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Conflict Resolution in Colombia

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for Hemispheric Defense Studies**
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Foreword

When, in August 2012, Colombian President Juan Manuel Santos announced peace talks with the FARC leadership, the overall reaction was a mix of surprise and skepticism. Many were surprised because Santos agreed to sit with the FARC when everything indicated that the government was finally winning the 50-year-long conflict. And many were rightly skeptical because peace negotiations had been attempted previously with disappointing results. Many critics believe that peace negotiations at this point will only empower the guerrillas and give them the time needed to regroup, rearm, and continue challenging the government and the Colombian state. Nevertheless, it is clear that the Colombian population is tired of the violence and eager for peace. On April 9, 2013, tens of thousands joined in a march in Bogotá to show their support of the negotiations.

The stakes are high and the history does not encourage optimism, but if these negotiations indeed succeed in ending conflict—which in the 1990s almost completely derailed the Colombian state—President Santos will have accomplished an incredible political goal.

In this Occasional Paper, Perry Center Professor Patrick Paterson presents an excellent overview of the stakes involved in these peace talks. A researcher attentive to detail and particularly concerned with human rights implications, he offers a careful analysis of the talks and their prospects, always with one eye on the future and another on Colombia's history. Professor Paterson underscores the impossibility of a military resolution for this conflict and also advances specific recommendations to involve more representatives of Colombian civil society as a way to make the negotiations more inclusive and sensitive to all aspects of the modern Colombia.

Luis Bitencourt
Dean, Academic Affairs

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Introduction

Colombian President Santos's announcement on August 27, 2012, that the government agreed to formal peace talks with the country's largest insurgent group gave hope that a settlement would end nearly 50 years of bloody conflict in the South American nation. A subsequent series of gestures—not the least of which were the insurgents' declaration of a unilateral ceasefire and a promise to forgo kidnapping—raised expectations even higher.

Despite the collegial and cooperative tone adopted by both sides, the Colombian government and representatives of the *Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo* (Revolutionary Armed Forces of Colombia, People's Army in English, and commonly referred to as the FARC) have to address deeply entrenched and divisive topics that previous peace accords were unable to resolve. The thorny issues on the table include land reform, political reintegration of insurgents, stemming the seemingly intractable drug production and trafficking, and transitional justice measures that could see perpetrators of war crimes put in jail or extradited out of the country.

The announcement of pending peace talks wasn't met with enthusiasm by everyone. Former President Álvaro Uribe has been particularly vocal about the folly of such talks. "While police and soldiers keep getting killed by these criminals, their former commanders are talking at the table," complained Uribe, who instead favors attempting to defeat the FARC militarily.¹ Commanding General of the Colombian Armed Forces General Alejandro Navas backs President Santos's peace efforts, but has his own personal doubts about the FARC's sincerity and intentions. Like Uribe, he believes that a negotiation would be viable only after military action had broken "the combat will" of the guerrillas.²

Historically, Uribe's and Navas's doubts are well founded. Previous attempts to resolve these problems at the peace table produced mixed results. The government and the FARC tried three previous times to resolve the political, economic, and social issues that divide them. Each effort was unsuccessful, often disrupted by a violent incident that raised the ire and tension at the peace talks and ultimately derailed them.

In spite of previous failures, the current circumstances in the country may present the best chance that Colombia has ever had to end the fighting. Colombian military operations, assisted by a

I am sincerely grateful for the assistance of Rory Flynn and Laura Camila Sanchez while producing this manuscript. I would also like to thank Dr. Michael Gold-Biss and Dr. David Spencer for their constructive comments. The opinions expressed in this article are my own and in no way reflect any official position of the William J. Perry Center for Hemispheric Defense Studies or the U.S. Department of Defense.

¹ Peter Orsi and Frank Bajak, "Colombia Armed Forces Crucial Role in Peace Talks," Associated Press, October 12, 2012.

² "Colombia: Peace at Last?" Latin America Report no. 45, September 25, 2012, p. 19. Source: <http://www.crisisgroup.org/~media/Files/latin-america/colombia/045-colombia-peace-at-last>. Henceforth, referred to as Crisis Group.

robust \$8 billion aid package provided by the United States, decimated the senior ranks of the FARC and atomized its hierarchy. The Colombian security forces gained legitimacy by adopting population-centric counterinsurgency tactics that reduced human rights violations. Many paramilitaries laid down their arms. The FARC use of kidnapping, massacres, and drug revenues reduced their political legitimacy from what they enjoyed in the 1980s and 1990s. Today, the Marxist insurgency has an estimated 9,000 guerrillas and has been driven into hiding in remote areas of the Colombian jungle by the Colombian security forces. Both sides are weary of the nearly five-decade-long conflict that has taken more than 70,000 lives.

In this essay, I will examine the ongoing peace accords between the Colombian government and the FARC insurgents. I will provide a brief history of the conflict and examine previous peace efforts. I will devote most of my effort to a detailed examination of the major components of the peace talks: (1) formally ending the conflict; (2) the political participation of the insurgents; (3) land reform and agricultural development policy; (4) reducing the production of illicit drugs; and (5) reparations for victims or their families. The supporting literature on conflict resolution, insurgencies, transitional justice, and disarmament, demobilization, and reintegration (DDR) will be cited to help frame the problems in Colombia.

Colombia's Long Legacy of Conflict and Violence

The contemporary conflict in Colombia dates back more than 50 years to the middle of the previous century. In 1948, the assassination of Liberal Presidential candidate Jorge Eliecer Gaitán, allegedly by his Conservative political opponents, precipitated the worst bloodshed in the history of the country, starkly named *La Violencia*. For nearly 10 years, Liberal and Conservative political factions warred against one another. Nearly 200,000 died in the fighting. In 1956, exhausted from nearly a decade of bloody rivalry, the Liberals and the Conservatives joined forces to create a new political coalition called the National Front. The two parties agreed to alternate control of the presidency and the political bureaucracy in equal parts from 1960 to 1974. Under these terms, the parties would share four presidential terms of four years each, two by Liberal presidents and two by Conservative presidents.

The coalition represented a monopoly on Colombian power that would control nearly all elements of the country's economy and politics until 1984, 10 years past its original design. The power-sharing agreement reduced the violence but came at the expense of political representation of the lower class. It marginalized political groups opposed to the policies of the Liberals and Conservatives. Requests for land reform and other welfare programs normally supported by the landed elite on behalf of their constituents went ignored or were answered with only modest adjustments in policy.³

³ According to University of Alabama Professor and historian Harvey Kline, by 1974, after 16 years of control by the coalition government, the political and economic conditions resulted in (1) a lack of political space for individuals from opposition parties, (2) a failure to resolve a number of key economic problems of underdevelopment, (3) continued violence in the countryside though now in the form of class warfare, (4) a dearth of economic resources that might allow the

Colombian peasants, disenfranchised from the national political discussion, were faced with a dilemma. They could accept a status quo that relegated them to second-class citizens, or they could organize a collective action to force representatives of the National Front to address their political and economic needs. The latter would be a challenge. The peasants had no political experience, had no resources to draw upon, had no security forces to protect them from military threats, and faced an entrenched, battle-hardened political elite that controlled most of the national assets.

Within 10 years of the establishment of the National Front, peasants organized three major rebel groups to represent their political interests.⁴ The most successful of the rebel organizations was the FARC, founded in 1964 and dedicated to rural insurgency. One year later, pro-Castro university students founded the *Ejercito de Liberación Nacional* (Army of National Liberation or ELN). The *Ejercito de Liberación Popular* (Popular Liberation Army or EPL) appeared in July 1967 and the *Movimiento de 19 de Abril* (19th of April Movement or M-19) in 1970. These groups formed the base of the insurgent organizations that would wreak havoc throughout Colombia for decades. Initially contained in remote regions where the central government had little or no state presence, guerilla activity quickly spread. In 1985, for example, guerilla presence was recorded in 17 percent of the municipalities (173 out of a total of 1,005) in the country. However, by 1995, guerilla activity had increased to 60 percent of the country (622 out of 1,071 municipalities).⁵

In the early 1980s, another armed faction entered the scene in Colombia. Drug traffickers like Pablo Escobar of the Medellin Cartel and the Rodriguez Orejuela brothers of the Cali Cartel capitalized on a growing appetite for narcotics in the U.S. With the immense profits from cocaine and marijuana markets, the cartels organized and equipped their own private armies and bribed or threatened Colombian government officials who dared to challenge them. Drug-related corruption metastasized through all branches of the government, undermining the Colombian government's institutional effectiveness.⁶ Elements of the police and the military were frequently bought off. An estimated 60 percent

poor to earn a decent wage, (5) a relatively small group of political and economic leaders living very well in the cities, (6) a government even less able to enforce its laws than before, and (7) a weak and politically divided labor movement. See Harvey Kline, *Colombia: Democracy under Assault* (Boulder: Westview Press, 1995), 52.

⁴ Among the FARC and ELN, the majority of the disenfranchised forces originated from poor, rural, working-class peasants. Other groups like the M-19 were composed of mostly middle-class and urban members.

⁵ Marc Chernick, "Negotiating Peace amid Multiple Forms of Violence: The Protracted Search for a Settlement to the Armed Conflicts in Colombia," in *Comparative Peace Processes in Latin America*, ed. Cynthia Arnson (Washington, DC: Woodrow Wilson Center Press, 1999), 167. David Spencer, an expert on Colombia at the William J. Perry Center for Hemispheric Defense Studies in Washington, DC, estimated that in 1982 FARC was just a small organization of 15 fronts with perhaps 2,000 guerrilla fighters. By 1990 it had expanded its forces to 43 fronts with about 5,000 fighters. By the turn of the century, it had between 15,000–20,000 combatants in 69 fronts and mobile companies. Cited in Thomas Marks, "Colombian Army Adaptation to FARC Insurgency" (Carlisle, PA: Strategic Studies Institute of the U.S. Army War College and the Dante B. Fassell North-South Center of the University of Miami, 2002), 7.

⁶ Drug corruption reached the highest levels of the Colombian government. In 1994, President Ernesto Samper was accused of receiving campaign funds from drug cartels. The U.S. government subsequently cut off almost all aid to Colombia during Samper's four-year term. According to the *San Francisco Chronicle* (9/23/1996, p. A12), on September 20, 1996, more than 8 lbs. of heroin were found on Colombia's President Samper's presidential jet as it was preparing for a flight to New York. Eleven Air Force personnel were later arrested. That same year, Colombia's Supreme Court ordered



Figure 1. Area of Insurgent and Internally Displaced Persons (IDP) in Colombia in 2005–2006

Source: United Nations Environmental Program, *Map of Armed Guerilla Groups and War in Colombia*, January 2006, available at: <http://www.unhcr.org/refworld/docid/463af4d12.html> [accessed 23 March 2013].

of the Colombian Congress received illicit campaign contributions to guarantee their cooperation on

the dismissal of Attorney General Orlando Vasquez Velasquez, who had been arrested on charges of accepting drug payments (*San Francisco Chronicle*, 10/19/1996, p. A12). The U.S. also barred contacts with General Hernando Camilo Zuniga, commander of Colombia’s armed forces, because of suspected ties to drug traffickers (*San Francisco Chronicle*, 5/25/1998, p. A12). In November 1998, the U.S. Customs Service and DEA personnel searched a Colombian Air Force aircraft in Florida and found 415 kilograms of cocaine and 6 kilograms of heroin. Even U.S. government officials were vulnerable. In 1999, the wife of Colonel James Hiatt, a military attaché at the U.S. Embassy in Bogota, received a five-year prison sentence for smuggling narcotics into the U.S. through the diplomatic mail service. Colonel Hiatt received a five-month sentence for laundering money received from the profits. Material drawn from numerous sources, including testimony by the Honorable Charles E. Grassley, Chairman, Caucus on International Narcotics Control, United States Senate, “Drug Control: U.S. Efforts in Latin America and the Caribbean,” GAO Report B-284626, February 1, 2000, United States Senate, Washington, DC, 3.

critical issues like extradition.⁷ Officials who resisted the cartels or insurgents risked assassination.⁸

The cartels purchased vast estates in the Colombian interior from which to operate clandestine drug labs and by which to also launder the profits from the drug trafficking. One United Nations Development Program (UNDP) study estimated that 5–6 million hectares changed hands from rural elites to drug traffickers during this period.⁹ In the absence of state security forces in these remote locations, wealthy and legitimate landowners had few options. Failure to cooperate would invite assassination or kidnapping of family members.¹⁰

As a result, wealthy landowners began defending themselves. They hired private militias to guard their estates. Many of the paramilitary units established a coalition called the United Self-Defense Forces of Colombia (AUC) under leader Carlos Castaño in 1997.¹¹ For their part, the Colombian military welcomed the rural defense forces that supported government efforts in hard-to-reach rural regions.¹² The paramilitaries clashed frequently with Marxist insurgent forces and brutally punished suspected insurgent sympathizers. By the end of the 1980s, paramilitary violence began to escalate dramatically, even expanding into the drug trade to finance their operations. Paramilitary groups grew so autonomous and brazen that they frequently attacked government representatives who attempted to curtail their actions by extraditing paramilitary leaders or who sought to establish anti-narcotic policies contrary to paramilitary interests. By the late 1990s, the paramilitary armies were as violent as the Marxist insurgents.¹³ In 2001, the U.S. Department of State labeled the AUC a foreign terrorist organization.

