

Number 212

COLOMBIA:
HUMAN RIGHTS AND
THE PEACE PROCESS

Latin American Program
The Woodrow Wilson Center

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ACKNOWLEDGMENTS

This report was prepared by Cynthia Arnson, Senior Program Associate in the Latin American Program of the Woodrow Wilson Center, and Jane Marcus, doctoral candidate in Latin American Studies at the Johns Hopkins University School of Advanced International Studies. It is based on an all-day conference held at the Wilson Center on April 4, 1995. Cynthia Arnson and Joseph S. Tulchin, Program Director of the Latin American Program, organized the event. In this task, they received invaluable assistance from the staff of the Latin American Program, including Program Assistant Michelle McCallum, Program Associate Allison Garland, and Research Assistant Ralph Espach. Intern Angela Acosta provided research and production support for this publication. Interns Meraiah Foley and Britin Ashworth also assisted prior to and during the conference.

The Latin American Program wishes to express its gratitude to the Embassy of Colombia, and particularly to Ambassador Carlos Lleras de la Fuente, Minister Counselor Mauricio Echeverry, and Second Secretary Mauricio Jiménez-Pérez, for their cooperation and assistance in securing the participation of Colombian government officials and for working to ensure the overall success of the conference. We are also especially grateful to Norman A. Bailey and William Perry of the Institute for the Study of the Americas, without whose generous financial support the conference would not have been possible.

Finally, we wish to thank all the conference participants, whose openness and seriousness of purpose made for a frank and enriching exchange.

In preparing this report, every effort was made to remain true to the text of the transcribed presentations. Explanatory footnotes were added to identify names, places, and events mentioned, but otherwise not explained, by the panelists. Despite our best efforts, however, difficulties involved in interpreting, transcribing, and translating the presentations leave ample room for inadvertent error. The Latin American Program regrets and is solely responsible for any errors of fact or interpretation that may be contained in this document.

INTRODUCTION

Colombia enters the public mind in the United States when members of a drug trafficking cartel stage a spectacular act of terrorism, or when a major kingpin in the drug trade is captured or killed. Yet just as the sum total of Colombia cannot be reduced to the drug trade, so the nature of violence suffered by Colombians of all walks of life cannot be limited to that spawned by narcotraffickers.

Colombia has one of the highest murder rates in the world. Criminal violence, deemed "non-negotiable" violence by several conference panelists, by far accounts for the majority of the killing. Yet political violence of the "negotiable" type still claims thousands of victims each year: soldiers and guerrillas killed in one of Latin America's longest-running insurgencies, civilians murdered or disappeared by government security forces or paramilitary groups, civilians assassinated or kidnapped by guerrilla forces.

It is this "negotiable" violence, presumably within the power of government officials, guerrillas, and civil society to address, that served as the focus for the April 4, 1995, conference at the Wilson Center. Colombian government officials, in fact, expressed a keen interest in holding the kind of dialogue represented by the Wilson Center conference, which focused on the roots and current manifestations of, as well as possible solutions to, the twin outrages of war and human rights abuse.

The government of President Ernesto Samper Pizano entered office pledging to renew peace talks with Colombia's remaining insurgent groups, and has taken several concrete steps aimed at remedying the country's human rights crisis. While there was a consensus among panelists that the Samper government was addressing the human rights situation as a problem of substance rather than image, wide divergence persisted between government representatives and non-governmental organizations over the adequacy of steps taken to this point or the degree of government responsibility for political violence.

Historians and political scientists examining the roots of violent conflict concurred that unresolved questions of political development dating from

La Violencia of the 1940s and 1950s informed the current situation. Unlike representatives of non-governmental human rights organizations, who saw the ongoing violence as evidence of a lack of government will to address the problem, academic analysts identified the root causes as a chronically weak state, with little control over territory, suggesting that the government was essentially incapable of reining in guerrillas, drug lords, and paramilitary groups. One commentator went so far as to submit that the epidemic of violence in Colombia reflected a partial collapse of the state, which could be remedied only through the collaboration, if not intervention, of the international community.

Panelists also concurred that changes in the leadership and *modus operandi* of the guerrilla forces complicated the search for a negotiated settlement of the war. Recent and widespread guerrilla involvement in drug trafficking and other criminal activity made political demands more difficult to isolate and address. Moreover, the experience of previous peace processes, in which numerous demobilized fighters were killed by paramilitary groups or ex-comrades-in-arms, diminished the attractiveness to current insurgents of participating in new rounds of talks.

Alternatively, panelists viewed as positive the commitment of the Samper government to the peace dialogue, as well as concrete measures such as the ratification of Protocol II of the Geneva Conventions governing internal armed conflict. The international climate and accumulated experience in conflict resolution was also said to favor the negotiated settlement of longstanding disputes.

It is our sincere hope, and that of our colleagues at the Institute for the Study of the Americas, Norman A. Bailey and William Perry, that the Wilson Center conference, by presenting a variety of views and exposing the complexity of the Colombian situation, contributes to a more intelligent policy debate in the United States. In addition, by providing an international setting for the discussion of human rights and the peace process, we hope to signal Colombians that there is interest in and support for their efforts to overcome the violence that has exacted such a terrible toll. If through the conference and this report we have succeeded in either regard, we will feel that we have made a modest contribution.

Joseph S. Tulchin
Program Director

Cynthia J. Arnson
Senior Program Associate

EXECUTIVE SUMMARY

Scholars, representatives of major human rights organizations, Colombian government officials, and specialists in international conflict resolution gathered at the Woodrow Wilson Center on April 4, for a major conference on Human Rights and the Peace Process in Colombia. The objective of the conference was to explore the linkages between Colombia's history of political violence, the current human rights situation, and prospects for a negotiated settlement of Colombia's thirty-year-old guerrilla conflict. What follows is a summary and highlights of the day's proceedings.

Joseph S. Tulchin, Director of the Latin American Program at the Woodrow Wilson Center, opened the conference, placing the themes in the broader context of a six-country study underway at the Woodrow Wilson Center on the role of peace processes in transitions to democracy. Colombian Ambassador to the United States **Carlos Lleras de la Fuente** underscored the complexity of his country's human rights situation and the difficulty as well as the urgency of concluding a successful peace process in the near future.

In a first panel on the violence in Colombia in historical perspective, **Gonzalo Sánchez**, director of the Institute for Political Studies and International Relations of the National University in Bogotá, stressed the multiplicity of sources of violence, including the "dirty war" against the guerrillas, the guerrillas themselves, organized crime, drug trafficking, land, social and ethnic conflicts, and labor disputes, all of which feed on one another. He made a key distinction between political violence, which is negotiable, and non-political (i.e., criminal) violence, which is non-negotiable. The guerrilla war accounts for only a tiny percentage of homicides in the country, and Colombia has the highest rate of intentional deaths in the world. Moreover, the high murder rate of guerrillas who have demobilized has sapped credibility from the peace process.

Jonathan Hartlyn, professor of political science at the University of North Carolina at Chapel Hill, identified several factors in the country's history of violence: 1) "savage capitalism," characterized by high levels of material deprivation, sharp inequalities in wealth, and the absence of horizontal linkages in civil society; 2) a historically weak state, without full sovereign control over the national territory or a monopoly on the means of violence; 3) the long dominance of two clientalistic, sectarian political parties, which imperfectly integrated the nation following *La Violencia* of the 1940s and 1950s; and 4) a weak military. The way *La Violencia* was resolved, through political exclusivism and clientalist practices, contributed to present-day violence. The impact of drug trafficking in the 1970s and '80s further provoked a crisis of state authority and new waves of violence.

Rafael Pardo, former Minister of Defense and a Visiting Fellow at Harvard University's Center for International Affairs, named three principal actors in the violence. Guerrilla groups have dominated the violence in the last twenty-five years, he said, growing numerically and territorially in the early 1980s (particularly in coca-growing, oil, and mining regions), only to weaken from 1990 onwards due to internal divisions, the effects of the peace process, and a lack of leadership. Drug traffickers constitute a second major source of violence, creating coordinated, organized structures, and adopting terrorist tactics in order to avoid extradition to the United States and to influence government decisions. Paramilitary groups, created in the 1960s and financed now by drug traffickers, constituted by 1989 the most serious threat to the institutional stability of the country. Today, however, there are large and widely-spread local groups that do not answer to one central authority.

Moderator **Herbert Braun**, Professor of History at the University of Virginia, Charlottesville, highlighted two themes common to the presentations, which were referred to frequently during the course of the day. The first was the distinction between public and private violence, mirroring the negotiable-non-negotiable dichotomy; and the second was the wide variety of actors challenging the legitimacy of the state.

In a second panel on human rights and international humanitarian law, **Nancy Ely-Raphel**, Principal Deputy Assistant Secretary of State for Human Rights

and Humanitarian Affairs, emphasized impunity as a primary barrier to the improvement of human rights. Currently 97 percent of all crimes in Colombia go unpunished. The problem is especially acute within the security services, and constitutes a principal obstacle to the improvement of human rights. An alliance between guerrilla groups and drug lords has also led to higher rates of violence and a more complicated peace process. Ely-Raphel applauded President Samper's efforts to address impunity, reform the ordinary and military justice systems, and work more closely with non-governmental organizations. But she criticized the government's counter-narcotics performance as well as plans to create "local security cooperatives" of armed civilians.

Gustavo Gallón, Executive Director of the Andean Commission of Jurists -- Colombian Section, stated that more than ten people a day die in Colombia for political reasons, a rate that has soared since 1980. Although responsibility is hard to determine, he said that some 65 percent could be ascribed to the armed forces and paramilitary groups and 35 percent to the guerrillas. Nonetheless, political violence accounted for less than 15 percent of the total number of murders per year in Colombia. Gallón acknowledged the importance of steps taken by the Samper government to improve human rights, including the ratification of Protocol II of the Geneva Conventions, and the creation of a commission to investigate a large-scale massacre in the town of Trujillo. He criticized, however, objections the government maintained to legislation governing forced disappearances, as well as the government's stance in the Inter-American Court of Human Rights in Costa Rica on a well-known human rights case involving the disappearance of two teachers.

Pilar Gaitán, Director of the Colombian Ministry of Defense's human rights office, outlined various institutional efforts to address the serious human rights situation, including the creation of the post of Presidential Adviser on Human Rights and several provisions of the 1991 Constitution guaranteeing basic rights. She stressed that human rights violations constituted a substantive, not an image problem that compromised the credibility and legitimacy of the state and had become an issue in international relations. Under the Samper government, 100 human rights offices have been created in the armed forces, to receive denunciations and investigate complaints of abuse. Human rights education within

the armed forces has also been strengthened. A commission to reform the military penal code has also been formed, with the participation of prominent NGOs.

James O'Dea, Director of the Washington Office of Amnesty International, highlighted abuses carried out by some 100 paramilitary groups, which, he said, have strengthened their coordination at the national level and continue to operate with army support, despite government decrees disbanding them. He criticized the provisions of the 1991 Constitution which allowed for continued military jurisdiction over crimes committed by members of the armed forces and police, as well as the failure to punish human rights violators from the armed forces, despite the thousands of judicial investigations opened. Meanwhile, civilians are subjected to "public order" courts which severely restrict due process rights. O'Dea welcomed Colombian government invitations to members of the United Nations Human Rights Commission to visit Colombia, as well as the government's acceptance of state responsibility for the Trujillo massacre.

Juan Tokatlián, Director (on leave) of the Center for International Studies of the Universidad de los Andes in Bogotá and moderator of the second panel, suggested that the degradation of the human rights situation in the 1980s reflected a second partial collapse of the state, similar to the one which occurred during *La Violencia*. He asked whether human rights and drug trafficking were issues that could be solved with the cooperation of the international community, or whether the severity of the problems warranted international intervention.

The third panel examined institutional efforts to address impunity. **Robin Kirk**, Andean researcher for Human Rights Watch/Americas, highlighted the seeming paradox that a country with one of the most developed human rights bureaucracies in Latin America continued to register such high levels of human rights abuse. She painted a detailed picture of paramilitary violence against opposition politicians and community and human rights activists in Meta province, and faulted the government for lacking the political will to prosecute human rights violators in the security forces. She contrasted the Colombian situation to that of Peru, where mustering sufficient political will resulted in dramatic improvements in human rights. A key demonstration of political will in Colombia, she said, would be to end military court jurisdiction for human rights crimes committed by members of the security forces.

Carlos Vicente de Roux, Presidential Counselor for Human Rights, stressed numerous advances in the effort to protect human rights, including educational campaigns, institutional development, strengthening of the judiciary, efforts to reform the military justice system, and acknowledgment of the problem by several administrations. He decried those who dismissed government efforts as inconsequential, and insisted that the government was on the right path, even if much remained to be accomplished in order to protect human rights. He emphasized guerrilla as well as government responsibility for violence, adding that the challenges of protecting human rights and seeking peace are more complex given the guerrillas' widespread involvement in common crime. He pointed to several efforts to combat impunity, including the work of a commission to reform the military penal code.

Robert Weiner, Latin American Coordinator for the Lawyers Committee of Human Rights, noted the regular imposition of states of emergency as elements of a legal framework that contributed to human rights violations. While acknowledging threats to members of the judiciary by insurgents and drug traffickers, he criticized the severe restrictions on due process inherent in the "public order" courts designed to combat these twin evils. He said that the use of anonymous judges, secret witnesses, and secret evidence, and the granting of expanded investigatory and arrest powers to the military, have resulted in a system of massive detentions, including of many wrongfully detained. Military wrongdoing, meanwhile, continues to go unpunished.

Moderator **Pamela Constable** noted that the government and non-governmental representatives on the panel appeared to be speaking about two different countries, and asked panelists to try to resolve the dichotomy. Carlos Vicente de Roux underscored the numerous pressures and simultaneous tasks imposed on army and police officers, but insisted that responses needed to be within a legal framework and that pressure from NGOs was useful and constructive. Robin Kirk replied that the debate over human rights was still within a select community, and that many who held real power in Colombia were still hostile to the notions being discussed.

In a final panel on the peace process, Presidential Adviser for Peace **Carlos Holmes Trujillo** described initial exploratory contacts with the guerrillas and consultations with economic and other sectors of civil society as essential preparatory steps to an eventual negotiation. He noted numerous obstacles to a peace agreement, including the duration of the guerrilla conflict, the insurgents' political and economic growth, overall skepticism about the peace process within Colombian society, and the increased autonomy of municipal and state officials, making them more susceptible to guerrilla demands. On the positive side are the experience the country has gained with successive negotiations, the political will to transform institutions, and the changed international climate favoring the negotiated resolution of internal armed conflicts. Dr. Holmes expressed the government's willingness to accept a mechanism for verification of the peace accords, and called on the guerrillas to uphold the norms of the recently-approved Protocol II of the Geneva Conventions.

Alvaro de Soto, United Nations Assistant Secretary General for Political Affairs, outlined reasons for pessimism and optimism about the Colombian peace process. He characterized as alarming the high proportion of what had been described earlier as non-negotiable, non-political violence in Colombia, as well as the high rate of casualties among ex-guerrillas, the non-cumulative nature of previous negotiations, and the number of displaced persons. On the positive side, however, he noted a government will to acknowledge and address existing problems (including human rights violations), and praised the institutional framework provided by the 1991 Constitution. Finally, he noted a "new isolationism" on the part of the international community following well-publicized set-backs for the United Nations, suggesting that Colombians would have to work out problems essentially on their own.

Diana Chigas, Program Director of Conflict Management Group, highlighted several basic challenges common to peace processes. First was the need to recognize that cease-fires would be the result, and not a precondition of negotiation; second was the establishment of an agenda including all the issues of importance to both sides; third was the setting of expectations and the establishment of procedures to ensure that negotiations were not side-tracked by acts of violence intended to undermine the talks; and fourth was the building up of coalitions across conflict lines, in order to move toward joint problem-solving. "Pre-negotiations" which

build up trust and informal channels of communication can assist in tackling more difficult substantive issues later on, she said.

Cynthia Arnson, Senior Program Associate of the Latin American Program of the Woodrow Wilson Center, noted that political violence and human rights violations could be significantly reduced through peace talks, even if all sources of violence could not be addressed simultaneously. As in El Salvador, the Colombian government negotiators could use the peace talks to institute changes and reforms that they themselves wanted to implement. Once peace talks were underway, moreover, they take on a dynamic of their own, creating expectations and pressure for action and commitments.

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PANEL ONE: VIOLENCE IN COLOMBIA-- THE HISTORICAL CONTEXT

GONZALO SANCHEZ

In understanding the historical context of contemporary violence, there are some important characteristics about Colombia that are important to remember. First, Colombia is a country of successive wars and reconstruction. Since independence it has had nineteen civil wars, more than any other Latin American nation. It is especially known for the period of *La Violencia* and for contemporary guerrilla warfare that has taken place from the 1960s to the present. Although there is not necessarily a causal relationship, one has to take into account the memories of other peace negotiators who have been assassinated throughout history. Carlos Pizarro, William Calvo,¹ and others were killed while attempting to negotiate an end to Colombia's violence. The memory of their assassinations has a strong negative effect on the progress of current peace processes.

Colombia is also fertile ground for conflict. Violence has permeated multiple layers of the nation's culture and consciousness, and artistic and literary representations of the country reflect the tradition of war. In Gabriel García Márquez' work, the character Aureliano Buendía shows violent conflict to be an integral part of the nation's collective memory. However, it is also important to remember that other key elements in history are pacts, accords, and constitutions that emerged during the resolution of conflict. The recent Constitution of 1991 offers a great potential for fundamental change.

Another of Colombia's characteristics is the multiplicity and simultaneity of its violence. It currently has the "dirty war" against the guerrillas; disagreements

¹ Carlos Pizarro Leongómez, an M-19 guerrilla commander, was the chief negotiator of the 1990 peace accord between the M-19 and the government of President Virgilio Barco. He became the presidential candidate of a coalition of leftist parties in 1990 and was assassinated one month before the May elections. Oscar William Calvo, leader and spokesperson for the EPL guerrillas, was assassinated in November 1985, causing a break in peace talks with the government that lasted several years.

over land in the Atlantic Coast region; mining issues and fights for profits; social conflicts and labor disputes. In Cauca, there are also ethnic conflicts. There are different cycles, scenarios, and actors mixed up in violence, all of whom feed on themselves and perpetuate the climate of violence. There is no single bipolarity in violence in Colombia as there is in other countries.

It is also possible to differentiate between two types of violence in Colombia: political violence which is negotiable, and non-political violence which is non-negotiable. Political violence is generally responsible for two to three percent of homicides in the country -- 700 to 800 per year -- and that figure includes assassinations of members of the army and police.

To understand the significance of overall levels of violence, as of 1993-1994 Colombia had the highest rate of intentional deaths in the world: 77.5 per thousand, as compared to 4.6 in France, 8 in the United States, 24 in Brazil, 20 in Mexico and 11.5 in Peru. One reason for public distrust in the justice system investigating all of these assassinations is that only 20 percent of crimes are reported. And in 1994, the Ministry of Justice acknowledged that of the over 3,000 kidnappings a year, only one percent ended up in a conviction. So a great deal remains to be done in the justice system in Colombia.

However, there is a more important trend in the different forms of violence which is extremely dangerous and worrisome. While there is a process of delegitimization of forms of political violence, there is a rise in non-political, i.e. criminal, forms of violence. Because of this, we may be getting into a vicious circle in which guerrilla groups disarm, and then become a source of new criminal groups, bringing the cycle full circle and cutting short the possibility of a lasting peace. As a result, there is a need to re-politicize the conflict so as to avoid the criminalization and narcotization of violence. Otherwise, it is possible that the chances for a political settlement may be cut off.

More than isolating the guerrillas at this time, there is a great need to bring the guerrilla movement into the national and international arenas. For example, if you compare the isolated, introverted nature of the Colombian guerrilla to the Salvadoran guerrilla, it seems that the latter benefitted a great deal from traveling, not only through Latin America but also through the United States and Europe.

The same needs to be tried with the Colombian guerrillas and I think there would be benefits.

An additional point of concern has to do with the credibility of the process. That is to say, how can we convince those who are still up in arms of the benefits of peace? This is a critical point and there are some recent figures from one of the groups that demobilized in the latest period which could be quite indicative. They complain of assassinations and the impossibility of settling or resettling their forces, citing figures such as the following:

The group known as "Hope, Peace and Liberty" (*Esperanza, Paz, y Libertad* - EPL) reports that of the 3,045 ex-combatants who have been amnestied and pardoned, there were 274 homicides, (8.3 percent), and there was a rising trend in this figure during the four years of the process. In 1991 there were 48 murders; in 1992, 51; in 1993, 76; and in 1994, 99. Most of them were in Urabá, followed by Córdoba (23 percent). And it is obvious that in previous efforts to bring peace or to have guerrilla forces brought into the political process, such as the case of the UP², paramilitary groups played a key role in the assassination of those former activists.

To indicate just how complex the Colombian case is, I'd like to emphasize that in this specific case, the EPL assigns responsibility for these assassinations as follows: they attribute 34 percent to the FARC (another still active guerrilla group); nine percent to a dissident EPL movement³; three percent to the army; three percent to the police; two percent to paramilitary groups; and one percent to the ELN (another active guerrilla movement).⁴ The EPL notes many complications in the process of reincorporation, including difficulties in the ways in which doors were shut to them in this process of reincorporation. They note that, in their view, the process was not a negotiation, but instead a unilateral demobilization. They do not feel that the other side has adequately followed through.

² *Unión Patriótica*, a leftist party founded in 1985. The UP is loosely connected to the Communist Party and largely sympathetic to the *Fuerzas Armadas Revolucionarias de Colombia* (Revolutionary Armed Forces of Colombia), the largest guerrilla group. The UP estimates that over 2,000 of its activists have been murdered since 1985.

³ *Ejército Popular de Liberación*, Popular Liberation Army.

⁴ *Ejército de Liberación Nacional*, National Liberation Army

Finally, we have to take into account the historic limits of political negotiation. In the process of a succession of wars that I noted at the outset of my comments, each of the stages ended in a process of political reform, generally with a new constitution. A key factor in the current moment is change in the magnitude of negotiations. And this is for several reasons. First, there is a tremendous multiplicity of actors, and in a negotiation process you have to be able to work with not only the negotiating group but also the local authorities, the paramilitary groups and so on. Second, in Colombia there are successive but not cumulative negotiations. That is, there are no achievements in the previous process that can be highlighted as an attractive lesson for those who follow in the negotiation. People tend to perceive the process as a chain of successive frustrations. Third, the last negotiation process with the M-19 ended with a new constitution. But you can't have a constitutional forum for every group that lays down its arms and becomes reincorporated. So this is yet another limitation.

