

The Peace Process in Colombia with the *Autodefensas Unidas de Colombia–AUC*



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Carlos Franco
Gustavo Villegas
Rep. Rocío Arias Hoyos
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edited by
Cynthia J. Arnson



Woodrow Wilson
International
Center
for Scholars

Latin American Program



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***Colombia*-AUC**

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Edited by

Cynthia J. Arnson

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Cover image: Mauricio Dueñas/AFP/Getty Images
A member of the Calima Bloc of the *Autodefensas Unidas de Colombia* turns in his weapon to
Colombian High Commissioner for Peace Luis Carlos Restrepo, December 2004.



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With humility, I remind the reader that any remaining (and surely inadvertent) errors are my sole responsibility.

—*Cynthia J. Arnson*
January 2005

INTRODUCTION

CYNTHIA J. ARNSON

In December 2002, Colombia's largest paramilitary group, the *Autodefensas Unidas de Colombia* (United Self-Defense Groups of Colombia, AUC) declared a unilateral cease-fire, meeting a pre-condition of President Álvaro Uribe Vélez for entering into formal peace talks with the government. The government and the AUC officially opened a dialogue in the town of Santa Fe de Ralito, Córdoba, in July 2003. The AUC pledged to fully demobilize by December 2005 and expressed its support for the goal of a "Colombia without drug trafficking."¹

Although Colombia has engaged in a number of peace processes with guerrilla insurgent groups since the early 1980s,² the Uribe administration has been the first to open talks with the paramilitaries, estimated to number between 15,000 and 20,000 fighters.³ Paramilitary groups were created and sanctioned by the state beginning in 1965, in order to combat guerrilla groups active since the 1960s in areas of the country with limited or no state presence.⁴ Current AUC leaders thus view themselves both as heroes and patriots for having responded to guerrilla threats and attacks, protecting civilians and providing security where the government was unwilling or unable to do so. "We are not to blame for being involved in a conflict which we never wanted, which we never started," AUC leader Salvatore Mancuso told a reporter. "We have substituted and replaced the state, providing all the needs of the population. They don't have credibility or legitimacy among these people," he continued. "We do."^{5*}

* The issue of having served the nation was frequently marshaled by paramilitary commanders in arguing against criminal sanctions for war-time abuses. In an appearance before the Colombian Congress in July 2004, for example, Salvatore Mancuso stated, "as compensation for our sacrifice to the country, for having liberated half of the Republic from guerrillas and preventing another Cuba or Nicaragua from consolidating itself on our soil, we cannot receive prison." See Héctor Latorre, "Colombia/AUC: paz sin cárcel," BBC Mundo, July 28, 2004.

Paramilitary organizations underwent a transformation in their profile and function in the early 1980s, when large landowners, ranchers, and drug traffickers took over existing paramilitary groups and established others, creating vast illegal armies in the service of private interests. Paramilitary groups lost official state sanction in 1989, although a relationship between the paramilitaries and members or units of the armed forces—ranging from active collaboration to passive acquiescence—has been frequently alleged as well as documented by human rights groups, the United Nations High Commissioner for Human Rights in Bogotá, the Colombian Attorney General’s office (the *Fiscalía General de la República*), and the U.S. government. Moreover, in the view of Colombian governmental human rights entities as well as other governmental and non-governmental groups, paramilitaries were responsible for the majority of the violations of international humanitarian law—murders, massacre, torture, and displacement—committed in Colombia’s internal armed conflict between 1994 and 2002.*

* According to Colombia’s *Defensoría del Pueblo* (Human Rights Ombudsman) and the Vice President’s Human Rights Observatory, paramilitaries were responsible for the majority of 1,969 massacres, resulting in 10,174 deaths, recorded in the country between January 1994 and December 2003. By mid-2002, violations by paramilitary groups had declined and those attributed to the FARC—especially massacres—rose sharply. See “Así ha sido el recorrido, en cifras, del horror ‘para’ durante 3,650 días,” *El Tiempo*, September 26, 2004.

One extreme, albeit illustrative, example involved the Catatumbo region in Norte de Santander province, a strategic area of coca cultivation and gasoline smuggling along the Venezuelan border. Beginning in 1999, paramilitaries of the AUC’s *Bloque Catatumbo*, under the command of the AUC’s current leader and chief negotiator Salvatore Mancuso, began their takeover of the sparsely populated region of 118,000. Over the next five years and according to police statistics, 5,200 people were murdered in Catatumbo, the majority by the paramilitaries. The Attorney General’s office reported 200 disappearances and found 300 mutilated corpses buried in common graves. The Colombian Vice President’s Human Rights Observatory accused the AUC of forcing the displacement of 40 percent of the region’s population. Cúcuta, the nearest regional capital, became Colombia’s second most violent city. It was against this backdrop that Salvatore Mancuso and more than 1,400 of his men from the *Bloque Catatumbo* demobilized in December 2004. Mancuso tearfully, and with his “soul flooded with humility,” asked “forgiveness from each mother and all those whose pain we have caused.” See “Adiós a las armas,” *Semana*,

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In the eighteen months since the beginning of negotiations between the Colombian government and the AUC, the talks have weathered frequent set-backs, crises, and near-breakdowns. Numerous violations of the cease-fire, regularly denounced in 2003 and early 2004 by High Commissioner for Peace Luis Carlos Restrepo, resulted in ongoing homicides and massacres of civilians, albeit at greatly reduced levels.* The talks reached a near-breaking point several times, but perhaps never so closely as when AUC co-founder and leader Carlos Castaño was kidnapped and presumably murdered in April 2004, apparently at the hands of rival members of his own paramilitary organization. Castaño had run afoul of his own colleagues when, in what appeared to have been a quest for political legitimacy, he began to divulge details of the AUC's involvement in human rights atrocities as well as drug trafficking.⁶ Despite—or perhaps because of—a September 2002 indictment in the United States on cocaine trafficking charges, Castaño had called for an end to AUC involvement in the drug trade.**

<http://semana2.terra.com.co>, December 11, 2004. See also Indira A.R. Lakshmanan, "Colombia militias handing over guns," *Boston Globe*, <http://www.boston.com/news/world/latinamerica>, December 12, 2004; Associated Press, "Paramilitary boss apologizes," *Miami Herald*, <http://www.miami.com/mld/miamiherald/news>, December 11, 2004.

* According to Colombia's High Commissioner for Peace, the AUC committed 257 homicides and 13 massacres in the first year after the declaration of the December 2002 cease-fire. This represented a 44 percent decline in the number of homicides and a 59 percent reduction in massacres. Non-governmental organizations placed the number of murder victims at more than double the government's total. In the 22 months of the cease-fire, between December 2002 and September 2004, the government reported a 67 percent reduction in homicides and an 83 percent reduction in massacres. See Alto Comisionado para la Paz, "Balance del Cese de Hostilidades, Diciembre de 2002-Diciembre de 2003," February 19, 2004; and "Cifras Globales de la Evaluación del Cese de Hostilidades de las AUC Hasta la Fecha," October 28, 2004. See also, "El paramilitarismo se ha consolidado," *El Tiempo*, February 27, 2004.

** Indicted along with Castaño for smuggling 17 tons of cocaine into the United States and Europe were two other AUC leaders, Salvatore Mancuso and Juan Carlos Sierra Ramírez.

Internal rivalries in the AUC resulted in the murders of two other AUC commanders in the months following Castaño's disappearance. One, Carlos Mauricio García, "Rodrigo 00," was murdered in May 2004 in the coastal city of Santa Marta. A former Colombian military officer and former leader of the paramilitaries' "Metro Bloc," García had broken with the AUC and had begun to provide details of its links to drug trafficking. García had told the *Washington Post* in July 2003, for example, that the Uribe government was underestimating the AUC, which was using the peace process to gain legitimacy and had no intentions of giving up its profitable drug trafficking activities.⁷

The second commander to be murdered was Miguel Arroyave, head of one of the largest AUC factions, the Centaurs' Bloc. Arroyave was shot in September 2004 in an attack that Col. Oscar Naranjo, head of Colombia's Judicial Police, said came "from the very heart of paramilitarism and was executed by paramilitaries." Arroyave's forces had battled rival paramilitary factions for control of the coca and ranching areas of the eastern plains. Six weeks before his murder, Arroyave had agreed to demobilize his troops.

The divisions within the AUC over questions of drug trafficking prompted U.S. Ambassador to Colombia William B. Wood to accuse paramilitary commanders of "losing their disguise." In an interview published in July 2004, he referred by name to the AUC's current leader and chief negotiator, Salvatore Mancuso, and other senior leaders as "narco-terrorists." They were "thieves and assassins," Wood said, "not patriots."⁸

As the peace talks suffered in credibility and violations of the cease-fire continued, the Colombian government insisted that senior commanders involved in the negotiations concentrate in a specified zone that would be patrolled by Colombian troops and subject to international verification. Such a "*Zona de Ubicación*," (Location Zone) was inaugurated in July 2004, in the paramilitary stronghold of Tierralta, Córdoba.⁹ As part of the agreement, the Colombian government agreed to suspend arrest warrants for a dozen or so AUC commanders gathered in the Location Zone. In September 2004, however, President Uribe signed an order for the capture and extradition of Juan Carlos Sierra Ramírez, indicted in the United States two years earlier. The AUC had included Sierra Ramírez's name on a list of commanders present in Santa Fe de Ralito, but the Colombian government did not recognize him as a member of the AUC.¹⁰

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In December 2004, President Uribe made an executive decision not to extradite Salvatore Mancuso to the United States to face drug trafficking charges, despite a November Colombian Supreme Court decision confirming his legal authority to do so.*

In the eighteen months since the talks began, a number of AUC factions have entered into the first stages of the demobilization, disarmament, and reintegration process. The first group to demobilize was the *Bloque Cacique Nutibara*, whose 868 members relinquished their weapons in Medellín in November 2003.¹¹ Other factions that demobilized by the end of 2004 included the Bananero, Cundinamarca, Catatumbo, and Calima blocs. All told, close to 4,000 paramilitaries had turned in their weapons since the demobilizations began in late 2003, including 2,624 in 2004.¹² The total number, however, has been open to dispute amidst credible allegations that at least some of those appearing for demobilization were not paramilitaries but rather, gang members, the unemployed, and others seeking the promise of government benefits.

Within Colombia and internationally, President Uribe has been praised for the achievements of his democratic security policy.** The peace talks with the AUC, by contrast, have sparked considerable controversy at home and abroad. The concern is a reflection not only of the AUC's violent history and illicit activities, but also of the lack of definition of the terms and framework for their reintegration into society. AUC leaders, insisting on their patriotic service to the nation, have pledged never to serve jail time in Colombia or accept a peace deal allowing for their possible extradition to the United States. This has ignited a passionate debate in Colombia over the "price" of peace: specifically, whether the peace talks should be a vehi-

* The Interior Ministry conditioned the decision not to extradite Mancuso on his compliance "with agreements undertaken as part of the peace process" and his abandonment of "illicit activities." Uribe did extradite FARC leader "Simón Trinidad," Rafael Palmero, captured in Ecuador in January 2004. Presidencia de la República de Colombia, "Condicionada Extradición de Salvatore Mancuso a Proceso de Paz con las AUC," Bogotá, December 16, 2004.

** Since Uribe took office in August 2002, there have been notable drops in the numbers of kidnappings, homicides, and forced displacements, among other indicators, and significant declines in coca cultivation due to extensive aerial spraying in southern Colombia.

cle for paramilitary leaders to re-enter society without relinquishing vast, illegally-acquired fortunes and or facing prosecution for major crimes.

While balancing the trade-off between peace and justice is a major challenge for any peace process, the Uribe administration added to the concern through what was perceived as a failure to establish a sufficiently stringent legal framework for the AUC's demobilization. As discussed elsewhere in this document,¹³ the draft *Ley de Alternatividad Penal* first introduced by the government in August 2003 would, under certain conditions, have allowed senior leaders to escape jail time altogether, in exchange for such things as community service and unspecified reparations to victims; even these conditions, however, were rejected by the AUC. Following congressional hearings that provided for extensive consultations with the public, the government resubmitted a Truth, Justice, and Reparation law in April 2004. By year's end, however, a broad spectrum of Colombian legislators was seeking even tighter conditions, including stiffer prison terms for those who ordered or carried out atrocities and the conditioning of legal benefits on such things as confessions and the return of land and other economic assets acquired illegally during the war.

International assistance to the Colombian government for the peace process has reflected the skepticism surrounding it. Both the United States and the European Union, for example, include the AUC (as well as Colombia's two principal guerrilla organizations) on their lists of foreign terrorist organizations; the United States has requested the extradition of several senior AUC leaders on drug trafficking charges. The U.S. government, which between 2000 and 2004 provided Colombia with \$3.3 billion in assistance, suspended funding for the demobilization of AUC combatants in 2004, citing legal issues stemming from the group's terrorist designation.¹⁴ Officially, the U.S. government maintains a position of support, arguing that "a credible peace process can help end the violence in Colombia and achieve an enduring peace." But the United States has also insisted that it "will seek the extradition of Colombians who have been or will be indicted in the U.S."¹⁵ The European Union, meanwhile, has indicated that support for the peace process depends on the existence of a legal framework for judging paramilitary crimes.¹⁶ The United Nations, which was heavily engaged in the ultimately failed peace process with the *Fuerzas Armadas Revolucionarias de Colombia* or FARC guerrillas during the previous administration of President Andrés Pastrana, has also maintained its

distance. The U.N. turned down several Uribe administration requests to monitor the AUC talks, claiming that the government had no communications problems with the paramilitaries and appearing reluctant to recognize them as a political actor.*

In January 2004, President Uribe obtained the agreement of OAS Secretary-General César Gaviria to commit the OAS to monitoring and assisting the AUC and any other peace process that got underway in Colombia. Beginning early in the year, the OAS' *Misión de Apoyo al Proceso de Paz* (Mission to Support the Peace Process, or MAPP/OEA) provided demobilization and verification assistance, and, at the government's invitation in March 2004, became an observer (but not a mediator) of the negotiations.¹⁷ Mission chief Sergio Caramagna, who previously oversaw the OAS mission to demobilize Nicaragua's "contra" rebels, has frequently criticized the international community for its failure to support the AUC process, leaving the OAS mission chronically short-staffed and under-funded.¹⁸

Colombia's legislature adjourned in mid-December 2004, without adopting a reformed alternative penalties law or a proposed constitutional amendment that would have the opposite effect—banning extradition for members of illegal armed groups engaged in a peace process with the government.¹⁹ Meanwhile, the debate among Colombians and interested third parties over the contours of the paramilitary peace process continues, imbued with the knowledge that the terms and conditions of peace with the AUC will have profound implications for any future peace process with the FARC or ELN guerrillas.

Among the critical questions remaining are:

- **SECURITY:**

Defense analysts in Colombia have raised concerns over the lack of a rural security strategy that would prevent the FARC from moving in to capture

* In a July 2004 statement supporting the opening of talks in the Location Zone and the OAS role in them, U.N. Secretary-General Kofi Annan stated that "these negotiations should result in the disarmament and demobilization of paramilitaries, with the ultimate aim of ending paramilitarism in Colombia. The process should not permit blanket amnesties or de facto impunity." Text, Secretary-General's statement on Colombia," New York, July 1, 2004.

the territories vacated by the paramilitaries. According to former presidential security advisor Alfredo Rangel of the Fundación Seguridad & Democracia, the government does not have the money or force levels to occupy areas dominated by the AUC while also sustaining its “Plan Patriota” offensive against the FARC in southern Colombia. In the absence of security, Rangel warned that paramilitaries would demobilize but not abandon previous zones of operation, either recruiting new members or bringing in fighters from other paramilitary fronts. The lack of adequate security guarantees for fighters who laid down their weapons led Senator Rafael Pardo, a former defense minister, to suggest in late 2004 that the demobilizations be suspended. Concerns have also been raised about security for civilians living in areas previously occupied by the AUC, given the possibility—if not probability—of guerrilla reprisals against citizens deemed to be sympathetic to the paramilitaries.²⁰

• **IMPUNITY:**

As numerous contributions to this volume indicate, the involvement of AUC members and leaders in some of the worst atrocities the war has sparked an intense debate over how to pursue the twin goals of accountability and an end to the armed conflict. In a December 2004 report, the OAS Inter-American Commission on Human Rights noted that

“The members of the paramilitary fronts involved in the process of demobilization now being fostered by the government have been repeatedly accused of responsibility for serious violations of human rights and international humanitarian law, including massacres of defenseless civilians, selective assassinations of social leaders, trade unionists, human rights defenders, judicial officers, and journalists, among others, acts of torture, harassment, and intimidation, and actions aimed at forcing the displacement of entire communities.”

