

**JOINT REPORT OF THE DIALOGUE TABLE BETWEEN THE NATIONAL
GOVERNMENT AND THE REVOLUTIONARY ARMED FORCES OF COLOMBIA –
PEOPLE'S ARMY**

**PROGRESS IN THE DISCUSSION OF ITEM 5:
COMMISSION FOR THE ELUCIDATION OF TRUTH, COEXISTENCE AND NON-
REPETITION**

The Government of Colombia and the Revolutionary Armed Forces of Colombia – People's Army (FARC – EP), in compliance with the provisions set forth in item 3, numeral VI of the General Agreement for Ending the Conflict and Building a Stable and Long Lasting Peace dated August 26, 2012, submit this Joint Report on the progress and agreements reached regarding Item 5 of the Agenda -“Victims”.

The end of the conflict is a unique opportunity to satisfy one of the greatest desires of the Colombian society and of the victims in particular: to elucidate and know the truth about what has happened in the conflict.

In this new scenario it will be possible to contribute to the construction and preservation of the historical memory and attain a broad understanding of the multiple dimensions of the truth about the conflict, including the historical dimension, in such a way that it may not only satisfy the right to the truth but contribute as well to set the foundations for coexistence, reconciliation, and non-repetition.

With this purpose in mind, the National Government and the FARC – EP have reached an agreement to set in motion, once the Final Agreement has been signed, the Commission for the Elucidation of Truth, Coexistence and Non-Repetition (hereinafter the Commission), which will be an independent and impartial mechanism of an extrajudicial nature.

The Commission will be part of the comprehensive system for truth, justice, reparation and non-repetition which is to be agreed at the Table in order to satisfy the victims' rights, end the conflict and achieve peace. Therefore, the agreement reached regarding the Commission may not be understood either as permanently closed, or as isolated from the system we are committed to build and which is yet to be concluded. We will continue working to agree on other mechanisms that will allow us to guarantee the victims' right to truth, justice and reparation, besides contributing to ensure the non-repetition of the conflict to Colombian people. Within the framework of the discussions about the comprehensiveness of the system and its judicial and extrajudicial mechanisms, agreements will be reached on topics whose concretion depends on the relationship between the system's mechanisms.

The Commission shall fulfill three fundamental purposes.

First, the Commission shall contribute to the elucidation of what has happened, in accordance with the elements of the mandate described here below, and to offer a broad explanation about the complexity of the conflict, so as to promote a shared understanding among the society, in particular about the least known aspects of the conflict. In this sense, we welcome the visit and the pronouncement made during this cycle by Zainab Bangura, Special Representative of the Secretary General of the United Nations on Sexual Violence in Conflicts, and we undertake to attend to her recommendations.

Second, the Commission shall promote and contribute to recognition. That means recognizing the victims as citizens whose rights were infringed; the voluntary recognition of individual and collective responsibilities by all those who directly or indirectly participated in the conflict as a contribution toward truth, justice, reparation, and non-repetition; and, in general, the acknowledgment by the entire society of that legacy of violations and infringements as

something that deserves to be rejected by all and should not and may not be repeated.

And third, the Commission shall promote coexistence in the territories. For that purpose, it will foster an environment of dialogue and will create spaces for restoring the dignity of the victims, for individual and collective acknowledgments of responsibility, and, in general, to consolidate citizen respect for and trust in each other, cooperation and solidarity, social justice, gender equity, and a democratic culture that fosters tolerance and rids us from indifference toward the problems of others. In this manner, the foundations will be set for non-repetition, reconciliation, and the construction of a stable and long lasting peace. For those reasons, it is necessary to understand the construction of truth as an essential element for building peace.

The success of the Commission will depend on the commitment of all sectors of society with the process for the construction of truth, and on the recognition of responsibilities by those who directly or indirectly took part in the conflict. That is why both the National Government and the FARC – EP commit to decisively contribute toward the elucidation of the truth about everything that has happened in the conflict, including serious human rights violations and infringements upon International Humanitarian Law (IHL).

- **Commission for the Elucidation of Truth, Coexistence, and Non-Repetition**

Guiding criteria:

Centrality of the victims: The Commission's efforts shall be focused on guaranteeing the participation of the victims of the conflict, ensuring the restoration of their dignity, and contributing to satisfy their right to the truth in particular, and in general of their rights to justice, comprehensive reparation and non-repetition guarantees, always taking pluralism and equity into consideration. All of the foregoing should also contribute to the transformation of their living conditions.

Impartiality and independence: The Commission shall be an impartial and independent mechanism with full autonomy for the development of its mandate and the fulfillment of its functions.

Temporary nature: The Commission shall be of an exceptional nature and will operate for a limited period of time in order to enable its conclusions and recommendations to effectively contribute toward the construction of a stable and long lasting peace.

