

**COLOMBIA: PRESIDENT SANTOS'S CONFLICT
RESOLUTION OPPORTUNITY**

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COLOMBIA: PRESIDENT SANTOS'S CONFLICT RESOLUTION OPPORTUNITY

EXECUTIVE SUMMARY AND RECOMMENDATIONS

President Juan Manuel Santos, in office since 7 August 2010, has an opportunity to end Colombia's generations of armed conflict by building on but adjusting and substantially broadening the strategy followed for eight years by his predecessor. Alvaro Uribe's predominantly military approach – the “democratic security policy” – did produce important security gains, but Colombia remains plagued by new illegal armed groups (NIAGs) and other criminal actors. By concentrating mainly on fighting the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), it neglected other sources of violence and, most importantly, failed to address underlying causes of the conflict. Santos, who was elected with the largest majority in history, should use his political capital to implement a more integrated conflict resolution strategy that advances institutional and structural reforms needed to address illegality and impunity, expand access to services and tackle issues of land and victims' rights.

FARC and ELN have been weakened significantly but are not defeated. FARC, which still has some 8,000 to 10,000 combatants, has partly adapted to the heavy military pressure and has forged alliances with NIAGs, exposing unprotected civilians – mainly indigenous and Afro-Colombian communities – to mounting violence. The armed forces have been tainted by allegations of thousands of extrajudicial executions and other violations of human rights and international humanitarian law (IHL), due in part to the single-minded pursuit of battlefield successes. With diplomatic ties at a nadir with Venezuela, the Uribe government was unable to control cross-border movements of illegal armed groups, weapons and drugs. Despite costly counter-drug efforts, Colombia has the largest number of hectares under coca cultivation in the world and is the origin of a significant share of global cocaine production.

The Uribe administration sought to consolidate security gains by expanding and strengthening the presence of state institutions in formerly insurgent-dominated areas and produced some positive initial results in two pilot regions. However, those successes are overshadowed by the persisting threats of illegal armed groups and a dis-

trust of the authorities that prevent citizens in such areas from exposing themselves by openly participating in state programs. Consolidation efforts have further suffered from a legally weak and financially uncertain framework; poor coordination of military and civilian roles; delays and problems in the restitution of land to victims of the conflict; and the limited access of citizens affected by the violence to legal income-generating opportunities. Victims and organisations that defend them are exposed to death threats, while implementation of the transitional justice framework has been slow to establish the truth behind atrocious crimes, prosecute perpetrators and provide comprehensive reparation to victims.

Santos was Uribe's defence minister and is expected to continue applying military pressure on the insurgents. But he needs also to correct the flaws of his predecessor's policies and push forward vital reforms. The military and law enforcement aspects of the strategy should be conducted with full respect for human rights and IHL. He needs simultaneously to implement a comprehensive rural and urban citizen-security strategy capable of addressing related threats, such as the expansion of NIAGs, domestic drug trafficking and violence against victims. Reforms are required to tackle the pervasive problems of corruption, impunity and criminal influence in politics and government, so as to expand the rule of law and consequently the greater legitimacy of state institutions.

To advance the “democratic prosperity” policy Santos has proclaimed the successor of the Uribe policy, he must widen access to services and alternative development programs, as well as speed up land restitution. Rebuilding relations with Venezuela and Ecuador, as a prerequisite for joint security and intelligence cooperation and engaging all the country's neighbours in developing effective regional security mechanisms, is another major challenge.

The new president has indicated he is prepared to negotiate at some stage with the FARC and ELN. This is prudent and should be actively pursued, since a complete military victory continues to be unlikely. The new gov-

ernment's initial proposals on land issues, judicial reform and victims' rights, among others, suggest that it is committed to go beyond the Uribe legacy to pursue a broader-gauged response to the full range of issues underlying the conflict, as must be done in any event if a peace is to be sustainable.

