

# COLOMBIA

## Landmark court ruling to protect the Peace Community of San Jose de Apartadó

RRN letters 11/22/02, 2/23/03, 8/12/03, 11/27/03, 2/26/04, 10/12/04, 3/3/05, 4/12/05, 6/14/05, 4/13/06, 2/11/07, 6/11/07

We have written many letters to uphold the safety of the civilian inhabitants of the **Comunidad de Paz de San José de Apartadó** (Peace Community of San José de Apartadó) in Antioquia Department. Since it was created in March 1997, the Peace Community has always insisted that all armed actors stay out of their town and surrounding hamlets that make up the Peace Community. Nevertheless, **over 160 of its members have been killed or "disappeared"**—the vast majority by security forces and their paramilitary allies, the remainder by the FARC. Colombian authorities have done little to protect the community, despite a March 15, 2005 resolution by the Inter-American Court of Human Rights calling on them to do so. And despite the supposed demobilization of Colombia's army-backed paramilitary groups, continued human rights abuses and recent public statements by paramilitary organizations have made clear that their command structures remain intact.

**GOOD NEWS** (source: Fellowship of Reconciliation Peace News, Feb. 2008)

### Colombian High Court Issues Landmark Ruling Protecting the Peace Community

Last January, the Colombian Constitutional court handed a ruling advancing the Peace Community's right to truth and justice, **ordering the Colombian government to take concrete steps to end the impunity of the crimes committed against the Peace Community** of San José de Apartadó since its formation, ten years ago.

The high court was reviewing a Peace Community's writ of protection demanding that the Colombian Ministry of Defense disclose the names of the military personnel involved in military operations on specific dates when violations to the peace community took place. For years, the Ministry of Defense had refused to disclose such information alleging that it would compromise any criminal or disciplinary investigations. Siding with the Peace Community, the Court rejected the Defense Ministry's assertion saying that revealing the names of the military personnel would not compromise the integrity of such procedures, but instead it was essential to the Peace Community's right to pursue justice, including within the international system.

However, the Court went beyond the specific request and examined the bulk of the violations against the Peace Community over the last 10 years and found that justice, truth and reparation had not been achieved. Echoing something that the Peace Community has been claiming for years, the Court found that

*"Members of the Peace Community of San José de Apartadó have been persecuted and murdered without the state having made sufficient effort for the protection of their rights, without the crimes having been properly investigated, their authors being punished and the victims' rights effectively protected."*

Indeed, the Court looked into over 150 murders of Peace Community members and found that in none of those murders a culprit had been brought to justice. Therefore, the Court ordered the Attorney General office to assemble an inventory of the crimes against the Peace Community identifying the names of the victims; to determine which crimes are not being investigated, which investigations are stalled, to impel them, and to establish priorities, so those responsible for the most serious crimes are punished.

In its ruling, the Court also addressed two issues that are at the center of the very difficult relationship between the Peace Community and the Colombian government: the placement of the police post in San José de Apartadó, shortly after the February 2005 massacre that prompted the Peace Community to displace and its refusal to provide additional testimonies before the Colombian courts, since many witnesses have been killed. On the police post, the Court reaffirmed the principle of distinction between combatants and civilian non-combatants embedded in international humanitarian law, and stated that this principle should have been taken into account by the Colombian Armed Forces when determining the location of the police post. Regarding the peace community's collaboration with the Colombian judicial system, the Court calls on the Peace Community to cooperate but sides with the Peace Community on the reasons for their mistrust when it declares that *"such cooperation needs to be voluntary, guarded by an effective protection, must not generate retaliation and must respond to a new climate of trust, something that this Revision Court knows is difficult to build."* The Court charges the Human Rights Ombudsman's office with the task of working to restore the trust between the Peace Community and the Colombian government.