Finally, in the past, the pacification, amnesty, and pardon processes were with poor peasants in poverty. Now we find at the negotiation table groups that have hefty economic resources, which come from a wide variety of sources. This is the case with both the FARC and the ELN. This means that at some point the process of reincorporation in Colombia will have to address the question not only of reincorporation of the old guerrillas, but also the incorporation of different blocks of capital.

JONATHAN HARTLYN

The various authors who have analyzed Colombia to explain the background of violence in the country's history include at least three factors. The first factor is one that Herbert Braun has discussed very eloquently in his most recent book, *Our Guerrillas, Our Sidewalks*,⁵ which he terms "savage capitalism," with its complex manifestations in rural areas at the level of both large land holdings and small coffee holdings. This has been analyzed, for example, in the work of Paul Oquist,⁶ and especially by Chuck Bergquist,⁷ in addressing some of the socio-economic causes of *La Violencia* of the 1940s and 1950s and its more current urban manifestations. Savage capitalism feeds off of high levels of material deprivation, sharp inequalities in the country, and a civil society that has few horizontal solidarity-type organizations.

Robert Putnam refers to these horizontal solidarity-type organizations in the context of what he calls "social capital." In his book on Italy,⁸ he uses this notion to try to explain why it was that the northern part of Italy was able to take much greater advantage of a series of institutional reforms than the southern part of Italy. He attributes this to social capital -- the existence of these horizontal solidarity-type organizations -- in contrast to what permeated the southern part of Italy, and, what is also very present and visible in Colombia, vertical clientelist kinds of structures.

A second factor that people have focused on would be an historically weak state, the result of a multiplicity of factors, ranging from regionalism in the country's topography to a weak military. The state has rarely been able to carry out its full, sovereign control over the country's territory or to maintain a monopoly over organized force. Its presence in the economy was always more limited than other Latin American countries at equivalent levels of development. Colombia did not have, for example, what Marcelo Cavarozzi has termed a "state-centric matrix" in explaining what it was that collapsed in the larger Latin American countries in

⁵ Herbert Braun, *Our Guerrillas, Our Sidewalks* (Boulder: University Press of Colorado, 1994).

⁶ Paul Oquist, *Violence, Conflict, and Politics in Colombia* (New York: Academic Press, 1980).

⁷ Charles Bergquist, *Coffee and Conflict in Colombia: 1886-1910* (Durham: Duke University Press, 1978); Charles Bergquist, Ricardo Peñaranda, and Gonzalo Sánchez, eds., *Violence in Colombia: The Contemporary Crisis in Historical Perspective* (Wilmington, DE: Scholarly Resources, Inc., 1992).

⁸ Robert Putnam with Robert Leonardi and Raffaella Y. Nanetti, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, NJ: Princeton University Press, 1993).

the wake of the exhaustion of import-substituting industrialization, debt crisis, and economic globalization.⁹

A third factor, one that has been the focus of some of my past work on Colombia,¹⁰ would be the two traditional clientalistic sectarian political parties. In Pacho Leal's turn of the phrase, these parties divided the population but integrated the nation. Their history, as Gonzalo Sánchez has noted, was one of war and hegemonic peace until the National Front period. They have always integrated the country only partially, imperfectly, and through clientalist structures that have limited the ability to create what one might call full citizens in the country.

These three factors are important background elements of contemporary violence. A fourth factor is that historically Colombia has had a weak military. During the National Front, the armed forces became a more corporate, professionalized entity, independent and with considerable autonomy from the two traditional parties. How to characterize the contemporary Colombian armed forces with their complex ties to and sometimes conflicts with paramilitary groups and regional landowners is a topic that I would like to hear more about and one which, Rafael Pardo, the country's first civilian Minister of Defense in many decades, is well qualified to address.

Yet does a history of civil war and does *La Violencia* of the 1940s and 1950s mean that Colombia has an ineluctable penchant for violence, and that what we are witnessing currently is only the latest manifestation? Gonzalo Sánchez has expressed his doubts and I would also. There are some reasons for caution. Discussions of statistics are odious, but sometimes useful for historical or comparative purposes. Bushnell, for example,¹¹ emphasizes that taking at face value the estimate of 100,000 deaths for the War of the Thousand Days -- a civil war from 1899 to 1903 -- the Colombian total of deaths in civil conflict for all of the 19th century, (somewhat over 2 percent of the country's population), falls short in

⁹ Marcelo Cavarozzi, "Beyond Transitions to Democracy in Latin America," *Journal of Latin American Studies*, Vol. 24, 1992.

¹⁰ Jonathan Hartlyn, *The Politics of Coalition Rule in Colombia* (New York: Cambridge University Press, 1988).

¹¹ David Bushnell, *The Making of Modern Colombia: A Nation in Spite of Itself* (Berkeley, CA: University of California Press, 1993).

proportionate terms to fatalities of the U.S. Civil War of some 600,000 men, or about 3 percent of the U.S. population.

The discontinuities in time, in purpose, and in nature between the War of the Thousand Days and *La Violencia* of the 1940s are very considerable. If we can believe Oquist's estimates for casualties of *La Violencia* in the worst three years from 1948 to 1950 -- around 40,000, 18,000 and 50,000 -- then current figures of around 30,000 for total homicides in Colombia, as atrocious and unacceptably high as they are, do not appear to have approximated the highest levels of fatalities of this early period of *La Violencia*. And the country's population is now roughly double what it was in the 1950s. The violence back then was essentially rural and overwhelmingly affected the peasantry. Current violence has also affected political leaders, government officials, judges, journalists, human rights monitors and others, and has been reported more comprehensively by the country's mass media, though less well internationally.

At the same time, and to place it in a somewhat different perspective, as Ana Carrigan notes, each year since 1986 the numbers killed, disappeared or dead from torture at the hands of "the State or its paramilitary allies" in Colombia is greater than those for the whole seventeen years of the Pinochet dictatorship in Chile.¹²

What links the earlier violence, which by comparison dwarfs the current one, in Bergquist's terms? As Bergquist notes in the introduction to an edited book on the violence in Colombia, the links are social issues, especially related to land, and, as I have emphasized in my own work, political issues. The fact that *La Violencia* had as a precipitating cause and principal channel partisan conflict, and that this conflict then generated others, to the extent that top party leaders felt it had escaped from their control even as overall levels of violence declined, helped to explain the way in which the conflict was resolved through the National Front coalition governments. Created in 1958, these governments combined compromise at the top with political exclusivism and clientalist practices.

Thus, *La Violencia* was never fully resolved, and I think that there are some links between old guerrilla leaderships, areas of initial guerrilla activities, formative

¹² Ana Carrigan, "A Chronicle of a Death Foretold: State-Sponsored Violence in Colombia," *NACLA Report on the Americas*, Vol. 28, No. 5, March-April 1995, pp. 6-10.

experiences in *La Violencia* of some newer guerrilla leaders, and the insurrectionary guerrilla movements of the National Front era into the present. Therefore, although I am skeptical of arguments about a culture of violence in Colombia, given other much more plausible factors to point to, there are links that suggest that the geography and especially the politics of violence in the country, although perhaps neither necessary nor sufficient to explain the current violence, are important contributory factors. And in the presence of these two factors, the effects of drug trafficking may have been the sufficient condition to explain why the levels of violence in Colombia have continued.

Historians looking at this era may well emphasize the 1970s in Colombia as a decade of missed opportunity. It may be seen as a decade when, if crucial reforms had been enacted and perhaps drug trafficking controlled, the country's subsequent track might have been different. Instead, it was a decade of growing crisis. Although the political exclusivism of the National Front was crucial in the nurturing of the old and the creation of new guerrilla groups, ironically, a return to competitive elections in the 1970s made it more difficult for opposition movements to gain electoral representation, even as the traditional parties were increasingly incapable of channeling dissent, became more factionalized, and formed fewer links to societal groups. They showed themselves repeatedly unwilling to undo coalition rule and open up the political system in the face of a vastly changed society.

Political turmoil in the 1970s into the 1980s was inevitable, as the regime confronted a growing legitimacy crisis. Transforming the regime would almost certainly have been traumatic, uneven, and even sporadically violent. But in the 1970s the phenomenon of drug trafficking began to become important economically in the country. Drug trafficking, with its de-institutionalizing impact on the state, its demoralizing effects on the regime, its diverse temporary alliances and impact on a wide variety of other social actors and social processes, combined with the consequences of the attempted response to it, helped provoke a more generalized crisis of state authority and wave of violence. Thus, drug trafficking and its effects on Colombian society, state security services, and political institutions, given the historical context, inevitably serve as a backdrop to our discussions today. Added to this are the potentially serious negative impact on democracy of poorly crafted international pressure and incomplete state efforts to combat drug trafficking ; the

former, helping to spawn a nationalist attitude that may be tolerant or even pro-narcotics, and the latter demonstrating or even accelerating state weakness.

If the particular nature of the politics of coalition rule under the National Front was important as a background factor, so, too, are issues related to state autonomy and state capacity. Part of bringing *La Violencia* of the 1940s and 1950s to a significant, though incomplete end, involved rearticulating state authority over disparate regions of the country, and coupling regional figures to central authority, while separating them from guerrilla and bandit leaders, some of whom were gradually defeated, others amnestied, some killed, and others eventually becoming parts of new guerrilla groups.

Democracy requires functioning state institutions and presupposes a rule of law. Both of these, I would argue, are in question in contemporary Colombia. State negotiators have been unable to ensure the physical safety of amnestied guerrillas or left-wing activists, or even sometimes of its own top officials.

To what extent is this due now to intra-state factors as well as to other factors? To what extent is violence due to factors and forces outside of the control of the Colombian state and the current government? What degree of responsibility does the current administration hold for the actions of the armed forces and others who work for the state who are associated with violence? How can the Colombian state be made more accountable for its own actions? What should Colombian government officials and others do about it? Those are the questions that I hope will be debated the rest of today.

Twelve years ago I wrote an article about the beginnings of the Betancur administration,¹³ titled, "Old Problems, New Opportunities." In that article, I cited a phrase by former president of Colombia, Carlos Lleras Restrepo, who had argued in 1980 that Colombia appeared to be *un país desencuadernado* -- a country that was unraveling itself, like a wire notebook whose pages are becoming loose.

Six months after I wrote that article about the Betancur administration, I was asked to write a brief update. And I had to title that one, "Problems Intensify, Opportunities Narrow." It seems to me that since then the problems have again

¹³ Belisario Betancur, President of Colombia, 1982-1986.

intensified in Colombia and the opportunities have narrowed. I hope this time, though, if I'm asked to write an update six months from now, perhaps I can title it differently.

RAFAEL PARDO

As I am not an historian, my contribution to this discussion will be to review the evolution of the actors in organized and non-institutional violence during the last decade. As Gonzalo Sánchez mentioned, we are used to the idea that violence in Colombia is a continuum, stemming from the War of the Thousand Days. The violence of the 1930s was followed by the political violence of the 1950s, and this has continued reproducing itself up until today. However, there are certain events and predominant elements that differentiate the various types of violence in the continuum.

Nineteen fifty-seven was the year that registered the highest number of violent deaths in Colombia. The number started to decrease slowly for the following two decades, reaching its lowest points in the mid 1970s, when it slowly began to rise again. The highest point that was equivalent to 1957 in violent deaths per 100,000 inhabitants was perhaps in 1987, where once again we reached a peak of about sixty violent deaths per 100,000 inhabitants. Since 1987, the amount of violence has continued to grow gradually year to year, with the possible exception of last year, when there was a relatively small decrease.

The statistics are overwhelming. What we should try to do here is focus on the guerrilla movement, which has dominated violence for the past twenty-five years. Ten years ago there were four main guerrilla groups -- FARC, M-19, EPL, and ELN -- which were politically and ideologically very different. Three of them had joined together ten years earlier in a peace process during the Betancur administration, as they were formerly in agreement with the government. The ELN was never part of the negotiations or peace process.

Of the three groups that had initiated the peace process, only the FARC remained by the end of the Betancur period. The FARC entered into a temporary ceasefire in 1984, which was suspended in 1985. The group then agreed to another indefinite ceasefire before the elections in 1986; the ceasefire was maintained until it deteriorated in the middle of 1987.

During the first part of the 1980s, these four groups grew in ranks and in territory. The ELN, which barely existed as more than 100 men at the beginning of

the 1980s, began to grow very quickly. By the end of the decade it was the second largest group in the country. The FARC began to grow slowly and consistently in 1982 in both its number of men and its territory of operations. The M-19 and the EPL did not grow in territory, domain, or men. In the first half of the decade these groups even diminished in the number of members. The EPL remained the same size and the M-19 went from the Caquetá to the Valley of the Cauca; their territorial area and membership did not increase after that period.

Why did two of the guerrilla groups grow while the others remained the same size? There were several explanations given at the time. Many attributed the growth of the guerrilla to the effects of the peace process of the Betancur government. This would be true for the FARC, but not for the ELN, which was the group that grew the most during that period and did not participate in the negotiations. Others link the growth factor to attractive ideological premises and political platforms. This is irrelevant, however, in explaining how or why some groups grow and others do not. Another explanation may be the military pressure exerted after the Palace of Justice attack.¹⁴ Practically all the government's armed forces fell full force on two of the groups for the next five years, while not concentrating as intensely on the other two groups.

Finally, part of the explanation for why some groups grow and others do not lies in their sources of financing. Both the FARC and the ELN found such sources. The ELN grew along the oil pipelines and in the mining areas where it was possible to obtain resources. The FARC also grew. Half of their growth -- quantitatively and territorially -- was in the coca growing regions. At the end of the 1980s, the FARC had a third of its men in the areas of the coca plantations in the eastern mountain ranges.

The growth at the end of the 1980s was thus in the oil, mining, and coca-growing regions. The growth in the 1990s for both groups went towards the Atlantic coast, and to areas that were abandoned by the M-19 and other groups that became part of the political process. In addition, ten years ago there were very strong leaders in each one of the guerrilla groups and a weak organization to unify them -- the

¹⁴ As the peace process with the Betancur administration broke down, M-19 guerrillas seized the Palace of Justice in November 1985. Among the hundreds they took hostage were twelve Supreme Court justices. The military re-took the Palace by force, killing scores of people, including all twelve justices.

National Guerrilla Coordinating Group (*Coordinadora Nacional Guerrillera*). The FARC was not part of this, despite the fact that it was at the time, and continues to be, the biggest group.

In my opinion, since 1990, there has been a shifting and a weakening of the guerrilla groups, especially of the FARC. Two factors influencing this change have been the unification at a military level with the guerrilla coordinating group¹⁵ and the death of Jacobo Arenas, who was the leader that maintained the FARC's political unity and promoted its growth.¹⁶ After Arenas died, and the ELN and FARC began to unite militarily, their internal leadership made it difficult to negotiate from 1990 onwards. In my opinion, during the conversations in Caracas and Tlaxcala,¹⁷ the FARC showed that there was a lack of leadership and decisionmaking within its ranks. It is difficult to reach an agreement with groups that more and more have a corporate and federal structure, which is what the FARC had at the time.

Another element in Colombian violence is narco-trafficking. By the mid-1980s, narco-traffickers had already established a corporate mindset in terms of how they established their drug business and how they behaved towards the government. Two other factors contributed to the situation. The first one had to do with the creation of illegal drug cartels, which demanded an organization that was better coordinated and structured. The second factor was the way they acted in relation to other sectors of society, unifying the drug cartels in order to defend themselves from other violent groups, and at the same time, taking action against the government when threatened with extradition.

By the middle part of the decade, the drug traffickers had a highly-developed organizational structure that carried out political, judicial, and violent activities. Drug trafficking gave rise to a special, uniquely Colombian phenomenon: narco-terrorism. Narco-terrorism, which was the most visible change affecting the

¹⁵ Now called the *Coordinadora Guerrillera Nacional Simón Bolívar*, CGNSB, or more simply, CGSB.

¹⁶ Jacobo Arenas was a FARC founder and chief negotiator in the peace talks. He died of a heart attack in 1990.

¹⁷ Four rounds of conversations between the guerrillas and the government of César Gaviria took place in Caracas, Venezuela, between June and November 1991. The talks underscored wide divergences over such issues as paramilitary groups and kidnappings. A subsequent round of talks in Tlaxcala, Mexico, between March and June 1992, showed an even further distancing between the two sides.

political stability of the country, emerged from the struggle of the drug cartels to avoid extradition and to try and change the government's decisions.

Another phenomenon that was propelled by the drug traffickers but which did not originate within the drug trade, was the increase of paramilitarism. It is possible that paramilitarism had its origins at the end of the 1960s in peasant groups or landowners. But what finally gave paramilitary groups an armed organizational structure was the money from the drug traffickers, which allowed them to grow beyond just local groups.

By 1989, paramilitary groups engaged in organized violence posed the biggest threat to the country's institutional stability. At that time, the government estimated (and this has been confirmed by different people that participated in paramilitarism) that the groups consisted of about 5,000 armed men in seven or eight departments. They were organized in about 200 smaller groups with a central command and one exclusive financing source.

Another characteristic of the paramilitary groups is that they had a very clear political purpose, which was anti-communist and concerned with defending the interests of the landowners that were financing them. One of these was the paramilitary organization of the Medellín cartel that existed between 1987 and 1989, involving Rodríguez Gacha and Fidel Castaño.¹⁸ At the end of the decade this group was dismantled as an organization and ceased to exist as a unified group with political purpose. It left behind quite large and widespread local groups, that do not answer to one central authority or any unified political party, as they had in the 1980s. These agents of violence have different ties that are evident. Their members come from one or another of the guerrilla groups or leave government agencies to join these criminal groups.

We find ourselves in a situation where there is territorially very diffuse and vast violence. It grows incrementally even more than Gonzalo Sánchez predicted it would eight years ago.

¹⁸ José Gonzalo Rodríguez Gacha, "El Mejicano," was one of three top leaders of the Medellín cartel widely considered responsible for violent campaigns against perceived opponents. He was killed in a shoot-out with the police in 1989. Fidel Castaño, a prominent force behind paramilitary violence in Córdoba and the Urabá region of Antioquia, is linked to several well-known massacres of peasants accused of having links to the guerrillas. Although convicted *in absentia* and sentenced for his role in a 1988 massacre, he remains a free man.

There is a growing trend towards creating criminal or delinquent organizations in the classical sense of mafias -- groups that through violence stop the development of legal or illegal activities. This is not a mafia just in the sense of drug trafficking, but a mafia in the more classic sense, such as the Italian or the United States mafia, which are organizations that impede or deter legal and illegal actions. This is what the guerrilla and other delinquent organizations are doing right now. The ELN in the gold mining areas is a classic mafia-type organization, deciding who engages in business and who does not. In other words, it is comparable to racketeering. With violence, they eliminate those who do not support them, financially or otherwise. The ELN has tried to do the same with different resource sectors, such as coal, while other guerrilla groups operate in the farming areas. I would say that this is a new trend, which is to use violence to modify the rules in certain areas for economic activities that are either legal or illegal.

Both Dr. Hartlyn and Dr. Sánchez pointed out that there has been violence without any objective, but I think historically there is a lack of consensus on that. But the remnants of one group always become the embryo for a new group, because they are excluded politically. That is, while there is a rehabilitation of some groups, other groups will remain left out of the political or legal arena. This is a paradox that I believe is relevant now, since we are on the verge of new peace talks, which I think are the best way to end the political violence -- negotiable violence, as Dr. Sánchez has called it. The expectations of these peace talks legitimize or create new types of violence, because when there is a negotiation or peace talk with a guerrilla group, then there are paramilitary groups that appear and say they also want to negotiate or sectors of the drug traffickers and small groups that want to justify their own political causes. They see there may be some political or economic profit in acting at that time as one of the groups with political objectives.

We cannot allow the fact that violence is widespread to lead us to the extreme of saying that it is difficult to distinguish between the negotiable and non-negotiable violence, because I think all violence has a political origin. And even if there is criminal violence or some type of criminal action, it is fundamentally and basically of political origin. That [the guerrillas] are tied to the drug traffickers is true, because they have been financed by them and have grown because of the drug trafficking

violence. I would like to know what the role and participation of the state is in this violence.

RAFAEL PARDO: Who are the actors in the social cleansing violence? I think this is where all the other forms of violence overlap in some way. But my impression is that these social cleansing actions occur in light of the fact that it is not possible to establish legal authorities who can act effectively in the face of the complex situation we outlined this morning.

My impression, even though I don't have precise figures on this, is that the key actors are state security agencies, especially the police. That's my distinct impression, based on the waves of social cleansing, particularly in Cali and Medellín. But I don't have specific figures to be able to say just what the proportion would be of their involvement with respect to others.

With respect to the role of the state as an actor in the violence, I didn't get into that subject. I talked about the non-institutional organized actors in the violence. It is clear that state actors do participate in violence through their own individual motives as well as in combination with other forms of violence. That is to say, there are some state actors or parts of the state that operate in certain sectors or regions as serving other interests of violence. This is particularly the case in connection with drug trafficking and paramilitarism. The rest of the conference will treat specifically the question of human rights violations, which is key to understanding Colombian violence.

RODRIGO GUERERRO (Pan American Health Organization): I was mayor of Cali until a short time ago. Having been there gave me a chance to study this phenomenon and I would like to quickly present a totally different approach to that which has been put forth by the others.

This is in light of my profession. I'm an epidemiologist. Epidemiologists always try to look at figures and infer causes. If you look at the Colombian rates of violence, we find one thing first, which is that Colombia has always had high endemic levels of violence. At low periods we've been at about twenty homicides per 100,000 people, which is already a very high figure by international standards. We had a clear outbreak in the 1950s, which is known as *La Violencia*, and more

DISCUSSION

HERBERT BRAUN: We have had three very sophisticated presentations on the highly complex subject of violence in Colombia in its historical and contemporary context. There are two themes that struck me in all three presentations. The first is the distinction between public violence, which is negotiable, and private violence, which is not negotiable, the latter being the overwhelming characteristic of violence in Colombia.

