

Swords & Ploughshares

The official journal of international affairs at the
School of International Service

Spring 2008 Issue

International Human Rights and Colombia's Internal Armed Conflict: A Snapshot

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Introduction

If Colombia is to exist as a state built upon the rule of law and a monopoly on the legitimate use of force, then the current framework for peace needs to be dramatically restructured. After more than five years in office, the Uribe government's two-pronged peace strategy, which includes a major military buildup along with a legal framework for demobilization, accountability and reintegration of ex-combatants, has achieved neither of its desired outcomes. Evidence suggests that the current approach may actually be counterproductive to the ultimate goals of achieving sustainable peace and reconciliation in the country. The United States, arguably the single most important foreign influence on Colombia's internal armed conflict and concomitant human rights problems, is also currently pursuing a narrow-minded and misguided policy in Colombia that is hindering the establishment of a law-based state by fuelling the conflict and sustaining impunity. International institutions such as the United Nations (UN), the Organization of American States (OAS), and the International Committee of the Red Cross (ICRC) are performing important work in monitoring and documenting the human rights and humanitarian situation in the country, but lack the resources, mandates, and cooperation necessary to take decisive action. The consolidation of legitimate power by the Colombian state and the concomitant promulgation of fundamental human rights in the country,

both of which are explicit and implicit goals of the international community, are unlikely to become realities if current trends continue.¹

Actors, Institutions, Instruments and Mechanisms²

The Domestic Sphere

That virtually all of Colombia's armed actors have attempted in some way to co-opt the framework and lexicon of human rights is ironic. In an important new work on the culture and politics of human rights activism in Colombia, human rights researcher Winifred Tate suggests that efforts made by various interest groups in Colombia – both legal and illegal, armed and unarmed – to assert ownership over the human rights 'frame' are part and parcel of sophisticated political projects designed to legitimate the actions and advance the agendas of these groups in the eyes of the international community. The fact that both legal and illegal armed groups in Colombia continue to commit the bulk of human rights violations in the country, even as they portray themselves as victims or human rights professionals is indeed an act of manipulation, but the manipulation is also an implicit acknowledgment of the global strength and legitimacy of international human rights norms.³

More than a century before the Universal Declaration for Human Rights (UDHR) was drafted in 1948, marginalized groups in early republican Colombia began agitating for their rights to political participation, economic (particularly agrarian) reform, and social and cultural equality.⁴ The current conflict cycle began in the late 1950s and early 1960s when a number of rural liberal militia fighters, abandoned by their elite political leaders in Bogota after a brutal partisan civil war and radicalized by the persistence of Colombia's deep political, economic and social inequalities, formed the core of the Revolutionary Armed Forces of Colombia (FARC), the quasi-Marxist guerrilla group that currently constitutes the largest illegal armed group in Colombia.⁵ Over the coming decades, a number of other left-wing insurgent groups emerged, one of which, the National Liberation Army (ELN), also continues to battle the Colombian government. The FARC and the ELN have repeatedly characterized their wars against the state as part of the larger global struggle for human rights, but both groups are also flagrant rights abusers and continue to commit egregious

violations that have resulted in the deaths of thousands, and the displacement and suffering of millions of Colombians, mostly civilian noncombatants, over the course of an internal armed conflict that is now in its fifth decade.⁶

The Colombian government's historical inability to effectively project its power throughout the countryside in its struggle against the left-wing groups led to the former's organization and arming in the 1970s and 1980s of thousands of irregular paramilitary proxy fighters, most of whom consolidated under the banner of the United Self-Defense Forces of Colombia (AUC) in the late 1990s. The AUC labored to portray its members as 'defenders' of the democratically-elected government against attacks by the left-wing insurgencies, even though until very recently the paramilitaries were widely considered by human rights groups to be the most aggressive and egregious human rights violators in Colombia.⁷ The paramilitaries underwent a government-sponsored demobilization process in 2006, but as discussed below, their structures and resources remained largely intact.

Systematic violations of political, civil, economic, cultural and social rights by the FARC, the ELN and the remnants of the AUC are catalogued by a number of governmental, intergovernmental and non-governmental organizations and institutions. In 2006, these violations included political killings, killings of off-duty members of the Colombian security forces and local officials, kidnappings and forced disappearances, massive forced displacements, theft and destruction of private property, harassment and intimidation of the judiciary, recruitment of child soldiers, targeting indigenous and Afro-Colombian minority communities, torture, massacres, and violent attacks upon human rights workers, journalists, teachers and trade unionists.⁸ The FARC and the AUC have also become heavily involved in the international narcotics trade, which has provided these groups with the revenue necessary to continue fighting.

In short, Colombia's illegal armed groups continue to use violence and violations of human rights as their principal political mechanisms. The FARC and the ELN have repeatedly declared their ultimate intention is the overthrow of the democratically-elected government,⁹ a goal that along with the guerrillas' pervasive rights violations tends to delegitimize their claims to represent Colombia's rights holders. Generally speaking, the guerrilla agenda includes sweeping agrarian reform, a dismantling of the state's paramilitary proxies and an end to the 'dirty war' against the civilian population, political incorporation or perhaps, in the case of the FARC, governmental dominance, and a reassertion of domestic control over the country's natural resources. By contrast, the

paramilitaries, having been originally armed and organized as a violent state instrument, essentially possess no clear political agenda and base their claims to legitimacy in their indirect support of the state in the state's efforts to quell the guerrillas. Regardless of the presence and substance of respective political agendas, however, all factions are alike in that they define themselves and act as armed groups who, through the illegitimate use of violence, serve to undermine state legitimacy and the rule of law.

At one point the FARC did make a concerted attempt to enter the political arena by legal means. In response to governmental peace initiatives, the guerrillas formed a leftist political party in 1985, the Patriotic Union (UP). In theory, the UP would act as a nonviolent entity that would bring the FARC into the country's political fold and simultaneously give them the opportunity to advance their agenda *and* enhance the rule of law through the fielding of candidates for elected local and national office. However, the FARC's leadership miscalculated by continuing their armed insurgency campaign against the government even as UP candidates ran for office, thereby reinforcing the view among Colombia's military and paramilitary leadership that the UP was nothing more than a guerrilla attempt to infiltrate national politics. In one of the farthest-reaching tragedies of modern Colombian history, the paramilitaries carried out a targeted assassination campaign against the UP that resulted in the murders of thousands of party members and the coerced withdrawal from politics of thousands more. The UP was almost completely exterminated within a few years of its founding, and the FARC returned decisively and exclusively to armed insurgency, thoroughly convinced that illegal violence was the only viable method of politics.¹⁰