Implementing extensive reforms as part of a comprehensive conflict resolution agenda will not be possible without a broad political and social coalition. Some conditions appear favourable. Fresh from a landslide victory, Santos operates from a strong base in Congress and with the media and the population at large. He shows an encouraging willingness to consult broadly that has contributed to a palpable sense of political honeymoon in Bogotá and is essential to maintaining sufficient support. However, as he moves forward on issues like land that touch the special interests of many powers in Congress and the country, he is likely to encounter resistance that will test both his commitment and his skill to move Colombia to a truly new day.

RECOMMENDATIONS

To the Government of Colombia:

1. Ensure the security forces' respect for human rights and international humanitarian law (IHL) by:
 - a) applying existing human rights and IHL policy rigorously;
 - b) transferring all cases of violations committed by the military and involving civilian victims from military to ordinary courts;
 - c) strengthening financially and technically the units of the attorney general's and public prosecutor's offices responsible for investigating extrajudicial executions and other violations; and
 - d) issuing a revised presidential decree that recognises the legitimacy of human rights defenders, orders all security forces to take measures to protect them and provides that there will be specific consequences for individuals and entities that do not comply.
2. Pursue a more effective, integrated citizen-security policy by:
 - a) maintaining strong military pressure against insurgents, combined with effective law enforcement against new illegal armed groups, with support as required from the armed forces in intelligence and logistics, in the context of a comprehensive conflict resolution strategy that makes effective use of new mechanisms for coping with criminal groups created in the last days of the Uribe administration (Decree 2374);
 - b) investigating and prosecuting all links of illegal armed groups with state authorities, including the security forces;
 - c) designing a citizen-security strategy that emphasises both urban and rural crime prevention, pays particular attention to the problems of indigenous and Afro-Colombian communities and establishes clear responsibilities and cooperation mechanisms between army and police and between national and regional authorities; and
 - d) strengthening the office of the ombudsman's early warning system (SAT); improving coordination between it and the inter-agency warning committee (CIAT); publishing its risk reports; and ensuring there are consequences if individuals and entities do not respond adequately.
3. Improve counter-drug policy by:
 - a) giving greater financial and technical aid to alternative development initiatives;
 - b) prioritising voluntary manual eradication over forced manual or aerial eradication; and
 - c) integrating security, eradication, alternative development and institution-strengthening measures by means of improved coordination between national and local authorities.
4. Consolidate security by extending state services and the rule of law in areas formerly dominated by insurgents, including by:
 - a) ensuring that the offices of the attorney general, the prosecutor general and the ombudsman are present in the consolidation zones;
 - b) giving the Coordination Centre for Integrated Action (CCAI) a specific budget line; strengthening its legal standing; ensuring its leadership has direct access to the president; and allocating a specific consolidation-related budget line to each relevant ministry;
 - c) guaranteeing civilian leadership in the design and execution of consolidation zone plans and programs; and
 - d) improving police-military coordination so that the population is adequately protected at all times, including when force is being used against illegal armed groups; and giving the police adequate training and resources so that they can better defend the rule of law against these groups and protect the population.