“...[T]he process has moved forward without the support of a comprehensive legal framework that clarifies the conditions under which persons responsible for committing human rights violations are to demobilize, or their relationship with the peace process... The conditions under which the members of illegal armed groups join the demobilization process should be closely monitored to ensure it does not become a conduit towards impunity.”²¹

• **DRUG TRAFFICKING:**

The predominance of known drug traffickers in the AUC's leadership and high command (*Estado Mayor*) has cast a long shadow over the negotiations. At least five AUC leaders have been formally indicted in the United States on drug trafficking charges and requests for the extradition of some of them are pending. Several others have been designated by the U.S. Treasury Department as foreign narcotics kingpins, making them subject to economic sanctions including the freezing of assets.²²

In addition to the three AUC leaders extradited to the United States in 2004, AUC leaders and negotiators indicted in the United States and/or wanted for extradition include Carlos Castaño, Salvatore Mancuso, and Juan Carlos Sierra Ramírez (all in 2002), followed by Vicente Castaño (Carlos' brother) and Diego Fernando Murillo Bejarano (alias "Don Berna" and "Adolfo Paz") in July 2004. The New York indictment of "Don Berna," considered the AUC's Inspector General, called him "the de facto leader of the AUC" who "directs all of its narcotics trafficking activities."²³ Murillo...has maintained his power in the AUC in part from the proceeds of his drug trafficking activities.* Others wanted by the United States for extradition are Ramiro "Cuco" Vanoy and Rodrigo Tovar ("Jorge 40"); the latter was briefly excluded from the peace talks in June 2004 when troops under his command were involved in the kidnapping of a former senator and his family, all of whom were subsequently released.²⁴

In addition to those formally indicted in the United States are others who have been designated foreign drug trafficking kingpins by the Treasury Department's Office of Foreign Assets Control (OFAC). In February 2004, OFAC added the names of forty Colombians to its "Tier II" list maintained under the Foreign Narcotics Kingpin Designation Act (the Kingpin Act.). These forty included eighteen individuals from the AUC, three AUC front companies, and nineteen members of the FARC guerrillas. The kingpin designation freezes the assets in the United States of the individuals and businesses named and makes it illegal for U.S. entities to

* A press release from the U.S. Attorney's office said that, according to the indictment, Murillo Bejarano "has been heavily involved in narcotics-trafficking activities, including cocaine transportation and drug-related financial operations." United States Attorney, Southern District of New York, "U.S. Indicts Leaders of Colombian Terrorist Organization on Narcotics Trafficking Charges," Press Release, New York, July 22, 2004.

do business with them. Members of the AUC's negotiating team appearing on the kingpin list, in addition to those already subject to indictment, are Ramón Isaza and Iván Roberto Duque (aka "Ernesto Báez"). Both Isaza and Duque appeared with AUC leader Salvatore Mancuso before the Colombian Congress in July 2004.

Equally troubling are credible reports that other drug lords have been putting on paramilitary uniforms and/or buying their way into the AUC in order to take advantage of any benefits negotiated as part of a peace accord. U.S. Ambassador William Wood indicated as such when he told a Washington audience in September 2004 that "major drug traffickers have bought their way into senior paramilitary positions to give political cover to their drug operations."²⁶ Among those reportedly joining the AUC were Francisco Javier Zuluago ("Gordolindo"), described as chief of the "Pacific Bloc," and Diego Montoya Sánchez of the Norte de Valle cartel, who, along with Usama bin Laden, appears on the FBI's "Ten Most Wanted" Fugitives list. According to *Semana* magazine, Montoya had bought the "Heroes of Ríonegro Bloc" for \$5 million.²⁷ Montoya and other members of the Norte de Valle cartel were indicted under U.S. RICO laws in April 2004. According to the indictment, the Norte de Valle cartel "used the *Autodefensas Unidas de Colombia* (AUC), a terrorist paramilitary organization, to protect the cartel's drug routes, its drug laboratories, and its members and associates."^{28*}

Colombia's High Commissioner for Peace Luis Carlos Restrepo made what he called "a sociological distinction" between paramilitary groups dedicated to the "anti-subversive struggle" and those with a "drug trafficking career." But following an August 2004 drug raid in which police seized eight tons of explosives and precursor chemicals from the paramilitaries, Restrepo conceded that the peace talks had had little impact on the paramilitary's extensive narcotics activities. "On the drugs front," he said, "there has been no movement."²⁹

* Another report in *El Tiempo* held that AUC commander Miguel Arroyave, murdered by what the police said were fellow paramilitaries in September 2004, had bought the "Centaur's Bloc" for \$6 million. Police officials said that Arroyave headed a network that trafficked in the precursor chemicals used in turning coca leaves into cocaine. Constanza Vierira, "Paramilitaries Extend their Tentacles," *Interpress*, <http://www.ipsnews.net>, October 14, 2004.

• **EXTRADITION:**

As various contributions to this report indicate, the subject of extradition constitutes one of the thorniest issues in the peace process with the AUC. AUC leaders seeking to avoid extradition to the United States on drug charges have insisted that extradition should not stand in the way of a peace agreement, indicating directly and indirectly their opposition to a formula by which they lay down their weapons in exchange for jail time in the United States. This position is reflected in the draft legislation put forward in the Colombian Congress that would suspend extradition orders for those engaged in the peace process. The Colombian government issued a statement in April 2004 saying that that “extradition is not a topic of negotiation,” noting that “if extradition were prohibited, Colombia will suffer international discredit.”³⁰

Parts of the government’s position, however, have appeared ambiguous. The press release issued in April 2004 also said that “those who want to avoid [extradition] must demonstrate good faith and a will of amendment to the international community.” This seemed to leave open the possibility that extradition could be suspended in exchange for an individual’s willingness to reform.

U.S. officials, meanwhile, have publicly and repeatedly expressed their support for the peace process of the Uribe government, while also insisting that extradition stands at the core of U.S. policy toward Colombia. A fierce inter-agency U.S. policy struggle over whether extradition orders are “negotiable” will no doubt ensue when and if the terms of a peace accord suggest that demobilization and non-extradition are linked.

• **ENDING PARAMILITARISM:**

While a central goal of any peace process is to transfer conflict from the military to the political arena, the terms and conditions of political participation by the AUC have been highly problematic. According to a senior Colombian government official, “the political project of the paramilitaries is more dangerous than its military project. Sooner or later, the guerrillas will negotiate because they are losing their social base. By contrast, the paramilitaries are gaining one with a political project disguised as democratic participation.”³¹

In a review of seven regions of the country, a survey by *El Tiempo* found numerous instances of threats and intimidation of political candi-

dates opposing the AUC, paramilitary infiltration of institutions such as the police, mayors' office, and the *Fiscalía*, and efforts to spread influence through extortion and other illegal forms of pressure.³² Another study of paramilitary economic power detailed the takeover of some of Colombia's most valuable land through extortion, blackmail, forced sales, and the murder of those who refused to bend to paramilitary demands. The victims included hundreds of beneficiaries of government-sponsored land reform programs.³³

The Colombian government has estimated that paramilitary fronts are present in twenty-six of the country's thirty-two provinces and in 382 of 1,098 municipalities.³⁴ Citing Western diplomats, Colombian lawmakers, and Colombian human rights advocates, *New York Times* correspondent Juan Forero wrote that "the political coalition the paramilitary forces have created is at the apex of its power. The militias control several northern states, including major drug trafficking routes. They have also placed their advocates in Colombian institutions like the attorney general's office and town and city halls."³⁵

While assembling a political coalition with wide influence would seem to be the goal of any political actor, the amassing of such power through violent and illegal—as well as legal—means constitutes one of the core challenges posed by the peace process with the AUC. How Colombia comes to terms with the AUC's legacy and future will have broad implications for negotiations with the conflict's other illegal armed actors as well as for the quality of Colombian democracy.

NOTES

1. Text, "Acuerdo de Santa Fe de Ralito para Contribuir a la Paz de Colombia," July 15, 2003.
2. Groups to demobilize have included the *Movimiento 19 de abril* (April 19th Movement, M-19), the *Ejército Popular de Liberación* (Popular Liberation Army, EPL), the *Partido Revolucionario de Trabajadores* (Revolutionary Workers' Party, PRT), and the indigenous-based *Quintín Lame*.
3. See "Colombia: AUC Members to Demobilize by 21 December," *Foreign Broadcast Information Service*, November 3, 2004.
4. For background on the history of the paramilitaries, see Carlos Medina Gallego, *Autodefensas, Paramilitares y Narcotráfico en Colombia* (Bogotá: Editorial Documentos Periodísticos, 1996); Fernando Cubides C., "From Private to Public Violence: the Paramilitaries," in Charles Berquist, Ricardo Peñaranda and Gonzalo Sánchez G.,

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- Violence in Colombia, 1990–2000* (Wilmington DE: Scholarly Resources Inc., 2001); and Mauricio Romero, *Paramilitares y Autodefensas 1982–2003*, (Bogotá: IEPRI/Planeta, 2003).
5. Quoted in Gary Marx, “Colombia’s warlord’s bid for peace draws doubt,” *Chicago Tribune*, <http://www.chicagotribune.com/news/nationworld>, November 7, 2004.
 6. Mauricio Aranguren Molina, *Mi Confesión: Carlos Castaño revela sus secretos* (Bogotá: Editorial Oveja Negra, 2001).
 7. See Associated Press, “Former Paramilitary Chief Killed in Colombia,” *Washington Post*, May 31, 2004, p. 13; and Juan Forero, “Dissident Chief of Force Killed in Colombia,” *New York Times*, May 31, 2004, p. 4.
 8. “Entrevista: Los para perdieron su disfraz,” *Semana*, July 5, 2004. See also Ambassador Wood’s statement in this publication.
 9. The agreement creating the zone was signed in May 2004. In a little noticed provision, the deadline for the demobilization of all AUC forces was extended beyond December 2005. See International Crisis Group, *Demobilising the Paramilitaries in Colombia: An Achievable Goal?* ICG Latin American Report No. 8, Bogotá and Brussels, August 5, 2004, pp. 2–4.
 10. See note 8. Presidencia de la República de Colombia, “Autorizan extradición de Juan Carlos Sierra Ramírez,” Bogotá, September 27, 2004; RCN, “El Gobierno ofreció 150,000 dólares de recompensa por alias el “tuso,” September 29, 2004; Steven Dudley, “Ultimatum strains Colombia’s peace talks,” <http://www.miami.com/mld/miamiherald>, September 29, 2004.
 11. See the comments of Gustavo Villegas in this report.
 12. Alto Comisionado para la Paz, “Desmovilizaciones colectivas 2004,” December 27, 2004; Interviews, U.S. officials closely following Colombian affairs, October 26, 2004, Washington, D.C.
Peace Commissioner Luis Carlos Restrepo said in September 2004 that only 30 percent of those who demobilized as part of the Bloque Cacique Nutibara were, in fact, paramilitaries. Quoted in Fundación Seguridad & Democracia, “La Desmovilización del Bloque Bananero de las AUC,” Documentos Ocasionales, Bogotá, November 25, 2004, p. 2.
 13. See the comments of Ambassador William B. Wood, Senator Rafael Pardo, Michael Frühling, and José Miguel Vivanco.
 14. See Marcela Sanchez, “When is a Terrorist No Longer a Terrorist?” <http://www.washingtonpost.com>, October 15, 2004.
 15. E-mail communication to author from the U.S. State Department Office of Andean Affairs, December 7, 2004.
 16. Margarita Martínez, “OAS Reproaches U.S., EU Over Colombia,” Associated Press, <http://www.miami.com/mld/miamiherald/news>, December 14, 2004.

17. See the comments of Michael Beaulieu.
18. A May 2004 report to the OAS on the activities of the MAPP/OEA said that “the difficulty of obtaining funds with which to carry out the mandate fully has had a strong impact on the Mission’s performance and limits its potential.” OAS, Permanent Council, “Quarterly Report of the Secretary General on the Mission to Support the Peace Process in Colombia (MAPP/OEA),” OEA/Ser.G, CP/doc.3894/04, May 11, 2004.

By the end of October 2004, the mission's staff had increased from 19 to 34, a number that Caramagna indicated that he hoped to triple in the short term. U.S. support for the mission totaled \$586,000. Pablo Bachelet, “OAS peace mission leader says his group needs financial help,” *Miami Herald*, <http://www.miami.com/mld/miamiherald/news/world/americas>, October 20, 2004.
19. See the comments of Congresswoman Rocío Arias Hoyos.
20. “Colombia’s Paramilitary Demobilisation: Dystopia disarmed?” *The Economist*, December 2, 2004; “Lo más conveniente es aplazar la desmovilización: Pardo,” *El Colombiano*, November 21, 2004; Steven Dudley, “Disarming force puts region up for grabs,” *Miami Herald*, <http://www.miami.com/mld/miamiherald/news>, December 10, 2004; Fundación Seguridad & Democracia, “La Desmovilización del Bloque Bananero de las AUC,” op.cit., pp. 3–5.

According to the Fundación Seguridad & Democracia, civilians were leaving areas near the Venezuelan border in anticipation of the demobilization of the *Bloque Catatumbo*, fearing that guerrillas would take advantage of the power vacuum. Local officials asked for army protection. Fundación Seguridad & Democracia, “La Desmovilización del Bloque Catatumbo,” Documentos Ocasionales, Bogotá, undated, 2004, p. 4.
21. Inter-American Commission on Human Rights, “Report on the Demobilization Process in Colombia,” OEA/Ser.L/V/II.120, Doc. 60, December 13, 2004, Chapter V, Para. 98.
22. Colombia’s *El Tiempo* reported that ten of the thirteen members of the AUC’s *Estado Mayor* were on the U.S. list of drug trafficking kingpins or wanted for extradition. “Sobre el narcotráfico recae la ‘paternidad’ de los ‘paras’ desde hace 20 años,” *El Tiempo*, September 25, 2004.
23. Quoted in Frances Robles, “Right-wing guerrilla leaders indicted by U.S.,” *Miami Herald*, <http://www.miami.com/mld/miamiherald/news>, July 24, 2004.

See also, Frances Robles, “Colombia militias accept plan to relocate,” *Miami Herald*, May 14, 2004.
24. Author interviews, December 2004–January 2005; Rodrigo Pardo, “Ralito: Qué Pasa, Como vamos, vamos mal,” *El Tiempo*, September 23, 2004; BBC Mundo, “Colombia/paz: excluyen dos ‘paras,’” June 29, 2004; Joseph Contreras and Steven

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- Ambrus, "Off the Hook?" *Newsweek International*, <http://www.msnbc.msn.com>, August 9, 2004; Alfredo Rangel Suárez, "Definiciones," *El Tiempo*, July 16, 2004.
25. U.S. Department of the Treasury, Press Release, "Treasury Takes Action Against FARC/AUC Narco-Terrorist Leaders in Continued Effort to Halt Narcotics Trafficking," Washington, D.C., February 19, 2004. Included on the list was the FARC's top leader, "Manuel Marulanda."
 26. Ambassador William B. Wood, "U.S. Support for Colombia's National Strategy for Defense and Democratic Security," Georgetown University, September 20, 2004, p. 2. Wood compared the phenomenon to the FARC's use of "so-called revolutionary ideology" to justify its drug activities.
 27. Rachel Van Dongen, "Drugs complicate Colombia's peace plan," *Christian Science Monitor*, <http://www.csmonitor.com>, November 2, 2004.
 28. U.S. Department of Justice, "United States Announces RICO Charges Against Leadership of Colombia's Most Powerful Cocaine Cartel," Press Release, Washington, D.C., May 6, 2004.
 29. BBC Mundo, "Restrepo: 'En cuidados intensivos,'" September 28, 2004; Associated Press, "Colombia police seize 8 tons of explosives, chemicals," August 5, 2004.
 30. Presidencia de la República de Colombia, "Press Release from the Presidency of the Republic, Bogotá, April 27, 2004.
 31. Quoted in Luz María Sierra et. al., "Se prenden las alarmas por síntomas avanzados de paramilitarización de Colombia," *El Tiempo*, September 26, 2004.
 32. "Así está la influencia paramilitary en siete regiones del país," *El Tiempo*, September 25, 2004.
 33. "Los señores de las tierras," *Semana*, October 6, 2004.
When demobilizing in December 2004, the *Bloque Catatumbo* returned some plundered goods, including ranches, houses, small businesses, boats, and mules. While unprecedented, these were considered a fraction of their true holdings. See Jason Webb, "Disarming Colombian militiamen return plunder," Reuters, December 13, 2004.
 34. Juan Forero, "With Chief Missing, Colombia Militias Gain Leverage," *New York Times*, May 19, 2004, p. 10.
 35. Juan Forero, "Rightist Militias are a Force in Colombia's Congress," *New York Times*, November 10, 2004, p. 3.

Key Issues in the Negotiations Process

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Colombian Senate

The issue of negotiations with the *autodefensas* or with paramilitary groups—and there is a substantial and important difference between the two—is relatively new in Colombia. Since 1992, the possibility of negotiating with armed groups in Colombia has been regulated by laws that are applicable for the four years of a particular administration; it is up to each successive administration to choose whether to renew the law or to amend it based on a different view of the conflict. Between 1992 and 1997, there was no legal possibility for establishing even a dialogue with groups of *autodefensas*. They could have availed themselves of the laws governing submission to justice (*sometimiento a la justicia*), but that was not considered a form of political dialogue.

A legal reform in 1997 established that groups of *autodefensas* could engage in dialogue with the government, but in a manner distinct from that of the guerrilla groups. In 2002, the Uribe administration made a concrete proposal for new legal authority to negotiate with the *autodefensas*. The Congress adopted a formula that sets forth rules for establishing or not establishing dialogues with groups involved in the internal armed conflict in general. In other words, groups are not identified by their political motivations or because they support one or another political platform. Rather, it is possible to establish dialogue with armed groups given their status as a party to an internal armed conflict. The government thus has the authorization to seek political solutions independent of an armed group's motivation. The definition of what constitutes a party to an internal armed conflict was contained in Law 782, passed in 2002. In accordance with international humanitarian law, such groups must have a recognized command structure, a capacity to undertake sustained military operations, and a significant territorial control or presence.

Based on these criteria, it became possible for the Uribe administration to establish dialogue with groups of *autodefensas* aimed at seeking peace agreements. The government began with the Accords of Santa Fe de Ralito. Then, in August 2003, the administration proposed legislation to define the kind of judicial treatment that would be accorded members of armed groups—not only the *autodefensas*, but also the guerrillas. The first bill was called the Alternative Penalties law (*Proyecto de Ley de Alternatividad Penal*). It was to apply to all members of a group that made peace with the government, who would be subject to a penalty that would be applied conditionally; the alternative penalty did not involve prison time, but rather, something truly minor and insignificant.

