

*Final Statement of the Third National Encounter of
the Movement of Victims of State-Sponsored Crimes
Bogotá, Colombia, July 9 2006*

KAIROS note: The National Movement of Victims of State-Sponsored Crimes is a pan-Colombian movement of communities that have been victims of state-sponsored violations of international human rights and humanitarian law. The Movement is made up of women's groups, indigenous, Afro-Colombian, rural and urban communities, labour organizations and their supporters, brought together to struggle for justice for their communities and to bring a halt to the near-total impunity for human rights violations in Colombia.

KAIROS supports organizations which belong to the Movement, as well as the Movement itself. Whenever possible, KAIROS staff provides international accompaniment to the Movement by traveling to Colombia. John Lewis, KAIROS international human rights coordinator, participated in the Third National Encounter which took place from July 6-9, 2006. Below is the final communiqué issued by the members of the Movement at the end of this gathering.

Third National Encounter of the Movement of Victims of State-Sponsored Crimes

Final Statement: Eight proposals for truth, justice, comprehensive reparation, memory, and the non-repetition of crimes against humanity

The second presidential term of Alvaro Uribe Vélez will bring the national crisis to a new level. His strategic plan, found in such documents as Plan 2019, aims to eliminate the most advanced aspects of the 1991 Constitution, further the militarization of national life, and implement the Free Trade Agreement, in addition to other elements that concern a model completely authoritarian politically, and deeply regressive socially.

Without a doubt, this context will cause further deterioration to human rights, social rights, and public liberties. The policy of "democratic security" increases the repressive and arbitrary measures, the extrajudicial executions, and the brutality in the use of force by the army and police, as well as the militarisation of the country, illegal actions of State agents, and further U.S. military intervention in the internal armed conflict.

The different provisions in the Free Trade Agreement comprise the foundation of the increasing mass impoverishment of agrarian and industrial sectors, which invariably will be discriminated by a competition that will only favour the United States' economy and the interests of multinationals. In addition to this alliance going against Colombia's productive forces, the current administration also proposes for a tax reform that would exempt major capital from paying taxes and would re-distribute this responsibility to the least affluent sectors of the population. This would mean a greater concentration of wealth and a social widening of absolute poverty.

At the centre of this model is the favourable treatment granted to paramilitarism, which has allowed for its economic, political and social re-engineering over the last four years. Far from being a process de-activating paramilitary strategies, in many parts of Colombia the consolidation of narco-paramilitary power has been favoured by the emergence of a demobilisation and re-insertion process. In these regions, the process of social control has followed the same steps. After a violent incursion by paramilitary groups supported by army and police units (carried out through massacres, forced displacement, extermination centres in rural areas, and forcibly disappearing cadavers in mass graves), social and political control is established through infiltration into State

institutions in order to institute laundering of assets, contracting of public works, investment in such areas as construction, and processes to legalise the violent appropriation of land.

As a response to this model for an anti-democratic society, social movements -which include the growing convergence and organisation of victims' and survivors' associations- have significantly increased their public actions.

Gathered together at the Third National Encounter, the Movement of Victims of State-Sponsored Crimes (Movimiento de Víctimas de Crímenes de Estado) presents Colombian society with eight proposals meant to bringing about the rights to truth, justice, comprehensive reparation, memory, and the non-repetition of crimes against humanity and genocide.

1. A legal strategy that pursues the senior authors of the crimes and the responsibility of State agents

For the Movement of Victims of State-Sponsored Crimes, the paramilitary strategy has been designed, put into operation, and institutionalised by the Colombian State by way of creating different mechanisms, including legal norms that have legitimised their action, as well as others that aim to legalise the impunity of their crimes. In this way, the legal instruments used in the so-called "negotiation and demobilisation" process -such as Law 782/02 and Decree 128/03- have served to grant pardons and amnesties to 93% of the paramilitaries. Other complementary norms have granted economic benefits and subsidies to those who have demobilised, without verifying if they belong to paramilitary groups. This occurs despite the continuing process of economic, social and political consolidation, as well as the perpetration of new crimes throughout national territory. Additionally, Law 975/05 -inappropriately called the "Justice and Peace" Law-, and its regulatory decree 4760/05, attempt to close this cycle of impunity. In their original version, these norms do not establish the guarantees necessary to recognise the victims' rights to truth, justice, comprehensive reparation, and non-repetition of crimes. Furthermore, these norms do not recognise the existence of victims of the State and aim to conceal the State's responsibility in the emergence, action, development, and consolidation of the paramilitary strategy. In spite of the fact that the Constitutional Court issued ruling C-370 in which some limitations are introduced to these extensive benefits, it is already evident that the current administration and the paramilitaries will employ any kind of stratagem to achieve impunity, as well as to keep safe the assets obtained by way of these atrocious crimes and currently legalised through asset laundering operations.

