

**REMARKS BY THE PRESIDENT OF THE REPUBLIC OF
COLOMBIA, JUAN MANUEL SANTOS, AT THE NINTH
SESSION OF THE ASSEMBLY OF STATES PARTIES TO
THE ROME STATUTE OF THE INTERNATIONAL
CRIMINAL COURT**

New York, December 6, 2010

Mr. President,

I am very honored, – and understand the responsibility that comes with this honor – to be the first Head of State to speak before the Assembly of States Parties to the Rome Statute of the International Criminal Court.

I stand before you, aware of the interest aroused by the case of Colombia in the international community and, above all, profoundly convinced – as is the vast majority of Colombians – of the need to respect, protect and defend human rights, and apply International Humanitarian Law.

The need for justice to achieve peace!

Colombia's commitment to peace and justice is born out of our deepest convictions and is the product of our complex history.

Colombia has suffered a brutal unimaginable violence; we have made mistakes and also made good decisions.

We are making progress and we will keep progressing.

Colombia is committed to peace and justice in its territory, but also in countries that have ratified the Rome Statute if requested

So I come with enthusiasm, and a sense of responsibility, to this meeting to reaffirm our commitment.

I come to tell you that in Colombia we have developed a Democratic Security policy that has brought us closer to peace, and has recovered the rule of law throughout the country.

I come to proclaim our determination to fight impunity in our country and our firm support to the work of the International Criminal Court and the complementary criminal justice system created by the Rome Statute.

I come to say that the government of Colombia has the strongest will – I want to make this clear – to recognize and enforce the rights of victims to truth, justice and reparation.

Mr. President,

In the past, amnesties and pardons were the accepted practices for dealing with atrocities in pursuit of peace.

Nowadays, nobody doubts that reconciliation processes require a component of justice to be sustainable.

Colombia has led an ambitious process of transitional justice that seeks a balance between the demands of justice and the desire for peace of millions of Colombians.

We have suffered, for almost half a century, the violence of illegal armed groups of all kinds, who, by their actions, increasingly resemble terrorist squads involved in drug trafficking.

In this difficult context, Colombia began, in 2005, a new and encouraging process with the approval of **the Justice and Peace Law**.

This law established the legal framework for a transitional justice process in order to achieve the demobilization, disarmament and reintegration of members of illegal armed groups; to recognize and enforce the rights of victims to truth, justice and reparations; and to carry out investigations and prosecutions against the leaders of illegal armed groups responsible for committing heinous crimes.

Colombia is undergoing a comprehensive process of truth, justice and reparation without having completely overcome the threat from violent groups.

That is, we are applying traditional post-conflict policies without having yet consolidated peace, because we believe that the victims can not and should not wait.

Colombia is also the first country to have achieved the demobilization of illegal armed groups – the so-called paramilitaries – without having defeated them, without offering impunity, without offering an amnesty.

In total, more than 50,000 members of illegal armed groups have demobilized and surrendered their weapons.

For them we began a process of reintegration and psychosocial support –coordinated by the Presidency– which has allowed those not accused of crimes against humanity to return to society as useful citizens.

We remain committed to this process.

The Justice and Peace Law is an innovative scheme that achieves justice without preventing peace, and seeks peace without impunity.

It is a great challenge for our judges and prosecutors, but we are determined to provide all necessary support to allow them to complete their task.

They have done a lot, and we will successfully conclude this difficult process.

More than 4,000 people are being investigated under this special procedure; the paramilitary leaders are in jail; some have been convicted, and most are awaiting sentencing.

Through public hearings with the demobilized, we are reaching a judicial truth that would not otherwise have been possible: 44,000 crimes have been confessed, of which 18,000 were homicides.

More than 2,800 graves, with more than 3,400 corpses, have been located and exhumed, and 1,100 have been identified and delivered to their families.

The leaders of paramilitary organizations, including members of Congress who supported them, have been tried and many have been convicted.

Today, more than 400 politicians at all levels – congressmen, governors, mayors, assemblymen, councilmen – and others from various sectors of civil society, are being prosecuted for collaborating with illegal armed groups.

The Supreme Court – which has led this judicial activity – has imposed sentences of up to 40 years in prison for their connection with heinous crimes.

The political class has no impunity in Colombia.

And we have paid particular attention to the behavior of our Military and Police.

My commitment as President is that there will be no deviation from legal norms.

And if this occurs it will be severely punished.

It is obedience of the law that distinguishes a soldier from a criminal.

In this context, investigations have been carried out against members of the security forces, including senior officers.

As of September of this year there were 737 active cases and 298 convictions.

Last week an Army Major was sentenced to 32 and a half years in prison for the extrajudicial execution of two people.

This case was first investigated by the armed forces and has now been decided by the civilian courts.

These cases show that there is no impunity for any sector, civilian or military.

I want to emphasize at this stage – and I do so not only as President but as someone who was Defense Minister for almost three years – that I am grateful and honored by the efforts of the more than 400 thousand members of our Armed Forces who risk their lives to defend the Colombian people.