The introduction of this legislation provoked a major debate in Colombia and abroad. The government refrained from trying to rush the law's approval and allowed debate to go forward; it continued until March or April of 2004. Then, after incorporating the suggestions of many sectors, the government presented a new law that was very different from the original. Indeed, its name became the bill on Truth, Justice, and Reparation. Many of us who opposed the original version agreed with the new draft law, which was debated beginning in July 2004. Subsequently, however, a number of us discussed additional modifications, with the goal of improving the legislation even further.

The Truth, Justice, and Reparation bill presented by the government essentially aimed at defining judicial treatment for the members of armed groups that enter into peace agreements with the government, be they guerrillas, *autodefensas*, or paramilitaries. This treatment would be based on a judicial investigation by a unit of the Attorney General's office, created especially for that purpose. Trials would be carried out by a special court also to be created under the new law. This court would decide on sentences that are in proportion to the seriousness of the crimes committed. The court could also decide on a reduction of penalties, with the minimum sentence being five years and the maximum ten years of confinement in an actual prison.

The bill also provided that the newly-created court should determine reparations, symbolic as well as monetary, collective as well as individual. The bill specifies that this court should determine the mechanisms by which to ensure the security of the persons who submit to its authority.

The second draft law is not perfect and still contains very controversial aspects. For example, as introduced, the new court was to be created by

Key Issues in the Negotiations Process

the executive branch, when it should be created by the judiciary. In addition, the court should operate over a longer period of time. The period of investigations should also be much longer. Clearer procedures are needed to determine, for example, what value is to be accorded confessions or collaboration with the justice system. In addition to the aspects that need clearer definition were others that were very ill-advised. For example, a loophole would allow benefits to be granted in the name of individuals and not in the name of members of a group that make peace. Individual benefits are not a good idea. Benefits should depart from the premise that it is the group that makes peace. Despite these shortcomings, the second version of the law is a substantial improvement. Nonetheless, a number of us believed that further modifications were needed.* To continue the effort to establish a legal framework for the demobilization, legislators representing several political parties crafted a new bill that is even more stringent. As of early December 2004, the government had not indicated whether or not it would support the revised bill.**

Debate in Colombia has focused on the various versions of this legisla-

* Some legislators also have proposed a constitutional amendment in order to ban extradition. This bill, aimed at those who negotiate their disarmament, is not necessary. Extradition is already a discretionary power of the president. In April 2004, President Uribe released a nine-point communiqué addressing the executive branch's criteria for negotiating with the *autodefensas*. The president said that he will not apply extradition to those who submit to the peace process and act in good faith. Accordingly, I do not believe that the legislation offered by Congresswoman Arias and her colleagues is necessary. On the contrary, it is a very ill-advised distraction from the sound development of the negotiations. Even if the bill garners 150 signatures, it is unlikely to win congressional approval without the support of the executive branch.

** Among other provisions, the bill contained greater specificity on questions of reparations to victims, public knowledge of the truth, and the return of land and other goods obtained through illicit means. In addition to Sen. Pardo, the bill's authors were Representatives Gina Parody (a supporter of Uribe), Luis Fernando Velasco (*Partido Liberal*), and Wilson Borja (*Alternativa Democrática*). See Hernando Salazar Palacio, "Proyecto de Ley de Verdad, Justicia y Reparación, para paramilitares, aún no está listo," *El Tiempo*, November 20, 2004; and Juan Forero, "Colombia Proposes 10-Year Terms for Paramilitary Atrocities," *New York Times*, November 16, 2004.

tion, but what is at stake in the peace process is actually much broader. Very little has been said about the conditions of the process, which have greatly undercut its credibility. The government established a peace process with the *autodefensas* that was based on a unilateral cease-fire by the AUC, yet, as the government and leaders of the *autodefensas* have recognized, this cease-fire has not been respected. The main role of the OAS is to verify the cessation of hostilities. The OAS, with the support of many of us, said that members of the *autodefensas* needed to concentrate their forces in specific places, so that verification could be carried out. In an all-out conflict such as Colombia's, which involves many actors, it is impossible to verify a cessation of hostilities throughout the national territory if forces are not concentrated. There is a concentration, to be sure, but it covers only some of the leaders of the *autodefensas*, not the 15,000 or so fighters throughout the country. What kind of treatment will be accorded to those outside the zone of concentration? It is not clear. If the current zone of concentration constitutes the first of several, it would be a positive step. But if it is the only step, it would appear to resemble the demilitarized zone (*despeje*) afforded the FARC by the previous administration, an initiative met with widespread national and international condemnation.

Another important theme that has been largely ignored concerns the issue of security for the civilian population in the zones where the *autodefensas* are present. Colombians can and do differ on the question of the origins of the *autodefensas*. Some believe that they constitute a branch of the state for the purpose of carrying out state terrorism. On the other extreme are those who say that the *autodefensas* arose when civilians took up arms against the guerrillas for reasons of self-protection. In between these poles of opinion are a variety of others about the groups' origins. Yet what is clear to everyone is that the zones where the *autodefensas* operate today have a kind of security that is illegal, anti-democratic, and criminal. At the same time, what emerged over the course of the hearings we held in many different regions was that the inhabitants of these zones do not trust the government to provide them with security.

Not only has the government lacked a clear proposal regarding security, it has not had any proposal for how to provide security to the inhabitants of these zones. This failure very much weakens the government's position when it proposes that all members of the *autodefensas* concentrate in certain zones. Part of the argument of the leaders of the *autodefensas* is

that, “we can’t abandon these regions because people demand that we stay; otherwise, the guerrillas will come and take revenge.” The government has not made any specific proposal for dealing with this situation. Nor, in the year-and-a-half since the peace process began, has the government provided any estimate of its cost.

The city of Medellín has carried out an experimental process with the demobilization of the Bloque Cacique Nutibara in late 2003, but important lessons have not been learned. If the costs—to Medellín and to the national government—of demobilizing the Bloque Cacique Nutibara are extrapolated to cover the 12,000–15,000 men of the entire AUC, the costs would come to \$120–150 million per year. But these costs are not included anywhere in the government’s budget. Nor has the government made provisions for what to do with these people once they’re demobilized. This is not a question of 868 men, as in the Bloque Cacique Nutibara, but of some 12,000–15,000 combatants. I know of no specific government or private program, or any plan by the private sector, that addresses the question of what to do with these people. That is a major problem.

Nor is there any plan that describes what the state presence will look like throughout the territories in which the paramilitaries are active. The paramilitaries or *autodefensas* are not just an armed phenomenon, but essentially a form of authority—illegal and anti-democratic, to be sure—but a social component that exercises authority. Their authority must be replaced by governmental authority, including the administration of justice, mechanisms for resolving conflicts, and mechanisms of social organization. But none of these things has been foreseen.

The debate thus far has focused on one very important issue—the judicial treatment of demobilized combatants and leaders. That debate has been very open and nuanced, and that in and of itself is very constructive. But so far we have addressed only part of the problem. Paramilitarism is a phenomenon that goes beyond its armed or military manifestation; it is about the accumulation of political and economic power. Those aspects have not been considered in the government’s policy or in the peace process.

Negotiations with the *autodefensas* are necessary to resolve a very serious conflict in Colombia. But they could end very badly if all they foresee is the recycling of a few paramilitary leaders back into civilian life, without an end to paramilitarism itself. The problem of security in the

zones where the *autodefensas* are active is not so much that the guerrillas would step in, but rather, that other *autodefensas* would again be created to exercise the predominant security role in those regions.

The *autodefensas* represent a complex phenomenon that has an armed component, and economic and political components for accumulating great wealth and political power. Even what is meant by “hostilities” is not entirely clear. During the congressional hearings, we discussed what constituted a “cessation of hostilities” (*cese de hostilidades*). A leader of the *autodefensas* of the *llanos* (plains) sent us a communication, stating very clearly: “We will sign a cessation of hostilities, but we have never sat down with the government to say what hostilities are, what is understood by [the word] ‘hostilities.’” Certain things are obvious: not killing people, not intimidating, not using violence. But there are other aspects that are not so obvious. What about proselytizing while bearing arms? What about the exercise of political power, something that has seriously impacted many Colombian municipalities, in that mayors or members of the town councils only get elected with the permission or backing of groups of *autodefensas*?

I continue to believe that negotiations are the best way to seek a solution with paramilitary groups, and that the government has done something valuable by tackling this issue and attempting to negotiate this particular aspect of Colombia’s violence. Whether the process turns out well or poorly depends on whether it leads to the end of paramilitarism. If this were to happen, Colombia would benefit greatly. But a process that results merely in the recycling of a few people, without ending the process of accumulation of economic and political power, could generate even worse violence than what exists today. Ultimately, the quality of the peace depends on the quality of the process. And the quality of the process depends on policy. There are still major gaps in the policy that make it impossible to predict the outcome of negotiating with the paramilitaries.

CARLOS FRANCO

Director

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To address the question of the negotiations with the *autodefensas*, one must begin by considering the nature of the phenomenon in Colombia. Groups of *autodefensas* have been developing and changing in nature; today they exist on a large-scale, with anywhere from 12,000 to 20,000 combatants. They constitute a highly complex phenomenon in terms of their territorial presence, the way in which they have taken root in these areas, and the way in which they have made incursions into local politics, pressuring the local civilian authorities as they attempt to take over the regional economies, be they legal or illegal. The *autodefensas* are considered to be involved in drug-trafficking, in the theft of gasoline, in extortion—all of this has a negative impact on governability. The *autodefensas* have also had a profoundly negative impact on the observance of human rights; in recent years, they have been responsible for most of the cases of forced displacement, massacres, and disappearances. Accordingly, we should depart from the premise that this phenomenon is significant, large-scale, and disturbing. It is also something that has succeeded in ridding some parts of the country of guerrilla groups. Groups of *autodefensas* grew more quickly when the state was plagued by weakness and crisis.

During the eight years before the Uribe government, it is estimated that the ranks of the *autodefensas* grew 58 percent annually. During the two years of the Uribe administration, the number of operations against these groups has increased, and their rate of growth has dropped to approximately 10 percent annually, but the groups continue to expand. Accordingly, the national government has maintained a policy of democratic security that seeks to regain the state's monopoly on authority and security and to establish order and legitimacy. The democratic security policy does not rule out a dialogue with those illegal armed groups that accept certain minimal conditions put forth by the government, including a cease-fire, a willingness to move forward in the peace process in a serious manner, and an acceptance of international accompaniment. The latter is necessary to assure Colombian society and the international community that the process is on a sure path.

The process with the *autodefensas* has suffered major shortcomings. First is the question of credibility in the eyes of Colombian society and the international community. There has been concern that the process was not prepared adequately and that this will lead to a situation—like the one with the FARC in San Vicente del Caguán during the Pastrana administration—in which the dialogue was used by the parties to strengthen themselves militarily. Second, in areas of the country where the *autodefensas* have a presence, certain sectors do not at all trust the ability of the state to provide security in the event that these groups demobilize. Third, there are many doubts as to whether the *autodefensas* have genuinely decided to move towards demobilization.

A major debate is underway in Colombia as to what is possible and ethical to offer the *autodefensas* in exchange for their demobilization. Evidently, their main interest in demobilizing is to be certain that they have legal guarantees, both in Colombia with respect to crimes against humanity, and internationally—particularly in the United States—with respect to the crime of drug-trafficking.

As a result of the peace process, almost all the groups of *autodefensas* are part of the structure of the *Autodefensas Unidas de Colombia* (AUC), and they have a high command (*Estado Mayor*) responsible for the negotiations. As of July 1, 2004, they have gathered in a “location zone” (*zona de ubicación*) established pursuant to Colombian law. The reasons for the establishment of this zone are multiple: to agree upon a timetable for concentrating the troops belonging to the AUC, to agree upon the terms that will make it possible for them to demobilize, to verify the cease-fire nationally, to facilitate the interlocution of the *autodefensas* with the national and international community, to facilitate citizen participation, and to facilitate discussion with political and social sectors of our country and with the international community. This will make it possible to envision more clearly both the obstacles to and possibilities for settlement.

I would like to touch on the challenges faced by the peace process. The government has undertaken this process with the view that it is open to dialogue with all the groups of *autodefensas* and with all the insurgent groups in Colombia. The government has one single policy, and believes that dialogue is and will become possible with all the armed groups. As evidence, one can look at the possibilities that have opened up recently with the *Ejército Nacional de Liberación* (ELN). So the main question to con-

sider is not whether a dialogue with the AUC is convenient or advisable, but rather, what are the main challenges to moving forward, both for Colombia and for the international community.

The congressional hearings convened at the initiative of Senator Rafael Pardo established that, more than anything, Colombia needs a policy for overcoming the paramilitary phenomenon once and for all. Such a policy must be comprehensive and take into account not only the deficiencies of the state with respect to security, but also the problems of the justice system. State security bodies must be strengthened, as must citizen awareness that the only valid, legal, and acceptable security is that provided by the state.

The state's ability to provide security throughout all regions of the country needs to be strengthened. Colombia is a country with 1,100,000 km², much of which is forested and lacks adequate roads. The security forces (military and police) lack adequate transportation and, according to some analysts, are too few in number to meet the country's requirements. We need to make progress in strengthening the state's capacity to offer definitive security throughout all regions to ensure that an eventual demobilization of the *autodefensas* does not turn into a military advantage for the insurgent groups.

An additional challenge is to find a legal solution that takes into account the interests of victims of human rights abuse. Such a solution must make satisfactory reparations to these victims, uphold the legitimacy of the rule of law in Colombia, and satisfy the demands of the international community, while at the same time ensuring that demobilization is an attractive and beneficial option.

It is not true, as some have alleged, that the proposed alternative penalties bill is below the standards of other cases of internal armed conflict around the world. Compared with the legal solutions adopted in Central America, South Africa, and Northern Ireland, the law before the Colombian Congress is much more demanding. While the executive branch did not bring pressure to bear to force the adoption of the original alternative penalties bill, it facilitated a wide-ranging public debate in committees of the Senate and the House, which took the initiative to organize a series of forums. The participation in these forums of several non-governmental organizations from abroad was very valuable during the process of reflection, and President Uribe, addressing the United Nations General Assembly in September 2003, called on the entire international

community to participate. Several changes were made to improve the legislation, and it was reintroduced as the Law for Truth, Justice, and Reparation. We continue seeking to devise a law that would apply to all groups that wish to demobilize, and that takes into account every facet, every complexity, and every interest involved in the peace process.

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Medellín is the second-largest city in Colombia and, up until now, the most violent. It is therefore no coincidence that the first demobilization in the peace process with the *autodefensas* was that of the Bloque Cacique Nutibara (BCN). It is doubly significant in that it is an urban demobilization and is playing a crucial role in constructing a new model for collective demobilization.

Colombia has been clear in the past about what to do and what benefits to extend in cases of individual demobilization, but only now are we framing a policy regarding collective demobilizations. We are calling our model of intervention the “return to legality” because we believe that everyone was born legal, but that due to one or another circumstance, some became involved in illegal activity. We want those actors engaged in illegal activity—for now the *autodefensas* but potentially in the future, actors from other armed groups—to become involved in this process.

Medellín has a total area of 380 square kilometers, comprising an urban area of 105 square kilometers and a rural area of 270 square kilometers. The city is divided into 16 urban districts known as *comunas* and five rural hamlets known as *corregimientos*. Of a total population of two million, 1.9 million are urban and 121,000 rural. If one divides the population by social strata, 9 percent are in the lowest income group (*estrato 1*), 34 percent in the next-lowest income group (*estrato 2*), 31.6 percent in the lower-middle income group (*estrato 3*), 12.5 percent in the middle income group (*estrato 4*), 8.6 percent in the upper-middle income group (*estrato 5*), and 3.6 percent in the upper income group (*estrato 6*). These figures mean that lower income groups account for 70 percent of the population of Medellín. (See Table 1)

Colombia’s armed conflict began more than 40 years ago. According to the Colombian Army and the National Planning Department, in 2002 there were approximately 40,000 members of illegal armed groups such as the FARC, the ELN, and the *autodefensas*. In 1999, by the estimates of the Inter-institutional Committee on the Finances of Illegal Armed Groups, the guerrillas and *autodefensas* had a combined income of some

Table 1. General Information of the City of Medellín

Total Area	380.64 Km²	Political /Administrative Composition:	
Urban Area	105.02 Km ²	Comunas (Urban Area)	16
Rural Area	270.42 Km ²	Hemlets (Rural Area)	5
Total Population	2.025.293	Distribution of the Population According to Social Strata	
Urban Population	1.904.283	Low-low 1	9.3%
Rural Population	121.010	Low 2	34.4%
		Medium Low 3	31.6%
		Medium 4	12.5%
		Medium High 5	8.6%
		Alto High 6	3.6%
Average Temperature	22.4 °C		

Source: Capital of the Department of Antioquia

\$300 million. The demobilization of the Bloque Cacique Nutibara took place against this backdrop.

Laws 418, 548, and 782 facilitate dialogue and the signing of agreements with illegal armed groups, providing a legal framework for guaranteeing the security and integrity of those who participate in the peace dialogues, and making it possible to grant pardons to those convicted of political crimes related to the armed conflict.¹ It is important to note that pardons apply only in cases of political and related crimes, such as rebellion, the illegal bearing of arms, or the use of uniforms that are the sole purview of the army and police. Pardons do not cover common crimes or acts of barbarism, terrorism, kidnapping, genocide, and homicide *hors de combat*.

The law provides that investigations will be terminated only for those accused of rebellion and related political crimes. However, if a beneficiary commits any crime within two years after his or her demobilization, that person will lose any and all of the benefits to which he or she would otherwise have been entitled. That is, any pardon or other benefit such as the suspension of an investigation will be annulled if an individual commits a crime subsequent to demobilizing. (See Table 2)

Understanding the composition of the illegal armed groups is important in understanding the framework for their demobilization and reinsertion. Existing laws cover the guerrillas and the *autodefensas*. The guerrillas in the rural areas are called *frentes*, or fronts, and in urban areas, *milicias*, or militia. The *autodefensas*' units are called *bloques* (blocs) in both urban and rural areas. Herein lies the major difference between the urban conflict

Table 2. Legal Framework for Reincorporation

Permits the pardon of people who are guilty of rebellion, except for those who committed ferocious and barbaric acts, terrorism, kidnapping, genocide, homicide outside of combat, or disabling the victim to defend him/her self.

