

## **THE GOVERNMENT'S EFFORTS TO REACH A HUMANITARIAN AGREEMENT WITH THE FARC**

On August 7, 2002, the day of his inauguration, in his speech before Congress, the President of the Republic announced:

"I have asked the United Nations Secretary General, Mr. Kofi Annan, to use the good offices of that institution to seek a useful dialogue that will begin by giving the relief to society represented by a cease of hostilities.

In this framework, we will explore humanitarian solutions to free kidnap victims, based on agreements that give a glimpse of a future where definitive peace is something possible. Those who wish to enjoy liberty, let them allow the people to enjoy tranquility. I have asked the media and the public to understand the caution that this issue demands."

The following day, on the afternoon of August 8th, the President received a call from the United Nations Secretary General, Mr. Kofi Annan, and repeated that he had confidence in the role that the United Nations could play in a rapprochement with the FARC. Days later, through its special advisor on Colombia, Mr. James Lemoyne, the United Nations let the government know that the Secretary General, for reasons of his mandate, could not participate in negotiations for the liberation of kidnap victims. For that reason it was decided to use the term, "humanitarian accord", which was understood as a procedure to seek relief for the Colombian people's suffering caused by the problem of kidnapping.

By agreement with the United Nations, on September 1, 2002, the government issued the following communiqué:

"September 1, 2002

The High Commissioner of Peace reiterated to the national and international public that:

1. The government has asked the United Nations Secretary General to use its good offices to support the efforts toward reconciliation and dialogue in the country.
2. The objective of these efforts has always been to seek a dialogue that might lead to peace and humanitarian accords that would give relief to so many Colombians who are suffering today from diverse forms of violence, including kidnapping.
3. To avoid confusion, it is important to understand that in this use of good offices, the UN will not get involved in negotiating kidnapping cases – an activity that is not appropriate for that body – but will support the effort to

come to an agreement that will permit an end to kidnapping and other abuses from which the Colombian people suffer so unjustly”.

Around that same time, just days after the beginning of President Uribe's term, the government of Colombia received a message from the FARC through a European emissary, informing that its spokesperson for this issue would be Mr. (alias) Juan Antonio Rojas, who had performed during the former peace process as the international spokesperson for the FARC. For that reason the FARC requested the suspension of the INTERPOL order for his arrest, so that he could carry out his role. The Colombian government responded positively to that request in less than 48 hours, and in the early days of September, the procedure was made formal. Two weeks later the FARC let the government know that the mentioned individual would no longer act as the facilitator for the process, nor would he remain in Switzerland, where he usually resided.

From the beginning of his administration, President Uribe received, on several occasions, in groups or as individuals, the family members of the kidnap victims, in order to respond directly to their concern and pain. In every meeting he insisted on the need to find a reasonable mechanism to obtain the liberty of those kidnapped.

On September 24, 2002, after a meeting in the city of New York with representatives of the French government and the United Nations Secretary General, President Álvaro Uribe made the decision to not condition the humanitarian accord on the beginning of peace conversations. Days later he told the media that he had made that decision after listening to the families of the kidnap victims, and requesting an opinion from important national and international personalities who have an interest in the issue. Once the two issues were separated (the peace process and the humanitarian accord), the President believed it necessary to establish some criteria to move ahead separately on a humanitarian accord that would allow for the liberation of the kidnap victims in the power of the guerrillas.

Those criteria were:

1. The participation of the United Nations in a humanitarian accord.
2. The liberation of all the kidnap victims.
3. The guerrillas who were to be released from prison would have to promise to not return to criminal activity and would remain under the tutelage of a friendly country. France was suggested as a possibility.
4. The government would not authorize clearing out or demilitarizing any region of the country.

On instructions from the President, the High Commissioner of Peace, through all the channels at his disposition, including the French government through its Ambassador in Colombia, and Mr. Carlos Lozano, Director of the periodical "Voz", sent a message to the FARC regarding the government's willingness to move ahead immediately on the topic of a humanitarian accord. The Ambassador from Colombia to Italy, Fabio Valencia Cossio, former member of the negotiating committee with the FARC during the Pastrana government, was also designated to accompany the Commissioner of Peace in his task.