At the same time, the Colombian military was poorly equipped and trained to extend operations into remote areas of the country. According to an assessment by the U.S. Department of De-

⁷ Bruce Michael Bagley, “Drug Trafficking, Political Violence, and U.S. Policy in Colombia in the 1990s,” (unpublished manuscript), January 5, 2001, 9.

⁸ The Medellín Cartel under Pablo Escobar was the most sinister of the traffickers in the 1980s and 1990s. Escobar’s exploits included the assassination of presidential candidate Luis Carlos Galán in August 1989, the car bombing of the *El Espectador* newspaper offices in September 1989, the bombing Avianca Flight 203 in November 1989, and the car bombing of the Administrative Department of Security (DAS), Colombia’s equivalent of the FBI, in December in 1989.

⁹ Chernick, 172.

¹⁰ Ibid.

¹¹ Castaño’s father was killed by the FARC during a kidnapping attempt in 1980.

¹² A similar effort with village self-defense forces in Peru, the Rondas Campesinas, proved instrumental in the defeat of the communist insurgent group the Sendero Luminoso. A 2005 Freedom of Information Act exposé from the National Security Archives, “Paramilitaries as Proxies,” examined alleged Colombian military collusion with paramilitaries. Source: <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB166/index.htm>.

¹³ One event in particular seemed to trigger a public revulsion of paramilitary actions. In the community of La Rochela, Colombia, in Caldas department in January 1989, a paramilitary unit murdered 12 judicial representatives from Bogotá who were conducting an investigation into an attack on the village. According to a U.S. Embassy cable after the event, paramilitary groups “suddenly became more than a human rights problem. They became another enemy of the state, along with the narcos and the guerrillas.” As a result of the event, President Virgilio Barco nullified the 1965 law that allowed the military to arm civilians. See “Lifting the Veil on Colombia’s ‘Emerald Czar’: Declassified Cable Links Víctor Carranza’s Alias to 1997 Miraflores Massacre,” National Security Archive Electronic Briefing Book no. 408, posted December 21, 2012. Also see Chernick, 173-174.

fense, the Colombian military lacked a long-term strategy and effective leadership, suffered from poor morale, had inadequate equipment, logistics, and training, and was operationally hindered by a lack of airlift or fast-reaction forces. As a result, by June 1999, insurgents like the FARC and ELN controlled about 40 percent of the country, an area equal to the size of Texas.¹⁴

Every Colombian president since 1982 tried to pursue parallel paths of confrontation and negotiation with the insurgents. From 1982 to 1986, President Belisario Betancur offered amnesty and political reforms to the insurgents to entice them to disarm. He established a National Rehabilitation Plan to rebuild infrastructure and state services in areas hit hardest by the fighting. However, a lack of political will from other Colombian lawmakers, insurgent intransigence, and skepticism from the military undermined the peace efforts. From 1986 to 1990, President Virgilio Barco attempted to disarm the insurgents and reintegrate them into society. Barco's efforts ended when rival factions assassinated political representatives of the insurgents during the 1990 presidential campaign.¹⁵ President César Gaviria (1990–1994) had some success demobilizing the insurgents. He persuaded three guerilla groups—the EPL, the Quintín Lame, and the *Partido Revolucionario de los Trabajadores* (Revolutionary Workers Party or PRT) to disarm and join the political process. He was less successful with the FARC and ELN. Although representatives of the groups met with government officials in Caracas, Venezuela, and Tlaxaca, Mexico, the FARC and ELN rejected Gaviria's offer to demilitarize into an area they considered too small. President Ernesto Samper's (1994–1998) efforts at reaching a peaceful accord with the FARC and ELN were curtailed when Samper was publicly accused of receiving campaign funds from drug cartels.

In 1998, Andrés Pastrana ran for president on a campaign pledge to seek peace with the remaining insurgent groups. In November 1998, he declared five municipalities in southern Colombia as a FARC demilitarized zone and ordered the withdrawal of government security forces as a gesture of sincerity.¹⁶ The following January, he began negotiations with FARC leaders in San Vicente del Cagúan within the demilitarized zone. The government sought to demobilize the insurgents while the guerilla representatives wanted broad social, political, and economic reforms.

Negotiations moved along slowly as deep-seated suspicions frequently surfaced and interrupted the peace talks. At the opening ceremony of the talks in January 1999, FARC Commander Manuel

¹⁴ Testimony by the Honorable Charles E. Grassley, chairman, Caucus on International Narcotics Control, U.S. Senate, "Drug Control: U.S. Efforts in Latin America and the Caribbean," GAO Report B-284626, February 1, 2000, U.S. Senate, Washington, DC.

¹⁵ FARC political candidate Bernardo Jaramillo (representing the Patriotic Union Party) was murdered in an airport in Bogotá by a paramilitary assassin on March 22, 1990. Carlos Pizarro, presidential candidate from the M-19 party, was murdered on April 26, 1990, by a young paramilitary. These murders came just months after Luis Carlos Galán, leading candidate of the Liberal Party, was assassinated by gunmen of the Medellín cartel on August 18, 1989.

¹⁶ The DMZ and the resignation of Defense Minister Rodrigo Lloreda in May 1999 (who opposed Pastrana's negotiation policies) represented significant concessions to the FARC by the president. Eighteen generals also tried to resign, but the president accepted only Lloreda's resignation. See "Renuncia el ministro de Defensa de Colombia," *El Mundo Internacional*, May 26, 1999.

Marulanda Velez¹⁷ did not attend the opening ceremony because of an alleged assassination conspiracy by paramilitaries. In November 2000, the FARC broke off the negotiations to force the government to rein in paramilitary forces. Insurgent leaders believed the government continued to collude with the paramilitaries to attack FARC forces. The following month, FARC guerillas assassinated Diego Turbay, the head of the congressional peace commission, and five others in southern Caquetá.¹⁸ Government representatives accused the FARC of using delaying tactics to re-arm, increase coca cultivation, and launch a series of high-profile guerilla attacks.¹⁹

The five disparate groups in the country—Marxist insurgents, powerful drug cartels, landowners, paramilitary units, and Colombian security forces—created a complex mosaic of destructiveness in the country. By the late 1990s, the Colombian government was perceived to be on the verge of defeat. Homicide rates reached the highest in the country's history. Narcotics trafficking increased to double that of the operational peak of the Medellin and Cali cartels. In addition, both the Marxist insurgents as well as the paramilitaries took up drug trafficking and began relying heavily on revenues directly from narcotics or from extorting other traffickers. The 1998 election of President Hugo Chávez in Venezuela provided the FARC tacit, if not public, logistical support and sanctuary. FARC insurgents, fueled by drug revenues and buoyed by military successes, had little reason to negotiate for peace terms or a military truce. The FARC achieved a number of high-profile tactical military victories that demonstrated their ability to launch attacks against Colombian military bases or police garrisons. In August 1996, FARC forces overran the military base of Las Delicias in Putumayo and killed 27 soldiers and took 60 others hostage. In March 1998, 700 FARC fighters ambushed a Colombian army battalion near El Billar in Caquetá, killing 62 and seizing 43 prisoners. Only one-third of the Colombian soldiers escaped. In November 1998, FARC units captured the city of Mitú in Vaupés and held it until government forces could mobilize for a counterattack. The situation was so dire that

¹⁷ Famously known as *Tiro Fijo* (Sure Shot).

¹⁸ Diego Turbay was a member of the prominent Turbay family. Former Colombian President Julio Cesar Turbay was particularly unpopular among the insurgents as a result of the tough security policies he put into place during his 1978–1982 term in office. Also slain with Diego Turbay in the 1999 attack was Diego Turbay's mother. Two years before, a brother of Diego Turbay, who was also a congressman, reportedly died in a riverboat accident while being held hostage by the FARC. In February 2002, Liberal Senator Jorge Gechen Turbay, the new chairman of the peace commission, was also kidnapped after being seized from a hijacked plane. Turbay was held for six years and released on February 27, 2008. See Angel Rabasa and Peter Chalk, "Colombian Labyrinth: The Synergy of Drugs and Insurgency and Its Implications for Regional Stability," Rand Corporation, 2001, 73.

¹⁹ FARC forces operating in the safe haven were accused of violating both the letter and the spirit of the accord by carrying out selective assassinations, harboring kidnap victims, threatening local mayors and judges, conducting illegal searches and seizures, detaining innocent civilians, improperly rerouting public moneys, forcibly recruiting children into their ranks, training new troops and terrorist commandos, and constructing anti-aircraft batteries and other military fortifications to strengthen their defenses. They were also accused of exploiting some 35,000 hectares of coca within the zone, of buying up coca leaf from peasant farmers in surrounding departments (e.g., Meta, Guaviare, Caquetá, Putumayo) and selling it directly to the drug cartels, and of utilizing the 37 landing strips at their disposal inside the demilitarized zone to fly processed cocaine to virtually any part of the country. See Steven Ambrus and Joe Contreras, "Fighting the Enemy Within: The 'FARC Republic': A New Outlaw State in the Heart of South America," *Newsweek International*, November 29, 1999. Also mentioned in Bagley 2001, 12.



Figure 2. FARC Supreme Commander Manuel “Sure Shot” Marulanda and Colombian President Carlos Pastrana during peace talks in 1998. Pastrana made significant concessions to the FARC to entice them to negotiate a peaceful solution to the conflict, not the least of which was a demilitarized zone in southern Colombia in which no Colombian military units would operate. The peace talks collapsed as a result of ongoing guerilla attacks and mutual suspicions. (Photo: *El Pais*, Colombia)

policymakers in Washington warned that the Colombian government was at risk of collapse.²⁰

Frustrated by the insurgents’ intransigence and the increasing level of instability, Pastrana sought assistance from the United States. Lawmakers in Washington, DC, were increasingly concerned about the stalemate in the peace process, by the Colombian military setbacks suffered from 1998 to 1999 in combat against the FARC, and by mounting evidence of the FARC’s deepening involvement in the drug trade. In September 1999, President Pastrana offered a plan to end the country’s 40-year-old armed conflict, eliminate drug trafficking, and promote development. This “Plan Colombia” sought \$7.5 billion over six years and had three main objectives: (1) to reduce the flow of illicit narcotics and improve security; (2) to promote social and economic justice; and (3) to promote the rule of law. In January 2000, the Clinton administration submitted a bill to the U.S. Congress for a \$1.28 billion emergency aid program for Colombia, the first installment of Plan Colombia’s external component. Subsequent U.S. funding raised the total assistance package to more than \$8 billion, the

²⁰ From 1988 to 1998, the political violence had claimed 23.4 lives per day and more than 700 per month. Between 1987 and 1997, more than 270,000 homicides were recorded. See Chernick, 163. Former Minister of Defense Rafael Pardo summed up his country’s woes in a 2000 article in *Foreign Affairs* magazine: “In the last 15 years, 200 bombs (half of them as large as the one used in Oklahoma City) have blown up in Colombia’s cities; an entire democratic leftist political party was eliminated by right-wing paramilitaries; 4 presidential candidates, 200 judges and investigators, half the Supreme Court’s justices, 1,200 police officers, 151 journalists, and more than 300,000 ordinary Colombians have been murdered.” See “Colombia’s Two-Front War,” *Foreign Affairs*, July/August 2000. Additionally, a 1998 U.S. Defense Intelligence Agency (DIA) report speculated that the central government could collapse within five years if the guerrilla’s rate of operations continued without effective opposition. See DOD News Briefing, Tuesday, April 14, 1998, Office of the Assistant Secretary of Defense for Public Affairs, Mr. Kenneth H. Bacon, ASD (PA).