This is why revealing the mechanisms of impunity -through the use of diverse national and international legal instances and procedures- is one of the challenges faced by the Movement of Victims of State-Sponsored Crimes. By referring to the past work of the Colombia Never Again Project (Proyecto Colombia Nunca Más), the Victims' Movement will clarify the truth concerning what happened through gathering the victims' testimonies and will document new forms of paramilitary re-engineering. In order to do this, the movement will clarify the facts relating to the links between paramilitaries and authorities (both civilian and military), in addition to the crimes that continue to be committed, and will clearly identify the beneficiaries of these crimes.

In terms of the more than 50,000 crimes against humanity -the documentation for which was presented to the Prosecutor General (Fiscal General de la Nación) on June 29, 2006-, the Victims' Movement demands that those most responsible for these crimes be punished and requests for the existing arrest warrants to be made effective immediately. The Victims' Movement also re-affirms

its demand that those who have determined these grave crimes -corrupt politicians, businesspeople, ranchers and landowners, and intermediaries for multinationals- be punished exemplarily, with criminal sentencing proportional to the crimes and with judicial measures that impede these persons from taking on any public duty in the future.

2. A strategy for truth and historical memory

On different occasions, the Movement of Victims of State-Sponsored Crimes has expressed its position regarding historical truth and memory. Truth is an essential principle for overcoming the impunity of crimes against humanity, and for fully bringing about the rights to justice and comprehensive reparation. For the Victims' Movement, clarifying what has happened is not a procedure to be carried out secretly and privately with those affected by the violence. Historical truth and memory are a part of a democratisation process of society, as well as an opportunity for the excluded, persecuted, and stigmatised social forces to be able to participate in public life. It is a process that should seriously challenge the democratic character of the present Colombian political regime. It should also weaken the social legitimacy of the groups in power that, by way of systematically employing lies and justifying crimes, have been able to maintain an image of social respectability and hold the victims responsible for the aggression they have been subjected to over extended periods of time.

In terms of advancing a historical clarification of the facts, the work carried out by the Colombia Never Again Project is the most important information available to the Victims' Movement. This ten-year research effort solidly sustains the existence of State terrorism in Colombia, not as an ideological notion, rather as an empirically demonstrable reality. This is why strategic tasks for the victims of the State include the social dissemination and legal use of this information.

As far as sources for the historical truth, different efforts should be strengthened such as testimony-gathering, forensic evidence sustaining the statistical information, searching for documents with evidentiary value, work on the official archive, and habeas data actions. Concerning the latter, this theme requires knowledge on the location of the official archives and the timelines for declassifying the documents in them. Additionally, contact needs to be made with U.S. organisations that declassify official documents relating to military and political intervention in Latin American countries. In terms of the crimes that have not been documented yet, or in which information must still be systematised and grouped, the Colombia Never Again Project needs to classify the extermination process of groups and collectives. In other words, the project must document the existence of the genocides and extermination processes. Likewise, the project needs to document the war crimes committed by the State, and undertake a systemisation effort concerning politically motivated forced displacement, arbitrary detention, and exile.

In order to maintain and disseminate the gathered information, we propose that the Victims' Movement works to create a memory and documentation centre that also serves as a security archive and a space for public dialogue in regards to historical truth. This centre could also maintain the results from the research processes that have been developed by the victims, the databases by human rights organisations, and the documentary archives of the social, political and union organisations, as well as the available documentary reports and compilations.

