

Phoenix recharged, “Farcpolitics” again

By Liliany Obando, (1) August 8, 2014

“...or we are the guilty ones/ Who pardon the Pharisees/ Although powerful ones respond to us/ With their sovereign collection of murder.” - Mario Benedetti.

Six years on from becoming the first person caught up in a process called “FARCpolitics,” I am now writing about my experience, but now from an isolated, cold cell in the now defunct Administrative Department of Security – DAS.

These days, paradoxically, shady Colombian paramilitary chiefs whose records show hundreds of murders, massacres, widows, orphans, and dispossession of thousands of poor families are beginning to go free, after having served their eight-year prison sentences – all on account of ex-President Uribe’s benevolent “peace process” arranged with the paramilitaries (*under the 2005 Justice and Peace Law – translator’s note*)

It’s senseless that a woman and mother caring for two under- age children, head of her family, whose path as a defender of human rights is widely recognised and whose preparation and verifiable experience was as a professional, is “paying” with an unjust sentence that, practically speaking is quite comparable to sentences handed out to quite macabre characters. My only crime is to have been active since very young in the ranks of the Colombian left, to have survived the genocide of the Patriotic Union, and remained firm in human rights causes, in defence of critical thinking, freedom of thought, social justice, and peace.

Six years ago today would be when this nightmare began, seemingly an endless one. First there was a judicial investigation within the process of “FARCpolitics.” A very public operation followed with a number of heavily armed men surrounded my house. Agents of DIJIN (Directorate of Judicial Police and Investigation) - the national police – broke into my house with an arrest warrant in hand, they snatched me from my young children, my elderly mother, my university, my work, and my life plans.

Operation Phoenix – Origin

Likewise, six years ago on March 1, 2008, so-called Operation Phoenix played out in Sucumbios Province in Ecuador. (2) Raul Reyes, second in Command of the FARC, was assassinated. Whether his death resulted from bombardment, or military engagement, or a war crime is unknown. Together with him, 26 more persons would die, among them several students of the National Autonomous University of Mexico – UNAM, also an Ecuadorian citizen and several guerrillas, male and female. Operation Phoenix was an operation coordinated by the Colombian Armed Forces and, according to reports of Ecuadorian human rights organisations and the Ecuadorian government itself, it required assistance from a third country. This surprise military raid in Ecuadorian territory violated international norms and treaties.

Furthermore, various components of the computer allegedly belonging to the fallen FARC leader Raul Reyes supposedly were seized in the operation cited here.

It would be demonstrated in judicial processes afterwards that police personnel participating in collecting computer elements had neither the skills nor the legal authorisation for handling technical evidence. That provided a legal rationale for the Supreme Court of Justice later on to declare such evidence illegal and invalid for use in any judicial procedure.

“FARCpolitics” – a prefabricated case

Nevertheless this supposed evidence provided the basis to build a case of what became known as “FARCpolitics,” the object being to bring criminal proceedings against members of the left political opposition.

This was the period when the “PARA POLITICA” scandal splashed onto the traditional political class. Thus “FARCpolitics” became the ideal judicial creation for diverting the attention of the national and international community

“Positives” of “FARCpolitics – scapegoats and a media show

In these six years of “FARCpolitics” judicial and disciplinary investigations were opened up against various members of the Colombian left political opposition – ex-congresspeople, ex-government ministers, serving congresspeople, journalists, academics, and human rights defenders. They even attempted to use them against various democratic and leftist personalities in other countries.

After investigations by the Supreme Court of Justice (3) and its decree that effectively declared the “key evidence” of “FARCpolitics” to be illegal, specifically the computers attributed to Raul Reyes. One by one, investigations have been closed down and most of those dragged into criminal proceedings were absolved.

However, some of us involved with them have been persecuted, victimised, and re-victimised whenever political or judicial circumstances require that “positives” be exhibited, or to divert attention from difficult situations. (*In citing “positives,” the author may be highlighting Colombia’s scandal of “false positives.” – translator’s note*)

Detained and incarcerated on August 8, 2008, I was the first person caught up in this “FARCpolitics” trial. (4) Two years later, after having been kidnapped by Mexican state security forces on Mexican territory and deported to Colombia, academic Miguel Angel Beltran Villegas was imprisoned. (5). Sometime later a disturbing operation – to say the least – saw the Colombian – Swedish journalist Joaquin Perez Becerra being detained in the Bolivarian Republic of Venezuela, delivered to the Colombian justice system, and imprisoned. (6)