Law 782, Art. 19.

Those who are accused of having committed rebellion and connected crimes (this has to be proven) will have their investigations terminated.

Law 782, Art. 22.

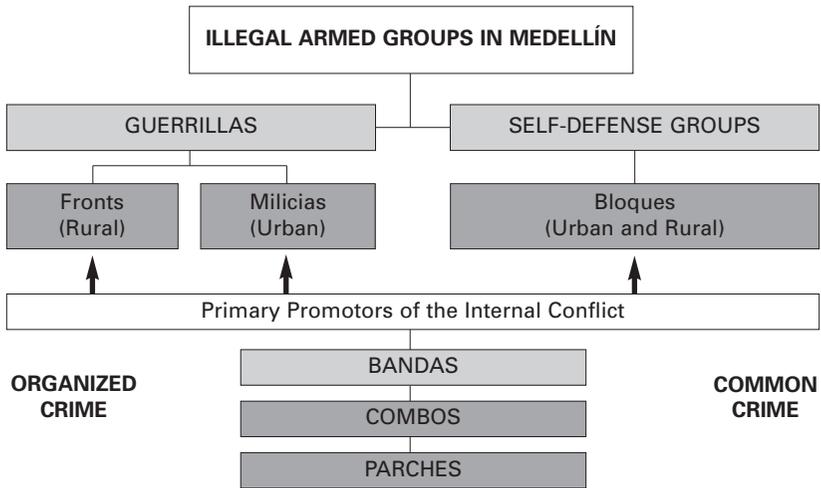
Those who commit a crime after the demobilization will lose any and all of the benefits that they would be otherwise entitled to.

Crimes not pardoned under this framework will be treated under the "Alternative Penalty Law", currently being discussed in the Congress.

and the rural conflict. In the rural conflict, we find only the *frentes* of the guerrillas or the *bloques* of the *autodefensas*. Yet in the cities there are organized crime groups regulated by the guerrilla militia and/or by the blocs of the *autodefensas*. These criminal gangs are known in Colombia as *bandas*, *combos*, and *parches*, and in Central America as *pandillas*. What happens is that groups of *autodefensas* and guerrillas step in to control or regulate the criminal gangs—whose range of territorial control is much smaller—subjecting them to the rules and regulations imposed on communities they control. (See Table 3) Massacres and other atrocious crimes with which we are all familiar occur when there is a change of control in a given area; that is, when an area that was under the control of the guerrillas is taken over by the *autodefensas* (or vice-versa.)

Because of the complex mix of political and criminal violence, we have striven to devise a new model of intervention that takes into account not only guerrillas and *autodefensas* but also other primary actors in the conflict, especially local gangs. Legally, there can be no negotiation with or granting of benefits to groups of *bandas*, *combos*, and *parches*. But what has taken place in Medellín is that these groups show an interest in beginning negotiations. We are obliged to tell them that we can grant certain benefits related to education or health care, for example, but that we can grant nothing in the way of legal or other benefits. The problem in Colombia is the same as in Central America following the signing of the peace accords, where the post-conflict era has provided no solution to the problem of *pandillas* or gangs.

Table 3.



The process of reincorporation, which follows the process of disarmament, is a work in progress. Previously in Colombia, demobilizations have involved an armed group in its entirety, but the current situation is one of partial demobilization. This makes our work all the more difficult, as a successful peace process should include a process of justice and reparation and a truth commission, and these things now are absent.

A number of national government agencies have been involved in the demobilization phase. These include the Ministry of Defense, the Office of the High Commissioner for Peace, and the Colombian Institute for Family Welfare. In the reincorporation phase, the Ministry of Interior, through the National Office of Reincorporation, had responsibility only for individual *reincorporados* while the Medellín mayor's office and its Peace and Reconciliation Program took care of collective demobilizations. (See Table 4)

The national government has thought about its need for strategic alliances, and has found them in local governments, in this case the municipal government of Medellín, which provides the necessary backing and support. The national government is far-removed from the reality of daily life in the cities, and lacks a structure for dealing with the kinds of details that need to be addressed day by day in constructing a reinsertion model.

Table 4. Intervention Flowchart

Verification-OAS Monitoring and evaluation system	DEMOBILIZATION	Ministry of Defense Office of the High Commissioner for Peace Colombian Institute for Family Welfare
	REINCORPORATION	Ministry of Interior (Office of Reincorporation)
	INTERVENTION STRATEGY	Mayor's Office (Medellín) (Peace and Reconciliation Program)

**Law 418 of 1997, Law 548 of 1999, Law 782 of 2002, Reglimentary Decrees,
(Justice and Compensation Bill), Agreements**

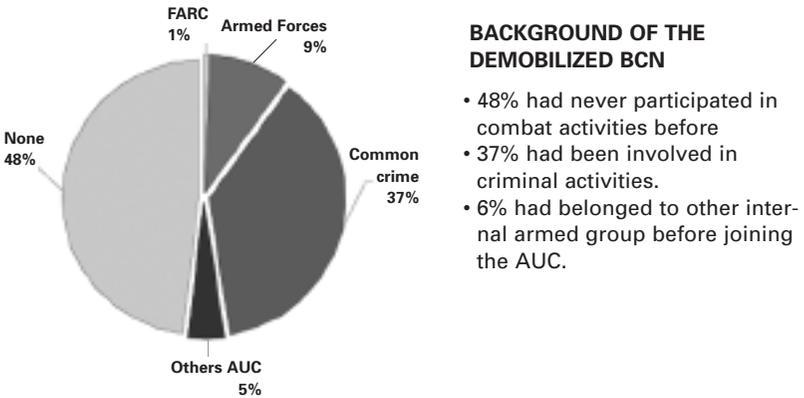
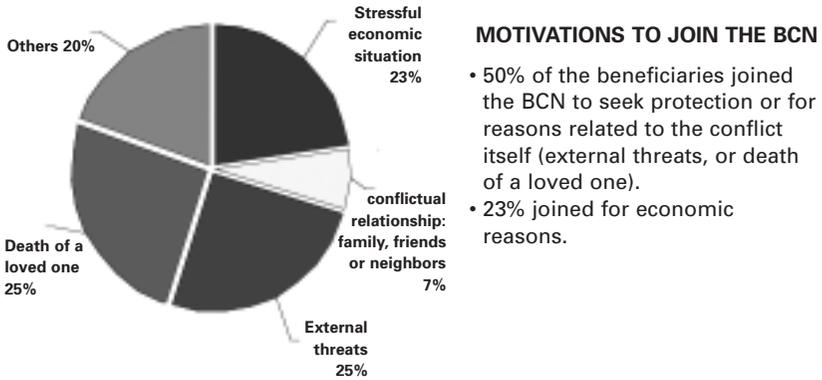
The framework for the demobilization of the Bloque Cacique Nutibara was the July 2003 agreement signed by the national government and the *autodefensas* in Santa Fe de Ralito. The November 2003 demobilization of the Bloque Cacique Nutibara thus took place in the context of a national, and still incomplete, process between the Colombian government and the *autodefensas*.

Members of the Bloque Cacique Nutibara turned in their weapons on November 25, 2003. The initial phase of the demobilization involved 868 people, of which four died during the first six months of the reincorporation. Between November 25 and December 16, 2003, the demobilized concentrated their forces in the municipality of La Ceja near Medellín. The process of intake lasted approximately three weeks, involving individual psycho-social testing, a review of identity papers and the issuance of i.d. cards, and the holding of workshops for comprehensive services and support. Negotiations with the Corporation of Democracy comprised of BCN leaders and members as well as community members continued in order to make the reinsertion agreement operational.

The *autodefensas* of the BCN controlled, or, better said, regulated the primary actors of the conflict in 40 percent of the city. That is, they more or less controlled some 500,000 people. The BCN had a presence in a horseshoe-shaped area around the city, and the *comunas* in which they operated were low- or medium-low-income areas.

One must keep in mind that no Colombian, whether a child, youth, or adult, has known Colombia as a country at peace. But why did young people join the Bloque Cacique Nutibara? Twenty-three percent cited reasons of economic necessity; 25 percent, reasons of personal revenge

Table 5.



(related to the death of a loved one); another 25 percent, because of external threats; 7 percent, because of conflicts with family, friends, or neighbors; and 20 percent, for other reasons. Thus, fully half joined to seek protection or for reasons related to the conflict itself, such as vengeance for the death of a loved one. Of course, someone else had to have done the threatening in order for these youths to have turned immediately to the *autodefensas*; but it also happens the other way around (i.e., the *autodefensas* issue threats, causing people to join the guerrilla militias). In both of these cases, the essential factor is that citizens seek out illegitimate authorities to solve their problems. Given the serious problem of impunity in Colombia, people use illegal means to resolve conflict. It is

Key Issues in the Negotiations Process

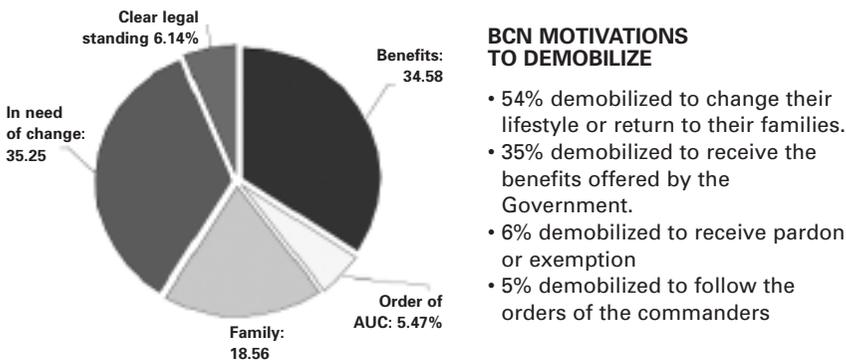
noteworthy that—even if the number itself is substantial—only 23 percent joined the BCN out of economic necessity. (See Table 5)

Before joining the Bloque Cacique Nutibara, what did these young people do? Forty-eight percent entered directly, having never before participated in combat activities; 9 percent came from the Colombian armed forces, and 37 percent had been involved in criminal activity as part of the *bandas* and *combos*. This calls attention once again to the need to carry out interventions with the *bandas* and *combos*, lest these forms of common crime become organized crime taking the place of lawfully constituted authorities.

What, then, were the individual motives for demobilizing? Fifty-four percent cited the need to change their lifestyle or return to their family; 35 percent, to obtain the benefits offered by the government; 6 percent, to receive a pardon or clear their legal standing; and 5 percent pursuant to the direct orders of their commanders. Given the high percentage of those seeking to return to their family or change their lifestyle, one can deduce that joining the *autodefensas* did not meet an individual's needs for protection or otherwise solve his or her problems. (See Table 6)

Further statistics provide a fuller profile. Eighteen and a half percent of the BCN reported that they demobilized to return to their families. But 95 percent of all BCN members have children, and this same 95 percent are 18 to 25 years of age. What they told us without exception is that they do not want their children to experience what they have gone through. The implication is that we must act now or be obliged to wait another genera-

Table 6.



tion. However imperfect the current process turns out to be, it is better than having to wait another 20 years to attempt something different.

We have learned many things over the course of implementing the programs we designed, both how it has been possible for the demobilized to find their place in the community and what has to be done for the community to believe them. The components of the intervention strategy involve legal and security measures, income generation, vocational training, psychosocial assistance, health care, and communications programs, and tracking, monitoring, evaluation, and verification efforts.

One of the initial tasks was to determine individuals' legal situations. A number had criminal charges pending when they opted to demobilize, and it has been up to judges and prosecutors to determine whether or not the crimes of which they are accused constitute *delitos políticos*; that is, it has been up to the Colombian judicial system to decide whether the crimes are pardonable in that they are related to the armed conflict, or whether they are common crimes and thus not subject to pardon. Six months into the demobilization, 26 persons had been detained, 24 of them for crimes prior to the demobilization, and two for crimes subsequent to it. Although we had expected the latter total to be higher, only two of the demobilized committed crimes subsequent to demobilizing.² Thus, even though the intervention model still has a way to go, it satisfied needs in the short term.

During the first six months of the reincorporation process, four of the demobilized were been killed in violent actions. This demonstrates that some actors still believe that problems should be resolved through violence, rather than through reconciliation and dialogue.

Security is an issue that still requires considerable effort, particularly because in similar peace processes in Colombia in the past, a great number of demobilized persons were subsequently killed. Security provided by the national government has covered only representatives and spokespersons of the Corporation for Democracy. But security has become a very important and sensitive issue for the local government, and requires a major effort to work with the families and the communities, precisely because the *autodefensas* were providing security in the communities. Where the constitutional forces of order should have been, they were absent, and the *autodefensas* won over the communities because they provided security. Part of what we have learned, then, is that as a local government, we must give logistical support to and coordinate with the police in order to control

Key Issues in the Negotiations Process

public order. To do this we have worked jointly with a police institution known as the Community Police.

Colombia has both community police and reactive police. The community police work much more to bring the police closer to the communities. Members of the community police are not even armed. Because the reputation of the police had deteriorated considerably in Colombia, the police, through the community police, are seeking to grow closer to the community and win its trust for the police as an institution. Previously, people trusted the *autodefensas* and told them what was going on and the *autodefensas* would solve problems in their own way. Our goal is for the police to win that trust, so that members of the community tell the police what's going on. We have therefore established "early warning" systems to prevent and react to violence and have assigned police agents who are suited to a peace process.

One has to remember that the BCN operated in some of the most violent parts of Medellín; and the police commanders in those areas had reputations as being the most battle-hardened or audacious in dealing with the problems of the war. Now that has begun to change. But the police also need to be convinced to become involved in the peace process and help us with those whom we have removed from violence. These individuals were actors in the conflict and served as violent role models for young people. Today, they are role models who can say, 'violence isn't the way, come see the other way, with the help of the government.'

The Medellín mayor's office provided assistance to the office of the High Commissioner for Peace to train beneficiaries to work with the community police on communication, based on the early warning systems in the communities in which they live. Others were trained under the auspices of the mayor's office to give preliminary psycho-social support to their former comrades. Moreover, 98 percent of the demobilized and their families have access to health care.

We have taken a novel approach to income-generation. Although the effort in past demobilizations was to find employment for all the *reinsertados*, we thought that was a simplistic and short-term solution. We took into account as a starting point the existing talents and capacities of each individual, and then continued with their educational training, either jointly or in tandem with job training. We have tapped their skills and trained them, first, to be better people, and second, to be able to enter the labor force on an

equal footing with any other person aspiring to a job. To that end, and with the help of academia and local governments, we are raising awareness with members of the private sector and with international cooperation agencies.

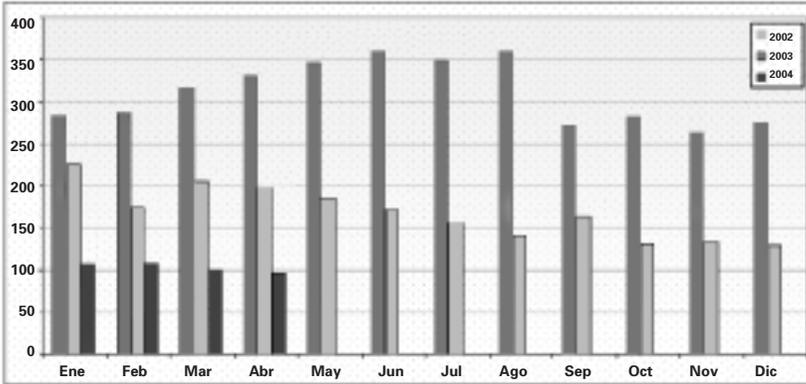
Some allege that all the money is in drug-trafficking. But I do not believe that drug-trafficking has permeated the *autodefensas* to that extent. Why do I say this? Because the demobilized have jobs sweeping the city's streets, cleaning ravines and river beds, maintaining and beautifying the city, providing general services in hospitals, maintaining telephone lines. They are cultural promoters, interviewers for surveys of street people and indigents, and field monitors and mentors providing psychosocial support for their fellow ex-combatants. Six months after the demobilization, fully 88 percent of beneficiaries were being paid for their activities.

We have undertaken a major effort with respect to education. In the first half of 2004, about 16 percent of beneficiaries were attending formal education classes. Of those, 22 percent were enrolled in elementary school, 43 percent in high school, and 35 percent in higher education. In the second half of the year, enrollment in formal education classes increased by almost 100 percent, with approximately two-thirds of new students enrolled in high school and one-third in elementary school. Almost 60 percent of beneficiaries were enrolled in non-formal education, including vocational training and training in micro-enterprise. In the first half of 2004, 20 demobilized members of the BCN were trained to form a cooperative for the distribution of dairy products, and another 20 to become distributors of cement and lime for the construction industry.

Psychosocial care for individual beneficiaries, their families, and communities is another important focus of our activities. Confidence building and community development strategies are aimed at bettering communication, fostering peaceful coexistence, respect, and tolerance, offering formation in core values, and providing education on drug abuse and sexually transmitted diseases. These efforts have been very important in making former combatants feel like human beings. They consider themselves, in their own words, to be the "scum of society" (*escoria de la sociedad*), so we have endeavored to rebuild their self-confidence. Efforts to strengthen the family include couples and family therapy, sex education, and the fostering and support of family-owned businesses. One of the largest components involves working with a non-governmental organization to conduct workshops for parents aimed at preventing domestic violence.