The Colombian state consistently and aggressively propounds itself as an arbiter and enforcer of human rights in the country, despite strong evidence to the contrary. Colombian governmental authorities and members of the security forces commit flagrant human rights violations. In one study, the State Department's 2006 Country Report on Human Rights Practices in Colombia argues that the Colombian government's respect for human rights "continued to improve" throughout the year, but also acknowledges a wide range of violations either committed or sanctioned by official governmental entities. Violations include "unlawful and extrajudicial killings; forced disappearances; insubordinate military collaboration with criminal groups; torture and mistreatment of detainees; overcrowded and insecure prisons; arbitrary arrest; a high number of pretrial detainees, some of whom were held with convicted prisoners; impunity; an inefficient judiciary subject to intimidation; harassment

and intimidation of journalists; unhygienic conditions at settlements for displaced persons, with limited access to health care, education or employment; corruption [and] harassment of human rights groups....”¹¹ This long list of violations is confirmed by numerous official and civil society groups working both inside and outside the country, and indications are that trends of human rights abuses have continued throughout 2007 and involve upper echelons of Colombian government and society.¹²

In recent years, the government has attempted to address human rights problems through the legal framework of the Colombian Constitution of 1991, which is widely considered to be one of the most progressive constitutional documents in the western hemisphere.¹³ Though a degree of variation in language and selection exists, the core set of human rights is legally codified by the Constitution of 1991, generally in line with the rights enshrined in the UDHR and related human rights instruments that collectively constitute the International Bill of Rights, as well as by foundational rights documents of the U.S. and the OAS. These rights include the right to life, liberty and personal security; the prohibition of slavery, torture and cruel, inhuman or degrading punishment; the right not to be subjected to arbitrary arrest, detention or exile; the right to a fair trial, the presumption of innocence and the prohibition of *ex post facto* laws and penalties; the right to privacy and property; freedom of speech, assembly, religion and movement; the right to seek asylum and to have a nationality; political participation and universal suffrage; as well as a broad category of economic, social and cultural rights.¹⁴

Since mitigating the ongoing political violence in Colombia is widely considered to be a precondition for advancing human rights and the rule of law, official efforts to improve human rights have focused largely on resolving the internal armed conflict. Researcher Marc Chernick has documented the efforts of four successive Colombian presidential administrations to facilitate a peace process in Colombia, which include: Belisario Betancur’s (1982-1986) decentralized strategy of amnesty, assistance, development and political reform; Virgilio Barco’s (1986-1990) consolidated disarmament and reincorporation programs; Cesar Gaviria’s (1990-1994) plan for constitutional reform and political incorporation; and Ernesto Samper’s (1994-1998) attempts to legitimize the illegal armed groups as political actors and humanize and internationalize the internal conflict. The most significant advances in the human rights situation during this fourteen-year period included the ratification of the Constitution of 1991, the demobilization and political integration of several guerrilla groups, and the welcoming of international human rights and humanitarian organizations

and institutions into the country, while setbacks included the formation of the paramilitaries, the systematic annihilation of the FARC's political party, the UP, rampant political assassinations, and official links to narcotics trafficking. Political conflict continued throughout this period. Chernick notes that official mechanisms aimed at ending the armed conflict swung continuously back and forth between hard-line military campaigns and diplomatic overtures, concluding that "a careful reading of the record demonstrates convincingly that there is no military solution to the armed conflicts in Colombia" and that Betancur's original vision "may still be the basis of a future peace."¹⁵

Governmental peace initiatives continued under the administration of Andres Pastrana (1998-2002), who made a negotiated settlement with the guerrillas a centerpiece of his election campaign. Pastrana's position, however, was overly conciliatory: he unconditionally ceded to the FARC a swath of demilitarized territory the size of Switzerland as a confidence-building measure, and also agreed to the rest of the guerrillas' negotiating conditions without a single official stipulation or condition. The FARC leadership took Pastrana's concessions as a sign of weakness, and soon proceeded to turn the demilitarized area into a zone of impunity, using the territory to harbor kidnapped hostages, to stage attacks on the government and civilians, and probably to engage in narcotics trafficking.

Negotiations between the government and the guerrillas continued, but the talks were consistently crippled by what analyst Adam Isacson identified as a combination of the parties' reciprocal mistrust, procedural improvisation, pervasive ambivalence on both sides, and the government's exclusion of virtually everyone involved in the peace process aside from the negotiators themselves. Isacson concludes, "The term 'peace process' barely describes the Pastrana government's fitful talks with the insurgents."¹⁶ In retrospect, the talks seemed doomed from the start, and Pastrana's plan finally collapsed in early 2002 when members of the FARC hijacked a commercial airliner, kidnapped a Colombian senator riding aboard the plane, and escaped into the demilitarized zone. Pastrana dispatched the security forces to retake the ceded territory, the FARC went back to its rural strongholds, and both actors returned to a primary emphasis on mechanisms of force.

Colombia's current president Alvaro Uribe (2002-2006, 2006-) was elected on a hard-line platform that focused on a large-scale buildup of the Colombian security forces, facilitated by a massive infusion of foreign aid, overwhelmingly directed towards military assistance programs, from the US

beginning in 2001 under the conditions of Plan Colombia (see below). The FARC was rapidly forced back into a defensive posture, and the ELN was debilitated to a core group of just a few thousand fighters and effectively reduced to a simple fight for survival. The AUC also suffered from the government's renewed military campaign, although serious doubts as to the government's commitment to apply equal force to the paramilitaries continued. Questions of selectivity aside, however, the Uribe administration, in its early phases, clearly stressed military force as its preeminent mechanism in its efforts to end the internal armed conflict and consequently improve the human rights situation in the country.

Even as Uribe's initial efforts to consolidate and legitimate state power centered on the use of force, the new government gradually came to recognize the need for a negotiated settlement to the internal armed conflict. Scholar Nazih Richani notes that previous military buildups in Colombia have done little to overcome the "comfortable impasse" between the government and illegal armed groups that allows all invested parties to *benefit* from protracted violence through their accumulation of political and economic assets,¹⁷ while analyst Gabriel Marcella argues that the Colombian security forces would likely have to triple in size in order to decisively defeat the illegal armed groups, an increase that is next to impossible even with the high levels of current US military aid to the country.¹⁸ The Uribe administration was almost certainly aware of these and other limitations on its military campaign, and the initial military buildup soon became part of a wider strategy to "batter the FARC [and other illegal armed groups] back to the negotiating table" rather than an end goal in and of itself.¹⁹

When the Uribe government broadened its strategy to include non-military options, the central question became how to create and implement a legal framework that could facilitate negotiated settlements with various illegal armed groups, particularly the FARC, the ELN and the AUC. The administration's first major effort was to modify Law 418 of 1997, a statute that spelled out the legal terms of demobilizations, amnesties, and reintegration of illegal combatants. Law 418 explicitly stated that the illegal armed groups in question had to be "of a political nature" in order to be eligible for participation in official negotiations and benefits under the law's lenient provisions. Uribe's principal change was to essentially rewrite the law without this language in it, an act that paved the road for negotiations with the AUC. The new statute was approved as Law 782 of 2002 in December of that year, and high-level government negotiations with the AUC began within thirty days of the bill's passing.²⁰

