The ICC and Colombia: Massacres under the looking glass

by Daniel Kovalik

The International Criminal Court (ICC) published its Interim Report on Colombia in November 2012. It is an interesting read, revealing as much about the ICC itself as it does about Colombia. In the Report, the ICC explains that Colombia has been under preliminary examination by the ICC since June 2004. This is quite curious given the ICC's conclusion in the report that the worst crimes of the Colombian military – the 'false positive' killings in which the military killed around 3,000 innocent civilians and dressed them up to appear as guerillas – 'occurred with greatest frequency between 2004 and 2008.'

In other words, the military carried out its most notorious violations while under the ICC's scrutiny. Perhaps the ICC was too busy trying Africans – apparently the sole target of ICC prosecutions – to have done anything to deter such crimes.

In any case, the ICC's conclusions about the 'false positives' scandal raise many questions

about the Colombian military, and, more importantly, about its US patron. Thus, the high water mark for the 'false positives' (2004 to 2008) also corresponds with the time in which the US was providing the highest level of military aid to Colombia. This appears to be more than a coincidence.

The ICC describes the 'false positives' phenomenon as follows:

'State actors, in particular members of the Colombian army, have also allegedly deliberately killed thousands of civilians to bolster success rates in the context of the internal armed conflict and to obtain monetary profit from the State's funds. Executed civilians were reported as guerillas killed in combat after alterations of the crime scene.... The available information indicates that these killings were carried out by members of the

armed forces, at times operating jointly with paramilitaries and civilians, as a part of an attack directed against civilians in different parts of Colombia. Killings were in some cases preceded by arbitrary detentions, torture and other forms of ill-treatment.'

The ICC concluded that these killings were systemic, approved by the highest ranks of the Colombian military, and that they therefore constituted 'State policy.'

The killings – which the ICC characterised as both 'murder' and 'forced disappearances' – were not random, but rather, as the ICC concluded, were directed at 'particular categories of civilians,' including 'marginalised' individuals from remote areas, such as unemployed persons, indigents and drug addicts; political, social and community activists; indigenous persons, minors, peasants and persons with disabilities. Moreover, the regions most affected by these killings, in descending order were Antioquia, Meta, Hila

and Norte de Santander. As the ICC noted, the ‘false positive’ victims many times ended up in mass graves.

The ICC, relying upon the findings of the UN Special Rapporteur, found a peculiar fact – that the ‘false positives,’ though occurring with varying frequency back to the 1980s, began to peak when the threat of the guerillas themselves were actually decreasing in the early 2000s. As the ICC, quoting the UN Special Rapporteur, explains:

‘As security in Colombia began to improve from 2002, and as guerillas retreated from populated areas, some military units found it more difficult to engage in combat. In such areas, some units were motivated to falsify combat kills. In other areas, the guerillas were perceived by soldiers to be particularly dangerous and soldiers were reluctant to engage them in combat. It was “easier” to murder civilians. In still other areas, there are links between the military and drug traffickers

and other organised criminal groups. Local military units do not want to engage in combat with the illegal groups with which they are cooperating, so killing civilians falsely alleged to be part of these groups make military units appear to be taking action.’

One thinking about US policy toward Colombia should be greatly concerned by these details. First of all, it is apparent that during the period that the US was providing Colombia with the greatest amount of military assistance under Plan Colombia from 2000 to 2009, the Colombian military was engaged in its worst crimes and quite unnecessarily so, at least if the stated goal of eradicating drugs was indeed the real goal. Thus, the Colombian military was knowingly killing civilians in lieu of killing guerillas while also taking a hands-off policy towards drug traffickers and other organised criminal groups because the military was actually working with these groups.

As the ICC explained, an example of the

organised criminal groups which the Colombian military has been closely working with are the right-wing paramilitaries which, as the ICC explained, ‘assisted the Colombian military in their fight against the FARC and ELN guerillas’ by attacking, not the guerillas themselves, but the civilian population – for example, through ‘mass killings of civilians; selective assassination of social leaders, trade unionists, human rights defenders, judicial officers, and journalists; acts of torture, harassment, and intimidation; and actions aimed at forcing the displacement of entire communities.’ And, in terms of the displacement, the ICC concluded that this took place in ‘resource-rich regions of Colombia.’