At the end of October 2002, and by means of the good offices of a Colombian who had helped to organize the first meetings to facilitate a peace process between the FARC and President Andrés Pastrana – who offered to deliver the proposal personally – a letter was sent to that guerrilla group proposing the possibility of a meeting at the beginning of December 2002 on the border with Venezuela, in the territory of that country, to talk about a humanitarian accord. It also offered France as guarantor for the physical movement of the guerrillas to the meeting point and their return to their place of origin.

Believing this procedure to be important, Ambassador Valencia Cossio traveled to Colombia and worked with the Commissioner of Peace for several days, monitoring the operation, and waiting for a response. The response from the maximum leader of the FARC, though the human mail service, was quite terse: "I quit hurrying a long time ago." The letter was leaked to the media, and the proposal was disavowed publicly by a spokesman from that guerrilla group.

In the month of December 2002, the President received a request from Monsignor Luis Augusto Castro, Father Dario Echeverri, and former Minister Angelino Garzón to be given permission to work toward a facilitation that would be kept confidential to ensure its success. The government gave the requested authorization, receiving a report on the work at the end of the month of January 2003. At that point they reported that, after contacts had been made with the FARC, that group accepted the work of the facilitation commission, but demanded that the government make the commission public. For that reason, and by the express request of the members of the commission, on January 31 the government made the following communiqué public.

"THE OFFICE OF THE HIGH COMMISSIONER OF PEACE REPORTS THAT:

The national government has asked Monsignor Luis Augusto Castro, Former Minister Angelino Garzón, and Father Dario Echeverri to engage in a facilitating mission to achieve a humanitarian accord between the government and the FARC, with the good offices of the United Nations.

Bogotá, D.C., January 31, 2003 "

On February 11, 2003, in a public communiqué, the FARC rejected the naming of the commission, calling it a "leap by a hare, with the ears of a bunny" (similar to the idea of a sheep in wolf's clothing). Once again, the response received to efforts made by the national government and the facilitators was closed doors to the process. From then on, the FARC refused to receive the commission, which was dissolved due to lack of functions and because of the resignation months later by Angelino Garzón, who announced that he had decided to run for a popularly elected office.

With the way closed to the commission, the government continued insisting on creating a contact through the United Nations. Confidentially, James Lemoyne was authorized to respond positively to a public letter sent by the FARC to Mr. Kofi Annan, where the FARC expressed its interest in presenting its vision of Colombian problems to that organization. Mr. Lemoyne made some contacts with Brazil relative to an eventual meeting with the FARC in that country, a proposal that was leaked by the FARC to a newspaper in Brazil. After that the process became paralyzed, without having obtained further advances on the proposal.

Toward mid 2003, the FARC announced that it would be willing to receive Monsignor Castro and Father Dario Echeverri, but as representatives of the Church, not as government facilitators. The Church publicly accepted the invitation, clarifying that it did so as part of its pastoral work.

With the clarification that they were not acting as government emissaries, Monsignor Castro and Father Dario Echeverri met two times with the FARC during the second semester of 2003. The government was properly informed about the meetings. The Church asked the President of the Republic to modify his posture regarding the departure by released guerrillas from the country in order to remain under the tutelage of a friendly government. In response to that request, the President granted that the freed guerrillas could remain in Colombia, as long as they would promise to not return to criminal activity, and would join a reintegration program that could be guided by the Church. Days later, through declarations made by Monsignor Castro to the media, the country learned of this proposal, which, since then, has been an alternative option for those guerrillas who do not wish to remain under the tutelage of a friendly country after their liberation.

After the two meetings in 2003 with the Church representatives, the FARC refused to receive Monsignor Castro again, claiming security reasons. That was why, during the first semester of 2004, the possibility was explored of putting one of the Church's proposals in action, with the support of the Brazilian government, to hold a meeting in that country between the Church representatives and FARC delegates, in order to open a way for the humanitarian accord. The Catholic officials presented the proposal formally to the FARC, and received a response around mid-year from that guerrilla group in a letter addressed to them. It expressed that the FARC could not accept the proposal, due to their mistrust in the government of President

Uribe. Thus, the facilitation efforts made by the Colombian Church remained for the most part frozen.