As the demobilization talks between the Uribe administration and the AUC continued throughout 2003, government officials began to realize that there were a significant number of AUC members, particularly in the organization's leadership, who were also ineligible for leniency under Law 782. As Law 418 before it, 782 prohibited amnesty and benefits for members of illegal armed groups who have also been charged with serious violations of international human rights or humanitarian law. As mentioned above, Colombia's paramilitary groups are arguably the worst human rights abusers in the country, and many top AUC commanders have been either accused or convicted *in absentia* of grave offenses, including war crimes and crimes against humanity. Paramilitary leaders had no intention, however, of serving long prison sentences, especially in detention facilities outside Colombia, at the behest of foreign governments or international institutions. Top members of the AUC repeatedly threatened a return to violence if their demands for impunity were not met. Faced with the equally unappetizing alternatives of a collapse in negotiations and re-escalation of the internal armed conflict on the one hand, and drafting another new law that could provide amnesty for the hemisphere's worst war criminals on the other, the Uribe administration chose the latter option.²¹

The resulting legislation, known as the Justice and Peace Law (JPL), was first proposed by the Uribe administration in late 2003 and approved in modified form by the Colombian congress in July of 2005. Final revisions were made to the law by the Supreme Court in early 2006. In its final version, the JPL allows members of illegal armed groups who are *not* eligible for benefits under the terms of Law 782 to go through an 'alternative punishment' process that is based on a number of predetermined conditions: the combatant(s)' names must appear on presidential lists of officially demobilized fighters; their group must have formally agreed to demobilization and dismantling; they must return all illegally obtained property and assets; they must turn over all juvenile combatants to the state's child welfare agency; they must immediately cease all illegal activities; they must cease all obstruction of the exercise of political and public rights in the country; they must return all hostages; and they must not have been organized for trafficking in illegal drugs.²²

If all of these conditions are met, then the combatant makes a confession and goes through an official hearing adjudicated by the Office of the Prosecutor, which then determines the specific terms of the punishment, including moral and economic reparations made to victims, confiscation of assets, and a jail term ranging from five to eight years. All other criminal proceedings against the convicted ex-combatant would then be summarily dropped, unless crimes left

undisclosed by the combatant during his confession are later discovered by the prosecutor.²³ The JPL, as it now stands, is currently the primary legal instrument of the Colombian government in its attempts to consolidate the legitimate use of force, build the rule of law, and promote and enforce international human rights norms in the country, while the primary mechanism used to implement this instrument is the Colombian judiciary.

The U.S. Sphere

The most influential foreign actor working on human rights violations and the internal armed conflict in Colombia is the government of the United States of America. In the U.S. executive branch, the Department of State's Bureau of Democracy, Human Rights and Labor (DRL) holds instrumental jurisdiction over human rights matters. The DRL works closely with the Colombian government, and monitors advances and setbacks in the ongoing human rights situation, particularly in regards to civil and political rights concerns stemming from the internal armed conflict. The DRL's mission in Colombia, as elsewhere, consists of three primary mechanisms: first, the DRL acts as an internal "watchdog" on human rights-related policy decisions made by the U.S. government; second, the DRL provides small grants of up to \$1.5 million to civil society groups working to implement practical projects that promote democracy and human rights; finally, the DRL produces regular briefings and observations concerning the human rights situation on the ground, the most important of which is the Annual Country Report on Human Rights Practices.²⁴ Ideally, if a DRL Country Report documents significant and continuous human rights abuses, as it does in the case of Colombia, the U.S. government would move to take some measure of remedial action.

In addition to the DRL's Annual Country Reports, a number of official mechanisms exist that are relevant to the U.S. government's ongoing efforts to address political violence and human rights issues in Colombia. The U.S. executive branch maintains public and private diplomacy, and directly interfaces with the Colombian government through the U.S. foreign embassy in Bogota, while the U.S. judiciary can issue warrants for the arrest and extradition of Colombian nationals for trial in U.S. courts, although there is little precedent for this occurring due solely to human rights violations. The legislative branch holds the power to appropriate or withhold military and other forms of economic

assistance in accordance with the Colombian government's adherence to or undermining of international human rights law.

Two key pieces of legislation that attempt to keep U.S. foreign policy and, by extension, the actions of foreign governments in line with international human rights concerns are Sections 502B and 116 of the 1974 U.S. Foreign Assistance Act (FAA). Given the continuing engagement with, aid to, and challenges posed by the government of Colombia in relation to human rights, these legal instruments are of critical importance. Section 502B, also known as the Humphrey-Cranston Amendment, bars the US from using foreign military aid to support human rights abuses, stipulating, "*Except under extraordinary circumstances, no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman or degrading treatment or punishment, prolonged detention without charges, causing the disappearance of persons by the abduction and clandestine detention of those persons or other flagrant denials of the right to life, liberty, and the security of the person.*"²⁵ Section 116, also known as the Harkin Amendment, extends these conditions to all forms of foreign aid, stating, "*No assistance may be provided under this part to the government of any country which engages in a consistent pattern of gross violations of international human rights...unless such assistance will directly benefit the needy people in such country.*"²⁶ In theory, then, if Congress determines a state is in consistent and gross violation of international human rights, Congress has the power to use its fiscal authority as an instrument to address and influence the violator's behavior.

The International Sphere

Two of the most important institutional entities working on conflict and human rights in Colombia are the human rights bodies of the United Nations, in particular the High Commissioner for Human Rights (UNHCHR), and the Inter-American Commission on Human Rights (IACHR) of the OAS. Both the UNHCHR and the IACHR work to promote and implement human rights norms as codified in their respective institutional documents. In Colombia, continually monitoring and assessing the country's human rights problems, and advising and providing technical and financial assistance to the Colombian government accomplishes the promotion of human rights.²⁷ Periodic reports are made by both bodies to the respective secretariats of the UN and the OAS. In turn, these

authorities make decisions as to the most appropriate policies and courses of action in Colombia, and present recommendations to the institution's member states.

