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CUADERNOS DEL CONFLICTO

PEACE INITIATIVES AND COLOMBIA'S ARMED CONFLICT

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December 2009

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The talks made in 2008 have been revised and updated for this publication.

—*María Victoria Llorente y Cynthia J. Arnson*
December 2009

PREFACE

The Landscape of Armed Conflict in Today's Colombia

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Over the past several years, the landscape of armed conflict, war, and peace in Colombia has undergone significant transformation. These changes are product of the democratic security policy adopted by the administration of President Alvaro Uribe (2002-), and reflected in two main processes. First is the partial dismantling of the paramilitary movement as a result of negotiations with the Colombian government; the talks led to the collective demobilization of 31,671 combatants between 2003 and 2006. As part of the paramilitary demobilization, and after a drawn-out debate in the Colombian Congress, the government also adopted mechanisms of transitional justice in an effort to respond to victims' demands for truth, justice, and reparations. The principal mechanism was Law 975 of 2005, better known as the Law of Justice and Peace.

The second process has to do with the erosion of the guerrillas' military capacity as a result of continuous pressure from military and police forces which have been modernized and strengthened. The guerrillas have withdrawn primarily toward border areas and have suffered a progressive increase in the number of desertions from their ranks. Between 2002 and 2009, close to 20,000 members of the insurgent forces laid down their weapons and took advantage of the government's demobilization and reintegration program.¹

Meanwhile, the ongoing challenges to overcoming conflict and consolidating peace in Colombia are enormous, and the overall strategic situation presents a great deal of ambiguity. At the same time that Colombian society has benefited from the dramatic improvement in security conditions, the drug trafficking that for years has financed irregular armed actors has not abated as much as had been hoped, especially considering the substantial resources committed to the counter-narcotics effort.²

Despite the significant setbacks to the guerrillas, both the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN) have adapted their military and political strategies. The FARC has regrouped to a great extent in the strategic areas of cocaine production and trafficking, and the ELN has adopted a strategy of "passive resistance," avoiding direct confronta-

tion with the security forces.³ Although the ELN presence in its traditional strongholds has declined, the group has grown in a small number of other areas, particularly in zones of drug trafficking. This constitutes a break with the past, in that the ELN historically had avoided involvement with the drug trade. The tendencies manifested with respect to both guerrilla groups raise once again the question of how to put a definitive end to the armed conflict. Contrary to the conventional wisdom that the military weakening of the guerrillas would create incentives to enter into a peace process, no such negotiations have taken place, nor are they on the horizon.

The strategic options for the guerrillas are influenced by the volatile regional environment, one marked in particular by heightened tensions between Colombia and Venezuela as well as credible accusations of Venezuelan support for the FARC.⁴ Colombia has privileged its relations with the United States in light of the significant U.S. contributions to the democratic security policy, as well as a coincidence of interests in fighting narcotics and terrorism. Meanwhile, tensions between Colombia and its neighbors in the Andean region have progressively escalated, reaching their apogee following a March 2008 cross-border raid by the Colombian armed forces on a FARC encampment inside Ecuadorian territory. The guerrillas have taken advantage of this climate of confrontation to extend their strategic rearguard beyond Colombia's borders into Venezuela and Ecuador. Colombia has accused neighboring governments of passivity, acquiescence, or outright support of a FARC presence in border areas, while Ecuador, in particular, has protested the multiple ways that the spillover of Colombia's internal armed conflict has affected its own security and sovereignty.

Multiple concerns have also arisen with respect to the justice and peace process underway with the paramilitary groups. Criminal gangs (*bandas criminales*) linked to drug trafficking have grown in tandem with the demobilization process. Some of these gangs are new, but the majority is comprised of holdouts from paramilitary groups who never laid down their weapons or who simply rearmed. In addition, many in and outside Colombia

have questioned whether the confessions made by former combatants who applied for benefits under the Law of Justice and Peace have contributed significantly to knowing the truth about the conflict. Others have questioned the meager progress in offering reparations to victims, including the return of stolen land and other goods. Reconciliation, in turn, continues to be ephemeral. How is reconciliation defined in the Colombian context? How can one balance and unify the efforts to reintegrate former combatants and to attend to victims in a way that contributes to reconciliation? These are basic questions with as yet no concrete answers.

With all of these issues in mind, the Latin American Program of the Woodrow Wilson International Center for Scholars and Bogotá's Fundación Ideas para la Paz held a conference in April 2008, to assess the state of peace initiatives with the FARC, ELN, and paramilitary groups. This report contains the written and revised presentations prepared for that event. Critical issues we examined include: the deadlock in peace negotiations between the Colombian government and the ELN between 2005 and 2007; changes in the FARC's strategic options in the light of its military and political weakening; the perspective of the Catholic Church regarding the possibility of a "humanitarian exchange" between the Colombian government and the FARC; regional tensions in Latin America, their implications for the Colombian armed conflict, and Colombian foreign policy alternatives; and advances and setbacks in the process of disarmament, demobilization, and reintegration of paramilitary groups, especially in light of the rearmament of remnants of the paramilitaries.

The questions raised in 2008 have remained at the center of the debate over war and peace in Colombia since then. For many analysts, the year 2008 represented a turning point in the Colombian war. Principal events (some of them discussed at the time of the conference) include: 1) the FARC's *marzo negro* (black month of March) when two of their principal commanders were killed and their historic leader, Manuel Marulanda Vélez, alias "Tirofijo", died of natural causes (Tirofijo's death was not made public until four months later);⁵ 2) the extradition in May of fifteen paramilitary commanders who had taken part in the peace negotiations and had availed themselves of the justice and peace process;⁶ and 3) the liberation of fifteen of the FARC's most prized hostages during "*Operación Jaque*," a flawlessly-executed military operation carried out in July by Colombian military forces.⁷

These developments led to triumphant statements by the Colombian government that the "end of the end" of the FARC was at hand.⁸ Meanwhile, the mass extradition of paramilitary leaders generated a fierce debate between human rights activists and the government. Human rights groups claimed that the extraditions delivered a near-mortal blow to the justice and peace process, compromising both victims' rights and the possibility of gaining further information about politicians indicted for their ties to paramilitary organizations (the so-called "parapolitics" scandal). The government argued that, to the contrary, the extraditions relieved the justice and peace process of the negative influence exercised by the paramilitary leaders, who not only continued to commit crimes from jail but had contributed very little to the process of truth and reparations. Even worse, said the government, these commanders were trying to control the testimony of other former combatants who had taken advantage of the Justice and Peace law.

Although 2008 was indeed a critical year for the guerrillas, particularly the FARC, it is premature to claim that the "end of the end" of the armed conflict is at hand. Similarly, although the extradition of paramilitary leaders did hurt the chances for victims' access to justice, truth, and reparation, the process and the investigations of cases in the parapolitics scandal have seen a number of important advances. In the meantime, other worrisome trends have emerged or simply continued. Little progress has been made in providing reparations to victims or advancing reconciliation more broadly. And the rearmament of members of paramilitary groups involved in narco-trafficking opens a new and dangerous phase of Colombia's struggle against drugs. •

¹ According to data from the PAHD (Program of Humanitarian Attention to the Demobilized) of the Ministry of Defense, between August 2002 and July 2009, 19,553 combatants from guerrilla and paramilitary groups had demobilized individually. This number is in addition to the number of paramilitaries who demobilized in collective fashion.

² See, for example, the U.S. Government Accountability Office (GAO) October 2008 report on Plan Colombia. GAO, *Plan Colombia: Drug Reduction Goals Were Not Fully Met, but Security Has Improved; U.S. Agencies Need More Detailed Plans for Reducing Assistance* (Washington, D.C.: October 2008). Available online at: <http://www.gao.gov/new.items/d0971.pdf>. See also the report by former presidents Fernando Henrique Cardoso of Brazil, Ernesto Zedillo of Mexico, and César Gaviria of Colombia, summarized in "El fracaso de la guerra contra las drogas" *Foreign Policy* (Spanish Edition), February-March 2009. More recent reports from the United Nations Office on Drugs and Crime (UNODC) indicate that throughout 2008, the area of coca cultivation

decreased by 18 percent compared to 2007. Moreover, in the area of the government's Comprehensive Consolidation Plan (in the Macarena, an area of southern Colombia with a historically strong presence of the FARC and of coca) the reduction was 75 percent. Available online at: <http://190.144.33.2/unodc/censo2008es.pdf>

- ³ Signs of this strategy were evident in early 2005, coinciding with the beginning of a process of negotiation with the Uribe government that ultimately came to a standstill in 2007.
- ⁴ Venezuelan President Hugo Chávez has denied such allegations.
- ⁵ On March 1, "Raúl Reyes," member of the FARC Secretariat and a key architect of its international strategy, was killed during the controversial "*Operación Fénix*" carried out by Colombian security forces across the border in Ecuador. On March 7, Colombian authorities announced that Iván Ríos, also a member of the Secretariat, had been killed by one of his subordinates (alias "Rojas"), who subsequently turned himself in to the authorities, bringing the hand of Ríos as proof of his death. As a result, "Rojas" received part of the reward offered for Ríos' death or capture. But the legal status of the former guerrilla has not been determined and he remains in jail in Bogotá.
- ⁶ Carlos Mario Jiménez (alias "Macaco") was extradited to the United States on May 7. Less than a week later, on May 13, fourteen commanders met the same fate: Salvatore Mancuso, Guillermo Pérez Alzate (alias "Pablo Sevillano"), Martín Peñaranda, Ramiro "Cuco" Vanoy, Juan Carlos Sierra (alias "El Tuso"), Rodrigo Tovar (alias "Jorge 40"), Eduardo Enrique Vengoechea, Hernán Giraldo, Nódier Giraldo, Diego Fernando Murillo Bejarano (alias "Don Berna"), Francisco Javier Zuluaga Lindo (alias "Gordolindo"), Diego Alberto Ruiz Arroyave, Manuel Enrique Torregrosa Castro, and Edwin Mauricio Gómez Lara.
- ⁷ The following hostages were freed in *Operación Jaque* on July 2, 2008: former Colombian presidential candidate and French citizen Ingrid Betancourt; U.S. military contractors Keith Stansell, Thomas Howen and Mark Gonsalvez; Army Lieutenant Juan Carlos Bermeo; Army Second Lieutenant Raimundo Malagón; Army Second Sergeant José Ricardo Marulanda; Army Corporal William Pérez; Army Second Sergeant Erasmo Romero; Army Corporal José Miguel Arteaga; Army Corporal Armando Flórez; Police Corporal Julio Buitrago; Police Superintendent Armando Castellanos; Police Lieutenant Vianey Rodríguez; and Police Colonel John Jairo Durán. All had been held hostage for 6 to 8 years. Two members of the FARC were captured in the course of the operation: the commander of the FARC's First Front, Gerardo Aguilar Ramírez, alias "Cesar," who was subsequently extradited to the United States on drug trafficking charges in July 2009; and FARC leader Alexander Farfán Suárez, alias "Gafas."
- ⁸ This term was coined by Armed Forces Commander General Freddy Padilla. Although this view has long been held officially, a recent iteration appears in "En el fin del fin las FARC optan por el terrorismo," Interview with General Freddy Padilla de León, Ministry of Defense, *Semana*, June 14, 2009.

INTRODUCTION

Recent Trends in Colombia's Internal Armed Conflict and the Search for Peace

María Victoria Llorente, Executive Director, Fundación Ideas para la Paz

THE FARC: THE END OF THE END OR MILITARY AND POLITICAL READJUSTMENT?

The government's democratic security policy has produced its greatest results in the battle against the FARC. It is worth remembering that at the beginning of the Uribe administration, the FARC was considered to represent the greatest threat to the stability of the Colombian state. According to government figures, since 2002 some 40 FARC structures have been deactivated and approximately 12,700 FARC members have turned themselves in, today forming part of the official reintegration program.¹ The desertions have also become more significant in qualitative terms, something that has led the government to claim that the FARC is suffering a progressive and irreversible process of internal collapse.² The numbers themselves are revealing: more than a thousand mid-level FARC leaders, many of them with more than 10 years within guerrilla ranks, have laid down their weapons. Close to half of these demobilizations occurred between mid-2008 and the first four months of 2009.³ It is worth noting that some leaders who deserted brought hostages held by the FARC with them.⁴

The government's democratic security policy has produced its greatest results in the battle against the FARC. It is worth remembering that at the beginning of the Uribe administration, the FARC was considered to represent the greatest threat to the stability of the Colombian state. According to government figures, since 2002 some 40 FARC structures have been deactivated and approximately 12,700 FARC members have turned themselves in, today forming part of the official reintegration program.¹ The desertions have also become more significant in qualitative terms, something that has led the government to claim that the FARC is suffering a progressive and irreversible process of internal collapse.² The numbers themselves are revealing: more than a thousand mid-level FARC leaders, many of them with more than 10 years within guerrilla ranks, have laid down their weapons. Close to half of these demobilizations occurred between mid-2008 and the first four months of 2009.³ It is worth noting that some leaders who deserted brought hostages held by the FARC with them.⁴

Even as the Colombian government continued to make progress against the FARC, in 2009 it was possible to see the results of the military adaptation undertaken by the FARC since 2006.⁵ Guerrilla actions against the Public Forces increased; they were not confined to the border areas to which the FARC had retreated (Nariño, Cauca and Arauca), but also took place in some of its traditional areas of influence (Huila, Caquetá and Meta). In addition, the FARC showed its intention to return to urban areas. Actions in urban areas served at least three goals: 1) to send the message that the FARC still had the capacity to launch such attacks; 2) to demonstrate that the FARC intended to target objectives that posed less of a threat to the civilian population; and 3) to prove that extortion is an effective means to obtain resources and instill fear in the population.

During 2009 the FARC was also able to mount simultaneous operations in different parts of the country, suggesting that the 'command, control, and communications' structures were not as damaged as has been claimed in 2008. Also, the FARC showed the ability to take advantage of opportunities that arose by chance or as a result of operational errors by the Public Forces, to deal blows with a high media impact.⁶

The FARC also took steps to regain its political influence; this effort is reflected in its attempts to influence the pre-election atmosphere as Colombia prepares for national elections in 2010. While attempts to influence political debate in presidential election years is hardly a new strategy for the FARC, this year it has introduced certain tactical 'innovations.' The FARC is trying to force presidential nominees to discuss the FARC by manipulating the issue of the humanitarian accord and through military actions that generate impact but do not directly affect the civilian population. These 'innovations' are perhaps to be expected with the ascent of "Alfonso Cano" to the leadership of the organization, and reflect an attempt to regain the public attention the FARC previously considered irrelevant.

The ELN: Between Military Failure and Criminalization

The ELN has been weakened through losses on multiple fronts. In 1998, the paramilitaries launched an of-

fensive against the ELN in the southern part of Bolívar department. Such offensives were progressively replicated in ELN's traditional strongholds. The Uribe administration's democratic security policy further weakened the guerrilla group.

By 2005, the ELN's military decline was apparent. Of particular note was the failure of the strategy of military expansion begun in the mid-1990s. This strategy sought to intensify the level of confrontation in order to halt the paramilitary advance in the ELN's areas of influence. In departments such as Antioquia, Santander, Norte de Santander, and Arauca, and also on the Caribbean coast, the ELN was losing the prominence it once had and their offensive activity obviously decreased.⁷ These setbacks made the ELN's federated structure more obvious, and ultimately, the Central Command (COCE) lost its control over the whole guerrilla group.

The ELN has been further weakened by an unresolved conflict with the FARC in some areas of the country. Especially noteworthy are the tensions in Arauca, Cauca, and Nariño, border departments which are currently the epicenter of the internal armed conflict and are of strategic value for drug-trafficking. In early 2009 the COCE⁸ called on the Secretariat of the FARC to reach accords, especially in light of the situation in Arauca.⁹ The ELN's approach was confirmed a few months later through two additional letters sent to the commander-in-chief of the FARC; the letter underscored the urgency of "organiz[ing] ourselves to stop the fratricidal confrontation between the two forces."¹⁰ The whole situation was further evidence of the COCE's progressive loss of control over its different fronts.

Some elements of the ELN are currently making alliances with criminal gangs involved with drug-trafficking, such as "Los Rastrojos"¹¹ in the southwest part of the country. These alliances have increased tensions with the FARC and confirm the open participation of some ELN structures in the drug-trafficking business. This participation deepens the internal divisions in the ELN, which has long debated whether or not to involve itself in drug-trafficking.

Deadlock in the Scenarios for Negotiated Peace and Humanitarian Exchange

The prospect of a negotiated peace with the guerrillas, as well as for advancing a humanitarian exchange to free all the hostages currently held by the FARC, remains dim,

with few changes in the deadlock described in this report by Aldo Civico, Román Ortiz, Father Darío Echeverri, and Eduardo González of the office of the High Commissioner for Peace. There are several important obstacles to progress. These include the struggle between the government and the guerrilla groups for political prominence, which according to Father Echeverri especially hampers the prospects for a humanitarian exchange. Another challenge outlined by Román Ortiz is the uncertainty within the FARC over whether to negotiate from a weakened position or to become more radicalized. Similarly, the government's peace policies, described by envoy of the High Commissioner for Peace Eduardo González, emphasize disarmament and demobilization of combatants and leave little space for negotiated alternatives that are not predicated on the weakening of the counterpart.

In their eagerness to reposition themselves nationally and internationally, the FARC have sought to capitalize on two processes related to humanitarian exchange. First is the unilateral release of only a small number of hostages at particular times. The first example of this was in January 2008, when the FARC turned over two women they had held captive;¹² the release took place after President Uribe requested that opposition Senator Piedad Córdoba and Venezuelan President Hugo Chávez facilitate the women's release.¹³ One year later, in February 2009, the FARC liberated two politicians and four members of the security forces.¹⁴ On this occasion, the handover was mediated by *Colombianos y Colombianas por la Paz* (Colombians for Peace, CCP). This civil society initiative emerged in the second half of 2008 under the leadership of Senator Córdoba, bringing together politicians, civil society organizations, and academics to establish alternative means to opening channels of communication with illegal armed groups in the search for a negotiated peace.¹⁵

The second process involves seeking interlocutors other than the Colombian government and the Catholic Church, with the goal of opening up new political spaces for the FARC. The Catholic Church has been actively involved in facilitating a humanitarian exchange since the beginning of the Uribe government, but at the beginning of 2008 the FARC openly rejected the Church in this role.¹⁶ Bearing in mind the Catholic Church's parameters of intervention – explained by Father Echeverri in his presentation – the FARC's rejection of the Church certainly had to do with the fact that the "discreet work" of this institution does not allow for the political promi-

nence desired by the FARC. Something different was generated by the interlocution of *Colombianas y Colombianos por la Paz*, and in particular that of Senator Piedad Córdoba, who is known as a tough critic of the Uribe government and its handling of the peace process. That is why the government had doubts about the impartiality of CCP and has tried to exert greater control over Senator Córdoba and her group's work on behalf of a humanitarian exchange.¹⁷

It is certainly possible that, in the near future, the FARC will once again be willing to work with the Catholic Church as an interlocutor and resume the release of small groups of hostages. The majority of hostages currently held by the FARC are soldiers and police officers. The possibility for additional releases is even more likely given the upcoming election and the FARC's desire to be seen as a political protagonist. In any event, the participation of the Catholic Church should not be altogether ruled out. In fact, Colombian Cardinal Darío Castrillón recently revealed that he had received telephone calls at his Vatican residence from FARC and ELN guerrillas. Cardinal Castrillón said he saw in them "a willingness to seek an opening" towards dialogue.¹⁸

As could be expected, the ELN has also sought to take advantage of the space opened by *Colombianas y Colombianos por La Paz*. After several months of silence regarding the ELN's failed 2005-07 negotiations with the government (analyzed in detail by Aldo Civico in his article), in January 2009 the Central Command (COCE) sent its own letter to the CCP. In this letter the COCE presented its analysis of the process with the government and showed a desire to gain political space through the exchange of letters. According to the ELN:

"The primary obstacle for the continuity of the dialogue process is the Colombian government's desire for the ELN to locate and identify all its members as a precondition for any advance, refusing to build a political and social agenda that would allow the structural problems that constitute the root causes of conflict to be dealt with in depth. It has been clear that the Uribe government wants, pure and simple, the demobilization and disarmament of the guerrillas, for everything to continue the same, and thus to secure an advantage, continuing negotiations with guerrillas without a military or combat capacity (...) That is why the ELN is interested in the initiative you have proposed, to continue an exchange of letters

that can be tied to a dialogue with the national and international community, which puts a priority on the national agenda and the search for a political solution to the conflict."

The "epistolary exchange" between the ELN and CPP has been maintained to date.

The government, for its part, has continued its counterinsurgency strategy, privileging first a military offensive to recuperate territorial control by the state¹⁹ and then seeking to coordinate military efforts with civilian ones in the interest of consolidating – militarily as well as socially – control over the areas from which the guerrillas had been expelled.²⁰ This approach was reinforced by military successes of 2008. In 2009 the government launched what has been called the "*Salto Estratégico*" ("Strategic Leap"), based on the notion that Colombia's internal armed conflict had reached a turning point marked by the progressive collapse of guerrilla groups and the dismantling of the paramilitaries. This *Salto Estratégico* aims to be definitive and involves an integrated military and civilian offensive in the areas with obvious guerrilla influence.²¹

In light of these developments, the political space for a negotiated peace with the guerrilla groups as a component of government policy—space that was already narrow—shrank to almost nothing. This is especially true given that neither the FARC nor the ELN has shown signs of willingness to accept the option of negotiating from a position of weakness. That option is undoubtedly favored by the government, as evidenced by Eduardo González's contribution to this volume.

It is not surprising then, that at the same time that the government was launching the "*Salto Estratégico*," its peace policy came to a halt. On the one hand, Luis Carlos Restrepo, Colombia's High Commissioner for Peace and architect of the complex paramilitary demobilization process, left his post in March 2009, declaring that his mission was fulfilled and that there is no chance to make progress in a serious peace process with the guerrillas.²² President Uribe left Frank Pearl, the Adviser for Reintegration, indefinitely in charge of the duties of the peace commissioner. The appointment serves to confirm that the government's peace policy is limited to the disarmament and demobilization of the combatants.

On the other hand, in an obvious effort to make itself a counterweight to the initiative of *Colombianas y Colombianos por la Paz*, the government launched the

“agents of peace” (“*gestores de paz*”) program to involve recognized former guerrilla combatants in the campaign to convince their old comrades-in-arms to abandon the guerrilla ranks voluntarily and turn over hostages.²³ The program is a controversial one that stems from legislation enacted in 1993 to facilitate peace negotiations.²⁴ Given that its primary objective is to promote desertions, it was obviously recognized as more a part of the government’s counterinsurgency strategy than as an initiative aimed at negotiating peace.

In addition to the “agents of peace” strategy is the work of the NGO *Manos por la Paz* (Hands for Peace),²⁵ that promotes the demobilization of guerrillas albeit with objectives quite different from those of the government. *Manos por la Paz* has spearheaded an initiative aimed at allowing imprisoned guerrillas to apply for benefits under the Justice and Peace law.

Escalation of Tensions in the Andean Region and its Impact on the Colombian Internal Conflict

From a regional perspective, the growing political and strategic fracture dividing the continent was brought into sharp relief with the crisis of March 2008 that brought Colombia face to face with Ecuador and Venezuela following the incursion by Colombian military forces into the camp of ‘Raúl Reyes’ in Ecuador. Up until then, it had been obvious that a “Bolivarian axis” was in formation, made up of a group of governments led by Caracas and committed to a political model based on a form of authoritarian populism coupled with a nationalist foreign policy. Following the March 2008 incursion, the world saw for the first time the supporters of “21st Century Socialism” behaving as a monolithic bloc. In fact, the Ecuadorian government’s protest over Colombia’s military action, which took place 1800 meters inside its territory, was immediately seconded by Venezuela and Nicaragua, thus turning a border incident into a regional crisis.²⁶

Since then, the “Bolivarian axis” has gained in cohesion and influence, redrawing the balance of forces in the continent. For its part, as Rodrigo Pardo explains in his article, Colombia has maintained the policy of strengthening its ties with the United States. This is in keeping with Colombia’s domestic priority –the Democratic Security Policy. As Pardo indicates, Colombia is continuing on its path even if it means isolating itself from the rest of the countries in the region, the majority of which have

sought to distance themselves from the United States and especially the war on terror following the September 11, 2001, attacks. The regional posture was confirmed in the most recent escalation of regional tensions triggered by Colombia’s decision in early 2009 to move forward with a military cooperation agreement with the United States that would permit the United States to use seven Colombian military bases to detect, monitor, and track drug-traffickers’ aircraft and vessels.²⁷

The regional scenario will necessarily have important consequences for the evolution of the conflict in Colombia. The Venezuelan government has made little effort to conceal its sympathy for the FARC. Colombia discovered on ‘Raúl Reyes’ computers numerous pieces of evidence of financial and logistical support from high ranking officials in the Chávez regime to the FARC. There have also been public gestures, such as Chávez’s request to international community that FARC be recognized as a belligerent force – a longstanding wish of its deceased leader Manuel Marulanda – and the inauguration of a plaza named after the late FARC leader in the center of Caracas.²⁸

The FARC can thus expect in the future to count on support in Venezuela, and, to a lesser extent, in Ecuador. Under such circumstances, the organization, which is going through one of its worst moments, will be able to avoid military defeat at the hands of the Colombian armed forces by escaping to sanctuaries in neighboring countries. The existence of these safe havens also means that guerrilla leaders will have fewer incentives for negotiating with the authorities in Bogotá.²⁹ The outcome, as the Colombian government has warned, will necessarily be the prolongation of the conflict and its inevitable human and material costs.³⁰ All this unless the Colombian government is able to find the correct strategy for dissuading Venezuela from continuing its efforts to export its revolution and unless other countries of the region understand that the end of the Colombian conflict is intimately linked to Venezuela’s closing its doors to the FARC.³¹

Reparations for Victims of the Conflict–Slow and Limited Progress

One of the most debated aspects of the armed conflict during the Uribe government was the “dismantling” of paramilitarism and the kinds of transition mechanisms aimed at dismantling these *groups* and satisfying the rights of victims. There is no doubt that there are both pos-

itive and negative aspects of this process, better known as the Justice and Peace process. In his presentation, Javier Ciurlizza of the International Center for Transitional Justice (ICTJ) provides a careful analysis of the debate surrounding the Justice and Peace process. Ciurlizza also points out that the Colombian experience has opened opportunities in terms of unique transition processes that will establish precedents for the rest of the world.

Ciurlizza analyzes the reforms required to compensate the victims in light of the meager advances achieved in the implementation of relevant sections of the Justice and Peace Law. There was limited progress over the last year. One criticism has been the obvious asymmetry in the treatment of former combatants, for whom an ambitious reintegration program was established in 2006, and the treatment of victims of the conflict. In mid-2008, and in response to increasing pressure on the government to address victim compensation, the government adopted a program of individual reparations, through administrative channels, for persons whose fundamental rights were violated by illegal armed groups.³²

This initiative has been advantageous insofar as it offers the victims a relatively more expeditious and less cumbersome alternative for obtaining some compensation than either the judicial channel or the one provided for by the Justice and Peace Law.³³ In fact, a little more than a year after the relevant regulations were issued, the first group of registered victims was compensated.³⁴

However, the program has been considered to be limited since it excludes the victims of agents of the State as well as persons who are victimized subsequent to the issuance of the regulation—despite the fact that the armed conflict in Colombia has not ended. In addition, there have been questions about reparations that are a form of solidarity but do not recognize the State's responsibility.