Nevertheless, time and again, when we speak about the violence, we focus on the public violence perhaps because it is negotiable, because we can more easily grab onto it and because we can do something about it. And when we talk about human rights, which we will be talking about for much of the rest of the day, we almost always exclusively talk about that public violence. In fact, the connections between the public and the private violences, which all three of our presenters have given to us, are very, very complex; one cannot perhaps deal with one without the other.

And there are forms of human rights abuses like the "cleansing" processes that take place in urban areas, where urchins get killed. This is a form of public violence which is not negotiable but with which we have to deal centrally in some way.

The second theme is the place of the state and its historical and contemporary weakness in Colombia. All three of the presenters from their own unique vantage points have demonstrated this to us, perhaps most starkly by Rafael Pardo, who presents the wide array of violent actors who have in one way or another confronted the legitimacy of the state. We get a sense from him that this is a state which, in a highly beleaguered fashion, is trying to respond in one way or another to others, who might actually be controlling the actions of the state. I was extremely struck by his presentation, when he says that it is others, not the public authorities of the land, who impede or permit the legal processes to take place.

CRISTINA ESPINEL (Colombia Human Rights Committee): I have two questions. First, for Mr. Sánchez. Please explain a bit about the new form of violence known as "social cleansing" and who are the main parties or people responsible for it. And for Mr. Pardo, you explained that there are different groups that are involved in the

activity and the cultivation of drug-related crops. But their objectives are political. There is an acid test to judge which violence is political and which is not. This is the test of a group's attitude towards amnesty. Within the criminal groups that are not political, all they want is amnesty. Within the strictly political groups, the last thing they want is amnesty. And that has been true throughout the history of the country. Before approximately 1986 there were four amnesties in which it was relevant or important that the guerrilla was covered. However, with pardons after 1986, there is always a link, directly or indirectly, publicly or clandestinely, to the actions of paramilitary groups or drug traffickers. They try to be protected or pardoned. Some see the pardon as an objective in itself and there are others for whom the pardon is only the end of a negotiation.

I will end with one last paradox that Dr. Sánchez mentioned. That is the Hobbesian paradox, which is that there is always the belief that order can be achieved with greater authoritarianism. Colombia, with its different ups and downs, has avoided the authoritarian path to stability. The reasonable thing to do is to continue avoiding this tendency and find alternative paths to order within legality and democracy.

recently, the current violence that began in 1983. The latter is much greater and has not yet begun to decline.

If you study this from the epidemiological standpoint, a series of interesting analyses can be presented. The current outbreak is not genetic or cultural. Genetic and cultural phenomena don't change so quickly. It's a fundamentally urban phenomenon. When you look at this, you'll see that the centers of violence are Medellín, Cali, Bogotá, and now there are smaller centers, such as Pereira, and places that have been associated with narcotics trafficking, such as El Dovio, and small cities that have been recognized for and renowned for their connections with narcotics trafficking.

The contribution of politics to the latest outbreak of violence is small. This has already been presented in numerical terms and we've documented it in our own case. The violence is associated with centers of narcotics trafficking. This can be confirmed by data from Medellín, where 32 percent of deaths due to homicide in Medellín have traces of hallucinogenic substances -- *bazuco*, cocaine, or marijuana. So it's highly associated with narcotics trafficking. It's also associated with social disorder. It usually happens on weekends. It's associated with the consumption of alcohol in Medellín and Cali. Twenty-five percent of the deaths involve alcohol intoxication. The pattern of the deaths due to stabbings is quite similar to firearms. And this raises doubts as to the role of narcotics trafficking.

So what's happened? The epidemiological interpretation is that narcotics trafficking has permeated the two fundamental institutions of the Colombian state, which are the police and the justice system. And it has done something alarming. We find that the rate of identification of the perpetrators is 9 percent in Bogotá, 6 percent in Medellín, and 18 percent in Cali, thanks to a special effort. It's only a small percentage of cases where the perpetrators are identified. There's a high percentage of *sicarios*, or paid killers or hit men, so narcotics trafficking has permeated the police and the justice system and has led to the disorganization of society.

I find a medical analogy with AIDS, because AIDS paralyzes defense mechanisms. The same has happened with narcotics trafficking. It has paralyzed the traditional defense mechanisms of Colombian society, which are the justice

system and the police. And finally, it has permeated the guerrilla movement. The clear evidence in the Valle del Cauca that narcotics trafficking controls and maintains the guerrilla movements, at least in the area of influence of Valle del Cauca.

HERBERT BRAUN: Do you find, perhaps, that there's a confluence of interests, in your perspective, of the corrosive aspect of *narcotráfico* on other forms of violence, which makes your analysis not very, very different from Dr. Guerrero's?

JONATHAN HARTLYN: No, I think that we overlap considerably in our analysis. What I try to do is underscore that Colombia was in a difficult situation politically and that there was going to be a situation of considerable political turmoil in the 1970s and '80s. It was this atmosphere that was in a sense receptive to the possibilities of promotion of further chaos and violence, because of the various social and political conflicts that had been left unresolved when drug trafficking began. And what we have now is a country that is practically narcotized. We have narco-guerrilla, narco-police, narco-military, narco-businessmen, narco-peasants. But at the same time, the overwhelming percentage of people in each of those social groups obviously have nothing to do with drug trafficking. And we have police and military who obviously have given their lives in the fight against drug trafficking.

I would not totally disagree with him, although to focus exclusively on drug trafficking would be a serious mistake. Because I think that there are other processes that continue, coming from before. As he said, Colombia has a very high level of violence and these processes will continue in the future. And I also think that one of the reasons for the discussion of public violence, as opposed to private violence, is that if we can really do something about the public violence, which would inevitably involve helping to strengthen the Colombian state, improve the judiciary, impose at least a somewhat more effective rule of law, then the Colombian state could do much more about the levels of private violence and all the various phenomena related to drug abuse and alcoholism that people have pointed out.

GONZALO SANCHEZ : I basically agree with what Mr. Guerrero has set forth. In thinking about the inter-relation of the different forms of violence, there's been a trend in those areas where there's a certain territorial control by the guerrilla

movement. Where there's a monopoly of the means of force by one of the parties in conflict, there's relative order. Indeed, local businessmen prosper and can continue to prosper in guerrilla-held areas. There are arrangements. There are taxes, and so forth.

I would say this in favor of the guerrilla, in a sense. There is still an opportunity to work with them, despite their connections with narcotics trafficking, and this makes the situation more complex. There's a balance of forces in seeking consolidation. That is to say, where military, paramilitary, and guerrillas are all present, then crime proliferates and this is where there's a greater abundance of generalized violence.

In any event, despite your insistence on the proliferation of urban violence as characteristic of the last decade -- and I agree with you on this -- with respect to narcotics trafficking, a distinction must be made between the leaders or bosses of the business and the peasant settlements, where drugs are not a business but a means of survival. In a recent study of the Guaviare region, the figures show that, quite contrary to what you might think, the peasants in these areas with their two, three, or four hectares, are barely getting by, just as the peasants used to do with manioc or with potatoes. In these regions where this new element has come in, and where there's obviously an international market, it's impossible to carry out crop substitution without considerable support. I think we need to make these distinctions because different measures must be adopted to solve the problems. A different measure is needed, for example, to address the kingpin, than to address the issue with respect to peasants, for whom drug crops are simply a means of subsistence.

RAFAEL PARDO: I agree with Mr. Guererro in that narcotics trafficking can explain a great deal about the rise of violence in the 1980s. I'd like to quickly make a comparison. I don't have the figures, but I thought what you showed us was quite interesting. Those same figures of violence for the United States and the number of violent deaths in the United States are closely associated with the pattern in Colombia, except for the last ten years, but before that it has rather corresponded to post-war periods. In the post-war period in the United States, there was a drastic rise in violent deaths. After the Korean War, it grew and then it fell. And during and after the war in Vietnam, levels of violence expanded and then dropped off again.

There are many kinds of explanations for this. The most obvious is the violence generated by war veterans. I think this is obvious. And I think in Colombia that is also one of the elements of violence. Those who leave the military service or the police or the guerrilla movement are people who more easily turn to violence than others.

But this is just part of it. The main part of violence in the post-war period in a society where the war is waged elsewhere (this is not the case in Colombia) is that after the war there's a higher degree of legitimacy for violence, and this covers the entire society, not just the veterans. War imposes a certain type of order on society. Then that order is removed, or the imposition of order is lifted in the post-war period, and there's a great legitimization of violence.

In the United States, wars have been waged outside. They begin and they end. And if you can tell when it begins and when it ends, then you see these patterns of violence. It's interesting to compare this with Colombia. Those who come out of organized groups of violence, including from the state, end up generating violence. But also there's a general transmission to the society of the idea of legitimization of violence, which leads to higher levels of violence.

PANEL TWO

HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

THE HONORABLE NANCY ELY-RAPHEL

The history of U.S. relations with Colombia has been that of a long and deep, although sometimes contentious, friendship. It is often the price of freedom that the duly constituted polity must play by the rules, while the anti-social elements free themselves from such constraint. It is very much the measure, then, of the level of civility of the society, that they continue to play by the rules in the face of lawless opposition. It is in this respect that the United States and Colombia remain close friends in trying to assure that we work out our mutual problems in an atmosphere of mutual respect.

I would like to address a few of the key points in the United States' approach to the human rights situation in Colombia. One of the primary barriers the United States sees to resolving Colombia's human rights problems is the matter of general impunity. As we pointed out in our annual report on human rights for 1994, Colombia has the highest murder rate in the world. And of significance, 97 percent of all crimes in Colombia go unpunished. Clearly, there is very little deterrent to prevent anyone with an inclination to violate the law from doing so. Impunity is a particular problem within the security services. The Colombian *Procuraduría*¹⁹ itself has identified such impunity as the primary reason that levels of human rights abuse remain so high. It is particularly disturbing when those who are entrusted with enforcement of the law are among its major violators.

The United States government does not have a detailed agenda for the structure of military justice reform, civilian justice reform, or the peace process. Those are internal issues for the Colombians to determine for themselves. However, meaningful results should provide basic due process in arrest, trial, and if

¹⁹ The *Procuraduría General de la República*, or Attorney General's office, investigates and punishes misconduct by government employees, including members of the military and police. Not a criminal prosecuting body, the *Procuraduría* issues administrative sanctions of which dismissal is the most severe.

conviction, appropriately severe sentences for human rights violators, be they private citizens, members of the government, the military, the police, the paramilitaries, any of the many guerrilla groups, the narco-traffickers, or the private security forces.

We applaud President Samper's efforts so far to address the impunity problem. Among these is the creation of the multi-agency drafting commission to draft the new military justice reform bill. The president's goal of separating judicial functions from officers within the chain of command and creating a separate military prosecutor's office appears to be practical and appropriate. Certainly there is also merit to the idea that if military courts are not effectively prosecuting military personnel for human rights abuses, then such crimes should be transferred to civilian jurisdiction. On the other hand, if the civilian courts are prosecuting only 3 percent of Colombia's crime, would-be reformers will accomplish little by passing the problem from an unwilling institution to an incapable institution.

On the civilian side, the Samper administration has taken stock of the judicial system and is proposing to implement reform. Cumbersome procedures have led to an enormous backlog. One estimate predicted that with the current rate of adjudication, it would take up to ten years to resolve all existing cases. Clearly this is a factor in sustaining the 97 percent impunity rate. The new plan is designed to make better use of existing resources, stressing new managerial approaches over structural changes.

Another of the barriers to resolving Colombia's problems is the long-standing guerrilla conflict. The Colombian government has been engaged in struggles against a variety of politically-motivated guerrilla groups for decades. It has been a costly and bitter war and the government has not been able to bring it to an end, either by military force or negotiated settlement. But with many of the guerrilla groups joining forces with the narco-traffickers, the problem is compounded. In the guerrilla groups, the drug lords find ready-made armies for hire. The guerrillas, in turn, find a source of arms and money in their narco-patrons. The result is a higher rate of violence and a peace process all the more complicated as guerrilla movements shed their negotiable, ideological underpinnings to move into the criminal realm.

It is obviously in the U.S. interest to assist the Colombians to combat narcotics trafficking. Secretary [of State Warren] Christopher recently expressed U.S. disappointment with Colombia's counter-narcotics performance in 1994. But we hope to see an improvement in 1995. Human rights is not only a national interest, it is a personal, individual issue, as well. Responsible citizens in a democracy must elect a responsible good government, one that adopts and adheres to a policy which respects human rights.

As the first panel group discussed, the origin of the violence in Colombia goes back several decades. Violence has become endemic. I mentioned previously that Colombia has the world's highest murder rate, and yet only a small percentage of those murders are politically motivated. People have become frustrated at the high crime rate, supported by this high rate of impunity. This is understandable, but for the citizenry to resort to extra-legal means to combat the problem is not the solution. Social cleansing and vigilantism perpetrated against the displaced, the impoverished, and those who have slipped out of the mainstream of society cannot be condoned.

The Samper administration has clearly charted a new course for human rights. We have applauded this publicly and privately before, and I think it's a good opportunity to do so again. The Samper administration took the step of acknowledging the seriousness of Colombia's human rights problems, demonstrating to the world that the new government was not going to accept the status quo. They followed this up with a report to the United Nations Commission on Human Rights in Geneva just recently, outlining their overall human rights policy.

In our meetings with NGOs [non-governmental organizations], many of them confirmed that this openness also applies to governmental receptivity to NGOs. Again, this is a small step, but a step in the right direction. The Samper administration has reopened the investigation into the Trujillo massacre and is pressing charges against Colonel Urueña.²⁰ Just in the last month, the government

²⁰ In January 1995 President Samper made public the findings of a joint government-NGO team investigating a rash of murders and disappearances in Trujillo, Valle, between October 1988 and May 1991. The case had been presented to the Inter-American Commission on Human Rights by the Andean Commission of Jurists and the Justice and Peace Commission, two Colombian NGOs.

The death toll for the period reached 107, of which the Trujillo Commission investigated in detail thirty-four cases of disappearance, torture, and murder. In one of the episodes, according to

has moved to take action against ten more military and judicial personnel involved in three separate outstanding human rights cases.

As I've already stated, narco-trafficking is one of the most insidious problems the Colombians face. And yet from a human rights standpoint, it has led to some human rights achievements, for example, the Colombian anti-narcotics police known as DANTIN. This relatively small force is charged with combatting one of Colombia's most formidable problems; they have pursued their duties vigorously, while sustaining a good human rights record. DANTIN clearly constitutes a standard for other security forces in Colombia to live up to and provides evidence that where the will exists, it is possible for the Colombians to defend the nation without violating the basic principles of human rights.

As part of our cooperative anti-narcotics efforts, the United States has offered qualified support for the public order courts. We have accepted that the unique levels of violence against judicial personnel may require a unique response. While trial out of public view is generally abhorrent and is not an option the United States would normally accept, under the conditions prevailing in Colombia, we view these temporary courts established to fulfill a specific purpose as an acceptable response.

We are less enthusiastic about recent proposals to establish the so-called "local security cooperatives." Colombia's history has shown that such organizations, which are only a step above vigilante groups, are much easier to establish than they are to control. We do not deny that the unusual threats posed by guerrilla and paramilitary groups require unusual measures to provide protection. But establishing such groups poses profound dangers to the human rights environment.

Let me take this opportunity to once again call upon the Colombian government to monitor the activities of both of these institutions to ensure that the threats which call for difficult answers do not lead to the expectable abuses.

witnesses, then-Major Alirio Antonio Urueña, acting in liaison with members of paramilitary groups, forced water down victims' throats and then dismembered them with a chainsaw. One of the victims was parish priest Tiberio Fernández. In 1991 and 1992, a public order court and the Procuraduría had acquitted Urueña of any involvement in the crime. Samper dismissed the officer, now a colonel, following receipt of the report of the investigatory commission.

To conclude, let me stress again that we believe that President Samper has taken steps to point his government and his nation in a new and much healthier direction. But it remains incumbent on the president, the government, the military, and the entire society now to move in that direction. Movement will be demonstrated in an end to impunity for all offenders. It will be demonstrated in a judicial system which can mete out justice so that citizens will not be tempted to take the law into their own hands. It will be demonstrated in the creation of an environment in which citizens can express differing political views publicly and openly without fear of a reprisal, an environment where armed groups will lay down their weapons, knowing that they can rely on the government and the security establishment to guarantee their safety. These moves are not necessary for the sake of international opinion, but for the sake of the people who so desperately need them.

GUSTAVO GALLON

To begin, I would like to stress three important points. First, the situation of human rights in Colombia is supremely serious and profoundly grave. It is more serious than is normally acknowledged. The second point is the great importance of many of the things that the present administration is doing to overcome the situation. And the final point is the need for the government, the present administration and society as a whole, to do much, much more to overcome the very serious and profound crisis of human rights. I will conclude with additional details about these three points.

Regarding the first point, I would like to refer to some basic factors and data in a schematic way. In Colombia, each day an average of more than ten people die for political reasons. Every day, we Colombians wake up knowing about this tragedy. Every day the human rights organizations are asked to condemn or repudiate this or that act. We would have to make about ten of these declarations a day; we can only make some of them.

It is one of the most serious situations in the world, and this is not an exaggeration. It is a situation that has gradually worsened since 1980, when there was about one political homicide every four days (and that was already awful), 100 political deaths per year.

The situation continued to worsen every year since 1980, until it reached level of four political deaths per day in 1985, or more than 1,500 deaths a year. It continued to increase gradually until 1988, when there were more than 4,000 political deaths, more than ten deaths per day. And since then, we have maintained this average, a little over 4,000 deaths per year.

In 1994, there were an average of five deaths per day, political activists, or union leaders, or peasants, or human rights activists, on the street or in their homes, riddled by bullets, assassinated. Three more died in warfare, including members of the armed forces, guerrillas, and civilians that died in combat. Another person died on the average of every two days because he was presumed to be a criminal, and by this, I mean, prostitutes, beggars, street children, and indigents.

There was also one person that disappeared every three days, on the average, and one torture that was denounced or registered every two days.

This is a very serious situation of killings, a very high number. In this environment of political violence, the person responsible for each one of these cases is difficult to establish, due to a second factor, which is impunity. Impunity makes it difficult to know exactly who committed the crimes or the homicides, forcing the human rights groups to use the documented cases, which is less than half of the total, to infer from them what the distribution of perpetrators is and to have an approximate idea of what the overall situation is.

Based on these reported cases, which I repeat are less than half, one can attest that almost 35 percent of these political violent acts can be attributed to guerrillas, and approximately 65 percent can be attributed to the armed forces and the paramilitary groups. If the responsibility were less for one group of actors than for others, the situation would still continue to be very serious. Government responsibility in any case is serious.

The worst part of this is that the political violence is only a relatively small portion of the total violence in Colombia. Less than 15 percent of the total number of murders per year in the country correspond to political violence (approximately 11, 12, or 13 percent), because the total amount of general violence is also extremely high and has increased sharply in the last fifteen years. This morning it was mentioned that Colombia has the highest homicide rate in the world -- about seventy-eight deaths per 100,000 population per year. In a country such as China, this would mean about one million dead per year. In Colombia, which has thirty-five million inhabitants, this means about 30,000 deaths per year.

This has not always been so. Around 1990, there were about 10,000 homicides per year, including political and non-political crimes. This number increased to more than 20,000 in 1988 and continued increasing gradually to reach the current level of 30,000 per year. In other words, it has tripled in the last fifteen years. Apart from this, kidnapping -- a special kind of violence -- now represents a disproportionate part of the violence. There are almost four kidnappings per day. More than 1,200 were registered last year. About half of these kidnappings can be

attributed to the guerrilla groups and unfortunately, in many, many of the other kidnappings, there are active or retired members of the armed forces involved.

There are many factors that make this armed conflict one of the most protracted in Latin America, with constant violations of human rights from both sides. It was mentioned earlier this morning that the number of paramilitary groups is very high. The situation was also aggravated by the great number of people who have migrated within the country, about 100,000 people according to a Catholic Church census. The internal displacement of people also reflects part of the crisis of human rights in the country, and shows us that the efforts that must be made to resolve this must be great.

What has happened in the last ten to fifteen years is a succession of wounds and resentments in many sectors, and this is profoundly serious, because of its potential to reproduce itself in the present and in the future. As a result of what has happened before, Colombia is full of widows, widowers, orphans, who are potential perpetrators of new violence, unless they are well integrated into society and profound measures are taken to confront the situation.

Apart from the violence, the situation is also serious in that the level of impunity remains supremely high. As has been mentioned, the government acknowledges that the level of impunity for general delinquency and crime is at 97 percent. This means that only three crimes of every 100 result in a sentence or go through the legal system. This, sad to say, is more a lottery than a legal and justice system. If you are a victim of a crime, you may be lucky in that perhaps there will be a sentence in your case. This does not even consider whether the verdict is fair or unfair, just or unjust -- but only that a sentence is reached at all.

Regarding the violation of human rights, the level of impunity is even higher. According to statistics released last year, it has reached a level of 100 percent. Because of this, we Colombians have had to cry out to international organizations to try and compensate for the lack of justice in Colombia. Accordingly, the Inter-American Commission of Human Rights [of the Organization of American States] has already issued ten resolutions accusing the government of human rights violations. In the Inter-American Court of Human Rights [in San José, Costa Rica], there is a case pending for the February 1989 disappearance of two teachers -- Isidro

Caballero and María del Carmen Santana -- for which the armed forces is responsible.²¹ A trial should end this year in the Inter-American Court.

The second point of this presentation is to acknowledge the importance of many steps that the present administration is taking regarding the problem. The government has recognized the existence of the human rights problem and has qualified it as serious, not just as one more problem. They have realized that there is a need to identify, without making excuses, that the situation must be resolved with profound measures. It is important to point out the positive effect of measures such as the approval of Protocol II [of the Geneva Conventions] as a mechanism for the advancement of the humanization of the armed conflict in Colombia.²² Another positive move was the decision to create, or accept the creation of, a commission for the investigation of the Trujillo massacre, with NGO input and participation of the Inter-American Commission on Human Rights. The acceptance of this commission, the investigation, the responsibility attributed to an officer of the armed forces for the massacre, and the subsequent reform of the military penal code, are all important measures.