Table 7. Comparative Homicide Statistics for Medellín 2002–2004

During the first 4 months of 2004, the number of homicides diminished three-fold relative to 2002 and by 39% relative to 2003



Source: Office of the Attorney General

With the assistance of the U.S. Agency for International Development and the cooperation of technical agencies, we are putting in place a national system of monitoring and evaluation. The goal is to track the reincorporation process at an individual, family, and community level. The database will serve to identify shortcomings in the program so that decision-makers can tackle them in a timely fashion. The Organization of American States, through its Mission of Support to the Peace Process (MAPP/OEA), is verifying the cease-fire, disarmament, demobilization, and reincorporation phases. They are also supporting local initiatives in conflict areas, to promote confidence- and peace-building. The efforts of the MAPP/OEA are complemented by a local counterpart, the Antioquia Peace Commission; other actors include the church, NGO's, and local community organizations.

The demobilization of the BCN had an important impact on overall levels of violence in Medellín. According to the figures of the office of the Attorney General, the number of homicides in the city dropped dramatically in the first four months of 2004. During that time period, the number of homicides diminished three-fold relative to 2002, and by 39 percent relative to 2003. (See Table 7)

Although much remains to be done, we will spare no effort in the endeavor to preserve the lives of our citizens.

NOTES

1. Additionally, Decree 128 establishes the benefits for demobilized individuals.
2. All the demobilized go through the regular justice system, just as any Colombian.
The government has provided public defenders to the accused individuals to ensure that they have legal representation.

CONGRESSWOMAN ROCÍO ARIAS HOYOS
Colombian House of Representatives

I wish to set forth the reasons behind the legislative proposal regarding extradition that I submitted to the Colombian Congress. I would ask the international community to study the proposed bill through the lens of the essential principle of sovereignty. Sovereignty is to be understood as a country's power and independence, defined in its own constitution. The concept is especially important in ensuring the ability of future generations to develop and live in peaceful coexistence.

The bill I introduced over the course of two legislative sessions in 2004 seeks to amend Article 35 of the Constitution, so as to ensure that leaders of illegal groups who enter into a process of negotiation with the government not be extradited. A new paragraph to be included in Article 35 provides that there shall be no extradition of the members of illegal armed groups involved in the Colombian internal conflict who submit to a peace process or who submit to justice at the hands of the government.

Other provisions for extradition would continue intact and would not be abolished, contrary to what some have tried to suggest to the international community and the United States. The U.S. government is one of our main allies and partners in the areas of trade, education, health, and, most importantly, the struggle against drug-trafficking. The proposed legislation does not seek to create havens of impunity for the criminals engaged in drug-trafficking.

The United States of America is one of the leading powers in the world and in the Western hemisphere, in terms of its military and nuclear capabilities, not to mention agricultural production. If I tried to describe all the areas of American power, the list would never end. Yet one must also recognize that the United States is the greatest consumer of hallucinogenic drugs. Today the United States has one of the most important allies in the world for fighting drug-trafficking, and that ally is Colombia.

We believe that the time has come for President Bush to work with our country in favor of a peace process. The more than 20,000 men who wish to rejoin civilian life should have the support of the United States. In fact, the governments of the United States and Colombia stand most to benefit if these groups operating outside the law demobilize. Many of the men in these units who want to demobilize throughout the country are waging an

internal war against other groups operating outside the law. But this war is costly, as even the FARC and the ELN themselves have indicated.

If the peace process pursued by President Álvaro Uribe Vélez is successful, as I believe it will be, more than 20,000 men who today live in clandestinity and who patrol part of our national territory would join Colombia and the United States as allies in fighting drug-trafficking, a principal problem throughout the United States. In one way or another, these armed men are responsible for areas where drugs are cultivated. One of the conditions of this peace process is that they become guardians of the lands they defend, where, because of poverty, unemployment, and the lack of opportunity, they had to recur to practices that Colombia and all humankind reject today.

To carry out a serious peace process or a process of submitting to justice, it is necessary to offer a minimum of guarantees to the leaders of groups operating outside the law. It is fundamental and logical that there be juridical security—not extradition—for the men and women who do not want to continue this war. In a world awash in narcotics, these people do not deserve to be regarded in the same light as those who wish to continue to commit crimes and to massacre Colombians. The legislative proposal to suspend extradition for those who engage in the peace process needs the total support of the U.S. government and the entire world.

For illegal groups who express an irrevocable and ironclad desire to achieve peace, the commitment to a negotiated social pact in which they would lay down their weapons makes no sense if all that awaits them is a prison in the United States. As Colombians, we must be logical and pragmatic in building viable and effective opportunities for peace. Our policies must be aimed at the long-term.

The desire of some groups outside the law to seek peace represents a gesture that requires concessions from the Colombian government and from the United States. The principle of reciprocity in negotiations should be translated into concrete and bilateral acts of peace, in order to move the negotiations forward. These principles apply without distinction, to armed groups of the right as well as the left.

Colombia's internal armed conflict, characterized by punishable acts of terrorism, kidnapping, extortion, homicides *hors de combat*, and drug-trafficking, is and will continue to be among the constant struggles facing the U.S. and Colombian governments. These scourges have done much harm

in the world, but especially to Colombian nationals, both uniformed and civilian. Countless thousands have been killed by drug-trafficking in our beloved homeland.

There is a great difference between drug-trafficking as a criminal enterprise for private economic gain, and drug-trafficking as a means of financing, directly or indirectly, the military and political actions of the Colombian armed conflict. The two motivations are quite distinct and should not be equated. And the latter motivation clearly applies to the illegal groups involved in the armed conflict in our country.

This means that, in cases of extradition for drug-trafficking, one must make a distinction based on the motive for the illegal conduct. The distinction is important in order not to grant *carte blanche* to those who engage in criminal conduct for apolitical reasons, or generate havens of impunity for those who act out of economic or personal interest.

We cannot deny this basic logic, pretending to seek a successful peace process or submission to justice for the sake of the future of our country, if the peace negotiations are conditioned on flagrant threats of extradition. Lawyers and everyone else plainly recognize that extradition is an insurmountable obstacle to any peace process with the illegal armed groups. Given this fact, we need to set aside our prejudices and face reality.

The peace process initiated by the Uribe administration with some of the illegal armed groups is only a down payment in the effort to achieve peace in Colombia. We cannot ignore, however, that common citizens, members of the executive branch, and congressmen and senators see a genuine willingness on the part of thousands of men and women to achieve peace and return to civilian life. This is what has motivated approximately 150 legislators from both houses of Congress and from across the political spectrum to introduce the bill concerning extradition. We in the legislature want to see an even firmer commitment by the Uribe administration to the peace process, so that the clamor of thousands of Colombians who are calling for an end to the violence in many municipalities and regions is not in vain.

Extradition as a commitment pursuant to international law should be retained, but the Colombian state should consider and adopt a legal boundary, so as to provide guarantees to members of illegal groups involved in the internal armed conflict. These people should be afforded genuine opportunities within the peace process.

The international community, be it the United States, Europe, Africa or the most inhospitable corner of the earth, must know that there are millions and millions of Colombians who wish the world no harm and who play by the rules. This is why we cry out to the world not to leave us alone in the fight against drug-trafficking and terrorism. We have suffered 40 years of war; our country has bled and bled.

The participation of the international community is necessary to further this peace process. We appeal to the U.S. government to support the process wholeheartedly. The peace process with the Bloque Cacique Nutibara is a demonstration to the world of our desire for peace. Colombians currently enjoy a strategic partnership with the United States and with some European countries. These partnerships no doubt can strengthen and benefit us, but there will always be differences.

We must with great responsibility uphold our sovereignty, and safeguard the bilateral relationship for the sake of international cooperation for development and for the struggle against international crime and drug-trafficking. Although the international role in armed conflicts should be a constant, there must be limits that do not diminish our legitimate independence, our deepest interests as a nation, or our future hopes for peace.

A handful of men have damaged our society before the whole world, and they now want peace for our country. The United States has sought the extradition of some of them, something that we reject from every possible point of view. With whom would the negotiations take place, especially when the main leaders of the *autodefensas* are sought in extradition? Does a peace process make sense under these conditions? Isn't the support of the United States for that process important? The Colombian Congress has understood that we have to adopt legislation or a constitutional amendment to ensure that the leaders of the illegal groups not be extradited, in view of the fact that those now engaged in a peace process with the national government are sought in extradition.

Our legislature wants peace for Colombia. As I have indicated, there are more than 150 members of the House and Senate that have supported the legislation suspending extradition for those involved in the peace process. We are not attempting to dismantle extradition, although this is how our position has been portrayed internationally. We believe that extradition is one of the best tools for fighting drug-trafficking. But it cannot be the main obstacle to going forward with the peace process. I

Key Issues in the Negotiations Process

call on the government of the United States, the international community, and especially both houses of the U.S. Congress to accompany us in this process. There are more than 20,000 or 30,000 men who wish not only to silence their guns but also to stop tending coca crops in our country. All of us who want a better world for our children have to pledge our commitment to this effort.

The Role of Third Parties and Issues for the International Community

THE HONORABLE WILLIAM B. WOOD
United States Ambassador to Colombia

INTRODUCTION

Support for peace should be the easiest of decisions. But in Colombia it is not. Indeed, in Colombia the idea of a peace process with the paramilitaries is in many ways more controversial than similar processes with such notable “bad guys” as the RUF in Sierra Leone, the Tamil Tigers in Sri Lanka, or even, in some ways, the Taliban in Afghanistan or the Baath Party and the Republican Guard in Iraq. Some in Europe and the United States have been prone to specify conditions for what is and is not an “acceptable” peace. And the Colombians, by attempting to establish a legal structure through what was once the “Alternative Sentencing Bill” and then became the “Bill for Justice and Compensation”—in advance of any agreement—have gone through a similar domestic debate. In most circumstances, the process is reversed: the government strikes a deal and delivers a stark choice to the world—either support this peace or advocate continued conflict.

The Justice and Compensation bill—which enjoys the general support of the United States, the EU, and the U.N.—awaited adoption in the session of Congress that began on July 20, 2004. It was to have been adopted earlier in the year but fell victim to other urgent matters—reform of the penal code, passage of a tough new anti-terrorism law, and the first round of debate on a constitutional reform to allow re-election of the president. It also fell victim, I believe, to uncertainty about the future of the peace process itself, and the desire of the Colombian Congress to adopt a bill that would reinforce the chances for getting a good peace, without impeding the chances for an acceptable one.

Does this mean that the government of Colombia should accept, and the United States support, peace at any price? Obviously not. In the case of Colombia, we should not consider support for any peace process unless it offers a good chance of ending conflict with the faction in question; reinforcing democracy, justice, and the rule of law; reducing narcotics trafficking; and providing the foundation for long-term peace, social equity, and development. I am convinced that those are the goals of the government of Colombia.

But, after that, it gets murky. One interlocutor told me that he believed that durable peace with the paramilitaries required that 100 paramilitaries each go to jail for ten years. Or maybe a little less; he wasn't sure. I agree with him; I am not sure either. But I am sure of one thing: that we should defer to the democratic processes of the country that is waging the war. Colombia knows the cost of continued conflict and the benefits of future peace in a way that those of us outside the conflict cannot. And the strength of Colombian democracy gives the Colombian government the legitimacy to make the decision. That is the basis for the U.S. position that national reconciliation in Colombia is first and foremost up to the Colombians. And our desire to assist where we can be of assistance.

With that sort of metaphysical introduction, let's look at where things have stood.

PARAMILITARY PEACE PROCESS

In January 2004, six months after the AUC had declared a cessation of hostilities, President Uribe was so dissatisfied with the continued, albeit reduced, level of violence against civilians and continued narco-trafficking by the AUC that he launched a major initiative to force them to the next stage of the process: verifiable concentration of forces. He reached a controversial agreement in January 2004, ratified by the OAS on February 6, for the OAS to act as verifiers.

In early April, the talks looked as though they were breaking down. Carlos Castaño—historical leader of the AUC, drug trafficker and terrorist, fugitive from U.S. justice, and the loudest voice on the AUC side of the table for a negotiated peace—had disappeared. The leadership of the AUC increasingly was in the hands of long-term narco-traffickers without even the veneer of a historical political agenda. Peace Commissioner Restrepo had made a trip to Córdoba Department, where the talks were

being held, to reverse his previous efforts to get an agreement that included all major AUC factions and instead to simply see if any of the factions were willing to sign on; he was not successful. The U.S. embassy was loudly criticizing the paramilitaries for their open descent into unambiguous narcoterrorism. “They have lost their disguise,” was our cry (although it was never much of a disguise).

On April 27, 2004, President Uribe issued an ultimatum to the paramilitaries, which may have been a pivotal event. Its key elements were: (1) a first-ever accusation that the supposedly patriotic paramilitaries were targeting President Uribe for assassination, a true statement, (2) a statement that the peace process could not advance in the face of continued violations of the cessation of hostilities, drug trafficking, and other paramilitary violence, (3) a call for the paramilitaries to accept a concentration zone with clear rules, under OAS verification, (4) a threat that, otherwise, the government would continue to fight until they were annihilated, and (5) a confirmation that extradition was not a subject for negotiation. Although the United States had no hand in drafting this statement, we strongly supported it, most directly during Under Secretary of State Marc Grossman’s visit in early May.

Less than two weeks after that statement, the AUC leadership advised the government that they were prepared to sign the draft peace agreement. Key elements of the agreement were:

- The ten most senior AUC leaders, with their bodyguards, about 400 persons in all, would concentrate in an area of 142 square miles (less than 12 miles by 12 miles) for six months, extendable upon agreement by the parties.
- Concentration of leaders was an explicit first step toward development of a timetable for concentration of all paramilitary forces.
- Once concentrated, paramilitary personnel would enter and leave the zone only with express permission of the government and only for activities related to the peace process. (There continues to be discussion about how many paramilitaries can be allowed out of the zone at any one time.)
- The paramilitaries inside the zone would not undertake illicit activities, recruit, pressure, or threaten the local population or visitors, train, or order or coordinate illegal actions. (This is crucial: concentrated paramilitary leaders will retain responsibility for the actions of their forces.)

- Arrest warrants would be suspended for paramilitaries within the zone, but national law would continue in full force there and the government could take law enforcement action in response to any infraction. (So the government can respond to any infraction by the leaders, or their cadre.)
- The OAS would verify compliance, including by receiving an inventory of all communications equipment, arms, and ammunition held by the paramilitaries in the zone. (The communications equipment is important because it is the basis for the continuing responsibility of the leaders for their cadre.)
- The military and police would establish a security perimeter around the zone. The 11th Army Brigade already has made its initial deployments. (The government had not been able to station troops in this area for more than a decade.)

On June 15, the government promulgated decrees 91 and 92, creating the zone of concentration and formally beginning the process of negotiation toward a final peace agreement with the paramilitaries. That same day, the paramilitaries and the government announced that concentration would take place on July 1. This was two weeks later than the original date for concentration and skepticism regarding paramilitary compliance remained high.

The United States welcomed the beginning of peace negotiations on June 16, emphasizing the contribution that a credible peace process could make toward ending the violence, the importance that the process in no way prejudice the extradition of Colombians indicted in the United States, and the need to bring gross violators of human rights and major drug traffickers to trial. In Colombia, the embassy has emphasized steadily in its public statements that the agreement is only as good as paramilitary compliance makes it. AUC leaders have requested the presence of the United States at the negotiating table. We have made clear that we would not even consider such a step.

ELN PEACE PROCESS

As the peace process with the paramilitaries was taking its most recent steps, on May 30, 2004, President Fox offered Mexican “facilitation” for a peace process with the ELN, one of the oldest, but now the weakest Colombian illegal armed group. Recent press accounts have noted that

the ELN seemed to have only three options: (1) to lose on the battlefield, (2) to be absorbed by the FARC, which has a totally different approach and to which the ELN has lost both territory and stature, or (3) to negotiate with the government. European repudiation of the ELN following the kidnapping in the fall of 2003 of European and Israeli eco-tourists may have influenced the ELN to move toward peace talks. The successful negotiations by the government that achieved their safe release—without damaging concessions—may have indicated that, unlike the FARC, the ELN could be dealt with and would comply with its commitments.

President Uribe has called for “prudence” in developing an ELN process, not least to limit the ability of the paramilitaries and the ELN to play two separate processes against each other. Nevertheless, on June 2, the government made an extraordinary gesture: it released for one day convicted ELN leader Francisco Galán to meet with Vice President Santos and Peace Commissioner Restrepo, and to deliver its position in the national congress, at a meeting on anti-personnel mines. Although the ELN response, calling for a bilateral cessation of hostilities (the equivalent of renunciation of government authority) and immediate release of all so-called political prisoners was not acceptable, the process continues. On June 16, Mexico named experienced diplomat and former ambassador to Colombia Andrés Valencia as facilitator; on June 18 he met with Peace Commissioner Restrepo for the first time and shortly thereafter with Mr. Galán in an extended get-acquainted session. On June 24, the ELN Central Council named Galán as their official negotiator, indicating continued interest in the process. I met with Ambassador Valencia in June 2004. I assured him that the United States has long supported a process with the ELN, provided it met president Uribe’s pre-condition for all such talks—declaration of a unilateral ceasefire—and was a serious process. We will have to see how it unfolds.*

* The ELN in response insisted, among other things, on a bilateral cease-fire and the release of what it called political prisoners and prisoners of war. In December 2004, the ELN indicated its willingness to support a candidate in the country’s 2006 presidential elections. While some Colombian opinion leaders praised the ELN’s interest in participating in the political process, others called guerrilla support for any candidate counter-productive unless the ELN had entered into a cease-fire or had laid down its arms. [ed.]