The International Committee of the Red Cross (ICRC), though not a governmental body, is also a critical institution currently operating in Colombia. The ICRC acts within the framework of international humanitarian law, which differs from international human rights law in that the latter attempts to legally codify a set of rights that exist everywhere under all conditions and circumstances, while humanitarian law applies specifically during instances of armed conflict. The ICRC draws its mandate from the four Geneva Conventions, a set of documents that attempt to define some of the basic laws of war including the rights of injured combatants, civilian noncombatants, and prisoners of war.²⁸ The ICRC defines its mandate as the effort “to ensure at all times that the military and civilian victims of such conflicts and their direct results receive protection and assistance, and to serve, in humanitarian matters, as an intermediary between the parties.”²⁹ In Colombia, the ICRC monitors the actions of all armed actors in relation to international humanitarian law, and works to provide emergency assistance to victims of the conflict, particularly civilian non-combatants. The institution also works with the Colombian police and security forces to integrate knowledge of and respect for international humanitarian law into training programs, and visits prison facilities to monitor conditions of detention and detainees.³⁰

Strengths, Weaknesses, Opportunities and Threats

The Domestic Sphere

The Uribe administration's 2006 demobilization of the AUC paramilitaries, carried out under the instrumental framework of Law 782 and the JPL and through the mechanism of the judiciary, undeniably represents a significant first step forward in the overall effort to end the armed conflict, consolidate state power, build the rule of law, and generally improve the human rights situation. The IACHR mission in Colombia recently counted some 31,670 paramilitary fighters successfully demobilized in the initial stages of the process, as well as the confiscation of thousands of weapons, noting that “the Colombian

state deserves recognition for the efforts taken to achieve pacification and to ensure that judicial proceedings [related to the demobilization process] are as transparent as possible.”³¹ In another recent report, the UNHCHR also commends the Uribe administration for its “important progress” in mitigating the internal armed conflict through the demobilization process,³² while the DRL’s 2006 Country Report on Human Rights Practices congratulates the Colombian government on its “respect for human rights...which was particularly evident in actions undertaken by the government’s security forces and in demobilization proceedings with the AUC.”³³ All three reports also noted a continuing downward trend in overall levels of political violence, inferring that the paramilitary demobilization process has contributed to the reduction.

A degree of positive feedback regarding demobilization and the JPL can also be found in the observations of non-governmental entities. Transitional justice experts Maria Jose Guembe and Helena Olea argue that the JPL represents a “leap forward in contrast to blanket amnesties” that have characterized peace processes in other Latin American countries. Guembe and Olea note that the JPL “contemplates a procedure to investigate the facts, pass judgment on the crimes, punish the perpetrators, and provide redress to the victims, while [simultaneously] demobilizing combatants” and acknowledging the need to preserve historical memory.³⁴ Similarly, the International Crisis Group believes that despite serious flaws in the JPL, future peace initiatives should continue within the framework of the new legislation because Law 782 and the JPL were passed by a democratically-elected legislature, and approved by both executive and judicial Colombian authorities.³⁵ The JPL, therefore, can be viewed somewhat positively because it constitutes a real effort to strengthen the rule of law, and to create an opportunity for ending the internal armed conflict, which would improve the overall human rights situation in Colombia.

The weaknesses of the JPL, however, and the threats posed by the current conditions of the demobilization process are dangerous and disturbing. Serious and possibly crippling structural and practical problems are in the extant framework. First, the JPL exhibits instrumental shortcomings in determining the paramilitary fighters who are eligible to demobilize under Law 782, thereby receiving amnesty, as opposed to those who must submit to the terms of the JPL, thereby facing prosecution for serious crimes. Second, the time period allotted under the JPL to prosecutors attempting to construct cases against individual human rights violators is grossly insufficient at a mere 90 days. Third, JPL suffers a lack of information-sharing mechanisms that can facilitate coordination between state agencies, and thereby identify and track demobilization candidates

during and after the process. Fourth, a muddled and insufficient reparations scheme is largely unable to identify and track eligible victims. Finally, there is a lack of effective mechanisms for the sustainable reintegration of ex-combatants into Colombian society.

Practical problems include the initial identification of combatants; the relentless overburdening of the Colombian judiciary with demobilization cases; the continued intimidation and undermining of the judiciary by both governmental and paramilitary elements attempting to ensure overly expedient and lenient outcomes; the security vacuum created by paramilitary departure from newly demobilized zones; the protection of witnesses and victims from reprisals by paramilitaries; the virtual impossibility of identifying all or even most of the paramilitaries' illegally obtained property and assets, which are supposed to serve as the basis of the national reparations fund, and withheld weapons caches, which could and do facilitate a return to illegal armed activity; and the simple lack of material and human resources necessary to carry out a substantive peace process that can effectively bring Colombia out of one of the world's most lengthy, brutal and intractable armed conflicts.³⁶

A wealth of evidence supports each of the above hypotheses. The above-mentioned OAS report, for example, observes that many of the demobilizing paramilitary 'fighters' appeared to instead be members of support cadres – drivers, porters, cooks, and the like – or even non-combatants, some of whom revealed they were civilians who had come to 'demobilize' because of the simple possibility of economic assistance afforded under the provisions of the JPL, or due to 'encouragement' from AUC commanders.³⁷ Ominously, members of the OAS commission stated that the weapons surrendered by demobilizing paramilitaries tended to be outdated and in battered or inoperable condition, while the weapons wielded by non-demobilizing AUC guards at the negotiation sessions were modern and appeared virtually brand-new.³⁸ The UNHCHR report notes that a large number of mid-level paramilitary commanders had successfully avoided the demobilization process,³⁹ while human rights groups such as Human Rights Watch and the Washington Office on Latin America have pointed out conclusive evidence gathered from a top AUC commander's confiscated laptop computer that proves that the paramilitaries committed over 550 murders in a single Colombian province *after* the AUC ceasefire had become effective in 2003.⁴⁰ Corrupt members of the security forces, probably including senior officers, continued to commit serious human rights violations, both independently and in collusion with 'demobilizing' paramilitary elements.⁴¹ Meanwhile, members of Colombia's executive branch, including President Uribe,

continue to denounce and threaten the Colombian judiciary, even as the overwhelmed prosecutor's office struggles to produce a few cases a week, while credible allegations swirl about high-level administration links to paramilitary elements.⁴² Isacson, the policy expert whose views on Colombia are widely respected and representative of a number of international observers, recently offered an overall assessment of the current demobilization process that is as pessimistic as it is succinct: "The only reason the paras accepted those terms [of demobilization under the JPL] was because of the likelihood of avoiding extradition and keeping most of their wealth and power."⁴³

The most obvious and alarming indication of the JPL's failings is the continuation and evolution of Colombia's internal armed conflict. From the beginning, Colombia's guerrilla groups dismissed the JPL and the government's paramilitary demobilizations as a mutually beneficial agreement between friends rather than a peace accord between enemies.⁴⁴ While this claim is somewhat exaggerated, the impunity afforded to the AUC – including some of the most egregious human rights violators in the country – is certainly legitimate and was more than enough to keep the FARC and the ELN from seriously considering participation in the demobilization process. Both groups have also pointed out that the existing instrumental framework does virtually nothing to address the underlying structural conditions of crushing rural poverty, political exclusion, and social inequality that compelled them to take up arms originally.⁴⁵ The ELN has been engaged in separate bilateral talks with the Uribe administration since 2005, but after two years of formal negotiations, the two sides still cannot agree to the terms of a temporary ceasefire. A number of observers worry that the stalled process is doomed for failure.⁴⁶ The FARC has consistently and emphatically refused to even enter talks with the Uribe government until the FARC is recognized as a political actor instead of their current classification as 'narco-terrorists,' which strips them of legitimacy and legal rights in the current international environment. Additionally, the FARC has demanded a new demilitarized zone of operations that would include two entire Colombian provinces, which, not coincidentally, accounts for half of all the coca grown in the country.⁴⁷