Participation: The Commission will set in motion a broad, pluralist and balanced process where different voices and views will be heard; in first instance, those of the victims of the conflict as a result of any circumstances related thereto, both individual and collective, and also from those who directly and indirectly took part in it, as well as from other relevant actors.

Territorial approach: The Commission shall be a national level entity, but it shall have a territorial approach in order to achieve a better understanding of the regional dynamics of the conflict and of the diversity and particularities of the affected territories, aimed at promoting the truth-building process and contributing to the guarantees of non-repetition in the different territories. The territorial approach will also take into consideration the people and populations that were forcefully displaced from their territories.

Differential and gender approach: In developing its mandate and functions, the Commission will take into account different experiences, differential impacts and particular individual conditions on the basis of sex, gender, age, ethnicity or disability, and those of the populations or sectors in vulnerable conditions or particularly affected by the conflict, among others. Special attention will be afforded to victimization suffered by women.

Coordination with other peace-building measures: The Commission will operate in coordination with the mechanisms adopted for the implementation of the Final Agreement. In particular, where pertinent, it will work in coordination with the peace-building plans and programs set in motion in the territories as a result of the implementation of the Final Agreement.

Procedural rules: The Commission will pre-establish procedures aimed at ensuring the proper guarantees and a fair, honorable and non-discriminatory treatment for those who take part in it.

Guarantees for the commissioners: In regard to their work in the Commission, the commissioners will not be compelled to declare in judicial processes, they will be exempted from the duty to file complaints, and their opinions and conclusions may not be judicially questioned.

Safety conditions: The Commission will assess the necessary safety conditions for the performance of its activities and will coordinate the adoption of the necessary safety measures with State authorities, for both the commissioners and those who take part in the Commission's activities.

Coexistence and reconciliation: In order to contribute to the purposes of non-repetition and reconciliation, the Commission's activities in the performance of its mandate will be directed to promote coexistence among the Colombian people, particularly in the territories most affected by the conflict and violence. For that purpose, the Commission will seek to ensure that the spaces or audiences it will set up will help in strengthening respect and tolerance, citizen's trust in others and in the regulations that ensure the enforcement of and the respect for human rights. In this manner, the Commission will also help to lay solid foundations for building peace.

Methodology: The Commission will take all necessary measures to ensure the utmost possible objectivity and impartiality in carrying out its activities, for which purpose it will adopt procedures to contrast and verify the quality of the information it collects, including its reliability, and to identify false information that may be provided in bad faith to the Commission. The Commission will publicly disclose its methodology.

Extrajudicial mechanism: The Commission will be an extrajudicial mechanism. In this regard, its activities will not be of a judicial nature, and they may not imply criminal charges against those who appear before it. The information received or produced by the Commission may not be conveyed by it to the judicial authorities to be used for attributing liabilities in judicial processes or have evidentiary value; likewise, judicial authorities may not demand it.

Mandate:

The Commission's mandate will be to elucidate and promote the recognition of:

- Practices and facts that constitute serious human rights violations and serious infringements of International Humanitarian Law (IHL), in particular those that reflect patterns or are of a massive nature, which took place in the course of the conflict, as well as the complexity of the territorial contexts and dynamics where these happened.
- The State's collective responsibilities, including those of the Government and the other public authorities, of the FARC – EP, of the paramilitary, as well as those of any other group, organization or institution, domestic or international, which has had any participation in the conflict, regarding the practices and facts referred to in the preceding paragraph.
- The human and social impact of the conflict on society, including its impact on

economic, social, cultural and environmental rights, and the differentiated forms in which the conflict affected women, children, adolescents, youth and senior citizens, people with disabilities, indigenous people, peasant communities, Afro-Colombian, black, “palenquera” and “raizal” populations, LGBTI population, displaced and exiled people, human rights advocates, union members, journalists, farmers, merchants and businesspeople, among others.

- The impact of the conflict on the exercise of politics and the operation of democracy as a whole, including the impact on political and social parties and movements, particularly those in the opposition.
- The impact of the conflict on those who directly took part in it as combatants, and on their families and environments.
- The historical context, the origins and multiple causes of the conflict, taking into account as inputs, among others, the reports of the Historical Commission of the Conflict and its Victims.
- The factors and conditions that facilitated or contributed to the persistence of the conflict, taking into account as inputs, among others, the reports of the Historical Commission of the Conflict and its Victims.
- The development of the conflict, particularly the actions of the State, the guerrillas, the paramilitary groups, and the involvement of different sectors of society.
- The processes for the strengthening of the social fabric in the communities and individual or collective resilience experiences.
- The positive transformation processes of organizations and institutions over the course of the conflict.