FARC PEACE PROCESS

In the interest of completeness, a few words about the peace process—or the lack of one—with the FARC. The FARC has made numerous overtures through the U.N., the Church, and other intermediaries. With the U.N., the FARC was seeking simply an initial meeting, but the preparatory talks foundered over the nature of the event: the U.N. wanted a serious discussion on neutral ground; the FARC wanted a media event involving either concession by the government of secure territory inside Colombia for the talks, or recognition of FARC status in some form by a foreign host government. The talks broke down. More to the point, the FARC have never come close to accepting the unavoidable pre-condition of the government for a peace process: a unilateral declaration of a cessation of hostilities, to include an end to narco-trafficking.*

I have held two final topics for last, because they are meant to apply not to any specific peace process, but to any process with any of Colombia's terrorist groups: the legal structure for peace under the draft Law of Justice and Compensation, and the organizational preparations made by the Colombian government to implement demobilization and reinsertion of armed groups.

LAW OF JUSTICE AND COMPENSATION

The draft Law of Justice and Compensation evolved substantially after it was first introduced in mid-2003. In essence, it provides a legal structure in the event that an illegal armed group declares a unilateral cessation of hostilities, signs a final peace agreement, and provides the government with a list of its members to be considered for benefits under the law. If, at any stage, an individual ex-combatant fails to fulfill his obligations under the law, he immediately loses the benefits and becomes subject to

* In August 2004, the Uribe government offered to release from jail some 50 members of the FARC imprisoned on charges of rebellion, provided they were sent abroad or entered a rehabilitation program. In return, the FARC was to release a similar number of politicians, military and police personnel, and the U.S. contractors being held hostage. The initiative foundered for many reasons, including the FARC's demand for a new demilitarized zone in southern Colombia. By the end of 2004, the FARC rejected a government offer not to extradite to the United States senior guerrilla commander Rafael Palmira if the hostages were released. [ed.]

full law enforcement action. The steps in the draft reintroduced by the government in April 2004 are as follows:

- The ex-combatant promises to meet the requirements levied by a new “Tribunal for Truth, Justice, and Compensation” regarding assisting victims, paying compensation, and cooperating in further peace-making. In particular, he must assist the prosecutors and the Tribunal in examining his case, and disclose his economic assets.
- The Prosecutor General reviews the ex-combatant’s record, condenses all charges into one case, and sends its recommendations for a normal sentence to the Tribunal. The Tribunal reaches a verdict and sets the sentence; at that point the individual has been formally convicted and sentenced according to the usual Colombian norms.
- Then the Tribunal sends the case to the president, with its recommendation that the ex-combatant be given or denied benefits; i.e., an alternative sentence. If the recommendation is denial, the individual receives the full sentence and the President (really the Ministry of Justice and Interior, which is responsible for the prison system) determines where he will serve it.
- If the recommendation is to grant benefits under the law, the president makes a final decision in favor or against benefits for the individual, and returns the case to the Tribunal. Again, if he decides against benefits, he determines where the sentence will be served.
- If the president decides in favor of benefits for this individual, the Tribunal sets the “alternative sentence,” between five and ten years of prison, and imposes obligations for compensation and peace-making actions. Again, the president determines where the sentence will be served.
- After serving his sentence and fulfilling all other obligations, the beneficiary is placed under supervised parole for ten years (or five years if he had received the minimum alternative sentence of five years).
- If, at the end of that period, the individual has fulfilled every obligation, he is a free man.

Several comments are warranted. First, this law was meant for the leaders and most violent members of these organizations. Only those found personally responsible for major violent crimes or narco-trafficking would pass under it. Most members of illegal armed groups would

probably be found to be guilty only of so-called political crimes, which would be amnestied.

Second, the payment of compensation under the law should not be confused with restoration of stolen or wrongfully acquired property. Compensation is in addition to restoration of illegally acquired property. So the former combatant would face both confiscation of illegal assets and compensation for illegal actions paid from possibly legal assets: two blows to the pocketbook.

Third, no promises regarding extradition are made or implied in any part of the law.

Finally, as of mid-2004, the law was still in draft form and not one but both terrorist organizations involved in peace talks would react to it at the negotiating table. The government, and Peace Commissioner Restrepo in particular, have been very, very firm regarding jail time, compensation, and extradition, in spite of intense pressure from the paramilitaries. The ELN was likely to adhere to much the same line. The United States, the Europeans, and the U.N. have all said that they can generally support the draft as re-presented by the government. We will continue to support a tough line with terrorists.

DEMOBILIZATION AND REINSERTION

The government's plans for demobilization and reinsertion are also meant to apply to all groups entering a peace process. But there clearly will be operational differences if only because of the difference in size between the few thousand ELN members and the much larger AUC paramilitaries.

In general, the process is under the control of, first, the Peace Commissioner during the negotiations, second, the Ministry of Defense during the concentration and demobilization phase (which includes identification by the National Civil Registry and judicial interrogation by the Prosecutor General), and third the Ministry of Justice and Interior during the reinsertion phase, with the assistance of a number of other governmental and non-governmental social entities to help with health, education, and placement. The OAS accompanied the Peace Commissioner at recent negotiating sessions—not as a mediator but as an adviser to the government—and is responsible for verification of all operational phases.

The Medellín-based demobilization of the Bloque Cacique Nutibara, discussed by Gustavo Villegas, has reached the final stages of reinsertion and has many practical experiences to share. But the government's national effort has not yet passed the initial negotiation stage with any group. As I indicated, it was only on June 15, 2004, that the government formally ended the pre-negotiation phase with the paramilitary AUC group and began final negotiations.

The negotiation phase with the AUC paramilitaries has been difficult. Reports are that the disappearance of Carlos Castaño was related to his willingness, in contrast to the other AUC negotiators, to accept government demands, and that he was a source of internal dissension and insecurity among AUC leaders. Reports are also that Dr. Restrepo has taken a very tough line, through shouting matches and threats to leave the table; President Uribe's high popularity and the growing possibility of re-election give Restrepo a strong negotiating base.

Negotiations are taking place only within the limits of the April 27, 2004, declaration and the draft Law of Justice and Compensation, although the paramilitaries regularly attempt to sidestep both. As a result, the discussions have operationally related to two chief subjects: modalities for the concentration of the leaders, and the subsequent concentration and demobilization of their forces. Regarding the modalities, there already have been heated disputes regarding, for example, access by the paramilitaries to media and other outsiders. Regarding concentration of the rank-and-file, the first goal is to establish a calendar for concentration and demobilization. The government's goal—a hopeful one—is to concentrate up to 4,000 paramilitaries by the end of 2004.

The concentration and demobilization phases are modeled after the government's experience with some 4,000 deserters from all the terrorist groups. Each former combatant would be identified, not least to enable a check of criminal records for past crimes (not an easy task, for instance, for paramilitaries carried off as child soldiers years ago). The Defense Ministry would debrief for intelligence about the organization and operation of the paramilitaries (the deserter program has been an important source of such information). The Prosecutor General would interview the former combatant for information relating to possible prosecution, application of the law of Justice and Compensation, and general legal issues. Following satisfactory interviews, the ex-combatant would sign a pledge

to permanently separate himself from the organization and its activities, acknowledging that any failure to cooperate would leave him open for full action of law enforcement. That would constitute formal demobilization.

Finally, entry into the reinsertion program and preparation for reinsertion. This phase is supposed to last for no more than a year for each *reinsertado*, except in the case of child soldiers. In all cases, it is expected that the national Institute for Family Welfare, the Ministries of Health and Education, the national Training Institute, and a number of others would work to prepare the ex-combatant for return to normal life in body and mind. In cases where ex-combatants want to return to farms or other places they formally worked, they normally would be allowed to go. In other cases, they would be prepared for some sort of regular work. They would receive a stipend during this period, in exchange for cooperation and work that did not interfere with the other tasks of this phase.

Estimates have placed the cost of the whole demobilization process at about \$8,500 per head, or more than \$42 million for 5,000 *reinsertados*. The government is still defining the specific elements of the program, so the precise numbers were still unavailable by the end of June 2004. They may even be affected by the negotiations themselves, so we may not be able to know the costs in complete detail for a while longer.

Although the cash-strapped government will pay the lion's share of the cost of concentration and demobilization, they need help on the more "humanitarian" reinsertion side: they are requesting that the international community contribute up to \$5,700 per *reinsertado*. We are studying the policy, budgetary, and legal implications of U.S. assistance. One thing is clear: the cost of reinsertion for each ex-combatant would be substantially lower than the costs of his continued illegal activity plus the cost of confronting and defeating him militarily. Not to mention the continued suffering by the population and the armed forces that would entail. A good peace is also a good deal.

The OAS verification mission has also faced financial difficulties. The United States provided several hundred thousand dollars to help OAS mission head Sergio Caramagna launch his office. The government just provided \$1 million for further preparation and development. But long-term funding is unclear. Until that is pinned down, Caramagna, who is working almost alone, says he is unable to write contracts with the experts he needs to do the actual work. In addition, Caramagna says that he has

critical needs for vehicles and communication gear: in all such operations, mobility and communications compensate for not having sufficient personnel to be in all places at all times. Sweden offered to send an expert to work in Caramagna's office, who will also come with some equipment. The U.S. government recently reached a decision that continued assistance to the OAS effort is legally possible for us if there are no changes in the program. But, since the program is still in development, there will be changes; so we are working to broaden that decision.

BOTTOM LINE

I would like to leave you with some concluding thoughts:

- This is hard. Finding a balance between peace and justice necessarily implies that neither goal will be served perfectly, so judgment is a key factor. The draft Law of Justice and Compensation has been toughened substantially since its introduction precisely because voices inside and outside Colombia didn't think the first draft got it exactly right. That debate will continue inside and outside Colombia.
- This is uncertain. The paramilitaries are composed of many different kinds of people: Child soldiers who never had a chance to know better. *Campesinos* who may have been caught up in a struggle they did not understand or may have felt that their safety and the safety of their families required that they ally with one armed side or another. Thugs and psychopaths looking for a way to realize their desire to prey on society. Leaders who range from those who once may have had an ideology but slipped into narco-trafficking and abuse over the years, to the hardest-core, most cynical, most cruel drug lords on the face of the earth, hoping to use the so-called political aspects of the movement to disguise and shield their real activities. And leaders-to-be waiting for their time when they can order the depredations, and reap the profits. By the way, the other illegal armed groups share this horribly mixed profile. In no plausible scenario will all of these persons participate in good faith in any meaningful peace process. But to be able to pull 1000, or 5000, or, optimistically, 10,000 fighters off the battlefield, in the country with the largest, and longest-lived terrorist movement in the world, is a goal worth working for.
- Finally, this is a necessary part of our policy, both as a part of our partnership with the Uribe Administration and as part of our unre-

The Honorable William B. Wood

lenting war on terrorism and narco-trafficking. Just as we support alternative development to undermine the economic and social structure that has contributed to the growth of narco-terrorism, we must also support a “pull” strategy to complement our forceful “push” strategy to destroy the political and military structure of the illegal armed groups. And we have to get it right.

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The Organization of American States' (OAS') participation in the peace process in Colombia originates with events that took place in 2003. During that year, the Colombian government increasingly approached the OAS for support in dealing with its internal armed conflict. The OAS responded by issuing declarations and resolutions supporting the Uribe administration and condemning terrorism. A first example was a resolution passed by the Permanent Council, which condemned the terrorist bombing carried out by the FARC at the El Nogal hotel and social club in Bogotá in February 2003.* The resolution passed following an unprecedented address by Colombian Vice President Francisco Santos to the Organization. For the first time, the government of the Colombia had come to the OAS asking for its support in dealing with the internal conflict.

Later in 2003 and within the framework of the OAS, the Second Special Conference on Security held in Mexico issued a declaration fully supporting the policies of President Uribe to combat terrorism. The Declaration of the Special Security Conference on the Situation in Colombia, adopted on October 28, 2003, called upon the international community to "...support a prompt start to negotiations, and the demobilization, reconciliation, disarmament, and reintegration programs needed to achieve, in a just and transparent manner, the reincorporation into civilian life of the members of illegal armed groups."

That same month, President Uribe approached OAS Secretary-General César Gaviria to ask if the OAS could assist in the demobilization of members of the AUC already underway in the country. The Secretary-General told him that the OAS could, indeed, help out, noting the OAS' prior experience with demobilization of the Nicaraguan

* Permanent Council Resolution 837 was adopted on February 12, 2003. The Resolution expressed its "profound repudiation of the despicable terrorist attack carried out by the FARC on February 7, 2003, in Bogotá and ...pledge[d] its cooperation in pursuing, capturing, prosecuting, punishing, and, when appropriate, expediting the extradition of the perpetrators, organizers, and sponsors of this act."

Resistance (“contras”) in Nicaragua, carried out under the auspices of the OAS’s International Support and Verification Commission (*Comisión Internacional de Apoyo y Verificación*, CIAV). The CIAV’s verification and demobilization tasks were carried out exclusively by civilian personnel.¹

Following the informal discussions between President Uribe and Secretary-General Gaviria, the OAS was invited to witness the demobilization of the AUC’s Bloque Cacique Nutibara in Medellín, on November 25, 2003. A representative of the OAS was also present at the demobilization of the *Autodefensas Campesinas de Ortega* in Cauca on December 7, 2003.

The more formal relationship between the OAS and the Colombian government dates from January 23, 2004, following the signing of the “Agreement between the Government of the Republic of Colombia and the General Secretariat of the Organization of American States on Monitoring the Peace Process in Colombia.” The agreement established the OAS Mission to Support the Peace Process (*Misión de Apoyo al Proceso de Paz*, OEA/MAPP). Sergio Caramagna, former chief of the CIAV mission in Nicaragua, was named head of the OEA/MAPP. The agreement specifies that the role of the OAS is to verify the cease-fire and cessation of hostilities, demobilization, disarmament, and reintegration initiatives undertaken by the government in connection with the peace process.

Following that agreement between the Secretary-General and the Colombian government, the Permanent Council passed a resolution of “Support to the Peace Process in Colombia.” This Resolution formally authorized the creation of the mission and also made clear that the OAS’ 34 member states support the Colombian government’s peace process and the peace initiatives undertaken by the Uribe administration.

Several aspects of the resolution passed by the OAS are worth highlighting. First, the OAS mission’s mandate is a broad one. It is not simply to assist in the demobilization of the paramilitaries but rather, to support the peace process as a whole, including any eventual negotiations with the ELN or the FARC. The OAS thus has a mandate to support the Colombian government in talks with the guerrillas if and when that assistance is requested. This aspect of the mandate is important, as many perceive the OAS as only working with the paramilitaries. While that may be true for now, the mandate to support the peace process is much broader.

Another important aspect of the mandate concerns human rights. The Permanent Council Resolution stated specifically that:

“The Permanent Council resolves to insure that the role of the OAS is fully consistent with the obligations of its Member States with respect to the effective exercise of human rights and international humanitarian law and to invite the Inter-American Commission on Human Rights to provide advice to the Mission.”

These human rights provisions were included in the resolution adopted by the OAS. The OAS mission is required to report on a regular basis to the political bodies of the organization, by issuing quarterly reports to the Permanent Council and an annual report to the General Assembly. This provides for almost constant oversight from the member states. Nevertheless, the mission in Colombia is absolutely independent and autonomous.

Representatives from the OAS Mission were present at the negotiations between the Colombian government and the AUC on May 13, 2004, at which time the parties agreed to establish a *Zona de Ubicación* (Location Zone) in Tierra Alta, in the province of Córdoba, to facilitate the continuation of talks. Within this so-called Location Zone, the OAS forms part of a *Comité de Seguridad y Convivencia* (Security and Coexistence Committee). The committee has one representative from the OAS, one from the office of the High Commissioner for Peace, and one from the AUC, and is charged with making decisions regarding logistics, security, communications, and the entry and exit of visitors. It essentially controls the internal rules for the *zona de ubicación*.

In addition, the OAS was to carry out an inventory of the weapons possessed by the AUC in the zone, and was to receive a report on the communications equipment held by both civilians and the AUC within the zone.

The mission began its work with civilians in the zone, engaging in confidence-building measures, reconciliation efforts, and carrying out “*sensibilización*” activities aimed at raising awareness and providing information about the peace process. In the view of Chief of Mission Sergio Caramagna, one of the mission’s most important activities involves receiving citizens’ complaints about violations of the cease-fire. These com-

plaints—heard only by the OAS, not the government or AUC—are brought to the negotiating table through a *Comité de Verificación* (Verification Committee). Like the Security and Coexistence Committee, the Verification Committee is composed of one representative each of the Office of the High Commissioner for Peace, AUC, and the OAS Mission.

The negotiations themselves began in Tierra Alta on July 1, 2004, within the 368 square kilometers of the Location Zone. The size of the zone makes it possible for the OAS to verify what is taking place within its limits. If it were too large, the verification process would not be viable. Secretary-General Gaviria insisted on this issue from the beginning. He also insisted that in order for there to be an effective verification, there had to be a concentration of AUC forces.

The OAS mission established six regional offices in addition to the central headquarters in Bogotá. These offices were located in Montería, Villavicencio, Valledupar, Medellín, Cúcuta and Barrancabermeja.* The aim is to establish a national presence, a foot-print, so to speak. Each office will have only one or two staff members at the outset, a number that can be expanded later if the process continues and extends throughout the country.

The funding of the mission has been a key issue since the very beginning. As of June 2004, the mission had received funds from the United States and Colombia, as well as the Bahamas. The Bahamian donation is noteworthy because the Bahamas pays a yearly quota of \$20,000 in support of the OAS. Yet the country gave \$5,000 in support of the peace process. In relative terms, that donation is quite impressive. The Dutch government in December 2004 donated close to \$1 million. In addition, the Swedish government financed a Swedish verification officer to work in the mission. Other countries have also promised equipment, funding, and perhaps personnel.

The attitude of the international community toward the mission changed measurably as a result of nascent conversations with the ELN. There is growing awareness, particularly in Europe, that the peace process is broader than the talks with the paramilitaries.