Of equal concern are new illegal armed groups, which consist overwhelmingly of mobilized or rearmed paramilitary fighters particularly from the AUC's powerful mid-level leadership. These new quasi-paramilitary organizations – the largest and most dangerous of which are the 'Black Eagles' and the 'New Generation Organization' – have become deeply involved in the international drug trade, forging illicit business alliances with the FARC and the

ELN, and using violence to establish dominance over civilian populations in territories where they operate.⁴⁸ A number of observers view the rise of these new groups, which already have grown to between 3,000 and 9,000 members, as the vanguard of a potential “next generation” of paramilitary organizations. Due to their preeminently criminal nature and post-AUC decentralization, these groups constitute perhaps the single gravest new threat to human rights.⁴⁹ Though the Uribe administration insists that the new groups are mere ‘gangs’ that can be handled through law enforcement measures, the JPL provides little in the way of mechanisms to monitor the activities of demobilized paramilitaries and ensure that they successfully reintegrate into Colombian society.⁵⁰ Ultimately, the conclusion is inescapable that these groups are another unfortunate product of the inherent weaknesses in the JPL and the demobilization process, respectively the Colombian government’s principal instrument and mechanism of addressing the internal armed conflict, improving Colombia’s overall human rights situation, and building the rule of law.

The U.S. Sphere

The primary strengths behind U.S. human rights efforts in Colombia are easily identifiable. The United States is undoubtedly the dominant military, political, and economic actor in the hemisphere. Additionally, the active and friendly U.S.-Colombian relationship dates back to the 1960s. As noted above, the United States also possesses a strong set of instruments in all three branches of U.S. government that are relevant and effective in the promotion and enforcement of a rights-based foreign policy agenda. These factors present a leadership opportunity for the United States to assist Colombia’s ongoing struggle to consolidate governmental power, end the internal armed conflict, and improve the human rights situation.

Unfortunately, the human rights dimension of the U.S. involvement in Colombia continues to be trumped by an overweening and misguided focus on the narcotics-related component of the conflict and the concomitant prosecution of the ‘War on Drugs’ under the auspices of Plan Colombia. Designed to provide military and economic assistance to the Colombian government, Plan Colombia is a massive counter-narcotics aid package to combat illegal armed groups involved in cocaine and heroin trafficking. While an in-depth analysis of Plan Colombia is

beyond the scope of this article, some 80% of the approximately \$700-800 million appropriated for Plan Colombia each year since 2000 is earmarked for military and police assistance programs, primarily for a buildup in the security forces to combat Colombia's illegal armed groups, and to carry out a systematic aerial fumigation campaign of marijuana, coca, and opium poppy fields.⁵¹

As noted above, Colombian security forces, one of the state's primary mechanisms of promoting and enforcing human rights, are also notorious rights abusers. These abuses did not go unnoticed by the U.S. Congress, which attached a human rights certification process to Plan Colombia, conditioning aid on an improvement in Colombia's human rights practices. Though the State Department's Annual Country Reports and actors in the international human rights field have clearly and consistently documented continuing abuses and violations by the Colombian government, the U.S. Congress has certified Colombia's official compliance with human rights concerns every year. This is primarily due to irresponsibly loose interpretations of sections 501B and 116 of the FAA, Congressional ties with the U.S. military-industrial complex, elected officials' fear of being characterized as 'soft on drugs,' and genuine convictions that the current approach is yielding results.⁵²

A growing consensus, however, points to critical weaknesses in Plan Colombia that are in effect working to undermine fundamental U.S. and international human rights norms. Moreover, the Plan is counterproductive to both U.S. and Colombian interests. Despite the relentless fumigation campaign, the Center for International Policy and other reliable organizations report that levels of coca cultivation are higher than ever before.⁵³ Moreover, researchers such as Mark Peceny and Michael Durnan have convincingly argued that U.S. anti-drug policies have acted as "the FARC's best friend" in that the weakening of the AUC, which, prior to demobilization, was the primary drug-trafficking entity in Colombia and one of the principal foci of Plan Colombia's military offensives. Once the AUC was weakened, a security vacuum in paramilitary-held areas of cultivation and processing allowed the FARC to move into these areas and benefit from increased narcotics profits.⁵⁴ The FARC's consequent ability to strengthen its military capabilities is one of the driving forces behind the continuation of the internal armed conflict and corresponding abuses of international human rights. Additionally, the U.S. government's continued and seemingly unconditional bankrolling of the Colombian government, despite serious systemic violations of human rights, places the U.S.-Colombian relationship squarely within human rights scholar Kathryn Sikkink's "mixed signals" paradigm. This paradigm details how the U.S. government's ill-conceived and overarching national security

doctrines, such as the Cold War doctrine, the War on Drugs, or more recently, the War on Terror, tend to subordinate U.S. human rights concerns. The focus on an overarching national security doctrine leads to a disconnect between rhetoric and reality, and ultimately to reinforced and enhanced impunity for state recipients, because they come to believe that U.S. assistance will continue in the name of national security, no matter what their human rights practices.⁵⁵

The International Sphere

As mentioned above, international human rights regimes such as the UNHCHR and the IACHR perform an important role in Colombia as officially-sanctioned monitors and advisors on the human rights situation. The strength of these entities lies in their intergovernmental makeup, which allows for a broader cooperative framework and, in theory, a higher degree of legitimacy because the human rights agendas are representative of the agendas of numerous state actors. Ideally, the central opportunity provided by entities like the UNHCHR and the IACHR is the possibility for nation-states to come together to define and act upon their common interests, and construct a more communal system of international relations. In Colombia, the UNHCHR and the IACHR act as mechanisms for states with vested interest in human rights to interface with other states on practical methods for and challenges to ending the internal armed conflict, with the aim of strengthening human rights and stabilizing the national government.