3. A strategy for memory and comprehensive reparation developed by the victims: the Ethics Commission

The Victims' Movement asserts its right to safeguard historical memory by way of creating an ethics commission that maintains the historical truth of the victims of State crimes, and shares this history with Colombian society and humanity, in addition to its concept of the meaning of justice and comprehensive reparation as based on international law and peoples' rights. This ethics commission is born out of the absence of a justice system that deals precisely with genocide and crimes against humanity; because victims do not know their rights; because the meaning of truth, justice, and reparation has been trivialised by the National Commission for Reparation and Reconciliation, which was created by Law 975/05. The ethics commission will be in session for 10 years, and will have 25 international members and 5 national members (persons and organisations highly recognised in ethics from North America, South America, Europe, Africa, and Asia). The commission will also promote creating houses to safeguard memory and care for the victims' testimonies and objects. Additionally, the commission will encourage public memory spaces by way of public museums, monument construction, investigation of mass graves, and alternative exhumation practices (a part of the right to bury).

In order to construct proposals for truth, justice, and reparation with the victims' family members, communities, and organisations -including indigenous people, Afro-Colombians, mestizos, workers, women, children, and young people-, the ethics commission will compile the fundamental information for the future creation of an authentic commission to clarify the historical facts once real guarantees exist for such a commission in Colombia.

In terms of victims affirming their rights to memory, truth, justice, and comprehensive reparation, the ethics commission will accompany the victims in the following practices: people's museums, "seed houses", pilgrimages, creating areas for protection and alternative land registry, exhumation of remains, protection of property and biodiversity, restoring and strengthening organisations and social fabric, public acts, and press conferences. By the end of its mandate, the ethics commission will comprehensively and systematically make public the proposals for truth, justice, and reparation. The commission will also present the past experiences of the victims -who must be recognised by the State-, as well as a legal initiative for creating a new justice system.

4. A strategy for non-repetition: the legal prohibition of paramilitarism

Paramilitary strategies have gravely damaged Colombian society. In addition to spreading death and terror, these strategies have been the principal forms of eliminating social and political opposition. The historical origin and current existence of paramilitarism is the responsibility of the Colombian State. Today, the State wants to legitimise paramilitarism and turn it into an economic power by way of preserving its bloody accumulation of wealth.

This is why the Victims' Movement believes that, as a part of the guarantees for non-repetition of crimes against humanity and genocide in Colombia, there must also be the proscription of paramilitary strategies in the country. This initiative entails drafting a constitutional reform bill that would prohibit any provision attempting to validate at least three methods of paramilitarism.

In the first place, the bill would decree the prohibition of any public policy meant to arm the civilian population, or grant duties to civilians that pertain to the armed forces or State security corps (such as "Convivir" co-operatives and other kinds of civilian networks with informants and collaborators).

Additionally, this bill would specify the classification of the crime of State agents allied with

paramilitary groups. In this regard, it would increase the punishment for those that incur in this practice or encourage the paramilitary infiltration of the State and the use of public contracts to benefit individuals belonging to these para-State organisations.

Lastly, this bill would prohibit members of the public force from planning covert paramilitary operations, and from creating death squads and mercenary groups within national territory.

The Victims' Movement is fully aware that, with the present composition of the national congress, a bill with these characteristics clearly has no chance of being passed. Nonetheless, the movement will persevere until this norm acquires a constitutional status and becomes the property of society. Likewise, the Victims' Movement will turn this proposal into an instrument to open the way for the controversial policy of guaranteeing the non-repetition of State terrorism and the cleansing of the public force.

5. A strategy for reparation: alternative land registry

For the Victims' Movement, reparation is not a charitable act carried out by the State, nor is it a transaction meant to quantify the dignity of the victims with a sum of money. It also is not a collection of money by international co-operation or a duty of all citizens by way of new taxes, as has been sustained by the current administration and the president of the National Commission for Reparation and Reconciliation. Those who have to make reparations are those who have caused the damage and those who currently possess the wealth that has been seized from the violated communities and groups.

For the Victims' Movement, reparation is a process of justice with those who have suffered from the violence, and with society itself. This is why the movement reiterates its commitment to push forward the agrarian mandate, which is a part of the proposal for the elaboration of an alternative land registry as a direct mechanism for gathering information on the victims' property, land, and territory that was seized through the policy of State terrorism.

Alternative land registry is the search for information concerning the magnitude of the dispossession. It is also the attempt to clearly show that forced displacement is a strategy for agrarian counter-reform that establishes a new process of land accumulation. With this tool, the victims will be able to sue for the 5 million hectares of territory that was violently seized from campesino, Afro-Colombian, indigenous, and settler communities. This land registry will also be able to claim the State's responsibility for having directly allowed or sponsored this violent dispossession.