Another limitation has been that, until now, reparations have primarily been in the form of financial compensation or a housing subsidy awarded by the State, for which the government allocated 7 billion pesos (approximately US\$3.5 billion) from the national budget. The regulation which establishes the program mentions, as part of its objectives, obtaining access to education, health, and welfare programs for the victims. This access still has not been provided, but it is expected that before the end of 2009 the government will develop a budgetary plan for its implementation.³⁵

Given the situation described above, since the second half of 2008 victims' rights and human rights activists

have closed ranks around a bill known as the Victims' Law. The bill was proposed in Congress in late 2007 by Liberal opposition congressman Juan Fernando Cristo.³⁶ In essence, this bill seeks to establish a legal framework that would harmonize the various measures of protection for victims of the conflict. The bill would also provide for the development of a comprehensive program of assistance and administrative reparation to all the victims of the conflict, a program for which the Colombian State will be responsible. The initial bill even proposed the creation of a Commissioner for Victims, under the auspices of the Presidency of the Republic and comparable to the High Office for Reintegration (ACR) which serves the population of former combatants who have demobilized collectively or individually.³⁷

Between the end of 2008 and the first half of 2009, this bill was the object of a bitter debate between its congressional backers, groups of defenders of victims' rights, and the Uribe administration. Among the aspects that generated the most conflict is the framework in which reparation is conceived. The government defended to the end the principle of reparation as a form of solidarity, as described above. In the view of the government's opponents, this position openly flaunts the human rights standards established by international law. According to international human rights law, the State is obligated to compensate victims of human rights violations for two reasons. The first is when the State is directly responsible for the offenses committed, whether by action or omission. The second is as a consequence of its duty to guarantee human rights by ensuring the prevention, investigation, sanction, and reparation of the violations committed.

Another provision that provoked intense debate was the Uribe administration's insistence on excluding or providing differential treatment to the victims of State agents. The principle argument put forth by the administration was that recognizing the victims of the State in the same terms as the victims of illegal armed organizations would be like equating state agents with "terrorists." This would send a demoralizing message to members of the armed forces and would, therefore, constitute an affront to the democratic security policy. In the government's opinion, it was essential, as a requirement for reparation, to establish the responsibility of State agents through a legal or disciplinary process.³⁸

This position was considered by experts in international law and by victims' defenders as discriminatory

and as a judicial slap in the face. International experts such as Pablo De Greiff counter-argued that in order to establish “culpability,” a legal procedure against specific individuals is, indeed, necessary; but “responsibility” does not require such a process. The jurisprudence of international bodies such as the Inter-American Court of Human Rights has upheld such a distinction; moreover, numerous programs of administrative reparation established around the world have not discriminated against victims of human rights violations according to their victimizers.³⁹ Additionally, critics of the administration’s position argued that victims of State agents are already guaranteed the right to administrative reparations because of the State’s role as the guarantor of human rights.⁴⁰

There was also strong debate over other aspects of the Uribe administration proposal which victims’ activists and the bill’s congressional backers viewed as impinging on victims’ rights. Controversial aspects of the administration’s proposal included: the exclusion of persons who were victimized after the regulation was issued, as if the conflict in Colombia had ended; limits to the total amount of judicial reparations, using as a reference the amounts stated in the decree of administrative reparation; the proposal to consider social assistance to those in poverty—primarily housing subsidies—as a valid form of reparation; and the deduction of previous humanitarian assistance from the amount of reparation to be paid to the victim.

In the end, in June 2009 the government asked that the Congress bury the bill, noting that it would be extremely burdensome for the State. According to calculations by the Ministry of the Treasury, the fulfillment of all the regulations included in the measure would have an estimated cost of more than 76 billion pesos (close to \$US40 billion).⁴¹ The government also rejected the fact that the final version of the bill to be voted on in the Congress would have included victims of State agents.⁴² In the new legislature, a group of members of Congress, led once again by Senator Juan Fernando Cristo and by House Representative Guillermo Rivera, presented a new bill which is, in essence, similar to the initial proposal of 2007.

There are two ways to evaluate the debate on victims’ reparations. On the one hand, the process of debate around the bill is highly positive for Colombian democracy. The Congress held eight regional hearings that involved the participation of members of Congress with a wide range of political view, civil society organizations,

including groups defending victims’ rights, international bodies, and, most importantly, more than three thousand victims who presented their concerns and proposals.⁴³ At the same time, a Working Group for the Victims’ Law Bill was established, composed of experts in human rights and representatives from various organizations, international bodies, and State institutions. The Working Group sought to create a space for dialogue to contribute to the debate from a technical perspective.⁴⁴

On the other hand, there are obvious conceptual as well as political and economic pitfalls that make it difficult to move forward more expeditiously in implementing the administrative measures and political reforms needed to compensate all the victims of the Colombian armed conflict. There is still a long road ahead in achieving symmetry between the State’s treatment of former combatants, especially those participating in the official reintegration program,⁴⁵ and the State’s treatment of victims through administrative channels in accordance with the reparation decree and other humanitarian and compensatory measures (especially for the displaced). For experts on transitional justice such as Ciurlizza, this symmetry is indispensable to advances in reconciliation.

Additional difficulties arise from the vagaries of the process for the restitution of assets, especially rural lands, to victims who were dispossessed.⁴⁶ This is part of the complex problem of land and the increasing concentration of land ownership in the Colombian countryside.⁴⁷ The limited and unclear nature of land titling is undoubtedly one of the largest remaining issues on the agenda for peace building in Colombia

Justice and Truth

Another vagary of the Justice and Peace process has to do with issue of truth and justice. On the one hand, undeniable progress has been made through the work of the Justice and Peace Unit (UJP) of the Office of the Attorney General. After four years of work, the Unit presented figures showing the number of processes underway, the crimes confessed, the victims associated with those crimes, and the families of victims who have finally been able to clear up what happened to their loved ones. The figures themselves testify to the enormous efforts and achievements of the Attorney General’s office as well as its advances in documenting the chilling violence carried out by the paramilitaries. These efforts have been aimed at achieving justice within the parameters of the Justice and Peace Law.

Consider the following data:

As of July 2009, 2927 members of paramilitary groups had applied under the Justice and Peace Law and 230,516 victims of these groups had been registered, of which close to 30,000 had attended the voluntary depositions. Similarly, as of June 2009, 1,867 voluntary depositions had been initiated in which 10,542 crimes involving more than 13,000 victims were confessed. Of these crimes, 6,549 are homicides, 975 are cases of forced disappearance, and 380 of forced recruitment. In addition, 2,439 bodies were found in close to 2000 common graves and 571 fully identified bodies were turned over to their relatives.⁴⁸

Additionally, as of October 2009 the ordinary justice system proffered 1,882 based on information gathered by the justice and peace prosecutors.⁴⁹ This undoubtedly contrasts with the fact that, before the Justice and Peace Law came into force, only 340 of its subsequent applicants had been sought by the ordinary justice system.⁵⁰ The disparity in these figures indicates the extremely high levels of impunity which prevailed with respect to paramilitary groups.

Even so, it is troubling that although two-thirds of the voluntary depositions have formally ended,⁵¹ the majority were concluded because no criminal charges were filed against the participant. Only five depositions ended with the complete confession of criminal acts. According to the 2008 report of the United Nations Office of the High Commissioner for Human Rights in Colombia:

“Of the 1626 persons who initiated voluntary depositions, 1189 did not continue with the process because the Attorney General’s Office did not have elements for accusing them of any serious crime.”⁵²

This means that by the end of 2008, approximately 70 percent of the justice and peace proceedings had been terminated because those involved did not confess to any crimes and because the prosecutors were unable to bring criminal charges against them.

The magnitude of the unfinished work is also troubling. Of the 2,927 members of paramilitary groups who have applied under the Justice and Peace law, 37 percent have yet to provide a voluntary deposition and only 18 percent remain imprisoned, something that has hindered their appearance before prosecutors.⁵³ The sole conviction took three and a half years to obtain and

in short order was overturned by the Supreme Court of Justice.⁵⁴ As a result, the calculations recently made by the former paramilitary commander, Salvatore Mancuso, do not seem so ridiculous. He figured that, at the speed at which the justice and peace process is making progress, it will be another 200 years before Colombians know the outcome.⁵⁵

In addition to the volume of information that the Attorney General’s Office needs to investigate, the Supreme Court has made it more difficult for charges to be filed against combatants under the Justice and Peace law. When the Supreme Court of Justice overturned the conviction discussed above, it found that, except in exceptional cases, the Attorney General’s office must have a complete set of charges against the accused before filing in court. In other words, the Attorney General cannot prosecute an individual on some charges while continuing to investigate other crimes the individual may have committed.⁵⁶ This is in spite of other jurisprudence upheld by the Supreme Court of Justice to the effect that the Attorney General’s can do precisely that—impute charges against former paramilitaries while continuing to investigate and accuse them of other crimes—so as not to alter the aspirations of victims and to provide for greater speed in the process.⁵⁷

Another point of contention is the Colombian government’s decision to extradite important paramilitary leaders to the United States. In May 2008, the government extradited 15 of these leaders, arguing that they would continue committing crimes if they remained in Colombia; the government subsequently extradited three more.⁵⁸ For civil society organization the extraditions represented a severe blow to the prospects for justice. By extraditing former paramilitaries on drug trafficking charges, the government appeared to be giving priority to drug trafficking offenses over violations of human rights. Similarly, civil society organizations believed that the prospects for knowing the truth will be seriously damaged. Not only had these former commanders contributed very little to the clarification of their crimes through their voluntary depositions while they were held in Colombia; in addition, there would be few remaining incentives to continue collaborating with the justice and peace process.⁵⁹

The government defended its decision by indicating that those extradited, in addition to contributing little to justice and peace, were continuing to commit crimes from prison.⁶⁰ Likewise, the government and the Attorney

General's office contend that the extraditions had freed paramilitary subordinates from the pressures exerted by their bosses and that ultimately, this was contributing to justice and to the truth.⁶¹

More than a year has passed these paramilitary leaders were extradited, and only three of them have continued participating in the justice and peace process.⁶² Several of the extradited, who were key players in the horror unleashed by the paramilitaries in Colombia, have stated that they will not continue collaborating. Such is the case of Rodrigo Tovar, alias "Jorge 40," chief of the Northern Bloc of the AUC, which controlled the country's northern coast with great violence and bloodshed. Another case is that of Diego Fernando Murillo, alias "Don Berna," chief of the paramilitary groups that operated in the department of Antioquia and chief of the 'Office of Envigado' the feared criminal structure which operated in Medellin.⁶³ Although the Colombian government continues to maintain that there is an agreement with the U.S. government, it seems doubtful that the extradited paramilitary leaders will continue their participation in the justice and peace process. Still unresolved are the logistical and budgetary issues that would facilitate the continuation of the justice and peace process by those extradited and currently in U.S. prisons.

In light of this situation, the Supreme Court of Justice, which must approve extradition requests along with the executive branch, recently determined that it will not consent to more extraditions of paramilitaries until they have completed the justice and peace process for crimes against humanity.⁶⁴ This decision added to the antagonism between the Uribe government and the Supreme Court which began over disagreements concerning the handling of the "parapolitics" scandal, described by María Teresa Ronderos in her article. The scandal involves the investigation and prosecution by the Supreme Court of a significant number of members of congress, including many supporters of President Uribe, for their alleged links to paramilitarism.

An additional issue that casts a shadow over the future of the justice and peace process is the potential replacement of the Attorney General. This could imply changes within the Justice and Peace Unit as well as the directives in this area. While such a change is not predictable, it constitutes a variable which could affect the path taken thus far by the office of the attorney general.

Rearmament as a Consequence of the Partial Dismantling of Paramilitarism

One of the most troubling aspects of the illegal armed structures in Colombia today is that of the so-called *bandas criminales*, criminal gangs (BACRIM) which appeared under various designations shortly after the demobilization of the paramilitary groups. Juan Carlos Garzón discusses the BACRIM phenomena in his article on the Organization of American States' Mission to Support the Peace Process' (MAPP/OEA), which monitors these groups. President Uribe himself has also acknowledged the problem and on several occasions has called on Public Forces to fight the groups decisively. He has offered rewards of up to 5 billion pesos (around \$US2.5 million) for the most recognized leaders.⁶⁵

According to official data collected by the inter-institutional monitoring group, the Mechanism for Joint Verification of Emerging Criminal Gangs,⁶⁶ as of August 2009, eight large structures with close to 3,400 members had been identified. In its most recent report, the MAPP/OEA identified at least 153 municipalities in 28 areas of the country as being affected by the BACRIM.⁶⁷ These figures suggest that the BACRIM represent a phenomenon of some importance.⁶⁸ However, the figures should be compared with the government's estimates in 2002 of the size and reach of paramilitary groups. At that time there were three known structures, said to be comprised of 13,000 combatants who operated in nearly 600 municipalities.

As Garzón notes in his presentation, there are various interpretations regarding the growth of these gangs. The government has insisted that it is a new, purely criminal phenomenon related to drug trafficking and other illegal markets. This is why the groups were initially called "emerging criminal gangs." Some civil society organizations researching the subject insist that the armed structures are an irrefutable sign that paramilitarism was not dismantled as the government claims,⁶⁹ as the majority of groups are led by individuals linked to the paramilitaries and who operate in many of the same areas dominated by the paramilitaries. In his article, Jeremy McDermott notes that these gangs are major actors in a new chapter of drug trafficking in Colombia. He argues that not only were the majority of the leaders of these groups close to the United Self-Defense Forces of Colombia (AUC), they also had backgrounds in drug trafficking. In this new chapter, the political and anti-subversive trappings are no

longer present; there is a growing convergence between the gangs and the guerrilla groups based on business interests.

The different points of view regarding the nature and magnitude of the phenomenon of criminal gangs reflect a troubling lack of clarity that will make it difficult to identify the best policies to confront and contain the gangs. What is clear is that politics have colored the two dominant positions in the public debate regarding the BACRIM. One position seeks to defend to the utmost the Uribe government's peace process with the paramilitaries, while the other points out the enormous shortcomings of the peace process in dismantling paramilitarism in Colombia.

A sound analysis of the BACRIM should not overlook the fact that many of the paramilitary structures were partially dismantled. Such was the case of the Bloque Central Bolívar (BCB) under the command of "Macaco." However, other structures that were the most associated with drug trafficking, such that of "Cuchillo" in the Llanos Orientales (the eastern part of the country), were never demobilized. Simultaneously, private armies in the service of the Norte del Valle cartel have grown stronger. One of these private armies, the "Rastrojos," is currently considered to be the most threatening. Hence, just as it is impossible to maintain that the paramilitaries were completely dismantled, it is also impossible to claim that nothing has changed. The Colombian strategic landscape has been transformed by the peace process with the paramilitaries and by the democratic security policy. The irregular armed actors have changed as a result of both. This is probably leading us to the kind of scenario sketched out by Jeremy McDermott concerning a new chapter of drug trafficking in Colombia.

The dynamics of war and peace in present-day Colombia indicate that the remaining challenges are great, reflected in the transformation of the irregular armed actors and in the search for the right path to a durable peace with justice, truth, and reparation for the victims. •

¹ According to information from the Defense Ministry's PAHD (see note 1), between August 2002 and July 2009 12,760 members of the FARC had demobilized individually, turning themselves in to the authorities and taking part in the reintegration program

² Sergio Jaramillo, Vice Minister of Defense, "Comando sin control," *El Tiempo*, July 20, 2008.

³ See Fundación Ideas para la Paz, "The FARC: 'Operación Jaque' One Year Later," *Siguiendo el conflicto*, No. 55, June 2009. Available online at: http://www.ideaspaz.org/secciones/download_boletines/siguiendo_el_conflicto_55.pdf

⁴ Such was the case of former congressman Oscar Tulio Lizcano who escaped from captivity in October 2008 in the company of FARC guerrilla Wilson Bueno Largo (alias "Isaza"). In January 2009 three more hostages were freed by guerrillas who deserted the FARC.

⁵ For more details on the military restructuring of FARC's military activities during the Uribe administration up until 2008, see: Ariel Avila, "FARC: Recent Dynamic of the War," *Revista Arcanos*, No. 14, Corporación Nuevo Arco Iris, Bogotá, December 2008, 4-23. Regarding the most recent FARC strategic scenario see: Fundación Ideas para la Paz, "The FARC: 'Operación Jaque' One Year Later," *op. cit.*

⁶ Notable is the FARC incursion in the municipality of Garzón (Huila) on May 29, 2009, in which they kidnapped a local councilman. Also the FARC's assassination of 7 police officers in the Timba (Cauca) area on June 21, 2009.

⁷ A good analysis of this process of the ELN's military decline can be found in: Avila, Ariel and Celis, Luis Eduardo, "ELN: el camino hacia la resistencia pasiva," *Revista Arcanos*, No. 14, Corporación Nuevo Arco Iris, Bogotá, December 2008, pp. 24-37.

⁸ It is worth remembering that this department has, since the 1980's, been the headquarters of the Domingo Laín Front of the ELN, which strengthened and grew along with the oil development in the area and which, as such, had a great deal of power within the organization.

⁹ The letter was also the ELN's response to an article published by the magazine *Semana* in which an alliance was revealed between the Army and the ELN in order to fight the FARC in Arauca. See: "Cómo el Ejército se alió con el ELN en Arauca," *Semana*, Bogotá, January 18, 2009.

¹⁰ Letter from the ELN to Alfonso Cano, May 2009. A second letter was sent in July 2009 by the COCE to the FARC's 10th front that operates in Arauca.

¹¹ This group is recognized as the "army" of the deceased drug-trafficker of Norte del Valle, Wilber Varela, alias "Jabón," who was assassinated in January 2008 in Venezuela.

¹² On this occasion, they liberated Clara Rojas, who had been kidnapped along with Ingrid Betancourt, and Consuelo González, a politician from Huila who was kidnapped when she was a representative in the House.

¹³ It should be noted that, to the extent that the FARC gained political prominence as a result of the role played by Hugo Chávez, the Colombian government decided to put an end to Chávez' involvement in November 2007.

¹⁴ In February 2009, they liberated the former Governor of Meta, Alan Jara and former Deputy Sigifredo López, the sole survivor of a massacre of 11 deputies from Valle Department. They had been kidnapped in 2002 and murdered by the FARC in 2007 in confusing circumstances. Also liberated were policemen Walter Lozano, Juan Galicia, and Alexis Torres, and soldier William Domínguez.

¹⁵ The mode of rapprochement with the irregular armed groups favored by CCP has been what they call "epistolary exchange." In September 2008 the CCP sent its first open letter to the FARC. The FARC replied one month later. Subsequently, the CCP established contact with the ELN, an organization which also responded to them, as well as with some paramilitary commanders imprisoned in the United States.

¹⁶ "The Spanish government and the Catholic Church of Colombia, by taking the side of Uribe's 'parapolitics' government, have excluded themselves as possible mediators." Interview with Raúl Reyes by the Agencia Prensa Latina, February 2008.

¹⁷ In April 2009, shortly after the release of hostages at the beginning of the year, the government disqualified Piedad Córdoba as facilitator. This was done to prevent a "media show" which favored the FARC, as had apparently happened after the FARC's first unilateral hostage release. Two months later the government once again had to accept the participation of Senator Córdoba and her group in order to move the exchange process forward. This was especially because the FARC had just announced that those next on the list to be released were Corporal Moncayo – famous due to the courage of his father who travelled the country by foot from the south to the capital in order to ask the president to facilitate the humanitarian accord – along with professional soldier Josué Daniel Calvo and the remains of Captain Julián Ernesto Guevara, who died in captivity.

- ¹⁸ “FARC and ELN contacted Colombian Cardinal in the Vatican,” *El Espectador*, May 7, 2009.
- ¹⁹ This in fact was the central focus of the *Defense and Democratic Security Policy* (Bogotá: Ministry of Defense, Imprenta Nacional de Colombia, 2003).
- ²⁰ See: *Política de Consolidación de la Seguridad Democrática* (Bogotá: Ministry of Defense, Imprenta Nacional de Colombia, 2007).
- ²¹ The objectives, scope, and responsible entities in this effort are laid out in Presidential Directive No. 01, March 20, 2009
- ²² “I have made the decision to retire from my post. My departure is in a matter of days”: Luis Carlos Restrepo,” *El Tiempo*, March 1, 2009
- ²³ According to this scheme, on March 2009 President Uribe himself released from prison Elda Neyis Mosquera García, alias “Karina,” and Raúl Agudelo Medina, “Olivo Saldaña.” One month later the government announced that former FARC guerrilla Yesid Arteta, who had been captured and after serving his sentence settled in Spain, could be another “gestor de paz.” Arteta, through a letter to the president, immediately made his role conditional: “I accept the Colombian government’s offer of working in all activities aimed at reconciliation, clarifying that I will never lend my name in order to develop a strategy of war, given that my ethical commitment only obeys the search for a political solution to the Colombian conflict.” Recently, Danis Daniel Sierra alias “Samir” an ex-combatant of FARC’s 5th front, has also been appointed as “gestor de paz”.
- ²⁴ After the promulgation of the 1991 Constitution, Act 104 of 1993 established the first regulations to facilitate dialogue with guerrilla groups, their demobilization and reintegration into civilian life. These instruments have been extended and modified since then by the law 241/95, 418/1997, 548/99, 782/2002 and 1106/06.
- ²⁵ This NGO was created in 2007 and headed by the Dutchwoman Liduine Zumpolle. The organization works “for the liberation of the hostages who are in the power of the FARC-EP; and for all the political prisoners who do not wish to return to the insurgent ranks.” Available online at: <http://www.manosporlapaz.org/>
- ²⁶ The border crisis was discussed in two regional forums. First in the OAS, beginning with a special meeting of the Permanent Council, on March 4 and 5, 2008, and throughout the remainder of the year. The second was the XX Summit of the Group of Rio, which met on March 7, 2008, in Santo Domingo, Dominican Republic. While Ecuador and its allies branded the incursion by Colombian security forces into its territory an unacceptable violation of national sovereignty, Colombia held that the governments of Ecuador and Venezuela violated international rules which prohibit countries from harboring terrorists (Communiqué No. 083, Presidency of the Republic, March 3, 2008) and that the attack was based on the “sovereign right of the people to their security.” (Statement by President Alvaro Uribe to the Heads of State of the Group of Rio, SP, March 7, 2008). As a result of the crisis, Ecuador broke off relations with Colombia and only resumed bilateral talks with a view toward reestablishing diplomatic relations in September 2009. Venezuela and Nicaragua also temporarily broke off relations with Colombia. Chávez, in the midst of the crisis, threatened to militarize the Colombia-Venezuela border.
- ²⁷ This accord was negotiated in response to Ecuadorian President Rafael Correa’s decision to move up to September 2009 the departure of the United States from the Manta base, which has been utilized since 1999 for operations of detection, monitoring, and tracking of drug-traffickers’ aircraft and vessels. This time, Venezuela cut off relations with Colombia and has even increased commercial retaliations against its neighbor, a situation which does not appear to have a diplomatic solution in the short term. For a comprehensive analysis of the escalation of regional tensions surrounding the military cooperation agreement between Colombia and the United States, see Fundación Ideas para la Paz, “El acuerdo militar entre Colombia y Estados Unidos: una apuesta estratégica,” *Siguiendo el Conflicto* No. 57, September 2009.
- ²⁸ In January 2008, Venezuela’s National Assembly approved a resolution of support for President Chavez’ peace proposal for Colombia, which involves a request to the Colombian government to recognize the FARC and the ELN as “belligerent forces” (“Pide Chávez al mundo reconocer a guerrillas como fuerza beligerante,” *La Jornada*, January 12, 2008). In September of 2008, a plaza in homage to the former leader of the FARC, Manuel Marulanda Vélez, was inaugurated in a barrio in Caracas (“‘Tirofijo’ tendrá plaza en Caracas,” BBC, September 24, 2008).
- ²⁹ To date there are serious indications that various leaders of the FARC and the ELN have taken refuge in Venezuelan territory. Since the beginning of 2008, the then-Minister of Defense of Colombia, Juan Manuel Santos, stated that Luciano Marín, alias “Iván Márquez,” Timoleón Jiménez, alias “Timochecho,” and Germán Briceño, alias “Grannobles,” were all in refuge in Venezuela (“El gobierno sabe donde está ‘Tirofijo,’” *El Heraldo*, January 24, 2008). One year later, in March 2009, these assertions went much further. The national press, citing Colombian intelligence sources, mentioned that there are 11 FARC leaders who are in Venezuela and Ecuador. In Venezuela were said to be Rodrigo Londoño, alias “Timpleón Jiménez,” Luciano Marín, alias “Iván Márquez,” Emilio Cabrera Díaz, alias “Bertulio,” Marcelino Trujillo, alias “Martín Villa,” Orley Jurado Palomino, alias “Hermes Aguilera,” Abelardo Caicedo, alias “Solis Almeida,” and Rodrigo Granda, the so-called foreign minister of the FARC, Jesús Santrich and Luis Alberto Albán, alias “Marco León Calarcá”; in Ecuador are Guillermo Torres, alias “Julian Conrado” and Sixto Antonio Cabaña, alias “Domingo Piojón” (“Once jefes de las FARC se refugian en Venezuela y Ecuador,” *Revista Milenio*, March 2, 2009).
- ³⁰ “Hasta los dientes,” *Semana*, September 20, 2009
- ³¹ Colombian Vice Minister of Defense Sergio Jaramillo stated categorically: “At this point, the end of the Colombian conflict depends, above all, on Venezuela ceasing to support the FARC. That is what UNASUR has to understand.” Ibid.
- ³² Contained in Decree 1290 of April 22, 2008
- ³³ The two mechanisms for compensating victims provided by this law have been shown to be unsuccessful. On the one hand, the Fund for the Reparation of Victims, which according to the law would provide goods handed over by the demobilized paramilitaries, has been criticized for the lack of a defined budget with which to provide for reparations, as well as for the absence of criteria which would allow the establishment of standards of reparation for the victims. On the other hand, the Reparation Body involves a series of formal requirements and a very demanding evidentiary burden for the victims. See the declaration by the Constitutional Court in Judgment C-370 of 2006.
- ³⁴ In June 2009, the government delivered the first compensations through this means to 300 families in the city of Popayán (Cauca).
- ³⁵ So confirmed the director of Justice and Security of the National Planning Department (DNP), where they are working on the development of such regulations. Interview with FIP, August 2009.
- ³⁶ Bill No. 157 of 2007, Senate, and No. 044 of 2008, House of Representatives.
- ³⁷ After four years of trial and error in matters of reintegration of former combatants, the High Office for Reintegration was created in 2006. This office put into effect a comprehensive program of services for former combatants as a matter of state policy, laid out in a document of the National Council of Economic and Social Policy (CONPES). See: National Planning Department, “Política Nacional de Reintegración Social y Económica para personas y grupos armados ilegales,” CONPES document 3554, Bogotá, December 1, 2008. For an analysis of the reintegration efforts of the Uribe government, including the new focus proposed by the High Office for Reintegration see: Rivas, Angela; Méndez, María Lucía y Arias, Gerson, “De excombatientes a ciudadanos: luces y sombras de los nuevos planes de desmovilización y reintegración,” *Siguiendo el Conflicto* No. 47, Fundación Ideas para la Paz, Bogota, February of 2007. Also see: “Narcotráfico y rearme amenazan la reintegración de desmovilizados.” Verdad Abierta, September 23, 2009. Available online at: <http://www.verdadabierta.com/web3/conflicto-hoy/50-rearmados/1677-narcotrafico-y-rearme-amenazandesmovilizaciones>
- ³⁸ See Communiqué No. 305 of the Presidency of the Republic on the occasion of the filing of the Victim’s Bill in the Senate, Bogotá, June 18,

2009: "The reconciled text, which the Government urgently requests you not approve, constitutes a grave threat to Democratic Security, given that it equates the terrorists with agents in service to the State, without the latter being able to have a legal process and an adjudicated sentence which would state the damage to the victim whose responsibility would be attributed to them."