* Under-staffing of the OAS mission meant that some offices closed temporarily so that personnel could move to areas of upcoming demobilizations.

The role of the OAS in the Colombian peace process is to provide monitoring and support, not to intervene or issue public declarations concerning pending legislation in the United States or concerning actions of the Colombian government. The OAS is not in Colombia to tell Colombians how to conduct their business. From the beginning, Secretary-General Gaviria has called on the international community to respect Colombian institutions and allow them to work. This is not to say that the mission won't have opinions about the peace process or that these opinions will not be expressed to the government. The OAS has not, however, been asked to mediate, and does not intend to make a public spectacle of the negotiations. The OAS is in Colombia to assist the parties.

As part of that effort, the OAS will make certain that decisions or agreements made by Colombia's executive branch, congress, courts, or civil society comply with international human rights standards. This is a key aspect of the OAS resolution creating the mission. At the same time, OAS officials are realistic and understand that any peace process in Colombia is going to be complicated, drawn out, and will likely involve trade-offs. As the Secretary-General has noted, carrying out the peace process is like fitting together a jigsaw puzzle, piece by piece and stage by stage. It is unrealistic to expect that in six months everything will have been resolved. The current situation in Colombia is not ideal for carrying out the kind of verification we propose. But senior officials of the OAS firmly believe that international participation in the peace process can ultimately help reduce narco-trafficking, crime, and human rights abuse. OAS involvement brings transparency to the process. In the end, members of the organization realized that they could not turn their backs on a member state that asked for help, especially because the issue of armed conflict in Colombia constitutes one of the most pressing in the hemisphere.

NOTES

1. The first stage of the demobilization involving approximately 23,000 members of the Resistance counted on the support of troops under the auspices of the United Nations. After they left, the CIAV worked without any support from the military or military advisors and demobilized 15,000 people exclusively with civilians.

DANIEL GARCÍA-PEÑA
Director, Planeta Paz

It is very important to distinguish between the paramilitary phenomenon as a whole, and the AUC as a specific military component within this broader picture. This distinction raises a key question about the peace process with the AUC: is the objective to end paramilitarism and dismantle a complex historic phenomenon, or is it simply to demobilize and somehow re-legitimize specific AUC leaders or combatants? The participation—or lack of participation—by third parties from Colombia or the international community has to do with these questions about the nature of the process. In addition, the nature of the process with the paramilitaries is different from past peace processes in Colombia with guerrilla groups, even though, in their current practices, the FARC and the AUC are more and more similar.* In other words, one has to distinguish between different kinds of “bad guys,” to use Ambassador Wood’s term, to determine what policies are needed to address different forms of violence in Colombia and demobilize different armed actors.

In my view, one very clear issue differentiates the paramilitaries from the insurgent armed left, and that has to do with the relationship between paramilitarism and the Colombian state. No one has ever alleged that the FARC was supported by the Colombian army or Colombian state, for example, whereas for the paramilitary phenomenon, the relationship to the state is central. As Rafael Pardo noted, some view the paramilitary phenomenon as simply an extension of state policy and state terrorism. On the opposite side are those that claim that paramilitarism is a reaction by the civilian population to the lack of state authority or control of territory. Both explanations hold as central the role of the Colombian state,

* In June 2004, members of the FARC perpetrated a massacre in La Gabarra, Norte de Santander, using tactics and methods very similar to those used historically by the paramilitaries.

The U.N. Office of the High Commissioner for Human Rights in Bogotá qualified the attack as a war crime, involving the premeditated murder of 34 civilians and the wounding of 7 others. See Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, “Condena por massacre en La Gabarra,” Comunicado de Prensa, Bogotá, June 16, 2004. [ed.]

either through its presence or absence. If that issue is essential, then understanding what policies are needed to dismantle or do away with the paramilitary phenomenon goes far beyond the AUC and pre-dates its founding. *Paramilitarismo* in Colombia comes out of a long tradition in which members of the Colombian elite hired hit-men to kill off members of the opposition. In the years of *La Violencia*, the hitmen were called *pájaros* (birds), not paramilitaries. Whatever the name, what is involved is the use of violence by those in power to maintain power. The real question, then, is to determine how to overcome the recurrence of paramilitarism throughout Colombia's history.

Many in the NGO community and on the democratic left in Colombia find it difficult to use the term “peace process” to refer to the talks with the paramilitaries. To have a peace process, there has to first be a war. But there is very little evidence of any serious attempt by the Colombian government—not just the Uribe government but all recent governments—to wage war against the paramilitary groups. It is true that under this administration, the number of paramilitaries killed or captured is greater than before. But if one looks at the dimensions historically, and if the objective is to dismantle the paramilitary phenomenon, then the issue of state responsibility has to be considered.

The state does not bear sole responsibility for the paramilitary phenomenon. The paramilitaries have a social base, and there are economic reasons for paramilitarism as well. The guerrillas also bear some responsibility for paramilitarism through their widespread use of kidnappings. Indeed, had the guerrillas not employed kidnapping as one of their principal methods, paramilitarism might not have taken the hold to the degree that it has.

But the question of state responsibility continues to be essential, differentiating the current process from those of the past and raising a question about the content of the negotiations. Is this a peace process to negotiate a political agenda, or is it about *sometimiento a la justicia* (submission to justice), by which members of an armed group turn themselves in and face the corresponding charges? This is a key question that has not yet been answered. In fact, when the Uribe government submitted to Congress its revised alternative penalties bill, the AUC issued a statement saying very clearly that they wanted a negotiation process, not a process of *sometimiento*. But what are the issues that are going to be negotiated?

The lack of clarity led to a great reluctance on the part of non-governmental organizations to become involved. In addition, the process with the paramilitaries began without the participation or input of civil society or third parties from the international community. Many in the NGO community believed that to become involved would legitimize a process that was highly illegitimate from the beginning. The government's policy was not initially discussed in any open forums. The initial draft law on alternative penalties was not even discussed with some of the members of the Congress who are closest to the president. Given the government's great reluctance to open up debate, the Congress's *audiencias públicas* (public hearings) were so important. Nonetheless, civil society organizations and members of the international community remain reluctant to get involved. In an initial meeting with Sergio Caramagna, the head of the OAS mission, one of the first things he said was that he feels alone, that no one wants to talk to him, that no one wants to engage in the process. This has to do with how groups in civil society view the possibilities of the negotiation process with the paramilitaries. There are still many more questions than answers about the nature of this process.

To attempt to deal with any armed actor or resolve any manifestation of Colombia's violence is positive. Those of us who have fought and worked for a long time for a negotiated end to the war in Colombia would have to celebrate and welcome an effort to deal with the paramilitary phenomenon. The debate over this subject has not only begun to open up, but also to introduce new issues—truth, justice, and compensation—into the peace process. By way of self-criticism, I note that those of us on the left began to speak of these issues only in light of the negotiations with the paramilitaries. During President Pastrana's peace process with the FARC, no one talked about truth, justice or compensation. It is important that these concerns are in the forefront now, and not only in the context of the talks with the AUC. What standards are set in the talks with the paramilitaries—whether there will be high degrees of impunity or not—will set the limits for future peace processes.

Colombia is a very polarized society. On the one hand, those who were critical of the negotiations with the FARC, and who demanded tough sentences and penalties for FARC leaders, are the same people who, in the current context, maintain that we have to be lenient with the AUC because they want peace and we have to understand their motives. On the

other hand are those who are critical of the AUC process, but who tend to see a process with the FARC differently, in that they are political rebels and thus have to be amnestied. This polarization forces us to take a hard look at the issue of accountability, regardless of whether one stands on the right or the left, and establish a common context for all.

It is worth noting that the national and international context is different than it was ten years ago, when Colombia held talks with the M-19 and other guerrilla groups. Today there is an International Criminal Court and international jurisdiction for crimes against humanity. Today, Colombian laws have limited the possibilities, for example, of extending amnesty in cases of kidnapping. It was possible to grant amnesty for kidnapping in the early 1990's, but today it is against Colombian law

One also needs to keep in mind the broader context of Colombian political processes. Paramilitary groups have not only killed and forced the displacement of many people, they have also undermined democracy in many areas of the country. In the last regional elections held in October 2003, for example, there was only one candidate who stood for office in the departments of Magdalena and Sucre. Each of them received the official approval of the paramilitaries, and there was simply no opposition to them in the race for governor. In Cúcuta, the mayor is now in jail accused of having links to the paramilitaries. So there are questions broader than the individual ones of reparations, compensation, and punishment that have to do with the very defense of democracy.

The existing process with the AUC is fraught with uncertainty. The first agreement signed in Santa Fe de Ralito in July 2003 established a deadline at the end of 2005 for the demobilization of the entire AUC. Yet some AUC leaders would like to forget that deadline, maintaining that that agreement was signed by Carlos Castaño, who has since disappeared and is presumed dead. It is important to hold the AUC to its initial commitments, including the cease-fire. A different matter concerns the definition of "hostilities;" what constitutes hostilities for a group that, by its mandate, has never attacked the Colombian state? Hostilities would normally be understood as a military action against government troops, but the AUC does not carry out such actions. What does a cease-fire mean for a group that assassinates civilians and threatens people who run for office?

The beginning of a debate over these issues, both in Colombia and internationally, has been positive. I agree with those who have argued

that the government's revised alternative penalties law still invests too much power in the executive branch, and does not preserve judicial independence.

But it is also important to keep in mind the larger picture, which has to do with Colombian politics and the way future peace processes will be carried out. The Uribe government's policies toward the AUC are a part of a broader policy toward the conflict and toward the consolidation of democracy. President Uribe is seeking a second term and advancing profound reforms that would, in many respects, do away with the democratic guarantees of the 1991 Constitution. These measures include proposals to limit the power of the Constitutional Court and the reach of provisions regarding *tutela* (writs of protection). On matters of human rights, President Uribe gave a speech on September 23, 2003, in which he assailed Colombian NGOs as being sympathetic to terrorists. What does this mean for the future of democracy and peace in Colombia?

One can state rhetorically that the government should negotiate with all the armed groups, with the FARC and the ELN. The alternative penalties law supposedly would apply to them as well. But until we understand how the paramilitaries will be dealt with, we cannot determine whether the paramilitary process will impact favorably or not on the chances for negotiations with other groups. Will the process deal with the paramilitary phenomenon in its broader sense: with the support networks, questions of state responsibility, and issues of the political process? Only when these questions are answered can we see whether or not the current process will help in the search for future negotiations with the FARC and ELN.

It is positive that the ELN has reconsidered its stance that there is no possibility of negotiations with the Uribe government. But it would be a mistake to forget that the ELN has profound differences with the Uribe government and with any notion of symmetry in a peace process. That is, the ELN wants a political negotiation that is broader than a process of *sofocimiento*. It does not want to be placed on the same level as the AUC.

Although I remain very critical of President Uribe and have many differences with his policies, I believe that the process with the paramilitaries needs to be viewed as an opportunity. President Uribe has unprecedented political conditions to move forward in a positive direction with respect to the paramilitaries. He has enormous levels of sup-

port. The Colombian armed forces have regained the initiative in the war against the insurgency. President Uribe has taken from the AUC its banner that it is the only force countering the insurgency. If the government were serious about wanting to dismantle the paramilitaries, it would have unique national and international conditions favorable for doing so. Unfortunately, there is very little evidence of any intention to deal with the broader picture. On the contrary, everything seems to indicate that what is up for discussion is the specific issue of demobilizing the AUC, preferably at a low cost. This will not only not help the peace process as a whole, but will also broaden and deepen the conflict, making future negotiations with the FARC and the ELN that much more difficult.

MICHAEL FRÜHLING
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The negotiations between the Colombian government and the country's illegal armed groups raise several important issues for the international community. These issues are, or should be, in the shared interest of Colombia and the members of the international community, because Colombia is, in the view of the United Nations High Commissioner for Human Rights office in Colombia, an advanced, democratic state governed by the rule of law. There are problems and limitations, to be sure, some of a structural nature and others due to circumstances including the armed conflict itself. But Colombia is a democratic state, with aspirations to develop its democracy and consolidate the rule of law.

Colombia is also an important player in the international community. It has assumed the obligations and values that have been developed and agreed upon by states, in particular the democratic ones, since the Second World War. These values and rules are reflected in the international instruments regarding human rights, international humanitarian law, and international criminal law. Colombia incorporated human rights obligations into its 1991 Constitution, one of the most advanced in the region. The Constitutional Court has served as an important guarantor of Colombia's human rights and other international law commitments.

The instruments governing human rights and international humanitarian law and the more recent developments in international criminal law reflect values but also contain constructive guidelines and rules for how to behave in different situations. The Office in Colombia of the U.N. High Commissioner for Human Rights still hears arguments that human rights and international humanitarian law embody laudable principles, but constitute impediments or straight jackets in the process of negotiating peace. We believe that it is exactly the other way around. In order to overcome an internal armed conflict like the one in Colombia, impunity must not be reproduced or accepted. Impunity has been and still is one of the biggest problems Colombia faces, and undermines and distorts the very principles of a democratic state aspiring to develop the rule of law. The United

Nations has frequently indicated that the principles of human rights and international humanitarian law provide the necessary and applicable tools for a state that wishes to negotiate wisely and appropriately with armed illegal groups. But these negotiations must have structure and content. There is no point in negotiating for negotiations' sake, as has occurred at some points in Colombian history.

The mandate of the Office of the High Commissioner for Human Rights calls for an annual report on the situation of human rights and international humanitarian law, a report that contains constructive and forward-looking recommendations.* In the March and April 2004 sessions of the United Nations Commission for Human Rights in Geneva, the Colombian government assumed—that is, accepted—the twenty-seven recommendations contained in this year's report. One of the crucial recommendations with regard to the internal armed conflict concerned the role of human rights in the peace process:

“The High Commissioner recommends that the Government, the illegal armed groups and representative sectors of civil society, spare no effort to establish contacts for dialogue and negotiation in order to resolve the internal armed conflict and achieve a lasting peace. The dialogues and negotiations should from the outset take human rights and international humanitarian law into account. The High Commissioner exhorts the Government and Congress to fully honour the fundamental principles of truth, justice and reparation for victims, in all dialogues and negotiations with armed illegal groups.”

In other words, human rights and international humanitarian law should figure prominently in the agenda, and victims' rights to truth, justice, and reparation should be upheld.

The rights to truth, justice, and reparation need to inform and guide the actions of the government if and when it contemplates offering certain judicial benefits as part of the negotiations with illegal armed groups. This holds true whether the government is negotiating with the *autodefensas* or

* The office's mandate specifies that it observe the human rights situation; offer advisory services to the government regarding human rights and international humanitarian law; lend technical cooperation; and carry out activities aimed at providing information about and promoting human rights and international humanitarian law.

paramilitaries, or with guerrilla groups such as the FARC-EP or the ELN.

It is quite possible—indeed likely—that the political content of an agreement between the Colombian government and the various illegal armed groups will vary. This is due, among other factors, to the distinct character and nature of the paramilitary groups, on the one hand, and the guerrilla groups, on the other. But with regard to serious violations or infractions of human rights, international humanitarian law, and international criminal law, the same criteria will have to apply. Otherwise, the negotiations will lack credibility and will fail to create the necessary basis for reconciliation or for the further development of democracy.

Crimes against humanity and war crimes should end. But what makes these crimes even worse is impunity. The existence of impunity serves only to encourage the future committing of serious crimes. Unfortunately, Colombian history has reflected this dynamic all too frequently.

The negotiations with the AUC and other paramilitary groups raise at least two other serious issues. One is that the majority of the leaders of these groups are involved in the drug business. According to very good information, several—if not the majority—of the paramilitary leaders are, first and foremost, major drug traffickers. A second issue concerns the relationship of these groups to the Colombian state. The paramilitaries' self-assumed and illegal role in the internal armed conflict has led in a number of cases to collusion between paramilitary groups and individual public officials, both civilian and military. When such links exist, they contaminate the state and undermine its pretensions to uphold the rule of law.

It is thus even more crucial for the Colombian state and the government of President Uribe to be clear and firm in the negotiations with the AUC and other paramilitary groups, and consistent and firm in assuring that any existing links between public officials and members of paramilitary groups be severed.

One of the recommendations of the U.N. High Commissioner for Human Rights addresses this phenomenon.* And it is, indeed, the declared

* The recommendation states: "The High Commissioner recommends the President of the Republic, in his capacity as Head of State and Commander-in-Chief of the security forces, to take all necessary steps to ensure that, independently of any dialogue conducted between the Government and the paramilitary groups, all links between public officials and members of such groups be severed."

policy of President Uribe that no such links can be tolerated or accepted. From the perspective of the High Commissioner's Office in Bogotá, it is crucial that the international community continue to support the Colombian state and President Uribe in the implementation of this and other recommendations. Some progress has been made, but much, much more needs to be done: the links with paramilitary groups still exist. These links must be cut in order to decontaminate the state and strengthen the rule of law, and to improve the conditions for negotiating the demobilization of the AUC and other paramilitary groups. Severing such links would also positively influence the human rights situation.

The issue of judicial benefits for members of illegal armed groups who demobilize came to the forefront of public debate when the Colombian government presented its *Ley de Alternatividad Penal* in August 2003. The government presented this initial version with little or no consultation. Without entering into great detail, one can say that the initial bill failed to incorporate the guiding principles of human rights and international humanitarian law. Fortunately, the government presented a revised bill in April 2004. The revised draft followed much public and international debate, and the government, to a certain extent, sought advice, including from the office of the High Commissioner for Human Rights. Wisely, the Colombian government affirmed that the newly-presented bill was also a draft and open for debate. The April draft reflected a healthy and positive evolution from the earlier version with regard to the rights to truth, justice, and reparations for victims. Further refinement is still needed, however, and the draft can still be improved.