Respect for human rights and International Humanitarian Law will continue to be ingrained in our Armed Forces.

By way of example, in 2008 we issued the first **Comprehensive Policy on Human Rights and International Humanitarian Law** of the Ministry of Defense, which the support of the Office of the United Nations High Commissioner for Human Rights called "a milestone for the continent."

Among other things, this policy strengthened the training in Human Rights and International Humanitarian Law; created a system of operational legal advisers and inspectors delegates who ensure its application in military units; and strengthened the military criminal justice system.

We accomplished this with the help of national institutions, the Office in Colombia of the UN High Commissioner for Human Rights, and the International Committee of the Red Cross.

We also created, with the same institutions, a system to monitor allegations of human rights violations, and issued an Operational Law Handbook – probably the only one in countries with internal security problems – which gives our military legal support on the rules of engagement to be observed in the field.

Among other things, we elevated the following practice to military doctrine: to promote demobilizations over captures, and captures over deaths in combat.

The result has been a true internalization of responsibility for human rights and IHL by the members of our Armed Forces, while individual cases of violations of human rights by members of the security forces are being investigated and punished.

The Colombian Armed Forces have demonstrated that respect for the law improves efficiency.

As an example, allow me to mention the operation that rescued Ingrid Betancourt and 14 other hostages, which was planned by military intelligence, without firing a single shot.

In compliance with the Oslo convention, our Air Force destroyed all the cluster bombs in its stock; in compliance with the Ottawa Convention, our Armed Forces destroyed all land mines in their possession, and for over 10 years they have not recruited anyone under 18 into their ranks.

These are the Armed Forces of our country, of which I am proud!

Our human rights work with the security forces is receiving increased recognition, and we are making this experience and doctrinal expertise available to other countries where they may be useful.

We have an important experience to share in this respect.

Many thought that the discovery of links between the illegal armed groups and different sectors of society, including state agents, would create an unprecedented institutional crisis in the country.

On the contrary, both our institutions and justice system have been strengthened, which demonstrates the maturity and stability of our democracy and our rule of law.

That is why we are here, not just representatives of the government, but also high representatives of the Judicial Branch and the heads of the Military and Police, to show the commitment of the state as a whole to achieving efficient justice, and respect for human rights.

Mr. President,

Along this journey, **the victims** have gone from being invisible spectators to be the main actors and real engines of the transitional justice processes.

To exercise their right to reparation, the Justice and Peace Law created the National Commission for Reparation and Reconciliation, an independent institution consisting of representatives of government, state, civil society and victims, which has, additionally, done a rigorous job in recovering the historical memory.

Under the Justice and Peace Law, victims can participate in all stages of the proceedings and seek reparations from their abusers and, secondarily, from the State.

Over 55,000 victims have been involved in criminal proceedings and were able to question their abusers.

Over 250 million dollars have been destined to repair around 25,000 victims.

This great effort will be complemented by the **Victims Law**, a project which I – in an act unprecedented in Colombian democracy – personally introduced to Congress on September 27, and which has been progressing positively in the legislature.

The objective of this law is to repair the victims of heinous crimes.

The project also includes the most comprehensive regulations on land restitution, to give peasants back the land stolen from them by illegal armed groups, and to ensure a return to their place of origins and a decent life for the displaced people.

The collective return of farmers to their land will be accompanied by technical assistance, and the provision of government services for rural development to rebuild the communities affected by the theft and to guarantee the sustainability of the process.

According to preliminary estimates, to fulfill this law, we would have to spend more than 22 billion dollars – more than 22 billion dollars! – In the next 15 years.

Colombia is going to make victims of violence the center of its efforts.

In the words of Norbert Wuhler, Chief of the Reparations Program for International Organization for Migration, this program represents the *"most ambitious and comprehensive reparation that has been seen in the world."*

The project we have presented gives equal treatment to victims regardless of who the perpetrator is, even if it is a State agent, and acknowledges – for the first time in the world –, the displaced people as victims, thus expanding the universe of beneficiaries of the law.

To get an idea of my Government's commitment, and of the challenges we face, keep in mind that between 1953 and 2009 two million victims of the Holocaust in World War II received reparations.

In Colombia we intend to make an effort of similar magnitude in only 15 years!

The way to achieve truth, justice and reparation has not been, however, free from obstacles and difficulties.

We have been required to learn as we go along, without the benefit of previous models, making corrections as needed.

It has not been a perfect process, and we have learned from our mistakes.

Colombia wants to share this experience with the States Parties to the Rome Statute.

The Colombian model of transitional justice is a laboratory of experiences that can serve as an example for similar efforts in other regions.

Within the frame work of the South-South cooperation encouraged by the International Criminal Court, we will begin to cooperate with the Commission for Reparation and Reconciliation in Kenya.

And we are ready to cooperate with other states to share the lessons we have learned in Colombia.

Dear Delegates,

On March 6, 2006, our Council of Economic and Social Policy approved a *Policy to Combat Impunity in Cases of Human Rights Violations and Breaches of International Humanitarian Law*, in order to strengthen the capacity of the Colombian State to investigate, prosecute and punish.