Figure 3. U.S. military assistance through the \$8 billion aid package known as Plan Colombia provided important advantages to the Colombian military such as the rapid airlift capacity available provided by this Blackhawk helicopter. The Colombian Army soldier in the foreground is a member of the fast reaction force (called FUDRA in Spanish). (Photo: PBS Frontline Series on Colombia) Source: http://www.ejercito.mil.co/recursos_user/imagenes//galeria/bahel22.jpg.

majority of which was directed to the Colombian police and military.²¹

Following nearly three years of unproductive efforts, on January 9, 2002, a frustrated President Pastrana gave the FARC 48 hours to retire from the demilitarized zone. A number of efforts to salvage the peace talks delayed any action until February 21, when the Colombia Air Force bombed FARC rebel sites in the area. The following day, Colombia airlifted 34,000 soldiers into the former demilitarized zone around San Vicente del Caguán, the largest town in the FARC territory.

The 2002 election of Álvaro Uribe reflected the public frustration over the failed peace accords of the Pastrana administration.²² Uribe ran on a platform of aggressive military action against the FARC. He won office with 53 percent of the vote and the mandate of a nation to deal decisively with the FARC. Uribe implemented a population-centric counterinsurgency strategy called Democratic Security Policy (DSP) that focused on establishing highway security, state presence in remote areas, and a round-the-clock security designed to protect constituents from insurgents. Instead of just clearing insurgents from an area (a strategy that left townspeople vulnerable to FARC reprisals when military forces withdrew), Uribe moved to “clear, hold, and build” operations that provided a sustained government presence. By 2010, the FARC presence was eliminated or reduced in 235 of the country’s

²¹ June S. Beittel, “Colombia: Issues for Congress,” CRS Report #32250, July 15, 2011, 33.

²² Uribe had reason to hold a personal grudge against the insurgents; his father was murdered by FARC guerillas during a 1983 kidnapping attempt on the family ranch in Antioquia.

nearly 1,100 municipalities (down to 142 in 2010 from 377 in 2002).²³ His strategy was part of a larger consolidation policy (introduced in 2007) that established military control in conflict zones first, then installed civilian governance, and boosted public services and economic development.

U.S. assistance through Plan Colombia, nearly 80 percent of it directed to the police and military forces, empowered the Colombian security forces to modernize its forces, and provided a comprehensive intelligence fusion center, quick reaction forces supported by airlift assets, and tactical targeting with precision-guided munitions. In 2001, following the 9/11 attacks and a renewed vigor on counterterrorism operations, the U.S. permitted Plan Colombia funds to be used for counterinsurgency operations, not just counter-narcotics operations as they had been originally intended.²⁴ The \$86 billion facelift that the Colombian armed forces experienced from 2000 to 2010 resulted in one of the most capably equipped militaries in the Western Hemisphere. Colombian security forces increased to 430,000 members, up 140,000 from 1999 when the last peace talks were held. The police also grew in size and effectiveness, increasing from 95,000 in 2000 to 136,000 in 2011. Since 2002, the government opened 168 new police stations and 146 substations, while increasing the capacity of the Colombian National Police, including its highly capable commando team, the Junglas.

Uribe's improved security conditions paid off. His approval ratings reached a pinnacle (90 percent) following the 2003 Operation Jaque, a daring military rescue of guerrilla-held hostages. In March 2006, he was reelected with 62 percent of the vote, 40 points ahead of his closest rival, Carlos Gaviria of the Alternative Democratic Pole (PDA).

Current Peace Talks

On August 27, 2012, President Juan Manuel Santos announced that the government and the FARC had reached an agreement on a framework for peace talks.²⁵ The military achievements of Presidents Uribe and Santos (elected in 2010) decimated much of the FARC leadership, significantly reduced the num-

²³ Crisis Group, 3. See also Chris Craul, "The Shine Is Off Colombia's FARC," *Los Angeles Times*, January 19, 2009.

²⁴ U.S. support was limited to counter-narcotics efforts in accordance with the 2000 Presidential Decision Directive (PDD-73). Following the 9/11 attacks, decision makers in Washington recognized that Colombia's problems were driven by an insurgency that used drug revenues. Hence in 2002, U.S. aid shifted to counterinsurgency efforts in accordance with National Security Presidential Directive (NSPD-18).

²⁵ The parties succeeded in jointly adopting the "General Agreement for the Termination of the Conflict and the Construction of a Stable and Durable Peace," signed on August 26, 2012, in Havana. The Colombian government was represented by Humberto de la Calle, former vice president of Colombia during the administration of Ernesto Samper; Sergio Jaramillo, high commissioner of peace and former vice minister of defense; General Jorge Enrique Mora, ex-commander of the Armed Forces; Oscar Naranjo, ex-director of the National Police and adviser to recently elected President Enrique Peña Nieto of Mexico; Frank Pearl, ex-high counselor for peace and ex-high counselor for reintegration; and Luis Carlos Villegas, president of the National Association of Industrialists (ANDI). De la Calle, Jaramillo, and Pearl participated in previous peace talks for the government. The two retired officers, Mora and Naranjo, indicated the direct role of the security forces in the post-violence phase. The business community was represented by Villegas. The delegation of the insurgents was led by Luciano Marin, also known as "Iván Márquez," member of the Secretariat and Commander of the Eastern Bloc. Other representatives included Luis Alberto Alban, or "Marco Leon Calarca," Jesus Emilio Carvajalino, alias "Andres Paris," and Ricardo Gonzalez, alias "Rodrigo Granda."

ber of militants, inspired hope among a populace weary of decades of bloodshed, and raised economic expectations for the country. During six months of exploratory talks in Cuba, the delegates agreed to discuss problems of mutual interest including: (1) ending the conflict between the warring factions; (2) ensuring political participation for insurgents; (3) developing an integrated agricultural development policy; (4) addressing the production and distribution of illicit drugs; and (5) providing compensation or reparations for victims. In the remainder of this piece, I will examine each of these issues on the table at the peace talks and give a historical perspective of the problem and an assessment of the current conditions of each topic.

End of the Conflict

Of the five principal topics of discussion at the peace talks, ending the violence and conflict is the most urgent matter. Without a formal declaration of a ceasefire by both sides, the other issues of contention—the political participation of the insurgents, reparations for victims, etc.—are unlikely to be resolved. Unlike in previous peace efforts, the FARC agreed to disarm if a satisfactory accord could be reached.²⁶

Why, after nearly 50 years of conflict, do both the Colombian government and the insurgents seek a cessation of the fighting? What strategic conditions have changed to suddenly impel the two sides to seek accord over so many polemics? The military accomplishments in Colombia under Uribe and Santos provide an important explanation for the seemingly sudden impetus for peace. The strategic and operational improvements permitted the Colombian military to achieve victories over the FARC and ELN unprecedented in nearly 40 years of fighting. According to the International Crisis Group, between 2002 and 2009 Colombian security forces killed more than 12,000 FARC militants and captured another 12,000. From 2002 to 2012, another 17,000 FARC militants demobilized. The military killed numerous FARC front leaders and members of the Joint General Staff (EMC) and Secretariat, the organization's two most important decision-making bodies. In one five-month period from March to July 2008, Colombian military forces killed FARC Secretariat members Raul Reyes and Ivan Rios (both in March 2008), saw the demise of long-time supreme leader Manuel Marulanda in the same month, received the surrender of FARC Front commander Nelly Ávila Moreno in May 2008, and executed a brilliant military operation in July 2008 called Operation Jacque that led to the rescue of 11 Colombian military and police, former Presidential candidate Ingrid Betancourt, and 3 American military contractors.²⁷

²⁶ “Lessons for Colombia’s Peace Talks in Oslo and Havana,” U.S. Institute of Peace, October 15, 2012, 5.

²⁷ Other notable killings of FARC leaders include Negro Acacio, leader of the 16th Front and a key operator in the FARC’s drug business, and Martín Caballero of the 37th Front in September and October 2007, respectively. In September 2010, Mono Jojoy, the organization’s military leader, was killed in a military operation. A year later, in November 2011, the security forces killed Marulanda’s successor as supreme leader, Alfonso Cano, an event President Santos called the “the biggest blow in the history” of the FARC. In the first two years of the Santos administration, Colombian forces have also



Figure 4. The death of Raul Reyes in 2008, seen here in his jungle hideout, marked the first death of a FARC Secretariat member at the hands of the Colombian military. The subsequent death of a number of other senior FARC guerillas, including longtime FARC Supreme Leader Manuel Marulanda (by heart attack), may have contributed to the group’s decision to seek a peace accord with the Colombian government.

The government’s military superiority and the FARC’s weakness provide more promising expectations for peace than the last attempt at truce in 1999–2002. The FARC leadership may realize that the military advantage enjoyed by the post–Plan Colombia security forces—a professionalized military force equipped with modern weaponry and a newfound legitimacy that resulted from respect for human rights—will be tough to defeat. As of December 2012, the FARC has been reduced to about 9,000 fighters, less than half its peak. The FARC lost the relative political acceptance they may have had in the eyes of Colombians in the 1960s and 1970s as they fought against an elite and corrupt central government.²⁸ Now, aligned with narcotics traffickers and guilty of dozens of horrific massacres, the FARC alienated themselves from the common citizen in Colombia and lost the legitimacy that is so important in modern warfare. As one observer summarized, the FARC’s unscrupulous tactics of cocaine trafficking, kidnapping civilians for ransom, and conscripting child soldiers have made it

killed 3 EMC members, 13 front commanders, and 5 leaders of mobile columns. Five of the 7 current Secretariat members have been appointed since 2008.

²⁸ The wealth distribution and levels of poverty during the era of the National Front were abysmal. In 1956, almost 75 percent of the Colombian population (about 11.5 million) was composed of peasants. More than half the population was illiterate. Three percent of the landowners owned half the land in the country. In 1964, at the peak of the control of the National Front and the year that marked the emergence of Colombian rebel groups, the top 10 percent of the Colombian population received over 61 percent of the income, while the bottom 50 percent received less than 15 percent. The hegemonic dualism enjoyed by the two elite parties exacerbated Colombia’s inequitable distribution of wealth and provided a common grievance by the marginalized portion of the population. From this data, it is obvious that Colombia’s peasants had much cause for shared grievance—the first criteria for collective action. See Gonzalo Sanchez, “The Violence: An Interpretative Synthesis,” in *Violence in Colombia: the Contemporary Crisis in Historical Perspective*, ed. Charles Berquist, Ricardo Penaranda, and Gonzalo Sanchez (Wilmington DE: SR Books, 1977), 180. See also Carlos Salinas, “Colombia in Crisis.” *Foreign Policy in Focus*, vol. 5, no. 5 (March 2000), 14.

an international pariah.²⁹ In a post 9/11 world, condemnation through U.S. and the European Union counterterrorism legislation has isolated the group even further. Even key former FARC supporters like the late Venezuelan President Hugo Chávez backed the peace process.

Regardless of the military successes of the Colombian security forces in the past decade, the Colombian government faces its own incentives to reach a peace agreement. According to metrics assembled by the International Crisis Group, kidnappings are down from 3,572 registered cases in 2000 to 305 in 2011. The murder rate is 32 per 100,000 inhabitants, the lowest in decades. On a national scale, the impact of the conflict on civilians declined, with the daily average of civilian victims down from 9.5 between July 2001 and June 2002 to 3.5 over the same period in 2009–2010. Economic growth has picked up, and foreign direct investment (FDI), mostly in the private sector, is at record levels. The nation faces a boom in economic prosperity if it can draw foreign investment to do business in the country.³⁰

Uribe's strategy also proved instrumental in controlling the paramilitaries. The demobilization campaign of paramilitary forces from 2003 to 2006 offers important lessons for the current peace effort. For many years, the paramilitaries had been the gravest threat to the FARC, as much if not more so than the Colombian military. Indeed, one of the frequent disruptions to progress during the Pastrana 1999–2002 peace effort were FARC complaints about the paramilitaries.³¹ Starting in 2003, most paramilitary organizations accepted an offer from President Uribe to disarm and demobilize. Uribe's 2005 Justice and Peace Law granted conditional amnesties to illegal combatants, an enticement he hoped would attract the paramilitaries. The law required demobilized fighters to confess their crimes and surrender illegally acquired assets as part of a plea bargain deal that would give them lighter prison sentences. However, if the paramilitaries failed to admit to a crime, the plea bargain could be revoked and a full sentence for the crime could be imposed.³²

²⁹ Jose Cordoba, "Colombia Rebels Face 'Secret Weapon' in Talks," *Wall Street Journal*, October 17, 2012. Examples of FARC atrocities are plentiful. Consider the May 2, 2002, gas tank mortar attack on a church in Bojayá that killed 119 civilians and wounded 98; the February 2003 bombing of El Nogal nightclub in Bogotá that killed 36 and wounded more than 200; or the murder of captive hostages in 2003, 2007, and 2011.