5. Fight corruption and criminal influence in politics by:
 - a) continuing efforts to strengthen judicial independence, accountability and efficiency, including by separating the interior and justice ministry into two separate ministries;
 - b) improving transparency, accountability and control mechanisms in state institutions at all levels, including by strengthening independent inspectors general and other mechanisms, so as to protect against the influence of and infiltration by criminal groups;
 - c) increasing relevant resources in general, including in the specialised tribunals responsible for confiscation of assets acquired from drug trafficking and other criminal activities, as well as by appointing more judges and investigators; and
 - d) supporting fully the judicial investigations of senior public officials' alleged involvement in illegal operations of the presidential intelligence agency (DAS); passing legislation to eliminate the DAS; and establishing an effective, coordinated intelligence sector with congressional and judicial oversight.
 6. Enforce victims' rights to justice, truth, reparation and protection by:
 - a) obtaining passage of and allocating sufficient funds to implement legislation, including a Land Law and any additional necessary complementary measures, that returns land to victims and guarantees security, development opportunities and technical assistance for those who go back to their land;
 - b) adopting measures to prevent suspected criminal interests from appropriating land, particularly in the La Macarena and Montes de María regions;
 - c) strengthening, technically and financially, the Justice and Peace Unit (JPU) of the attorney general's office and relevant units in the public prosecutor's and ombudsman's offices; and
 - d) obtaining passage of and allocating sufficient funds to implement a Victims' Law that provides for comprehensive reparation of all victims – including those of state abuses – and for protected participation of victims in judicial proceedings.
 7. Improve the demobilisation, disarmament and reintegration (DDR) program, particularly by strengthening job-related components and implementing measures to prevent recruitment of former combatants by NIAGs.
 8. Establish and actively pursue a road map for negotiations with FARC and ELN aimed at ending the conflict without worsening impunity and consider how possible third-party support for a negotiations/peace process might best be utilised.
 9. Work toward effective cross-border security mechanisms, starting by restoring full diplomatic relations with Ecuador and Venezuela and strengthening regional cooperation through the Union of South American Nations (UNASUR) and the Organisation of American States (OAS).
- To the President and Supreme Court of Justice:**
10. Recognise the damage of continuing delay and reach a rapid compromise on the naming of a distinguished new attorney general.
- To the Congress of Colombia:**
11. Prioritise debate on and passage of the Land and Victims' Laws.
- To the U.S. Government:**
12. Continue to condition assistance to the security forces on absolute respect for human rights and elimination of any links with criminal organisations and evaluate compliance more rigorously, including by requiring progress on prosecuting extrajudicial execution cases involving members of the security forces in civilian courts.
 13. Make the economic and governance components of aid to Colombia not less than half the total package, while increasing resources for alternative crop development, rule-of-law capacity building and empowerment of local communities.
 14. Announce support for exploring negotiations to end the conflict, including third-party facilitation if sought by the Colombian government.
- To the Donor Community:**
15. Maintain and strengthen its presence by:
 - a) continuing to support the state institutions responsible for the Justice and Peace Law as well as for other victims' rights, including the right to recover land;
 - b) funding projects fostering alternative rural and institutional development, in particular community-driven initiatives;

- c) prioritising assistance to civilian-led security consolidation efforts and for ensuring that indigenous and Afro-Colombian communities enjoy protection of the rights guaranteed them by the constitution and international instruments, including prior consultation with respect to regional and national investment plans.

Bogotá/Brussels, 13 October 2010

COLOMBIA: PRESIDENT SANTOS'S CONFLICT RESOLUTION OPPORTUNITY

I. INTRODUCTION

The June 2010 presidential elections reflected widespread support for outgoing President Uribe and his flagship democratic security policy (DSP). Over nine million people – almost 70 per cent of the electorate – voted for Juan Manuel Santos, Uribe's former defence minister and a key player in the implementation of that policy. The main object of DSP was to regain control over all the national territory by militarily defeating the insurgent groups, in particular FARC. Countering the drug trafficking that fuels the conflict and demobilising paramilitary groups were complementary aims. Aware that security gains could only be held if followed by sustained state presence in the recovered regions, Uribe launched what was called the "democratic security consolidation policy" (CDSP) in 2007 to expand state institutions and services in territories formerly dominated by the insurgents.¹

The Uribe administration frequently claimed that FARC was close to final defeat and that Colombia had reached a post-conflict stage. Nevertheless, insurgents – though significantly weakened – have adapted and continue to operate, while new security threats have emerged in both rural and urban areas. Moreover, a number of fundamental issues at the roots of Colombia's lengthy violence, such as land, impunity and illegality, are not resolvable by military means alone. This report analyses the lessons learned from previous policies and suggests a course for the new president to follow if he is to make good on the opportunity that exists to create the conditions for sustainable peace.