Period subject to study by the Commission (temporary scope):

In order to address the different elements of its mandate, the Commission will have the period of the conflict period as its timeframe. Since this implies an extended timeframe, it will be necessary for the Commission to establish its research priorities within it. However, in order to fulfill the purpose of fully elucidating the origins and multiple causes of the conflict, the Commission may explore historical events prior thereto, taking into account as a basic input, among others, the reports of the Historical Commission of the Conflict and its Victims.

Duties:

In order to fulfill its mandate, the Commission shall have the following main duties:

- Research about all of the mandate's elements using the necessary information gathering and analysis methodologies and forms for that purpose, considering practices generally accepted by the social sciences, including a gender approach, and taking into account previous truth-building efforts, including as basic inputs, among others, the reports of the Historical Commission of the Conflict and its Victims.
- Create spaces at the national, regional and territorial levels, particularly thematic, territorial and institutional audiences, and of emblematic organizations and cases, among others, in order to listen to the different voices, in first place those of the victims, both individual and collective, and promote the participation of the different sectors of

society to contribute to a joint reflection about the events and the causes and effects of the serious violence lived by Colombia.

- Those spaces may include public discussion and reflection scenarios or cultural ceremonies, enabling those who have directly or indirectly participated in the conflict to engage in acts of recognition and responsibility and ask for forgiveness, in its various dimensions, both for the damages and suffering caused to the people, as well as for the political and social impact of their actions; and consequently, to offer explanations about the actions carried out, contribute to the reparation, and assume non-repetition and peace-building commitments, among others. This shall contribute to learn the truth and to promote peaceful coexistence in the territories.
- Prepare a final report considering the different contexts, reflecting the investigations involving all the components of the mandate, and containing the conclusions and recommendations as a result of its work.
- Offer guidance to the victims and victimized communities who take part in the Commission regarding institutional and other offerings, for the satisfaction of their rights and the mechanisms to demand them.
- Relationships between the Commission and the victims and their organizations: Design and set in motion an active liaison strategy with the victims and their organizations.
- Implement an outreach, educational and active liaison strategy with the media to report, during its operation, the progress and developments in the fulfilment of all the Commission's duties, and ensuring the maximum possible participation. The Government will adopt all necessary measures for the Commission to have broad access to public media. The final report, in particular, shall have the broadest and most accessible dissemination, including the development of cultural and educational initiatives, such as the promotion of exhibitions, and recommending its inclusion in the academic curriculum.
- Adopt measures to archive the information collected in the framework of its duties, and upon termination of its mandate, adopt the necessary measures to ensure its preservation. The Commission will determine the depository and custodian entity for these archives.
- Ensure the cross-cutting nature of the gender approach throughout the entire scope of the work of the Commission, by creating a gender task force in charge of contributing with the tasks for preparing specific technical, research, and gender audiences, among others. This task force will not be the only one addressing the topic, but it should bear the responsibility for reviewing the methodologies in order to ensure that all the Commission's instruments include a gender approach, and for coordination purposes with women's and LGBTI organizations. The foregoing, without prejudice to the necessary autonomy of the Commission in determining its structure and working methodology.
- Render accounts to society on a periodical basis, at least biannually, about the activities and operations carried out in fulfillment of all its duties.
- Establish its own work rules and program.

Selection process:

The Commission will have 11 commissioners. Their selection will entail establishing a

nomination and selection procedure ensuring guarantees of legitimacy, impartiality and independence for all the Colombian society, and the victims in particular. The candidate nomination process will be broad and pluralistic, ensuring that all sectors of society, including victims' organizations, among others, may nominate candidates.

The commissioners will be elected by a selection committee. This committee will have 9 members. The Government and the FARC – EP, by mutual agreement, will select 6 of the committee members by means of a mechanism to be agreed upon. The remaining 3 members will be the delegates of 3 people or organizations to be agreed at the Table. All members of the selection committee shall inspire trust among the citizens.

The selection will be solely based on the nominations and the election will take into account individual selection criteria such as ethical suitability, independence, commitment to human rights and justice, absence of conflicts of interest, and knowledge about the armed conflict, International Humanitarian Law and human rights, and a recognized background in any of these fields. The selection of the commissioners shall also take collective criteria into account, such as gender equity, pluralism, interdisciplinary nature and regional representation.

The selection committee may select foreign commissioners, but in no case more than 3.

The selection committee shall have up to 3 months for the selection of the commissioners, starting as of the closing of the nomination phase.

The selection of the commissioners shall be adopted by a majority of 2/3 of the members of the selection committee.