By that date, the government had already received a message from the Swiss government requesting permission for a facilitator from that country to contact the FARC, in order to ask that group for a good will gesture that might lead to the liberation of the kidnap victims. That authorization was granted, and at the end of June 2004 a meeting took place between Raúl Reyes and the Swiss facilitator.

To evaluate the results of the meeting, the High Commissioner of Peace traveled to Rome on July 22 and 23, 2004, where he met with the Swiss facilitator in the presence of Ambassador Valencia Cossio. A written proposal for the FARC came out of this meeting, which the Swiss facilitator was to deliver to that guerrilla group during a later contact. That proposal established a mechanism for moving ahead on a humanitarian accord, clarifying that after reaching an accord, the government was willing to begin a peace process with that guerrilla group based on a cease of hostilities that would be reciprocated by the government in the form of a suspension of offensive military actions.

The government was later informed that, despite a trip from Europe by the Swiss facilitator to meet in person, the FARC would not receive him, arguing military operations and security reasons. In light of the impossibility of delivering the proposal directly to the FARC, and because of the outcry from the families of the kidnap victims, the government decided to make part of the proposal public on August 18, 2004, minutes after one of the family members, who knew about it, leaked its content to the media, in good faith:

That public communiqué said:

"The government will free, according to Colombian laws and unilaterally, 50 guerrillas charged with or condemned for rebellion, to whom the alternative of re-incorporation into society will be offered.

They will have two possibilities: departure from the country or a project in Colombia in the national government's reintegration program. These alternatives will be carried out under the guarantee of France and the Colombian Church.

Immediately following that release, the guerrillas will free the political kidnap victims and the members of the Public Security Forces in its power. Their liberation will have the support of Switzerland, France, and the ICRC."

As a complement to this proposal, and based on the outcry of public opinion, the government named the High Commissioner of Peace, Luis Carlos Restrepo, as the authorized spokesperson for dealing with the FARC. Considering, however, that a formal delivery of the proposal to the FARC was

necessary, the Swiss facilitator was asked to deliver it. He finally delivered the proposal to a FARC contact in some city in Europe. Days later, the FARC responded in writing to the Swiss facilitator, saying that the government would have to publicly recognize the mechanism they had defined for moving ahead on the humanitarian accord, and that the FARC had also learned of the government's decision to name a spokesperson. The FARC said it was grateful for Switzerland's work, making it clear that this was a matter that must be dealt with directly with the Colombian government. They also proposed that they were interested in continuing contacts with Switzerland to "talk about matters of mutual interest."

Around that same time, Raúl Reyes told the media that the FARC maintained "political and diplomatic relations" with Switzerland, and he tried to make the meetings with the Swiss delegate look as if Europe were opening up to conversations with the FARC. In light of this situation, the Colombian government asked the Swiss government to clarify the situation with the FARC, since its interest was focused on its facilitation work only. The FARC never expressly accepted the Swiss facilitation between it and the Colombian government, nor did it define the framework under which it might advance. The Swiss facilitation thus remained hobbled and on-hold.

To overcome the repeated difficulties in national and international facilitation, on October 28, 2004, in a letter addressed to the Apostolic Nuncio in Colombia, Beniamino Stella, the High Commissioner confirmed his willingness to move ahead on a humanitarian accord under the terms expressed to the Swiss government on July 23, 2004, and set forth a procedure for working out the details of that proposal.

In the letter the Commissioner states: "in reiteration of its firm word, the government will free 15 guerrillas that are in prison for the crime of rebellion; immediately thereafter the guerrillas will free, in a show of good will, a similar number of kidnap victims in their power. There would immediately thereafter be a meeting with the FARC in an Embassy in Bogotá. It could be held at the site of the Apostolic Nunciature in Colombia. The meeting would be held for no longer than five days, with the sole purpose of reaching an agreement. The International Red Cross, with the support of the Colombian Church, would handle the transportation of the FARC members. In no case would military actions be suspended in national territory."

The government's latest good will gesture did not receive a positive response from the FARC. Nevertheless, given the government's intention to set up scenarios to facilitate the liberation of the kidnap victims, it granted a pardon and subsequent prison release on December 2, 2003 to 23 guerrillas from that illegal armed group who were serving sentences for the crime of rebellion. This action made very clear the government's willingness to grant the benefit of prison release to FARC members, as long as the procedure is carried out in the current legal framework in force in Colombia, and with an express promise by the beneficiaries to not return to criminal activity. Once

again, the government's unilateral release of guerrillas did not receive any reciprocal gesture from the FARC.