One does not have to ponder the ‘false positive’ scandal or the military-paramilitary assault on civilians to conclude the obvious – that the war of the Colombian State, backed by the US, is targeted at least as much, if not more, against the civilian population, as it is against >>>

>>> guerillas and drug traffickers. Certainly, it appears to be the case that the Colombian military, in engaging in its 'false positives' campaign, did so in order to justify continued aid from the US by showing the US results in the form of claimed dead combatants. However, I believe that this 'body count mentality' explanation is not the complete explanation, for it can't in my view explain the need for the military to have tortured the 'false positive' victims first as the ICC found they did in many instances. I would posit that at least one major reason for such a policy is to terrorise the civilian population into submission and to retreat from their land – especially 'resource-rich' land as the ICC concluded. This policy is working, at least as judged from the results, with Colombia now being the country with the largest internally displaced population in the world at over 5 million.

And, in addition to the oil, coal, gold and other important minerals being extracted in Colombia by multi-national concerns, a critical resource which is now growing exponentially

in Colombia is African palm, the oil from which is used for biodiesel. As we learn from Gary Leech in his wonderful article, *The Oil Palm Industry: A Blight on Afro-Colombia*, palm oil production in Colombia grew by 70 per cent between 2001 and 2006 – that is, in the initial years of Plan Colombia and at roughly the same time the military was targeting civilians for assassination with greatest frequency. In addition, the just-passed Colombia Free Trade Agreement is encouraging the growth of palm oil as well. Moreover, three of the four departments most affected by the 'false positive' scandal (Antioquia, Meta, and Norte de Santander) are palm growing regions, Meta and Norte de Santander being two of the major regions for this crop.

Olivia Gilmore, in an article entitled *Fueling Conflict in Colombia: Land Rights and the political ecology of oil palm*, explains the grim reality that:

'Poor indigenous and Afro-Colombian communities have been disproportionately affected by this phenomenon, as they often are

less likely to have formal land titles or access to legal avenues through which to address their grievances. Individuals and communities are forced off of their land by large, multinational palm oil corporations, paramilitaries, or often a collaborative effort of the two. Armed incursions, murders, and massacres related to palm oil interests have become the norm in all of the major palm oil complexes throughout the country. The central Colombian government, with support from the United States Agency for International Development (USAID), actively promotes palm oil expansion as a crop substitution for coca, to meet the demands of a growing and lucrative bio-fuel market, and to promote economic development at both the local and national levels. As such, palm cultivation in Colombia has increased dramatically in recent years, making it the fastest growing agricultural sector in Colombia and the fifth-largest producer in the world.'

Since the rise of palm oil production in the early 2000's, nearly all areas of expansion of

Restorative justice in Central America

It became customary a few years ago to end a protracted period of civil conflict with a truth and reconciliation commission, most famously in South Africa – but also in a score of other countries. Some of these were in Central America, a small region of the world, but currently its most violent.

Two countries had prolonged civil conflicts followed by truth commissions. The one in El Salvador was established by the United Nations (UN) and received thousands of submissions on behalf of victims. Five days after it issued its report in 1993, the Salvadoran parliament approved an amnesty law covering all the violent events of the war.

In Guatemala, where an estimated 200,000 people lost their lives in the long civil war, there was a lot more work. Tens of thousands of submissions and years of documentation and analysis produced a stark conclusion: indigenous Mayan people accounted for 83 per cent of the victims, and 93 per cent of the atrocities committed during the conflict had been the work of the armed forces.

So much for truth. Reconciliation is more elusive, justice even more so. But it is this quest for justice that has begun to be a little more fruitful in recent months.

On 28th January 2012, a Guatemalan judge ruled that General Rios Montt, the US-backed dictator who ruled the country in 1982 and 1983, should face charges of genocide for the scorched earth policy he operated. The charges identify him as the intellectual author of crimes carried out in the Ixil Triangle in the El Quiché department. These include the forced displacement of 29,000 people, the deaths of 1,771 individuals in 11 massacres, as well as acts of torture and 1,485 acts of sexual violence against women. The case has major implications for Guatemala's new president, Otto Pérez Molina, who was a military

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commander in the Ixil Triangle where the genocide was carried out.