- ³⁹ De Greiff, Pablo, "Algunas confusiones acerca de la Ley de Víctimas," *El Espectador*, November 21, 2008.
- ⁴⁰ In 2006 Colombia signed Resolution 60/147. Its contents are part of the Constitutional Bloc of the country, making them part of national law. Numbers 8 and 9 of the resolution contain the criteria for defining victims: "8. For the purposes of this document, it will be understood as victim, every person who has suffered damage, individually or collectively (...) 9. A person will be considered to be a victim independently of whether the perpetrator of the violation has been identified, apprehended, tried or convicted and of the familial relationship which might exist between the perpetrator and the victim."
- ⁴¹ "Fiscal Cost of the Victims' Law." Presentation by the Treasury Department, June 19, 2009. Available online at: <http://www.minhacienda.gov.co/portal/page/portal/MinHacienda/elministerio/prensa/Presentaciones/PresentacionCostoFiscalLeydeVictimasJunio192009.pdf>
- ⁴² See Communiqué No. 305 of the Presidency of the Republic on the occasion of the shelving of the Victims' Law project in the Senate, Bogotá, June 18, 2009. For an assessment of the debate over and collapse of this bill from the perspective of national and international organizations that participated actively in the process through the Working Group for the Victims' Law Bill, see Fundación Social, "El archivo de la ley de víctimas: Una oportunidad que se perdió, un camino que continúa," mimeo, Bogotá, June 23, 2009.
- ⁴³ As described by Fundación Social, which prepared the report on the eight hearings, "Many of the victims who attended the hearings stated that the mere fact of having been listened to in an official arena, in addition to being an unprecedented event, constituted a compensatory act." Fundación Social, "El proyecto de ley de víctimas: Desafíos para su último debate," mimeo, Bogotá, undated, p.1.
- ⁴⁴ Concerning the process of debate and the technical parameters proposed for the Working Group, see: Fundación Social, "El proyecto de ley de víctimas," Ibid
- ⁴⁵ The majority of the demobilized persons who attended the ACR were privates in the paramilitary groups.
- ⁴⁶ For an analysis of the problem of land dispossession in Colombia and a comprehensive picture of the magnitude of the expulsions carried out by paramilitaries in the last ten years, see Reyes, Alejandro, *Guerreros y campesinos. El despojo de la tierra en Colombia* (Bogotá: Norma, 2009). According to data from Acción Social, the official agency responsible for, among others things, administrating the Fund for the Reparation of Victims created by the Justice and Peace Law, as of April 2009 the paramilitaries who had availed themselves of the law had turned over 27 farms to the Fund, amounting to 7800 hectares valued at \$17, 836,296,082 (close to US\$9 million). These figures contrast with other estimates of the forced confiscation of land by illegal armed groups, the most conservative of which is on the order of 1.2 million hectares, as reported by the president of the National Commission of Reparation and Reconciliation (CNRR). (<http://www.cnrr.visiondirecta.com/09e/spip.php?article1726>). Other estimates mention between 3 and almost 6 million hectares of land illegally confiscated by irregular armed groups. For example, according to the 2nd National Verification Survey carried out by the Commission of Monitoring of Public Policies on Forced Displacement (July-August of 2008), 5.5 million hectares had been seized or their owners forced to abandon them over the last 11 years (Garay, Luis Jorge; Barberi, Fernando and Celeide, Gladys, "Impactos económicos del desplazamiento forzado," *Hechos del Callejón* No. 47, PNUD June of 2009).
- ⁴⁷ According to a research in progress by Ana Maria Ibañez, Director of the Center for Studies on Economic Development (Los Andes University), between 2000 and 2009 the national Gini of land distribution grew in 2.5%. During the same period this coefficient grew in 57% of the

Colombian municipalities. Data provided by Ana María Ibañez on October 17, 2009.

- ⁴⁸ Data from the National Unit of Prosecutors for Justice and Peace taken from: Fundación Ideas para la Paz, "Un balance de la aplicación de la Ley de Justicia y Paz," *Siguiendo el Conflicto* No. 56, July of 2009.
- ⁴⁹ Data provided by the National Deputy Prosecutor, Fernando Pareja, on November 23, 2009.
- ⁵⁰ This was confirmed by Luis Carlos Restrepo, then-High Commissioner for Peace. See: "Le piden a la Fiscalía agilizar diligencias contra los 'paras,'" *El Espectador*, October 17, 2006.
- ⁵¹ By July 2009, 1,215 of the 1,867 voluntary depositions initiated had already formally ended. Data from the National Unit of Prosecutors for Justice and Peace taken from: Fundación Ideas para la Paz, "Un balance de la aplicación de la Ley de Justicia y Paz," Op. Cit.
- ⁵² United Nations Office of the High Commissioner for Human Rights, "Report on the Human Rights Situation in Colombia 2008," February 19, 2009, p. 16.
- ⁵³ Thus, for example, the Justice and Peace Unit of the Attorney General's office was forced to publish announcements in various national and regional media in order to summon members who had applied to the Law who had still not presented themselves.
- ⁵⁴ In March 2009 Justice and Peace magistrates announced a sentence against Wilson Salazar Carrascal, alias "El Loro," a patroller of the Frente Héctor Julio Peinado Becerra of the Northern Bloc of the United Self-Defense Groups of Colombia (AUC), on four charges. In July of that year, in response to an appeal of the ruling, the Criminal Court of Appeals of the Supreme Court of Justice determined that the process would return to the stage of formulating charges. This was because the prosecutor did not accuse Peinado of conspiracy to commit a crime which, in the opinion of the Court, is the point of entry for any applicant to the Justice and Peace Law. In addition, the Court stated that if, indeed, the process of partial imputation of charges had been legal, the proceeding should not be the usual one under Law 975. On this sentence and its overturning by the Supreme Court of Justice, see: "El Loro y el primer fallo de Justicia y Paz," *Verdad Abierta*, January 27, 2009. Available online at: <http://www.verdadabierta.com/web3/justicia-y-paz/versiones/80-versiones/753-el-loro-y-el-primero-fallo-de-justicia-y-paz>; "Porqué la Corte anuló la primera sentencia de Justicia y Paz," *Verdad Abierta*, August 18, 2009. Available online at: <http://www.verdadabierta.com/web3/justicia-y-paz/imputaciones/1489-ipor-que-la-corte-anulo-la-primera-sentencia-de-justicia-y-paz>.
- ⁵⁵ "Justicia y Paz es una cadena perpetua," Mancuso," June 26, 2009. Available online at: <http://www.verdadabierta.com/web3/justicia-y-paz/imputaciones/1374-justicia-y-paz-es-una-cadena-perpetua-mancuso>
- ⁵⁶ Supreme Court of Justice—Criminal Court of Appeals, Judgment of the Second Instance in the case of Wilson Salazar Carrascal, alias "El Loro," July 31, 2009.
- ⁵⁷ Judicial finding issued by the Criminal Court of Appeals of the Second Instance in decisions from July 2008 (Auto 30120), February 2009 (Auto 30955 and Auto 30775) and April 2009 (Auto 3115).
- ⁵⁸ In addition to the 15 extradited in May 2008 (see Note 5) were: Herbert Veloza, alias "HH," Miguel Ángel Mejía Múnera, alias "El Mellizo" and Miguel Villareal Archila, alias "Salomón."
- ⁵⁹ For a comprehensive analysis of the extradition of these commanders and its impact on the justice and peace process, see: Fundación Ideas para la Paz. "Extradición: Un obstáculo para la Justicia?" Policy Brief No. 1, April 20, 2009.
- ⁶⁰ See the statement by President Alvaro Uribe Vélez on issuing the order of extradition of several individuals subject to the Justice and Peace Law. *Servicio de Noticias del Estado*, May 13, 2008.
- ⁶¹ Vice Presidency of the Republic, "Ni la extradición, ni el Gobierno, ni la justicia de E.U. son obstáculos para reparar a las víctimas: dice el Vicepresidente Santos," August 25, 2008. See also: "La verdad extraditada?," *Semana*, December 14, 2008.
- ⁶² In November 2008, six months after his extradition, Salvatore Mancuso gave three days of voluntary deposition in Washington D.C. In January 2009, Ramiro "Cuco" Vanoy gave a voluntary deposition from Miami

and in March Guillermo Pérez Alzate gave three days of voluntary deposition.

- ⁶³ Shortly after being extradited, “Jorge 40” announced that he would no longer continue with the justice and peace process. He recently reconfirmed this position. (“Alias ‘Jorge 40’ no seguirá colaborando en proceso de justicia y paz,” CM&, August 24, 2009). “Don Berna” has expressed that he will only testify again when his relatives, who are under death threats, are effectively protected (“Cartas de ‘Don Berna’ y de ‘El Mellizo’ desde Estados Unidos, Verdad Abierta, September 28, 2009. Available online at: <http://www.verdadabierta.com/web31/justicia-y-paz/extraditados/1695-cartas-de-don-berna-y-de-el-mellizo-desde-estados-unidos>)
- ⁶⁴ The Court announced this position in a decision of August 19, 2009 denying the extradition of Luis Edgar Medina Florez, alias “Comandante Chaparro.” (<http://www.verdadabierta.com/web3/la-historia/periodo4/justicia-y-paz/1530-corte-suprema-frena-extradicion-de-paras>).
- ⁶⁵ President Uribe’s most well-known statement to that effect was made in El Salvador in October 2008, when he asked to the IV Army Division why they had not captured “Cuchillo” and “El Loco Barrera:” “*On Saturday I will make a statement from Envigado (Antioquia). And I am going to reiterate the following: for example, at this moment there are drug traffickers we have not been able to capture, like the cases of ‘Cuchillo’ and ‘El Loco Barrera.’ I am going to ask: are we going to be able to capture them or not? And I am especially going to ask the Army Division in Villavicencio whether it is capable of capturing ‘El Loco Barrera’ or whether it is protecting him.*” (Presidente Uribe exige a la Fuerza Pública capturar a ‘Cuchillo’ y al ‘Loco Barrera,’ SP, October 30, 2008).
- ⁶⁶ This group, called the Mechanism for Joint Verification of Emerging Criminal Gangs – BACRIM (MEVEC), was formed in 2008 and brings together all the security forces (Police, Army, Navy, Air Force, Administrative Department of Security [DAS], and the Technical Investigations Body of the Attorney General’s Office [CTI]), as well as the CNRR, MAPP/OEA, and Indepaz, in order to carry out a coordinated and detailed monitoring of the BACRIM.
- ⁶⁷ Twelfth Quarterly Report of the Secretary General of the Permanent Council on the Mission of Support to the Peace Process in Colombia (MAPP/OEA), February 9, 2009.
- ⁶⁸ There are even more worrisome estimates of the magnitude of this problem. For example, at the end of 2008 the Corporación Nuevo Arco Iris reported that these gangs are divided into 100 armed groups which use 21 names, are in 246 municipalities, and are made up of at least 8,000 men. See: Mauricio Romero and Angélica Arias, “Bandas criminales, Seguridad Democrática y corrupción,” *Revista Arcanos* No. 14, Corporación Nuevo Arco Iris, Bogotá, December 2008, pp. 40-51.
- ⁶⁹ The principal exponents of this hypothesis have been the Corporación Nuevo Arco Iris (*Ibid.*), and Indepaz (González, Leonardo, “Nuevos grupos paramilitares: una realidad,” Indepaz, 2008).

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IN SEARCH OF PEACE WITH THE ELN AND THE FARC

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NEGOTIATIONS WITH THE ELN ¿A MISSED OPPORTUNITY?

The history of the armed conflict in Colombia is not only a history of war, but also one of missed opportunities for a negotiated solution. The negotiation of a ceasefire between the Colombian Government and the National Liberation Army (ELN) is a good example; initiated in 2005, the negotiations had reached a dead-end by the end of 2007.

Drawing on dozens of interviews and on direct observations between August 2005 and February 2008, this article provides useful insights for the process based on an examination of the main events of the negotiation and concludes with an emphasis on the need for a credible third party in the event that a negotiation process is resumed some time in the future.

Attempts at dialogue with ELN

Talks between the ELN and the Colombian Government began toward the end of 2005. After a frustrated attempt at dialogue led by the Mexican Government between 2004 and 2005, informal meetings between Francisco Galán, spokesman for the ELN, and Colombian Government emissaries were initiated at the high-security Itagüí Prison, near Medellín. It was an effort aimed at identifying the conditions necessary to revive negotiations.

During a meeting with demobilized members of paramilitary groups held on June 9, 2005, at the beginning of his reelection campaign, President Álvaro Uribe made statements that caught the attention of the ELN Central Command, and apparently paving the way for new talks. “I want to give the ELN every chance for peace... If the ELN accepts a cease of hostilities, the government will cease military operations against it, provided that the ceasefire is upheld... The ELN does not have to demobilize; nor does it have to disarm. What is needed is a cease of hostilities. Demobilization and disarmament are endpoints,” President Uribe said.¹ The government ratified the president’s words in a document sent later to Francisco Galán.

After overcoming the profound skepticism expressed in many documents during the initial phase of the talks

in 2005, the ELN Central Command responded to the government by proposing an exploratory dialogue between the ELN and civil society, and announced a possible summit with the Colombian Government in a foreign country. In one document, the ELN identified the following main obstacles to a negotiated solution to the armed conflict: One, the denial of the social, economic, and political causes of the conflict; Two, the assumption that peace is an issue that concerns only the insurgency and the government and not a right and a duty of every Colombian; Three, the denial of the existence of a profound humanitarian crisis caused by the conflict; Four, the government’s denial of the existence of an armed conflict, and finally; Five, the lack of credibility of the government’s negotiation with the paramilitary groups.²

In September 2005, the Colombian Government granted house arrest to Francisco Galán. At the same time, the government authorized the establishment of the Casa de Paz (House of Peace), a space conceived and negotiated by a group of civil society leaders, known as the guarantors of the Casa de Paz, where society could prepare and present proposals for a possible peace process with the ELN. The participation of civil society in the peace process has always been emphasized by this guerrilla organization. The ambitious objective of the Casa de Paz was to produce proposals for a possible dialogue between the ELN and the government, thus generating a setting for mediation and transformation of the conflict.

After three months of meetings at the Casa de Paz, talks between government delegates and the ELN were held in Havana from 16 to 21 December 2005. This was the first of eight rounds of talks during the exploratory phase.

Rounds of exploratory talks between the Uribe Government and the ELN (2005-2007)

2005	
Round 1	16 - 21 December
2006	
Round 2	17 - 28 February
Round 3	25 - 28 April
Preparatory Meeting	22 - 23 September, Caracas
Round 4	20 - 25 October
Establishment of the Fund	24 November, Caracas

2007	
Work Meetings	22 - 24 January, Caracas 27 - 28 January 31 January - 2 February 11 - 16 February
Round 5	22 - 28 February
Round 6	11 April - 10 May 16 - 31 May
Round 7	14 - 23 June
Evaluation Meeting	14 - 18 July
Round 8	20 - 24 August
Work Meeting	4 - 7 September, Caracas
Evaluation Meeting	14 November

Over a period of almost two years, a total of 18 documents were produced as a result of the negotiations. The parties achieved their most important accomplishment at the end of the fourth round of talks (October 2006), concluding that a framework agreement should contemplate the participation of civil society, the creation of an environment conducive to peace (an end to hostilities and the humanization of the conflict) and, finally, the participation of the international community. Additionally, they mutually acknowledged the good will of each of the negotiating parties and agreed to establish a formal negotiating table. This brought the exploratory phase to a conclusion and the process entered its second phase.

Early in 2007, tensions began to arise between the parties and in April the sixth round of talks opened under a cloud of pessimism and tension. Spain, Norway, and Switzerland were designated to act as facilitators, but the Colombian Government, fearing that the ELN had manipulated their participation in order to generate international attention and delay the decision-making process, ended the participation of all foreign observers. Thus, between April and August 2007, there was no outside facilitator to aid the parties during the negotiation, a firm stance of President Uribe's government. In fact, at a meeting with the United Nations Department of Political Affairs, Colombian Vice President Francisco Santos declined the United Nations' offer to act as facilitator in the negotiation.³

Despite the initial tensions, the parties made substantial progress during the months of May and June and

managed to draft the framework agreement. In fact, optimism reigned at the meetings held at the *Casa de Paz* during the recess in the peace talks, and the members of the ELN negotiating team were confident that the ceasefire agreement would be signed in June or July. While the parties admitted that there was still much ground to be covered with respect to how the ceasefire would be monitored, the ELN was certain that a solution could be reached. They admitted that never had so much progress been made in the history of the negotiations between the ELN and the Colombian Government.

Statements made by the parties before reconvening in Havana confirmed this optimism. According to High Commissioner for Peace Luis Carlos Restrepo, "This round of talks will be very productive and will bring very positive news for the country."

The Framework Agreement

The draft framework agreement is undoubtedly a sound and comprehensive document that reflects the hard work and dedication of the parties. The ELN agreed to put a stop to all military action, including action carried out against the civilian population, as well as to stop the attacks against the country's infrastructure. In turn, the government undertook to cease all offensive activities against the guerrilla group. The ELN also promised to stop kidnapping and free all of its hostages, and to participate jointly with the government in demining programs. Furthermore, both parties agreed on the importance of including civil society in the peace process.

But, in spite of the optimism, in July the talks experienced a new crisis, which has worsened since then. On 28 June, the FARC announced that 11 of 12 members of the Valle del Cauca Departmental Assembly, kidnapped in 2003, had been killed. Outraged Colombians took to the streets, demanding that the guerrillas stop kidnapping and free all the hostages; almost 5 million people participated in marches throughout Colombia. Did this initiative make it politically more difficult for the Uribe government to negotiate with the ELN? Around that time, Colombia's High Commissioner for Peace, Luis Carlos Restrepo made his most radical and inflexible demands to the ELN. The likelihood of signing the framework agreement had begun to slip away.

As stated above, in June 2005, Uribe had declared that all he required from the ELN was a ceasefire agreement, and that demobilization and disarmament were not a prerequisite for the talks. In July 2007, the government reversed its position and asked that the ELN publicly declare its firm commitment to disarm and demobilize. The government also required the ELN to concentrate in specific locations in order to be able to identify its members and monitor the ceasefire.

In an interview, Restrepo stated, “The government requests that the members of the ELN assemble in delimited areas of the national territory so that they can be identified and we can carry out an adequate verification [of the ceasefire].”⁷⁴ Moreover, he stated that it was necessary for the ELN to make the “immediate decision” to cease being a clandestine organization, and that the Colombian Government, and not a neutral third party, would be responsible for monitoring the ceasefire. Restrepo also suggested that the ELN convene a congress in order to decide whether they wanted to engage in political life. Thus, what the government was in fact requiring of the ELN was not merely the signing of a ceasefire agreement as a first step toward a wider and more comprehensive peace process, but also (as in the process carried out with the members of the *Autodefensas Unidas de Colombia*, United Self-Defense Groups of Colombia) requiring the commitment to surrender and disarm. By way of comparison, it as if the British Government had required the IRA to assemble in a delimited area of Ireland, identify its members, and promise to dismantle its weapons as a prerequisite for the signing of the Good Friday Agreement. This was a possibility that Senator George Mitchell, who was acting as facilitator, had explicitly ruled out.

The proposal made by the Uribe government was emphatically rejected by the ELN, which described the acceptance of such a proposal as suicidal, and repeated what it had already stated at the negotiation table: that the ELN was not ready “to demobilize, or to disarm, or to assemble anywhere in response to the government’s needs.”⁷⁶

At the same time, the ELN expressed no intention of unilaterally freeing the hostages, thus displaying a limited ability to understand or appreciate the prevailing

mood in the country. Additionally, evidence provided by the Colombian Government demonstrated that some ELN fronts were increasingly involved in the production and trade of cocaine. Was the ELN truly committed to a peace process? In its congress of July 2006, the ELN reaffirmed the need to continue and intensify its resistance against the oligarchy. Was the ELN really seeking a political solution to the conflict, as it had stated? The inflexibility of both parties and their lack of trust in each other clouded the atmosphere at the negotiations, which reached an end after a brief moment of hope.

In August 2007 various attempts were made to revive the process. ELN negotiator Pablo Beltrán sent a letter to Nancy Patricia Gutiérrez, recently elected chairwoman of the Colombian Senate and member of the Uribe coalition. In her inaugural speech, she subtly pressured the government to seek a ceasefire agreement with the ELN.⁷ Additionally, on 14 August, the National Peace Council was convened to discuss the peace process with the ELN, as well as the status of the framework agreement.⁸ That same day, the newspaper *El Tiempo* had organized an international seminar on the subject of ceasefires, in which the cases of Northern Ireland and the Philippines were discussed in depth.⁹ At the close of that same day, both President Uribe and High Commissioner Restrepo made statements that hinted at greater flexibility. Senator Gutiérrez stated that the intense lobbying in favor of the peace process had achieved the desired results.

When the talks resumed in Cuba on 20 August, a National Peace Council delegation was invited to hear the presentations of both negotiating teams. However, when the two sides met face to face once again in the solitude of the Cuban diplomatic compound known as El Laguito, mistrust and resentment resurfaced, leading to a negative outcome for the round of talks. High Commissioner Restrepo left Cuba without setting a new date for follow-up talks. It was then that Venezuelan President Hugo Chávez appeared on the scene.

Mediation by Hugo Chávez

Until August 2007, Venezuelan President Hugo Chávez had maintained a neutral stance with respect to the Colombian conflict and the parties involved, and had

never sought to play a specific role. Faced with mounting pressure from a public that demanded a humanitarian agreement for the release of the hostages held by the FARC, President Uribe –famous for his reluctance to reach any type of agreement with the FARC guerrillas– agreed to have Chávez facilitate negotiations with the FARC and the ELN.

When Álvaro Uribe and President Hugo Chávez met in Hato Grande, near Bogotá on 31 August 2007, relations between the two countries were at their best. In spite of their ideological differences, there seemed to be empathy between the two heads of state, and the two countries had reached important agreements regarding the construction of a gas pipeline between the Colombian region of La Guajira and the Venezuelan city of Maracaibo. Moreover, the possibility of an additional pipeline to Panama was also being considered.

Initially, Chávez proved to be effective, opening up communication channels with both the FARC and the ELN guerrillas during his first weeks of involvement. Important leaders from both insurgent groups traveled to Caracas and met with Chávez and his emissaries. While Chávez's idiosyncrasies had caused concern among analysts and observers, skepticism was increasingly replaced by hope and a certain degree of optimism after early successes during his initial involvement. The feeling was that the Venezuelan president would be able to achieve results with both guerrilla groups.

With little publicity and media attention, President Chávez was advancing in his conversations with the ELN Central Command. After the talks reached a dead-end in August, the ELN spent two months on an exhaustive internal consultation aimed at evaluating the process and planning the road ahead. The ELN saw Chávez's role as a unique opportunity to bring a breath of fresh air to a moribund process and to be able to advance their demands. In the eyes of the ELN, the president of Venezuela represented the trusted and credible third party that it felt had been missing from the process, since talks with the Uribe administration began in the fall of 2005. The ELN felt confident that Chávez would listen to its demands and trusted his ability to facilitate a ceasefire agreement that would be fair to the guerrillas.

In order to highlight the importance of this moment, ELN commander Nicolás Rodríguez Bautista, known as Gabino, abandoned the security of the Central Command headquarters in the mountains and traveled to Caracas to meet with President Chávez. Gabino was accompanied by hard-liner Antonio García, the organization's second-in-command. The ELN delegation met with President Chávez at the Miraflores presidential palace on 15 November 2007. President Uribe's High Commissioner for Peace Luis Carlos Restrepo was also present.

In an interview with Colombian analyst León Valencia, Commander Gabino declared that the ELN was ready to sign the framework agreement with the government of President Uribe.¹⁰ "There is a different atmosphere in Latin America today, and I am enthusiastic about the possibility of signing a dignified peace agreement. That is why I took the risk of coming I took the risk of coming [to Caracas]", Gabino said. He also stated that signing the agreement with Uribe, whom the ELN considered the most authentic representative of the oligarchy they had been fighting, would give even more authority and credibility¹¹ to the agreement.

Despite the fact that some progress had been made, Chávez's mediation efforts were rapidly obscured by his bold and colorful statements, which became increasingly problematic for the Colombian Government. President Uribe grew uncomfortable with the way the president of Venezuela was handling the negotiations.

It was President Chávez himself who provided his Colombian counterpart with the pretext to remove him from the negotiations. When the Venezuelan president broke the rules of protocol on 21 November by speaking directly to the Colombian military command on the phone, General Mario Montoya, President Uribe abruptly terminated Chávez's role as intermediary. That same night, a spokesman for Uribe appeared on national television to announce that said breach of protocol was the reason for terminating his mediation.

Chávez reacted indignantly and relations between the two countries have since deteriorated in a dangerous downward spiral. Chávez called the Colombian president a "liar" and a "coward," while Uribe, referring to his Venezuelan colleague, stated that "what we need is mediation against terrorism, not those who legitimize terror-

ism.”¹² On 12 January 2008, President Chávez declared that neither the FARC nor the ELN were terrorist groups and invited President Uribe and foreign governments to recognize both guerrilla groups as belligerent organizations.¹³ Furthermore, he accused the Colombian Government of warmongering.¹⁴

Although it was mainly in response to Chávez’s handling of the FARC negotiations, President Uribe’s abrupt decision also had an impact on the negotiations with the ELN, which resented the unilateral decision to terminate facilitation by the Venezuelan president. A new round of talks with the Colombian Government scheduled for 15 December in Cuba was cancelled.¹⁵

There has been no contact between the Colombian Government and the ELN Central Command since President Uribe terminated President Chávez’s role in the mediation. In December 2007, the government sent a new proposal to the Central Command suggesting that the talks be resumed, but to date there has been no reply. To the contrary, the ELN has intensified its belligerence.

The Colombian Government’s recent military victories against the FARC make it more difficult to imagine a negotiation scenario with the ELN in the short term. In addition to the current dynamics, there is also an ideological obstacle to the resumption of the talks: the different, even polarized, perspectives of the Colombian Government and the ELN with respect to negotiation and its objectives.