Around that time, a favorable ruling by the Supreme Court of Justice was handed down, authorizing the extradition of "Simon Trinidad", a FARC guerrilla leader requested by the United States on charges of drug trafficking and kidnapping citizens from that country. Many national personalities and family members of kidnap victims asked the President to consider the situation with caution, because they feared that if the guerilla leader were to be extradited, it would eliminate possibilities for a humanitarian accord.

In response to this outcry, and to create an opportunity for the kidnap victims to return home, the President of the Republic, using his legal authority, informed public opinion on December 17, 2004 – after the 15 days established by the law for making a declaration in this respect – that he would condition the extradition of Simon Trinidad on the liberation before the 30th of December of that year of the 63 kidnap victims (politicians, military personnel, and foreigners). It was a generous offer, since for the first time in the history of the nation a President decided to use his discretionary power to suspend extradition for a member of an illegal armed group, conditioned on a good will gesture made by that group, as requested by the entire nation. The FARC response was negative, publicly demonstrating its hardened attitude.

During the days that the proposal to not extradite Simon Trinidad was in effect, and after a conversation with the High Commissioner of Peace and Cardinal Pedro Pubiano, the government announced on December 20, 2004 that in order to facilitate the proposal, it would meet immediately with the FARC in any rural or urban Church of the country, if that group would free a first group of kidnap victims as a gesture of good will. The meeting would be held with the sole purpose of reaching an agreement to facilitate the liberation of the 63 members of the public security forces, politicians, and foreigners in the power of the FARC.

With that purpose the government published the following communiqué:

"1. - The government reiterates its willingness to revoke the extradition of Simon Trinidad, if before December 30th the FARC will release the 63 Colombians and foreigners who are kidnapped.

2. - The government is willing to meet immediately with the FARC in any church in the country, rural or urban, if the FARC will free a first group of kidnap victims as a gesture of good will. The meeting will be held with the sole purpose of reaching an agreement that will facilitate the liberation of all of the 63 kidnap victims before December 30.

3. - The travel by FARC members to the meeting place, and their return, will be carried out under the protection of the Colombian Church."

Although the proposal to not extradite "Simon Trinidad" was rejected, the government insisted on the possibility of meeting in any Church in the country, either rural or urban. During the first months of 2005, making use of all channels, both internal and public, the government insisted on its willingness to have a direct encounter with the FARC, providing adequate and reasonable security conditions for the meeting. In his speech before the plenary session of the Senate of the Republic on April 12, 2005, transmitted live to the entire nation on public television, the High Commissioner of Peace stated:

"On December 20, the government expressed its willingness to the FARC to meet in any rural or urban church in the country, to agree on terms to allow the liberation of the kidnap victims. As a condition, the government named the liberation of a group of kidnap victims, as a goodwill gesture by the FARC to give rise to this meeting, and the government would provide the security conditions for that meeting to take place. Today, we continue insisting on the viability of this proposal. We are available for this direct encounter, and we trust we can find a rural or urban church, somewhere in Colombia, so that the drama of the kidnap victims can end quickly."

On July 26, 2005, after a meeting between the President of the Republic and Yolanda Pulecio and Patricia Perdomo, representatives of the families of the kidnap victims, Ms. Pulecio asked the nation's leader to accept the liberation days before of a group of soldiers that had been detained in an attack on the military base of Teteyé as a gesture of good will by the FARC in order to proceed to a direct meeting with the government. The President decided to accept this petition by Yolanda Pulecio, reducing, since then, the conditions for a humanitarian accord to two basic points:

1. To define a site for a meeting between the government and the FARC, with security conditions for the FARC delegates, but without demilitarizing a region, which would put the security of the civilian population at risk.
2. The released guerrillas would leave jail under the legal framework in force in Colombia, and with the promise to not return to criminal activity.