The war of the Guatemalan State against its citizens lasted 36 years. Some 200,000 people were killed and a further 45,000 'disappeared' in this period. It peaked in the early 1980s and involved acts of unbelievable cruelty. One documented case was a massacre of over 200 villagers by government soldiers in the village of Las Dos Erres in 1982. According to the US-based Human Rights Watch, the abuses included 'burying some alive in the village well, killing infants by slamming their heads against walls, keeping young women alive to be raped over the course of three days.' In March 2012, a Guatemalan court sentenced former soldier Pedro Pimentel Rios to a symbolic sentence of 6,060 years in prison. He was the fifth person to be convicted of this massacre.

This was not an isolated incident, but one of over 400 massacres that were documented. In 2004, the Government of Guatemala admitted to the Inter American Court of Human Rights that the Rios Montt regime had practiced a strategy of genocide. Now the old amnesties are being swept aside and those at the top are going to face charges.

The role of the USA in all this is worth mentioning. Human Rights Watch went so far as to say that 'the Reagan Administration shares in the responsibility for the gross abuses of human rights practised by the Government of Guatemala.' The CIA worked inside the Guatemalan army at this time, operating torture centres and helping to run a unit responsible for thousands of killings.

Guatemalan military officers were trained at the notorious US-run School of the

Americas in Panama, which relocated to Fort Benning in Georgia in 1984. Manuals used in the training of officers contain instructions in motivation by fear, bounties for enemy dead, false imprisonment, torture, execution, and kidnapping a target's family members. The Pentagon eventually admitted that these manuals were a 'mistake'.

The School has graduated over 500 of the worst human rights abusers in the western hemisphere. One of them, a former Guatemalan Defence Minister, gave an address to the school just two years after a US court ruled he was responsible for the gang rape of an American nun as part of his 'anti-terrorist' operations in Guatemala. In El Salvador, 10 out of the 12 army officers cited in a UN report as responsible for a 1981 village massacre of over 200 people, the majority children, were graduates of the school. The same was true of the officer responsible for the rape and murder of three American nuns and a lay missionary a year earlier.

El Salvador's dark past is also being revisited. The country's Foreign Minister recently issued an apology for the El Mozote massacre 30 years ago. This was perpetrated by the US-trained Atlacatl Battalion of the Salvadoran army, who rounded up the over 1,000 villagers and systematically tortured, raped and murdered them, before setting fire to all the buildings. Girls as young as 10 were raped and children had their throats slit and were hanged from the trees.

The Reagan administration dismissed the reports as 'gross exaggerations' and the actions of the Battalion were described in the US Senate at the time as 'commendable' and 'professional'. To this day, the US has never apologised for its role in the affair.

Human rights have rarely been a consideration for the US in this region of the

palm plantations have coincided geographically with paramilitary areas of expansion and presence. Much like coca's role in funding guerillas and paramilitaries, the costs involved in the production process of palm oil make growers an easy target for armed groups. There have been numerous allegations of palm oil companies meeting with paramilitaries in order to arrange the violent displacement and illegal appropriation of people's lands. Earlier in 2012, the office of Colombia's Prosecutor General charged 19 palm oil businesses of allying with paramilitaries after investigations linked the economies of palm oil and funding to such groups. While some farmers have been able to escape from the violence and coercion of guerilla groups by switching to crops other than coca, the link between palm oil and the funding of violent conflict still exists. So strong is this correlation that a study conducted by the Universidad de los Andes argues that a legal product such as palm oil has an equal capacity to finance armed groups as similarly lucrative illegal products.

In the end, the civilian population of Colombia, particularly in the countryside, is viewed as the enemy by both the Colombian State and the US which continues to back that State. While the violence takes different forms, and is fueled by various material incentives, the result is the same over these many years – the destruction of the peasantry, including the Afro-Colombian and Indigenous populations, which are inconveniently living on land designated for multi-national exploitation and expropriation. Colombia, with one of the worst distributions of wealth and land in the world, with its multiple free trade agreements, and with its over-bloated military aid from the US, is a quintessential example of unrestrained capitalism and neo-colonialism.

As Noam Chomsky has often commented, the foregoing is a function of the maxim of Thucydides that 'the strong do as they wish while the weak suffer as they must.' And, this maxim also explains why the ICC, which has yet to prosecute anyone in Colombia for these high crimes, will certainly never prosecute the

top intellectual authors of these crimes residing in the United States. Indeed, in the ICC's 93-page report, the United States which has funded these crimes for years is not mentioned even once.