Commission Chairperson:

The Commission Chairperson shall be Colombian, and shall be elected by mutual agreement between the National Government and the FARC – EP by means of an agreed upon mechanism. The Commission Chairperson shall be its primary public spokesperson, who will coordinate the work of the commissioners, facilitate its proper internal operation, and direct its tasks, preferably seeking consensus in the internal decision-making process. The role of the Commission Chairperson is important because at the same time he/she will be a national and international icon.

Duration:

The Commission shall have a 3-year duration, including the preparation of the final report. The Commission shall have 6 months to prepare all matters for its operation. The publication of the final report will be made within the month following the conclusion of the Commission's work.

Commitment to contribute toward elucidation

The National Government, as the executive branch, and the FARC – EP, undertake to decisively contribute in the process of elucidating the truth and recognizing their respective responsibilities before the Commission.

The Government will adopt all necessary measures to guarantee the contribution of other State entities and will foster third party participation in the Commission, so as to contribute toward the elucidation and the recognition of responsibilities, as part of the necessary guarantees for non-repetition.

Pursuant to the applicable laws, the Government undertakes to facilitate consultation of the information required by the Commission for the fulfilment of its duties, and the Commission, in

turn, will afford it the corresponding legal treatment.

Funding:

The National Government undertakes to guarantee the timely funding for the operation of the Commission, in such a way that it may fully comply with its mandate and duties in an autonomous and uninterrupted manner, including the publication and massive dissemination of the final report. The Commission shall adopt all necessary measures to ensure that its resources are transparently used, seeking to ensure austerity in its expenses. Citizen oversight over resource disbursements will be promoted, providing the necessary guarantees for such purpose.

Follow-up and monitoring committee on the implementation of the Commission's recommendations:

A follow-up and monitoring committee on the implementation of the Commission's recommendations will be created, whose operations will start once the final report has been published. For the fulfillment of its task, dialogues will be facilitated with different victims and human rights' entities and organizations, among others. The members of this committee will be representatives from different sectors of society, including victims and human rights organizations, among others. The Commission will establish the time period during which the committee will operate. The committee will submit periodic reports on the follow-up of the recommendations. These reports shall feature a territorial, differential and gender approach. The committee will adopt the necessary measures to broadly disseminate its reports in the national and regional media. The Government will guarantee the committee's funding for the fulfillment of its duties.

- **Search mechanism**

In order to contribute to the satisfaction of the right of the victims and of society as a whole to the truth, and without prejudice to the existing elucidation procedures or those that may be carried out during the peace dialogues process, we have agreed that, upon termination of the conflict, it will be necessary to multiply the search, location, identification and recovery efforts of the remains of deceased persons or persons deemed to have disappeared in the context and because of the conflict, under any circumstances. For this purpose, we will work on a new mechanism that will operate in coordination with the Commission.

- **Participation of the victims and society in relation to Item**

Within the 10 principles for the discussion of Item 5 – “Victims”, agreed at the Table, “victim participation” plays a major role. We are convinced that peace-building demands an active participation of the victims, and in general of the communities in the territories, which are ultimately those who will benefit from the transformations sought by the agreements we have reached.

A fundamental purpose of the Table has been to achieve the highest possible participation and to receive the maximum number of proposals related to the discussion of Item 5. The progress in the agreement on Item 5 that we are presenting today has been based precisely on listening to the victims who came directly to the Table and on reading the proposals of thousands of people who have sent them to us through the different participation mechanisms.

In the first place, and for the first time within the framework of a peace process, the Dialogue Table directly listened to and received the proposals of a group of victims of the conflict. The selection process of these victims was carried out by the UN and the National University, accompanied by the Episcopal Conference; guided by the principles of pluralism, balance and fairness, they sought to reflect the entire universe of human rights violations and infringements

on IHL that have taken place in the conflict, taking into account the different social sectors and populations, and the territorial approach. The delegations were comprised by 12 victims and the Table heard one delegation per cycle, during cycles 27, 28, 29, 30 and 31 of the dialogues.

Among the victimizing facts represented, testimonies were heard about forced displacement, homicide, tortured, enforced disappearance, kidnapping, sexual violence, extrajudicial executions and forced recruitment of minors, among others. All the victims who visited Havana to state their testimonies, their proposals and their expectations regarding the peace process and the implementation of the agreements before the two delegations at the Dialogue Table, concurred in highlighting the need to bring the conflict to an end.

Furthermore, between July and August, 2014, 3 regional forums were organized (in Villavicencio, Barrancabermeja and Barranquilla), and one National Forum in Cali on Item 5. A total of 3,162 individuals participated, out of which 51.7% were men and 48.3% were women. More than 600 victims' organizations attended these forums.

Finally, to date we have received 24,324 contributions on the item of victims, with more than 59,000 references to the different aspects of this Item, including over 8,600 regarding the topic of "truth".