The practical weakness of international human rights regimes like the UNHCHR and the IACHR stems from reliance on the political will, and economic and military capacity of member states. As tragically evidenced in repeated cases of flagrant violations of human rights and humanitarian law, institutions such as the UN and the OAS typically do not enjoy robust member state support in conflict hot-zones, and their efforts to enforce human rights are accordingly limited. Moreover, international legal principles that address the enforcement of human rights norms tend to be designed in the context of interstate relations. International legal scholar Thomas Buergenthal states, “It is not illegal for the UN...to take appropriate measures designed to compel a *state* not to engage in gross human rights violations [italics added]” since these violations constitute breaches of UN Charter obligations. This language makes no mention, however, of means to address egregious human rights violations committed by non-state actors, in this case the illegal armed groups in Colombia.⁵⁶

The institutional weakness of international human rights regimes stems from states continuing to obey selectively or even undermine existing enforcement mechanisms, specifically the international judiciary. The IACHR, for example, accepts individual petitions charging serious violations of human rights for review, and in turn would move to carry out legal proceedings and issue verdicts. According to Buergenthal, however, there is “little interest” in the OAS General Assembly to deal with the individual petitions process, and “non-compliance by states with the decisions...consequently attracts little notice and deprives the system of its effectiveness.”⁵⁷ Though Colombia, in 2002, ratified the Rome Statute, the human rights instrument creating the ICC, some legal experts have postulated that the JPL legislation reflects a deliberate and highly orchestrated attempt by the Colombian government to remove the demobilization process from international legal purview.⁵⁸

Conclusions

One of the most poetic English-language accounts of first-hand experiences with violence in Colombia was written by Herbert Braun, a Colombian historian who found himself torn between his empathy for the guerrillas and his disgust with their methods after members of the ELN kidnapped his brother-in-law. In his ruminations on the evolution of political violence in his country, Braun says, “there are so many different kinds of war, or fragments, in so many parts of the country, filled with such diverse actors, that it’s next to impossible to classify them together as something coherent that can be dealt with or solved through some systematic action.”⁵⁹ With this single statement, Braun has encapsulated the essence of the conflict-related human

rights dilemma in Colombia, and the most promising avenue of ultimately rectifying the human rights problem.

Efforts to ameliorate and to exacerbate Colombia's human rights problems are carried out by a dizzying array of actors and institutions, including but not limited to numerous legal and illegal armed groups, civilian authorities in the Colombian government, Colombian civil society groups, members of the executive, legislative and judicial branches of the U.S. government, private and public sector interest groups in the United States, and international institutional human rights bodies representing both global entities such as the UN and regional entities such as the OAS. These actors approach human rights in Colombia from widely differing perspectives, and wield instruments and mechanisms that are as numerous as they are diverse, including: training, monitoring, and advising projects; economic and military assistance programs; tools of the judiciary; and the age-old use of coercion, force, violence, and bloodshed. All the parties and their respective methods possess unique strengths and weaknesses and present specific opportunities and threats to ongoing developments in Colombia's internal armed conflict and the related human rights situation.

If there is a goal that can unite this incredibly diverse and often oppositional set of actors, institutions, instruments and methods, it is almost certainly an amelioration of the violence. While I fully acknowledge the strong tension between universal and relative conceptions of human rights and respect the immense complexities of this ongoing debate, it seems difficult to argue with the notion that international human rights, particularly in episodes of violent conflict, boil down to fundamental concerns with the human condition, including the most basic issues of security and survival. If there is an international human right that subsumes all others, it is the simple right of physical existence. The internal armed conflict in Colombia is grounded in and continues through attacks on and defenses of human lives. In the domestic sphere, any attempt to substantively address the situation must revolve initially around a ceasefire agreement that would halt armed hostilities between Colombia's armed actors – specifically the FARC and the Uribe administration – and reaffirm a mutual desire for and right to survival.

The most viable institution that can substantively promote this goal is the ICRC. In the eyes of a broad array of official and nonofficial entities across the globe, the ICRC enjoys privileged status in matters of human rights and humanitarian concerns due to its virtually universal reputation for neutrality and

impartiality. The ICRC's focus on 'parties' rather than 'states' allows the institution to interact with any number of non-state actors. In Colombia, the ICRC statute explicitly includes civil wars and other episodes of internal strife among the ICRC's areas of operations. The inherent strengths and opportunities provided by the ICRC's flexible instrumental-mandate need to be recognized by both internal and external parties to the conflict. Additionally, the ICRC's efforts at a humanitarian accord should be bolstered by members of the international community.

U.S. foreign policy institutions invested in Colombia should rethink their characterization of the internal armed conflict as simply a struggle between a legitimate state and a group of rogue criminal or terrorist elements. As mentioned, this characterization leads to an overemphasis on military victory rather than focusing on negotiated settlement with guerrillas who are inherently political actors. By acknowledging a civil war in Colombia and working to address the human rights situation that underpins and dominates the conflict, the United States could effectively contribute to a substantive resolution and promote its central foreign policy goals, which include strengthening international security through stable democratic and law-based states. This resolution of the conflict could be accomplished practically through a redirection of the framework and funding efforts of Plan Colombia from *narcotics*-related military and police assistance to *conflict*-related human rights and humanitarian issues.

In the international sphere, entities such as the UN and the OAS would be most useful in facilitating the creation of a functional and comprehensive transitional justice framework that can adequately address the simultaneous and often competing needs of truth and justice. If international institutions can combine Belisario Betancur's original vision of amnesty, reform and reintegration with a robust truth and reconciliation mechanism, the overall prospects for peace and significant human rights improvements in Colombia begin to seem more attainable.

Spinning three intertwining threads – renewed domestic efforts in Colombia to reach a ceasefire accord, reformed US policies, and increased involvement of international institutions at constructing a framework for transitional justice – in order to advance human rights, establish state legitimacy, and build the rule of law, will constitute an exceptionally challenging enterprise. Returning to Braun, the situation clearly will need as diverse a set of actors, institutions, instruments and mechanisms to end the internal armed conflict in

Colombia as those that created and perpetuate the conflict. With concentrated and sustained cooperation between the interlocking domestic, foreign and international spheres currently invested in Colombia, this outcome remains within the realm of possibility.

Endnotes

¹ An initial note on terms: as suggested, 'the state' is here defined according to Weber's foundational conception of a geographically bounded sovereign political entity that holds a monopoly on the legitimate use of force through its control over institutions such as the armed forces, the judiciary and the police. 'Peace' is envisioned here as not simply the absence of violence, but rather as a societal condition that includes political pluralism, socioeconomic equity, ecological balance, and cultural diversity. 'Human rights' are here defined as those internationally accepted principles that promote a societal condition of peace, and include the political, civil, cultural, economic and social rights that are codified in the International Bill of Human Rights, which in turn includes human rights provisions laid out in the United Nations Charter, the Universal Declaration of Human Rights (UDHR), the two International Covenants on Human Rights and the Optional Protocols to the Covenant on Civil and Political Rights. See also Thomas Buergenthal et al., *International Human Rights in a Nutshell*, 3rd Edition (St. Paul: West Group, 2002), especially pages 27-69.

The modern Weberian state is often seen as existing in constant tension with international human rights norms that could potentially curtail state sovereignty; however, since the state's fundamental mandate is to monopolize the legitimate use of force, it can also be construed conversely as a duty-bearer that must protect its citizens from illegitimate force or coercion, which would logically include violations of their human rights. The argument can be made, therefore, that the modern state can indeed exist in harmony with international human rights law, because violations of citizens' rights by state (or state-sponsored) actors constitutes an illegitimate use of force and thus removes the state in these instances from the Weberian conceptual frame (that is, the state in these cases is not acting as a Weberian entity).