Capitalizing on the widespread frustration of the Colombian citizenry with the the Pastrana administration’s handling of the FARC peace process, President Álvaro Uribe won his first election in 2001 with a landslide victory on the promise of a military defeat of the guerrillas. Uribe’s triumphant reelection in 2006 was ensured by the sense of security felt by the people as a result of the democratic security policy.

Although Uribe agreed to begin negotiations with the paramilitaries in 2003, he has been reluctant to commit to direct talks with the guerrillas, and has favored the use of force. Indeed, the only time he offered to engage in direct negotiations with the ELN was in 2005 at the beginning of his reelection campaign, a time when he needed to consolidate and expand the scope of his democratic secu-

rity policy. The Uribe administration views negotiation as a tool for a forced solution to the conflict; it is not a forum to explore solutions and transformations, but rather a strategy to subjugate the rebels and force them to bend to the will of the state and its undisputed legitimacy.

Since 1996 negotiations have been part of the ELN’s strategy to seek the structural transformation of the country and to address the root causes of the armed conflict. According to the ELN, a peace process is a forum for reaching a broad and profound consensus, not only between the government and the insurgents, but also with Colombian society as a whole. It is precisely this broad yet vague and indefinite scope that weakens the ELN’s position at the negotiation table. It would improve the ELN’s position if they were to bring well-formulated and detailed requests to the negotiation table. However, as long as the ELN’s demands continue to be vague, its hardliners will appear more determined, and thus they win greater internal support. This support is currently pushing the ELN farther and farther from the negotiation table.

Conclusion: The need for a third party

In this paper I have highlighted the positions, missed opportunities, destructive elements, and challenges that negotiations with the ELN currently face. Faithful to its promise to impose a forced solution, the Colombian Government was unable, or unwilling, to recognize the moments of opportunity that would have obliged the ELN to agree to a ceasefire and to release dozens of hostages. On the other hand, the ELN has been struggling to formulate concrete and precise demands, leaving the negotiation focus in a haze. This has allowed the more radical members of the ELN to become more influential. Finally, the Colombian Government, when it lost control over Chávez’s role as facilitator, provided the guerrilla groups with a strong ideological point of reference, which now impedes the peace process and favors the radicalization of the insurgents.

At a time when many are prepared to withdraw or move to the sidelines to wait for a better moment, it is urgent to identify a strong, reliable, and credible third party (or a group of facilitators) who can step in.

The ELN peace process has been marked by the absence of third parties. Credible third parties are now necessary to bring the parties back to the negotiation table, to advance the cause of peace, and to avoid the risk of radicalizing the armed conflict. Third parties should facilitate a feasible and respectable formula for a ceasefire as a preventive measure aimed at building trust between the parties; they should assist the ELN in formulating precise and concrete demands to be negotiated at the negotiating table; and they should ensure that the ELN returns to the negotiation table after having shown its serious commitment to the process, for example by releasing hostages.

Nevertheless, today it is difficult to imagine negotiations with the ELN that are separate and distinct from negotiations with the FARC. The time does not seem ripe for a new mediation effort, and we shall have to wait a while before it is possible to fully assess the consequences of Operation Jaque and of the other military victories against the FARC, or to think about possibilities for new negotiations, which does not appear to be just around the corner. •

- ¹⁰ León Valencia is the president of the Bogotá-based Corporación Nuevo Arco Iris. He was a member of the ELN Central Command and demobilized with his unit in 1994, during the government of President César Gaviria.
- ¹¹ Queremos Firmar La Paz Con Uribe: “Gabino”. *El Tiempo*, 2 December 2007. In a conversation I had with him, León Valencia (who had met with Gabino on 20 November) clarified that Gabino was not referring to a peace agreement but to a ceasefire.
- ¹² http://www.actualidadcolombiana.org/pdf/compilado_prensa_eln_dici5.pdf
- ¹³ “Terrorista es el apelativo que merece la guerrilla”. *El País*, 12 January 2008, p.6.
- ¹⁴ “Entre el respeto y la ofensa”. *El Mundo*, 18 January 2008, p.1.
- ¹⁵ The date was initially the result of Chávez’s mediation efforts.

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- ¹ Speech given by President Álvaro Uribe in Rionegro, Antioquia, 9 June 2005.
 - ² “Superemos los obstáculos” (Let Us Overcome the Obstacles), ELN document, 25 August 2008.
 - ³ *El Tiempo*, 25 April 2007.
 - ⁴ Interview with Luis Carlos Restrepo, *Caracol Radio*, 27 July 2007.
 - ⁵ Interview with Luis Carlos Restrepo, *El Tiempo*, 28 July 2007.
 - ⁶ ELN document, July 2007.
 - ⁷ The speech given by the Senate chairwoman met with the support of a group of U.S. Democrats who encouraged any attempt to find a negotiated solution to the armed conflict in Colombia. Congressmen James McGovern, Ike Skelton, Tom Lantos, and Eliot Engel signed a letter to the chairwoman of the Colombian Senate. That letter was acknowledged by head ELN negotiator Pablo Beltrán who, in a letter to an international symposium on ceasefires, wrote “The key that will prevent the perpetuation of the conflict and pave the way for a political solution to the conflict is in the hands of the U.S. and Colombian elites.” Beltrán also emphasized, “The fact that sectors of U.S. society are supporting peace and reconciliation efforts in Colombia is of the utmost importance.”
 - ⁸ The National Peace Council was created in 1988, and is made up of representatives from the three branches of government, monitoring and oversight organizations, churches, labor unions, business associations, universities, and organizations representing small farmers, ethnic minorities, retired members of the Armed Forces, women, peace activists, human rights advocates, and victims of forced displacement.
 - ⁹ The seminar was also promoted and organized by the Center for International Conflict Resolution at Columbia University, Project on Justice in Times of Transition, and the Bogotá-based Corporación Nuevo Arco Iris.

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THE FARC: A TERRORIST ORGANIZATION WITH NO STRATEGIC WAY OUT?

The study of the FARC is plagued by the difficulties faced by security analysts when they try to anticipate events and foresee the evolution of the strategic scenarios. Specialists devoted to the study of terrorism –and particularly the FARC– have been shown up many times by reality’s amazing capacity to exceed predictions, either as the result of underestimating the catastrophic nature of certain threats, or because of a failure to identify the vulnerabilities of an apparently invincible adversary.

The inability to predict the future was evident in the guerrillas’ “Black March,” which plunged the FARC into an unprecedented strategic crisis. The astonishment stemming from the death of Raúl Reyes, the first member of the organization’s Secretariat to be killed by Colombian security forces, had barely begun to subside when, a week later, a second member of the guerrilla group’s leadership, Iván Ríos, died at the hands of his own head of security.

The impossibility of anticipating this chain of events, followed by the death of the founder of the organization, Manuel Marulanda, demonstrated the extent to which many analysts had erred in their assessment of the FARC’s resilience and almost invincible nature. The shock over the severity of the blows to the FARC made apparent that many of the views regarding the future evolution of the Colombian conflict had been based for a long time more on beliefs and perceptions than on empirical data and rigorous interpretation.

Difficulties in evaluating the resilience of Colombian armed groups and the prospects for the evolution of the conflict become most important when trying to assess the possibilities of reaching some kind of negotiated settlement with the FARC. It is essential to identify the analytical weakness that has most contributed to mistaken assessments of the strength of the guerrillas and of their potential to continue to exercise violence.

It seems clear that one factor that has contributed to a biased image of the strategic scenario in Colombia has been the tendency of many scholars to systematically

ignore military factors and the way that these condition the actors’ strategic options and prospects for the future. It is difficult to justify such a tendency from a scientific point of view, when the objective is to analyze an armed conflict.

This essay is divided into three main sections. The first section addresses some of the particularly relevant features of the FARC’s operations as a terrorist organization. The second evaluates the impact of the Colombian government’s military campaign on those specific features. The final section examines the possible future of the FARC in light of the group’s military attrition.

The strategic profile of the FARC

The FARC operates as an armed organization characterized by five basic features. First, it is a highly decentralized organization, a feature that is common in post-Cold War terrorist organizations. Each of the FARC’s operational units must independently generate its own human and financial resources. In other words, each front or bloc raises its own funds and establishes its logistical infrastructure independent of the organization’s other units. Theoretically, at least, this means that any front or bloc commander has the resources to become independent of the group’s leadership and wage war on its own.

Hence, decentralization in the gathering of resources generates structural, centrifugal forces that push the organization toward its dismantling. It is true that over the last 40 years, the FARC secretariat has combined significant investment in communication systems with enormous political effort in order to counteract this tendency toward division and maintain the unity of command. However, in light of the pressure the organization is facing from the military, the question is whether it will be possible to continue to implement the strategies aimed at maintaining the unity of different parts of the organization.

A second key feature of the FARC is the predominantly *campesino* provenance of its militias. This chiefly *campesino* composition of the group’s rank and file has turned the FARC into a historical exception. In his classic book, *Guerrilla and Revolution in Latin America*, Timothy Wickham-Crowley demonstrated with empirical data that most of the Latin American guerrilla groups during

the Cold War period were made up of urban middle-class individuals who moved to rural areas in search of a suitable strategic environment in which to carry out their revolutionary projects.

However, Wickham-Crowley himself acknowledged that the FARC was the exception to this rule. This does not mean that the political and military contributions of combatants of urban origin were not decisive in the history of the group. To the contrary, their participation was an essential driving force in the modernization of the guerrillas during the 1980s.

But beyond the key role played by the combatants from the cities, the chiefly campesino composition of the FARC has had two key strategic effects. On the one hand, the guerrilla group faced serious recruitment problems due to a decline in the rural population of Colombia. Some of this decline resulted from increased internal displacement toward urban areas, at times as a consequence of the conflict but also due to economic pressures. On the other hand, the predominance of militias of rural origin has become a decisive obstacle in the FARC's attempts to expand toward the cities. It is a well-known fact that one of the most strategically difficult transitions for an armed group is that from the country to the city. Thus, the potential for projecting itself from one space to the other depends, to a great extent, on the number of operatives whose urban origin allows the armed group to function in an urban environment. In the case of the FARC, the lack of urban militias has thwarted the group's prospects for moving into the cities. Not even the intense efforts made by the organization to recruit new militias in urban areas have managed to overcome this problem.

A third strategic feature of the FARC is its high level of corruption and criminalization. Recent evidence makes it possible to say that a high percentage of the FARC's "full-time" combatants are no longer dedicated to fighting government forces, as one would expect of a classic guerrilla organization; instead, they have turned to criminal activities such as kidnapping, extortion, and drug trafficking. The criminalization of the FARC is generating serious problems within the organization.

To begin with, it seems increasingly clear that there has been a gradual change in the group's organizational cul-

ture. Thus, certain FARC units seem to respond more to the imperatives of a drug trafficking organizational culture than to the behavioral patterns one would expect of a revolutionary organization (if the guerrillas can still be labeled as such). In addition, this acute process of criminalization has led to the proliferation of disciplinary problems within the FARC. The documented cases of many commanders who have deserted, taking their front's money with them in order to be able to enjoy a more comfortable retirement, are clear examples of this phenomenon.

Another feature that stands out is the militaristic tendency of the FARC and its inclination to give priority to any strategic option aimed at strengthening its military capacity, independent of the potential political consequences. The FARC sought to build a sophisticated military capacity in two ways. First, they sought to equip themselves with state-of-the-art weapons, either by making large purchases on the black market or by developing an increased capability to manufacture their own weapons. Second, they attempted to improve the training of some of their combatants by sending them to sympathetic countries abroad, or, more frequently, by hiring as advisers former members of armed groups such as the Salvadoran FMLN or the Irish Republican Army.

The FARC's militaristic tendencies are seen in the totally indiscriminate use of force during attacks on towns, in which urban areas are demolished without reservation, and in terrorist attacks on civilian targets, such as the bombing of the El Nogal Club in Bogotá in 2003. The FARC's systematic demonstration of its destructive capacity led many to overestimate its military potential, to the point that even suggesting the possibility of defeating them on the battlefield was considered anathema.

Finally, the organization's commitment to a high level of internationalization is also worth emphasizing. As the computers recovered during the attack on Raúl Reyes's camp in Ecuador have shown, the FARC made a systematic effort to build a network of global contacts. The extensive involvement of the FARC in drug trafficking was already well known. Likewise, the long-standing cooperation with terrorist organizations such as the IRA had been clearly demonstrated after the arrest in 2000 of three IRA members in Bogotá.

However, the evidence confiscated during the operation that killed Raúl Reyes revealed or confirmed a long list of new international initiatives which until then had been only rumored or simply ignored. Such is the case, for example, in the FARC's systematic effort to acquire surface-to-air missiles in Central America and Eastern Europe, or its surprising role in the trafficking of nuclear materials, something revealed when Colombian authorities seized 35 kg of uranium that had been in the hands of the FARC. Evidence has also surfaced regarding the fluid connections with –and the effective support provided by– high-ranking government officials from Venezuela and Ecuador to an organization that has, after all, included on the U.S. and European Union lists of terrorist organizations.

The democratic security policies of the Colombian government have dealt decisive blows both to the organization's capacity to raise resources and to its internal cohesiveness. With respect to the former, the extent of the government's territorial control has pushed the guerrillas into remote areas–rugged areas, highlands 3500 meters above sea level, jungles, and border zones–thus reducing the availability of resources as well as the size of the population under their control. At the same time, the government's strategies against drug trafficking and kidnapping have hurt the FARC's two main criminal activities. Thus, the organization has faced increasing logistical problems, a gradual decrease in funds, and a diminishing number of available recruits.

With respect to the organization's loss of cohesiveness, the key factor has been the increase in the lethality of operations carried out by the Colombian security forces. The increasing capacity of the military and police forces to locate and attack guerrilla concentrations with ever greater accuracy has forced the FARC to disperse its troops, thus making it more difficult for the leadership to maintain control over its structures. At the same time, the capacity of Colombian intelligence agencies to intercept the FARC's radio communications created additional difficulties for the Secretariat's efforts to maintain fluid contact with its subordinates.

In this context, the simultaneous disappearance of three long-time members of the guerrilla group's leader-

ship necessarily had a two-fold effect. On the one hand, it was necessary to replace three figures who had traditionally led the organization, thus dislocating the command and control structures. On the other hand, the definitive breakdown of the myth of the invulnerability of the guerrilla group's leadership dealt an overwhelming blow to the group's morale.

This combination of factors provoked an increase in tensions within the organization. A division in the current leadership of the group is not likely, given that the new key figures after the “Black March” debacle –Alfonso Cano, “Mono Jojoy”, and Iván Márquez– seem to have found a way to reduce frictions among themselves. However, the weakening of the FARC's structure would appear to be irreversible. The growing lethality of the government offensive has made it clear to the organization's leadership that the tide has turned against them; that is, the probabilities of their being defeated multiply as the military pressure increases.

At the same time, local and regional commanders are facing ever greater difficulties in communicating with and following the orders of their superiors. This combination of a greater perception of threat and isolation from the line of command necessarily increases the pressure on those at subordinate levels to be inconsistent about following their superiors' orders, and, rather, to seek individual solutions. The exponential increase in desertions among the most senior and experienced FARC combatants is an unequivocal sign that this logic is stimulating the dissolution of the organization.

The alternatives: Negotiating from a weak position or betting on radicalization

The great paradox is that precisely at the moment when its command structure is paralyzed, the FARC must face a decisive dilemma: either to negotiate or to become more radical. With respect to the first option, the alternative could be to try to improve the organization's political image through a series of concessions aimed at setting the stage for negotiations. The moves toward rapprochement might include the liberation of politicians and members of the military and police who remain in captivity after the Army rescued Ingrid Betancourt and 14 other politi-

cally significant hostages held by the FARC during Operation Jaque.

However, the initiation of a sort of detente with the government clashes with the strategic tradition of the organization, which has always rejected any gesture that could be interpreted as a sign of weakness and has therefore appeared inflexible regarding the conditions for possible talks. It would seem particularly difficult to modify this track record of inflexibility, especially for a leader who, like Alfonso Cano, recently appointed to replace the late Manuel Marulanda, does not have the unconditional support of the organization's rank and file.

However, the guerrilla organization's military prospects are not that bright. The improvement of the government's military capacity is structural in nature and places the FARC in a position of inferiority that will be hard to reverse. In other words, the chain of operational successes throughout 2008 has not been the result of sheer luck, but rather the fruit of years of investment in training and technology on the part of the security forces. In this sense, the substantial improvement in the capabilities of the security forces to locate and attack guerrilla structures is irreversible in the Colombian strategic scenario. Moreover, the only two alternatives open to the FARC in order to modify the current military situation would either be to start using new high potency weapons such as surface-to-air missiles, or to resort to tactics such as launching indiscriminate terrorist attacks in urban areas. The problem is that both options would lead the organization to its sure end, albeit by different routes. Any use of missiles would undoubtedly threaten the monopoly over the country's air space that the military forces have enjoyed until now. But, at the same time, launching these missiles not far from U.S. territory would be likely to provoke a military reaction from Washington.

As to the terrorist option, it is worth recalling that the last actions of this sort not only brought about the absolute disrepute of the FARC, but also drove the public to close ranks behind the government. Given this precedent, a campaign based on indiscriminate attacks is likely to have precisely the opposite effect of the one sought by the guerrillas, generating an even greater shift of opinion in favor of the government.

The lack of feasible alternatives is an additional factor that could stimulate the internal division of the FARC in the medium or long term. In the absence of any clear option that would guarantee the future of the organization, it is possible that part of the FARC could opt for a negotiated solution to the conflict, while another part could choose radicalization. Two factions could thus appear within the organization: one made up of supporters of what could be called the "IRA model," favoring talks aimed at the surrender of arms; and a second, radical sector with two variations defined by the relationship to violence. Those in favor of a "Shining Path model" would opt to launch an indiscriminate urban terrorism campaign, while those supporting a "Polisario Front model" would try to establish an alliance with a sympathetic government in order to use its territory as a safe haven. The latter formula is very similar to that attempted by the Polisario guerrillas when they sought the support of Algeria in their struggle against Morocco to achieve the independence of the Western Sahara.

In light of their imminent military defeat, the more pragmatic sector of the FARC would choose the "IRA model," seeking rapprochement with the government in order to negotiate the best possible conditions for demobilization. At the other extreme, those in favor of radicalization have two options that are not necessarily mutually exclusive: urban terrorism and the seeking of support from a government that would sponsor the continuation of the armed struggle.

Neither of the forms of radicalization would appear to offer a feasible way out for the guerrillas. The terrorist campaign launched by the Shining Path generated a great wave of rejection by the Peruvian people, who completely isolated the group and provided the necessary political support to the government in Lima so that it could launch an aggressive counterterrorist campaign. The result was the dismantling of Shining Path structures in the big cities and the marginalization of what was left of the organization—small groups relegated to some of Peru's most remote zones. In the case of the Polisario Front, the guerrillas sought the protection of Algeria as a way of preventing their military defeat at the hands of the Moroccan armed forces. The members of the Polisa-

rio front were able to continue operating, but only at the cost of losing their strategic autonomy and becoming an organization subordinated to a foreign power. As a result, the group lost all the support it had in Western Sahara and ended up as a militarily weak and politically irrelevant organization.

Regardless of which of the three options outlined above is chosen by the majority of the FARC, it is worth noting that all three alternatives have something in common, in that each represents the political end of the FARC. Irrespective of whether the guerrillas opt to demobilize, turn to terrorism, or seek the support of a foreign government, the various alternatives constitute a tacit acknowledgment of the group's defeat by the government and the dissolution of its future political capital. Thus, while 2008 did not mark the endpoint of the long-standing Colombian conflict, it will undoubtedly go down in history as the year of the FARC's political demise. •

Father Darío Antonio Echeverri González

Secretary General of the National Reconciliation Commission

DIFFICULTIES AND OPPORTUNITIES WITH THE HUMANITARIAN AGREEMENT WITH THE FARC: THE ROLE OF THE CATHOLIC CHURCH

Colombia as a nation is seriously concerned about the condition of those who have been deprived of their freedom and find themselves in precarious health. We believe the reports that state that the mental health of some of the members of the military, kidnapped more than 10 years ago by the armed group known as the FARC, is deplorable and outrageous. Monsignor Luis Augusto Castro Quiroga seeks whatever media opportunity might exist to send the FARC-EP an urgent message from the Colombian Catholic Church.

The Mission of the Church in the Peacebuilding

The Church, as mother and teacher of humanitarianism, requires that Church prelates put themselves at the service of humanitarian causes, and particularly that they contribute significantly to the construction of reconciliation and peace in Colombia.

The reflections and actions of the Church have had as their guiding principles the right to life with dignity, dialogue as an alternative to armed conflict, and the precedence of humanitarian concerns over political calculations.

These are, and have always been, the reasons that underlie and guide the mission pursued by Church prelates in Colombia at every level, from local support provided by nuns, priests and laymen in the most distant regions of the country affected by the armed conflict, to facilitation activities carried out by the bishops that make up the Church's Peace Commission.

The conceptual framework is clear: serving humanitarian causes must take precedence over political circumstances, incumbent governments, illegal armed groups, or any other type of consideration that somehow conditions or undermines the value of life as the source and principle of humanity.

In accordance with these precepts, over time the bishops have embarked upon humanitarian interventions that have taken different forms and been applied in different scenarios. The bishops have undertaken to promote respect for and the guarantee of human rights and interna-

tional humanitarian law as an expression of the dignity of the human being and as a condition for achieving a solid and lasting peace.

In the context of the different peace processes and rapprochements, the Bishops Conference has fostered agreements to humanize the conflict, to uphold the minimum requirements of respect for human life in the midst of the confrontation, and to put a halt to the degradation of war practices. However, the expression "humanizing the armed conflict" is in itself a contradiction in terms, given that no armed conflict can possibly value the meaning of life.

In addition, in the exercise of their pastoral and evangelical role, the bishops have been pursuing "pastoral dialogues" at the local and regional levels. These dialogues constitute a process of humanitarian rapprochement that seeks to create forums for the different actors in the conflict to meet in order to limit, as much as possible, the consequences of the armed confrontation for the civilian population and the development of the communities.

With respect to forced displacement and the use of anti-personnel mines and cluster bombs, the Church's Social Pastoral Secretariat has followed this humanitarian drama very closely. It has resorted to various strategies in order to denounce this phenomenon, support the victims, and minimize the impact of these abuses. Such activities have become a permanent priority in the various meetings held by the bishops with the members of the illegal armed groups.

As far as kidnappings are concerned, the Church has steadfastly insisted on the need to reach a humanitarian agreement that would allow all of those unjustly deprived of their freedom to return to the bosom of their families, while, at the same time, calling for the avoidance of actions that put their lives and personal safety at risk. While it is true that enormous efforts have been made in favor of the liberation of those hostages that are considered "exchangeable" for political reasons, the Church has insisted on the need to seek a more far-reaching solution that also takes into account those kidnapped for ransom. This group cannot be relegated to indifference.

The humanitarian mission of the Church has even included a facilitating role in order to safeguard the lives of members of the illegal armed groups. Such is the case of the work carried out in the context of the serious territorial disputes between the FARC and the ELN in Arauca or of the clashes between paramilitary blocs in the eastern part of the country, as well as the Church's role as humanitarian guarantor of the lives of those whose personal security has been threatened due to their participation in the conflict (the cases of Rodrigo Granda, Yesid Arteta, etc.). All of these actions ratify the Church's independent and autonomous role, based on the compassion nature inspired by the Gospel.

The Supremacy of Political Considerations

The Church's humanitarian mission faces a significant obstacle: the decrease in actions of a humanitarian nature as a consequence of the supremacy granted to political considerations.

While one of the objectives of any facilitation activity is to channel the armed conflict toward a political path—so that the main points of tension can be handled within the framework of democratic institutions and the rule of law—the humanitarian aspect has to be a fundamental intermediate phase that promotes respect for life and makes it possible to devote attention to the inherent consequences of the armed confrontation. To ignore this fact and to pay little attention to the humanitarian imperative or, despite what Clausewitz says, to turn politics into the continuation of war through other means, or to uphold the “continuation of all forms of struggle,” can have deplorable consequences for the civilian population in the short term, and for the establishment of stable and lasting peace in the medium and long term.

Allow me to develop, in a general manner, certain elements that I believe have been fundamental in the course of recent events.

Rodrigo Granda, France and Reasons of State

Between May and June 2007, the Colombian government decided to unilaterally free some FARC prisoners held in different prisons around the country. The goal ap-

peared to be to catalyze a response contrary to the radicalization that had resulted from the explosion of a car bomb at the Military University of Bogotá, an act attributed to the FARC.

At that time, the national government claimed to have a “reason of state”; the French government had requested the release of FARC member Rodrigo Granda in order to generate the necessary conditions for the possible liberation of Ingrid Betancourt. The unilateral character of this release of prisoners, and the resort to a mechanism not anticipated in the conditions established by the FARC, served as reasons put forth by the FARC for its rejection of a release of prisoners that was not in accordance with the terms already proposed.

Multiple events surrounded this episode; what is important to emphasize is that the situation had become so radicalized that it greatly limited the room to maneuver for national or international facilitators and, of course, for the action of the Church itself, in that any action of a humanitarian nature became restricted.

At that moment, multiple factors contributed to the failure to achieve desired objectives: the non-negotiable condition set by the FARC with respect to the demilitarization of the municipalities of Pradera and Florida; the inclusion of guerrillas “Simón Trinidad” and “Sonia” in the list of “exchangeable” prisoners; the “unmovable” points established by the national government; the public's only intermittent interest in a humanitarian agreement; and the conditioned participation of international actors.

After the breakdown, a series of events with great political and international impact progressively came to modify the existing scenario, underscoring new and greater tensions but also opening new windows of opportunity as a result of the participation of new actors.

New actors, a change of scene, and disputes in the political field

The news of the death of 11 of 12 former members of the Valle del Cauca Departmental Assembly kidnapped by the FARC, together with the different stories describing the situation that the hostages faced in captivity, considerably affected the group's margin for international action.

Later, with the inclusion of Venezuelan President Hugo Chávez as a facilitator of a humanitarian agreement, new elements marked a change in scenario. This scenario posited the international political arena as the new theater for confrontation, transferred tensions to the facilitation forum, opened the door to new international actors, emphasized the tendency toward the regionalization of the conflict, and suggested political recognition as something particularly important to the FARC.

The new scenario came about due to a number of different events. Most importantly, as a result of President Uribe's termination of the facilitation by President Chávez, the Church became the only mediator recognized by the national government.

The Church's Proposal Peace to President Álvaro Uribe Vélez

On December 9, 2007, in the city of Tunja, at the Police Command of the Department of Boyacá, President Álvaro Uribe Vélez held a meeting with Monsignor Luis Augusto Castro Quiroga, president of the Bishops Conference. The meeting was attended by High Commissioner for Peace Luis Carlos Restrepo, Presidential Adviser José Obdulio Gaviria, and Nariño Palace Press Secretary Cesar Mauricio Velásquez, the undersigned, among others.