The key to peace and development in Colombia centers on increased respect for human rights. Negotiations with the illegal armed groups are necessary but should reflect human rights and international humanitarian law norms. The U.N. High Commissioner for Human Rights is convinced that it is possible to carry out meaningful and successful negotiations with illegal armed groups that put an end to the disastrous internal conflict. The challenge, however, is great, and broad commitment is needed. Colombia's democratic forces need to forge greater unity in the search for peace, on the basis of shared values that reflect and in practice incorporate existing international human rights norms. If that were to occur, then one could guarantee sustained international support for Colombia's efforts to overcome its armed conflict.

The Colombia Office of the United Nations High Commissioner for Human Rights will continue to work within the framework of its mandate. We are encouraged and heartened by the constructive results of the United Nations Human Rights Commission's deliberations in Geneva in March and April 2004. This work was summarized in a consensus document issued by the fifty-three governments of the Commission and the government of Colombia. The Chairperson's statement says that

“The Commission continues to attach great importance to President Uribe's commitment to seek a negotiated solution to the conflict. It believes a comprehensive negotiated solution would bring about a lasting peace in the framework of good government, its democracy, the rule of law, and respect for human rights. The Commission, while taking careful note of the agreement between the government of Colombia and the United Self-Defense groups of Colombia for total demobilization of paramilitary forces by 2005, expresses its deep concern at the lack of progress towards a comprehensive peace strategy. It stresses the need for illegal armed groups to cease hostilities and undertake a constructive and significant dialogue. It also underlines the role that is played by the international community, in particular the United Nations, through the Special Adviser to the Secretary-General for Colombia.”

The document also underlines the role in Colombia's peace process that is played by the international community, in particular the United Nations, through the special advisor for Colombia to the Secretary-General. The Commission also emphasizes the importance of the principles of truth, justice, and reparation in a comprehensive peace strategy.

The Commission's statement concludes by reminding the government of Colombia “of its commitment to take into account and implement recommendations contained in the statement by the Chairperson. The Commission calls for the prompt implementation by all relevant parties of the concrete priority recommendations for 2004 of the High Commissioner for Human Rights. The Commission welcomes the commitment of the government of Colombia to work in a constructive spirit with the Office in Colombia of the High Commissioner for Human Rights, to examine the implementation and evaluation of the recommendation.”

And the Commission further calls on the government of Colombia “to avail itself fully of the advisory services of the Office in Colombia of the

High Commissioner for Human Rights, with a view to ensuring that norms and measures adopted by Colombian institutions are consistent with international law on human rights and that the recommendations of the High Commissioner for Human Rights are taken into account.”

The coming months are of great importance for Colombia, holding great promise as well as great risk. We hope that the possibilities win out, and that with the help of the entire international community, Colombia can begin to overcome the armed conflict that has caused so much devastation for so many years.

JOSÉ MIGUEL VIVANCO
Director, Human Rights Watch/Americas

I will focus on two areas: first, the engagement of the international community in the process of demobilization of paramilitary groups in Colombia; and second, the draft legislation concerning judicial benefits and alternative penalties for those who demobilize.

The engagement of the OAS in the peace process in Colombia is a positive development. It is worthy of international support provided that the OAS scrupulously protects its independence and resists the temptation to associate itself too closely with any of the parties to the conflict. Otherwise, the credibility of the organization would be seriously affected. In particular, OAS involvement in the *Comité de Seguridad y Convivencia*, as a regulator of the demilitarized zone alongside representatives of the AUC and the government, could compromise the independence of the OAS in its verification role.

The principal reason that OAS engagement is positive is that it can help to ensure that the negotiations are conducted in a manner consistent with international human rights standards, taking into account the respective human rights obligations of the parties to the conflict. Nonetheless, international support for OAS involvement in Colombia should depend both on the organization's ability to protect its credibility and independence, and on its ability to exert pressure that raises, rather than lowers, compliance with human rights standards (contrary to the efforts of the paramilitary leadership). International financial support for the OAS mission should be conditioned on these two objectives.

In addition, international, and particularly United States, support for the negotiations process itself should be conditioned on the Colombian government's maintenance of a crystal-clear position regarding extradition. Extradition constitutes the only leverage in the process and the only reason that paramilitary leaders are taking the negotiations seriously. If the attitude of the Colombian government becomes ambiguous or unclear regarding extradition, international financial support for the negotiations process should be withheld.

Financial assistance should also be conditioned on accountability for gross human rights abuses committed by all paramilitary members and

leaders, including those presently participating directly in the negotiations. It is not possible to overcome impunity and foster accountability without maintaining a degree of proportionality between the atrocities committed and the time that those responsible spend in prison.

The involvement of the OAS or of any other international organization should not amount to a “blank check” that provides legitimacy to a process undeserving of such recognition.

The revised draft legislation on alternative penalties also raises a number of serious concerns. One involves prison time: the recently circulated bill does not require that perpetrators of crimes against humanity and other serious human rights crimes spend any time in a real prison. Article XV of the draft states that the president will determine where perpetrators will serve their sentences. Reports in the Colombian media and key legislators have indicated that this provision could be interpreted as allowing those convicted to spend time in so-called “agricultural colonies”—comfortable ranches, perhaps, or some other facility on open space in the countryside.

A second problem with the legislation concerns minimum sentences. The bill's proposed minimum sentence of five years is too lenient for those guilty of crimes against humanity and other serious human rights crimes. Given additional sentence reduction benefits already available under Colombian law, a defendant might serve as little as three years. Existing penal law, for example, grants significant sentence reductions for work or study while in prison. Colombian penal law also provides for very generous potential benefits to those convicted of terrorism or drug-trafficking offenses, and nothing in the draft legislation prevents defendants from taking advantage of these benefits. Even if such benefits were to be restricted in the draft bill, Colombian courts would most likely strike down the restrictions as discriminatory. The problem is compounded even further by the draft legislation's provision that time spent in so-called “concentration zones” during negotiations will be counted as time served on any final prison sentence.

A third issue involves the question of whether benefits will be provided on an individual or collective basis. Article XVII of the draft legislation allows individuals to negotiate deals separately from the rest of their organization. As a result, a high-ranking AUC leader such as Salvatore Mancuso could obtain lenient treatment even if his paramilitary organi-

zation continued to engage in terrorism and drug trafficking. This provision would thus greatly weaken efforts to establish an effective cease-fire or achieve a genuine demobilization of armed groups. In my view, the legislation should recognize only collective negotiations, with penalties and benefits applying simultaneously to the leaders at the negotiating table and to other members of the illegal armed group, as occurred in Northern Ireland and other cases.

Fourth, the proposed legislation mentions confessions of crimes but does not require confessions or cooperation with investigators as a precondition to receiving benefits. Nor does the bill make clear that benefits will be revoked if defendants fail to cooperate with investigators or render false confessions. In addition, the criminal justice system in Colombia rewards defendants with what is called an “anticipated sentence” (*sentencia anticipada*) if defendants decide not to contest the charges against them. An anticipated sentence substantially shortens the normal time frames for investigation, processing, and trial of cases, so that they are concluded very quickly. This mechanism therefore makes it less likely that serious, rigorous investigations of very, very complex crimes will be conducted. Unless the draft legislation requires defendants to confess and cooperate with investigators, and specifically excludes the benefit of a reduction in time-frames for investigation, the specialized tribunals overseeing these cases will be unable to fulfill their duty of ensuring that not only justice, but also truth, emerges from the process.

Fifth, the draft legislation does not require individuals to relinquish all of their illegally acquired assets as a precondition to receiving benefits. Instead, it states only that defendants must perform those acts of reparation that the courts presiding over the cases determine are appropriate. The legislation should require the payment of reparations to victims, and, at the same time, specify the benefits that will be revoked if a defendant has failed to report and hand over illegally acquired assets.

Sixth, the illegal armed groups are not required to comply with the cease-fire as a precondition for members to receive benefits. As drafted, the bill allows individuals to receive benefits after a simple expression of the group’s intent to end hostilities. Breaches of the cease-fire should result in revocation of benefits, but that is not specified in the bill.

Seventh, the draft legislation vests excessive power in the office of the president. The president, in this case President Uribe, has the exclusive

power to prepare a list of individuals who can benefit from lighter sentences. The president can also reject any benefit extended to individuals by the Justice, Truth and Reparation Tribunal, which is purportedly charged with trying those who demobilize. Thus, even after the Tribunal renders a judgment, the president retains the ultimate decision-making power. Furthermore, only the president can decide how and where sentences issued by the Tribunal will be enforced.

In addition, the legislation gives the president substantial control over the selection of judges who will serve on the Tribunal. The Tribunal is supposed to be composed of three judges selected by the Supreme Court, but the Court may only select judges from a list of candidates submitted by the president. Moreover, at any time, the president can increase the total number of judges on the Tribunal from three to five, and submit additional candidates to be voted on by the Supreme Court.

Eighth, the draft legislation is not entirely clear about the types of crimes that fall within the Tribunal's jurisdiction. As a result, common criminals might be able to receive benefits under the new law.

Ninth, the investigation and prosecution of demobilized individuals is left wholly to the discretion of the *Fiscalía*, which lacks the most basic credibility to carry out effective investigations and prosecutions of these very complex and difficult cases.

Tenth and finally, the draft legislation fails to discuss the victims or their relatives, who are entitled to fundamental rights and formal recognition under Colombian law. The draft law contains no language that would guarantee their participation in the judicial processes that accompany the demobilization. Most of the victims of Colombia's armed conflict are poor peasants who live in remote areas of the country. They have no money to hire lawyers to represent them. But it is crucial that they be able to participate, and that their interests be taken into account throughout the demobilization process.

Concerns over the use of the proposed law to try perpetrators of atrocities have become even more acute recently, as a result of President Uribe's statements attacking human rights organizations such as the *Colectivo de Abogados* (Lawyers' Collective) and Amnesty International. These are non-governmental organizations that care about victims and have the courage to represent them. They should not be subject to a campaign of stigmatization by the President.

Because of ongoing concern with a number aspects of the government's proposed Truth, Justice, and Reparations law, a group of Colombian senators from across the political spectrum, led by Senator Rafael Pardo, began crafting an even more stringent law to govern the demobilization process. As of early December 2004, the draft law, known as the "Pardo Proposal," would address most of the problems raised in this presentation. The Pardo Proposal reflects a concern for international legal standards on accountability, and is also an effective tool for dismantling the underlying structures of illegal armed groups. However, the government has objected to many important elements of the Pardo Proposal, apparently preferring the adoption of its own flawed draft.

PARTICIPANT BIOGRAPHIES

CONGRESSWOMAN ROCÍO ARIAS HOYOS represents Antioquia in the Colombian House of Representatives, and has served since 2002 as a member of its Peace Committee (*Comisión de Paz*). She also serves as a representative of women members of Congress in the Latin American Parliament. Over the last several months, she participated on various occasions in the congressional hearings and debate on the Alternative Penalties Law (*Ley de Alternatividad Penal*) proposed by the government during the peace talks with the AUC. Congresswoman Arias is the principal sponsor, along with thirty-eight other members of Congress, of a proposed law to modify the Colombian Constitution's provisions dealing with extradition, such that members of armed groups that reincorporate into society as a result of the peace process or by turning themselves over to the judicial system would not be subject to extradition.

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Gaviria. In that capacity, Dr. Beaulieu's work focused on promoting democracy in the region. He served as a technical advisor during the negotiations on the Inter-American Democratic Charter adopted by the OAS in 2001, and participated in electoral observation missions throughout the hemisphere. He wrote speeches for the secretary-general on a variety of topics and briefed him on developments throughout the region. Dr. Beaulieu holds a Ph.D. in Politics from St. Antony's College, University of Oxford. His dissertation on economic groups and politics in Colombia explored the relationship between business groups and the Colombian political system. As part of his research, he spent a semester in Bogotá teaching at the Universidad de los Andes.

CARLOS FRANCO is director of the Government of Colombia's Presidential Program for Human Rights and International Humanitarian Law, a member of the Exploratory Commission formed by the government in advance of peace talks with the *Autodefensas Unidas de Colombia*, and a member of the National Peace Council. Previously, he served as president and director of Fundación Progresar, managing projects on human rights and international humanitarian law, displaced persons, and conflict resolution. For sixteen years, Mr. Franco was a member of the *Ejército Popular de Liberación* (EPL), and represented the EPL in the peace talks with the Colombian government that led to the group's demobilization. He also served, from 1994 to 1997, as president of the *Alianza Democrática M-19*, a party coalition formed by former guerrillas. A specialist in conflict resolution and negotiation, Mr. Franco holds degrees from Colombia's Universidad Javeriana and the Universidad del Valle.

MICHAEL FRÜHLING is director of the United Nations High Commissioner for Human Rights Office in Colombia. A career diplomat in the Swedish Foreign Service, Mr. Frühling has had extensive experience in Latin America, serving, among other positions, as chief of mission, Embassy of Sweden, Bogotá; ambassador and special adviser, Ministry of Foreign Affairs, Department for the Americas, Stockholm; ambassador to Cuba; counselor for Central America, Embassy of Sweden, Guatemala; and first secretary of the Swedish embassies in Nicaragua and Peru. Throughout his professional career,

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Mr. Frühling has specialized in issues of human rights, peace, and democratization, particularly in areas of internal armed conflict. He pursued doctoral studies in sociology at the University of Lund, Sweden, and has studied political science, the humanities, and development cooperation at the Universities of Stockholm and Lund, and at Drew University in the United States.

DANIEL GARCÍA-PEÑA is professor of political science at the National University of Colombia and directs the national project *Planeta Paz*, dedicated to building grass-roots participation in the peace process. In 2002, he directed Lucho Garzón's campaign for the presidency of Colombia, and in 2003 spearheaded Garzón's successful campaign for Mayor of Bogotá. From 1995 to 1998, Mr. García-Peña served as Acting High Commissioner for Peace. He has been a public policy scholar at the Woodrow Wilson International Center for Scholars, a consultant to the Inter-American Development Bank, and a scholar-in-residence at The American University's School of International Service. Previously, Mr. García-Peña was a political analyst for the independent TV news program *AMPM*, advisor to the president of the Colombian Senate on peace affairs, advisor to the *Alianza Democrática M-19* during the 1990–1991 National Constituent Assembly, and chairman of the Department of History at the Universidad de los Andes.

SENATOR RAFAEL PARDO was elected to the Colombian Senate for the 2002–2006 term. Over the last two decades, his distinguished career in public service has included posts as Minister of Defense, National Security Adviser, Presidential Counselor for Peace, and Director of the National Reinsertion Plan. More recently, he served as adviser to the secretary-general of the Organization of American States in Washington, D.C., and subsequently as news director for RCN Television and as director of C.M.& News. Senator Pardo also has been a professor and researcher at the Universidad de los Andes, and is the author of several books, including *De Primera Mano: Colombia 1986–1994*, *Entre Conflictos y Esperanzas*. Trained as an economist at the Universidad de los Andes, he has also pursued advanced studies in urban and regional planning and in international relations at the Institute of Social Studies at The Hague and at Harvard University.

Participant Biographies

GUSTAVO VILLEGAS is director of the Peace and Reconciliation Program of the Office of the Mayor, Medellín. He has also served as a member of the government's negotiating team with the *Ejército de Liberación Nacional* (ELN), and was a member of the team that negotiated the release of hostages taken by the ELN in 1999. Mr. Villegas is president of the Peace Facilitating Commission in Antioquia and has held numerous positions in Medellín's municipal government, including Secretary of Treasury from 1989 to 1991, and coordinator of the Social Action Plan, which directed social investment to poor areas of the city. Mr. Villegas served in 1992 as representative of the United Nations in Antioquia, coordinating programs on education, health, and modernization of the state. Mr. Villegas holds a degree in business administration from Nicholls State University, Louisiana, and has held a number of positions in the private sector, including commercial vice-president of the Banco Industrial Colombiano and manager of *Surtialimentos*. Mr. Villegas serves on the board of directors of several mass transport, public enterprise, and financial institutions, and is a former baseball champion.

JOSÉ MIGUEL VIVANCO has served as executive director of the Americas Division of Human Rights Watch since September 1994. From 1987 to 1989, he was an attorney for the Inter-American Commission on Human Rights of the Organization of American States (OAS). In 1990 he founded the Center for Justice and International Law (CEJIL) and functioned as its executive director until August 1994. Mr. Vivanco has also been an adjunct professor of law at Georgetown University Law Center and at The Johns Hopkins University School of Advanced International Studies. He has received several scholarships and fellowships in the field of human rights, and is the author of numerous academic articles and publications, including op-eds for such prominent newspapers as the *New York Times*, *Washington Post*, *Wall Street Journal*, *El Tiempo* (Colombia), *La Nación* (Argentina), *El Mercurio* (Chile), and *Reforma* (Mexico). He studied law at the University of Chile and at Salamanca Law School in Spain, and holds a Master's degree in Law (LLM) from Harvard Law School.

AMBASSADOR WILLIAM B. WOOD, a professional foreign service officer for more than twenty-five years, has served as U.S. Ambassador to

Participant Biographies

Colombia since August 2003. Before that time, he was the Principal Deputy Assistant Secretary of State and Acting Assistant Secretary of State in the Bureau of International Organization Affairs, with responsibility for all aspects of U.S. foreign policy at the United Nations and a number of other multilateral organizations. Immediately before that assignment, Mr. Wood was political counselor at the U.S. Mission to the United Nations, where he was the chief U.S. negotiator in the Security Council. Ambassador Wood has served abroad in Uruguay, Argentina, El Salvador, and Italy, among other posts. In Washington, he has served on the policy planning staff for Latin America, as a special assistant in the Bureau of Political-Military Affairs, as an expert in Latin American affairs on the staff of the Under Secretary for Political Affairs, and on a number of functional and regional desks. He has received numerous awards over the course of his career, including in 2002, the Distinguished Service Award, the highest award offered by the Department of State.