In 2011, two years after entering prison and coincident with a decision by the Supreme Court of Justice that evidence used in “FARCpolitics” was illegal, Professor Beltran was declared absolved of charges against him and released. (7) The following year, on March 1, 2012, after having spent 43 months deprived of liberty without having been convicted, they granted me provisional liberty. (8) Since then I’ve been subjected to prolonged and abusive preventative detention. Meanwhile the process remained on course until the month of June, 2013, when after a series of irregularities; I was absolved of one of the charges against me and sentenced to 70 months of house arrest. At the same time I was declared unfit for undertaking public offices and was fined 707 million pesos (almost \$400,000 USD) on the charge of rebellion. In the case of journalist Joaquin Perez Becerra, he was absolved through an appeals court decision and freed in the month of July 2014 after having remained more than three years unjustly deprived of liberty. (9)

Re-victimisation

In the cases of Joaquin Perez Becerra, Miguel Angel Beltran Villegas, and myself, judicial authorities reverted to a series of sophistries, as in a perverse experiment, that would allow them to obtain convictions through any possible means and thus in some way revive evidence declared illegal in

the case of “FARCpolitics.” They would thus gain future capabilities to prosecute new members of the opposition through associating them with this case.

There is no other way to understand how within a few days of journalist Joaquin Perez Becerra being declared innocent, the Attorney General’s Office announced a decision disqualifying Professor Miguel Angel Beltran from exercising public duties for 13 years. (10) And within a few more days a new order was issued for my capture. (11) Today once more they have me deprived of liberty in a prison establishment, even though court decisions in my case conceded a sentence of in home detention. The judges acknowledged my situation as a mother who is head of her family, who is a professional and who represents no danger to society. (12)

A new stage in the process

After the trial court had sentenced me and after the appeals court had ruled, my attorney and I entered an appeal before the Supreme Court of Justice, the very court that two years earlier had declared prosecutorial use of the computers of Raul Reyes to be illegal.

Very quickly the Court issued a ruling on April 3, 2014, a few days earlier than required. (13) Without examining the essentials of my attorney’s petition seeking nullification of previous court actions, the Court decided not to accept the petition, thereby leaving my conviction and sentence in place.

At the end of July, 2014, my case, now in its last phase, was assigned to Judge 7 for Implementation of Penalties and Security Measures. (14) Immediately my lawyer and I began to communicate with that office, as all the while I was completing the sentence of house arrest, a situation the office easily could have verified. It was then we learned that that office had delivered an arrest warrant against me as a means whereby compliance with my sentence could be guaranteed.

Therefore, as the record shows, we immediately sought cancelation of that order of capture. We believed it to be unnecessary, because I am not a fugitive like certain white collar criminals. The country knows about the former director of DAS Maria del Pilar Hurtado, ex-agriculture minister Andres Felipe Arias, and ex-peace commissioner Luis Carlos Restrepo, all officials of the Uribe Vélez government. They are the fugitives from justice who enjoy abundant economic resources, contacts, and protection. That’s not the case with me. But the judge did not take our petition into account and instead decided to activate the order to seize me.

Showtime Again

On Tuesday, August 5, 2014 I received a call at home. It turned out to be a man identifying himself as a functionary of the prosecutor. He supposedly wanted me so I could be “interviewed.” Aware beforehand that an order to take me into custody already existed, I told the official it was more of the same thing and that, therefore, I must first communicate with my legal defender to find out what was happening and to solicit his presence at the examination. Seeming somewhat surprised, the functionary agreed.

After carrying out necessary consultations with lawyers, I voluntarily complied with what functionaries of the Technical Investigation Group (CTI in its Spanish initials) of the national Attorney General’s office were requiring.

Without much fuss, the CTI officials proceeded to explain the proceedings to me, following which they read me the rights of those seized and led me to a vehicle they would use to transport me. To my surprise, it was not a vehicle of the Prosecutor, but belonged to the Presidential Guard, with signs on the sides saying, “Army.” The driver was a youth in a military uniform.

I was taken to the CTI reception area to fill out necessary forms and then put myself at the disposition of the judge. I was required to undergo new fingerprinting, a new review, a forensic medicine examination, and photographs from every angle of my face with emblems of the CTI at the bottom. Suddenly I had a “Déjà vu” feeling; recollections of my first capture flooded my memory. The whole operation until then had been developing within the range of normal.

Soon a “tense calm” inundated the area and, significantly, I noticed the presence of several uniformed individuals, one in the black of the CTI and others in army uniforms. They arranged themselves around the office, reflecting anxiety at finding me there waiting to leave.

I didn't quite understand what was happening until one of the officials told me: “They want to take some photos and do some filming.” I responded with an ironic smile on my face: “And for what - to show off a positive?” Thus a few minutes later I was modeling in an aisle with personnel in black and olive green uniforms at my side giving the impression that they were capturing me. Then they took films against the wall, first with two well-armed special-forces soldiers with their red berets, one on each side and me in the middle – then the same photo but with those with black uniforms, and then with everybody.

There I was again, like six years ago, being exhibited as a “war trophy.” I asked, “Now what happens, exposure in the media?” There was no reply, but I really knew the questions were foolish.