However, while these measures and many others are important, they are insufficient. They are insufficient, in spite of the will of the government, because the situation is extremely serious. They are also insufficient because they are accompanied by other measures that are not so positive. Among these non-positive measures is the fact that the present government maintained one of the three objections expressed by the previous government to the [proposed] law on forced disappearances. And if the law is passed, it will not be very useful, because of changes in wording.

²¹ Rural teachers Isidro Caballero and María del Carmen Santana were arrested by an army contingent in 1989 in the department of Cesar and have never been seen again. Colombian and U.S.-based NGOs presented their case to the Inter-American Commission for Human Rights that same year; in 1991, the Commission found that the government of Colombia had violated the rights to life, personal security, and due process in the case of their disappearance. The case was referred to the Inter-American Court in December 1992. A hearing was held in November 1994 and a decision is expected at the end of 1995.

²² Protocol II Additional to the Geneva Conventions of August 12, 1949, is a cornerstone of international humanitarian law, a set of standards designed to protect those persons -- civilians, prisoners of war, the wounded -- who do not (or no longer) take an active part in military hostilities. Protocol II covers "non-international armed conflicts," that is, internal warfare rather than warfare between nation-states.

The administration's policy is also insufficient because there are still people within the government, who participate in government policymaking, who are themselves violating human rights. This problem would not be easy for any government to solve, and nobody demands that they have to get rid of all these people in one day. But it is necessary to point out that there are many of these government employees who are linked to human rights violations similar to the one that the Trujillo Commission was investigating. Therefore, you need special mechanisms -- not extraordinary ones -- that can urgently and decidedly combat this problem of impunity.

I would like to conclude by expressing the following: due to the contrast of insufficient action, on one hand, and a will to combat the problem on the other, the government will continue to be criticized often by the NGOs. The government does not understand why they are being criticized by the NGOs, but that is their job. The NGOs must point out what the problems are and what should be done. We have proposed that the Colombian government support the legitimate organizations of the international community, such as the United Nations Commission on Human Rights, so that human rights may advance in our country. As a result, the U.N. Human Rights Commission this year decided to send three people that will investigate tortures and executions.²³ They will repeat their visit to the country and verify that some recommendations that were made last year are being carried out, one of which concerns the administration of justice. These [international] mechanisms and others are important and I would like to call on the government not to spurn these efforts. By working with these channels, they can confront the obstacles within the government and in society that are currently impeding the resolution of the serious problem of human rights.

I have referred today only to political violence. But I am aware that the problems in the country will not be resolved by solving only this part of the violence. The problem is much broader, and we in all of the human rights organizations have much work to do to contribute to and promote a security policy that will have human rights as an end and as a means. We are aware, as human

²³ In March 1995, the U.N. Human Rights Commission and government of Colombia agreed to measures obligating the Colombian government to invite three special rapporteurs to visit Colombia this year. Two of the rapporteurs, on Torture and Extrajudicial Executions, will report on the fulfillment of recommendations made following a visit in October 1994. The third rapporteur will look into matters relating to the independence and autonomy of the judiciary.

rights organizations, that the government is not the only one responsible for the human rights situation, but they are in great part responsible. They should be the first ones to acknowledge responsibility and accept that respect for human rights is a core principle. By not doing this, violence will be reproduced in other sectors, beyond the political type.

The Ministry of Defense has concrete policies that have been established, following the general presidential mandates. For the Ministry, the subject of the protection and defense of human rights is not only an ethical obligation but also a judicial one. It is beginning to carry weight and is being understood as a fundamental principle, one that makes the armed forces remain within their constitutional obligations.

I'd like to point out several grand objectives that have been proposed. Even given the magnitude of the armed conflict in Colombia, these will still help advance the cause of human rights. These are long-term objectives; this policy will translate not in immediate reactions or responses but towards broader, more comprehensive goals. The first is to strengthen a culture of ethics and respect for human rights within the public force. To accomplish this, we have increased the number of courses of instruction. All instruction manuals are being revised in the different schools and academies.

This is a growing process that accompanies the diffusion of materials. It is being carried out with the idea that the problem is not just one of punishment, but also of prevention. It implies a change of mentality and culture. It is not a process that is attained from one day to the next or by decree. It is very important, and the society should understand this: the subject of human rights should not be perceived as something that is anti-institutional or anti-military. It is a basic framework within which the armed forces should operate.

We have truly progressed, as evidenced by the fact that the armed forces understand that human rights can have a multiplier effect in combatting different types of violence. There is now a positive perception that human rights can be incorporated into the instruction of the armed forces and can have a preventative dimension. It is possible also to strengthen those areas within the public force where human rights policies can be formulated, where accusations are made for presumed violations. I'm referring to creating offices. There are 100 now in the armed forces, eleven in the army and in the navy and three in the air force. These are offices that accept accusations and denunciations and process them. If there is sufficient cause, then a criminal investigation is conducted. These offices have a job that before had been very insignificant and is now much more important. They

PILAR GAITAN

My presentation will not be focused on providing more statistics or on criticizing what Dr. Gallón has said; one of the advances that has been made regarding the serious problem of human rights is precisely the fact that both the Colombian government and large sectors of society have accepted that we are facing a serious situation, one that is very difficult at times to quantify. But even one human rights case or one episode of violence merits consideration and [judicial] processing.

During the 1980s human rights violations rose to very large proportions. It was a painful and difficult period for the country, one in which different successive governments, especially from President Gaviria's government on, initiated political and institutional efforts to face the problem. These measures included the creation of a presidential advisory for human rights and different types of institutional structures, and passage of the new Constitution of 1991. The Constitution reinforced these new organizations, and established in them a different relationship between order and freedom.

The Constitution contains a great number of principles that guarantee basic freedoms and human rights. It reinforces the measures introduced by the government and creates a constitutional judicial framework much better suited to confront the problem. In addition, the Samper administration and the Ministry of Defense have promoted a new policy, creating new offices to attack the human rights problem. In addition, the administration insisted on ratifying Protocol II of the Geneva Conventions. I want to mention this because the limitations and deficiencies inherent in our situation contribute to our dissatisfaction with our ability to comply with and safeguard human rights. But I think that we do have a government policy. The isolated cases theory can be abandoned; I don't think that we will be processing isolated cases.

We are beginning to accept that the problem is not just problem of image. It is a problem of reality, as Gonzalo Sánchez mentioned before, that has its roots in the multiple types of violence that Colombian society has experienced. The problem of human rights violations goes hand-in-hand with, and is inextricable from, the armed conflict in Colombia. This is not a new discovery for the universities, the

government, or the Church. During the 1980s we were moving in the direction of understanding this situation. But now we consider human rights violations as something that compromises the credibility and the legitimacy of the state, affects its ability to govern, and also compromises the legitimacy of the armed forces.

This understanding is linked to the fact that human rights must be taken into account as an issue of foreign relations. I repeat that this is not because it is an image problem. It is a matter of complying with agreements we have made with the international community regarding human rights and accepting Protocol II and additional Geneva Conventions that we hope will be approved and ratified this year. The concept of human rights as a government, state policy has led us back to the international arenas that had been abandoned, such as those sponsored by inter-governmental organizations or by human rights NGOs. Today, the fact that we are actively participating with them and dealing with the problem frankly, with a positive attitude, shows a sense of openness, flexibility, and acceptance of all types of suggestions. Dr. Gallón mentioned a point that merits public debate and discussion, which is the matter of expanding the possibility of enlisting international cooperation to solve the human rights problem, always taking into account the need for domestic formulation of policies.

I would like to make two additional points in regard to the relationship that has been established with the human rights NGOs in Colombia and internationally. Other administrations had already made progress in this area, and today it is easy to appreciate the more fluid relationships that have emerged. We are now considering these NGOs as legitimate interlocutors and opening the doors to maintain a permanent dialogue. Different organizations have been invited, such as the special rapporteurs of the United Nations Human Rights Commission, and Amnesty International has been invited to open a permanent office in Colombia.

This new attitude, in my view, implies an understanding that human rights are a collective matter and not just the government's affair. The whole society has to solve this problem, along with the international community. Human rights become part of our relationships with other sectors, because we have to try not to duplicate efforts. It is important that an ongoing dialogue be maintained between the government, the state, and other sectors of society. Of course, there is still much to be accomplished; but great, important efforts have already been made.

investigate not only violations of human rights where members of the armed forces might be involved, but also denounce those crimes where the armed forces or public forces are themselves victims.

Sometimes we forget that members of the armed forces are also people who have their own human rights. Different reports by NGOs have begun reporting these type of statistics, which are just as painful for all Colombians. This realization has allowed us to have a more level, balanced perspective of the overall picture of human rights violations. In the past, the reporting had been unilateral and not comprehensive. But until we understand this problem in a comprehensive framework, it is very difficult to come up with permanent solutions.

Another important objective is to strengthen communications within the government. The ministry and officers of the different armed forces and of the national police have been actively participating in the 1533 Commission that was designed to formulate and create recommendations regarding human rights. These recommendations should come out very soon.

Similarly, and for the first time in a long time, many officers of the public forces are participating in working groups, including ones that will be developed to follow up on the observance of international humanitarian law within the country. Officers also participated in the investigation of the Trujillo massacre.

Finally, another objective of the Ministry of Defense is to strengthen the internal tools and instruments of investigation and sanctions. All of the offices that have been created belong to this area. Along with new courses of instruction there is also a new commission to reform the disciplinary and penal codes for the armed forces. On that commission, Dr. Gallón will be the representative for the Andean Commission of Jurists. There will also be different sectors of the police, the vice-president of the military tribunal, and some of the advisers of the Ministry. By June 30, this commission should provide a bill to be presented to the legislature, which I believe commences sessions in September. Its mission will be to adapt the penal military justice to the 1991 Constitution, to make it a more transparent, efficient document and a central instrument to promote and protect human rights.

I have wanted to share with you the policies that have been adopted. We think they will be long-term and will contribute, I hope, in a very efficient and effective way to overcome the situation. But we are also clear that this is not something, as Dr. Gallón said, that is only the responsibility of the government, even though the government has the highest responsibility. It should be the government and police and also the responsibility of all Colombians. Forums such as this will also contribute in a positive manner to our continued progress in this direction.

JAMES O'DEA

I am not going to spend further time describing Colombian human rights abuses or the scale of these abuses. That has been covered by a number of presenters, and I hope there is no doubt about the scale of the abuses, and, to some extent, who the main perpetrators of the violence are.

What I thought would be more helpful would be to look at the process of attempted reform in Colombia, which has now come through successive governments. We have, for example, a number of governments that have claimed that there are more than 100 paramilitary groups operating in the country that are independent organizations over which the government has no control. Substantial evidence exists from official and independent investigations that these groups have evolved from self-defense organizations formed by the armed forces in the early 1980s to act as adjuncts in its counterinsurgency activities. The army-backed paramilitary groups have committed widespread human rights violations in rural Colombia, including extra-judicial execution, disappearance, and torture.

In response to the growing public outcry over the atrocities committed by these groups, then-President Virgilio Barco issued decrees in 1989 which removed their legal bases. However, these measures were not backed by effective action to disband the powerful paramilitary organizations. And consequently, the continued commission of violations of the paramilitaries has resulted in their increased strength in the last year. Towards the end of the last year, paramilitary forces operating around Colombia held a national conference in the vicinity of Cimitarra. At the conference, a national coordination of self-defense groups was set up, together with a high command. The high command is made up of paramilitary leaders, with Fidel Castaño as the commander-in-chief. The intention behind the creation of the national coordination is to send a clear message to the Colombian government that paramilitary groups intend to stay around and to take a very prominent role in the peace negotiations.

The role of Fidel Castaño is particularly disturbing. At this point, even as we speak, the exhumation of the victims of the Pueblo Bello massacre²⁴ is taking place,

²⁴ On January 13, 1990, forty-two peasants from the Urabá region of Antioquia were abducted by a paramilitary squad, and then tortured and killed. The abduction was said to have been ordered by

between April 3 and April 7, [1995]. It is particularly urgent for us to focus on the victims. Amnesty International has a current urgent appeal to protect those people who are exhuming the bodies. And the official investigations established that the men killed had been abducted by a paramilitary group headed by Fidel Castaño, who was clearly the author of that particular massacre. The government knows where he is. The Colombian intelligence knows who and where he is. And we can cut through a little of the fog by saying, here is an official investigation, exhumation in process. The assumed author of the massacre, and of other massacres, the head of a now-coordinated paramilitary group, should not be allowed to go free.

If what we hear from the official sources of the government is true, that impunity will be ended, then the good statements by the government about reform of the paramilitaries and the prosecution of human rights violators could begin with a particularly notable author of many human rights abuses.

With regard to the problem of impunity, President Gaviria introduced major reforms to the country's institutional structures, including legal reforms and the introduction of a new Constitution in 1991, which specifically guaranteed fundamental rights. However, the broad range of rights enshrined in the 1991 Constitution were effectively neutralized by confirmation of the jurisdiction of military courts over crimes committed by members of the armed forces and police for acts of service or in relation to service. Dr. Córdoba Triviño, the People's Defender [Defensor del Pueblo, or ombudsman], has stated,

Despite all the safeguards in the new Constitution, since 1991, there has been no let-up in the barbaric and illegal acts of public employees, who assassinate, torture, arbitrarily detain, disappear and carry out all sorts of crimes, abuses and outrages against the fundamental rights of thousands of their compatriots.²⁵

So these important reform measures didn't lead to their desired result. In fact, Colombia may be now the world's largest human rights bureaucracy. We need to find ways to cut through that bureaucracy to effective action.

Fidel Castaño, and the men killed on one of his ranches. Soldiers manning a roadblock at the entrance to Pueblo Bello allowed the heavily-armed men and their captives to pass unhindered.

²⁵ Jaime Córdoba Triviño, speech to mark Human Rights Day, September 9, 1994.

Looking at the legal relationship to human rights abuses, I'd like to add some concerns about the public order jurisdiction, known as the regional justice system, which was originally conceived of as an exceptional and thus temporary response to the increasing levels of violations related to drug trafficking and the armed opposition groups. The public order system constitutes a veritable judicial sub-system, or a parallel system to the normal justice system. And that includes "faceless" judges and prosecutors, the widespread use of secret witnesses, the empowerment of the security forces to carry out functions of judicial police, severe restrictions on the use of *habeas corpus*, secret hearings, and long periods of imprisonment. Since the introduction of this legislation regarding the public order courts, the number of political prisoners has soared to over 1,500. Many, perhaps hundreds of them, are believed to have been arbitrarily arrested and wrongfully charged with terrorist offenses.

There are further aspects to the distortion caused by this judicial sub-system. A clear disparity can be observed in the criteria used to apply the public order justice to those accused of terrorist crimes or crimes linked to drug trafficking. Although the public order jurisdiction and anti-terrorist legislation were introduced ostensibly to deal with a wide range of terrorist offenses and political violence, including human rights violations, in practice it has been applied almost exclusively for drugs and guerrilla-related offenses. Despite the thousands of judicial investigations opened each year into serious human rights violations, the numbers of armed forces personnel convicted and serving prison sentences remains in single figures. Only exceptionally have members of the Colombian armed forces been held accountable before the law for political killings. Even those tried are almost all low-ranking members of the armed forces or police. In relation to a question raised earlier about the murder of people designated as socially undesirable, it is our belief that those who are linked to the killings of drug peddlers and petty criminals, vagrants, street children, the mentally disturbed -- which has reached, again, an epidemic proportion -- many of them are believed to have links with the security forces, particularly the national police, and to be supported by local traders.

There were some references by my colleague [Gustavo Gallón] to the disappearance law and to President Gaviria's regrettable objections, an unfortunate heritage he left for the current government. We would hope that the law is not resurrected and used. There is clearly a need, as expressed by the special rapporteurs

to the U.N., to judge responsibility for crimes of extrajudicial execution, and so on, in the civilian courts. The excuse of national service or "due obedience" is clearly unacceptable in international law.

As part of the reform process, we welcomed at the [U.N. Human Rights] Commission the Colombian government's invitation, once again, for the special rapporteurs of the U.N. to visit Colombia; we also welcomed the establishment of a commission to implement their recommendations. It is important to underscore at this point that lots of recommendations have been made. The recommendations of the rapporteurs are excellent and they should be applied quickly. Hopefully, in the new military penal code that is being prepared, those recommendations will play a central role.

We are one of those groups that had welcomed a number of initiatives and statements by the Samper government but regret the rural security plan that was proposed. Despite the fact that the initial rural security cooperatives have changed and are now referred to as the *CONVIVIR* associations, we have serious concerns that these rural organizations which are supposed to have an intelligence-gathering function will be armed in exceptional circumstances, and will only perpetuate the whole problem with paramilitaries. And again, since the government has said that it wants to tackle the paramilitaries, we see absolutely no reason for the creation of these kinds of institutions that would be armed.

Finally, we note the very important development of the Trujillo Commission, and greatly welcome President Samper's statement of January 31, 1995, in which he accepted responsibility on behalf of the state for the massacre. That is an historic recognition, an historic statement, as is the subsequent dismissal of Colonel Urueña.

We would like to make sure that the [Trujillo] Commission's report moves forward to a full level of prosecution in this case. But we see no reason why individual commissions need to be developed in this way. A full truth commission into many of the massacres that have been carried out in Colombia should be granted strong powers to recommend prosecutorial action.

DISCUSSION

JUAN TOKATLIAN: I would like to set forth two concerns in the manner of a comment, and I'd like to put them forth as general questions. The first is an analogy and the second is a suggestion. The analogy would be as follows:

If we look at scholars of the Colombian violence, such as Paul Oquist, we see that violence resulted from the partial collapse of the state. And because of this, from 1948 to 1966 there were 179,000 deaths in Colombia in nineteen years. So if we accept the thesis that violence is the result of a partial collapse of the state, is not the total degradation of the human rights situation in the 1980s a manifestation of a second partial collapse of the Colombian state, when from 1980 to 1994, in fifteen years, there have been 255,000 homicides?

If this analogy holds, obviously the human rights policy that would need to be promoted would not just complement a strategy against violence, or not just complement a policy of peace negotiations with the guerrilla; it would be greater than any negotiation or compromise with one or another political group, and greater than the incorporation or non-incorporation of certain social sectors into the country's overall political life.

My second comment is a suggestion. If you were here earlier today, you might have the sensation -- having heard the figures and the comments -- that Colombia's greatest problems can no longer be overcome by Colombia itself, autonomously, and that Colombia's most serious problems (drugs, human rights, guerrillas) will require, sooner, rather than later, international solutions. Posed as regional security or hemispheric security issues, or phenomena of instability or unmanageable problems, these are problems that need to be addressed internationally because of their repercussions.

So the question is, is Colombia a case in which other states can *intervene* in order to solve its problems? Or is it still a source of international *cooperation* in order to solve these problems. These are two clearly different things. The tragedy of the Samper administration is that, by continuing to think that it can solve the problems of the guerrilla, drugs, and human rights on its own, in the eyes of the international community, it aligns itself with the guerrillas, the drug traffickers, and

violators of human rights. This is paradoxical for an administration that's trying to solve these very problems. But if it doesn't accept a further internationalization and global solution of these problems, it will end up -- at least in terms of its image -- as if it were defending the violent actors, when its purpose and policy is quite different. Is it possible to work with the Colombian state as a party in cooperation? Or is it a situation in which there must be intervention?

ROBIN KIRK (Human Rights Watch): I have a question for Ms. Ely-Raphel and also for Ms. Gaitán. First, for Ms. Ely-Raphel. I found interesting and quite provocative what you said about the military court system in Colombia and its ability to prosecute successfully cases involving officers, in either the police or the army or other armed forces. Can you cite the basis for your conclusion, if I quote you correctly, that "there are possibilities that a military court jurisdiction in these sorts of circumstances could be successful?" Do you have any cases that you would cite as examples of that success? And particularly, could you be more specific about the discussions that you've had with the Colombian government about the case of Urueña and the possibility for prosecution now for his participation in the Trujillo massacre; and more specifics about the three other cases that you mentioned? Do these cases have any bearing on how the military justice system might operate if there is a proposed reform, if that reform is ever implemented?

And secondly for Ms. Gaitán, please comment more about how these offices within military bases are working, especially in their investigative capacity. Do you have any information about progress of the bases working on investigations? Could you give us some examples of how the investigation is going with respect to Sabana de Torres²⁶ and "Los Motosierras" (the "Chainsaws") paramilitary group; a group called the "Masetos," a paramilitary group that is believed to be cooperating with the army in Ocaña and in Aguachica;²⁷ and also the group "Serpiente Negra" ("Black

²⁶ According to Amnesty International, three members of the Piña Ardila family were killed and one wounded between September 1993 and August 1994 in Sabana de Torres, department of Santander. Despite investigations into security force involvement, and the personal intervention of Interior Minister Horacio Serpa Uribe, threats against surviving family members continued.

²⁷ Heavily armed men believed to be members of the paramilitary group "Los Masetos" abducted nine peasant farmers and fishermen in January 1995 in Aguachica, department of Cesar, a heavily conflicted area. According to information from Amnesty International, seven were murdered and two "disappeared;" the bodies of two of those killed were found near a military base on the outskirts of Aguachica.

Serpent"), which is supposedly cooperating with the police and the army in Meta?²⁸ Could you give us some indications of how the investigation is going, how the investigation works through those human rights offices? Has progress been made in these investigations?

NANCY ELY-RAPHEL: I can't comment on the specific cases nor do I want to comment on the communication that we have with the government. Suffice it to say, we do raise these specific cases. On your question on the military investigating and prosecuting the military, the successes that one can cite generally are court martials of military officers who violate human rights. I'm not giving you specific examples in the case of Colombia and I must confess that I'm very doubtful that the military is able to investigate itself, particularly in the area of human rights. I'm not sure it would be successful. But given the situation in the civil courts, you have to hope that improvement in the one area that may be able to function will function.

PILAR GAITAN: I'd like to make a clarification about the function of the human rights offices because it's important, even though this might be a frustrating response with respect to your question. The human rights offices have no judicial functions, nor do they have any jurisdiction to mete out sanctions. There are other bodies that are responsible for this. There are Attorney General inspections of the different military forces and the police; they carry out or apply disciplinary sanctions when they think that it is merited, when the cases such as these you mentioned are remitted to the military courts.