² My initial intention was to separate actors, institutions, instruments and mechanisms into four distinct sections and consider each in turn, but this framework rapidly became cumbersome and impractical. In the ongoing struggle to advance international human rights, the four elements act not as distinct entities but in concert with each other, and the international human rights system is-like any system-better understood in theoretical terms as a dynamic matrix rather than set of static and disparate categories. Therefore, I ultimately chose to aim for cohesion and fluidity by consolidating the bulk of the paper into a single section.

In the interests of clarity, however, it remains necessary to operationalize these four key terms. 'Actors' is used here to refer to individuals, groups, and governments with a high degree of investment or involvement in the ongoing internal armed conflict in Colombia, including the various armed groups on the ground and influential foreign bodies such as the United States.

'Institutions' are entities with a higher level of organization and degree of distance from the conflict, generally international and intergovernmental organizations that include the UN, the OAS, and the ICRC. 'Instruments' are defined here as including both national legal documents (the US Foreign Assistance Act, Colombia's Justice and Peace legislation) and as the binding conventions and non-binding declarations that constitute the basis of international human rights instruments. Finally, 'mechanisms' are understood to include various means utilized by actors and institutions to accomplish specific goals (i.e., the mechanism of violence used by various armed actors in Colombia to advance their political projects, or the mechanism of the Inter-American Court of Human Rights that can be used by the OAS to address human rights violations).

³ There is of course a broad array of unarmed civil society groups and nongovernmental organizations (NGOs) both inside and outside Colombia working tirelessly on a vast array of human rights issues. These actors constitute a critical component of the struggle for human rights in the country. My general omission of these groups from this study is by no means an attempt to ignore or diminish their role, but rather a reflection of my focus on the problems and possibilities for human rights that arise from the current actions and policies of official actors and illegal armed groups. Throughout the article, I attempt to include civil society groups and NGOs by way of using their research, advocacy efforts and ideological template as a framework for my own analysis. An ethnography of human rights interest groups in Colombia can be found in Winifred Tate, *Counting the Dead: the Culture and Politics of Human Rights Activism in Colombia* (Berkeley: UC Press, 2007).

⁴ For an excellent discussion of the history of radical-popular mobilization in Colombia, please see Forrest Hylton, *Evil Hour in Colombia* (New York: Verso, 2006), particularly chapters 1-3.

⁵ An 'illegal armed group' is currently defined under Colombian law as a "guerrilla or self-defense group, or a significant or integral part thereof, such as a *bloque* (bloc) or *frente* (front), capable of launching sustained military actions, under a responsible command." *Please see* Maria Jose Guembe and Helena Olea, "No Justice, No Peace: Demobilization in Colombia." In *Transitional Justice in the 21st Century: Beyond Truth versus Justice*, ed. Naomi Roht-Arriaza and Javier Mariezcurrena, (Cambridge: CUP, 2006), 121. Credible estimates usually put the FARC at around 20,000 fighters.

⁶ Background information on the armed conflict and all of Colombia's armed actors can be found in the Center for International Policy, *Colombia: Information on the Combatants*, Center for International Policy, <http://ciponline.org/colombia/infocombat.htm> (accessed April 28, 2008); and Robin Kirk, *More Terrible Than Death: Violence, Drugs, and America's War in Colombia* (New York: PublicAffairs Books, 2003). A comprehensive set of conflict-related statistics is presented by Grace Livingstone, *Inside Colombia: Drugs, Democracy and War* (New Brunswick: Rutgers, 2004) (although many of the figures may have since changed).

⁷ See, for example, Amnesty International, "Justice and Peace Law and Decree 128," Amnesty International, http://www.amnestyusa.org/Colombia/Justice_and_Peace_Law_%20and_Decree_128/page.do?id=1101862&n1=3&n2=30&n3=885 (accessed April 28, 2008); Human Rights Watch, "Smoke and Mirrors: Colombia's Demobilization of Paramilitary Groups," vol 17 of *Human Rights Watch Report*, (August 2005), <http://hrw.org/reports/2005/colombia0805/> (accessed April 28, 2008) and Adam Isacson, "Peace or Paramilitarization? Why a weak peace agreement with Colombian paramilitary groups may be worse than no agreement at all," *Center for International Policy Report*, (July 2005), <http://www.ciponline.org/colombia/0507ipr.htm> (accessed April 28, 2008).

⁸ U.S. Department of State, Bureau of Democracy, Human Rights and Labor, *2006 Country Reports on Human Rights Practices: Colombia* (March 6, 2007), www.state.gov/g/drl/rls/hrrpt/2006/78885.htm (accessed April 28, 2008).

⁹ Colombia takes pride in its status as the oldest functioning democracy in Latin America, but systemic political exclusion is among the primary causes for the outbreak of the current armed conflict. However, since the FARC pursues its agenda through the deliberate violation of human rights and actively attempts to undermine the rule of law, I take the position here that the elected government, despite its flaws, is still the legitimate state entity.

¹⁰ Steven Dudley, *Walking Ghosts: Murder and Guerrilla Politics in Colombia* (New York: Routledge, 2004).

¹¹ U.S. Department of State, *2006 Country Reports on Human Rights Practices: Colombia*.

¹² Human Rights Watch, "Colombia: New Killings of Labor Leaders," *Human Rights Watch Press Release* (July 11, 2007). <http://hrw.org/english/docs/2007/11/07/colomb17269.htm> (accessed April 28, 2008); Human Rights Watch, "Colombia: Uribe Must Respect Judicial Independence," *Human Rights Watch Press Release* (September 10, 2007). <http://hrw.org/english/docs/2007/10/09/colomb17057.htm> (Accessed April 28, 2008); Washington Office on Latin America, "Familial Ties to 'Para-gate' Force Resignation of Colombian Foreign Minister" (February 23, 2007). http://wola.org/index.php?option=com_content&task=viewp&id=301&Itemid=2 (accessed April

28,2008); Washington Office on Latin America, "Findings of Recent Trip to Colombia," September 12, 2007.

¹³ An English translation of the 1991 Constitution of Colombia, http://confinder.richmond.edu/admin/docs/colombia_const2.pdf.

¹⁴ Buergenthal et al., 34-69.

¹⁵ Marc Chernick, "Negotiating Peace amid Multiple Forms of Violence: The Protracted Search for a Settlement to the Armed Conflicts in Colombia," in *Comparative Peace Processes in Latin America*, ed. Cynthia Arnson (Stanford: Stanford University Press, 1999) 174-85.

¹⁶ Adam Isacson, "Was Failure Avoidable? Learning from Colombia's 1998-2002 Peace Process," *Dante B. Fascell North-South Center Working Paper No. 14* (March 2003), <http://www.ciponline.org/colombia/cipanal.htm> (accessed April 28,2008).

