

*El Derecho Internacional ante el conflicto en Colombia*. By Félix VACAS FERNÁNDEZ (Tirant lo Blanch, Valencia, 2015) 383 pp.

The longest, internal armed conflict in the Western hemisphere is coming to an end. After nearly six decades of armed combat between the Colombian government and the FARC-EP, both parties are close to reaching an agreement which would signify the end to this conflict. Thus, the importance of Professor Felix Vacas Fernández' book on International law as it relates to the conflict in Colombia cannot be denied given its timeliness and international perspective. Furthermore, the international perspective from which Professor Vacas Fernández focuses his work is fully justified: first of all, because the causes, the development and the consequences are closely linked to International Relations and International Law, leading us to speak of the Colombian conflict as an internationalized non-international conflict; and secondly, because the applicable legal framework for both its development and future termination is of a solid international nature.

The purpose of Professor Vacas Fernández' book is to determine the international legal framework applicable to the conflict in Colombia; not only as applied throughout its development, but also during the transition period leading to peace, now in its initial stages. This issue is of upmost importance because this international legal framework not only presupposes the limits of these agreements as established by the negotiating parties, but it also provides the legitimacy and focus needed to achieve a sustainable, inclusive and just peace. Thus, the author bases his work on the most modern concepts of peace and security. Accordingly, peace can no longer be understood either as the mere absence of war, nor as security as defined only by national security. Rather, peace must be understood in positive terms: positive peace whose understanding goes beyond the absence of war and includes a set of conditions which not only allow society to live free of structural violence, but which also seeks to strengthen freedom and personal fulfillment as well. Although various attempts for achieving peace have failed, it is within the concepts of this approach that the author purports the possibility of achieving a lasting peace in Colombia.

One of the strengths of the book is that, unlike other publications that have examined specific, concrete legal aspects of the conflict in Colombia, this publication makes evident a global analysis. Thus, the author, from the perspective of International Law, studies the Colombian armed conflict as a whole: its causes and consequences. For this purpose, the book is divided into three sections, each containing eight chapters, preceded by an introduction and succeeded by brief conclusions.

The First Section, Chapters One and Two, seeks to further an understanding of the Colombian conflict: explained both chronologically and analytically. The author explains in both chapters the major historical events that have shaped the armed conflict over the years, from its origins in the mid 1900s to date. Thus, Chapter One addresses the key factors that originated and subsequently perpetuate the conflict. A first factor is the absence of the State and its shortcomings, ranging from the lack of effective control over parts of the Colombian territory, to the limitations in certain essential functions. These limitations lead to a questioning of the existence of a basic or effective

democratic system. Another factor is the presence of the social and economic conditions related to poverty and the enormous inequalities that characterize the country; special emphasis being given to the differences in land distribution and resulting consequences. The last factor is drug trafficking, a phenomenon that, although not present at the beginning of the conflict, later on became one of the major elements leading to an escalation of the conflict. Chapter Two then analyses the actors involved in the conflict: the State (from the perspectives of the different government leaders as well as from its military and security forces); the guerrilla groups (especially the FARC, although others like the ELN or the demobilized M-19 are mentioned), and then, the paramilitary forces.

It is this complexity of factors, actors and characteristics of the conflict that explains why this is one of the most prolonged conflicts in modern history. It is precisely these aspects which are made abundantly clear as Professor Vacas Fernández, using great skill, describes and explains them; being extremely precise and rigorous in his analyses of these factors, thus making the reading of this section of the book essential for anyone interested in Colombia's recent history.

The Second Section, Chapters Three, Four and Five, is dedicated to the International Law of Armed Conflict and follows a traditional approach: it begins with the general theory, its explanation and subsequent concrete application to the situation in Colombia. Chapter Three addresses the issue of the legal characterization of the conflict. Although it appears to be obvious, making it seem a minor issue, it is not. In recent years, especially during those of Alvaro Uribe's presidency, there was an attempt to minimize the Colombian conflict by reducing it to confrontations with insurgent groups and classifying these groups as terrorists. However, Professor Vacas Fernández makes a determined effort to separate the legal debate from the political and to define the Colombian case strictly in legal terms as applicable to an internationalized non-international armed conflict. In fact, since the start of the peace talks, President Santos has made this the official position of Colombia.

Once having defined the situation in terms of armed conflict, Chapter Four deals with the question of *ius ad bellum*, which is to say the legality of the use of force; establishing the difference between the right of the State to use force, *ad intra* and *ad extra*, and the right of the irregular armed groups to use force. Chapter Five then analyses the rules of international law designed to protect people and their dignity. First, it examines the *ius in bello*, or International Humanitarian Law, as applicable to situations of armed conflict; and secondly, International Human Rights Law which protects the individual at all times, whether during war or during peace. The author discusses the application of the two bodies of law in the context of the Colombian conflict, while at the same time insisting upon their complementary and mutually reinforcing relationship.

The Third Section, Chapters Six, Seven and Eight, focuses on the consequences of the armed conflict, especially on the victims, and the possibilities of applying transitional justice measures in order to facilitate the negotiation and achievement of a stable and lasting peace. The paradigm shift addresses the understanding of the relationship between justice and peace, as well as the new role acquired by victims of international crimes. Chapter Six discusses these issues from the perspective of an internationalist approach, giving special consideration to any obligations arising out of the rights of the victims to truth, justice, and reparation. To do this, the author shows the existence of the international legal status of victims of international crimes. Chapter Seven addresses the issue from

the perspective of Colombia's domestic law approach. This Chapter discusses the national regulations adopted by Colombia in recent years in the field of transitional justice. It should be noted here that the Legal Framework for Peace is sought as the legal basis for the transitional justice measures to be taken in order to facilitate not only the transition from the condition of armed conflict, but also to deal with the legacy of past human rights abuses in order to achieve accountability, justice and reconciliation. Finally, Chapter Eight surveys the relationship between Colombia and the International Criminal Court as well as the present situation in Colombia with regard to core crimes.

In short, the book contains an impressive analysis of the international legal framework applicable to the conflict in Colombia; focusing especially on the transitional justice process that has already begun in spite of the fact that this conflict is not yet over. While it is true that the book has certain disparities in its structure, for not all chapters are written with the same depth and detail; it is also true that Professor Vacas Fernández makes a great effort to bring together, in a single text, all relevant aspects of the conflict from the standpoint of International Law. Especially remarkable is the clarity and accuracy with which he explains and describes the evolution of the armed conflict based on its factors and actors. The book is already required reading with regard to the international impact of the Colombian context. It is hoped that soon there will be a move to an end of armed violence, and a decisive, definitive and positive move towards justice, reconciliation and peace.

Israel BIEL PORTERO

Universidad Cooperativa de Colombia – Sede Cali