II. CONFLICT RESOLUTION UNDER URIBE

As Uribe handed over the presidential baton after eight years in office on 7 August 2010, he could document considerable security gains. FARC and ELN guerrillas had been weakened, security had been restored along most of the country's main roads, and police presence had been extended to most municipalities. At the same time, however, the military action on which his administration primarily relied for these achievements had resulted in frequent violations of human rights and international humanitarian law (IHL), the guerrillas remained active, and threats posed by other illegal armed groups had not been neutralised. Cross-border crime rose as relations with neighbours, especially Venezuela, deteriorated. Transitional justice mechanisms produced limited results, and institutional and structural reforms were not prioritised. The Uribe legacy, consequently, is mixed, since violent conflict has become more diffuse, with a broader range of criminal and armed groups operating and interacting in both rural and urban areas.

A. THE MILITARY CAMPAIGN

The military campaign, which was underpinned by heavy investments in the operational and intelligence capacities of the security forces and their deployment across the country,² hurt the guerrillas badly. They lost thousands of fighters in combat or through desertion and capture and are experiencing serious coordination and communication problems.³ Forcing FARC, by far the larger of the insurgent groups, to reduce its presence in municipalities by more than 50 per cent between 2002 and 2010, the state

¹"Policy for the Consolidation of Democratic Security", defence ministry, 2007. See also Crisis Group Latin America Report N°30, *Ending Colombia's FARC Conflict: Dealing the Right Card*, 26 March 2009, p. 22.

²In 2002, police and army combined totalled 313,406, in 2010, 446,638, a 42.5 per cent increase. Security sector expenditure in 2002 was 4.6 per cent of GDP, 5.2 per cent in 2009. "Logros de la Política de Consolidación de la Seguridad Democrática PCSD", defence ministry, April 2010.

³See Crisis Group Report, *Ending Colombia's FARC Conflict*, op. cit., p. 1.

regained control of considerable parts of national territory.⁴

However, the insurgents have not been defeated. FARC is today estimated to have between 8,000 and 10,000 fighters deployed in 61 fronts (*frentes*),⁵ while ELN is said to have between 1,500 and 2,500 combatants.⁶ FARC has been able to replace many of those killed, captured or defected, year after year, through a combination of voluntary enlistments and forced recruitment, particularly of child soldiers.⁷ Both groups have been partially able to adapt to changes in the security environment. Maintaining a largely functioning command and control structure and a wide network of contacts with other illegal armed groups within and beyond Colombia, FARC in particular does not seem to have problems in securing a steady flow of arms and money from drug trafficking.

Citing FARC's progressive criminalisation and geographical reorganisation, the government announced a "strategic leap" (*salto estratégico*) in 2009 to consolidate security gains and achieve final victory. The components included improved intelligence, deployment of troops to remote zones and "joint operation theatres" (*teatros de opera-*

ciones conjuntas) for coordinated action by all branches of the security forces.⁸ Nevertheless, the security forces were not able to respond fully to FARC's transformation, increased capacity to operate in some regions⁹ and alliances with emerging new illegal armed groups (NIAGs). The insurgents resorted to more mobile structures, guerrilla tactics and the mass use of mines, other explosive devices and snipers, in order to avoid most major confrontations with the military while still inflicting casualties on the armed forces and severely affecting the population.

Senior government officials and security personnel maintained that due to the military pressure, Colombia had reached a post-conflict, "normalisation stage", in which FARC was virtually defeated and further military force would complete the process.¹⁰ This belief presumably was responsible for the former government's failure to give the necessary priority to a number of conflict resolution issues, including protecting civilians from the insurgents and NIAGs during the expanded military campaign.¹¹ Indigenous and Afro-Colombian communities proved particularly vulnerable as guerrillas seeking refuge from the offensive moved into their areas. Subjected to forced recruitment, displacement and confinement, they were often caught in the crossfire between the army and the illegal groups.¹²

⁴ Crisis Group Latin America Briefing N°23, *Improving Security Policy in Colombia*, 29 June 2010, p. 2. FARC is present in 206 of the 1,101 municipalities, down from 514; most of its operations are in five of the 32 departments.

