

CICIG: An innovative Mechanism

Roberto Garretón¹

(Unofficial translation by Human Rights First from Spanish original published in El Periodico, July 28, 2007)

The Comprehensive Agreement on Human Rights of March 1994, crucial in the negotiations that put an end to the conflict in Guatemala, contemplated the investigation of the atrocities committed by illegal security forces and clandestine security organizations. Unfortunately it remains unfulfilled.

On January 16, 2003, the Guatemalan Human Rights Ombudsman (*Procurador*), Sergio Fernando Morales Alvarado, proposed the creation of a Commission to Investigate Illegal Groups and Clandestine Security Organizations (CICIACS). The proposal responded to “the clamor which has been caused by the assassinations, threats and kidnappings of human rights defenders, judges, magistrates, politicians, lawyers, Congressional advisers, political leaders, journalists, priests, indigenous representatives and other people.” The proposition was that the President would present to Congress a Bill creating CICIACS, which would consist of “representatives of international organizations and of the Guatemalan government”. CICIACS satisfied recommendation 41 of the Commission for the Clarification of History and it complied with the Guatemalan Constitution and human rights instruments.

In spite of the proposal’s endorsement by the government, civil society, institutions for the defense of human rights, UN agencies in Guatemala and the churches, Guatemala had to wait until January 7 2004 before the government and the UN signed an agreement, which was clearly less ambitious than that proposed by the Human Rights Ombudsman. But this agreement was not implemented either. As such, the illegal groups and clandestine security organizations continued spreading terror and enjoying impunity.

On December 12, 2006, the UN and the Guatemalan government signed another agreement for an International Commission against Impunity (CICIG) whose objectives are, in essence, to: help, strengthen and contribute to Guatemalan institutions, especially to determine the existence of illegal groups and clandestine security organizations (their structure, methods of operations, sources of finance and possible links to State agencies or entities); collaborate in their dismantling; promote the investigation and criminal prosecution of the crimes committed by their members; and recommend the adoption of public policies to eradicate them and put an end to impunity.

The opposition to CICIG is based on a supposed lack of respect for the sovereignty of the State. However, CICIG is not a body imposed on Guatemala and its mandate is to advise and assist national authorities. Another argument against CICIG is a supposed violation of the Constitution, an argument which has already been ruled out by the Constitutional Court in its decision of May 8 2007.

¹ Member, UN Secretary-General’s Advisory Committee for the Prevention of Genocide.

For me the principal consideration is whether Guatemala needs CICIG or not. This is the central question and it must be resolved by Congress in the next few days. I hope that the human rights movement - which consists of many victims of the illegal security groups – and democratic actors do not waste this opportunity, perhaps there will be no other.

As José Legaz y Lacambra wrote, “the law protects life, or it is no use at all” and today it offers us this instrument. Even though CICIG does not satisfy the maximum aspirations of some, it should be an important advance in the quest to end of impunity.