6. A strategy to fight against the forced disappearance of persons: the exhumation of mass graves and the right to bury

The victims of State-sponsored crimes assert their right to exhume the mortal remains from the mass graves and bury with dignity the thousands of persons that, as a part of the paramilitary strategy, were subjected to the crime of forced disappearance.

Many family members know where the mortal remains of their loved ones were hidden. Many communities witnessed the elimination of their leaders and members in farmhouses that were turned into extermination centres and burial grounds. Nonetheless, the victims still cannot be given a dignified burial, for the same regular and irregular military structures -which tortured, forcibly disappeared, and later murdered persons- still have control in these regions.

The Victims' Movement sustains the legitimate right to grieve and know where relatives can visit their family members and where the communities can pay tribute to those who were sacrificed. The movement also affirms its right to find those who have been forcibly disappeared, know where they are, and recover the remains of humanity, their remains. The movement considers the right to exhume to be an opportunity to re-create the lives of those who have suffered the crimes, as well as an opportunity to revitalise the rivers and land from being a place of concealment and the impunity of the perpetrators. The movement ratifies the right to turn pain into hope and the chance to clarify the facts concerning the truth and dignify the name, options, ideals, and life projects of those who were forcibly disappeared. This right is about resistance and resilience, persistence. It is the right to exhume life and memory.

7. A strategy to fight against political genocide: truth, justice, and reparation for the victims and survivors of the Patriotic Union (Unión Patriótica)

The political opposition has been persecuted and driven to extermination in Colombia. The crimes committed against these expressions are meant to repress the construction of social and political alternatives, which offer a civilian solution to the causes of the armed conflict.

The Movement of Victims of State-Sponsored Crimes truly feels the immense effort undertaken by the victims and survivors of the Colombian Communist Party and the Patriotic Union to know the full truth, access a justice that punishes exemplarily the sponsors and authors of the political genocide that has been perpetrated against them, and obtain comprehensive reparation for the more than 4,000 crimes committed against their activists. Additionally, the movement fully supports the search for political reparation and restitution of the public positions held at all governmental and State levels.

The Victims' Movement expresses its unrestricted support for the decision to suspend the stage of searching for a friendly settlement, which had been developing before the Inter-American Commission on Human Rights (case no. 11.227) against the Colombian State for genocide and grave violation to the human rights and political liberties of the members of this party and the Patriotic Union opposition movement.

For the victims of the State, the Alvaro Uribe Vélez administration, along with the corresponding official institutions, have not only not advanced investigations, nor punished those responsible and those who have profited from this extermination, rather, to the contrary, ongoing efforts have been carried out to publicly discredit and stigmatise the legitimate work of the survivors of this systematic elimination. By promoting the most primitive anti-communism, and justifying this genocide, the continuation of new acts of violence is encouraged against the members of the opposition groups.

In terms of the current outlook, for the Victims' Movement it is clear that Law 975/05 is a tool for impunity. Therefore, in regards to the case of the communist party and the Patriotic Union, as well as in the other thousands of crimes and violations against the social and popular movement, this law will not allow the advancement of the rights to truth, justice, comprehensive reparation, historical memory, and guarantees for non-repetition.

8. An organising strategy: strengthening the Victims' Movement

As far as the diverse social, ethnic, and political sectors attacked by the State's authoritarian strategy, the Movement of Victims' of State-Sponsored Crimes represents an effort for coming together and building trust. By becoming a social force against impunity, the movement has been bringing together multiple organised expressions into one single process, which offers its own mechanisms for ongoing co-ordination and consulting in the national arena.

Nonetheless, a successful fight against impunity requires solid, patient regional organising efforts that bring together the diverse positions of the victims of State-sponsored crimes into one single mechanism for ongoing co-ordination, and that truly bring about social, political and legal lines of action in each region. Education and training in matters of conflict and peace, as well as ways in which to demand and bring to fruition human rights -and especially victims' rights-, must hold an important place in this dynamic.

The cause of the victims and the affirmation of their rights are strengthened by the creation of each new organisation of family members or survivors of crimes sponsored by the State. This is why we congratulate the creation of the movement: Daughters and Sons for Remembering and against Impunity (Hijas e Hijos por la Memoria y contra la Impunidad).

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