The president acknowledged the work by the Church in favor of peace and expressed his gratitude for the Church's proposal for "zone of encounter;" he considered it a contribution to the search for a solution that could make possible the release of the hostages without weakening the democratic security policy or affecting the security of the nation as a whole. President Uribe explained the reasons that had led him to accept the Church's proposal for a zone of encounter—something very different from a demilitarized zone—in which the commissioner, accompanied by the Church and, if necessary, by the International Committee of the Red Cross, could meet with the FARC in order to negotiate the humanitarian agreement. For the president, it was clear that making possible the liberation of the hostages would not necessarily lead to promoting the kidnapping of Colombians.

The president emphasized the fact that he had duly evaluated the political cost entailed by allowing President Chávez to become involved in the issue, and stated that humanitarian considerations had taken precedence over the political costs and over any other type of deliberation.

President Uribe asked the president of the Bishops Conference to contact the FARC in order to inquire about its willingness to establish a meeting zone.¹ During the analysis of each one of the conditions, the president admitted that if hard-pressed, any one of the conditions could be subject to negotiation.

The head of state accepted the methodology proposed by the Church, which consisted mainly of the work of the members of the Church's Peace Commission, which includes the bishops in whose ecclesiastical jurisdictions there are particularly significant manifestations of the armed conflict.

The president gave precise instructions for defining a communications strategy to be agreed on between Luis Carlos Restrepo and myself.

After once again thanking the Church, he offered the collaboration of both Luis Carlos Restrepo and José Obdulio Gaviria.

The Church's Proposal Mediation to the FARC Secretariat

On December 13, 2007, Monsignor Luis Augusto Castro Quiroga wrote a letter to Manuel Marulanda Vélez and the Secretariat of the FARC.

In that letter he reiterated that the Catholic Church, autonomously and independently, had always been and would continue to be willing to facilitate and support all of the processes that could lead to peace with social justice in Colombia. The reflections and actions of the Church have had as its guiding principles, the right to a dignified life; dialogue as an alternative to armed conflict; and a plea that humanitarian concerns be given precedence over political calculations. He explained his proposal for a zone of encounter in Colombia, in which national government delegates and representatives of the FARC could define the terms of an agreement that would make possible the liberation of the hostages in the power

of the FARC-EP, in exchange for members of the FARC held in government prisons.

Monsignor Luis Augusto Castro Quiroga, president of the Bishops Conference, insisted on the importance of establishing contact with the organization as soon as possible, and reiterated his willingness to meet with their delegates at the place, time, and hour that they considered convenient.

On January 3, 2008, in my capacity as Secretary-General of the Church's Peace Commission and of the National Conciliation Commission, I sent a letter to Raúl Reyes and to the members of the Secretariat of the FARC.

In that letter I stated that the Catholic Church had not faltered in its efforts to create the conditions that would make it possible to reach an agreement between the FARC and the national government for the exchange of persons deprived of their freedom.

I also conveyed the independent position of the National Conciliation Commission, urging the FARC to accept the invitation made by Monsignor Castro in order to find a space to design a strategy that would accommodate the needs and requirements set forth by the FARC as essential for the success of the exchange, as well as the conditions under which the national government would be willing to go ahead with it. All of the above would be done in order to respond to the wishes of all Colombians and of the international community.

In order to agree on a date for the meeting and as a means of communication, I sent the FARC the e-mails, office telephone numbers, and the personal mobile phone numbers of both Monsignor Castro and myself, and also offered the possibility of establishing contact through any of the bishops of the country's dioceses.

The Church's Work Methodology

The contribution of the Church to the construction of a humanitarian agreement is based on the fundamental commitment of the bishops as a whole and, particularly, of the president of the Bishops Conference and the Church's Peace Commission.

The first proposal sought to air the issue among persons of good will and to foster awareness in civil society through a national campaign of prayer for all of the hostages.

Second, we endeavored to extend the horizon of confidence-building to wide sectors of both the Secretariat and the General Staff of the FARC, with the support of some bishops who are highly regarded by the members of this organization.

Finally, we sought to link all of our efforts to the greatest extent possible with those of the delegates of the "friendly countries," France, Spain, and Switzerland.

CURRENT DIFFICULTIES OF THE PROCESS

The involvement of President Chávez did not end at the OAS summit in Santo Domingo. Given that President Chávez has very special significance for the FARC, it would be foolish to think that the FARC will give up on the possibilities that his mediation offers them.

The involvement of Ecuadoran institutions and individuals with the FARC had been known for a long time and was made evident by the death of Raúl Reyes and the confiscation of his computers. This involvement goes beyond ties to the guerrilla leader, and presumably continues to be an issue.

Raúl Reyes's computers continue to provide clues that make one question the actions of neighboring countries, and the presence of many individuals active in Colombia's public and political life. This locates them in a threshold between legality and illegality and might motivate them to hinder rather than make positive contributions to the process.

The morale of the members of the military and military intelligence is at a peak. This has bearing on any initiative arising from the facilitation by Church prelates.

The loss of three very significant members of the Secretariat has forced the FARC to reorganize and redefine their political and military strategy. This means that the Church's effort at facilitation, not only for the humanitarian agreement but also for the construction of peace and reconciliation, will have to be put on hold for a while.

Driven by national and international pressure, President Uribe has excessively exposed the Church's mediation work to the media, thus affecting the Church's independence and autonomy.

Ultimately the supremacy granted to political considerations has diminished humanitarian opportunities, to the detriment of the desired agreement.

Opportunities for the future

Ecuador cannot provide facilitation for the FARC, due to the outcome of the OAS meeting on the Ecuador-Colombia conflict. Other scenarios have been closed off as well. Some sectors are publicly suggesting to the FARC that it realistically face the current circumstances and accept the possibility of a rapprochement aimed at political negotiation.

The poor health of some of the hostages could motivate the FARC to accept the invitation that the Church has been making insistently and through various channels.

Building confidence takes time. The negotiators from France and Switzerland devoted many years and much effort to building this confidence with Raúl Reyes. The Church's facilitation has gone a little farther: the confidence-building work previously carried out by some bishops could constitute an excellent window of opportunity.

The Colombian government's Decree No. 880 of March 27, 2008 (which regulated Article 61 of Law 975 of 2005)², generated criticism not only from the United Nations High Commissioner for Human Rights and the Prosecutor General of the Nation, but also from some members of the judicial branch. Nonetheless, it could provide another window of opportunity for the FARC to use in order to resolve the issue of the exchange as the first step toward negotiated peace.

Finally, it is worth asking whether we are destined to negotiate not one humanitarian exchange, but rather several agreements with the different commanders of the fronts that have hostages in their power. If the military tendency or war strategy prevailing at the moment were to continue, would the structure of FARC be doomed to crumble? If so, the humanitarian agreement, the much longed-for peace talks, and the generation of serious and sustained reconciliation processes, will be much more difficult to achieve. •

¹ The conditions for this zone were that: a) it not be an urban area; b) it be a rural zone with a low population density; c) no military facilities would need to be removed if they existed in said zone; d) it not be larger than 150 km²; and e) its duration be limited to a maximum of 30 days.

² The Colombian Government decree as the only requirement for the humanitarian agreement, the liberation of the hostages.

Rodrigo Pardo

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CHANGES IN THE ANDEAN REGION AND FOREIGN POLICY ALTERNATIVES FOR COLOMBIA

This essay will focus on the international aspects of the Colombian armed conflict. If, in the 1990s, especially during the governments of Presidents César Gaviria and Ernesto Samper, Colombia's foreign policy was determined by the domestic struggle against drug trafficking, there is no doubt that during the administrations of Presidents Andrés Pastrana and Álvaro Uribe, it is the armed conflict that has taken on the determining role in foreign policy. During the government of President Pastrana, the search for allies to make feasible the negotiations with the FARC in El Caguán was described as "diplomacy for peace." And during the government of President Uribe, as a result of the domestic shift toward the democratic security policy to combat the FARC, foreign policy has been transformed into a search for allies to win the war.

In the two presidential terms of Uribe's the evolution in foreign policy in relation to the armed conflict has been reflected in two central aspects. The government has oscillated between two strategies—although it might say that they are complementary strategies:¹ on the one hand, the democratic security strategy, that is, the effort to defeat the FARC militarily and politically and, on the other hand, the strategy of rapprochement in search of a humanitarian agreement. Undoubtedly, the efforts to defeat the FARC have had more weight than those tending toward a humanitarian agreement.

President Uribe was elected and reelected with the clear mandate to combat the FARC and, in so doing, he has launched a coherent and successful campaign that is widely supported by public opinion. For this reason, the defeat of the FARC is the fundamental axis not only of his agenda with respect to the armed conflict, but also of his government agenda in general.

The Uribe administration revolves around the issue of democratic security and, more specifically, around the effort to defeat the FARC. ¿What foreign policy needs are imposed by this priority? From the beginning, President Uribe has had a coherent international discourse

and international actions related to democratic security. Thus, he has clearly framed Colombia's internal struggle against the FARC within the international struggle against terrorism. He shrewdly took advantage of the opportunity generated in the international community by the Al-Qaeda attacks against the United States in order to link the internal conflict with the world struggle against terrorism. Given the international cooperation Colombia has had in the struggle against domestic terror, President Uribe has always been emphatic about the need to support the global war on terrorism. As a matter of fact, Colombia was one of the only Latin American countries to support the war in Iraq. This support has left Colombia in a rather solitary position in Latin America, given that its only alliance has been with the United States. This alliance has become ever closer in almost every aspect of foreign policy. It has thus generated problems for Colombia in the context of the prevailing trend in Latin American countries, who do not share the world view of the Bush administration.

The emphasis on democratic security has led Colombia to adopt a foreign policy in which the United States plays a central role. In other words, Colombia's foreign policy is practically an American foreign policy. As a consequence, some of the actors who played a significant role in facilitating the El Caguán negotiations during the Pastrana administration—specifically the European Union and the United Nations—have distanced themselves from Colombia.

At the same time that it has advanced its security strategy, the government has sought a rapprochement with the FARC or has pursued certain initiatives to make a humanitarian agreement feasible. It is evident that, at certain moments, the humanitarian agreement has acquired some political importance and has led the government to make certain bold moves. These include the liberation of Rodrigo Granda, the release from prison of 100 FARC guerrillas, and the mediation of President Hugo Chávez in order to seek an agreement.

However, the logic of the humanitarian agreement is different from that of a foreign policy based on democratic security: the allies that are needed and the countries that could play a role in facilitating a humanitarian agree-

ment are different from the United States. In fact, they tend to be countries that have been critical of the foreign policy of the United States. This was one of the reasons why Colombia thought of Venezuela, France, Spain, and Switzerland when it tried to create an opportunity for the humanitarian agreement.

Each of these two strategies has a certain coherence. Of course, democratic security is more consistent given that it is the focus of President Uribe's government, while the humanitarian agreement is not. Each strategy also has different implications, which may not be ascribed the same level of importance.

Consider, for example, the characteristics and consequences of the 2008 Andean diplomatic crisis involving Ecuador and Colombia.² The debate was over two different political positions. For its part, Ecuador emphasized the defense of sovereignty and the inviolability of national territory, two principles embodied in the OAS charter. Colombia, meanwhile, consistently emphasized the war on terror, which has been Uribe's political discourse from his first day in office.

The debate took place in two very appropriate settings for discussing Latin American international relations: the OAS and the Rio Group. The participation of the OAS was requested by Ecuador through two mechanisms established by the organization: an extraordinary meeting of the Permanent Council and a Consultation Meeting of Ministers of Foreign Affairs. The participation of the Rio Group, which captured the attention of citizens everywhere, was determinant, perhaps only by accident or coincidence, in that the group's annual summit happened to take place at the climax of the crisis and therefore served as the scene for a discussion that we had the opportunity to watch on television. The Ecuadoran discourse about the inviolability of national territory and the defense of sovereignty in the context of Latin American institutions turned out to be much stronger than the Colombian discourse about the war on terrorism. If one analyzes both OAS resolutions³, the way in which the debates unfolded, and finally the declaration of the Rio Group, it is evident that the anti-terrorist discourse is not very popular in Latin America.

Juan Tokatlian, a Colombian-Argentine specialist on Latin American foreign policy and regional foreign re-

lations, asked in an article published in *Cambio* magazine⁴ whether the war on terrorism would be extended to Latin America as a result of this diplomatic incident. This has still not happened. When the Al-Qaeda attacks against the United States took place, not even the Latin American members of the UN Security Council voted in favor of the resolutions adopted by the United Nations after the war.

Given its own traditions and the founding principles of the OAS charter, Latin America is much more sensitive to the issue of the defense of sovereignty, in part because almost every Latin American country has an unresolved problem with a neighbor or with another country in the hemisphere. Consequently, to legitimize intervention in the kind of situation that developed between Colombia and Ecuador could mean to accept that one day such intervention could legitimately take place in one's own country.

All of the above does not mean that Colombia, and particularly the government of Colombia, suffered a diplomatic "defeat." On the contrary, President Uribe, his ministers, and his ambassadors made almost euphoric statements regarding the successes they achieved; and the prevailing mood in the country was also one of euphoria and joy regarding the attack that killed Raúl Reyes. The polls indicate that after the incident with Ecuador, 84 percent of the Colombian population supported the president and were satisfied with the successes achieved against the FARC.

This could be interpreted simply as the fact that Colombian public opinion supports President Uribe's decision to give the war against the FARC precedence over diplomacy. Faced with the choice between normal diplomatic relations with our neighbors without any victories against the FARC, and successes against the FARC at the cost of problems with our neighbors, an overwhelming majority of Colombians undoubtedly supports President Uribe in preferring the accomplishments of democratic security which, as stated above, constitutes the fundamental axis of the Colombian public agenda.

The question then is clear: how far do we have to go in choosing some degree of isolation from Latin America in order to make democratic security feasible, or how possible is it to make a shift in foreign policy in order to

obtain more allies and not have to depend exclusively on the United States as an ally in this policy? The current policy is not likely to change in the next few years, given that it has become part of a political consensus embraced even by the leftist opposition party, the Democratic Pole. In the past elections, Democratic Pole candidates supported the democratic security policy; the policy has become so popular that it would be difficult for a candidate to suggest changing it. In this sense, it would be better to ask ourselves if it is possible to have a foreign policy that is different from the one we have now, while maintaining the domestic emphasis on democratic security. Personally, I consider that the first thing to do would be to start searching for new alternatives: The foreign policy of alliance with the United States is a period of review immediately after the electoral process in which the Democratic Party took over the majority in the Congress and consolidated his power by electing Barack Obama as U.S. president for the next four years. Second, a bad relationship with our neighbors is unsustainable.

A number of factors make it possible in principle to design a different foreign policy while upholding the same domestic priorities. But before I refer to the obstacles in order to that effect. The main obstacle is the way in which the alliance with the United States has been formulated: Latin America did not share the Bush administration's political conception of international reality. As long as President Uribe and Colombia are perceived as totally committed to a type of politics that is under revision, a rapprochement with the Latin American mainstream will be extremely difficult.

The second obstacle, as I mentioned, is the anti-terrorist rhetoric is totally artificial in the Latin American context. It is a rhetoric that is more relevant to other regions of the world and more characteristic of the circumstances faced by the United States after the Al-Qaeda attack. This rhetoric is not part of Latin American political culture.

A third obstacle has to do with the ideological differences between President Uribe and the presidents of other countries in the region with whom we have bilateral relations: President Chávez and President Correa. This crisis has taught us that cooperation and understanding in the midst of diversity are much more difficult to achieve

than we had expected. In 2007, perhaps, we would have been extolling the understanding among Correa, Uribe and Chávez in spite of their ideological differences. But the diplomatic crisis left us with a lesson: the ideological differences are very profound, they matter, and we have definitely not yet learned how to think in terms of integration in the context of ideological differences.

Although these obstacles exist, I also believe that there are some opportunities. First, the United States is in the process of changing its foreign policy. There are great expectations, not only in Latin America but also around the world, with the government of Barack Obama. Second, it is a fact that change in the United States tends to favor the moderation of the different discourses. This implies, for example, that both Uribe's "pro-Bush" discourse and Chávez's "anti-Bush" discourse could become more moderate. Third, we have observed signs of pragmatism on the part of many of those involved.

President Chávez undoubtedly surprised the Latin American community when, at the Rio Summit, he changed the tone of the meeting with a very moderate and conciliatory speech that made it possible to switch from the morning's insults to the afternoon's hugs that we witnessed on television. The turn taken by the meeting was a result of President Chávez's speech. According to press reports, this shift was influenced by Cuba, which had become concerned with the way things were developing and decided to intervene in order to find a better outcome. Even the other actors showed signs of pragmatism; that is, they appeared to prefer pragmatism over to the apocalyptic tone of certain speeches. President Uribe's accusation against President Chávez before the International Criminal Court, the possibility that Nicaragua would break off relations with Colombia, the closing of borders, and, of course, the possibilities of armed conflict were all mentioned, but in the final analysis, actors opted for pragmatism, at least for the moment.

In view of the above assessment of problems and opportunities, ¿What can Colombia do to move toward a less isolationist foreign policy and less dependence on the United States? I would like to suggest three possible answers:

1. *Colombia needs to adopt a pragmatic attitude in its foreign policy.* The government of President Uribe likely

thinks that that is exactly what it is doing, that is, that it has a pragmatic attitude toward those presidents whose ideology is different from its own. However, there is no doubt that in the latest crisis there was a clear division into ideological blocs, which closed off many possibilities for reaching an understanding among the members of the Andean community. This has to be avoided at all costs. Colombia's relationship with Venezuela is one in which many interests important to Colombia are at stake: Venezuela's mediation in the process with the ELN; its assistance in trying to reach a humanitarian agreement; the fact that trade between the two countries exceeds \$5 billion; and the fact that 7 million Colombian-Venezuelan dual citizens live on the border. For these reasons, it is impossible that Colombia and Venezuela sustain an ideological conflict. Concrete mechanisms must be sought to allow the nations to work together. In order to achieve this, it is necessary to define some of the issues. The first has to do with Venezuela's participation in affairs related to Colombia's internal armed conflict; as we have seen, this intervention seriously affects bilateral relations. Second, it would also be desirable to separate Colombia's relations with the United States from its relations with Venezuela. It is evident that U.S. interests in Venezuela are different from Colombia's interests.

2. *Moderation in Colombia's international discourse.*

This moderation needs to extend beyond the question of whether or not the FARC should be classified as a terrorist group. No matter how it is analyzed—legally, politically, semantically—the antiterrorist discourse closes many diplomatic doors for Colombia. *Cambio* magazine once received an anonymous proposal that is anything but farfetched: the idea of seeking allies against the FARC not on the basis of the antiterrorist struggle, but rather on the basis of the defense of democracy, a concept that the Latin American community has addressed and on which it has established mechanisms for collective intervention (for example, the famous OAS Democratic Charter). In other words, it is necessary to seek an alternative discourse. It is much more feasible to garner solidarity with respect to the internal conflict—a term the government does not agree with and does not like to use—than it is to gain solidarity using a discourse of antiterrorism,

especially when this discourse is fraught with indiscriminate condemnations of non-governmental organizations or defenders of human rights.

3. *Long-range Bilateral Policies.* Crafting long-term bilateral policies is easier said than done. However, it is essential that bilateral policies be conceived with a long-term perspective rather than on the basis of ideological differences. These policies must strive to achieve understanding and cooperation with respect to specific issues such as security and the war against drug trafficking. These are currently the most serious problems affecting the borders with Venezuela and Ecuador. The experience with Venezuela was very successful in the 1990s, when both countries considered the FARC their common enemy. Today, that same approach may not be feasible, but there must be cooperation mechanisms to fight common problems along the borders with Ecuador and Venezuela. •

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- ¹ The crisis between Ecuador and Colombia broke out after Luis Edgar Devia's death, alias "Raúl Reyes", a member of the Secretariat of the FARC, in a camp of the armed group in territory of Ecuador, approximately 1800 meters from the border with Colombia. The facts happened last March 1, 2008, were the beginning of a crisis in the bilateral relations that continues to today. While Ecuador complained for the violation of sovereignty by the Colombian Army, the Colombian Department of Foreign Affairs apologized for the action, but argued that it was carried out in conformity with the principle of legitimate defense, provided that it has been a custom of the FARC "to murder in Colombia and to invade the territory of the neighboring countries to shelter". After the exchange of statements between parts and the formal breaking-off of bilateral relations on the part of Ecuador, the efforts of the Summit of the Group of Rio, on March 10, 2008 and of the Foreign Ministers' Summit of the OEA, seven days later, were not sufficient to restore the Colombo-Ecuadoran relations.
 - ² Permanent Council of the Organization of American States. CP/RES. 930 (1632/08) Summons of Ministers' meeting consultation foreign relations and appointment commission (Approved in the celebrated session on March 5, 2008) and twentieth ministers' of meeting consultation foreign relations. OEA/Ser. F/II.25RC.25/doc. 7/08. Report of the commission of the OEA that visited Equator and Colombia (March 17, 2008).
 - ³ Colombia no obtuvo en la OEA todo lo que quería. *Cambio Magazine*, 18 March 2008.

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THE PEACE POLICY IN COLOMBIA

The democratic security policy implemented by President Uribe includes as one of its essential components a policy toward peace. That policy to date has resulted in the demobilization of 46,757 members of illegal armed groups,¹ nearly ten times the number of members of armed groups who laid down arms between 1990 and 1998 during the previous governments' most intensive efforts to achieve peace in the country.

Among these demobilized fighters were 31,671 members of self-defense or paramilitary groups who handed over 18,051 weapons. The peace process with these groups includes an important component aimed at bringing to justice those responsible for crimes against humanity and making reparations to the victims. It is also important to highlight that 8,860 members of the FARC have deserted from that illegal organization.² These desertions reveal the breakdown in the group's chain of command as well as demoralization and the loss of the will to fight. The recent deaths of members of the FARC Secretariat, whose leadership had, until recently, been considered invincible, demonstrate without a doubt that the breaking point has been reached. What has been achieved refutes the argument put forth in the past by academics and some political sectors in Colombia and abroad that suggested that a military stalemate between the state and the illegal groups meant that the military defeat of the Colombian guerrillas would be impossible.

At the same time, the door is not closed to a negotiated solution. The democratic security policy has always had the objective of enabling the legitimate authorities to recover territorial control, leaving open the possibility of an alternative through dialogue. We nonetheless believe that useful dialogue should be based on a foundation of a strong state; otherwise illegal organizations will continue to believe that they can play the double card of dialogue, on one hand, while strengthening their illegal power on the other. This has taken place several times in Colombia's history.

To examine the context of the current government's peace policy, one must properly understand the scope

and impact of 1) the demobilization of the paramilitary groups; 2) the state of the talks pursued for over 20 years with the ELN; and 3) the situation with the FARC, which has concentrated its demands on a) the establishment of a demilitarized zone in the country's central-western region that would be under its control while talks unfold, and b) the subsequent exchange of all of the guerrillas in prison for some 40 hostages³ held captive by the FARC for a number of years.

The demobilization of the paramilitaries and their trials under the Justice and Peace Law was a bold decision by the government of President Uribe, one that was criticized by his opponents and regarded with caution by the international community. The government undertook demobilization in order to recover the state's monopoly on the use of force and justice, because these groups had been growing out of proportion in recent years, surpassing the number of guerrillas at the beginning of President Uribe's first term in office. Until then, the only strategy that had been attempted vis-à-vis the paramilitaries had been for the police and the army to combat them. This strategy had failed. Another notion was that they would submit to justice following a peace process with the guerrillas, a scenario that looked remote.

While the paramilitary phenomenon grew, more national and international critics talked about collusion between the self-defense groups and Colombian authorities, something that undermined our institutions and the security forces. *Soto voce*, businessmen, politicians, and local officials considered the self-defense groups as a necessary evil; these individuals and groups legitimized the existence of the paramilitaries because of the state's inability to implement a successful and sustainable security policy.

As we said publicly at the time, the self-defense groups had become the most serious threat to the Colombian state. Justified by the argument that these groups defended the people from the excesses of the guerrillas, the paramilitary groups grew with the support of broad sectors of the population. People mistakenly believed that the groups were the solution to the murders, kidnappings, and massacres by the guerrillas. The self-defense groups' power and capacity to corrupt was so great that they were

able to co-opt regional and local authorities who nowadays are paying for their crimes in Colombian prisons.

Demobilization was achieved through the convergence of several factors: the strength and firmness of the democratic security policy that left the self-defense groups without a legitimate discourse; the government's resolve to fight them unceasingly; the paramilitary leaders' belief during the process that they would not get another chance to negotiate if they refused to reach peace with this government; internal divisions within the self-defense groups that put the lives of their leaders at risk; the government's offer to suspend extradition⁴ for those who would hand over their weapons and abide by the commitments deriving from the peace process, as well as the alternative offered by the Justice and Peace Law. With the exception of the OAS Mission in Support of the Peace Process (MAPP-OEA), the international community offered little support; instead of proving political accompaniment to the process, the international community increased its demands that those responsible for atrocities be punished.

With the disbanding of the self-defense groups, the intimidation that prevented the legal authorities from acting was eliminated, making it possible for victims to report crimes. Mass graves were discovered and many collaborators who operated within legal parameters were charged. Members of Congress, departmental governors, and political leaders have been called to stand trial and have been convicted. The paramilitary leaders and mid-level commanders have confessed to thousands of crimes in the justice and peace hearings, a process that has enabled the judicial authorities to clarify crimes that for years remained in impunity.

The political capital that Colombia gained as the result of this process is related to the collective disavowal of the methods used by private security forces and the trust that the citizens have regained in security provided by the state. The lesson has been clear: because there is a clear price to be paid, nowadays no political or regional leader or member of the security forces would encourage, as was done in the past, the creation of private security groups. Collective legitimization of private security is a thing of the past in Colombia.

Given that for years the guerrillas had insisted on the demobilization of the paramilitary groups as a condition for entering into a peace process with the government, by logical extension one would have thought that they would be motivated to advance toward a serious peace process. But this was not the case.

Both the FARC and the ELN attempted to impose their illegal dominance in some dense jungle areas or remote and undeveloped regions where coca growing reigned, in order to take over the business previously controlled by the self-defense groups. There they wound up fighting the security forces and fighting, or else forging alliances with, the emerging criminal gangs that were struggling for control of the illegal business, without much concern for political objectives. In fact, unlike the former self-defense groups, these new bands were not interested in fighting the guerrillas. They only clashed with the guerrilla groups when drug trafficking interests were at stake.

While the guerrilla fronts were deteriorating into criminal gangs dedicated to drug trafficking and the accumulation of illicit wealth, the FARC and ELN leaders were holding fast to a stubborn discourse that made a solution through dialogue impossible. Between December 2005 and November 2007, the government and the ELN held talks in Havana and Caracas, in what was known as the formal exploratory phase. The result of these negotiations was the base accord, which the parties have still not ratified.

The base accord puts forth a proposal for a preliminary peace process that begins with a ceasefire and cease in hostilities by the ELN, to be reciprocated by the government, and the creation of an atmosphere that is conducive to peace that includes regional and national meetings to address issues such as displacement and forced disappearance, and a program for development and peace. The base accord is designed to culminate in a national convention that should lead to a broader peace initiative that would even include the FARC.

