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Enforcement of human rights.

Bruce Mauleverer QC

Read on his behalf by Bob Barrett.

Let me start by stating the obvious. Unless we have an international force with authority and power, that is obliged to intervene regardless of the status of the offender when well-defined limits of international behaviour are transgressed, we are unlikely to be able to prevent the kind of conflicts that are raging in Syria, the Ukraine and elsewhere.

We have grown accustomed to conflicts fed and exploited by outside powers, especially when those powers are large enough to get away with it. Attempts to establish a higher jurisdiction – the League of Nations and the U.N. – have so far not been successful at restraining such behaviour.

Perhaps, third time lucky. But until that almost unimaginable day is reached, we can develop the enforcement of human rights to make ending such conflicts easier.

We know the absence of human rights leads to armed conflict. We also know that armed conflict leads to breaches of human rights. Let's look for a place where armed conflict had been raging for a long time.

Colombia!

The armed conflict there claimed the lives of some 220,000 people and displaced more than 6 million people. It went on for at least 50 years.

On June 23, 2016, the Government of Colombia and the rebel group FARC signed a 297-page Peace Accord, which set forth the specific mechanisms for a bilateral ceasefire and the disarmament of the FARC's 6-7,000 fighters.

What is the FARC? The acronym stands for Fuerzas Armadas Revolucionarias de Colombia (the Revolutionary Armed Forces of Colombia). It is a Marxist group that, since 1964, had waged a bloody rebellion against the Colombian government — and it was the longest running armed insurgency in the Western Hemisphere.

The final agreement was signed on 26 September, 2016, following almost 5 years of negotiations. The UN secretary general, Ban Ki-Moon, the US secretary of state, John Kerry, and a dozen Latin American leaders were on hand as witnesses. The President of Columbia, Juan Manuel Santos and the FARC leader, Timoleon "Timochenko" Jimenez signed the deal.

But the Colombian Parliament and the Assembly of the FARC still had to approve the agreement, which would then be submitted to a popular plebiscite – a referendum – on Sunday 2nd October 2016. Most observers thought this would be a formality. But the peace deal was narrowly rejected: 49.8 per cent voted in favour, 50.2 per cent against.

Why was it rejected? Many citizens viewed the deal as excessively generous to FARC.¹ If the referendum gone the other way, the consequence would have been the enforcement of Human Rights on a major scale. The Final Accord included protection of victim's rights, an investment plan for the countryside and for Colombian peasants, reincorporation of the FARC into civilian life and an effective fight against drug trafficking.

Impunity would be ended. The guilty would be convicted, be they guerrilla commanders, generals in the armed forces, or businessmen. Atrocities were not the sole province of the FARC; they had been the responsibility also of the army, the paramilitaries and the business sector.

If the accused collaborated, their punishment would be reduced. There would be levels of truth, justice and reparations never seen before in Colombia - or in any other peace process across the world. Those who cooperated would be punished with 5-8 years of restricted liberty, whereas those who did not could be sentenced to 20 years in prison.

Following the unsuccessful Referendum, President Santos paid a State Visit to the United Kingdom where he said:

The experiences of Northern Ireland inspire my vision of Colombia as a country at peace with itself. I know that differences and grievances persist in Northern Ireland, but its people have learnt to express them through democratic means.

This is precisely what we are striving for in Colombia. We want to end half a century of armed conflict; satisfy the rights of the victims; take into account the expectations of the wider population; offer a dignified transition to legality for the insurgents; and secure the right amount of justice to allow lasting peace and reconciliation.

Earlier this month, a slight majority voted to reject the peace deal. I was confronted with two choices: go back to war, or negotiate a new deal that would represent more broadly the expectations of peace of all Colombians. I chose peace.

I acknowledged that night the people's decision, and reiterated to all Colombians, that my commitment to peace was stronger than ever.

Since then I have set in motion a frank dialogue with all sectors of society and all political factions. It has been a candid and fruitful national dialogue. We have received more than 500 proposals, which our negotiators have studied carefully. They are now back in Havana to discuss them with Farc and find a new agreement.

¹ The peace accord's defeat has been widely attributed to moral indignation over clauses that would have allowed FARC leaders accused of massacres, mass abductions and other war crimes to go unpunished. But many Colombians, security analysts and members of Colombia's military also fear that the deal falls way short of assuring FARC's disarmament.

Rest assured that Colombia will ultimately find its way to stable and lasting peace!

So, what conclusions can we draw about the enforcement of human rights and the ending of an armed conflict?

1. It can take just a village (or the international community) to enforce Human Rights;
2. You have to think of the victims first;
3. You have to try, judge and punish both sides in the same way;
4. You cannot amnesty atrocity crimes;
5. You have to deal with the underlying causes of the conflict (which were land issues in the case of Columbia);
6. You look to the law and courts to provide justice and reparations for human rights violations;
7. You must function in as transparent a manner as possible;
8. You must ask the people to ratify your agreements in an open plebiscite.

Following these precepts, we can end, by consensus, conflicts that otherwise might go on and on – because each side is fearful of losing to the other.

Can these considerations apply to the situation in Syria?

As in Columbia, the key to any form of basic humanitarian existence in Syria is cessation of the hostilities. Only then will it be possible to rebuild this fractured and partly destroyed country. Only then will it be meaningful to seek to apply the eight principles set out above.

Bruce Mauleverer QC 10 November 2016.