Since this article was written, an oil worker from the USO union, Milton Enrique Rivas Parra, was murdered in the municipality of Puerto Gaitán, Meta Department. In addition, Afro-Colombian leader Miller Angulo Rivera, a member of the Association of Internally Displaced Afro-Colombians (AFRODES), was murdered in the city of Tumaco, Colombia. These murders are emblematic of the violence directed against the civilian population, and in particular, against civil society leaders.

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world. It is now acknowledged that hideous medical experiments were carried out by US officials on Guatemalan citizens in the 1940s – including the deliberate infection of individuals with the syphilis bacteria. President Obama has apologised but a test case brought to the US district courts on behalf of seven of those subjected to the experiment was recently dismissed. No justice on that occasion.

Nor is there much likelihood of Nicaraguans getting any compensation from the US Administration for the long campaign of destabilisation it waged against them in the 1980s, including funding and training armed terrorists – the *contras*, described by President Reagan at the time as the 'moral equivalent of our founding fathers'. Their activities included targeting health care clinics and workers for assassination; kidnapping, torturing and executing civilians, including children; raping women and seizing and burning civilian property.

In a 1986 judgment, the International Court of Justice at The Hague ruled that the US had violated international law by supporting the *contras* and by mining Nicaragua's harbours. The US blocked enforcement of the court's judgment at the UN Security Council and thus prevented Nicaragua from obtaining any compensation. To this day, the US continues to ignore the ruling and has never paid Nicaragua a penny in damages.

The 'Uncle Sam's backyard' mentality continues today. In June 2009, a military coup overthrew the popular Zelaya government in Honduras. All Honduran army officers from the rank of captain upward trained at the aforementioned School of the Americas, now renamed the Western Hemisphere Institute for Security Cooperation.

The Obama administration pushed for fresh elections, which duly took place under a state of emergency, without the participation of the ousted president, and were subject to widespread fraud and intimidation. Both presidential contenders in the fraudulent election backed the coup. Zelaya's supporters called for a boycott and hundreds of candidates for congress and local councils withdrew their names and shunned the elections.

Some 800 US personnel oversaw the poll, however, and were quick to proclaim its legitimacy. The Obama administration hailed the poll as a 'very important step forward for Honduras', despite 23 Latin American and Caribbean nations of the Rio Group refusing to recognise the election and Amnesty International proclaiming a 'human rights crisis' in Honduras. Abstentions were at a record high and there was evidence of government employees being ordered to vote and some residents being herded to the polls at gunpoint. Time magazine headlined its coverage 'Obama's Latin American Policy Looks Like Bush's'.

Yet while activists are shot down in broad daylight, the Obama administration appears to side with the death squads. 'Now it's time for the hemisphere as a whole to move forward and welcome Honduras back into the inter-American community,' US Secretary of State Hillary Clinton said in June 2010. Within days, the US resumed military aid to the Honduran regime. Since then, the situation has only worsened.

In March 2012, 94 members of the US House of Representatives sent a letter to Secretary of State Hillary Clinton asking her 'to suspend US assistance to the Honduran military and police given the credible allegations of widespread, serious violations of human rights attributed to the security forces'.

A US Army armed patrol drives at speed through Baghdad, Iraq. Next stop Honduras?

The Obama administration, meanwhile, asked for increased military aid for Honduras for 2012.

Just how this 'aid' might be spent was underlined by a report in May 2012 from the Honduran human rights group, COFADEH. It reported that agents of the US Drug Enforcement Agency (DEA), dressed in military uniforms, killed at least four and possibly six civilians in a raid which took place on 11th May 2012. The victims included two pregnant women and two children. One of the victims leaves behind six orphans. Apparently, the DEA agents fired from helicopter gunships upon a riverboat carrying civilians in the Mosquito Coast area of Honduras.

An article in the *New York Times* in May 2012 headlined 'Lessons of Iraq Help US Fight a Drug War in Honduras' explores the link between the wars of George W Bush and Obama's tactics in Central America. The experiences of Iraq – specifically the need for flexible forward bases, multi-disciplinary missions, involving advisors, CIA 'kill teams', mercenaries and local troops – all are being reintroduced into Honduras.

There is one more detail connecting Iraq to Honduras. Significant oil reserves have been discovered in the Mosquito Coast region. The Texas based Honduras Tejas Oil and Gas Company, which is seeking to exploit the region, estimate that there are six to eight billion barrels of oil reserves there. And for that exploitation to begin, the country needs to be made safe for US investment.

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