Several obstacles arose that have prevented the ELN from formally accepting the base accord that was discussed by its representatives at the talks. One such obstacle is the organization's decision to remain as an

underground movement and not to address the subject of disarmament or demobilization or to renounce violence. Second is the fear of ELN leaders that they would be considered traitors by the FARC and by Colombian and foreign sectors of the radical left that do not approve of negotiations with the government of President Uribe. A third obstacle involves the strengthening of the ELN's mid-level commanders who are increasingly involved in drug trafficking and who would prefer to wait for future negotiations while they accumulate power by means of illegal business dealings. Fourth, the ELN's initial impression was that they had been unable to use the talks in their favor—to consolidate political capital and gain international recognition as the “armed opposition,” without making serious commitments to cease violence. Finally, the ELN leaders held mistaken beliefs in late 2007 and early 2008 concerning prospects for international involvement, prompted by the intervention of President Chávez in the talks with the guerrillas. The ELN seemed intent on stalling the accord while it sought Latin American recognition as a belligerent force.

Given their diminished military capacity, the losses suffered at the hands of the security forces, and the lack of legitimacy and support from the Colombian people, one might think that the ELN would lay down its arms and join the country's democratic life, and that this resolve would play an important role in negotiations overall, leading to the possibility of a solution through dialogue with the FARC. Such an option would require political daring which so far the ELN has not shown, above all because it continues in its determination to combine armed struggle with political action, thus limiting its alternatives in society. It goes without saying that if the ELN were to show the resolve to continue efforts at the peace table, the government would be willing to sign the base accord and pave the way for a serious peace process—a process that would, without a doubt, have the approval of Colombians and the support of the international community.

In contrast to the ELN, the FARC has refused any formal rapprochement with the national government, establishing as a condition for a meeting with a government delegate the withdrawal of security forces from Florida and Pradera, two municipalities in the Central Cordillera

of Valle del Cauca Department. This area is located half an hour from Cali, the country's third most important city. These municipalities, 750 km² in size and with 114,000 inhabitants, would remain under the control of the guerrilla group for a period of 45 days; this is the amount of time that the FARC calculates would be needed to come to an agreement to swap 40 hostages in its power for all the guerrillas in Colombian prisons.

The FARC justifies its obsession with this concession by claiming issues related to the security of its negotiators. This was the same argument used to ask for the former 42,000 km² demilitarized zone that contained five municipalities and was implemented during the administration of President Andrés Pastrana.

When the security forces withdrew and left the territory in the hands of the FARC, the guerrillas brought in thousands of their troops, expelled the judicial authorities, forcibly recruited minors, moved their kidnap victims to the zone, forced the campesinos to grow coca, planned and carried out attacks on neighboring zones, executed civilians whom they considered to be enemies or infiltrators, appropriated thousands of head of cattle, and turned the so-called *détente* zone into a military training base for their men and a storage center for stolen cars, weapons, and explosives. The Colombian state is still facing lawsuits from citizens whose fundamental rights were affected when their lives and property were left in the hands of an illegal group. The experience of the demilitarized zone did not contribute to peace but rather, heightened the violence and left Colombians with bad memories of the experience.

Many people argue that the government should accept the FARC's proposal, saying that for the security forces to withdraw for 45 days would not weaken the democratic security policy; on the contrary, it would show the government's resolve to negotiate, leaving responsibility in the hands of the FARC if the process were not successful. The answer to these arguments is that a respectable state cannot play Russian roulette with the lives and property of its citizens. This is not a game of chance; and the government would be ill-advised to turn 114,000 citizens over to an illegal armed group. These citizens themselves could, from that moment, feel justified in

resisting with their own force the abuse of an illegal group that does not respect the Colombian Constitution or the law.

The 45-day period proposed by the FARC lacks credibility for several reasons. First, what was discussed at the beginning of the demilitarization of El Caguán was an initial period of three months. This period was extended time and again for three years, because the government was not willing to accept the political consequences of not permitting the extension, thereby terminating the opportunity for talks. Second, the FARC strategy, already known from the former demilitarized zone, consists of delaying the preliminary verification period—which they themselves carry out—prior to commencing the talks, and then stalling while they consolidate their territorial control. Third, it is not easy to resolve the issue of an exchange of 40 hostages for all of the guerrillas in prison, most of whom are responsible for crimes against humanity. This matter is especially difficult given that the FARC is asking that their members imprisoned in the United States also be released. Forty-five days might simply be insufficient.

With good reason the government has refused to demilitarize the municipalities of Pradera and Florida, because to do so would be to give the FARC an initial advantage that would not help advance—indeed it would hinder—the dialogue. In addition, leaving the inhabitants of these two municipalities as hostages in the hands of a terrorist group while negotiations are pursued would represent a failure to uphold the constitutional and legal duty to ensure due respect for the rights of the citizens. Finally, no responsible negotiator starts a dialogue with a group of kidnappers by giving them that kind of territorial advantage. This is something the FARC urgently seeks in an attempt to demonstrate that it controls territory, at the precise moment that Colombian security forces have secured control of all of the municipal seats of government and the main corregimientos, country subdivisions, in Colombia. Having retreated to the jungles and remote areas where the guerrillas grow coca, today the FARC is a group that has been hit hard in its chain of command, is internally demoralized and corrupted by the dynamics of drug trafficking, to which no responsible government would entrust the lives of its citizens.

As an alternative to the demilitarization of these two municipalities, in December 2005 France, Spain, and Switzerland proposed a meeting zone in a rural area, without the presence of the security forces or military occupation by the guerrillas, and with the accompaniment of international guarantors. The government accepted the proposal, but the FARC did not. Furthermore, the FARC has always refused to discuss the regulations for the demilitarized zone that it proposes. Since December 2007 the government, at the request of the Catholic Church in Colombia, has been insisting on a 150 km² meeting zone, using the methodology proposed by the three European countries, clarifying that while the location of this zone shall be agreed with the FARC guerrillas, it must be located in a rural area, without the need to remove military units or police, and not affecting the security of the civilian population. So far the guerrillas have refused to consider the proposal.

In an attempt to overcome the impasse over the demilitarized zone, the Colombian government has made several attempts to advance a humanitarian agreement aimed at the release of a group of hostages that the FARC intends to swap for guerrillas in Colombian prisons. Almost all of these politicians, soldiers, and policemen were kidnapped by the FARC prior to the Uribe government and the implementation of the democratic security policy. The exception are the three U.S. contractors who were involved in the aerial spraying of illicit crops, who were captured by the guerrilla group during the first months of President Uribe's first term in office.⁵

Whereas in the past the FARC kidnapped an average of 1,000 people per year, such actions have been reduced by 83 percent. The so-called group of "exchangeables" consists of 0.58 percent of the total number of those kidnapped by the FARC since 1997. This small group of hostages has become the only political card that the FARC holds in sustaining international dialogue and attempting to leverage the Uribe government. Attempts to resolve this problem have involved the office of the United Nations Secretary-General, representatives of European governments, the Catholic Church in Colombia, and other national figures. These attempts were unsuccessful largely because of the FARC's long-time insistence on

the demilitarization of the Pradera and Florida municipalities as a condition for even discussing the release of the hostages.

The Colombian Government's unilateral release of 150 guerrillas charged with or convicted of rebellion, and the release, at the request of French President Nicolas Sarkozy, of Rodrigo Granda—the highest level FARC member imprisoned in Colombia—did not lead to the release of the hostages. In fact, during this period the FARC murdered 21 hostages, among them a former defense minister, a departmental governor, 11 departmental assembly deputies, and several members of the security forces.

In search of a resolution to the problem, in August 2007 the government turned to Senator Piedad Córdoba, who had the support of President Hugo Chávez, to facilitate further discussions. While the guerrillas looked favorably on the presence of President Chávez in the process—indeed a member of the secretariat even went to Caracas to talk to meet with Chavez directly—the FARC remained unwilling to back down on its demand that the government agree to the demilitarization of the two municipalities as a condition for further discussion. As a result of difficulties in the facilitation, the government terminated the process. This led to increased tension between the Colombian government and President Chávez. As a political gesture to the Venezuelan president, the guerrillas unilaterally released six hostages. A child born in captivity, Emanuel, was to have been released by the FARC, but the government was able to recover him from a children's social welfare center, as he had been released previously by the guerrillas.

The government has continued to insist that it is feasible to establish a meeting zone for face-to-face dialogue with guerrilla delegates or, if the FARC were willing, to implement a quick exchange of hostages for guerrilla inmates. All that would be necessary is for the FARC to provide a list of the guerrillas it wants released so that the Colombian government could review the list and do all that is permissible under national law. The government's commitment to provide full guarantees for an international medical commission to visit hostages who are ill remains in place. Also remaining in force is the

order to the security forces that, should they locate the hostages, humanitarian objectives would prevail. That is, the Colombian security forces would maintain control of the area while privileging a humanitarian resolution over a military rescue.

The death of two members of the FARC secretariat in early March 2008 damaged the myth of the leadership's invincibility. In the months afterward, the FARC was silent as to the possibility of releasing more hostages. On March 27, 2008, the Colombian government issued Decree 880, establishing the regulations for Article 61 of Law 975 of 2005, which would allow the FARC to release hostages for humanitarian reasons, without relinquishing any future benefits for its members in prison.

Although some countries proposed the creation of an international commission to address the subject, the government has said that it prefers the more discreet efforts of the Colombian Catholic Church as well as two European delegates who are authorized to talk to the guerrilla group. President Uribe also stated that if the FARC were interested in entering into a serious peace process, the government would respond rapidly, so long as the guerrillas act in good faith and not attempt to use the talks to halt the military pressure against them and to rebuild themselves militarily.

Despite its emphasis on the democratic security policy, the Colombia government has upheld the tradition of seeking peace. All that is needed is for the FARC and ELN guerrilla groups to demonstrate their resolve to cease violent actions and begin a productive dialogue. Until that happens, however, the Colombian government asks the international community for its full-hearted support in the process of institutional strengthening in Colombia. It is important not to send the wrong message to the Colombian guerrillas, who interpret spontaneous proposals presented by political leaders and academics—made without consultation with the Colombian government—as ways to strengthen their political position and to launch violent attacks against democracy.

The FARC and the ELN see foreign figures as potential allies in the fight against the Colombian state, and seek rapprochement under the pretext of a humanitarian agreement or a gesture toward peace. This mistake is

only compounded when these leaders or academics adopt stances critical of the Colombian government. The best contribution to peace in the country is to support the will of the majority of the Colombian people to consolidate a democratic security policy that strengthens a pluralistic and non-violent society. International support for a peace process should arrive at a time that the Colombian government considers to be opportune, not through the generation of random proposals made outside of accepted institutional procedures. The former protects members of the international community interested in fomenting peace in Colombia and guarantees that they would act as agents for strengthening democratic institutionalism, rather than as pawns manipulated by the interests of terrorism. •

Osorio, alias 'El Burro'; Edwin Mauricio Gómez Luna; Rodrigo Tovar Pupo, alias 'Jorge 40'; Hernán Giraldo Serna, alias 'El Patrón'; Nodier Giraldo Giraldo y Eduardo Enrique Vengoechea Mola.

⁵ These American contractors Marc Gonsalves, Thomas Howes and Keith Stansel were rescued by the Colombian Army on July 2, 2008 during Operacion Jaque, which were also released: Ingrid Betancourt, the Lieutenant of the Army Juan Carlos Bermeo; Sublieutenant of the Army Raimundo Malagón; The Second Sergeant of the Army Jose Ricardo Marulanda; Corporal First of the Army William Perez; The Second Sergeant of the Army Erasmo Romero; Corporal First of the Army Jose Michael Arteaga; Corporal First of the Army, Armando Flórez; Corporal First of the Police Julio Buitrago; Sublieutenant of the Police Armando Castellanos; Lieutenant of the Police Vaney Rodríguez; Corporal First of the Police John Jairo Durán.

¹ According to figures of August 7, 2009 of the Office of the High Commissioner for Peace and of the Program of Humanitarian Attention to the Demobilized (PAHD) of the Defense Department, 51281 have been demobilized members of illegal groups.

² According to figures of August 7, 2009 of the Program of Humanitarian Attention to the Demobilized (PAHD) of the Defense Department, 12.760 members of the FARC have been demobilized.

³ As result of the "Operation Jaque" and of the unilateral liberations done by the FARC, today the list of exchangeable is integrated by: Captain Edgar Yesid Duarte Valero, Lieutenant Elkin Hernández Rivas, Sergeant Luís Alberto Erazo Maya, Corporal Second Jose Libio Martínez Highway, Corporal Second Paul Emilio Moncayo Cabrera, Intendant Álvaro Moreno, Corporal First Luís Alfredo Moreno, Corporal First Luís Alfonso Beltrán, Corporal First Luís Arturo García, Corporal First Robinsón Salcedo, Sergeant Second César Augusto Lazo, Corporal First Jose Libardo Forero, Sub lieutenant Jorge Humberto Romero, Sub lieutenant Carlos Jose Duarte, Sub lieutenant Wilson Rojas Medina, Sub lieutenant Jorge Trujillo, Colonel Luis Mendieta Ovalle, Lieutenant William Donato Gómez, Captain Enrique Murillo Sanchez, Captain Guillermo Solórzano, Sergeant Second Arvey Delgado Argote and Corporal First Salin Antonio San Miguel Valderrama.

⁴ NE. Nevertheless in May 2008, the Colombian Government authorized the extradition of 15 paramilitary leaders to the United States, who were covered by the Law of Justice and Peace. According to the Government, the decision was taken because some of them had relapse in the crime after their submission to the Law of Justice and Peace, others were not cooperating with the justice and all failed to comply with the reparation of victims by hiding goods or delaying their delivery. The extradited who will have to face the American justice for crimes related to drug trafficking are: Carlos Mario Jiménez, alias 'Macaco'; Diego Fernando Murillo Bejarano, alias 'Don Berna'; Francisco Javier Zuluaga Lindo, alias 'Gordo Lindo'; Salvatore Mancuso Gómez, alias 'El Mono' o 'Triple Cero'; Manuel Enrique Torregrosa Castro, Diego Alberto Ruiz Arroyave; Guillermo Pérez Alzate, alias 'Pablo Sevillano'; Ramiro Vanoy Murillo, alias 'Cuco Vanoy'; Juan Carlos Sierra Ramírez, alias 'El Tuso'; Martín Peñaranda

11

PARAMILITARY GROUPS: DEMOBILIZATION, REARMAMENT, AND REINVENTION

Javier Ciurlizza

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PEACE IN COLOMBIA FROM THE PERSPECTIVE OF TRANSITIONAL JUSTICE

The passage of Law 975, known as the Justice and Peace Law, could have been interpreted as marking the beginning of a transitional justice process in Colombia. It combined the basic elements constituting a transition: a political agreement (the Ralito Pact), a social demand for historical truth and justice,¹ a commitment to reparations for victims, the creation of special transitory mechanisms, and initiatives for social reintegration and demobilization, acknowledging the central tenet of victims' rights.

Three years after the passage of the law, different sectors in Colombia expressed serious doubts about the kind of transition taking place in Colombia and, in many cases, openly questioned whether a "transition" worthy of the name was taking place at all.² There were numerous reasons that the situation in Colombia appeared much the same in 2005: the continuation of outright war, the persistence of impunity, numerous atrocious deaths, ongoing kidnapping, and the continued invisibility of victims. This situation led some to conclude that Colombia's most important task was to guarantee respect for human rights and for international humanitarian law. By this logic, ending the conflict was the principal objective to which all others should be subordinated.

One line of this legitimate reasoning is that the humanitarian aspects of the conflict, particularly securing the release of hostages held by the guerrillas, should come before any other consideration. The argument is essentially ethical—there should be no more kidnappings or killings—and is a powerful one, accompanied as it is with a basic call for security.

What good is Transitional Justice in Colombia?

In seeking to understand the value of transitional justice in Colombia, we must first define what it means. Transitional justice refers to the interdependent and complex set of mechanisms that aim to bring victims' rights—many of them inalienable—into accordance with the needs of a democratic political regime and the

achievement of peace. Ultimately, it is about political and technical procedures that aim to ensure that the peace that is achieved and the political regime emerging from peace is sustainable ethically, judicially, and politically. These three facets are the essential qualities of any transitional measure. Political decisions must be rooted in ethics and fundamentally related to the rights of the victims. At the same time, political decisions have a rationale that is technical and procedural and, as such, very complex. In some sense, transitional justice is the result of a collection of practices and experiences, the product of a casuistic exercise.³ Since the term "transition" was adopted in the field of political science and since Guillermo O'Donnell reflected on transitions in the Southern Cone, the concept itself has undergone substantial revision.⁴ Indeed, there is little in Colombia that resembles the experience of democratic transition in countries such as Argentina or Chile.

At the same time, many aspects are similar or appear with even greater intensity. International law in 2008 is infinitely more complex and elaborate than that which served as a point of reference for democrats in Argentina in 1983 or accord-seekers in Spain in 1976. The rights of victims have been enshrined in the principles and directives of the United Nations; the jurisprudence of the inter-American system of human rights has made transcendental declarations on these issues, and the statute of the International Criminal Court has established a considerably more rigid framework. None of these elements existed in 1991 when Colombia decided to reform its constitution and grant amnesty to demobilized guerrillas in the most successful political reinsertion program the country has ever seen. Surely the events of 1991 would be viewed differently today.⁵

We could always embrace the relativist argument—in vogue with some U.S. and European jurists—that posits that legal norms, including international ones, are the product of purely political considerations, and as such, are merely variables to be taken into account, ultimately subject to the overriding interests of states. While I do not believe in the ritual sacredness of the law, neither do I believe that its perspectives should be ignored or undervalued. Neither of these two extremes contributes to

the efficient and sustainable resolution of the problems at hand.

Alberto Fujimori, president of Peru from 1990-2000, believed that by granting a broad amnesty in 1995 he would resolve the political problem of his alliance with the armed forces. Fujimori now faces daily trials for human rights violations in the midst of that process, the Inter-American Court of Human Rights ruled in 2001 that obstacles to the criminal prosecution of human rights violations should not be accepted. In Chile, many in the political class believed that the issue of the crimes committed during the Pinochet government would be resolved by a truth and reconciliation commission. Over 400 lawsuits have been brought against officials and yet there is still talk of impunity. Even the case of Spain provided a perfect example of a *pacto de olvido* (pact of forgetting). The Moncloa Pact established a political model for suppressing memory. Yet every year, Spaniards call for exhumations and reparations and the legislature approved a law that establishes a commission to study the consequences of the Civil War.

Journalist Tina Rosenberg has described how the ghosts of the past are an expression of frustrations in the present.⁶ While no reconciliation process in the world has fully satisfied the right to truth, justice, and reconciliation, some countries have certainly done better than others. Without a doubt, countries like South Africa, Hungary, Argentina, and others reflect substantial achievements, with more solid and stable democratic regimes than, for example, Congo, Sierra Leone, or Guatemala. These latter countries up until now represent failed experiences, because of a stubborn resistance to accept these ghosts of the past. Certainly each country constitutes a special and unique case. Nonetheless, substantial similarities exist.

The International Center for Transitional Justice (ICTJ) has worked in over 30 countries around the world and assisted in the formulation and application of the Justice and Peace Law in Colombia. We believe that, in terms of a transition, Colombia's experience has been unique and, indeed, precedent setting for the rest of the world. Nevertheless, Colombia can certainly benefit more from international experience, so as to avoid well-known pitfalls as it carries out the process.

Colombia's Constitutional Court established the ethical parameters within which the political initiative of the Uribe administration could be carried out. The Court established that the objective of the Justice and Peace Law was not demobilization per se, but rather, the protection of the rights of victims during the demobilization process.⁷ The Court sought to mitigate the tension in the law between its provisions for reduced sentences for demobilized combatants and society's call for truth, justice, and reparations. The Court also established the ethical framework within which different public agencies would be able to implement the law.

The ICTJ established a permanent office in Colombia in October 2006 and began the task of observing and assisting with different aspects of the implementation of Law 975. The ICTJ focused especially on:

- The establishment of procedures to guarantee victims' participation in legal proceedings;
- The way that justice and peace prosecutors were conducting deposition hearings (the so-called *versiones libres*);
- Critical aspects requiring legislation or appropriate public policies, especially concerning mental health care for the victims as well as the complex issue of the restitution of assets;
- Development and implementation of reparation policies, both collective and individual;
- Initiatives to recover historical memory, particularly in light of the work of the National Commission on Reconciliation and Reparation;
- The jurisprudence of the Supreme Court concerning the issue of para-politics.

The work of the ICTJ is carried out through institutional agreements with the Prosecutor General's Office, the Attorney General's Office, the National Commission on Reparations and Reconciliation, and the Supreme Court of Justice. It has also contributed to studies by the Ministry of Justice and the Interior (to develop the government's program for providing reparations) and the Ministry of Defense (to evaluate possibilities for reforming the military criminal justice system). These accords

made it possible for the ICTJ to attend over 250 deposition hearings over the course of almost a year, to review hundreds of court proceedings, and to develop technical proposals such as a manual for prosecutors and judges on how victims could participate. The Center's labors—in alliance with key institutions—have centered on promoting improvements and reforms to strengthen the rule of law and support initiatives by civil society and human rights and victims' organizations.

The process in Colombia over the past two years has been intense. The transition has experienced significant advances but also severe limitations in terms of guaranteeing the sustainability and the integrity of the policies adopted. Major issues still remain to be addressed. In the following sections I will present an overview of the progress and the limitations in terms of truth, reparations, justice, and institutional reform.

Historical Memory: Conspicuously Absent

In most countries that have gone through a process of transitional justice, one of the first steps is the establishment of a commonly-shared historical memory. For example, in Argentina and Peru, truth commissions reconstructed the human rights violations of the past, while in South Africa public hearings served as a forum for victims to be heard by society.

Opting politically for Law 975 resulted in a strange media atmosphere. The most visible aspects of demobilization have taken place in the courts, through revelations made during deposition hearings. Other aspects of the law—such as the work assigned to the National Commission on Reparation and Reconciliation—took on a secondary importance in light of the government's emphasis on the provisions of the law playing themselves out in the judicial arena. One issue that was marginalized has been the manner in which the history of violence in Colombia can be objectively reconstructed.

Colombian academics have a long and rich tradition of studying and explaining the phenomenon of violence.⁸ In 2008 Colombia marked the 60th anniversary of the 1948 assassination of Jorge Eliécer Gaitán, an event often referred to as the moment at which the divisions between 'Colombia the nation' versus 'Colombia the polity' be-

came so irreconcilable that violence became the accepted means of resolving differences over politics, ideologies, economics, and even personal issues.

Interpretations of Colombian history continue to be controversial. In particular, no clear "spaces" or forums have existed or do exist in which the victims and organizations most affected by violence can tell their stories. Law 975 charged the National Commission on Reparations and Reconciliation with preparing a report on "the origin and evolution of the illegal armed organizations." To that end, the CNRR established a Working Group on Historical Memory. This group, made up of 12 renowned and respected academics, is carrying out case studies, beginning with the Trujillo massacre. But this group is not considered to be a truth commission. Its studies will likely provide a sense of context, but will not necessarily provide an exhaustive account of the crimes committed.

A study backed by the Open Society Institute and conducted by María Victoria Uribe with ICTJ support has identified over 130 unofficial initiatives aimed at establishing memory and memorializing victims, including an ambitious project undertaken by the municipal government of Medellín. Very few people know of the existence of a small, but nevertheless official truth commission, composed of three former Supreme Court presidents. It was created by the Supreme Court to study the capture and recovery of its building in November 1985 and establish responsibility for the events. The ICTJ is actively supporting this initiative. While we are aware of its limitations, the ICTJ is convinced that this is a unique experience. For the first time in Colombia, there is an official effort to listen to the victims and to develop collective truth about the incidents that took place.

Beyond these initiatives, victims have very few formal and official opportunities to be heard. Similarly, victims' access to legal resources is limited, and few cases are being directed to the Inter-American Court of Human Rights. There are two possible explanations for the absence of victims from the process of constructing the truth. First, victims have traditionally been excluded from political negotiations, such as those that took place over the demobilization of the M-19. This exclusion could be due to the social, ethical, and cultural charac-

teristics typical of most Colombian victims. As in Guatemala and Peru, the victims of massacres, disappearances, and torture in Colombia are poor *campesinos* with little political and social power. A more specific explanation for the absence of victims from this process is that Law 975 seeks the truth revealed freely and voluntarily by those who perpetrated crimes in the name of paramilitary organizations.

Law 975: Political Transition and Paramilitary Demobilization Trials

More than 2,000 people have turned themselves in in order to receive benefits under the Justice and Peace Law. This, in turn, has generated a massive movement of victims to register. According to information from the Prosecutor General's office, over 129,000 people have registered as victims in the hope that they will have the opportunity to participate in the deposition hearings. For the time being, the Prosecutor General's office has become the most important institutional actor in the justice and peace process. Just several months after the law took effect, an inter-institutional committee was created to involve other public agencies. As of mid-2008, a mere 23 prosecutors had taken over 950 depositions from demobilized fighters, who offered information in exchange for the reduced sentences to which they are eligible under the law. In only one case was it been possible to bring charges against a mid-level commander of a paramilitary bloc.

Despite the obstacles, the Prosecutor General's office has made notable achievements. With few resources, they have been able to meet with thousands of victims, hold court and public hearings, register thousands of victims, and provide legal aid as well as moral and psychological support. Unfortunately, prosecutors have also taken on tasks that they are simply not prepared to handle.

The ICTJ has had the opportunity to observe several deposition hearings. The amount of incriminating information freely revealed by the paramilitary leaders is surprising, but more surprising still is that the information is seldom reported in the media.⁹

State agencies, the victims, and the human rights organizations are not prepared to handle a massive process

of determining responsibility for human rights crimes. For example, it has been difficult for actors to recognize that the crimes committed by the paramilitaries do not constitute isolated incidents or common crime, but rather are part of very complex strategies that require systematic investigation. The government has opted to set out regulations for different aspects of the law that were unclear and proposed investigating, first, by blocs; later it proposed investigating by crimes, but not by individuals. Time, however, is of the essence, and the investigative plan does not offer clear guarantees for anyone.

But the more complex problem is that of guaranteeing that victims are able to participate effectively in the justice and peace proceedings. The extraordinary proceedings, in which the trial is summary and the only recourse available to the victim is that of reparations, have already produced considerable frustration. For example, the discovery of multiple common graves has not resulted in a registry of victims, nor to the participation of victims or their families in the exhumations. On average, a victim must attend 15 hearings to hear about an incident that directly affects him or her.

Belated but Apparently Advancing Justice

In mid-2008 the Prosecutor General's office ordered the arrest of and brought criminal charges against 10 members of the military who were involved in a 2005 massacre of members of a peace community in San José de Apartadó. This is a transcendental decision that breaks with the longstanding tradition of impunity in Colombia. Additionally, the Supreme Court ordered that 26 members of Congress be investigated for ties to the paramilitaries. Numerous individuals are also being investigated for crimes against humanity, including members of the military who were in charge of the operation to recover the Supreme Court building in 1985. While this recent surge in activity might be a result of the temperament of the prosecutor general and the independence of the Supreme Court, it is also related to the understanding that the current climate has provided a little more space for justice in Colombia.