³⁰ Crisis Group, 22.

³¹ Paramilitaries undermined previous FARC efforts to demobilize and join the political process. Nearly 3,000 activists from the Patriotic Union (UP) the political arm of the FARC, were killed by paramilitaries during the Betancur, Barco, and Gaviria administrations (1982–1994). During the Pastrana peace negotiation efforts between 1999 and 2002, the FARC suspended talks almost immediately after they had begun because the paramilitaries killed more than 100 insurgents in less than week. In November 1999, talks were put on hold for months as the FARC sought government agreement to dismantle the paramilitaries and their support units. See Crisis Group, 21.

³² The legality of the JPL has been fiercely debated. Backers of the law believe it is an effective way to induce paramilitaries to demobilize and point to nearly 31,000 paramilitaries and an estimated 10,000–20,000 FARC and ELN insurgents who have accepted the terms of the program. Critics contend that the program is the equivalent to an amnesty program that has been outlawed by international legal institutions and results in impunity for human rights violations for the perpetrators. Under such conditions, according to human rights organizations, paramilitaries may not be held accountable for their crimes. In a July 2005 editorial, the *New York Times* said the JPL should be called the "Impunity for Mass Murderers, Terrorists and Major Cocaine Traffickers Law." In July 2006, Colombia's Constitutional Court upheld the constitutionality of the law. In the ruling, however, the Constitutional Court limited the leniency of the sentence the paramilitaries could

The demobilization effort required a Herculean task. Government officials overseeing the demobilization campaign estimated 20,000 paramilitaries would demobilize. Surprisingly, many more participants accepted the offer than expected. More than 31,000 paramilitaries joined the program by April 2006.³³ The demobilization program was not without its difficulties. In a 2008 report, the International Crisis Group described the Colombian government's implementation of the program as "lagging" and reported that of the 31,000 demobilized paramilitary members, only 4,162 could receive benefits under the program. According to the UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, of the more than 4,000 individuals facing charges under the law, only 3 had been convicted. In response to the allegations of inefficiency and understaffing, the Uribe administration tripled the number of case managers in the program in Spring 2008.³⁴

Colombia's previous peace efforts frequently involved offers of amnesty. In the 1982 peace accords, the government offered an unconditional amnesty and pardon for guerillas and most political prisoners.³⁵ In 2002, the Colombian Congress passed Law 782, which permitted the president to pardon "political crimes" but not crimes against humanity, torture, forced displacement, kidnapping, or other heinous crimes.³⁶

The offer of amnesty as an incentive to demobilize, however, is one of the most emotionally charged elements of post-conflict societies. Proponents of amnesty argue that it is required as a gesture toward national reconciliation, one that a conflict-torn society requires to build a new democracy based on tolerance and accommodation. Others believe that is an egregious affront to the victims who suffered at the hands of extrajudicial actions such as kidnapping, torture, rape, and murder. To these victims and their families, the state's perceived exoneration of the perpetrators can sometimes be more painful punishment than the loss they already suffered. From the victim's point of view, if impunity persists, the political system may be democratic in formal terms, but will lack the essential ingredient of accountability.³⁷

Despite these vastly different philosophies, state authorities in Latin America have seen amnesty as a necessary evil. Various forms of amnesty were used in 16 of the 19 countries in Latin America that experienced internal conflicts in the 1970s and 1980s. Clemency for the insurgents is a

receive through the plea bargain deal. According to the court, paramilitaries who commit crimes or fail to fully comply with the law will have to serve full sentences. Finally, the removal of the paramilitaries in 2006 may have given the FARC an added impetus to consider a peaceful settlement with the Colombian military.

³³ Jonathan Morgenstein, "Consolidating Disarmament: Lessons from Colombia's Reintegration Program for Demobilized Paramilitaries," U.S. Institute of Peace, November 2008, 3.

³⁴ Beittel, 19; See also U.S. Department of State, "Memorandum of Understanding Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces," July 28, 2008.

³⁵ Chernick, 160.

³⁶ Morgenstein, 4.

³⁷ Juan Mendez, "National Reconciliation, Transnational Justice, and the International Criminal Court," *Ethics and International Affairs*, 15:1 (2001): 25.



Figure 5. The demobilization of many members of the United Self-Defense Forces of Colombia (AUC) from 2003 to 2006 (such as this group from the Bloque Cacique Nutibara near Medellin in November 2003) removed a contentious obstacle to peace. However, DDR (demobilization, disarmament, and reintegration) programs in Colombia have had (to date) only limited success. (Photo compliments of Amnesty International)

very powerful incentive for them to renounce violence, lay down their arms, and join the peace effort.³⁸

Recently, the international community condemned such amnesty programs. In a heavily democratized world with high standards of transparency and accountability, there is an accepted requirement that states address violations of human rights. As a result, blanket amnesties have been declared to be violations of international human rights and cannot be a part of a policy of national reconciliation.³⁹

In spite of the historical and international legal precedents, Colombia established a quasi-amnesty program with its 2005 Justice and Peace Law. Former fighters can confess their crimes and surrender assets in exchange for reduced sentences. For example, most paramilitaries who demobilized between 2003 and 2006 were offered pardons for the crime of raising arms against the Colombian state and enrolled in a Government of Colombia reintegration program. AUC leaders and soldiers charged, arrested, or convicted of any major crime against humanity (such as murder and kidnapping) were offered alternative sentencing in exchange for providing details of crimes in depositions to Colombian officials. Their confessions have led to the discovery of more than 1,400 crimes of

³⁸ Kathryn Sikkink and Carrie Booth Walling, "The Impact of Human Rights Trials in Latin America," *Journal of Peace Research*, 2007, 435.

³⁹ *Ibid.* In 2001, the Inter-American Court of Human Rights declared the Peruvian amnesty law to be contrary to the American Convention of Human Rights and international human rights law. Consequently, in 2005, the Argentine Supreme Court declared its amnesty laws unconstitutional.



Figure 6. Forensics teams across Colombia have the grim task of identifying thousands of bodies of victims the decades-long war. The government estimates that there may be as many as 10,000 bodies buried in 3,500 graves throughout the country. In this photo, Lidia Rosa Carmona, center, watches a team study the remains of her son, Francisco Luis Munoz, near Anori, Colombia. The administration of Colombian President Juan Manuel Santos has stated that unearthing secrets associated with the deaths of these victims is a critical step toward reconciliation for the country. (Photo: Juan Forero, *Boston Tribune*, “Team Unearthing Secrets of Long War in Colombia,” September 2, 2008)

which the government had no prior knowledge, as well as the locations of an estimated 10,000 murder victims in 3,500 gravesites. Their testimony may also help solve more than 38,000 crimes involving 50,000 victims that remain under investigation. While the majority were pardoned, more than 2,000 AUC combatants were implicated in major crimes.⁴⁰ According to the U.S. Department of Justice, the depositions of 25 paramilitary leaders have been initiated, and in May 2008 14 leaders were extradited to the United States.⁴¹

Demobilized paramilitary forces also assisted the Supreme Court and prosecutor general’s investigations of links between politicians and paramilitary groups that implicated 87 members of Congress, 15 governors, and 35 mayors, 66 of whom were detained. In total, 18 politicians (13 members of Congress, 4 governors, and 1 mayor) had been convicted for ties to paramilitary groups.⁴²

⁴⁰ GAO Report GAO-09-71, “Drug Reduction Goals Were Not Fully Met, but Security Has Improved; U.S. Agencies Need More Detailed Plans for Reducing Assistance,” October 6, 2008, p. 54.

⁴¹ *Ibid.*, p. 60.

⁴² Despite the challenges with the AUC demobilization efforts, peace agreements with armed groups in Colombia have been successful in the past. During the 1980s and 1990s, Colombia successfully persuaded guerilla groups to demobilize and disarm. The government also signed a cease fire with the FARC in 1984, but it collapsed in 1986. See Chernick, 174. See also U.S. State Department, “2009 Human Rights Report: Colombia,” March 11, 2010 (U.S. State Department, Wash-

Insurgents may also be offered a monetary incentive to stop fighting. During the 2003 negotiations to demobilize the AUC, the government offered participants a monthly stipend of \$160 (at the time) for 18 months from the date the ex-combatants demobilized.⁴³ The money, in conjunction with other state programs to assist the former paramilitaries with finding jobs, receiving counseling, and completing vocation training and education programs, was designed to assist the former combatants as they integrated back into mainstream Colombian society.

An additional indication of FARC willingness to end the conflict comes from their abandonment of kidnapping as a source of revenue. In the late 1990s and early 2000s, the FARC was responsible for an estimated 1,000 kidnappings per year in Colombia.⁴⁴ Ransoms paid for kidnapped victims provided a major source of revenue for the insurgent group. Perhaps as an indication of their loss of legitimacy in the population-centric insurgency, the FARC began unilaterally releasing some of the dozens of hostages it still held, many for years under brutal and dehumanizing conditions.⁴⁵ In April 2011, the FARC released what they claimed are their last “exchangeable” hostages (members of the Colombian security forces that they hoped to exchange for imprisoned FARC combatants). Finally, on February 26, 2012, the FARC announced that it would abolish “Law 002,” which ordered its members to carry out kidnappings for ransom.

As of December 2012, the FARC insists it has no additional hostages. However, the facts remain unclear. País Libre, a Colombian NGO that tracks kidnapping cases, maintains that the FARC may have knowledge about 405 victims whose whereabouts remain unknown.⁴⁶ During the peace negotiations in Norway, FARC delegate Sandra Ramírez said the FARC still had some “prisoners of war.” The admission drew a rebuke from another FARC negotiating team member, Rodrigo Granda, who insisted the group is not holding any civilians or authorities.⁴⁷

Any cessation of hostilities should also include an agreement to disclose the location of minefields. Colombia suffers more landmine casualties than any other country in the world, the majority of them manual coca eradicators. According to the Colombian government, from 1990 to 2013, there were more than 10,000 victims of anti-personnel mines and unexploded munitions in the country. Al-

ington, DC). Available from <http://www.state.gov/drl/rls/hrrpt/2006/wha/136106.htm>.

⁴³ Morgenstein, 9.

⁴⁴ Crisis Group, 12.

⁴⁵ According to the U.S. Department of State, between January 1, 2009, and November 30, 2009, the FARC voluntarily released 15 hostages. In March 2010, the FARC unilaterally released 2 of their high-value “exchangeable” hostages: Corporal Jesús Daniel Calvo Sánchez, who had been in captivity for 11 years; and Sergeant Pablo Emilio Moncayo, who had spent 12 years in captivity, one of the world’s longest-held hostages. See Beittel, 13. In February 2011, the FARC released six more hostages in operations coordinated by former Senator Piedad Córdoba. See Crisis Group, 12.

⁴⁶ Crisis Group, 27. See also Juan Forero, “FARC Dissidents Assist Colombia: Jailed Rebels Share Inside Information,” *Washington Post*, August 2, 2008. For their part, UN officials are supportive of Colombian peace efforts, which they hope will produce “mechanisms to establish what happened and also compensations for the victims, individually or collectively.” At the same time, UN officials recommend against amnesty or pardons for human rights perpetrators. See “UN Urges Colombia not to Concede to FARC,” United Press International, September 13, 2012.

⁴⁷ “The FARC Insist They Have No Hostages,” Deutsche Presse-Agentur (DPA), December 3, 2012.