In the cases of Los Uvos,²⁹ Caloto,³⁰ and Aguachica, often times there is a clash of jurisdictions and the national judicial administrative body decides on this. This happened in the case of Los Uvos. There have been decisions along these lines. As to Aguachica, at this time a military criminal court is hearing that case and the

²⁸ See presentation by Robin Kirk, Panel III.

²⁹ In April 1991, armed gunmen stopped a public bus in the department of Cauca, pulled seventeen passengers from the vehicle, and executed them on the spot. In May 1993 the *Procuraduría* opened disciplinary proceedings against eight members of an army battalion, for murder and cover-up. A military court had ruled that members of the army battalion were not responsible for the murders.

³⁰ In December 1991, heavily armed men murdered twenty Páez Indians on the "El Nilo" farm near Caloto, Cauca. In February 1993 the *Procuraduría* charged two police officers and several police rank-and-file with the murders, but later absolved the two officers. The case was re-opened at the request of the human rights ombudsman (*Defensor del Pueblo*), and a review panel concluded that charges should have been brought for cover-up and omission, not murder.

prosecutor's office has ordered detention of the persons closely involved in these events. The offices receive denunciations and through the offices of the inspector general, process the disciplinary decisions. But they have no judicial functions.

JAMES O'DEA: I think it would be regrettable if the U.S. government was recommending something contrary to the recommendations of the special rapporteurs. I just want to read their recommendation on this point of the military justice.

The present system of military justice ensures impunity for acts such as summary execution, torture, and disappearance. The U.N. General Assembly, in its declaration on protection of all persons from enforced disappearances, stipulated that persons alleged to have committed acts of enforced disappearance should be tried only by the competent ordinary courts and not by other special tribunal or in particular, military courts. The special rapporteurs are of the opinion that this should apply equally to extrajudicial, summary, or arbitrary executions and torture. Therefore, the only appropriate step would be to remove such acts from the orbit of military justice. This should be clearly spelled out in the law.³¹

COLETTA YOUNGERS (Washington Office on Latin America): I actually have a comment, not a question. But I was struck by Ely-Raphel's offering of U.S. qualified support for the public order courts. This has been a very controversial point within the U.S. government, given U.S. financial support through the administration of justice program for the courts. Presently, A.I.D. is conducting a review of the Colombia program, precisely because of the concern of U.S. support for the court system. I think it's particularly worrisome that the Human Rights Bureau would support these kinds of courts, given the Bureau's mandate. Jim has already reviewed the problems with the courts and I don't want to go into that in any more detail. But I would just like to point out that, while we all agree for the need to adopt extraordinary measures in the Colombian case, there are ways of doing so that are less detrimental to due process guarantees, which are, in fact, protected in international law.

³¹ Nigel Rodly, Special Rapporteur on the Question of Torture, and Bacre Waly Ndiaye, Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, *Joint Report*, submitted pursuant to United Nations Commission on Human Rights Resolutions 1994/37 and 1994/82, Section VI, Recommendations.

I would refer anyone who is interested in this subject to the report prepared by the International Commission of Jurists, commonly referred to as the "Goldman Commission," which was supported by the U.S. government precisely to look at this problem in the case of Peru, and which reviews a number of alternative ways of meeting these two objectives of providing security, greater efficiency, while at the same time protecting due process.

NANCY ELY-RAPHEL: I appreciate your comments but I would have to point out to you that today I'm representing the United States government, not the Bureau of Human Rights.

HERBERT BRAUN: I have an irrelevant question, but since nobody else was going to ask an irrelevant one, I thought I would take the opportunity. And it's irrelevant because what we're concerned about here is the administration of justice and essentially doing something about events of violence that have already occurred. But we can't really do that very well unless we have somewhat of a better understanding about why the process does take place.

As I was listening to myself and others this morning, I said, what in the hell is going on here? What, for example, would lead former members of the armed forces of a nation and former members of the police to get together systematically and go about the streets of a city killing urchins, homosexuals, and other forms of "deviants?" What leads to something like that? What's the mentality? What's the ideology? Unless we begin to come to grips with these small forms of social violence that take place on a daily basis, we're going to get more and more of that huge and gigantic human rights bureaucracy that is so hard to cut through.

CARLOS VICENTE DE ROUX: I have one concern, which has to do with what's been said, and that is the whole question of the human rights bureaucracy in Colombia.

I want to convey to you that from inside Colombia, what we note is that resources that have been earmarked for the promotion and defense of human rights are quite limited. We mustn't lose sight of the fact that, with respect to the levels of violence that exist in Colombia and the extent of the human rights problems, there is only one office that is fully involved in human rights. There are two more that

are partially dedicated to human rights. There's also the ombudsman (*Defensor del Pueblo*), which has modest coverage of the national territory; and there is the Office of the Presidential Advisor for Human Rights, whose staff (not counting the educational programs) that focus on human rights protection and specific violations, number less than ten.

In the overall context of human rights violations and violence, the impression of the office of the ombudsman is that its resources fall very short. And the same can be said of the other agencies. We don't have enough personnel or resources to process or to carry out investigations and to ensure investigation of cases and to provide protection of persons at risk. We're just now barely setting up a national registry of cases nationwide. There are still not enough resources to provide protection for political leaders, human rights activists, and trade union leaders, who are all threatened. We don't have staff who can attend in a substantive way to the problem of the displaced. We have many problems when it comes to sending missions to the many regions of the country where human rights abuses occur. So this question of there being such a large human rights bureaucracy does not really reflect the true situation. The country needs to invest more and allocate greater resources to investigation of violations and to protection of human rights of Colombians.

JAMES O'DEA: I would like to respond to that. I think it is an enormous challenge for the human rights community to be effective in strengthening whatever efforts there are in Colombia to reform and to eradicate the scourge of violence. And so our comments about the human rights bureaucracy are not intended to weaken it but to strengthen your arm to signal that in the international community there is, as strong as we can make it, powerful, political interest in effective bureaucratic reform, change within Colombia. We understand the difficulties. But I really want to underscore the point that we are allied in this process and that our criticism is sometimes the disconnect between establishing a bureaucracy of this kind and then saying that for acts such as extrajudicial execution and disappearance, military personnel can be acting in due obedience. That is where I think we would come in and say that the government cannot speak with two mouths. It really needs to speak with one voice. But consider our reporting and critique hopefully as strengthening the resources that you get to create effective solutions, because that is what is needed. It's needed to transform the efforts of those who are laboring in the

human rights bureaucracy into work that will end up in prosecutions which begin to address the cycle of impunity in Colombia.

GUSTAVO GALLON: In the same vein, I would like to point out cases and situations in which it is not necessary to have many resources to demonstrate more efforts regarding human rights. The previous administration of President Gaviria, in an incredible manner, told the Inter-American Human Rights Commission that their decisions are not mandatory or their resolutions are not mandatory. This is incredible, because it is a judicial as well as a political error. It is extremely arrogant to say to the Inter-American Commission that we don't have to abide by your decisions. The decision of the Commission was predictable. If you don't think this is mandatory, then we will send one of these cases to the Inter-American Court, just so you can see whether it is mandatory or not.

Months have gone by since the new administration took over, and the new administration has not amended or corrected this error. They have not complied with the ten resolutions issued by the Inter-American Commission and they have not told the Inter-American Commission that they are abiding by their recommendations and resolutions. It would not take a great effort. This is a serious political decision. They have not done it. I don't think they will do it. I don't know why they won't do it.

Similarly, the case of Isidro Caballero raises several doubts. Isidro Caballero was a teacher who was disappeared in 1989 by the Colombian army. And the more that the judicial cases advances, the more we find out that it was not an isolated case; it was a political decision made at a very high level. It was necessary to make Isidro Caballero disappear because he was a leader of the M-19 that was seeking peace, and therefore, they had to torpedo that peace process. Important military officers are implicated in this case. The degree to which this case has advanced is enough for the government to have made executive decisions related to people that continue participating in the administration. But these decisions have not been made. So they continue to be responsible and the government continues to discuss with witnesses in the Inter-American Court in San José, Costa Rica, a very important point: whether Isidro Caballero had a mustache or not.

It is incredible. The government attorneys continue to act as if what had been presented there was a lie. And in the meantime, the government has enough documentation to know where the remains of Isidro Caballero are. It has been a long time since they could have fulfilled their humanitarian obligation of handing those remains to his wife -- his companion and son -- as well as giving the remains of María del Carmen Santana back to her family. The government has not done it. Why do they need to do this? As these with these two cases, there are many others that demonstrate the government's difficulty in producing substantive results in substantive matters. People that have participated in violations of human rights are continuing to participate in the government. They are not punishing these people.

As for the question of the administration of justice, this raises concerns that the government cannot maintain public order and that the forces of order do not abide by the law. To illustrate the seriousness of this problem, in Colombia at this time there are 30,000 people in jail that are being processed judicially. When I mentioned before that impunity is 97 percent, that does not mean that there are no people in jail. There are. As a consequence of impunity, to the degree that the government is inefficient, there are a lot of people that are in jail that should not be there. Of those 30,000 people that are jailed, 10,000 of them are there because of the public order jurisdiction or the police. And they are kept there because the government says it has to protect the security of judges that have been attacked by narco-traffickers. But how many of these 10,000 people are really, really dangerous to the judges? Maybe ten, maybe fifty, or 100. But the policy is applied to 10,000 that the police have put in jail supposedly for being dangerous to judges. And the government has said that it will reinforce this policy. These are two cases or areas where the government has shown a very great weakness. It is important that they start taking measures as soon as possible.

GENERAL JUAN SALCEDO (Colombian Army): I have actively participated, as army inspector, in dealing with human rights when the offices were created. I had the opportunity to go to court in the cases of Isidro Caballero and Mrs. Santana. I am very skeptical of statistics, but this does not mean I am disqualifying all the statistics that have been presented here. But simply I don't believe much in them, because they can be manipulated or geared to produce an effect. In the case of deaths and disappearances in Colombia, sometimes the proportions are increased and sometimes diminished. I think that everybody knows the head of the FARC has

been killed about ten times, so maybe he will appear as one those statistics. He has also been given amnesty three times and condemned or pardoned two times and he's still waiting for another amnesty and a pardon.

García Márquez once spoke about the massacre of the banana plantation and he put a great number of murders in the story. The numbers mentioned by García Márquez in *One Hundred Years of Solitude* became part of the statistics, and they were cited as true and as real, when they had been created by the imagination of García Márquez.

I would like to talk specifically about the paramilitaries in Colombia. I think there is a tendency to confuse or identify paramilitaries with the military, but they are two very different things in Colombia. As Dr. Pardo explained in the previous panel, within paramilitarism there are very different examples. With the first groups of self defense, yes, there were military officers that were advising communities that were totally unprotected from the guerrilla. They did consult and advise, and the paramilitaries were given that information to fight the guerrillas.

The paramilitarism that was created or that had its origin in these sorts of noble ends is very different, even though at some times the groups did exceed the law. But when the drug traffickers took over these groups, then members of the armed forces no longer participated, except for exceptional cases. Where this participation was proven, military sanctions or disciplinary sanctions were applied, because we cannot, within the armed forces or the national police, sanction those people who have not been judged through a trial. Please understand this: you cannot say this person is guilty because I say so, or somebody imagines so, even though he may be. But until the person has been condemned through a trial or court martial, he cannot be punished.

For that reason, it is not possible to say that within the public forces there are still people who are responsible for violating human rights, if they have not gone through a trial, if their responsibility or guilt has not been proven. So we cannot do anything. That's law. For those of us who are working within the law, we have to respect it. We cannot begin by violating the law or applying it unjustly to someone who perhaps did violate the law. I just wanted to clear this up, because sometimes things are said that do not accurately reflect reality in Colombia.

Finally, in the case of Caballero Delgado, the Colombian state is participating in the proceedings, in the Inter-American Commission and the Inter-American Court of Human Rights. I went to that court as a witness. Many things were shown there that were false and muddled up the proceedings.

GUSTAVO GALLON: If statistics are disputable, some things are not disputable. The number of people that die for any reason in Colombia is a national statistic. It does not belong to anybody in particular. And when I say that we went to more than 20,000 dead in 1988, and 30,000 today, it is not disputable. And as far as the distribution of responsibility, I said that it is difficult to establish who is responsible. But in that half of the cases where there is a known perpetrator -- do these people really end up condemned or tried or found guilty? As far as the disappearance of Isidro Caballero and Mrs. Santana, I don't think there were any lies. With all due respect, General, in the case underway in San José, the proof and the evidence that the government presented show that this was more true and more serious than what has been acknowledged up until now.

PANEL THREE: INSTITUTIONAL EFFORTS AGAINST IMPUNITY

ROBIN KIRK

I'm going to talk briefly about the subject of impunity from a somewhat personal perspective. I'd like to add some of my experiences in Colombia and try to put those in the context of impunity and focus on a few individuals, who would be useful to think about when we consider impunity and what happens in Colombia.

As Jim O'Dea said earlier, Colombia does have a large human rights bureaucracy, probably the largest in the world. To summarize, there are human rights offices within the *Procuraduría*, in the president's office, the Justice Ministry, the Defense Ministry, and in many municipalities, including the capital, Bogotá. There is a civilian police high commissioner, a Cabinet-level peace adviser, and a public ombudsman, called a *Defensor*.

Soon after his inauguration, President Samper promised to broaden the number of human rights offices that already existed in Colombian army bases and police stations. As Pilar Gaitán said earlier, there are over 100 of these offices now in operation. International human rights monitors like myself can literally spend days going from office to office, welcomed, given coffee, plied with reports and speeches and magazines. Most of the individuals who staff these offices, some of whom are here and some of whom I consider valued colleagues and friends, are enthusiastic, well trained, well meaning, eager, and determined to do the right thing by their nation. Anything I say from here on is certainly not aimed at any individuals, but is a general perspective on what these human rights offices have meant for Colombia and human rights.

For the sake of argument, I'd like to make a quick comparison with Peru, where I've also spent a lot of time. Peru only has one human rights office that would be in any way similar, and that's within the Justice Ministry. It was the *Fiscalía* [prosecutor] for human rights that existed, was suspended after the Fujimori coup, and now has recently started to function again, supposedly. This office has functioned to investigate specific human rights abuses, occasionally effectively. But if the prosecutor involved is at all conscientious, he or she has to leave the country

in a great hurry. There is no civilian police commissioner. There is no presidential counselor for human rights. There is no public ombudsman, at least not yet, although that's been a proposal for some time.

Yet the great distinction between Peru and Colombia now is that Colombia has, with great emphasis, surpassed Peru in several important human rights figures. For instance, the number of forced disappearances registered in Colombia in 1994 -- and this is a figure that comes from the Inter-Congregational Commission of Justice and Peace -- was 170, as opposed to fewer than ten forced disappearances in Peru. In 1993 the numbers were 173 disappearances in Colombia, 168 in Peru. In 1992 there were 237 disappearances in Colombia, 178 in Peru. I think that figure is surprising, because especially internationally, Peru is considered a much harder human rights case than Colombia, yet the figures show that the reality is somewhat different.

Colombia has also surpassed Peru in the number of political assassinations, which are termed in Peru more broadly as extrajudicial executions. In 1994, for instance, Peruvian human rights groups recorded about forty extrajudicial executions, while in Colombia, the number was 720. And there are assassinations that we are sure had political motivations. The Colombian government also registered an additional 936 presumably-political assassinations for 1994, i.e., killings that take place in violent circumstances, but without a clear motive or perpetrator.

A recent study carried out by human rights groups in Barrancabermeja found that, of 183 individuals detained by soldiers or police between January of 1993 and June of 1994, 170 reported being tortured, which is 93 percent. And there are people detained for any reason, not just political reasons. Given these figures, and given the extent of the human rights bureaucracy in Colombia, I think it's fair to ask, what is going on here? Why in the country with the most developed human rights bureaucracy is there such a high level of human rights abuse, while in a country which is arguably much less developed in that sense, have human rights abuses dropped dramatically, especially since 1990 and 1992?

I don't want to draw this parallel too closely. Obviously, there are many differences between Peru and Colombia. But in terms of human rights, there are also many similarities. They share several key features, such as an entrenched insurgency (or insurgencies, in the case of Colombia) capable of committing its own

atrocities, powerful militaries, rural populations trapped in conflict zones, dramatic impunity vigorously defended by successive governments. Yet, as of last year, Peru was able to dramatically improve the protection of human rights, with some notable exceptions, while Colombia continued to rack up the fearsome numbers that we're all familiar with.

What, indeed, have these offices meant for the Colombians who need protection or who want to report violations or who want simple justice? If we add social cleansing killings to the number of political assassinations and presumably-political assassinations, there were over 2,000 of these killings and disappearances in Colombia in 1994, as Gustavo mentioned earlier, six per day.

Certainly these offices mean that the phrase "human rights" is one that is used and understood in Colombia. Certainly these offices mean that actions can be taken, be they letters of concern, or visits of governmental delegations, or even, in the case of the Trujillo Commission, or the extrajudicial executions of two members of the *Corriente de Renovación Socialista*,³² investigations with government participation and support.

But has that meant an increase in the protection of civilians from human rights violations? Let me take as an example the case of Sister Nohemy Palencia, who until recently worked in the Villavicencio-based Civic Committee for Human Rights. Since the Committee was founded, it has helped to shine a strong light on dealings between the military, police, and paramilitaries in Meta. The Civic Committee was instrumental in bringing attention to actions by a new paramilitary group in Meta, calling itself "Black Serpent," as well as continued harassment of the peasant population by the military and police.

Members of "Black Serpent" first announced themselves on November 13th of last year, when they appeared in the village of Medellín de Ariari carrying weapons. As a precautionary measure, community leaders, led by Vicente Prieto, called an emergency meeting with the *Procuraduría*, and other municipal and

³² In September 1993, the army executed Enrique Buendía and Ricardo González, two leaders of the Socialist Renovation Current (CRS) who were engaged in peace negotiations with the government. The two had entered the town of Blanquicet for a pre-arranged meeting with government officials. The *Procuraduría* accused eight members of the army, including four officers, with abuse of authority and negligence.

government representatives. Nevertheless, despite the presence of these government-sponsored human rights groups, or government agencies that are supposed to protect human rights, a few weeks later "Black Serpent" apparently set a highway ambush for the mayor of El Castillo and a council member, who managed to flee. But one peasant ambushed days later was disappeared, while another was found dead, his cadaver showing signs of torture. On December 24, 1994, Vicente Prieto was murdered in circumstances that suggest the work of "Black Serpent." On January 6, 1995, Belisario Panagos and Alfonso Borhórquez, both members of the Patriotic Union, were shot and killed. A week later, Arnovio Millany and José Zapata were apparently strangled to death. Community leaders have reported at least six additional murders, allegedly committed by "Black Serpent."

"Black Serpent" operates with apparent impunity in a heavily militarized area. The department of Meta has been a special concern of Human Rights Watch for many years. Much of *A State of War*, which I wrote with Cindy Arnson, was researched with the help of Sister Nohemy Palencia and the Civic Committee. For her courageous work, Human Rights Watch invited her to visit the United States in 1993 as a featured human rights monitor.

Nevertheless, on February 10, 1995, an unidentified person left a message that Sister Nohemy would be killed. Civic Committee president, Josué Giraldo, the subject of several Human Rights Watch appeals, has long been the target of threat and harassment and had to flee to Europe. In the days after the death threat was left for Sister Nohemy, residents of Josué's house noticed that strange cars were circling in a threatening manner. On February 20, a man identifying himself as a member of the police called the Civic Committee and demanded the names of its board of directors. When the man was told that he would have to make such a request in writing, he laughed and said, "we already have you located and we know where your office is."

On March 15, the final blow came when the Civic Committee received the following threat, which I'll translate as, "You swine. I'm going to kill you all. I'm going to bomb you. I'm going to destroy you." Sister Nohemy immediately left the country. Other Civic Committee members either went into hiding or left Villavicencio. This is not an unusual or very unique story. I tell it in some detail to give you the sense of one such story.

In fact, human rights violations have not significantly decreased since this human rights bureaucracy was founded and elaborated. Violations have remained more or less steady, with decreases in some categories matched by increases in others. There are 600,000 displaced people in Colombia, and forced displacement continues. Fear reigns in Ocaña and Sabana de Torres and Trujillo, and, still, in the *comunas* of Medellín.

Let me just say something about Sister Nohemy. I first went to Villavicencio in 1993. And during the trip there I went by car from Bogotá to Villavicencio. It's a very windy, narrow road. And the driver was one of these characters who is frequently seen in Colombia, an absolutely fearless driver who loved to pass people on curves and went very fast and liked to blow horn and refused to let anyone pass him. And that morning, a car that had been a part of the same company had gone over the edge of the mountain. So his car, as well as the other cars belonging to this particular business, all had purple ribbons of mourning on them.

At the point where we passed the spot where the car had gone over that morning, the driver turned to us passengers in the back and he said, "Brakes are like women. They never warn you before they go." At that moment, I was as scared as I would ever be in my life. But I had no reason to fear, because on the return trip I was with Nohemy again in a public car. Sister Nohemy is a beautiful person who has absolutely no political sense whatsoever. Her commitment is to individuals and to people. She has a great appreciation for and love of life. And that love was partially expressed by the fact that, on the trip back from Villavicencio to Bogotá, at every location where she knew there had been a car accident, or landslide or death, she would cross herself. So this entire trip was spent with Sister Nohemy crossing herself, at least 100 times as we drove the three hours between Villavicencio and Bogotá. I knew at that point that my life was not my own, that it was entirely in God's hands, if not in Sister Nohemy's hands.

This is a woman who has no political beliefs in the specific sense. Her political belief is in life and in the protection of life. So the fact that she or someone like her would have to leave Colombia, simply because she had this kind of commitment, is an incredible statement, not only about the tragedy that exists in

Colombia, but also the tremendous loss that a country like that suffers when someone like Sister Nohemy has to leave.

I believe that the main difference between Colombia and Peru is one of political will. There was a moment in Peru when, for good or for ill, there was the political will to change the human rights situation and the change was dramatic. That has not happened yet in Colombia. Despite statements made by Colombian government officials that human rights is a prime concern, despite President Samper's own oft-repeated statements in support of human rights, I believe the Colombian government has yet to marshal the political will to make the changes that will result in the kind of dramatic improvement in human rights visible in Peru.