Once again, however, the problem is the lack of a systematic approach and of social backing. The investiga-

tions are isolated and follow the ordinary procedures of the criminal justice system. Also, social support for the judicial branch is inconsistent when compared to social support for the government. In Fujimori's Peru, for example, enormous public support for the security policies made it possible for him to disregard judicial investigations and promulgate amnesty laws without suffering political consequences. In Suharto's Indonesia, the leader's charismatic power and the need for social unity made it possible for many Indonesians at the time to disbelieve the reports of genocide being perpetrated in East Timor. Without a doubt, the combination of exorbitant government power and weak social support for the judiciary produces a fragile and complicated situation.

Political Reform and Guarantees of Non-Repetition

Processes of transitional justice include the adoption of policies for making reparations to the victims and to reform institutions. Reparations are understood not only as a moral but also as a political obligation to victims, to restore their rights and assets. Eduardo Pizarro, president of the National Commission on Reparations and Reconciliation, has insisted that it is necessary to be concerned for tomorrow's victims; this is very true in a country where new victims are created each day. Notwithstanding Pizarro's statement, there is an immense debt pending to the victims, especially when comparing the specific benefits provided to demobilized fighters with the merely humanitarian aid programs for the victims.

Recognizing this need, the government has developed a proposal to make reparations to individuals, a positive departure from the mistaken argument that reparations would only be possible and desirable through court proceedings. The reparations program aims to be universal, a truly fundamental attribute for a program that involve mechanisms for recognition of the victims. The limitations of the government's proposal, however, are so serious that it can hardly be considered as more than a good and effective humanitarian aid program. One limitation is both conceptual and political, in that the government refuses to accept that granting these resources is related to any sort of governmental responsibility. Second, the

proposal limits compensation solely to the victims of illegal armed organizations, thereby discriminating against victims of the State. Third, because Colombia lacks a reliable registry of the victims of these crimes, it is impossible to calculate the initiative's cost or the time that would be necessary for effective implementation.

Programs for mental health care, effective mechanisms for the restitution of land and assets, symbolic reparations, housing programs, and education programs simply do not exist for the victims. These programs remain to be developed. This involves providing the victims with programs that offer at least the same benefits as those enjoyed by demobilized fighters. Symmetry of treatment is an indispensable condition for reconciliation.¹⁰

Political reform has also been absent from public debate. Indeed, the discussions of accords and negotiations are moving away from political reform. A new constitution or the re-founding of the political system is simply out of the question, and a situation like that of 1991 is highly unlikely particularly in light of the weakness and "lumpenization" of the guerrilla and paramilitary organizations. Nonetheless, there are subjects that must be addressed. The most important of these include land ownership, the distribution of wealth, care for vulnerable population groups, a solution to the plight of the displaced, and political reform. The legitimacy of public institutions is in direct proportion to the guarantees for sustainable peace.

Transitional Justice in Peace Processes

Negotiations with the National Liberation Army (ELN) remain suspended, and in the meantime, different opinions have been sought on the feasibility of an amnesty as a preliminary step toward their demobilization. The prosecutor from the International Criminal Court delivered a clear message to Bogotá: amnesty may not be granted for crimes against humanity or for war crimes without compromising the ability of the ICC to take up the case at some point in the future. The issue of amnesty is being played out in the case of Darfur, for example; but in Uganda, arrest warrants for the Lord's Resistance Army ultimately led to a truce. Given the current state of international law, amnesty can not be

considered an alternative form of conflict resolution in every case.

That said, it is certainly possible to think about creative solutions that involve humanitarian agreements and peace accords. The Justice and Peace Law is one option, although many have disagreed with its provisions and it is in itself incomplete. It is therefore necessary to explore the following aspects:

- Focus the process on victims' rights, with no discrimination whatsoever, and on the basis of a) serious and consistent processes of establishing historical memory; b) programs for comprehensive reparations; and c) urgent humanitarian aid, specifically for displaced persons;
- Promote decentralized programs for demobilization, disarmament, and reintegration into society, involving local governments and social organizations. These programs should include mechanisms for real citizen participation and effective interaction with the victims;
- Create incentives in the area of criminal law, distinguishing between individual and collective demobilization and including the use of pardons, reduced sentences, and special prison regimes, all with the requirement that individuals seeking such benefits clarify the specifics of crimes and identify the whereabouts of persons who have disappeared;
- Establish an agenda for political reforms that does not imply the convening of a new constituent assembly, but which does address the reform of land ownership, restitution of assets and social programs focused on vulnerable groups;
- Create a basic political agreement on the fight against drugs.

Colombia has been the beneficiary of considerable international aid, both for humanitarian purposes and for counterinsurgency and counter-drugs purposes. Moreover, the so-called Groups of Friends of Colombia's peace processes have provided mechanisms for consultation and support. What is not in evidence to date, however—at least not publicly—is an agreed-upon strat-

egy of the international community with respect to peace processes and political agreements in favor of the victims. The implementation of Plan Colombia, beyond its macro-considerations, only complicates and distorts the strengthening of Colombia's democratic institutions.

It is not true that Colombia is on the verge of a far-reaching peace process; there are still too many obstacles. Neither, however, is it true that the situation remains unchanged. The regional and national dynamics have been particularly intense, and the government's military victories have shifted the political balance. What has remained a constant is the neglect of the victims and their absence from the political debate. •

¹ According to a study by the ICTJ and the Fundación Social, over 76 percent of Colombians surveyed said that the most important aspect of a peace process is establishing the truth about crimes committed and carrying out justice, whereas only 34 percent said that justice should be sacrificed to make way for a peace agreement.

² The emergence of new paramilitary groups and the threat of the "Black Eagles," as well as the perception that paramilitary leaders continue to control armed groups and the drug business from prison, give the impression that paramilitary demobilization is not genuine.

³ [Casuistry is the part of ethics that resolves issues of conscience, particularly when duties appear to conflict. Eds.]

⁴ Guillermo O'Donnell and Philippe Schmitter. *Transitions from Authoritarian Rule in Latin America*. See also: Stephan Haggard and Robert Kaufman. *The Political Economy of Democratic Transitions*.

⁵ Ruti Teitel in *Transitional Justice* maintains that there are three generations of transitional justice. The first refers to classic processes of transition from dictatorships to democracy in the Southern Cone and those that took place in Eastern Europe. The second refers to civil wars and peace accords, or substantial transformations of political regimes (Central America and South Africa). The third is a hybrid model, in which conflict and transitional justice coexist and develop simultaneously. This would be the case of Colombia, but it also reflects, to differing degrees, Peru, Cambodia, Sierra Leone and, in a more complex environment, Afghanistan and Iraq.

⁶ Tina Rosenberg. *Tierras Embrujadas*. Basic texts on transitional justice. ICTJ, 2002.

⁷ Ruling C-370. The ruling declared several provisions of the original law unconstitutional and thus substantially halted its application.

⁸ Among the classic studies on violence in Colombia can be highlighted: Alape, Arturo. *La Paz, la Violencia: Testigos de Excepción*. 5 Edición. Bogotá: Editorial Planeta, 1999. González, Fernán; Bolívar, Ingrid J. y Vásquez, Teófilo. *Violencia política en Colombia. De la Nación fragmentada a la construcción del Estado*. Bogotá: Cinep, 2003. Guzmán, Germán; Fals Borda, Orlando y Umaña, Eduardo. *La violencia en Colombia, estudio de un proceso social*. Tomo I y II. Bogotá: Universidad Nacional, 1962.

Pécaut, Daniel. *Crónica de dos décadas de política colombiana: 1968-1988*. Bogotá: Siglo XXI Editores, 1988.

Sánchez G., Gonzalo y Peñaranda, Ricardo (Compiladores). *Pasado y presente de la violencia en Colombia*. Segunda edición aumentada. Santa Fe de Bogotá: IEPRI-CEREC, 1991.

Varios Autores. *Colombia: violencia y democracia*. Bogotá: Universidad Nacional, 1987.

- ⁹ For example, in his first deposition Salvatore Mancuso gave testimony concerning the funding that paramilitary organizations received from different private companies, prompting an inquest by the Prosecutor General's office.
- ¹⁰ The most successful reparations programs have been comprehensive and have inspired broad social backing. Examples include the Reparation and Social Assistance Program (PRAIS) in Chile and the Comprehensive Reparation Plan in Peru.

María Teresa Ronderos

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PARAMILITARY TIES TO REGIONAL AND NATIONAL POLITICS

This paper seeks to explain how the paramilitaries infiltrated politics between approximately 1997 and 2004; how this phenomenon was discovered; how, and with what level of success, the state is fighting such infiltration; and what difficulties have been encountered in the process.

The phenomenon of parapolitics, according to the most important research on the subject carried out by the Nuevo Arco Iris Corporation,¹ involves the transformation of local politics following the violent expansion of paramilitarism between 1997 and 2003. The research carried out by the Corporación Nuevo Arco Iris finds that this transformation in local politics took place in 12 departments. Essentially, the traditional parties that had been operating in these departments disappeared and new political actors and parties arose.

The Origin of Parapolitics

In late 1997 the paramilitaries were relatively autonomous local bosses who had come into being for different reasons: some arose as anti-guerrilla forces while others arose simply to handle aspects of the drug trafficking business. The paramilitaries spread during the 1990s at the initiative of the Castaño brothers and under the umbrella name of the United Self-Defense Groups of Colombia. The AUC always consisted of a brotherhood of enemies; they were never really allies, neither did they really ever have a leader. Many people compare the structure of the FARC to that of the AUC, but the two are not really similar. The FARC is a hierarchical, armed organization, with a chain of command, discipline, etc. The AUC is a circumstantial alliance of warlords.

The AUC launched a bloody campaign to conquer land throughout Colombia, carrying out massacres, intimidation, selective killings, and forced disappearances. Many of the paramilitaries were able to build up a certain degree of grassroots support because, in effect, they displaced the guerrillas who in some regions had driven people to a state of desperation as a result of their abuse, violence, and extortion. The paramilitaries' reason for

being, however, was not exclusively to fight the guerrillas; it now quite clear that many of them were out to control the coca trade as well as other lucrative sources of income, including the theft and illegal sale of gasoline, land theft, and the illegal siphoning of state funds.

To achieve these objectives, the AUC obviously needed political control. Research by the Nuevo Arco Iris Corporation has found that the paramilitaries have established a presence in 223 of the country's 1,030 municipalities.

Year	No. of massacres	Victims
1997	116	571
1998	113	677
1999	168	929
2000	236	1403
2001	186	1044
2002	115	680
2003	94	504
Total	1028	5237

Source: Presidency of the Republic, Human Rights Office. Not all but most of the massacres were perpetrated by the paramilitaries.

The above table demonstrates the extent of the paramilitary apparatus' cruelty, focusing on a single variable: massacres between 1997 and 2003. Although not all of these massacres have been attributed to the paramilitaries, much of the expansion of the paramilitary movement corresponds to this pattern of massacres. The more than 1,000 massacres in just six years represent a veritable slaughter. What is most inconceivable is that Colombian society permitted this to happen.

How did the paramilitaries achieve this expansion? How did they forge parapolitical ties? They did so in three ways. First, they broke those already in politics through the use of intimidation. Second, they formed alliances with politicians and in some cases they brought in their own slates of local political leaders. And three, they made general pacts, including the well known Ralito, Chivolo, and Casanare pacts, as well as others like that of El Pescado in Caquetá.² These tendencies were very clear in the 2002 elections, whereas in 2006-07, the paramilitaries' ability to exert influence was diminished. What was the result? They

put in place dozens of candidates. They divided the country into non-existent electoral districts according to their own map, assigning candidates to each district.

The paramilitary's success gave them away. Indeed, when political analysts examined the figures, they noted how senators like Dieb Maloof, Mauricio Pimiento, Álvaro Araujo, and congressional representative Muriel Benito Rebollo won by overwhelmingly margins that had never before been seen in Colombian politics, capturing 70, 80, and even 90 percent of the vote. The paramilitaries overdid it in terms of perfection.

In the end, they wound up controlling local and municipal governments and siphoning public funds as well as those dedicated to healthcare. This occurred in La Guajira and in Soledad, Atlántico, and there are people in prison for setting up a healthcare service and siphoning money from the state to pay for their war machine. In another case, the Corporación Autónoma del Canal del Dique (Cardique)—the agency created to protect the environment in the region of the Dique Canal on the Caribbean coast—had paramilitaries on its payroll. There are also many indications that paramilitaries won state contracts for private companies or helped companies win the contracts by force. Little is known, however, and unfortunately not much is being investigated.

In Barranquilla, for example, municipal tax collection was turned over to a private concession. This concession was perhaps unlike anything in the world. A list of all the taxpayers in Barranquilla was given to a company about which little was known. A short while later, one of the partners in that company was murdered in circumstances related to feuds among drug traffickers. Journalists now suspect that a paramilitary leader was or is a shadow partner in the company, something which has been denounced by several former paramilitaries. But it is not known for sure because the parent company is registered in Panama and the only partners that are named are Panamanian lawyers. If this is true, it is chilling to think that the paramilitaries have the names and addresses of everyone in the city who paid taxes. In mid-2008, the new mayor of Barranquilla, Alex Char, unilaterally suspended the concession on the grounds that it was detrimental to the city's interests.

During President Álvaro Uribe's first term in office, the paramilitaries infiltrated several high level and strategic public agencies in the areas of land management and security. They infiltrated the Administrative Department of Security (DAS), the equivalent of the U.S. FBI; In-coder, which is the agency that distributes land; Findeter, the agency that provides farming credit. They even had a presence in the National Counternarcotics Directorate, which administers the assets seized from drug traffickers that are supposed to be put to work to the public's benefit. We know that these agencies were infiltrated because some of their officials, and in some cases their directors, are currently under investigation. These individuals knew precisely where to position themselves. Some people who were involved with the paramilitaries have been appointed as ambassadors. For example, Salvador Arana Sus, former governor of Sucre, today accused of being complicit in paramilitary, was ambassador to Chile.

How the Scandal was Uncovered

Curiously, the country, the public, and to a certain extent the media did not see the process of paramilitary infiltration of the state occurring. Obviously, the regions affected knew about it. People talked about it in hushed tones, but little was clarified by the justice system and as such, the allegations remained little more than hearsay. The investigative team of *Semana*, for example, wrote reports that touched on some of the businesses in which the paramilitaries had appeared. But we were not aware of the scope of what lay underneath or the extent of the illegal offensive to infiltrate the state.

In 2005, academic research directed by journalist Claudia López came to question the unusual voting results behind the election of several members of Congress from the Caribbean. She and others, particularly in the print media, carried out further investigations that began to reveal the extent of parapolitics. This would have been perhaps just a passing scandal but for the fact that the Supreme Court of Justice decided to carry out in-depth investigations of the members of Congress implicated in the reports.

While the court and the Prosecutor General's Office investigated the allegations, the press was leaked infor-

mation that the police had gleaned from a computer, referred to by Semana as “the computer of Jorge 40.” The computer actually did not belong to “Jorge 40” but rather, to “Don Antonio,” the second-in-command to “Jorge 40” in the Atlantic region. The documents found on the computer showed detailed accounts of orders for murders, where the murders were carried out, who perpetrated them, how the payrolls were distributed, how the payrolls in Barranquilla were set up, etc. These documents were a significant boost for the court cases and led to further allegations, such as those of the DAS director’s complicity with the paramilitaries, a case which is still being investigated.

The justice and peace process has served as an additional source of information on the paramilitaries. As the Justice and Peace Law provides reduced sentences to former paramilitary leaders who cooperate with the justice system and provide comprehensive and truthful information about their accomplices at state agencies, many of them, such as an individual with the Ever Veloza, alias ‘HH’ have revealed the names of the politicians who were their allies. According to sources at the Justice and Peace Unit in the Prosecutor General’s Office, the unit provides copies of the proceedings to the Supreme Court or to other departments at the Prosecutor General’s Office on a near daily basis to investigate ties between national or local politicians and paramilitaries.

Judicial Independence

As of April 2008, 43 members of Congress were under investigation by the Supreme Court and most of them were in custody. One had been sentenced to six years in prison and two senators had gone to trial. The Prosecutor General’s Office was investigating 28 members of Congress, seven governors, six departmental assembly deputies, several mayors, members of city councils, other public officials, and 20 contractors, most of them from the healthcare sector. Many of these individuals were in custody. Three governors and four members of Congress have been convicted, with their sentences to be determined. By August 2008, over 60 members of Congress were under investigation and more than half of them were in prison.

The following examples illustrate the independence of the justice system in these cases. Trino Luna, formerly the governor of Magdalena who was elected in an uncontested race, has been sentenced to nearly four years in prison. The sentence was not very stiff: Luna, like others, collaborated with the justice system, pleading guilty to the charges of conspiracy to commit crime with the paramilitaries. Luna’s brother was an active paramilitary. Governor Hernando Araujo, the stepson of the attorney general of the nation, faces charges from the Prosecutor General’s office, despite the family’s prominence in César Department. His mother, an important figure in promoting Colombian culture, was murdered by the FARC. Notwithstanding the symbolic nature of the case, Araujo has been charged. Álvaro Araujo, the brother of the then-foreign minister, has been accused along with his fugitive father of possible complicity with the paramilitaries as well as conspiracy to commit kidnapping.

Mario Uribe, a senator and second cousin and lifelong political ally of President Uribe, was investigated by the Supreme Court for involvement in parapolitics. He resigned from his seat and his case was transferred to the Prosecutor General’s office. Mario Uribe was put in prison and is charged with aggravated conspiracy to commit a crime. Senator Uribe was one of the sponsors and coordinators of the Justice and Peace Law in the Congress, which is the law that has shaped the AUC demobilization and disarmament. The court is also investigating other cases of parapolitics in Antioquia.

There are other examples that demonstrate the independence of the justice system from the executive and legislative branches. One such case involves Rubén Darío Quintero, who served as private secretary when Álvaro Uribe was governor and who has been imprisoned. Members of Congress Rocío Arias and Eleonora Pineda, who defended the justice and peace process and who brought paramilitaries before Congress to defend it, admitted to charges and have been convicted. Senator Muriel Benito Rebollo also admitted to charges, and her three siblings are being investigated for establishing a drug cartel.

In further good news for Colombian democracy, both the Uribe government and the international community

have backed these investigations with considerable resources. The Supreme Court of Justice Penal Chamber and the Prosecutor General's office have been able to reinforce their investigative teams and hire more staff in order to improve their work.

Colombian citizens have also strongly supported the parapolitical trials. According to reporters' estimates, in March 2008 at least 1 million Colombians throughout the country mobilized to protest paramilitarism. This was notable because most of the victims of paramilitarism are poor *campesinos*, without access to the media or much opportunity to generate support for their cause. These *campesinos* are largely invisible to the urban middle class, except for displaced persons forced, by the conditions of the conflict, to flee to the city.

Problems and Challenges

Concerns were raised that the parapolitics investigations would simply identify a few scapegoats and go no further. Indeed, some prosecutors have been very slow and their cases are not progressing; still others have made mistakes. The Noguera case, for example has been weak. In fact, the Prosecutor General's office initially had to release Noguera due to procedural mistakes, only later to put him back in prison. In 2008 the Noguera case fell apart because of the same mistakes that the Prosecutor General's office had promised to fix.

Credible sources suggest that the government pressured the prosecutor in the Noguera case to terminate the case or throw out the accusations that he allegedly committed electoral fraud in 2002 when he was headed candidate Álvaro Uribe's campaign in Magdalena Department. According to several observers, including reporters who traveled to the zone, there was sufficient doubt to merit an investigation.

In the case of another member of Congress, the court had to reprimand the Prosecutor General's office for proceeding too slowly, given that case files had been languishing on desks for over a year.

Many critics also feel that the Supreme Court was weak when it allowed members of Congress to resign from their seats in order to have ordinary prosecutors investigate them and go to trial before ordinary judges.

This gave the members of Congress a greater chance of winning their cases than if they had been investigated by the Supreme Court. Legally, members of Congress may step down from their seats when they are accused of a crime that is not related to their political performance. But it is strange that the court would consider that winning elections was not related to their performance as a member of Congress.

The president himself and some members of the government also pressured the justice system over cases that affected them directly. The president brought charges of calumny and slander against Magistrate Valencia, then head of the Supreme Court. The president also asked the Prosecutor General's office to investigate the assistant magistrate, who was coordinator of the parapolitics investigations and was one of the most principled and upright magistrates in the parapolitics cases. This pressure came about because a former paramilitary known as "Tasmania" accused the magistrate of having offered him a deal in exchange for making accusations against the president. Later in 2008, "Tasmania" retracted his testimony and confessed that he was following his lawyer's instructions to bear false witness against the magistrate. This was the same lawyer used by a drug trafficker politically linked to Senator Mario Uribe. Other pressures followed, such as leaking to the press information against the magistrates, including reports of alleged attempts by the magistrates to bribe members of Congress, etc.

Beyond the individual risk to those members of Congress who have been implicated or to the government as a whole, it is the larger picture that is most disturbing. Overall the picture is one of failure to deal decisively with an armed, illegal organization involved in drug trafficking which attempted to co-opt the state.

Scholar Luis Jorge Garay wrote a report on parapolitics for Transparency International. He contends that several illegal groups and gangs of drug traffickers have attempted to infiltrate the Colombian state. First was the Medellín cartel and then the Cali cartel with Case 8,000 [involving the illegal funding of the presidential campaign of Ernesto Samper]. Garay indicates that the case of the Cali cartel was more serious than that of the Medellín cartel. But, he concludes, the current risk is more

serious still because the intention is not only to infiltrate the state but rather to transform it into a vehicle for furthering illicit interests.

Many of the parapolitics dealings have not been investigated; it may well be that they have already been completely legalized. There are many public figures from the world of private business, the armed forces, and politics who have not yet come under scrutiny. There are many practices that have become normalized in local politics, and there are many parties that were created in order to provide backing for paramilitarism. These parties remain intact.

Also needed is political reform to protect institutions from possible new infiltration by armed groups or drug trafficking organizations. A reform that proposed punishing the political parties that endorsed congressional candidates who had ties to paramilitaries was defeated, and now the government is working on a new bill on the subject.

Obviously, there is need for a reform that would punish the accomplices of this violent conspiracy that has caused so much death and pain.

Although the majority of Colombians believe that the Uribe government has been very good for the country, this

Party	Senators	Investigated	In custody	% in parapolitics	Mayors elected 2003	Mayors elected 2007	% variation
Colombia Democrática	3	1	2	100	35	34	-1
Colombia Viva	3	2	1	100	27	13	14
Convergencia Ciudadana	7	5	1	86	21	72	51
Apertura Liberal*	5	3	1	80	24	37	13
Alas Equipo Colombia	5	2	1	60	68	83	15

The above table shows how in the 2007 elections the voters did not punish the parties with the greatest number of members of Congress investigated for parapolitics. Convergencia Ciudadana, with 86 percent of its senators under investigation, did much better in the 2007 local elections than in 2003.

Challenges

The Supreme Court and the Prosecutor General's office need sustained national and international support to continue investigations into parapolitics and to determine the degree to which political leaders and parties are responsible for the paramilitary phenomenon. Civic movements, the work of NGOs, and press reports must continue to keep these issues alive so as to arrive at the truth about the infiltration—or even co-opting—of the state by paramilitaries.

Semana magazine, in alliance with Fundación Ideas para la Paz, is working on a project to organize and systematically follow-up on the process of paramilitarism in Colombia, so that the media can provide better reporting and communities can have access to the record of what has taken place.

author feels that reelecting Uribe to a third term would be fatal in terms of making the parties that supported paramilitarism answerable for their crimes. President Uribe is indebted to some of the parties that are most seriously implicated in parapolitics, the majority of which are government supporters. Certainly with a third term in office he would owe them even more. Furthermore, there is the risk that the courts and the Prosecutor General's office could lose their independence; the executive and legislative branches—already under a cloud of doubt—would have greater influence in making appointments. Because of the way that the Constitution is organized, some of the checks and balances enshrined therein would be lost, in that they were intended for a period of government that would last for only four years. By remaining in power longer, more influence is exerted over practically the entire system of political controls.

Much has been done to uncover and bring to light the risks that loom over Colombian democracy. But we are at a dangerous crossroads at which the process could either be consolidated or terminated. The outcome will depend on the actions of the different national and international agents committed to the truth. •

¹ Corporación Nuevo Arco Iris, *Parapolítica. La ruta de la expansión paramilitar y los acuerdos políticos* (Parapolitics. The Path of Paramilitary Expansion and Political Deals), Bogotá: Intermedio, 2007.

² *Ralito Pact* was the first known documentary evidence about the alliances between Colombian politicians with the paramilitarismo. This agreement was the result of a meeting realized on July 23, 2001, summoned by the paramilitary leaders Salvatore Mancuso, Diego Fernando Murillo, alias “Don Berna”; Rodrigo Tovar Pupo, alias “Jorge 40” and Edward Cobo Téllez, alias “Diego Vecino” in which 29 politicians of the Atlantic Coast were affirming their intention to ‘re-found the nation’ and make ‘a new social contract’.

Chivolo Pact was signed on September 28, 2000 between alias “Jorge 40” and near 410 politicians from the Magdalena Department. In that document, the signatories agreed to support Jose Domingo Dávila Armenta as candidate for governor of Magdalena, for the period 2001-2003.

Casanare Pact took place days before the election for the Governor of Casanare Department in 2003. John Alexander Vargas, alias “Junior”, political leader of Casanare’s Rural Self-defenses arranged a meeting with six major mayoral candidates in that department. In the text, the mayors agreed to give to the AUC the 50% of the municipal budget and the 10% of the value of any contract signed by the municipalities. However, in the document that has the Prosecutor Office only appears the signature of one of the five mayors.

Río Pescado Pact. Until today, there is not much information known about it.

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DEFINITION AND STAGES OF REARMAMENT

The last demobilization of the Colombian United Self-Defense Groups (AUC) took place in mid-August 2006 in the municipality of Unguía (Chocó), with the surrender of weapons by the Norte Medio Salaquí Front of the Élder Cárdenas Bloc. This represented the conclusion of a process that involved 29,740 men and 1,911 women, for a total of 31,651 demobilized members of the AUC. The only front that did not participate in the demobilization process was the Cacique Pipintá Front that was part of the Central Bolívar Bloc. This group was supposed to demobilize on 15 December 2005—along with the Héroes y Mártires de Guática Front—but the group's members failed to appear in the zone that the government had designated.

During the period following demobilization, the OAS Mission to Support the Peace Process in Colombia (MAPP/OEA, by its acronym in Spanish) was in charge of verifying the dismantling of the self-defense groups' armed units and of monitoring public order in the zones where the demobilized fronts and blocs had previously exercised influence. The first reports on this subject were contained in the Sixth Quarterly Report of the Secretary General to the Permanent Council and identified three dynamics: 1) demobilized combatants were regrouping as criminal gangs that were exerting control over specific communities and illegal economic activities; 2) groups that had not demobilized remained intact; 3) new armed actors had appeared, and/or others had been strengthened in zones from which the demobilizing groups had withdrawn.