Victims in Colombia from Anti-Personnel Mines and Unexploded Munitions, 1990-2012

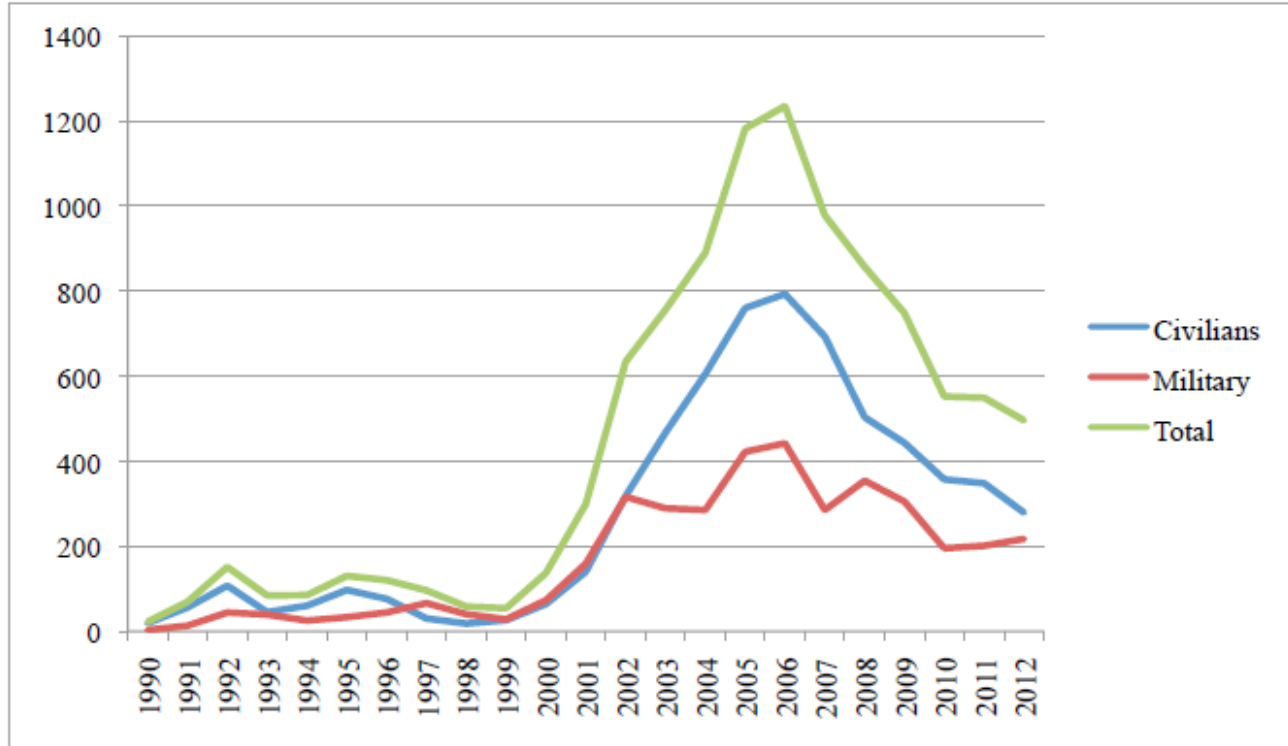


Figure 7. Victims in Colombia from Anti-Personnel Mines and Unexploded Munitions, 1990–2012.

Source: Colombian Presidential Program for Combined Action against Anti-Personnel Mines, www.accioncontraminas.gov.co.

most 40 percent were civilians and more than 60 percent were members of the security forces. Approximately 20 percent of the victims died from the attacks.⁴⁸ According to the Colombian Campaign against Mines (CCM), there are nearly 100,000 mines buried across the country. Mine clearance operations could take as long as 10 years to eradicate the mines throughout the country.⁴⁹

Political Participation

The second major issue on the table at the peace talks is how to reintegrate the former insurgents into the national political process.⁵⁰ In some cases, the FARC seem eager to address its disputes with the

⁴⁸ “Programa Presidencial para la Acción integral contra las minas antipersonal (PAICMA),” <http://www.accioncontraminas.gov.co/Paginas/victimas.aspx>.

⁴⁹ “ONG: Colombia tardaría más de 10 años para eliminar minas antipersona,” Deutsche Presse-Agentur (DPA), August 21, 2012.

⁵⁰ The political disagreements between the two groups are at the heart of the conflict. Such discord surfaced early in the current peace talks in December 2012. Head FARC negotiator Iván Márquez said any agreement “requires changes to . . . the anti-democratic political system that is responsible for shameful inequality and exclusion that characterize the Colombian regime.” Humberto de la Calle, head of the government delegation, responded by stating that such topics were not up for consideration. “The government does not have to change its model of society,” said the former vice president. See Jeff

central government by taking them off the battlefield and into the political chambers in Bogotá. FARC representative Jesús Emilio Carvajalino stated that the group would place a candidate on the ballot for the 2014 Presidential elections if the peace talks proved successful.⁵¹ Such talk may be overly optimistic and premature considering the scope of the issues between the warring parties.

There are two obstacles to resolve before the FARC will successfully transform itself into a political entity. First, previous attempts to politicize insurgent groups produced mixed results because of violent resistance from other groups. In 1985, the FARC founded a political party, the Patriotic Union (UP). During the 1986 election, the group elected 14 senators and congressmen and scores of council members. However, Colombian military and paramilitary forces violently opposed the legitimacy granted by the political process. Consequently, hundreds of UP members were assassinated, including senators, representatives, and two presidential candidates.⁵² By 1995, only 10 years after it had been founded, an estimated 3,000–4,000 Patriotic Union members were murdered, an effective deterrent against other insurgent groups attempting to join the political process.

Other Colombian insurgent groups had better success. In 1989, the 19th of April Movement (better known by its acronym M-19) unilaterally announced that it would lay down arms and join the national political process. The decision by the second largest insurgent group in Colombia at the time followed a number of high profile M-19 actions, including the 1980 seizure of the Embassy of the Dominican Republic and the 1985 attack on the Palace of Justice. In announcing its decision to demobilize, the M-19 broke ranks with other insurgent groups and accepted President Barco's requirements for a peace accord. In return, Barco's administration granted M-19 members amnesty for crimes and a promise of participation in the political process.

The group's success in politics came quickly. Just two weeks after their announcement to demobilize, the group participated in parliamentary elections. Two months later, they selected Carlos Pizarro as their presidential candidate. Pizarro was gunned down on April 26, 1990, while flying to a political rally. Despite that, the M-19 vowed to continue with their democratic course. Pizarro's replacement, Antonio Navarro, finished third in the 1990 elections and won 12 percent of the vote. Six months later, the group won almost 30 percent of the vote in a special election for a constitutional assembly.⁵³

The second obstacle to the politicization of the FARC is the reluctance of the Colombian military to have the insurgents to transform into a political party. The military fears that granting the

Franks and Nelson Acosta, "Colombian Peace Talks Said to Advance amid Many Challenges," Reuters News, December 21, 2012.

⁵¹ "Las FARC no descarta presentar un candidato presidencial en 2014 si se logra la paz," EFE News Service (Spain), September 10, 2012.

⁵² Chernick, 176.

⁵³ *Ibid.*, 165. Antonio Navarro went on to be elected as one of the presidents of the Constituent Assembly in 1990. He later served as health minister, senator, and governor of the Southern Nariño department. Another former M-19 guerilla, Gustavo Petro, served as a member of Congress and later as mayor of Bogotá, often referred to as the country's second most important political position. See Crisis Group, 20.

FARC a political identity confers on the group a level of legitimacy in accordance with international law. The Colombian military considers any politicization of former insurgents to be a mistake, a position based on experiences of other Latin American militaries.⁵⁴ Leftist guerillas who fought military regimes in the region during internal Cold War conflicts rose to positions of political power in many Latin American nations. Once in authority, many implemented accountability measures against former military leaders by lifting statutes of limitation and amnesty programs.⁵⁵ Some Colombian military leaders announced their opposition to FARC political participation (what they termed a “political arm of the terrorist organization”) in September 2012 through the Colombian Association of Retired Officers (ACORE), a union of high-ranking retired military officials military officers that has significant political influence in Bogotá. In a press release, the group stated, “We don’t want terrorists exercising positions of power while military officers having legally defended this nation under the constitution are convicted, humiliated, and imprisoned around the country.” They called for the “political movement [to] be extinguished. Until then an agreement to put an end to the armed conflict won’t be reached.”⁵⁶

Resistance to granting political status to the FARC is expressed most vocally and radically by former President Álvaro Uribe and his political allies. Uribe opposes the peace talks, favoring instead attempting to win militarily and to force the FARC to “submit to justice.”⁵⁷ He and many military officials have little trust in the FARC’s sincerity to negotiate and frequently point at the 1999 DMZ offer by President Pastrana as an indication that the group seeks to use the peace accords as a delaying tactic so it can regroup and re-arm from recent military setbacks. One former Commander of the Colombian Army, retired General Harold Bedoya, labeled the recent peace efforts by the FARC as an attempt “to buy time, a bit of space, while trying to obtain the status of belligerent in the eyes of the world.”⁵⁸

⁵⁴ Crisis Group, 19.

⁵⁵ Most famously, President Dilma Rousseff of Brazil was a guerilla supporter during the internal conflict in Brazil in the 1960s and 1970s. She was arrested, tortured, and imprisoned by Brazilian security forces. In 2011 (36 years after the end of the military regime), she launched a Truth Commission that could potentially hold Brazilian security officials guilty of human rights violations accountable for their actions. In Uruguay, President Jose Mujica was a member of the guerilla movement Tupamaros, active in the 1960s and 1970s. During the military dictatorship in that country, he was imprisoned for 14 years, including 2 years in isolated confinement at the bottom of a well. In 2011, President Mujica overturned the amnesty that protected members of the Uruguayan security forces from prosecution for crimes committed during the internal conflict in that country. Similar incidents have occurred in Peru, Chile, and Argentina, where hundreds of former military officers are now facing trial. In Colombia, FARC negotiators had brought up human rights violations by military members in previous peace talks in 1999, demanding that all soldiers accused of human rights violations be tried by civilian courts so they could not escape persecution under military courts. The issue was one of the many contentious topics during that period that derailed the 1999–2002 talks.

⁵⁶ Alex R. Sierra, “Armed Peace Does Not Equate with Civil Peace,” December 12, 2012, <http://www.cipamericas.org/archives/8633>.

⁵⁷ “Las razones de los que se oponen a la negociación con las Farc,” *El Tiempo* (Colombia), September 4, 2012.

⁵⁸ “Peace Talks Sit Uneasily with Colombian Military,” Agence France-Presse (AFP), October 1, 2012. On July 24, 1997, General Bedoya was relieved of his post as Commander of the Colombian National Army by President Samper because of his unwillingness to negotiate with the FARC. In the view of many scholars, Bedoya was a vocal representative of an extreme wing of the armed forces and is not representative of the most recent generation of military officers. Not all military officials agree with Bedoya’s remarks. Former Minister of Defense Rafael Pardo, in a 2000 article in *Foreign Affairs*



Figure 8. Colombian Presidents Álvaro Uribe (2002–2008) and Juan Manuel Santos (2008–present) disagree about the proper route toward peace with Colombian insurgent groups like the FARC. (Photo: U.S. Department of Defense)

Former President Uribe responded even more vociferously, calling the recent peace talk efforts a “slap in the face to democracy.”⁵⁹

Land Reform

Land reform is the third item on the table at the peace accords. According to one Colombian historian, the land issue is “one of the great engines of the conflict,” and has been the primary issue for the FARC since its inception.⁶⁰ Hence, the peace talks in Oslo and Havana began with a debate over “rural agricultural development policy.”

Colombia’s rugged terrain historically made it difficult to establish state control over large swaths of the nation’s territory. Moreover, powerful drug cartels seized vast swaths of territory in the early 1980s. These extensive plots of land permitted traffickers to launder their drug profits into legitimate property holdings. Traffickers now had remote operating locations where they could cultivate

magazine, said, “The Colombian government’s conflict with the guerrillas can be solved only through negotiations. If the current peace talks fail, the country will plunge into all-out war and Colombians will lose their democracy.” See “Colombia’s Two Front War,” *Foreign Affairs*, July/August 2000.

⁵⁹ “Colombia Armed Forces’ Crucial Role in Peace Talks,” Associated Press, October 12, 2012. See also Fernando Vergara and John Otis. “Colombia’s Delicate Talks with the FARC: Will They Work This Time?” *Time* magazine, August 29, 2012.