President Samper obviously deserves a lot of credit for emphasizing the importance of human rights. The ratification of Protocol II, the Trujillo Commission, all are laudable and we should support them. However, there are other indications that the will is still not there. The disappearances law is number one. The key to the political will question in Colombia has got to be military court jurisdiction over security force members who commit crimes like murder, rape, and disappearance. These cannot be considered acts of military service. They must be considered crimes, and they must be put at the jurisdiction of civilian courts.

I would also say that the Trujillo case can also be used to illustrate how impunity continues to reign, despite what Nancy Ely-Raphel said this morning. I don't think there's any indication that Major (now Colonel) Urueña will be tried. In fact, the only punishment that he has so far suffered for his participation in these murders is to lose his job. That's simply not enough. That's not acceptable.

I want to finish by saying that I have been doing a lot of reading lately about the idea of truth commissions and trials. And one of the things that jumps out of any discussion of how these things work is the question of culture. Pilar was right to emphasize that culture is very important in stemming and stopping human rights abuses. But I'd like to add that you cannot have a change in the respect for human rights without having a government which makes a conscious and visible decision to protect human rights and prosecute people, even if they're members of

the state, who commit abuses. The two cannot go separately, they have to go together.

It's not enough in Colombia to simply create offices and designate them with the magical phrase "human rights." It's not enough to request new recommendations, when the libraries of government offices are already filled to overflowing with recommendations -- all pretty much the same, all repeating over and over again the same points. *Cruzando oficinas* ("paperwork," to use a Peruvian term) can also be just another way of *cruzando los brazos*, or crossing your arms. It's not enough. Civilian courts need real power. Investigators need real power to be able to recommend and impose sanctions.

While it's clear that most people who work with the Colombian government now have displayed a change of attitude, and there are new people who are really committed to the support of human rights, there are also indications that there remains a great deal of resistance to the idea of human rights as a goal. To cite one example, we recently did a report focusing on social cleansing of children. And the report was termed by one high government official in Colombia as slander, pure and simple. No evidence was given to support this accusation and it was made with the utmost lack of responsibility. It was called slander.

This was an interesting thing to say, especially since most of the statistics included in the report come from government sources. So if it is slander, then it's slander that comes from the *Procuraduría* and the *Defensoría*. There is still a great deal of work to be done within the government.

CARLOS VICENTE DE ROUX

Anybody who knows the history of my country will realize the transcendental importance of the fact that the national government, its President, its ministers and the highest staff of the military formulate a policy of respect towards human rights. It is true that such policies always run the risk of remaining as more words than action. However, we had an experience in the middle of the century (when Colombia had half of its current population) which produced about 200,000 political deaths in a span of eight years. This was due to the fact that human rights were completely absent as a subject and that the government officials not only were formulating policies, they were themselves contributing to an aggressive and violent type of rhetoric.

Therefore, when I hear it said that the fact that the President of the government is formulating policies in favor of human rights and that there are educational campaigns -- that this is not worth anything -- I think to myself, how profound is the ignorance is of those people that think that this is worth nothing.

Happily, recent governments have been displaying and have been reiterating declarations of respect for human rights. It is also a good thing that they have created institutions to protect human rights, and that this discourse has penetrated an even broader stratum of the bureaucracy. The armed conflict that we have seen is by itself the generator of hate, of sectarianism, and of violence. It should be acknowledged that the public forces that have to operate within a warfare situation sometimes tend to believe that defending human rights creates an obstacle for them in carrying out their duties. There are mandates from the high command, the government, and officers of the public forces that control this tendency, so that the public forces do not go outside the law. Otherwise, the consequences would be much more serious.

In reference [to Robin Kirk's assertions], the difference between Colombia and Peru does not lie in the fact that there is political will to do away with human rights violations on the part of President Fujimori and less so in the case of President Samper. The contexts of Colombia and Peru are very different. The actors and the processes of political violence are very different. In Colombia, perpetrators have

penetrated much broader parts of society, and violence and crime are much more complex in Colombia than in Peru.

Unfortunately, in Colombia stopping the war depends on more than just a government decision. This reminds me of the time that some government officials and I went before an Amnesty International group in Finland. The lady that received us said, "Stop the murders now!" We were so stunned. We almost felt like saying, "Give us a phone. We'll call them and tell them to stop it." Because the way she said it, it was as if the violence were something within the control of one body, or the government. Unfortunately, this is not the case in Colombia. We have a conflict in which each of the 10,000 people involved in the conflict are supported logistically and practically by two or three others. In other words, it is as if in the United States there were 100,000 armed men and another 250,000 logistical supporters.

The reality of the country is that there are great mountains and there is a jungle. We have growing agricultural development throughout the country and we have not restricted it to certain areas. These areas are infested with guerrillas. And we face a challenge that the war against that guerrilla has to be done within the framework of the Constitution and the law. We have a very strong tradition of violence, so when the guerrilla goes into some areas, they create a reaction in society that is very profoundly aggressive.

A study done by the Institute that Gonzalo Sánchez directs found that, in 70 percent of the municipalities, the drug traffickers have bought land owned by the guerrillas. This creates a societal reaction against the guerrilla, against these extrajudicial disappearances or executions. I am neither defending nor legitimizing this reaction. It is profoundly aggressive. But this comes from deep within our society that has a deep tradition of violence. I recognize that some people are collaborating with the public forces in this type of experience.

There are ways of combatting the guerrilla movement and the solutions come from civil society. We have seen that the Colombian guerrillas have a special characteristic -- that is, that with their military force they join in common crime and delinquency practices more than any other guerrilla force in the world. They are a guerrilla of *bandidos*, of *bandoleros*; they mix together their political concepts

with a military agenda and practices that are usually associated with common criminals.

Of course, the government is responsible along with everybody else, because they have their roots in that violence and they have a great responsibility for their surroundings. Political parties, our police, and our public forces entered the bipartisan battle profoundly, and the police, particularly the state, departmental, and municipal police, became tools for political persecution. When the pact of the National Front was signed between the Conservative and Liberal parties, it was used against minorities that were not part of the pact. Thus, the government of the state has a tradition of responsibility. It would be completely unfair to believe that the government is doing all that is possible to stop these violations. There are many things to be done that have not been done and are not being done. But we have to think that the efforts of formulating policy and establishing new rules and regimentation related to human rights make sense. Or are they something just to hide a reality?

There is nowhere in the world that the justice apparatus can work unless there exists a basic premise that crime is statistically exceptional conduct. Given the level of violence that Colombia has, it is very difficult for the justice system to play its necessary role. Therefore, more than a justice problem regarding impunity, there is a problem of how to work, how to operate, how to dismantle this violence, how to change the culture or the counter-culture of violence, and how to integrate this change into society, to the churches and to the educational apparatus.

The national government has made a great effort to strengthen the justice apparatus. In three years it doubled in real terms, if you don't count inflation, the resources assigned to justice. Today, we're one of the Latin American countries that assigns the most resources to justice in proportion to the population and as a ratio of the GDP. Maybe this is not enough, but it does show the determination of the national government to strengthen the justice system.

Regarding impunity and the violation of human rights, however, there are some very important things that are left to be done. I will refer to these and the steps that the government has taken, acknowledging that, although they are insufficient, they are the right path to take in these matters.

First, impunity in Colombia is related to all crimes. This is very important. It's important to understand this clearly. There were 500 policemen assassinated in Medellín during the war with Pablo Escobar;³³ only two or three of these cases have been solved. The cases that were solved ended with the conviction that the perpetrators presumably belong to such and such a group, the FARC, or whoever. The cases of Liberal and Conservative activists that have died because they have worked in electoral activities are very numerous. Unfortunately, there is no inventory of these. The Liberal Party activist that gets involved in politics is a dead woman or a dead man, killed by the guerrilla. And these crimes are linked to impunity. So impunity is a very complicated and very great phenomenon.

What is the country trying to do about this, to avoid this collapsing of the state that was mentioned earlier? First of all, we are advancing towards recovering the basic premises of the justice system regarding human rights. In other words, if we cannot cover all of the cases, at least let's begin to establish precedents regarding these violations. There have been advances in this area. If you compare what happened in 1988 and 1990, and what has happened in human rights since then, you will see that there is a difference in how the investigations and the judicial system are operating.

For example, if we talk about cases like Caloto and other cases of ex-members of the M-19 who were supposedly disappeared by personnel of the police force, this shows that there are significant advances in solving the problem of impunity. I can mention four or five cases in which the prosecutor's office has arrested members of the police force and put them in jail. There are some interesting things that have emerged. Occasions where the prosecutors investigate officials of the military courts who were not duly processing or investigating cases that had been presented to them in police quarters or battalions or who had left certain cases in impunity. Because of this, the prosecutor general's office created some excellent elite investigators who will take the most serious cases and violations of human rights. The case of Trujillo will go to this special unit of the prosecutor's office. We will try with this new office to reproduce the successful efforts of the attorney general's office. Those people can go to the areas where the crimes are committed and quickly

³³ Escobar, a leader of the Medellín drug trafficking cartel, was killed by elite anti-narcotics police in December 1993, following his escape from a luxurious prison that he controlled.

recover the evidence, and immediately do all the investigation necessary. We will work jointly with the non-governmental human rights organizations. The case of Trujillo is a successful case involving sensitivity and international pressure, combined with the good predisposition of the government to investigate the facts. The people who were implicated had three sentences handed down to them.

And the government went in and dug further, even though there were some doubts as to how legal this kind of procedure was. But the President courageously assumed responsibility for the findings of this investigation. There were high officials of the public forces that also worked on this. By a special decree, there will be a committee created that will study and investigate cases that the rapporteurs of the United Nations have brought to our attention.

We also want to support judicial proceedings that are taking place, and take bold steps and follow-up on specific cases, along with the NGOs. This is especially true for the most atrocious cases. We will also work with peasant union members, and union and indigenous leaders. We are gathering documentation of violations of human rights, documentation of the cases that are being tried. There are joint efforts with the prosecutor's and the attorney general's office. We want to do this together with the NGOs, within the framework of decree 1533 of 1994.

Finally, I would like to comment on the military justice system. A new committee has been created to reform their procedures. There will be representatives of the victims at these court martials and there will be a separation between the judge and the commanding officer. The accusatory and investigatory (the way in which evidence is collected) phases will be strengthened. We will also raise the very delicate subject of what actions done "in service" mean. There is a committee that is working with good will and an open mind, to cooperate and have dialogue to clear up these subjects.

ROBERT WEINER

Let's start with several givens. There's an extremely high rate of violence in Colombia, much of which is political. The amount is small only in proportion to the overall numbers. There are many perpetrators, but the state is responsible, via commission or omission, for a majority of those [political killings]. I speak in an actual and a legal sense when I say that. The situation is not the responsibility of any one administration. There's no reason for finger-pointing at any one government, because all of them have to account for this. The pressure of opinion and, occasionally, of condemnation are also clearly designed to push for some change. Rather than push for a sterile dialogue about what's wrong or isn't wrong, it is designed to indicate where the particular problem areas are that can be resolved.

It is important to recognize that the justice system has been endangered. For about five years the Lawyers Committee has published an annual compilation of lawyers and judges who were involved in human rights cases and had problems as a result. Colombia has the dubious honor, year in and year out, of being among the top, fattest parts of the book. Something special was needed, and has needed to be done within the legal system in Colombia. Many judges often have to choose between being bought out or shot out of doing justice.

We can agree that it is not a normal context in which to begin to analyze things. In fact, there have been many efforts by Carlos Vicente and others to attack impunity by alternate means. But justice simply has not resolved this issue. In fact, I would argue that the arrangements within the legal system have contributed to impunity. One salient historical fact to begin with is that for the better part of the last forty-odd years, Colombia has been under a state of siege or state of emergency or other extraordinary state. For most of this period, that has meant a departure from normal constitutional rule. With the 1990s and the constitutional and statutory reforms, states of siege have been renamed and constitutionalized. Since the new Constitution and the constitutionalization of extraordinary states, Colombian governments have liberally applied and exploited that opportunity. These states of "internal commotion," as they're called, allow presidential decrees which would suspend, restrict, and violate normally-available rights of citizens. We haven't left the days of emergency rule. That continues to be normalcy within Colombia and that's an important point.

Another important point is that presidents can transform decrees that they are only able to issue by virtue of a state of internal commotion into permanent legislation. What we have is a permanent, exceptional legal regime in Colombia.

I challenge the characterization of an earlier panelist from the Department of State that one of the major outgrowths of this permanent exceptional state -- the public order courts -- are temporary. The public order courts have existed in one form or another since the mid-1980s. Many of their characteristics have been converted to permanent legislation. What is particularly egregious about the public order courts is that they are simply worse versions of what has been done to Colombia's regular criminal law.

The implications of this internationally are rather interesting. The Colombian government can plausibly deny that it has ruptures in its constitutional regime. Its Constitution contains the seeds of its own disintegration. It contains the provisions that allow it to do this. The international mechanisms, such as those at the OAS (such as General Assembly Resolution 1080 and the well-known Santiago commitment to democracy)³⁴ are geared towards looking at ruptures and suspensions of constitutional rule. Those mechanisms are slowed, if not halted, by a system which, in very subtle terms, manages to bring within the constitutional regime what's going on. The importance of this goes beyond Colombia. This is a system and a set of arrangements that can be a model.

Peru, for example, had a rupture in its constitutional regime. That raised a red flag for the OAS democracy unit. The Peruvian government was forced to make a promise to hold legislative elections and create a new constitution in order to avoid OAS sanctions. However, it also still had presidential decrees which suspended and restricted many rights. Those were brought within the Constitution in a manner that's similar to what we see in Colombia. The OAS problem was solved. The decrees I'm talking about primarily are analogous to what was created

³⁴ The "Santiago Commitment to Democracy and the Renewal of the Inter-American System," adopted by the OAS on June 4, 1991, outlined general principles for the collective defense of representative democracy and human rights. Resolution 1080, adopted a day later, instructed the OAS Secretary General to convene the Permanent Council in the event of a "sudden or irregular interruption of the democratic political institutional process" or the legitimate exercise of power by a democratically-elected government. The OAS was to adopt appropriate measures in such an eventuality.

in Colombia: the "faceless courts." It's clear from conversations with Peruvian officials that Colombia, insofar as it had a version of these courts, was a model for Peru. It's a rather dubious honor for Colombia to have devised a mechanism which makes it difficult for the international community to oppose distortions to the rule of law.

Domestically, this situation blurs the distinction between what is a normal state of law and what is an abnormal state. It sets up a foundation for Colombia's centerpiece against impunity, the public order courts. Two particular threats to the justice system are very obviously actions by insurgent groups and narco-traffickers. Those threats were considered so dangerous to the justice system and its implementers that they required special attention. At the time of the constitutional reform, by contrast, the other impunity problem in Colombia -- that of violations by security forces and the military -- was largely left undisturbed.

Colombia instituted a court system of anonymous judges and prosecutors and witnesses, used secret evidence, put limitations on defense counsel, and allowed the military to act as police in many areas. In conjunction with other modifications to Colombia's normal law, prosecutorial powers were enhanced and judicial oversight was strictly restricted. In addition, the public order jurisdiction was given extremely broad scope.

From time to time, there have been modifications of the rules that govern this system, but the jurisdiction distorts the understanding of what is a normal state of law in Colombia. Those modifications usually come in connection with a move to convert the essence of the public order courts to permanent legislation. We're told by sources in Colombia, however, that [despite the modifications], the practices remain the same.

The public order courts in practice consist of two systems. One is for narco-traffickers and one is for those who are within the anti-terrorism unit of the courts. I'll be cautious with regard to the policy of plea bargaining or submission to justice in Colombia and say that that is simply a national debate.³⁵ It's been criticized at home and abroad, and that leniency in prosecution is a national decision to be

³⁵ Colombian law permits drug traffickers to turn themselves in and plead guilty to lesser charges in exchange for reductions in their sentences.

taken. However, in comparison with what happens on the anti-terrorism side of the public order courts, the policy breeds a cynicism that I don't think Colombia can afford. Essentially, it sends the message that certain forms of serious illegal activity will protect you, as long as you rise high enough to hand over to the prosecutor that which will get you a reduced sentence. That's not impunity, but it's not quite justice, either. The point is that, in comparison with what happens on the other side, it's a dangerous lesson.

On the other side, what can we say? Public order courts have put the army in the driver's seat of the legal effort against terrorism. In the conflict zones, they are the police. That's bad enough. But they've also effectively decoupled the rest of the justice system from oversight of the way detentions occur. Prison officials and prosecutors will tell you that, in conflict areas, 90 or 99 percent of arrests are made by the army and many of them are made without any prior order, even notice by the prosecutor. The prosecutors are either unable or unwilling to exercise oversight over this effort. And they don't deny that. The judges have had their oversight role made virtually irrelevant.

What you have in Colombia is a paradox. There is a very powerful prosecutor with a large staff and a lot of authority, except when it comes to the issue of military behavior. Then, the prosecutor's role in overseeing the public order courts is not effective; and in the case of penal prosecutions of military abuses, it is *de minimis*. So you have is a system of massive detentions. It's guaranteed detention if the army wants to detain you. There are no penalties for arbitrariness, and what that means is impunity.

Now, some officials have said, (almost verbatim) "we're in a war." They ask, would human rights groups rather have people killed instead of arbitrarily detained? Assuming that we should even accept that choice, it's worth taking a look at what this means in terms of progress from prior years. In years back, we were often told that the military found it necessary to kill people in order to secure civil liberties and democracy and avoid the threat from leftist insurgencies. Now the argument is, we need to destroy liberties and due process in order not to kill people. If that's progress, I think we're in trouble.

The other thing one might say is that it's not a real choice. We have both lots of detentions and lots of killing in Colombia. The lesson to soldiers is that they can fabricate secret evidence. They can use secret witnesses. They can detain dozens of people at a time. They can be secure in the expectation that not only will the legal system not penalize them for that action, now it will virtually ratify what they do with the court system or a sub-system that is constitutional. If you put an army with this record at the forefront of your main legal mechanism to combat one area of impunity, you're going to end up with more impunity. As for the results: there are now 38,000 public order processes nationwide. Three thousand of those cases are at the judging stage. The rest of those people are in some form of pre-trial detention.

DISCUSSION

PAMELA CONSTABLE: From listening to both Robin and Rob, and then listening to Dr. de Roux, I hear descriptions of a country that are quite different from each other. I hear Robin and Rob describing a country in which they feel the government needs to do much more, should take more institutional responsibility for something, and that if it would, this would make an enormous difference. I hear Dr. de Roux describing a country with twin problems of very entrenched violence and a continuing guerrilla force, which, as he put it, still has strong aspects of *delincuencia común*; this is much more difficult than it appears. I'd like the panelists to try to resolve this dichotomy of descriptions of what is the same country and the same problem.

CARLOS VICENTE DE ROUX: That's a very important and relevant question. We sometimes seem to be talking about two different countries. I would like to invite non-governmental organizations to visit us. I think it would be a very important exercise to sit down for five days, three days, alongside a brigade commander or a director of a police department, or the head of a departmental police chief in Colombia, and see the experiences of these officers, noting the gathering of ongoing information on kidnappings, extortion, extra-judicial executions by the guerrillas, to experience the drama of such an officer, who is not able to respond to the public demand for control of such types of conduct.

We know that he knows that he cannot go beyond legal procedure. [What I have described] is very widespread throughout the country. You might think that I'm inviting you to experience human rights as a restriction on state action. But no, the idea is that the Colombian state is combatting the guerrilla and common crime and at the same time, fully respecting human rights. This is the serious problem. We need to link these two types of demands. The public force needs to be operative in fighting the guerrillas and common crime, and there needs to be full respect for human rights.

Within the committee set up under Decree 1533, there's a group that works on mechanisms for human rights protection. This is a sub-issue, limitations on the action of public forces. The NGOs worked with government representatives and

representatives of the army and police and came up with a certain framework which is now being discussed in the government. We've come up against a great many difficulties in defining how to combine full respect for the law, which is not up for discussion and negotiation, with the operations or capacity for operations of the public force. The same happens in the case of the regional justice system, or public order courts. How can we have an efficient system against guerrilla and terrorist actions, and at the same time respect human rights?

My personal opinion is that we have not done an adequate job. The regional justice system has more problems in terms of due process violations than results in the struggle against impunity. The major challenge that Colombians face is how to undertake or gain a complete understanding of the country we live in and experience: what the guerrillas do, what common criminals do, what the state and army and police must do in order to provide security and protection to all Colombians -- right wing, left wing, Liberals, Conservatives, communists -- everybody, and to do that work in the framework of respect for the law.

ROBERT WEINER: About all international non-governmental organizations can do is be as supportive as we can of the inroads that have been made, and as appropriately critical as we can of the things that haven't been done. There are some things that you can say affirmatively and without too much fear of contradiction that shouldn't be done. One of these concerns the rule of law: don't put one of the major perpetrators of the problem in charge of the solution. By this I mean taking the military out of the police role. What I've been hearing today is that there are a lot of kidnappings and common crimes, not battlefield conflict, that comprise what is most troubling about actions by the guerrillas.

If that's the case, those require the sort of investigative and policing skills that military forces are not trained for. Leaving aside the human rights problem, there's the question of which is the proper, technically adequate entity to use. One thing that can be done would be pulling the military out of a police role. Second, anyone can tell you that putting a prosecutor in charge of prosecuting and judging is a bad idea, and that's essentially what's been done. It's equally dangerous to put one side to the conflict in charge of policing the other side to the conflict.

PIEDAD CORDOBA DE CASTRO (Colombian senator): I would like to highlight the importance of human rights for the Colombian Congress. We must recognize that it is a step forward to take on the question of human rights as a matter of state, and not as just the policy of a particular administration. The effort to work with civil society and non-governmental organizations is also praiseworthy; the Congress has been working with these organizations and it has enhanced our work. It helps Congress in its task of making Colombian society understand that the most important asset that we can have is the fundamental right to human rights, as citizens more than as individuals.

We could improve our work by coordinating closely with the executive branch and with civil society to draft legislation that would help clear the obstacles that stand in the way of human rights protection. Congress has to work on issues such as those that have been discussed here, which is its the Congress' basic *raison d'être* as a legislative body. This is not a question of legislating for the sake of legislating, when addressing, for example, the practically inapplicable administration of justice in Colombia. We must recognize that impunity is the key factor undermining justice. And the work of the Congress together with these other entities in Colombian society must be aimed at improving legislation, aimed precisely at working in a clear fashion and with legitimating the struggle against impunity.