In the mentioned meeting, Ms. Pulecio and Ms. Perdomo insisted on the need to make it clear to the public that the government was willing to have an immediate meeting with the FARC. For that reason, accompanied by them, the High Commissioner of Peace reiterated to the media his willingness to meet with the FARC at any site in the country or outside of it, under the proper security conditions. He even left it up to the FARC, if they should so want, to define the site and to make suggestions about the guarantors.

The following day, in response to requests by journalists for government clarification on whether it was willing to accept the demilitarization of the municipalities of Pradera and Florida for this meeting, the Commissioner reiterated President Uribe's position from the beginning of his administration:



that he did not consider a demilitarization viable that would leave thousands of citizens insecure, who, according to the Constitution, must be protected by the legitimate authorities. But that the President is willing to agree with the FARC on some conditions for security for the representatives of that guerrilla group, and to find a site in which the FARC could be confident, with the accompaniment of international guarantors.

On August 9, 2005, the government responded to two Rights to Petition lodged with the Office of the President by a group of the families of the kidnap victims, who requested an official response on the issue. After studying it in detail, the government decided to accept the families' proposal to make the village of Aures, in the municipality of Caicedonia, Valle, the meeting place for the conversations with the FARC on the topic of a humanitarian accord. The proposal was made by the families of the Valle deputies on April 11, 2005, and repeated by the government on August 4 during a meeting between those families and the Commissioner of Peace in the Casa de Nariño.

During a meeting with the inhabitants of Caicedonia and the village of Aures to explain the proposal on August 11, the government responded to their fears about a possible demilitarization by guaranteeing that under no circumstance would they be left without institutional security. The government said that clearly the offer of secure conditions for the guerrilla spokesmen could not work in detriment to the security of the citizens: "Security for the guerrilla spokesmen, but without detriment to the security of citizens," were the words of the Commissioner, reiterating that this would be possible with the accompaniment of national and international guarantors to provide secure conditions for the FARC to be able to meet with the government in order to talk about the liberation of the kidnap victims. As is public knowledge, this proposal was also rejected by the guerrilla group.

After the FARC's refusal of the Aures proposal, on instructions from the President of the Republic, the High Commissioner of Peace worked during the second half of August 2005 on a new proposal for a meeting with the FARC, in company of some of the families of the kidnap victims and of former President Ernesto Samper. When progress was being made on the proposal, the news was leaked partially to the media, which forced the government to make it completely public on September 8, 2005.

The proposal was as follows:

#### "PROPOSAL TO THE FARC TO REACH A HUMANITARIAN ACCORD

In light of the need to establish a meeting site with the necessary security guarantees and mechanisms for accompaniment, in order to define a humanitarian accord, the national government proposes a meeting between the government delegates and the FARC delegates in the school in the village of Bolo Azul, jurisdiction of the municipality of Pradera, Valle del Cauca, to

develop conversations for a maximum period of 10 days. The following methodology is likewise proposed:

- The verification of the conditions of the site by national and international guarantors (one day).
- The arrival at the meeting site by the delegates designated by the FARC with the accompaniment of guarantors (two days).
- The development of the conversations between the government team and the FARC delegates (five days).
- The return trip by the FARC delegates with the accompaniment of guarantors (two days).

The government will guarantee the security of the delegate or delegates from the FARC, during travel to the meeting site and back to the place of origin. The verification of the security conditions agreed to will be under the responsibility of national and/or international guarantors agreed on ahead of time. There will also be special safe conducts provided, and in consequence, a request will be made to the competent judicial institutions to suspend any pending orders for their arrest in the entire national territory.

During the time of the meeting, no military or police actions will be taken by the public security forces around the meeting site.

The national government expresses its immediate willingness to coordinate with the FARC and the guarantors to facilitate a direct meeting. And it declares that it is in wait of a goodwill gesture by the FARC, joined by the desire of many Colombians, who today cry out for the return home of their family members who have been deprived of liberty”.

The proposal is practical and viable. The experts emphasize that the village of Bolo Azul, in the municipality of Pradera, offers every security condition to give the FARC the confidence it needs. The government will continue to insist on this proposal, asking the families of the kidnap victims and national and international public opinion to accompany it, in order to facilitate a direct meeting between the government representatives and the FARC spokesmen to seek an accord that will allow the kidnap victims to return home.