⁶⁰ “Lessons for Colombia’s Peace Talks in Oslo and Havana,” October 15, 2012, U.S. Institute of Peace, 6.

coca, manufacture cocaine, and, in some cases, operate airstrips from which to transport the drugs to North American markets. The extensive plots of land also provided well-protected fortifications guarded by their own hired militias and safe from the Colombian military or the Marxist insurgents.

Many of the legitimate landowners fled from their lands because of the threats of Marxist insurgents or paramilitary groups. Insurgents demanded extortion money at gunpoint. Paramilitaries demanded protection fees. Social status did not matter in these incidences; wealthy estate owners and poor peasants grew equally fearful for their lives or their families. Victims were forced to choose between supporting one of the armed groups for protection or fleeing to the relative safety of urban areas where they added to the mass of unemployed. Consequently, Colombia is home to the largest population of internally displaced persons (IDPs) in the world. According to one report, Colombia had 5.5 million IDPs at the end of 2011.⁶¹

On June 10, 2011, President Juan Manuel Santos signed into law the Victims and Land Restitution Law. The objective of the law is to return stolen and abandoned land to its rightful owners. Known as the Victims' Law, the legislation is the broadest attempt by the Colombian government to provide compensation to Colombians who suffered from the internal conflict in the country.⁶² The law creates mechanisms for compensating the survivors of the tens of thousands killed since 1985 in the internal conflict. Santos, who calls the bill "historic," signed the legislation in a formal ceremony at the presidential palace in Bogotá. UN Secretary General Ban Ki-moon acknowledged the importance of the effort by attending the event. Passage of this bill alone, Mr. Santos said, would "make it worth me being president."⁶³

Returning the land to the proper owners after decades of conflict represents another massive task before the Colombian government. Officials estimate that armed groups stole close to 7 million hectares of land during the country's civil conflict. Agriculture Minister Juan Camilo Restrepo said owners fearful of being killed by right-wing paramilitaries, left-wing guerrilla groups, or drug-trafficking gangs abandoned 4 million hectares of land. Another 2 million hectares had been extorted from their rightful owners. Corrupt officials misappropriated an additional 500,000 hectares of gov-

⁶¹ According to Internal Displacement Monitoring Centre (IDMC), Colombia has between 4.9 and 5.5 million internally displaced persons. The Democratic Republic of the Congo (DROC) is second with 2.8 million IDPs. Sudan is third with 2.3 million. See <http://www.internal-displacement.org>. In addition to the millions of IDPs in Colombia, there are also nearly 500,000 Colombian refugees and asylum seekers outside the country. According to one source, large groups of Colombian refugees and asylum seekers exist in Ecuador (more than 200,000) and Venezuela (more than 200,000). The United Nations High Commissioner for Human Rights (UNHCHR) reported that there are 20,000 indigenous Colombians living in refugee-like conditions in the Amazon region of Brazil. Indigenous and Afro-Colombians are disproportionately represented among those displaced. Many IDPs do not register with the Colombian government out of fear and procedural barriers. For this reason, estimates of new displacements put forth by non-government organizations (NGOs) like CODHES (5.5 million) tend to be higher than government figures (4.9 million). See Amnesty International 2006, Amnesty International, "Human Rights by Region: Americas Annual Report 2006" (New York). Available from <http://www.amnesty.org/en/annual-report/2011/americas>, p. 8. See also Crisis Group, 6.

⁶² For a thorough analysis on the 2011 Victims and Land Restitution Law, see Nicole Summer, "Colombia's Victims' Law: Transitional Justice in a Time of Violent Conflict?" *Harvard Human Rights Journal*, vol. 25 (2012).

⁶³ Dan Molinski, "Colombia Victims Law Could Incite More Violence," *Wall Street Journal*, June 10, 2011.

ernment land. In all, hundreds of thousands of families were driven from their land. Restrepo acknowledges the magnitude and complexity of the government task, admitting that identifying the rightful owner and restoring the property rights represents a “gigantic administrative and judicial task.”⁶⁴

The challenge of restoring land to the rightful owners will undoubtedly require the forced displacement of current owners, a confrontation that can quickly deteriorate into violence. There have already been a series of violent events since the Santos administration implemented the program in 2011. According to Nuevo Arco Iris, a Colombian NGO, 68 land restitution campaigners have been killed since 2005, the majority in 2011 and 2012.⁶⁵

Illicit Drugs

Perhaps the most intractable issue for the government and FARC delegates to discuss is the problem of illicit drugs. Revenues from the narcotics industry provide the main source of income for the FARC and other insurgent groups. During the 1980s and 1990s when the FARC first became involved in the drug market, the group normally just charged coca farmers a “tax” for growing the product in FARC-controlled territory. Since the late 1990s, the FARC guerrillas became more directly involved in the trade, including the cultivation, harvesting, production, and transportation of the drugs. Considering the illegal, clandestine, and decentralized nature of the drug trade, it is difficult to predict how much money the FARC collects annually from drug revenues or for what percentage of its illegal activities drug revenues account.⁶⁶

Despite billions of dollars and the concerted efforts of the Colombian and U.S. governments, Colombia remains the world’s number one producer of cocaine. The \$8 billion U.S. “Plan Colombia” assistance package failed to achieve its initial stated goals of reducing the cultivation, processing, and distribution of illegal narcotics by 50 percent in six years (through 2006). From 2000 to 2006, opium poppy cultivation and heroin production declined about 50 percent. However, coca cultivation and cocaine production were about 15 and 4 percent greater in 2006 than in 2000, respectively.⁶⁷ Although significant drug reduction and crop eradication didn’t occur by 2006 (the targeted end of Plan Colom-

⁶⁴ “Colombia: Land Theft Put at 7m Hectares,” BBC, May 29, 2011.

⁶⁵ Crisis Group, 22.

⁶⁶ Estimates of annual FARC drug revenues range from \$400 to \$600 million. According to the U.S. Office of National Drug Control Policy (ONDCP), U.S. citizens spend \$64 billion each year on illicit drugs like heroin, cocaine, and marijuana. See National Drug Control Strategy, Data Supplement 2012.

⁶⁷ Plan Colombia had three main objectives: (1) to reduce the flow of illicit narcotics and improve security; (2) to promote social and economic justice; and (3) to promote the rule of law. The first objective was centered on a military offensive into southern Colombia where guerilla forces had consolidated their positions during Pastrana’s peace overtures. This military offensive was also designed to reduce the cultivation, production, and distribution of illicit narcotics in Colombia by 50 percent over a six-year period. See GAO Report GAO-09-71, “Drug Reduction Goals Were Not Fully Met, but Security Has Improved: U.S. Agencies Need More Detailed Plans for Reducing Assistance.” October 6, 2008, p. 1 and 11. See also Nina M. Serafino, “Colombia: Plan Colombia Legislation and Assistance (FY2000-FY2001),” CRS Report #RL30541, July 5, 2001, 6.

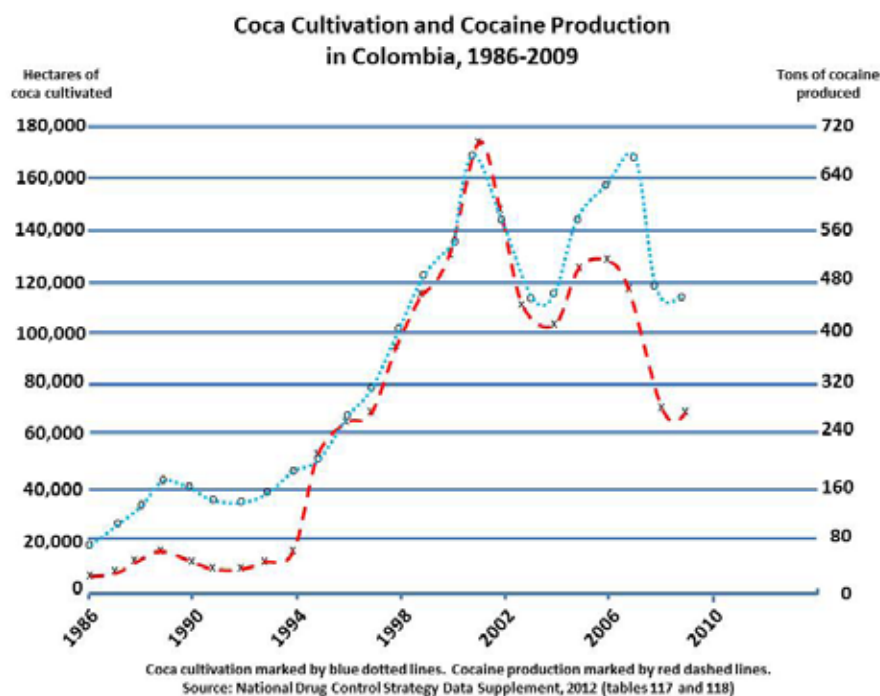


Figure 9. Coca Cultivation and Cocaine Production in Colombia

bia assistance), the U.S. investment in Colombia may have a delayed payoff. According to the Department of Justice’s National Drug Intelligence Center (NDIC) report, “National Drug Threat Assessment 2010,” the average street price for a pure gram of cocaine rose from \$99.24 to just over \$174 in that time period, while average street sale purity declined from 67 percent to 46 percent, a drop of more than 30 percent.⁶⁸

Recently, Colombian authorities estimate that drug revenues for the FARC declined as a result of government actions. The security offensive of the Uribe administration, stricter counter-narcotics policies, improved interdiction capacity, loss of territory, and increasing criminal competition probably caused a decline in drug money. Despite these achievements, drug revenue remains the FARC’s single biggest income source.⁶⁹

Transitional Justice and Reparation for Victims

The final issue on the table at the peace talks is the transitional justice requirements for the victims

⁶⁸ The supply of drugs is often judged by changes in price, with higher prices signifying decreased supply. Declining purity also measures decreased availability. The UN Office on Drugs and Crime (UNODC) reported for 2008 an 18 percent decrease in coca cultivation in Colombia from 2007. According to UNODC’s *2010 World Drug Report*, coca cultivation in Colombia dropped further in 2009 to 68,000 hectares. In the same UN report, estimates of Colombia’s potential production of pure cocaine dropped dramatically from 630 metric tons in 2007 to 450 metric tons in 2008 and decreased further to 410 metric tons in 2009.

⁶⁹ Crisis Group, 12.

of nearly half a century of conflict in Colombia. The right of victims to truth, justice, reparation, and guarantees of nonrepetition is one of the points of the agenda set out in the framework agreement reached between the Colombian government and the FARC in Havana on August 26, 2012. The war between Marxist insurgents, the Colombian security forces, drug cartels, and paramilitaries generated hundreds of thousands of victims (one source estimates that 600,000 people died).⁷⁰ In addition, the conflict internally displaced an estimated 5 million people. Another 15,000 have gone missing and are presumed dead.

According to the transitional justice literature,⁷¹ there are three important components to achieving victim justice in a post-conflict environment: truth, justice, and reconciliation. Seeking the truth about the past includes a learning process that will subsequently prevent such violations from occurring again. Such a fact-finding effort can also reveal the fate of individuals or victims of the conflict. One of the most important aspects of the investigation is to disclose the truth about disappearances and subsequently provide closure for victim's families who suffered "unrelenting anguish and unburied dead." As former United Nations Human Rights representative Juan Mendez stated, "The clamor for truth, acknowledgment, and justice concerning such grievous crimes cannot be overstated."⁷²

The second principle component is justice. Justice represents a vindication of the memory, name, and reputation of the victims. This can come in the form of compensation for the victims or their families or prosecution and punishment of perpetrators. This, in turn, can provide some solace to victims, an end to impunity, and may reinforce the rule of law.

If conducted successfully, the third element, reconciliation, is a product of the first two. The very existence of an investigative process—whether it is a Truth Commission, a formal report, or an international fact-finding body—represents a national effort at an acknowledgement of the truth by the government and the society as a whole. Through the investigation, members of warring factions can acknowledge wrongdoing. In other words, it provides an opportunity for guilt-ridden perpetrators to "come clean." Likewise, victims or their surviving relatives can have their moment when their story finally emerges and their suffering is revealed for all to share. Oftentimes, victims have been falsely accused of baseless charges. As a result, reconciliation programs may clear their name and reputation, an important opportunity to prove their innocence. Without an effort toward national reconciliation, unresolved historical issues generate a feeling of bitterness, or betrayal by the government, which may linger among survivors or family members of the victims. Reconciliation, as one

⁷⁰ "What's on the Table in Colombia Peace Talks," Agence France-Presse (AFP), October 17, 2012.