In addition, we need to raise the visibility of these issues. We need to shed more light on the day-to-day forms of violence that are just as dangerous as larger forms of violence. This includes speaking of human rights from a gender perspective and speaking of forms of violence that occur by virtue of ethnicity, such as the violence suffered by black and indigenous communities, and intra-family or domestic violence. This is fundamental.

The decision of the Congress to participate here is to show that there's a great deal of concern. We're concerned about the development model as well. This is why in the development plan proposed by the government, we have studied the part that has to do with human rights. It's not enough to set forth figures to show that NGOs are working or to show that NGOs have tasks to do. Rather, the government must have specific goals in human rights. We see that there are public policies in place, but they have not worked in diminishing ongoing violations of

human rights. It's not enough to set up 100 offices and it's not enough to have significant monetary resources.

What's particularly worrisome is the bureaucratization of the issue. There are people who make a living off of the human rights issue, yet we don't advance in removing the obstacles that make it difficult to actually forge the citizenship that some of those that spoke have mentioned.

STEVEN PIERCE (Colombia representative, Inter-American Foundation): I would like to hear a bit about the role of NGOs, or civil society organizations, representatives of civil society in this regard.

CARLOS VICENTE DE ROUX: President Samper has said that his government has its doors open to human rights NGOs and that he considers them his allies in the task of improving the human rights situation in Colombia. He has said that he knows that this relationship will operate with tension, difficulties, criticisms and misunderstandings, but that we'll be able to overcome these difficulties, so as to be able to work constructively. Several persons working for the state, including myself, have highlighted the work of the human rights NGOs. If the human rights NGOs in Colombia and internationally were not bringing pressure to bear, were not making denunciations of specific human rights violations, were not proposing alternatives, then our situation would be all the more serious.

We're coordinating with human rights NGOs in at least three areas: first, the commission created by Decree 1533, which represents a very interesting innovation. NGO representatives are sitting down with members of the army and police, with members of Congress and the executive, discussing constructively the whole human rights agenda. This, I think, is something new, at least in Latin America. Second, we worked very closely together in the Trujillo Commission. Of course, there were difficult, tense moments, but we were able to overcome them. And third, we're working with NGO representatives on reform of military criminal justice. Increasingly, there are more and more linkages -- among NGOs, human rights organizations, army and police, and official human rights offices. We have different points of view, but overall, it is part of a constructive effort. The president has reiterated to those of us who work with him that there should be a constructive relationship.

ROBIN KIRK: I wanted to comment just quickly on something that Carlos Vicente said about the capacity, perhaps especially of human rights groups or human rights monitors to sympathize with or to see the situation from the point of view of the police or military commanders who are in conflict zones. I found that disturbing, to suggest that part of human rights work comes from a lack of sympathy or a lack of understanding of the difficulties involved in being a public official, being a member of the security forces, either the police or the military.

Colombia obviously isn't the first country to have had a guerrilla war. It's not the first country to have had the kind of guerrilla force that essentially hides itself within the population. This is the story of Latin America in many ways. Colombia is not unique. And I don't think Colombia is unique in the figure of a police or military commander, valiant or cowardly (obviously they run the gamut), who is trying to either do his job or is involved in a situation where he recurs to what we would call human rights violations in the most sort of technical way.

But I don't think that it's our job as human rights groups to sympathize in the sense that Carlos Vicente meant with police and military commanders. Obviously it's our job to understand the kinds of pressures that they are under and to understand the kinds of forces that they have to fight against. But let's not forget here who the victims are. Let me point out that the forces that have the power aren't represented here. Where is the representative of the police here speaking? Where is the representative of the military? We are, to a large degree, speaking among the converted. I'm sure that no one here would put him or herself on the side of people who would be against human rights. Let's acknowledge here that the dialogue is not a dialogue. It's still very much something that goes on within a select community and hasn't yet reached outside that community in a powerful way that would include people who in many ways still hold the power in Colombia.

PANEL FOUR: THE PEACE PROCESS

CARLOS HOLMES TRUJILLO

I would like to remind you of the concerted efforts that Colombia has made in the past that have led to the peace process currently underway. First of all, as mentioned earlier, the country has had a history of confrontation, but also a history of agreements with many other names -- armistices, political agreements, pacts, demobilizations, etc.

As a consequence, in Colombia there is a lot of accumulated experience in negotiation with the armed groups. The Colombian case is very interesting to analyze, because we have tried everything in order to solve the situation. The treatment of the problem becomes more complex every day because of the circumstances that have already been mentioned here. And perhaps this complexity is exacerbated by something else that has not been discussed -- the transition that the government is going through in terms of its territory. One of the problems that we're living today is that there is an expansion of the guerrilla in the territorial domain.

The guerrillas expressed themselves one way when there was a central regime in Colombia, and this has now shifted because of provisions in the 1991 Constitution. In the new Constitution, we allowed for autonomy of the regions, decentralization, and popular local elections. So at this point, within a process of territorial settlement by the guerrilla, authorities are being popularly elected at the municipal, state, and departmental level. There is also a bigger transfer of resources to the regions. I point this out because this makes the treatment of this peace process even more complex.

I would summarize the policy that President Samper presented in the following manner. First, he established a useful dialogue with the guerrilla, showing a willingness to have a new peace process, as long as there is a reasonable certainty that it may lead to a successful solution. Second, there is a national understanding that it is impossible to solve politically an armed conflict that has been there for so many years without the participation of all sectors of the

Colombian economy. So the first phase of the eventual negotiation was an exploratory one and its purpose was to survey different parts of the civil society and find out how people felt about the guerrillas. This was completed last year, and at the end of the year the recommendation was that this exploratory phase could conclude and what would be initiated was a new phase, which would be to establish the basis of the possible negotiation with the guerrillas.

On the agenda were issues such as how civil society could participate, how to handle and manage information, and all the other elements that may be considered necessary to make the possible negotiation more agile and fluid. At that point, the President made the following announcements: that there would be direct contact with the guerrillas, appropriate safety would be provided for the interlocutors, and public opinion would be well informed about the advances of these negotiations. But there would also be discretion, so that the search for peace would not become a show or a spectacle. He also pledged to have a comprehensive dialogue with all groups, and showed a willingness to speak to those people who manifest their interest in peace, so that the negotiations might advance with all the guerrilla groups. He decided to put forward negotiations in the middle of the conflict, and to search for a unilateral reduction of the intensity of the war. The government will then, with the support of international institutions and under the provisions of the recently-approved Protocol II, call upon the guerrillas to also adhere to these rules and norms.

Furthermore, the government expressed its willingness to accept a verification mechanism, to continue rallying public opinion, and to uphold the policy of human rights that has already been well explained today. It also promised, within a reasonable period of time, to present a report on the status of the peace process, one that I am beginning to elaborate.

What problems or difficulties, then, does this eventual negotiation with the guerrilla present? Some of the complications are: the length of time that the conflict has existed; the growth the guerrillas have had economically and politically, using the financing methods that already have been discussed; and the new regional possibilities that surged from the new popular election of governors. What I'm referring to is their influence in political decisions, by virtue of having arms and weapons and by virtue of past experiences that in some sectors have been considered

negative. I must say, however, that not all experiences have been negative. About 5,000 Colombians have laid down their arms or put them aside.

Another obstacle or difficulty is the great skepticism in all sectors of Colombian society; this is a product of the facts themselves. But it is a skepticism that is accompanied by the will to contribute to or accompanying the process, to the extent that it offers credibility. National opinion is heterogeneous regarding the possibilities of reaching a solution to the conflict through political means. This is understandable, given the environment in which the effort is taking place.

In our opinion, what are the possibilities? First, the experience that we have. Negotiation processes require periods of maturity, and the country has been acquiring more and more experience in negotiations with the guerrillas. Second is the institutional imagination and ability of the country. The country has demonstrated through the years that it has a great institutional will to solve problems of violence. To [draft and approve] the 1991 Constitution, we had to violate the previous one, and the whole country applauded this. Colombia has the political will to transform its institutions when we decide to solve a problem of this nature.

Third are international experiences. An international environment that has been created and has matured which favors political solutions. This helps create a sentiment of optimism in the country regarding solving the internal conflict by way of negotiations. I am referring to the new role that the international community is playing in internal armed conflicts. The Colombian government is perfectly aware of the new role and vision that have emerged since the end of the Cold War.

ALVARO DE SOTO

I would like to begin with a little commercial, which is that when I was working on the El Salvador peace negotiations, at each milestone in the negotiation, the first phone call that I got was from a Colombian institution, known as "Caracol" -- the Colombian radio chain. They always got to me before the BBC. While they studiously asked me a number of questions about El Salvador, the conversation would always end with a little coda: can the same be done in Colombia?

I gave them a standard answer, which should be interpreted by all those who are listening to me as kind of a blanket reservation, and an assurance that anything that I might say and that happens to match United Nations policy is purely coincidental. What I would say is that there are no two peace processes or no two wars that are identical. It is very difficult to repeat an experience that you have achieved in one place and transpose it to another.

Each solution, each process has to be tailor-made. This doesn't mean that there aren't certain basic rules of thumb. We have at the United Nations, for instance, a general rule about getting involved in internal conflict. First, we have to be invited by the parties. This is a practical necessity; we have to be asked by the government concerned, and there has to be a general support within that country for United Nations involvement. In any case, no such request existed in the case of Colombia. And this was my answer to Caracol, of course.

There also has to be support for United Nations involvement by one of the main intergovernmental organs responsible in this area, either the General Assembly or the Security Council. We do not get involved unless these two basic rules are met. Then I would go into a sometimes long explanation to Caracol about the similarities, the lessons, and most of all, the differences. I will intersperse these into my comments, which will be more than a talk about the peace process in Colombia, on which I really am not an expert. For me, today has been an educational experience, and I have learned a lot. I would like to mention a few reactions that I have had.

The first reaction is one of alarm. I worry about Colombia. Some of the descriptions remind me of Robert Kaplan's article in *The Atlantic Monthly* of

February 1994 called "The Coming Anarchy." Some of the cases that he mentioned there were in many ways similar to this. Robert Kaplan, of course, is not a scholar, as he is the first to admit. He is a journalist. So let's not draw any conclusions precipitously.

I am struck immediately by one of the comments that was made by Gonzalo Sánchez. He spoke about a major difference between the El Salvador conflict and the situation in Colombia, which was that there is a certain neatness in the case of El Salvador. You had in confrontation two powers in a bipolar confrontation. The FMLN was broadly representative of demands of Salvadoran society as a whole, or at least the underclass in Salvadoran society. And you had a strong conservative government, that had been in favor of the strongest possible measures against the FMLN. The commonality between these two parties is that they were both in a position to deliver should agreements be reached.

There is no comparable power to the FMLN in Colombia, as far as I can see. Quite the contrary. Gonzalo Sánchez himself talked about *violencias entrecruzadas que se retroalimentan* [interwoven violences that feed on themselves and each other]. I thought that was particularly illustrative of the different currents that you have. You don't have a guerrilla movement confronted with a government. That's a basic dissimilarity, and that is rather alarming.

It is alarming also because some of the figures that were not disputed seemed to reveal that there's a very high proportion of violence of the non-negotiable nature, that is, non-political violence. I detect also a problem that we are facing still in El Salvador, which is the problem that you have [already] negotiated. The government of Colombia has negotiated agreements with certain sectors of the guerrillas. And those sectors of the guerrillas, following those arrangements, are suffering from an unduly disproportionate rate of casualties, even by Colombian standards. And these casualties are growing. That is a serious problem, because the state has to be able to deliver on whatever commitments it makes to the guerrillas with whom it signs the peace. Unless you can deliver, your agreements will not be echoed in further agreements with those who are still up in the mountains or in the jungle. Until you solve that kind of problem -- until they solve it in El Salvador -- you have the seeds of a recurrence of conflict still planted and still growing and still being watered.

Then there is the problem of what was described as the successive negotiations that are not cumulative -- that there seems to be a tendency from each guerrilla group to try to negotiate an entirely new Constitution, to view constitutions as peace treaties. That problem is derived from having fragmented groups out there.

In addition, you have large numbers of displaced persons. I heard the figure 600,000 this morning. That's very large for a country like Colombia. In Peru there are more or less similar numbers, and it's a problem that in due course will have to be addressed. But it is a problem that creates difficulties of a more structural nature, in terms of the burgeoning of marginal populations in the cities, which become even greater hotbeds of violence. I heard Professor Hartlyn quote President Lleras as describing Colombia as a *pais desencuadrado*. I found that to be a very apt phrase, but more alarmist, perhaps, than alarming.

Nonetheless, I am hopeful about Colombia. And I'm hopeful because I see in this and the last two or three Colombian governments the will to address the problems. Probably the clearest manifestation of this is what Dr. Holmes referred to as the decision to establish a forward-looking Constitution in 1991. The 1991 Constitution is a remarkable achievement. It will not in itself solve the problems of Colombia. But it is already a major step forward. It leads me to believe that institutional transformation is not the problem in Colombia, as it was a central problem in the case of El Salvador.

In the case of El Salvador, half the negotiation was about transforming institutions, so that Salvadorans would learn how to resolve their problems through established channels, rather than by resorting to arms. It was difficult to achieve the institutional reforms, but they were achieved. They changed the Constitution. The armed forces were confined to the role of defense from external enemies. A new National Civilian Police was created. The judiciary has begun to be reformed. And there are even reforms on the way in the electoral system.

President Samper has taken what I would call a conceptual leap that demonstrates quite considerable political courage, to which spokespeople from human rights organizations paid tribute this morning. He has been prepared to

abandon the defensive attitude of a government, saying that human rights violations are isolated cases, and recognize and accept that human rights are more than a problem of image, but rather a problem of realities, as Pilar Gaitán said earlier. He has accepted that human rights are a grave problem for which the government is responsible, even though it is not the only one responsible. So the government seems willing, as was not the case in El Salvador, to try to meet the problems that arise and address the issues. Many of them have already been addressed institutionally by existing reforms. The difficulty is in an overall design for Colombia.

A number of very provocative questions were asked this morning. I would like to try to address them, with certain limitations and caveats. They were raised particularly by Professor Tokatlián, whose premise was that a partial collapse of the Colombian state had occurred. I'm not going to comment on whether this is true or not. He also said that Colombia could not solve its problems on its own, that they had to be solved with the assistance of the international community.

He then offered two alternative approaches to international cooperation, which he seemed to think was indispensable. One was whether Colombia was "cooperable," whether its problems could be solved by way of cooperation with the international community. And the other was whether Colombia was "intervenable," that is, whether the international community would want to intervene, meaning, presumably, some sort of more forcible action. My personal opinion is that the international community is willing to cooperate with Colombia and bring to bear whatever resources and experience it has (and those experiences are quite varied by now). The United Nations has been essentially traversing a minefield for the last five years.

On the other hand, the idea that the United Nations or any body of the international community might intervene in the international law sense of the word, should probably be ruled out, simply for reasons of the current international climate. We are living through a transition in history. We emerged from the Cold War not six years ago. It is not clear what the new rules are going to be. And by that, I don't mean the international rules as set out in the [U.N.] Charter and in other conventions and treaties. I mean the political rules. We knew more or less what

they were during the Cold War. We don't know what they are going to be. In this transition, we still don't know where we are going to end up.

On January 31, 1992, the Security Council gathered for the first time at the summit and essentially gave the Cold War a first class funeral. That was a heady moment. The United Nations had just managed not only to make peace in El Salvador; we already had to our credit the removal of Soviet forces from Afghanistan, and a peace agreement between Iran and Iraq -- at least a ceasefire, which has essentially not been broken. There had been a successful transition from an authoritarian government to a freely-elected, democratic government in Nicaragua, elections that were monitored by the United Nations. It seemed as if the United Nations could do no wrong, that there was nothing that it could not do. But since then, we've run into some problems here and there, which you may have heard about, in places like Somalia, Haiti until recently, the former Yugoslavia, Rwanda, and so on.

There is clearly now a back-pedaling by the international community. The willingness to intervene has diminished radically. The international community is, to some extent, withdrawing into itself again. There is a new isolationism out there. What does this mean? It means something that really shouldn't surprise you at all -- that the Colombians have to sort out Colombian problems essentially themselves. Judging from the kind of talent that I've seen in this room and elsewhere, and the palpable political will that exists, I think that the Colombians should be able to do that. If you can't design a neat package, as was possible to do in El Salvador, perhaps the way to do it is what Professor Hartlyn suggested, and what it seems the Colombian government is attempting to do: try to address, grapple with, and solve the problem of the purely political, negotiable violence -- if it can be separated from the apparent link between at least some of the guerrilla groups and the drug traffickers.

You probably must resign yourself to the fact that violence will continue, and possibly even increase for a period of time. One lesson that we learned in El Salvador that might be worth recalling in the case of Colombia is that most negotiations of conflicts take place in wartime. Don't expect ceasefires in advance of a negotiation. The ceasefire and the terms of the peace are one of the items to be negotiated. You should probably resign yourself to that, if I can give you some

friendly advice. But [such acceptance] would strengthen your hand when it comes to dealing with the non-political, non-negotiable violence, using perhaps completely different tools.

DIANA CHIGAS

I will discuss theories of conflict resolution: not necessarily the Colombian peace process and how it should be structured or organized, but the basic, common challenges in starting a peace process to deal with internal armed conflict. I will also discuss the common lessons we have learned from processes as disparate as El Salvador and South Africa, as well as the Colombian experience.

In Colombia there is a lot of experience to draw on; in fact, a lot of the theory is built on the experience of people like Ambassador de Soto and Dr. Holmes. I will talk about three parts of the peace process: getting a process started, keeping it going, and moving towards agreement.

One of the most common problems in getting a process started is that people demand peace before they negotiate peace. It doesn't work that way. Governments will frequently demand cessation of hostilities before they discuss anything else. Guerrilla groups condition negotiations over a ceasefire and cessations of armed conflict on sweeping social, economic, and political reforms. Basically, each side is saying, 'you solve my problem first and then we'll think about solving yours.' It's not a particularly attractive choice for either side. One of the challenges of initiating the process is to get out of that dynamic, where each is putting preconditions on the negotiation.

One way that a lot of people choose to begin is by increasing pressure. And frequently, before negotiations start, you see an increase in violence, (e.g., a major offensive in the case of El Salvador). There was an increase in violence in South Africa; I would imagine that in Colombia it might be similar.

The other way, which needs to be pursued in parallel, is to change the choices altogether, making it easier for each party to say 'yes' to a negotiation process. There are at least three lessons that we've learned from some of our experiences. One is, to assume that you're going to be negotiating during war. A ceasefire will be the result and not the condition of the negotiation.

It is also important to remember that negotiation is not an "on-off" phenomenon. In fact, the less clear the line between negotiation and non-

negotiation is, the easier it will be to initiate the process. If, as a decision-maker or leader, I'm presented with a question of 'shall I now agree to initiate negotiations,' or alternatively, 'shall I now agree to exploratory, non-committal, low-key talks,' the choice is pretty easy. At the lower key, there is less risk involved; talks are more likely to be accepted. There are some organizations, such as the Organization for Security and Cooperation in Europe with which I've been working, and some parts of the U.S. Department of Justice, that have actually formed mechanisms that are to self-initiate exploratory, non-committal, very low-key talks. The parties start talking before asking people if they will accept negotiations. People are generally willing to start talking to you. And that informal, low-key process was critical to processes like South Africa, where for two years, while [Nelson] Mandela was in jail, there were secret, informal talks. We have also been hearing a lot about the Oslo process that went on with the Israelis and the Palestinians. That kind of a pre-negotiation process was very, very useful.

In initiating a process, each party also needs to see that it might have something to gain from the process. That seems to be a particularly difficult problem in Colombia. I've heard many people say that there have been successive negotiations. The experience of the guerrillas, looking at both the negotiations and the plight of former guerrillas who actually negotiated accords, hasn't been that great. So it will be a big challenge to show, or at least give an indication, that there might be something to gain -- at least enough to get into the negotiation process.

Governments tend to say, 'the only thing on our agenda is demobilization or ceasefire; if you want to negotiate socio-economic changes, go to the other ministries. It's not going to be an integrated process.' That makes it very difficult for the other party to accept. Terry Anderson went into Lebanon saying 'I'll negotiate the hostage question,' and he was taken hostage. Integrating and being able to formulate a package from the beginning, putting all the issues on the agenda that are of concern to both parties, is an important factor in drawing or attracting people into the negotiation process.

Keeping the process going is probably more difficult than getting it started, particularly in the very polarized situation of an internal armed conflict. The process is susceptible to being undermined by public expectations or by attacks from enemies, either radicals on the right or on the left. In the case of Colombia, the

narco-traffickers would have a great interest in seeing the fighting continue; I imagine they would do everything in their power to undermine the peace process. It's important to figure out from the beginning how to protect the process from these kinds of attacks and from getting undermined or stalled by enemies.

One technique, which I think the Samper government has used already, is to set public expectations and say, 'violence is not going to go down. It's likely to go up.' I've seen many speeches of Dr. Holmes in which he stresses that point. This is great. It will at least help to [soften] public pressure to stop the process if a leader gets killed or assassinated. What we've seen in Israel and in other places is that the enemies tend to increase the level of violence to a point where it's very difficult to resist [pressure to halt the negotiations]. When you bomb a mosque or a synagogue, when you kill a whole busload of children, it's very hard to justify by saying, 'this is supposed to happen.'

There may need to be another step. One of the first topics of negotiation may be to discuss what to do in case of violations of commitments, or in case incidents occur. Are we going to agree upon procedures to investigate or recommend action, or bring in a third party, whether it's the U.N. or the church, to verify, to investigate, to give recommendations? What kinds of channels and processes exist for dealing with the media in these kinds of situations? In Colombia, you can probably count on the interference of the drug dealers. Thinking in advance about how to deal with that interference would be important.

In some cases we've seen a kind of "guardian" process institutionalized. In South Africa during the constitutional negotiations, there was protection and support offered by a team that had responsibility for coordinating the process and made sure it stayed on track. If a crisis arose, this team would figure out what to do. The members were all representatives of the ANC, the government, and the various parties. They were relieved of any advocacy responsibilities and put into the role of process police, making sure the talks didn't get thrown off track by impending crises.