¹⁷ Nazih Richani, *Systems of Violence: The Political Economy of War and Peace in Colombia* (Albany: SUNY Press, 2002).

¹⁸ Quoted in Isacson, "Was Failure Avoidable? Learning from Colombia's 1998-2002 Peace Process," (March 2003).

¹⁹ Ibid.

²⁰ Guembe and Olea, 120-42.

²¹ Ibid.

²² International Crisis Group, "Colombia: Towards Peace and Justice?" *ICG Latin America Report No. 16*, (March 14, 2006), <http://www.crisisgroup.org/home/index.cfm?id=4020> (accessed April 28, 2008).

²³ Guembe and Olea, 129.

²⁴ www.state.gov/g/drl/hr/.

²⁵ Quoted in Clair Apodaca, "US Human Rights Policy and Foreign Assistance: A Short History," *Ritsumeikan International Affairs* (2005),65. http://www.ritsumei.ac.jp/acd/re/k-rsc/ras/publication/kiyo_en/03/03_5.pdf.

²⁶ Ibid, 67.

²⁷ www.ohchr.org; www.iachr.org; Buergenthal et al., 119-23, 247-56.

²⁸ International Committee of the Red Cross, *The Geneva Conventions*, <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/genevaconventions>.

²⁹ Buergenthal et al., 334-36.

³⁰ International Committee of the Red Cross, *The ICRC in Colombia*, <http://www.icrc.org/Web/Eng/siteeng0.nsf/htmlall/colombia?OpenDocument> (accessed April 28, 2008).

³¹ Organization of American States, *Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings*, OAS Inter-American Commission on Human Rights, October 2, 2007, <http://www.cidh.org/countryrep/colombia2007eng/col07toc.eng.htm> (accessed April 29, 2008).

³² United Nations Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia," UNHCR, March 5, 2007, <http://www.ohchr.org/EN/Countries/LACRegion/Pages/COIndex.aspx> (accessed April 29, 2008).

³³ US Department of State, *2006 Country Reports on Human Rights Practices: Colombia*.

³⁴ Guembe and Olea, 131.

³⁵ International Crisis Group. "Colombia: Towards Peace and Justice?" *ICG Latin America Report No. 16*. March 14, 2006. <http://www.crisisgroup.org/home/index.cfm?id=4020> (accessed April 28, 2008).

³⁶ OAS, "Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings;" United Nations, "Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia;" Guembe and Olea, "No Justice, No Peace"; the International Crisis Group, "Colombia: Towards Peace and Justice?" and Adam Isacson, personal communication with the author, December 10, 2007.

³⁷ OAS, "Report on the Implementation of the Justice and Peace Law: Initial Stages in the Demobilization of the AUC and First Judicial Proceedings."

³⁸ *Ibid.*

³⁹ United Nations Human Rights Council. "Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia." March 5, 2007. <http://www.ohchr.org/EN/Countries/LACRegion/Pages/COIndex.aspx> (accessed April 28, 2008).

⁴⁰ Human Rights Watch, "Colombia Country Summary: 2006," *Human Rights Watch Country Summaries*, January 2007, <http://hrw.org/wr2k6/pdf/colombia.pdf> (accessed April 28, 2008); Washington Office on Latin America, "Planning Murders While Negotiating Peace," October 1, 2006, http://wola.org/index.php?option=com_content&task=viewp&id=298&Itemid=2 (accessed April 29, 2008).

⁴¹ OAS "Report on the Implementation of the Justice and Peace Law;" United Nations Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia;" United States Department of State, *2006 Country Reports on Human Rights Practices: Colombia*.

⁴² Human Rights Watch, "Colombia: Uribe Must Respect Judicial Independence;" Isacson, personal communication with the author; Washington Office on Latin America, "Familial Ties to 'Paragate' Force Resignation of Colombian Foreign Minister;" United Nations Human Rights Council, "Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia."

⁴³ Isacson, personal communication with the author.

⁴⁴ International Crisis Group, "Colombia: Towards Peace and Justice?"

⁴⁵ Ibid.

⁴⁶ International Crisis Group, "Colombia: Moving Forward with the ELN?" *ICG Latin America Briefing No. 16*, October 11, 2007, <http://www.crisisgroup.org/home/index.cfm?id=5115> (accessed April 29, 2008).

⁴⁷ Isacson, "Was Failure Avoidable?" 25.

⁴⁸ International Crisis Group, "Colombia's New Armed Groups," *ICG Latin America Report No. 20*, May 10, 2007, <http://www.crisisgroup.org/home/index.cfm?id=4824> (accessed April 29, 2008).

⁴⁹ Ibid.

⁵⁰ Human Rights Watch, "Smoke and Mirrors: Colombia's Demobilization of Paramilitary Groups."

⁵¹ Center for International Policy, "Just the Facts: US Defense and Security Assistance to Latin America and the Caribbean," <http://ciponline.org/facts/> (accessed April 29, 2008); US Washington Office on Latin America, et al, "Blueprint for a New Colombia Policy," *WOLA Publications and Resources*, March 2005,

http://wola.org/index.php?option=com_content&task=viewp&id=81&Itemid=2 (accessed April 29, 2008); Wallace Wells, "How America Lost the War on Drugs: After Thirty-Five Years and \$500 Billion, Drugs Are as Cheap and Plentiful as Ever: Anatomy of a Failure," *Rolling Stone*, November 27, 2007.

⁵² Adam Isacson, "Washington's New War in Colombia: The War on Drugs Meets the War on Terror," vol 36 of *NACLA Report on the Americas*, (March-April 2003), 13-18; Washington Office on Latin America, et al, "Blueprint for a New Colombia Policy"; Max Jourdan, "Protecting People or Profit?" *BBC News Online*, December 14, 2004, http://news.bbc.co.uk/2/hi/programmes/this_world/4079691.stm (accessed April 29, 2008).

⁵³ Human Rights Watch, www.hrw.org; Amnesty International, www.amnesty.org; the Center for International Policy, www.ciponline.org; and the Washington Office on Latin America, www.wola.org.

⁵⁴ Mark Peceny and Michael Durnan, "The FARC's best friend: US antidrug policies and the deepening of Colombia's civil war," vol. 48 of *Latin American Politics and Society* (Summer 2006), 95-122.

⁵⁵ Kathryn Sikkink, *Mixed Signals: US Human Rights Policy and Latin America* (New York: Cornell University Press, 2004).

⁵⁶ Buergenthal et al., 124.

⁵⁷ *Ibid.*, 241.

⁵⁸ Guembe and Olea.

⁵⁹ Herbert Braun, *Our Guerrillas, Our Sidewalks: A Journey into the Violence of Colombia, 2nd Ed.* (Lanham: Rowman&Littlefield, 2003).