⁷¹ See, for example, Cynthia Arnson, *Comparative Peace Processes in Latin America* (1999); Alexandra Barahona de Brito (et al.), *The Politics of Memory Transitional Justice in Democratizing Societies* (2001); Priscilla Hayner, *Unspeakable Truths: Facing the Challenges of Truth Commissions* (2002); Ellen Lutz and Caitlin Reiger, *Prosecuting Heads of State* (2009); and Kathryn Sikkink, *The Justice Cascade* (2011).

⁷² Jose Zalaquett, "Truth, Justice, and Reconciliation: Lessons for the International Community," in Arnson, ed., *Comparative Peace Processes in Latin America*, 353.

member of the South African Truth Commission stated, “is the facing of unwelcome truths in order to harmonize incommensurable world views so that inevitable and continuing conflicts and differences stand at least within a single universe of comprehensibility.”⁷³

In 2005, Colombia established its own National Commission on Reparation and Reconciliation (CNRR). Developed as part of the Justice and Peace Law, the CNRR is designed to ensure victims have access to truth, justice, reparation, guarantees of non-repetition, and reconciliation within a transitional justice framework. The Commission’s responsibilities are massive in size and scope. So is the number of plaintiffs. Colombian authorities say 4 million victims may be eligible for some type of reparation. Colombia’s Justice and Peace Unit already received more than 130,000 victims’ claims. The law will give priority to people victimized after 1985. Candidates for reparations can file claims until 2021. Monetary compensations, in some cases more than \$20,000, will be paid to the families of those murdered in the war, whether the aggressors were leftist rebels, illegal right-wing paramilitary fighters, or government troops.⁷⁴

Insurgents or paramilitary groups committed the majority of the human rights violations in Colombia. The Colombian attorney general’s office documented 176,618 murders and 35,549 cases of forcible disappearances committed by right-wing paramilitaries or by left-wing guerrillas, going as far back as 1981. Colombia National Police records break down the criminal responsibilities even further. Of the thousands of massacre victims from 1993 to 2009, the paramilitary groups were responsible for 46 percent, the FARC guerillas for 42 percent, and the ELN guerillas for 10 percent. Other groups accounted for the remaining 2 percent.⁷⁵ Records maintained by the Colombian Commission of Jurists (CCJ), a respected human rights organization, reached similar conclusions: of the total number of murders in Colombia, paramilitary groups were responsible for 69 percent, and guerillas were responsible for 23.5 percent. According to CCJ, Colombian armed forces were responsible for 7.5 percent of all deaths.⁷⁶ The perpetrators of massacres are known in only 40 percent of the cases, however. Thousands of others remain unsolved. Moreover, only a handful of these cases have reached the court system. For example, more than 1,700 extra-judicial execution cases involving nearly 3,000 deaths committed in 2002–2008 are currently working their way through the civilian justice system.

Another element to resolve is whether there should be punishment for perpetrators of human rights violations or other crimes. This topic is related but distinctly different from the amnesty component. Prosecutions are considered one of the most difficult parts of any policy of accountability because, despite the circumstances in which the crime was perpetrated, it is essential that investiga-

⁷³ Priscilla B. Hayner, “Fifteen Truth Commissions—1974 to 1994: A Comparative Study,” *Human Rights Quarterly*, vol. 16 (1994), 372.

⁷⁴ Dan Molinski, “Colombia Victims Law Could Incite More Violence,” *Wall Street Journal*, June 10, 2011. See also “Victims’ Law Enacted in Colombia,” Associated Press, June 10, 2011.

⁷⁵ As reported in police records maintained on the *Verdad Abierta* homepage, <http://www.verdadabierta.com/>.

⁷⁶ United Nations, “Report of the High Commissioner for Human Rights on the Situation of Human Rights in Colombia,” June 10, 2009 (United Nations Human Rights Council, New York), 9. See also “Feeling Their Pain,” *Economist*, June 2, 2011. Available from <http://www.economist.com/node/18775093>, 1.

tions are conducted under the strictest conditions of due process and fair trial. Often an undeveloped judiciary or one co-opted by military regimes for many years (a common feature on the Latin American political landscape) may be incapable of handling the demanding caseload that comes with a large investigation process. At the same time, consolidated democracies with developed government institutions need independent judiciaries. Prosecutions for crimes committed during conflict can establish credibility for courts that are trying to establish their credibility and independence among the populace.

Colombia's long history of violence is a byproduct of the lack of state presence and the absence of the rule of law in many parts of the country. Punishment for crimes committed during the conflict—even if litigated years after the incident—serves as a deterrent to those who may be contemplating a return to the paramilitary or criminal lifestyle. In other words, trials and convictions of those responsible for crimes should theoretically break the cycle of impunity and weigh in the minds of those tempted to commit new violations in the future. According to the U.S. Institute of Peace (USIP), even if perpetrators are not convicted, the government effort to find and prosecute perpetrators who committed the most egregious acts of violence reinforces a culture of lawfulness and the rule of law.⁷⁷

The issue was a divisive one in the early stages of the peace talks. In a press conference in Bogotá in November 2012, the Colombian Defense Minister, Juan Carlos Pinzón, said that Colombia's military has the "constitutional duty to pursue all criminals who have violated the Constitution" and that the FARC insurgents should be held accountable "for all the crimes they have committed over so many years."⁷⁸ For its part, the FARC considers any civilian casualties to be part of the costs of war. FARC negotiator Luis Alberto Alban said, "We know there have been civilian victims, but our goal was never to cause damage to that person. We do not understand that person as our victim. He is a victim of the war."⁷⁹

One of the most contentious issues is investigation into crimes committed by Colombian security forces. Human Rights Watch and Amnesty International reports allege that elements within the Colombian military and police collaborated with illegal AUC paramilitary groups.⁸⁰ Of particular concern were reports of extrajudicial executions carried out by the security forces. According to Amnesty International, between June 2006 and June 2007 at least 280 civilians were victims of extrajudicial murders by Colombian security forces and paramilitary forces.⁸¹ By June 2012, some 1,800 members of the security forces had been investigated in connection with 2,984 murders.⁸²

⁷⁷ Morgenstein, 4.

⁷⁸ "Colombian Defense Minister Rejects Cease-fire," Associated Press, November 19, 2012.

⁷⁹ Isaac Risco, "FARC Ready to Overcome 'Major Hurdles' in Colombian Talks," Deutsche Presse-Agentur (DPA), September 15, 2012.

⁸⁰ Human Rights Watch. "The 'Sixth Division': Military-Paramilitary Ties and U.S. Policy in Colombia," September 2001 (New York), 31. Available from <http://www.hrw.org/reports/2001/colombia/index.htm>.

⁸¹ Amnesty, USA. "Colombia Human Rights" (New York). Available from <http://www.amnestyusa.org/all-countries/colombia/page.do?id=1011135>.

⁸² In an incident that garnered international attention and became known as the "false positives" case, Colombian security forces allegedly executed 17 young men from Soacha, a poor neighborhood near the Bogotá capital in 2008. The young

In a decision that received strong criticism from the United Nations and international human rights groups, Colombia's Congress approved a constitutional amendment in December 2012 that gave military courts greater jurisdiction over crimes committed by armed forces members.⁸³ Under the new law, according to critics, some war crimes and human rights violations by the army or police would be tried in military courts. Determination of the typology of the crime through a preliminary investigation phase and subsequently who has jurisdiction—military or civilian courts—would be handled by a military or police legal unit rather than through an independent evaluation or through a team of experts from both military and civilians lawyers. Crimes against humanity and most gross human rights violations would be excluded from the military criminal jurisdiction.⁸⁴

In the opinion of military authorities, neither civilian judges nor the attorney general's office can understand the complexities of a combat situation. Many Colombian military officers believe there is a wide-ranging anti-military bias that can be detrimental to a fair trial for military or police forces. Authorities point to the case of retired Army Colonel Luis Alfonso Plazas Vega who received a 30-year prison sentence for the forced disappearances of 11 persons during the 1985 recapture of the Justice Palace from M-19 guerrillas. In military circles, Colonel Plazas is widely considered a national hero who was unjustly accused of crimes.⁸⁵

victims were lured to a rural area with promises of paid employment and were subsequently killed. The killings were falsely presented by the military as "guerrillas killed in combat" and were allegedly carried out by paramilitary groups or criminal gangs. In many of these cases, soldiers received money, extra days of holiday, and a congratulations letter from their superiors as a reward for having killed a "guerrilla member." The national and international outrage over the scandal led to the firing of 27 army officers, including 3 generals, in October 2008, and in November of that year the head of the army, General Mario Montoya, was forced to resign. In 2009, dozens of members of the security forces were arrested in connection with these killings. In 2011, President Juan Manuel Santos took office, and under his direction the Colombian Office of the Attorney General is investigating more than 2,000 extrajudicial executions allegedly carried out by the security forces over the previous six years. Overall, such killings have diminished since 2007, following introduction of a comprehensive Ministry of Defense policy under which security forces are guided by a detailed operational manual and legal advisers. Military inspectors are said to support both the planning of operations and rules enforcement.

⁸³ UN Office of High Commissioner of Human Rights, "Colombia: UN Experts Call on the Authorities to Reconsider the Constitutional Reform of Military Criminal Justice," October 22, 2012. See <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12684&LangID=E>. The legislation included five significant decisions. First, it would establish a list of offences that military courts could never handle, including crimes against humanity, genocide, forced disappearance, torture, extrajudicial execution, forced displacement, sexual violence, and recruitment and use of minors. Second, it would state that international humanitarian law (IHL) violations committed by security force members (except the above) will be "exclusively" judged by military courts. Third, it would introduce a "technical commission," composed of members from military and civilian jurisdictions who could intervene in the settlement of jurisdictional disputes between the two systems. Fourth, it would create a Penal Guarantees Tribunal tasked with settling conflicts between the jurisdictions; half of its eight members would be retired military. Fifth, it would propose statutes be developed to "harmonize" penal law with IHL. If approved, this project would significantly expand, at the expense of civilian justice, the jurisdiction of military courts that have long been incapable or unwilling to prosecute severe crimes, including grave human rights abuse. In the opinion of some legal scholars, the legislation would set a dangerous precedent by weakening the present rule that cases in which there is doubt about which jurisdiction is competent are automatically referred to civilian courts.

⁸⁴ "U.N. Warns War Criminals Could Escape Law in Colombia," Reuters, November 27, 2012.

⁸⁵ Crisis Group, 19. See also United Nations Office of High Commissioner of Human Rights, "UN Human Rights Chief Praises Colombian Landmark Court Decision on Enforced Disappearances," June 11, 2010. See <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10140&LangID=E>.

The Constitutional decision to permit military courts to adjudicate cases involving military members came under fire from the international human rights community. Jose Miguel Vivanco, Americas director for Human Rights Watch, called the amendment “an unnecessary and premeditated blow to human rights.”⁸⁶ In a letter to the United Nations, human rights organizations contended that the military jurisdiction authority creates a “parallel system of administration of justice and would violate the principle of equality in relation to access to justice for all individuals and impair due process of law.”⁸⁷ Other activists point at the 98.5 percent impunity rate in cases of human rights violations by Colombian military or police forces, as much a reflection of an overwhelmed judicial system as a lack of the rule of law in the country.

Conclusion

In 2011, President Santos declared that Colombia has “been a country in conflict for so many years, so many decades, centuries even, that it’s time for us to heal our wounds.”⁸⁸ His efforts to end the long conflict in his country already include compensation for victims, investigations into illegal government activities, and restoration of land to displaced persons. More recently, Colombian authorities began the grisly task of identifying the remains of almost 10,000 people buried in unmarked graves across the country so they can be returned to their families for proper burial.

Is this the end of the FARC? Have military defeats forced them to seek peace in order to salvage any political concessions that they can? Some think so. Certainly, the FARC suffered a number of serious setbacks in the last few years. Most importantly, the group lost legitimacy among the Colombian people. Civilian hostage taking, indiscriminate atrocities, abandonment of its political ideology, and participation in drug trafficking reduced the FARC to common criminals in the perception of Colombian citizens. Jose Miguel Insulza, the former Secretary General of the Organization of American States, recently said, “It is the beginning of the end for the FARC. ... They have lost legitimacy and people.”⁸⁹ At the same time, the Colombian government has improved its record of human rights and democracy. In other counterinsurgency campaigns in which public support is the center of gravity, democracies have the best record (over autocracies or anocracies) to achieve victory.⁹⁰

But it may be too soon to declare the FARC dead. According to counterinsurgency theory, insurgencies with multiple participants normally have longer, more violent, and more complex end-

⁸⁶ “Colombia Military Reform Slammed by Rights Groups,” Associated Press, Frank Bajak, December 11, 2012.