The following day, on the eve of Juan Manuel Santos entering into a second presidential mandate, those images appeared in the principal media, as did pictures of my first capture six years ago. Again they de-constructed my supposed criminal record. Again they were identifying me as being the lover of the murdered leader of the FARC Raul Reyes. Ah! Because we women aren't up to getting things done, except for being lovers of great men!

And they attributed a series of aliases to me. The influence of the media is so powerful that within a few minutes of the news being presented, my custodians were calling me, not by my name, but by one of my supposed aliases – until I asked them not to do it anymore. Others commented on my case quite properly.

Thus through a “false positive” devised by the state security apparatus conspiring with pro-government media, they had again exposed me and what is mine to public mockery. Again, they stoned to oblivion my honor, my public image, my dignity as a woman. Again my life and that of my family are put at grave risk. Who will respond?

But as has happened with many other cases, those same media that turn judges into inquisitors and tormentors never retract anything. The damage, after all, has already been done.

The role of the judicial apparatus, intelligence bodies, and the pro-government media acting in concert to mount such crude judicial shams is shameful. Disgusting! The only thing they produce is disgust!

In the custody of CTI officials and lodged in the cell area of the now defunct DAS, I was transferred on that same August 6 to the “El Buen Pastor” women's prison in Bogota. After complying with suitable protocols, the National Penitentiary and Prison Institute (INPEC) might arrange to transfer me back to house arrest. But as if something might be lacking in this tragicomedy: on arriving at “El Buen Pastor” for incarceration, an INPEC unionist officer told CTI functionaries they were not receiving prisoners because they were on strike until ordered otherwise.

Thus, I was again moved to cells of the former DAS, again I found myself in an isolated cell and enduring intense cold that pierces one's bones. Again there is a wait for lifting of strikes against

the judicial branch and INPEC. Of course, let their demands be resolved. Yet it would have been so simple to verify that I was at home complying with the imposed sentence of house arrest. This absurd stress on the judicial apparatus was unnecessary. But what difference does it make? I am only one more prisoner. Or perhaps they needed a new media “show.” What does happen behind the scene in “FARCpolitics”? Do I look like a threat, here in the insides of the monster? But why would it be this way if I didn’t already seem to be threatening.

It will be like this because somehow they know that my conscience is hard like marble, and my love for what is just is colored red, like my blood

Ah! The phoenix bird does return from the ashes. I am free in spite of bars.

Note:

1. Political prisoner, sociologist, and defender of human rights
2. See article by Lilianny Obando on Operation Phoenix appearing on Rebellion.org, August 10, 2011, <http://www.rebellion.org/noticia.php?id=133916>
3. In a 2011 communication sent to the mass media, the Supreme Court of Justice announced a decree of prohibition in favor of Wilson Alfonso Borja Díaz, the ex- congressional representative for Bogota caught up in accusations under "FARCpolitics.”
4. On August 8, 2008, Lilianny was captured in Bogota. (*A few weeks earlier Obando had released her documentary film on the murders of 1500 members of the Fensuagro agricultural workers union, for which she served as human rights director. –translator’s note*)
5. Miguel Angel was kidnapped on May 22, 2009 in Mexico.
6. Joaquín Pérez Becerra was captured on April 23, 2011 in the Bolivarian Republic of Venezuela.
7. Miguel Ángel Beltrán was released from prison on June 3, 2011
8. Lilianny Obando left prison on provisional liberty on March 1, 2012.
9. According to an appeals decision on July 15, 2014 by the Superior Tribunal of the Bogota judicial district, Joaquin Perez Becerra was absolved of the crime of criminal conspiracy.
10. The Procurador General of the Nation, in an appeals decision, on July 6, 2014 confirmed the dismissal of Miguel Angel Beltran from his academic post and prohibition on his exercising public responsibilities.
11. Lilianny was re-captured on August 6 2014 in Bogota in her house per order of Judge 7 of Implementation of Penalties and Security Measures, by members of the CTI in spite of

the defence having solicited cancelation of said order on grounds that Liliany was under house arrest.

12. According to the sentence issued by Judge 9 of the specialised Circuit of Bogota on July 23, 2013, Liliany as a mother is head of her family and professional sociologist at the National University does not represent a danger to society.
13. As presented by Magistrate Luis Guillermo Salazar Otero, according to Act 95 of April 3 2014, the Supreme Court of Justice, Chamber of Penalty Annulment, rejected the demand for annulment presented by Liliany Patricia Obando's lawyer.
14. The function of courts is, together with prison authorities and under INPEC supervision, is to execute penal sanctions imposed via a valid sentence

The Spanish version of this article appears at:

<http://www.inspp.org/assets/media/files/default/Aug%202014/FENIX%20RECARGADA%20FINAL%20PDF.pdf>

W. T. Whitney Jr. was the translator