What were found in the zones were illegal groups under the orders of mid-level commanders who had hand-picked trusted men to keep control of a particular area. The groups were involved in illegal economic activities. They pressured the demobilized paramilitaries, and they had ties to criminal gangs with which they had joined forces. As such, what was seen was a process of atomization in which the AUC blocs split into a series of more or less independent factions, without any specific hierarchy. Each rearmed group or gang sought to hold onto the existing sources of illegal income: extortion, fuel theft, drug routes, and drug laboratories, among others.

In this context, what we saw was a kind of articulation among certain structures that had their origin in different sectors. It was apparent that most of the mid-level commanders from the Norte Bloc remained active and practically intact in La Guajira, Cesar, and Magdalena. At the same time, the influence of the northern Valle [del Cauca] cartel began to be seen in the appearance of illegal armed organizations, especially in south Chocó, with the groups known as the United Self-Defense Groups of Northern Valle linked to drug trafficker Diego Montoya, as well as in Nariño and Putumayo, with the Rastrojos gang, at the service of Wilber Varela.¹ Information also exists about demobilized combatants who were recruited individually in different parts of the country, such as the Urabá region and Córdoba, to go to other regions of the country to join the drug traffickers' private armies.

Evidence of rearmament gradually began to appear in the area where the Central Bolívar Bloc had demobilized. This affected the lower Cauca region, Caquetá, Putumayo, and Nariño. In the meantime, some groups of demobilized combatants went back to crime in zones like the Magdalena Medio region, Tolima, and the eastern plains region. The Eighth Quarterly Report of the Secretary General to the Permanent Council reported:

In its work on verification, the Mission has identified 22 new units with approximately three thousand members, part of whom had belonged to the self-defense forces. There are indications of possible rearmament in the case of eight of these units, placing their cases on alert status. The remaining fourteen cases have been fully verified by the Mission. It is noteworthy that the MAPP/OEA has observed that the groups that appeared after the AUC demobilizations and also stemmed from the holdouts that were not dismantled, have recruited individuals who were in the process of reintegration; however, only part of their members are demobilized combatants.²

Progressively the OAS Mission—as it accompanied the communities and despite the state's effort to occupy the areas that the self-defense groups had left—began to observe that in some specific locations substantial change

did not take place after the demobilizations, in that risk factors that compromised safety continued to exist. The armed groups were still present, exercising control over segments of the country and manifesting clear ties to illegal economic activities, especially drug trafficking.

Based on this context, in the Ninth Quarterly Report, the MAPP/OEA identified a series of trends that characterized these regions: 1) the emergence of alliances and organizations under clear leadership; 2) the continued existence of clandestine command structures –especially mid-level commanders; 3) the recruitment and considerable mobility of the former combatants; 4) the adaptability and flexibility of the modus operandi of the emerging criminal groups; 5) the impact on vulnerable population groups and communities; 6) the filling of areas vacated by the self-defense groups with drug trafficking structures.³

According to the Tenth Quarterly Report, this latter tendency has gathered strength, playing a central role in the dynamics of the armed conflict and public order:

Drug traffickers saw the demobilization of the self defense groups as an opportunity to take control of the illegal crop zones and corridors. After the dismantling of the paramilitary units, organizations began to emerge that sought to maintain illegal influence over certain areas in which the government has not yet been able to fully re-establish its presence.⁴

In the same report, the Secretary General warned that behind these dynamics was a process of adaptation, in which some demobilized members of the AUC were joining Mafia-like private armies at the service of drug trafficking. A series of transitions were evident that gave the process of demobilization a new character, one that went beyond the MAPP/OEA mandate of verification, aimed at monitoring the dismantling of the armed structures of the self-defense groups but not at the emergence, continued existence, or creation of groups at the service of drug trafficking. The phenomenon of rearmament took on more and more of a criminal aspect, without counter-insurgent objectives and in service of illegal drug markets.

The definition of the illegal armed groups after demobilization has been quite a controversial issue. The

Colombian government and its security agencies have dubbed these factions “emerging criminal bands,” distinguishing them clearly from the demobilized self-defense groups. In contrast, non-governmental organizations, human rights groups, and some analysts and academics maintain that the groups reflect the endurance of paramilitarism; there is thus talk of a single organization known as the “Black Eagles,” a “new kind” or “third generation” of paramilitarism.

Several issues must be taken into consideration in order to define terms. This first is that, as the experience of other countries has indicated, there is always a small group of former combatants that does not go through the process of reintegration into society, and that could potentially regroup and rearm. This took place in Central America, in countries such as El Salvador, Guatemala, and Nicaragua, as well as in Africa, in the Democratic Republic of the Congo, Liberia, and Angola. This also appears to be happening in the Colombian case, where the armed confrontation between the government and the guerrillas continues and where drug trafficking maintains its influence.

The second issue is that two years after the final paramilitary demobilization, the process is at a moment of transition in which the definition of these armed illegal groups is complex and susceptible to changes resulting from processes of dispute and alliance. The Secretary General describes this process in the Ninth Quarterly Report:

The newly formed units and the remaining [hold-outs] can be described as on a continuum between a splintered, dispersed state and an interest in monopolizing the illegal activities. On the one hand, the units are independent with loose partnerships, casual and fluid associations, and no concrete, lasting alliances. On the other hand, there is a hierarchical organization that controls and regulates all of the illicit economic activities and operations in the different territories.⁵

A third element is what is known as paramilitary “recycling.” During the demobilization process, there were frequent rumors about the arrival of the drug cartels in

some regions. According to different sources, while some structures were dismantled, others arrived to take control of the areas that had previously been dominated by the self-defense groups. This process has raised a series of questions about the transparency of the process and the effectiveness of demobilization and disarmament.⁶ The continued existence of small armies supported by structures of hit-men has led some to claim that paramilitarism still exists. To what degree is this affirmation true?

Several elements need to be analyzed. In verifying the dismantling of the armed structures and monitoring public order, the MAPP/OEA did not observe the emergence of illegal counterinsurgency groups. To the contrary, the quarterly reports have noted ever more frequent alliances between sectors of drug trafficking and guerrilla organizations; these alliances are based on illegal economic activity.⁷

Looking back over this situation, one of the main accomplishments of the demobilization process has been the delegitimizing of paramilitarism. Although it is true that mafia-like organizations have spread with the consolidation of these illegal groups—replicating some of the modus operandi of the self-defense groups—these have been stripped of their political motivations.⁸ This has happened despite the fact that some of these illegal armed organizations have endeavored to present themselves as the resurgence of paramilitarism, making threats against left-leaning sectors, grassroots organizations, and victims' groups, even attempting to assassinate several of their representatives. This situation has had a negative impact on the process, creating the impression that paramilitarism continues to be active.

A factor that makes this situation even more complicated is the relation between the current illegal groups and demobilized former commanders and mid-level officials from the AUC. The MAPP/OEA quarterly reports have mentioned this relationship, making reference to former paramilitary leaders that entered the Justice and Peace process—most of whom were extradited to the United States—as well as to those who remained underground. The Secretary General issued the following warning in the Ninth Quarterly Report:

Some of these groups are led by commanders of the United Self-Defense Forces (AUC) who did not heed the government's call to participate in the process, while others reflect an alliance between former paramilitaries and drug traffickers. Moreover, it has been noted that mid-level AUC commanders are heading new illegal armed units.⁹

The involvement of demobilized combatants in these illegal armed groups should also be taken into account. The National Police estimate that around 13 percent of the members of these illegal groups are former self-defense group combatants. This is equivalent to around 300 people, representing less than 1 percent of the total that demobilized. Nonetheless, it is important to keep in mind that the estimate is based on the number of members of the so-called emerging gangs that have been captured or killed in combat. For example, in early 2008 the MAPP/OEA alerted the authorities to the difficulty in establishing the percentage of demobilized combatants who had gone back to illegal armed groups. This was because the Mission had not been able to obtain from the authorities the full names of the persons reported as “killed in combat” by the security forces. Information available through February 2008 showed that a significant number of these deaths—approximately seven out of every 10 deaths in combat—were reported as “NN”.¹⁰ Although this percentage has gone down considerably, the full identities of those killed in combat is still not available, meaning that this figure could vary. Regardless, the percentage would still be a very small.

According to the verification reports on reinsertion, the MAPP/OEA maintains that most of the demobilized combatants are in the process of making the transition to civil life. In some cases this is in the face of enormous difficulties and under strong pressure from illegal armed groups. As of October 2008, over 1,200 demobilized combatants had been reported as killed, most of them the victims of homicides. These incidents are related to disputes between armed groups over control of territory, conflicts between the former combatants themselves, control of the illicit economy, the presence of armed groups that are attempting to consolidate their power, and forced recruitment. Some of the former combatants have received death threats for refusing to join the new groups.¹¹

As for defining these emerging illegal groups and gangs of holdouts as criminal gangs, their ties to illegal economic activity, especially drug trafficking, are clear. Using geographic cross-referencing, the OAS Mission found a clear correlation between the areas with coca crops and illegal drug trafficking corridors on the one hand, and on the other, the presence of illegal armed groups; this was reported in the Mission's Eleventh Quarterly Report. Furthermore, the MAPP/OEA has seen that groups with ties to the northern Valle cartel are clearly exerting influence in zones that were under the control of the self-defense groups prior to demobilization.

In addition to the factors cited above is the fact that effective recruitment campaigns have enabled these illegal armed groups to reestablish themselves and stay active despite the offensive by state security forces. The groups have also been able to maintain levels of corruption, especially at the local level.

The tendencies identified during this transition phase lead to the conclusion that these rearmed cadres and groups are:

- organized to some degree;
- linked to the drug trafficking economy;
- lacking in a counterinsurgency motive (although they try to appear as if they have political motivations); and
- linked to certain former AUC leaders or mid-level commanders.

They have secured the participation of only a low percentage of the demobilized population and have the ability to recruit and foment corruption, especially at the local level.

It is important to consider the implications that the appearance, continuation, and growth of these groups have for the security of the populations affected by violence. This is the major factor to be addressed by the Mission in its monitoring of public order in the post-demobilization phase.

As described in the Tenth Quarterly Report, even after the demobilization of the self-defense groups, a number of communities continue to be vulnerable to threats and

violent actions. Illegal activities and social disputes have prevented the restoration of the social fabric. The MAPP/OEA has identified three situations in which the population is affected. These relate to: a) the presence of an illegal armed group; b) the response of illegal armed groups to actions by the state; and c) disputes between groups involved in drug trafficking. In these contexts, forced recruitment is a constant, primarily affecting the demobilized combatants and, in some cases, minors.

Rounding out this panorama is that in some parts of the country where the various illegal armed groups are present, the victims are still living in fear. In other cases they are the victims of intimidation and threats that serve as disincentives to report their situation or participate actively in the Justice and Peace process.

In the quarterly reports, the Secretary General has acknowledged the efforts made by the Colombian state. According to the MAPP/OEA, the state has demonstrated its resolve to combat the illegal armed groups; it has increased the number of operations, resulting in more captures and deaths in combat. At the same time, the reports have noted the strength and resilience of these illegal factions. Their resources permit constant recruitment and continue to foment corruption.

Given this situation, the views of leaders and the population must be seriously taken into account. No matter how the armed groups are defined or labeled, the presence of an armed organization that continues to wreak terror means that the communities continue to perceive that the phenomenon of paramilitarism continues, regardless of political or criminal connotations. Proof of the influence of crime in an area and of the capacity of the armed groups to carry out intimidation is the impact on the populations themselves. For the OAS mission, this issue is key. The relevant institutions must continue to make sustained efforts in this area, in order to consolidate a process that has contributed to peace in Colombia. •

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- ¹ Drug trafficker Diego Montoya was captured on 10 September 2007, and Wilber Varela was murdered in Venezuela in February 2008.
 - ² Eighth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OEA), CP/doc.4176/07, 14 February 2007, p. 6.
 - ³ Ninth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OEA), CP/doc.4237/07, 3 July 2007.
 - ⁴ Tenth Report of the Secretary General to the Permanent Council on the MAPP/OAS Mission, CP/doc.4249/07, 31 October 2007, p. 2.
 - ⁵ Ninth Quarterly Report. *op.cit.*, p. 2.
 - ⁶ Tenth Quarterly Report, *op.cit.*, p. 2
 - ⁷ Eleventh Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OEA), CP/doc.4321/08, 21 June 2008, p. 3.
 - ⁸ Tenth Quarterly Report, *op.cit.*, p. 2.
 - ⁹ Ninth Quarterly Report, *op.cit.*, p. 1.
 - ¹⁰ Not named or identified. Eleventh Quarterly Report, *op. cit.*, p. 3.
 - ¹¹ *Ibid.*, p. 4.

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GOING BACK TO CRIME: DRUG TRAFFICKING AND EMERGING CRIMINAL GANGS

This article is less abstract than the preceding ones and focuses on drug traffickers and the different elements of the drug trade they represent. My main argument is that the demobilization of the United Self-Defense Groups of Colombia (*Autodefensas Unidas de Colombia, AUC*) is heralding a new chapter in the Colombian drug trade. The old generation of traffickers linked to the AUC has been removed from the drug trafficking equation: many of the central players have been killed or extradited to the United States. At the same time, the FARC has been further hit by the Colombian security forces; the most notable incident was the July 2008 rescue of 15 hostages, among them the French-Colombian citizen and former presidential candidate Ingrid Betancourt. The situation has changed dramatically, but, as I will demonstrate, drug trafficking continues.

What has changed? In many cases, members of the AUC were not only drug traffickers in their own right but also provided services to the drug trafficking industry. These activities included the protection of laboratories, the collection of coca leaf to make coca base, the control of transport corridors, control of shipping points, assassination services, debt collection services, arbitration services, etc. Many of these activities came under the umbrella of the AUC, which was essentially a gang of drug traffickers. Political correctness aside, in my view the group that negotiated with the government as the intermediary for the AUC was composed primarily of drug traffickers and only secondarily (a distant second) constituted an anti-subversive force.

With the dismantling of the AUC, this gang of drug traffickers lost several key components. One was political protection. Second was the quasi-legitimate status that the paramilitaries had enjoyed in many parts of Colombia. And third, the group lost its ideological façade. It will be extremely difficult for the new generation of paramilitaries to recover these three elements. It is clear that these drug trafficking groups are trying to rebuild their political front to justify various actions. And there is evidence that many of the killings that are occurring

now, particularly of trade union members, and the threats against the organizers of a large demonstration in March 2008, come from *Las Águilas Negras* (Black Eagles) -- a group of heterogeneous organizations that emerged in early 2006 and that apparently were linked to former members of the Central Bolívar Bloc that did not demobilize. Though these groups carry out political killings, most of their actions are related to drug trafficking.

There is no doubt that the former paramilitaries are supporting candidates for Congress, an activity that now has to be done in a much more clandestine manner. Drug trafficking, after all, is about contacts. It is about knowing how to get in touch with people who can provide certain services needed for the drug trade.

The main contact for a long time was Vicente Castaño. He was murdered in March 2007, but his death was only confirmed a year later. In fact during 2007 there were numerous rumors that he was killed, something that initially seemed false for two reasons. First, no one was gobbling up his land or his luxury apartments, rural estates, or properties. This is something that usually happens when a drug trafficker disappears from the scene; there is a scramble to take all his booty. The second reason was that Castaño's wife remained very active. She used to, and I believe she still does, run all of the façade companies and manages a lot of his assets.

Vicente Castaño belonged to the Castaño Clan that founded the paramilitary movement. He was always behind the scenes. Initially his older brother Fidel and subsequently his younger brother Carlos fronted the organization, but Vicente was always present, from the days when Fidel was a member of the Medellín cartel. Vicente was in charge of the drugs supply to the United States; he was always a drug trafficker.

Was he anti-subversive? Probably yes. The Castaños started on their crusade because their father was kidnapped and then killed by the FARC. However, Vicente was the top leader, in charge of all the businesses. It was he who sold many of the AUC franchises to drug traffickers across the country. It was he who put together many of the deals. When he was alive, it was believed that he was the one man who could rebuild a nationwide alliance of drug traffickers. His name surfaced all over the

country, not just in his native Antioquia, but in Norte de Santander, Tolima, parts of Putumayo, Santander, and especially in connection with the Black Eagles. The Black Eagles have been linked, in one way or another, with Vicente Castaño throughout the country, and the Castaño name has enjoyed quasi-mythological status within the drug world and criminal underworld.

The following two drug traffickers who belonged to the AUC, were part of the peace process but did not turn themselves in. In August 2006, when President Uribe was under a great deal of pressure and ordered the paramilitary leaders to concentrate in the holding area of La Ceja in Antioquia, Vicente Castaño and the Mejía brothers known by the alias of “Los Mellizos” (“The Twins”) did not. Despite the death of one of the Mejía brothers and the arrest of the other,¹ they are included in this discussion because they so obviously were drug traffickers at the same time that they were part of the paramilitary peace process. They were thoroughbred drug traffickers, bursting onto the scene in August 2000, when \$35 million dollars in cash were found in two apartments in Bogotá, obviously waiting to be laundered or spent. In 2000, these two brothers bought one of the AUC franchises, the Victors of Arauca, *Vencedores de Arauca*.

Both brothers demobilized under the Justice and Peace Law until the order came to congregate in La Ceja. They decided to ignore it. During the period that they were fugitives from justice, they massively extended their control. There is evidence that they bought part of the territory and the routes of “Jorge 40” in the Atlantic Coast. That is to say, they bought a list that consisted of people that were being extorted, killers for hire, corrupt politicians, etc. The Mejía brothers also bought the network of Hernán Giraldo in the Sierra Nevada de Santa Marta. The city of Santa Marta was their originally a base of operations, and they spread to Barranquilla and south Bolívar Department. They expanded into Norte de Santander, basically trying to control the border with Venezuela and parts of the Atlantic coast, which are essential drug trafficking departure points and transit routes.

Another drug trafficker who negotiated under the AUC’s umbrella was Carlos Mario Jimenez, alias “Macaco”, who was extradited to the United States in May

2008. He is included in this list because he played a key role when the drug trade split apart in the nineties, after the fall of the two big cartels - the Medellín cartel of Pablo Escobar and the Cali cartel of the Rodríguez Orejuela brothers-, and when the Norte del Valle cartel broke apart. It was said that the drug trade had become characterized by *cartelitos*, “baby cartels” and to a certain extent this is true in the sense that many of the organizations specialize in just one aspect or link in the drug chain. Some act as brokers for procuring coca base, another may be an expert in developing laboratories to produce high purity cocaine, others may be transporters specialized in maritime routes. But the drug trade still needs the capos. This is because the trade is atomized. Someone is needed on top to put all these elements together. If a baby cartel can produce perhaps 200-300 kilos of drugs, it is not able to compete with the big cartels. Someone from the *cartelitos* is not able to go to Mexican drug traffickers and say, “Don’t mess with me because I’ve got five guys behind me and I produce 200 kilos.” Instead, what is needed is a man like “Macaco” to whom one can say, “I want to ship this.” And he can put together big shipments and negotiate and, to a certain extent, guarantee those shipments.

This is how Pablo Escobar behaved when he pioneered the cartel system. That is why these capos are still needed for the drug trade to operate. The AUC, the paramilitary movement, provided the perfect vehicle for the capos. The AUC had a military arm and, thanks to the AUC’s reputation for massacres, selective assassinations, and other brutalities, it sparked fear.

Diego Murillo, alias “Don Berna,” was also extradited to the United States on 13 May 2008.² He is mentioned here to illustrate one essential link in the drug trafficking world in order to understand it. Diego Murillo is a legend in the drug world and the paramilitary world. He started as a bodyguard for the Galeano clan that was part of the Medellín drug cartel. Fernando Galeano was killed by Pablo Escobar at the La Cathedral Prison. Don Berna survived the wave of killings and afterwards he was instrumental in setting up the PEPE’s (*Perseguidos por Pablo Escobar*, People Persecuted by Pablo Escobar), a group the police organized to search for Escobar. They killed much of Escobar’s support base –lawyers, body-

guards, relatives— and subsequently they became the core group for the creation of the AUC. Most of those who were Pepes were the founders of the AUC.

Escobar set up the “collection offices” (“*Oficinas de Cobro*”) and “Don Berna” developed the concept, the first one being the “Envigado Office”. To understand the drug trade, it is important to understand what the offices are. They started basically as arbitration services. Let us suppose that we are all drug traffickers and we are pooling shipments. We hand over the drugs to one person. She is supposed to send the shipment to Mexico, but she loses it. We are all extremely upset. To whom do we turn? We want our money back. We go to the office and we say, “Look, here’s the score.” “Don Berna,” who ran the office for many years, was in charge of deciding what to do in these cases. The offices have become the foundation of the criminal organizations in Colombia. They began in Medellín and now they are everywhere. The guerrillas tried to set something similar up in Bogota, but it did not work out.

Daniel Rendón Herrera, alias ‘Don Mario’, is also worth mentioning because of the power he held during the post-demobilization period until he was captured in April 2009.³ He controlled a strategic corridor in the Northern Coast of Colombia from the Urabá area to La Guajira. He is the brother of former paramilitary leader Fredy Rendón Herrera, alias “El Alemán” (“The German”) of the Elmer Cárdenas Bloc, who is currently incarcerated in the Itagüí prison. Don Mario was always part of the Elmer Cárdenas bloc and financed it. The bloc was unusual within the AUC in that it was actually fought against the guerrillas. It was a true anti-subversive paramilitary force. Along the Atrato River, running the length of Pacific coast in Chocó Department, his brother and the guerrillas engaged in intense combat. That is all behind him now. After the demobilization “Don Mario” began to work with the FARC in the Atrato region. There was a delineation of territory. To ship drugs through the area “Don Mario” controlled in the Gulf of Urabá, particularly the Port of Necoclí, the guerrillas just had to pay a tax. He helped them pool shipments and move drugs. This gave new life to the Jose Maria Cordoba Bloc of the FARC, which operates in the area. This bloc suffered a blow

when his boss “Ivan Rios”, a member of the Secretariat, was murdered by one of his bodyguards in March 2008.

There are two other drug traffickers who were associates of the AUC and are currently very active. The first one is Pedro Guerrero, alias “Cuchillo” (“Knife”), who also failed to turn himself in at La Ceja. He has rebuilt a very large organization calling itself the *Ejército Revolucionario Popular Anti-Comunista* (Popular Revolutionary Anti-Communist Army) ERPAC. The idea, obviously, is to construct an ideological façade, although this appears to be a joke in bad taste because Guerrero is working closely with the FARC. His partner in crime is Daniel Barrera, alias “El Loco Barrera” (“The Crazy Barrera”), one of the biggest traffickers in Colombia at this time.

“El Loco Barrera”, was also an associate of the AUC. An extremely important player in the drug market, he worked closely with the AUC and is actually listed within the organization. Barrera represents the new face of drug trafficking in the sense that he cut his teeth with the FARC. He made his name running drugs for the guerrillas and now, along with “Cuchillo,” is playing both sides. In fact, there really are no sides in the drug trafficking world. It is all about the business. And Barrera very successfully manages guerrilla networks, drug networks, and paramilitary networks, all united by a common interest in moving as much cocaine and heroin as possible without being caught.

According to the FARC, everything is about the paramilitaries, but really what interests them is the drug trade. A good example is Gener García, alias “John 40”, one of the FARC’s most powerful drug traffickers. He is the commander of Front 43 and operates in Meta Department in the Eastern plains. For years he worked with “El Loco Barrera,” and undoubtedly worked with the predecessors of the Centauros Bloc. The FARC now offer the same services that the AUC previously supplied when they controlled the territory: protection of crops, protection of routes, departure points, laboratories, etc. As such, they are, in the truest sense of the word, still a drug cartel. This paper will not address how political they are but rather will concentrate on the drug issue. The FARC are not a homogenous drug cartel, in the sense that the differ-

ent blocs have their own drug trafficking organizations. “John 40” has worked closely with “Negro Acacio” of Front 16, who was killed by the Army in 2007. They ran the drug operations for the Eastern Bloc, one of several FARC blocs, and the most powerful of them. They had other cartels in the Southern Bloc, the José María Córdoba Bloc, so that each of the blocs had at least one drug cartel.

Another change in the situation since the fall of the AUC, and because of the continuing success of the democratic security policy, is that the FARC and the guerrilla groups depend, more than ever, on drugs for financing. Their other two sources of income, kidnapping and extortion, have been very badly hit, so they are relying a great deal now on drug trafficking as their principal source of finance. The ELN has been affected as well. They are breaking down, their command structure is extremely weak and they are getting involved with drugs as well. At least one front, perhaps two, have made alliances with the northern Valle cartel.

I want to give you a little look ahead. We have been talking about peace with the guerrilla groups, including the FARC, and about the deterioration of the command and control structures. One of the major drug players, who plays with all sides—the FARC, the ELN and the Black Eagles—is a man known as “Megateo,” who is from the EPL, a group that demobilized in 1991. Still active, still with the front, the EPL front is now one of the biggest players in the eastern part of the country. The future of the FARC, if they do disintegrate, will lie with this man and the EPL, which could provide us with some hints as to what might happen.

Most of the faces are old and familiar. They are paramilitaries who are either in prison or out of prison and who have ties to the generation of paramilitaries that negotiated with the government, although the situation is different, vastly different. They do not have the same political cover. They do not have the quasi-legal façade, and they are essentially pure drug traffickers. The guerrillas have also lost their political north. They are deteriorating. Their organization is deteriorating. The guerrillas, the paramilitaries, and the drug cartels are becoming increasingly similar, and there is evidence that they are

working together in the interests of drug trafficking, and this is not the exception but rather the rule. They need to. It is good for business. They are specialized in different things. The government, therefore, is now facing a front united in the interest of the drug trade and united in the interest of opposing a weak central government. We have not yet reached the point, but I think we will, when paramilitary groups will carry out criminal actions for the FARC in return for favors and drugs. And so we are looking at a huge, confusing and diverse criminal world with no ideological barriers.

While some of the players in Colombia’s drug trafficking universe have changed, the central thrust of this presentation has not: all criminal elements in Colombia, be they guerrillas, paramilitaries, or drugs cartels, are working together in the interest of the business. This will continue even more as the FARC fragments and the guerrilla high command loses control over its more remote fronts.

Drug cultivation increased in Colombia in 2007-2008. More drugs than ever left the country. The groups handling these drugs are becoming more diverse and more clandestine, increasingly relying on one another to further the business, sharing routes, contacts, products, and networks. The success of the government’s democratic security policy has forced disparate illegal armies and criminal elements to put aside their differences and to cooperate in producing and exporting drugs. •

¹ During the *Rastrillo* Operation, the Army killed Victor Manuel Mejía in a rural zone between Tarazá and Cauca, in the north of the Antioquia Department, on April 30, 2008. Two days later, on May 2, 2008, Miguel Ángel Mejía was captured by the authorities in Honda, Tolima, and extradited to the United States, on March 4, 2009.

² On 22 April 2009, alias “Don Berna” was convicted by a New York judge to 31 years and 3 months of jail and to pay a US \$ 4 million dollars fine for the crime of conspiracy to import cocaine into the United States.

³ After almost a month and a half of persecution, the Special Units of the Police, commanded by General Oscar Naranjo, Director General of the National Police, captured “Don Mario”, in Necoclí (Antioquia) on 15 April 2009.

BIOGRAPHIES

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