⁸⁷ Stephanie Nebehay, “Colombian Forces Could Skirt Prosecution, U.N. Experts Warn,” Reuters News Service, October 22, 2012.

⁸⁸ Darcy Crowe, “Colombia Tries to Heal Wounds of War,” *Wall Street Journal*, July 7, 2011.

⁸⁹ Richard Lapper, “Uribe Ascendant: Defeats for the FARC Mark a Shift of Power in Latin America,” *Financial Times Online*, July 6, 2008.

⁹⁰ Ben Connable and Martin C. Libicki, “How Insurgencies End,” Rand Corporation, 2010, p. 119. See also Christopher Paul, Colin Clarke, and Beth Grill. “Victory Has a Thousand Fathers: Sources of Success in Counterinsurgency,” Rand Corporation, 2010.

ings. In the case of Colombia, the FARC still has a number of significant advantages that may explain its longevity in the face of recent Colombian military victories. First, the Marxist insurgency retains access to sanctuary both within Colombia as well as in neighboring states. Second, the group is sustained by robust (even if diminished) drug-trafficking revenue. Third, the group has a large pool of insurgents that remain militarily capable of sowing chaos in the country. The FARC demonstrated its ability to attack targets in urban areas such as the May 2012 attack on former Minister of Interior Fernando Londoño in Bogotá. Fourth, support from leftist leaders in neighboring countries (namely Nicolás Maduro in Venezuela and Rafael Correa in Ecuador) provide political and perhaps logistical support.

The Colombian government must realize that there is not a military solution to the problem.⁹¹ A comparison of other insurgencies in Latin America reveals that few organizations are defeated militarily. On the contrary, twice as many insurgent groups in Latin America demobilized as part of a national peace agreement or joined the political process than were defeated militarily. Two of the groups—Fidel Castro’s 26th of July Movement and the Sandinistas in Nicaragua—went on to victory (see Appendix 1). President Santos’s recent actions and decisions indicate that he understands this, but he must quiet other vocal critics who prefer to wage an endless military campaign without addressing the root underlying causes of discontent in the country. As Marc Chernick of Georgetown University, a longtime observer of the previous Colombian peace efforts, has said, the sources of the violence in Colombia originate from lingering social problems, especially in the countryside, where inequality, social exclusion, and poverty heighten the desperation of many Colombians who may otherwise seek legitimate means of survival.⁹² The continual and growing demand for drugs from markets throughout the Americas and Europe provides a source of revenue over which factions in the country will continue to compete. Instead, as Chernick suggests, solutions must be found within a broad social and economic agreement that strengthens and legitimizes the state and that provides local solutions for reconciliation and reform across the entire spectrum of Colombian society.⁹³ By addressing the

⁹¹ Counterinsurgency doctrine is widely perceived to be 80 percent political and 20 percent military. See David Galula, *Counterinsurgency Warfare: Theory and Practice*, Praeger Security International, Westport, CT, 1964.

⁹² Despite the obvious challenges in a large-N survey of insurgents (access, authority, security), three recent studies have provided just that. In their 2006 report on “Insurgent and Counterinsurgent Recruitment,” Ana M. Arjona and Stathis N. Kalyvas conducted a survey with both voluntarily and collectively demobilized combatants between June and October 2005. A second study in 2003 titled “Joining Guerrilla Groups in Colombia: Individual Motivations and Processes for Entering a Violent Organization,” was directed and published by Mauricio Florez-Morris. In it, he conducted interviews with 47 former insurgents from 3 former Colombian guerrilla groups. A third study, published in 2008 by Francisco Gutiérrez Sanín, titled “Telling the Difference: Guerrillas and Paramilitaries in the Colombian War,” may be the most robust survey of guerrilla motivations. Gutierrez used a number of databases of information collected on FARC guerrillas who had demobilized or been repatriated, or from intelligence that had been captured by Colombian armed forces. Among the most common responses in the surveys were by individuals who stated they joined the insurgency for reasons of socioeconomic injustice and inequality, including an escape from extreme poverty or the promise of money or goods.

⁹³ Many Latin American sociologists refer to the security situation in Peru. Following a violent 10-year internal conflict in the 1980s and 1990s that pitted Peruvian government forces against terrorist groups like the Sendero Luminoso or Tupac Amaru Revolutionary Movement (MRTA), Peruvian forces defeated the insurgents militarily. However, social and

root causes of social, economic, and political discontent, it is possible to defeat an insurgency without defeating the insurgents themselves.⁹⁴

Representatives of civil society need to be brought into the negotiations once the initial framework for peace is agreed upon. The peace agreement will require the cooperation and participation of all elements of Colombian society if it is to be successful. Churches, labor unions, universities, business associates, civic groups, and others must have a voice at the table. These groups will be faced with the task of reintegrating former fighters into mainstream Colombian society by providing educational, vocational, legal, and psychosocial counseling should a peace accord be reached.⁹⁵ Reintegration efforts are especially important in rural areas (where poverty rates of 30–40 percent still persist) and in urban shantytowns like Ciudad Bolívar outside Bogotá, where many displaced peasants from the countryside have settled.

Despite the complexities of the situation, both government and FARC representatives should persevere in their efforts to find a solution. As one of the leading peacemakers in Latin America, Juan Mendez, expressed, the political and legal difficulties of a peace process are not an “excuse for inaction.”⁹⁶ President Santos seems to share such sentiment. As he demonstrated, Colombia is capable of launching reconciliation programs that require what one observer called a “gigantic administrative and judicial task.” In his opinion, Colombia can emerge as a truly representative democracy, embracing human rights, leaving its checkered past behind, and “healing the wounds that the country has accumulated for decades.”⁹⁷

economic problems remained and the underlying sources of tension and disparity in the country continued to percolate. Recently, the Sendero Luminoso, supported by ample drug revenue, has seen a popular resurgence in remote areas of the Peruvian Andes. See Michael L. Burgoyne, “The Allure of Quick Victory: Lessons from Peru’s Fight Against Sendero Luminoso” *Military Review*, Sept/Oct 2010; Chernick, 185; Scott Wilson, “Peru Fears Reemergence of Violent Rebels: Shining Path Movement Aided by Drug Traffickers, Police Allege,” *Washington Post*, December 10, 2001, A18.

⁹⁴ Connable and Libicki, 154.

⁹⁵ During the 2006 demobilization effort for the AUC, the Colombian government set up various agencies and institutions to help reintegrate former fighters. These include Centers for References and Opportunities (CRO), a “one-stop shopping” for information regarding benefits, legal, psychosocial, and educational support, and all other issues related to the demobilization, disarmament, and reintegration process; the National Learning Service (SENA), the community college network in Colombia that conducts vocational training; and the System for Tracking, Monitoring, and Evaluation (SAME), the computer program used by USAID and the Colombian government to biographically and biometrically register every demobilized ex-paramilitary and to develop an ongoing portfolio of their progress toward normalized reintegration.

⁹⁶ Juan Mendez, “Accountability for Past Abuses,” *Human Rights Quarterly*, 19:2, May 1997, 271.

⁹⁷ “‘Historic’ Colombian Victims’ Compensation Law Signed,” BBC, June 10, 2011. Available from <http://www.bbc.co.uk/news/world-latin-america-13736523>.

**Appendix 1:
Guerilla Movements or Insurgencies in Latin America (1953–present)**

Criteria and requirements: Guerillas or insurgent groups on the list must meet two criteria: (1) more than 500–1,000 members at peak force; and (2) existed for more than five years. Organized alphabetically by country and years of activity.

Name	Country	Years Active	Fate
Tacuara Nationalist Movement (MNRT)	Argentina	1957–1964	Defeated militarily.
People's Revolutionary Army (ERP)	Argentina	1969–1977	Defeated militarily.
Montoneros	Argentina	1970–1979	Defeated militarily.
Leftist Revolutionary Movement (MIR)	Chile	1965–1990	Numbered 10,000 at its height in 1973. Approximately 1,500–2,000 killed by Chilean security forces during Pinochet regime. Following Chile's return to democracy in 1990, MIR joined the Chilean political process.
Manuel Rodríguez Patriotic Front (FPMR), also known as El Frente	Chile	1983–1997	Suffered significant setbacks from Chilean military but survived and eventually joined the political process following the 1990 transition to democracy in Chile. Numbered 1,000–1,500 at their peak.
Revolutionary Armed Forces of Colombia (FARC)	Colombia	1964–present	Longest active insurgency in world. Currently in peace talks with Colombian government. Numbered 18,000–20,000 at their peak in the early 1990s.
National Liberation Army (ELN)	Colombia	1964–present	Active in Colombia. Numbered 3,000–4,000 at their peak.
Popular Liberation Army (EPL)	Colombia	1967–1991	Demobilized under peace process offered by Colombian President Gaviria.
19 th of April Movement (M-19)	Colombia	1970–1990	Demobilized after reaching peace agreement with Colombian government and joined political process.
Movimiento Armado Quintin Lame (MAQL)	Colombia	1984–1991	Demobilized under peace process offered by Colombian President Gaviria.
United Self-Defense Forces of Colombia (AUC)	Colombia	1997–2006	Right-wing militias developed to protect local economic and political interests in Colombia from Marxist insurgents and drug traffickers. Numbered 31,000 at their height of activity. Demobilized in 2006 as part of an amnesty deal offered by Colombian government.

26 th of July Movement (J-26)	Cuba	1953–1959	Successfully overthrew the Cuban government. Led by Fidel Castro.
Farabundo Martí National Liberation Front (FMLN)	El Salvador	1980–1992	Demobilized and joined political process. Now one of two largest political groups in El Salvador.
Guatemalan National Revolutionary Unity (URNG)	Guatemala	1982–1996	Demobilized and joined political process. Now a minor political groups in Guatemala.
Zapatista Army of National Liberation (EZLN), known as Zapatistas	Mexico	1994–present	Rely upon mostly non-violent strategy. Active; operate out of Chiapas state in southern Mexico. Numbered 3000 at their peak activity.
Popular Revolutionary Army (EPR)	Mexico	1996–present	Active in southern Mexico including Guerrero, Chipas, and Oaxaca.
Sandinista National Liberation Front (FSLN), also know as the Sandinistas.	Nicaragua	1961–present	Armed struggle from 1961 to 1979. Successfully overthrew the Nicaraguan government and seized political power from 1979 until 1990. Now one of two largest political groups in Nicaragua. FSNL candidates including Daniel Ortega have held the presidency for about half of the last 30 years.
Contras or Contra-Sandinistas	Nicaragua	1979–1990	CIA-backed militia opposed to Sandinista government. Numbered 23,000 at their peak. Demobilized in 1990.
Jungle Commando (JC)	Suriname	1986–1991	Reached peace agreement with Suriname government in 1991.
Shining Path (Sendero Luminoso (SL) in Spanish)	Peru	1980–present	Nearly defeated by Peruvian military forces in 1992 following capture of leader Abimael Guzman. Group mostly dormant until early 2000s. Now active again in pockets of Peruvian Cordillera. Numbered 18,000 strong at their peak.
Túpac Amaru Revolutionary Movement (MRTA)	Peru	1980s–1997	Defeated militarily. Numbered 500–800 at their peak.
Tupamaros National Liberation Movement	Uruguay	1970s–1976	Defeated militarily.

Analysis. Of the 22 insurgent or guerilla groups on this list, the fate of the groups is summarized as follows:

- Defeated – 5 groups (MNRT, ERP, Montoneros, MRTA, Tupamaros)
- Joined political process – 2 groups (MIR, FPMR)
- Active insurgencies – 4 groups (FARC, ELN, EZLN, EPR, SL)
- Victorious – 2 groups (FSLN, J-26)
- Demobilized under peace agreement – 8 groups (EPL, M-19, MAQL, AUC, FMLN, UNRG, Contras, JC)

Source: Various references, including Timothy P. Wickam-Crowley, *Guerillas and Revolution in Latin America* (Princeton, NJ: Princeton University Press, 1992).



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