It was prepared by different institutions, including the Judiciary and various control bodies.

The work was supported by the Embassy of the Netherlands and the Office in Colombia of the UN High Commissioner for Human Rights.

The policy has been implemented through 22 projects financed with national resources and with cooperation from the Kingdom of the Netherlands and the European Union.

The United States Agency for International Development has also supported us in implementing an accusatory criminal justice system and providing human rights training for judicial officials.

These are just some of many examples where the international community has been cooperating with our country on issues related to strengthening our judicial system.

Therefore, taking advantage of the presence of so many states in this Assembly, I thank all those countries that have supported several aspects of transitional justice in Colombia, such as Germany, Canada, Japan, Netherlands, Spain, Sweden, Switzerland, and United States, among others.

I also want to thank the Organization of American States and United Nations agencies, the European Union and other international organizations.

At the same time, I want to recognize the contributions that civil society, organized in different national and international NGOs, has made to the process of transitional justice in Colombia and to the strengthening, in general, of the judicial system and the protection of human rights in our country.

Without their substantial contribution we would not have gotten to where we are.

This support has been crucial and is framed within the principle of complementarity, the pillar of the Rome Statute.

This theme – complementarity –, which has been subject to important insights, including during the Review Conference of the Rome Statute, held in Kampala, and that will continue on the agenda of the Assembly, is a central theme of the challenges facing contemporary criminal justice.

Justice is an essential function of the State, and the fight against impunity for heinous crimes will only be successful if there are effective domestic judicial systems.

We do not believe – I want to emphasize this – that there is a dichotomy between international criminal justice and national justice.

Both are part of the system created by the Statute of Rome, where the leading role lies with the States and, secondarily, with the International Criminal Court, when the States can not administer justice for lack of ability or will.

My government sees the ICC as an **ally** in its fight against impunity for heinous crimes, and is willing to cooperate actively with the Court.

The contradiction, therefore, is not between States and the Court, but between States **and** the Court, on the one hand, and the perpetrators of heinous crimes on the other.

Mr. President,

We believe in an international criminal justice built on the foundation of domestic justice.

On this belief, my country committed itself from the beginning to the International Criminal Court, and, by ratifying the Rome Statute, gave it the highest regulatory authority by incorporating it into the Constitution.

We ratified the agreement on privileges and immunities; included the crimes within the Court's jurisdiction into our criminal legislation; and incorporated the obligation to cooperate with the ICC into our Code for Criminal Procedure.

Additionally, through our missions to The Hague and New York, we have maintained a respectful and transparent working relationship, and a dynamic dialogue, with the different organs of the International Criminal Court and with its officials.

As a further sign of our commitment to the Court, and especially to victims from other parts of the world, we will make a donation to Court's Victims Fund.

We have also made the decision to sign an agreement with the Court for the Execution of Sentences, which we aim to subscribe with the Chief Justice, His Excellency Judge Song, whom we have invited to Colombia.

We are determined to continue the two-way cooperation with the Prosecutor of the International Criminal Court and with other judicial authorities to make our struggle against impunity more effective.

Finally, I want to note that Colombia has been elected to the United Nations Security Council for the period 2011-2012 and that, from this important position, we hope to assist and work with the Court for peace and justice.

Mr. President,

Despite many difficulties, Colombia has not relented in the fight against violence, in punishing human rights abusers and in its decision to compensate the victims of the most serious crimes of international relevance.

These processes were initiated and given special impetus during the administration of my predecessor, President Alvaro Uribe Vélez, and we are reaping the fruits of his work in terms of security and protection of human rights.

At the same time that we continue fighting against the violence perpetrated by illegal armed groups, we have continued to progress economically; to seek social equality; to improve our protection of human rights; and to cultivate better relations with the international community.

The security indicators of the last eight years are telling: murders have dropped by 45 percent, massacres by 78 percent and kidnappings by 91 percent.

The Democratic Security policy, which we have applied for eight years to restore security and tranquility to the country, was in essence a policy of systematic protection of human rights and a policy to bring Colombians closer to peace.

If the international community can help us with something, it is in helping us prepare now for the post-conflict phase, educating the thousands of demobilized that are looking for a place in society, in giving the victims of decades of violence – violence that we are beginning to overcome – a new chance.

Now that we are managing to heal the wounds of violence that have affected us – as they have few other countries in the world –, I've called for National Unity, to leave the hatred behind us, and to look with optimism to the future.

Together, Colombians are going to continue fighting for justice and against impunity.

Together, we will prosecute to the fullest extent of the law, as we have done, those responsible for atrocities.

Together, we will make sure victims receive full reparation.

Today, before this Assembly, I want to call for unity between states, international organizations, civil society and the International Criminal Court, so that together we confront those committed to cruelty

Only decisive action by all nations will allow us to achieve world peace, justice and prosperity.

Colombia is committed and ready to do its part.

Thank you very much.