Bogotá.
6. Programa de Naciones Unidas para el Desarrollo, (2005), "Los 10 temores del proceso de Desmovilización". En: Hechos del Callejón. Bogotá: No. 8.
7. Romero, Mauricio, "Disidentes, rearmados y emergentes: ¿bandas criminales o tercera generación paramilitar?" Informe N° 1. Bogotá: Comisión Nacional de Reparación y Reconciliación.



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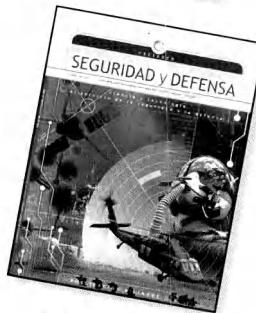
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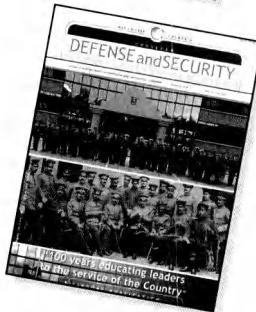
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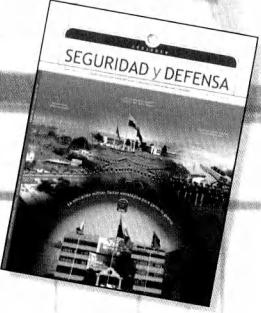
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