Making these process agreements stick can also be tough. Something that's been very effective and is essential is to build up coalitions across conflict lines among the moderates on both sides. In South Africa, for example, the coalition of

the two chief negotiators (who actually developed a very strong personal friendship) held the process together during many, many difficult hours, and was critical to the success of the constitutional negotiation.

Building that kind of coalition is very important, as is separating people from organizations. Guerrillas are not likely to trust the government or any negotiator as a representative of the government, although they may trust individuals. Trying to build peace processes can be very personal; building personal relationships can be very important to making the process go forward.

[Moving the process forward] may also require some rethinking of the role of the negotiator. As you move towards peace, there also may be a large constituency on both sides, or on all sides, who may not be as far along in the process as you are. Frequently, negotiators get way ahead of their constituents, who are told to be fighting to the death one moment, and in the next moment are told, 'we're in a peace process. Now we have to work with [the other side].' That's a very hard mental shift for a lot of people. Thinking about how to manage that shift, and allowing the time and space necessary, is very important.

The negotiating team, then, has multiple roles. They're advocates for their own side and their own side's interests. They're mediators among their constituents. They're representatives, but their task is to come up with something that can be acceptable to both, or even three or four sides. They're also educating their constituents about what is going on in the process, and bringing them along. If the negotiating team gets too far in front of the constituents, no agreement will ever be implementable. In South Africa, for example, they built almost an explicit agreement [about educating constituents]. Mandela would make a scathing speech against de Klerk, and you'd say, 'the process is about to fall apart.' But they had negotiated a whole procedure. Mandela knew at the time that he was ahead of his constituents, and the [negotiators] couldn't move ahead without slowing the process down. And so he would inform. People in the government wouldn't react because they'd know in advance that he was going to be making [a speech] and that it was intended for internal consumption. Making time for those kinds of process issues is very important.

Actually getting through the negotiating process probably can best be summarized by a quote from Albert Einstein, who once said that the mindset that created the problem is not the mindset that's going to solve it. The challenge in the negotiation is to change the mindset and change people's attitudes enough so that some other solution, and some other way of putting together the interests, can be built. Moving from a confrontational position to one that is more joint problem-solving is helpful. We saw this over time in the process in El Salvador, as the negotiating teams built up a working relationship.

What are the obstacles to [building that relationship]? One big obstacle is a lack of trust. That lack of trust can be coupled with a desire to [hold forth] for very sweeping, grand solutions. It was tried in El Salvador many, many times. I don't know how many stops and starts occurred before Ambassador de Soto got involved, how many times the process was started and would break down almost immediately, because people were trying to deal with issues, like the army and human rights violations, that they were not ready to deal with, given their level of trust. Sometimes it's worth investing time in a pre-negotiation process, building up communication, building up relationships, before tackling some of the substantive issues.

[It is also important to] break down a big problem, instead of [positing] "big bang" solutions or huge demands. You often hear demands to end repression or further democratization or better social welfare, but these need to be broken down into decidable questions. The whole process needs to be viewed as a process, with the end product a process in which people will be working out their problems over time. In El Salvador, they started off with the human rights [accord], something that the state could commit to and could implement; it was a small enough [issue], [the government and FMLN] had joint interests, and they could build up enough of a relationship and enough trust and credibility to be able to tackle some of the more difficult issues much later.

The final challenge is to move away from a process that encourages competitiveness to one that encourages joint problem solving. Wolf Meyer³⁶ was asked recently by an American businessman, 'who won the negotiation?' He

³⁶ The South African Minister of Constitutional Development, who was the chief negotiator for constitutional changes.

replied, 'we knew from the beginning that there wasn't a question of winning and losing. We had to work together to solve this problem.' It is important to look for opportunities for mutual gain, and turn problems into joint problems. For example, in Colombia, guerrillas had been protecting drug traffickers in the small fields. How can the guerrillas join with the government to combat drug trafficking? How can you, working together, build on the guerrillas' desire to have social programs, to see health care brought into some of the regions? It's important to see that the guerrillas get credit, and that those with whom you're negotiating get credit.

For the government, the results are actually quite immediate and clear, because there's a ceasefire. But for the guerrillas, the results are likely to be much more distant, in the future and not likely to be [immediately] apparent. Think about very concrete ways that people can get credit now. 'We built this hospital. We built this road jointly.' Working with some of the mayors who have been elected, giving them money to do programs, can be a very important part of this process.

Finally, perhaps the biggest challenge is learning how to create options. Leaders in a formal process have very little flexibility to propose and explore a range of options. Flexibility is more likely to be punished. Any leader who explores options looks weak to his constituents or to other leaders. There's a risk that a new idea may be interpreted as a concession. It's very difficult to be creative and to work to see if there are different ways of combining interests.

Almost all high level negotiations can probably be improved by either a parallel or previous informal process, [including] an informal process that is with people who are not the decision-makers, who are responsible for thinking and brainstorming. There are conferences that Ambassador de Soto, during the El Salvador talks, helped to organize; they injected some new ideas into the process, and also permitted the FMLN guerrillas and members of the government to look informally at new ideas and have informal talks. Having that informal channel, in addition and parallel to a formal one, can be very valuable.

DISCUSSION

CYNTHIA ARNSON: To sum up a bit, it may not be possible through a peace dialogue with the guerrillas to solve all of the problems of criminal and political violence in Colombia. As we've heard in various presentations, there are numerous sources of violence in the country, from delinquent gangs to narco-terrorists to paramilitary groups.

Even if those multiple sources of violence cannot be dealt with or combatted at the same time, it is possible to make a significant contribution to the lessening of political violence through a dialogue between the government and the guerrillas. Surely the issues of human rights violations, and of violations of international humanitarian law that come about because of the war, would be addressed, as would a number of the justifications for violence on both sides.

Even though it may not be possible to attack all sources of violence simultaneously, it is key, as some of the speakers have pointed out, to create the sufficient climate of security, so that guerrillas who lay down their weapons feel that they are not simply fodder for government security forces, or for their former colleagues. In that sense, rather than seeking a partial peace, as has been the history in Colombia, it's probably very important at this moment to seek a global peace with all of the remaining insurgent groups.

A second major point -- and this is clearly a lesson from El Salvador -- is that government officials and agents of the state can use the negotiations process to make changes that they themselves want to make.

We've heard a lot today about the infrastructure and the institutions that exist in the Colombian government to combat human rights violations and to deal with various abuses; we've also heard about, in the minds of some, the relative incapacity or inefficiency of those institutional entities. Yet people who have served in the government have made clear in public and private that they feel a great deal of frustration that they are not able to move more quickly or make changes more rapidly. It was part of the genius of the [Alfredo] Cristiani government in El Salvador that it learned to use the negotiations with the FMLN to undertake certain

basic reforms in Salvadoran society that modernizing sectors of the elite recognized were necessary if the country was to move forward in a number of ways.

A third and final point is that the political will of the government is absolutely key. I doubt that those listening to the discussion today question the political desire on the part of the Samper government to make peace or to improve the human rights situation. Nonetheless, it is perhaps very difficult to create a similar kind of political will on the part of the guerrillas. However, once a peace process is underway, it takes on a dynamic of its own. It creates expectations and pressures for actions and for commitments, especially when there's the involvement of the international community, either directly, through a role played by the United Nations, or through pressures made by other countries that could serve in a capacity as a group of friends.

CHICK NELSON (United States Institute of Peace): I wanted to ask Carlos Holmes and anyone else who wants to comment, what role do you see for parties outside of Colombia, either the O.A.S. or U.N. or other nations?

CARLOS HOLMES TRUJILLO: I'd like to remind you of two things. First, there is great interest [in ensuring] that the guerrillas follow the rules of [international] humanitarian law. And there is a political will to accept a mechanism of verification. That's the first area.

Second, I also said that we acknowledge the role that the international community is playing in the solution of internal armed conflicts. No public proposal has been made in this sense, in spite of this acknowledgement and the knowledge of how useful this intervention has been. We think that the process itself, as it acquires its own dynamics, will show us how much need there is to request outside intervention to resolve the problem.

We also acknowledge the fact that the international community is very broad and there are many entities: it can be one person, or you can go to the United Nations to ask for help. But with the intention of not creating confrontations, and, rather, of constructing an environment of understanding, we believe that any concrete proposal would be much more solid if it is born of the guerrillas

themselves. We think that any mechanism will respond to a need that the process dictates. This continues to have a permanent dynamic.

HERBERT BRAUN: Gonzalo Sánchez ended his comments early this morning with a statement that I thought was absolutely shocking. I don't know if he meant this tongue-in-cheek, or whether this is a new innovation that might be used in a negotiating process. He suggested that part of the negotiation with the guerrilla would include *reincorporación de capitalistas* [reincorporation of capitalists] or what we could call the *repatriación de capitalistas* [repatriation of capitalists].

This reminds me that many members of the guerrilla groups, especially of the FARC and the ELN, are very firmly ensconced in different regions of the country. They are powerful, they are wealthy, they control certain areas. I can imagine that for many of them, it's a lot more advantageous to remain as guerrillas and outlaws than as proletarians. What happens if there are very few objective reasons for which the guerrillas in Colombia should negotiate with the government?

CARLOS HOLMES TRUJILLO: It's a very easy answer. Nothing. The conflict would continue. That part is elementary. But I would say that instead of asking that question, which gives you such a simple answer, why not ask, can the problem be solved?

If you look at it from a different perspective, then the answer would be the same. The fact is, yes, they are strong. That's why we're trying to negotiate with them. They are strong and powerful. Obviously, if they were not powerful, if they did not control certain areas and regions, if they had not increased their political presence, then we wouldn't be forced to look for a political negotiation.

Second, if they are strong and powerful, is it worthwhile to consider whether this strength comes from having arms, or because they have really politically penetrated the country, which would allow them to continue being strong without the use of arms? If they are economically strong and they have the will to reach peace, the fact that they are strong would mean that they would have their own economic advantage that would facilitate the peace negotiations, if you think in a political sense.

So you have to ask the questions in that framework, in which you can create, and not ask the question so as to destroy. It was pointed out in this panel that when negotiations acquire their own dynamics and dynamism, when it is possible to successively build upon agreements that would consolidate this peace or this negotiation, [then] as a consequence of these agreements, the country and public opinion, which today appear skeptical of the process, will adhere to the process. They will see a light at the end of the tunnel, emerging from a confrontation that has been channeled through political means.

ALVARO DE SOTO: I think that Dr. Braun's question basically could be summarized in the famous expression, 'what's in it for them?' The answer or response to this question is that you should not underestimate the price that a group of people outside the law are willing to pay to become part of the legal structure.

I'll give you a specific example in Peru. It has been clearly proven in negotiations with the peasants that raise coca, and then export to Colombia the coca paste -- these peasants are willing, and continue to be willing, to have a reduction of 90 percent of their income -- producing substituting products, in exchange for their right to own the land. So there's always room for negotiation.

DIANA CHIGAS: One other thing to remember is that communication is important. In considering, 'what's in it for them?' we spend a lot of time attributing motivations to guerrillas. In Colombia, I understand, there's a law that prohibits and criminalizes contact with the guerrillas, as there was in Israel with the PLO. So there's very little communication. One of the first questions to answer is, what do they want to achieve, and 'what's in it for them' in the situation they have now? [When you've answered that], then you can start asking questions about the different alternatives. But we haven't even gotten to the first issue: what are their real interests in the first place?

RODRIGO GUERERRO (Pan American Health Organization, ex-mayor of Cali): It has been very clear after this extraordinary meeting, that the problem of violence in Colombia is very complex and has many causes. Therefore, if we want to resolve it, we have to separate out these different areas, which is not easy because they're all interconnected.

But today we have been talking about violence that has its origin in the violation of human rights. We have international organizations or NGOs that are helping us, each in its own manner. And at the same time, there is a national commitment that Carlos Vicente de Roux mentioned to resolve that one small component of violence. Then we have the guerrilla violence, which is another part of the big violence complex, and here the government is involved as well. We have a high commissioner trying to find a solution and we're receiving international help, including the accumulated experience of resolving other conflicts.

There is another conflict that I see as much more important in contributing to violence, and that is narco-trafficking. Here we don't have NGOs. I don't know of any in this country dedicated to combat the use of drugs, and much less, to see if they're being used in other country. We know that it could be relatively easy to eradicate if the chemical products to process coca would not reach the hands of the drug traffickers.

This is a question for Ambassador de Soto. What are the possibilities of internationalizing [a solution to] the drug trafficking problem, so that each one of the actors involved can contribute something, given the fact that we Colombians will continue to do everything possible to solve the problem?

ALVARO DE SOTO: It depends on what you mean by "internationalizing." Perhaps you're underestimating the resources that already exist within the international community to combat drug trafficking. There is a United Nations program that exclusively dedicates itself to this and which channels funds and considerable resources, not only from the United States, but from European nations to combat drug trafficking.

I'm not a specialist on this matter. But what you just mentioned about stopping the chemicals that are necessary to process coca paste into cocaine or a drug for sale in the developed nations -- I didn't know that and I don't know if it is possible. I don't know if it can be done by sanctions or through trade sanctions.

ROBIN KIRK: I have a similar question both for Dr. Holmes and for Ambassador de Soto. There have been reports that there are other armed groups in Colombia that

want to begin peace negotiations with the government, specifically of paramilitary groups.

Is that something that you take seriously? If you believe that there may be a possibility for such negotiations, what would be the problems? What would be the possible benefits of negotiation with this other armed sector of Colombian society? Second, for Ambassador de Soto, can you think of other international examples of negotiations with a group similar to Colombian paramilitaries, either in Haiti or South Africa -- negotiations with groups that don't identify themselves as guerrilla groups or with a leftist political objective, but that have other sorts of political identities and objectives that may in some way be similar?

CARLOS HOLMES TRUJILLO: No. There is no such possibility. The negotiation policy is aimed towards the guerrilla groups. Regarding the paramilitary groups -- presenting a general armistice or deactivating the paramilitaries -- their nature precludes political negotiations.

ALVARO DE SOTO: I do not remember specific cases of negotiations with paramilitary groups, per se. However, I'm under the impression that generally these paramilitary groups are instruments of certain other movements; rarely do they represent their own political interests.

So a negotiation becomes very difficult. We are moving into the terrain of the non-negotiable [violence]. In the case of El Salvador, there simply was an agreement that certain paramilitary groups -- civil defense groups and county patrols -- would be dissolved. These clearly were being controlled by the armed forces. So the armed forces made the commitment, or the government made the commitment, to dissolve these groups. I do not know of other cases of negotiation [with paramilitaries].

DIANA CHIGAS: I believe in South Africa there were a number of quasi-military groups; most of [those issues] were negotiated at the local level. There were "taxi wars" and other [conflicts]. Frequently South African NGOs mediated between police, their civic organizations, and some of the armed groups at the township level. It never really reached the national level. It was handled within the police.

JOSEPH TULCHIN: I want to pick up on some of the comparative suggestions that were made in this panel by Ambassador de Soto and Ms. Chigas. What happens in listening to this conversation is that there echoes of phenomena that are familiar in other cases. In doing comparative work, one should look carefully to see what it is that's truly common and what's not.

There may be a number of things in the Colombian case, such as the history of violence, that are indeed peculiar, unique, and culturally-rooted, such as the party system and things of that nature, which require peculiarly Colombian solutions and will by Colombian elites. But the issue of internationalization strikes me as one that's relevant. Mr. de Soto referred to something that Juan Tokatlián said earlier; if there's convergence between the two it might be useful.

In discussing violence in Colombia, both of the things that are being internationalized or "internationalizeable" (if that's a word in English) have to do with issues in the definition of national security. I just returned from a seminar on defining national security issues in the Caribbean Basin, where officials of a number of micro-states in the Basin talked about the impact of drug trafficking in their states. There was one anecdote involving an unnamed Colombian drug lord, who landed on an unnamed island, and brought more money with him and threatened to bring more arms with him than that island state could summon in response. This produced panic at the highest levels of government and resulted in meetings of the East Caribbean Association of States, immediate phone calls to the DEA in Houston, and so on.

This represents an extreme case of how drug trafficking affects national sovereignty. The question, then, in the Colombian case, is where has drug trafficking actually threatened national security? The answer is fairly obvious. It seems to me that it represents an immediately international feature of violence in Colombia. The very difficult and tense conversations which have occurred between the governments of the United States and Colombia over national sovereignty have turned the government of Colombia into an unwilling and unexpected defender of some of the most reprehensible narco-traffickers in the world. It's an irony of the way in which bilateral relations are conducted that, in defense of their sovereignty, and in their inability to internationalize this dispute, the Colombian government

and the United States government have been pushed into a corner that neither wished to enter.

Drug trafficking is an international problem. It is what the political scientists refer to as a global issue, which is simultaneously a local and an international dispute. It is quintessentially a global dispute. The Colombians and the North Americans by themselves cannot solve the drug trafficking problem, and most people in this country connected with policy formulation now realize this, though it's been a long struggle to bring them to that realization.

There seems to be an opportunity here. Given that the United States government, perhaps for the first time, realizes that it is incapable of "solving" the drug trafficking problem unilaterally or even bilaterally with a friendly, cooperative Colombian government, this might be a good opportunity to reach out to other states, all of which are touched to some degree or another, and say, how can we sit down together and work together in solving this problem?

Mr. de Soto's comments on the loss of will by the international community are correct. I share his perception. It seems that we have to disaggregate the international community and look for perhaps an *ad hoc* group of interested parties. Colombia's neighbors are a place to begin. There are a lot of potential allies in the Caribbean Basin that would love to collaborate in ways that are yet to be explored. Parenthetically, when we talked about threats to national security, I discovered that each of the countries in the Basin had direct and constant contact with the DEA, but that they had no comparable horizontal contact with drug officials across the Basin, so that there was no sharing of intelligence about the movement of drugs and drug traffickers in the Basin. All of it went north and came back to them. Each country is thus captive of the interests of the United States in dealing with its drug problem. Instead of having conversations across the region, Colombia might indeed take the lead in conversations in the sub-region.

The other point that occurs to me in a comparative framework is the militarization of domestic, social, and political violence. To an outside observer it is a warning. It's not a yellow light. It's a red light that cannot in its wake bring positive results. I know the arguments that [the militarization] is indispensable, it's

a special moment, and the nation is at risk. But without hyperbole, there are no recent positive results from the militarization of domestic conflict.

There are other institutions; if they are weak, the response should be to strengthen those institutions, rather than to rely on the military. It is a source of great alarm to see the Colombian military send in troops and uniformed officers to municipal governments to help in the conduct of local government. That cannot help local government.

CARLOS HOLMES TRUJILLO: I would like to make some brief comments regarding your reflections. We agreed that even if the [peace] dialogues are successful, they would not end the violence. We're all aware of that. But it would help a lot to deactivate the violent elements that are feeding on each other within the country. I would like to reiterate that the government is willing to begin a process with those who are willing, with the peace of the country in mind, [to move] towards an integral peace.

Regarding institutional changes, I must say again that there is a great political will within the country. In the National Assembly, which was the arena where the new Constitution was debated and approved, there were three Colombians that presided. One was the head of a guerrilla organization that had reached an agreement with the government, a process in which Dr. Rafael Pardo was quite involved. I was a member of the National Assembly [when] guerrillas that came from the mountains helped establish the new national Constitution. This is a specific example of the institutional political will that Colombia has to establish or enact changes that will favor our future together.

We agree that the negotiations acquire their own dynamics as they are undertaken. That's why we've been very careful about any step we make, trying to have what Diana called the "pre-negotiation." We call it the preparatory stage of the eventual or subsequent negotiations. But it is the same philosophy. Of course, we also acknowledge the very important role that the international community is playing today.

Regarding local governments and militarization, this is out of my area of responsibility. This has to do with certain crossroads or points at which to respond,

because responding to violence with violence only creates more violence. The country has been very aware of this situation; it is because of this that we are making the changes with local governments that have been mentioned. There was a substantive change made in 1991 within the country, as we are giving local governments additional tools to strengthen themselves. There is a greater transfer of resources toward local governments, now that there is the popular election of governors and mayors. The municipal entity was defined as the basic cell of the political administrative system of government in Colombia. We are in a transitional period, which creates difficulty and adjustments, but that is the general direction.

Regarding the internationalization of [the fight against] drug trafficking, this is something that the country proposed a long time ago. Colombia has been trying to point out that drug trafficking is a crime which is typically international, because different stages of the process are carried out in different nations. Aspects of the problem have made the international community face this type of phenomenon, which is occurring in different countries and different nations. Events or actions surrounding the drug problem do not all happen in Colombia alone.

Colombia has been soliciting for quite a while now that the phenomena be looked at in this manner, that it should be seen as an international crime. By exerting a cooperative effort, we're able to attack the different areas and elements [of drug trafficking]: planting, production, marketing, money laundering, finance institutions, sales of arms. It's not one country that's involved here. There are a thousand elements or aspects. That it would be interesting to internationalize our response to the problem is what Colombia has been requesting for many years, a concerted international effort.

LIST OF PARTICIPANTS
(in order of appearance)

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Juan Tokatlián is currently a Visiting Scholar at Boston University, on leave from his post as Director of the Center for International Studies at the University of the Andes in Bogotá. He has authored several pathbreaking books and articles on Colombian foreign policy, U.S.-Colombian narco-diplomacy, international affairs, and political violence and negotiations. Dr. Tokatlián received his Ph.D. from the Johns Hopkins University School of Advanced International Studies.

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Carlos Vicente de Roux has been Presidential Counselor for Human Rights since March 1993. Before taking on that post, he taught at the Universidad Javeriana in Bogotá and was an adviser to non-governmental human rights organizations. During the period of the Constitutional reform in 1990-1991, Dr. de Roux directed a civic campaign of non-governmental organizations in support of that process.

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Alvaro de Soto was appointed Assistant Secretary-General for Political Affairs at the United Nations in January 1995, where he has responsibility for the Americas, Europe, and East Asia and the Pacific. Prior to his current appointment, Mr. de Soto was for two years Senior Political Advisor to United Nations Secretary General Boutros Boutros-Ghali from February 1992 through December 1994. He served as Secretary General Javier Pérez de Cuéllar's Personal Representative in conducting the negotiations between the government of El Salvador and the FMLN that culminated in the 1992 peace accord. Mr. de Soto is on special leave from the Peruvian diplomatic service, in which he holds the rank of career ambassador.

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