⁵ Only 30 of the 61 fronts are believed active. FARC also deploys fifteen or sixteen mobile columns (*columnas móviles*) and some thirteen smaller companies (*compañías*). See Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., p. 2.

⁶ According to Uribe's last defence minister, Gabriel Silva, ELN has 1,500 fighters. "Farc y Eln tienen menos de 10.000 integrantes, dice el Gobierno", *El Espectador*, 24 July 2010. Other sources earlier reported 2,500. Hernando Salazar, "La Encrucijada del ELN", Corporación Nuevo Arco Iris, 11 November 2009. ELN was severely weakened between 2002 and 2009, with an estimated 83 to 97 per cent reduction in violent acts committed. See Alejandro Angulo, Valentina Zarama, William Roza and Alejandro Burgos, "¿En qué está la paz? Cifras del conflicto armado", Centro de Investigación y Educación Popular (CINEP), 24 April 2009. The group is still active and has even gained strength in some areas, particularly Arauca, Nariño and Cauca. See Ariel Fernando Ávila and Magda Paola Núñez, "Las Dinámicas Territoriales del Ejército de Liberación Nacional: Arauca, Cauca y Nariño", Corporación Nuevo Arco Iris, 1 May 2010, p. 31.

⁷ Armed groups, especially FARC, increasingly target children for forced recruitment. FARC is responsible for approximately 56 per cent of child recruitment, which is common in Nariño, Antioquia, Meta and Chocó (Sipi, Novita, Medio San Juan, Bagadó). From January 2008 to August 2009, 156 cases affecting 633 children were recorded by the attorney general's human rights unit, leading to thirteen convictions. Crisis Group interviews, humanitarian organisation, Quibdó, 18 February 2010; ombudsman's office, 5 February 2010; humanitarian organisation, Pasto, 9 February 2009.

⁸ See Crisis Group Latin America Report N°31, *Uribe's Possible Third Term and Conflict Resolution in Colombia*, 18 December 2009, p. 4. "MinDefensa explicó el 'salto estratégico' para continuar ofensiva contra las FARC", presidency press communiqué, 31 March 2009.

⁹ FARC military actions increased in 2009. Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., p.3.

¹⁰ *Ibid*, p. 15.

¹¹ Killings of indigenous people increased 63 per cent in 2009. Report of the UN High Commissioner for Human Rights (UNHCHR), A/HRC/13/72, 4 March 2010, p. 14.

¹² Over 1,100 indigenous people have been forced from their land by the Los Rastrojos NIAG in the Bajo Baudó area (Chocó). Crisis Group interview, international organisation, Quibdó, 18 February 2010. About 70 per cent (over 1,100) of the indigenous Guayabero community in Nariño have been displaced, accused by the army of FARC collaboration. Heavy use of mines in the Guaviare River (Vichada and Guainía) has displaced entire communities and several members of the Barranco Ceiba and Nukak indigenous reserves. Crisis Group interview, human rights organisation CODHES, Bogotá, 16 December 2009. In Bellavista (Nariño), 800 of 1,300 members of the Awá community have been scattered to different areas. Crisis Group interview, community representative, Pasto, 15 February 2010. According to the government, 3.4 million people were registered as internally displaced persons (IDPs) in July 2010. "Estadísticas población desplazada incluida en el RUPD", Acción Social, 31 July 2010. While 1997 and 1999 the number of new registrations oscillated around 27,000 yearly, between 2000 and 2009, over 320,000 new IDPs were registered yearly on aver-

Communities were sometimes left unprotected despite the existence of risk alerts, in part due to coordination and communication deficiencies between the ombudsman's early-warning system (Sistema de Alertas Tempranas, SAT) and the inter-agency early-warning committee (Comité Interinstitucional de Alertas Tempranas, CIAT) responsible for evaluating reports and coordinating responses.¹³ The lack of transparency in government operations makes it difficult to hold authorities accountable for such failures.¹⁴

With military action privileged, human rights and IHL suffered. Negligent or openly abusive actions of the security forces included extrajudicial executions of civilians, sexual violence against women, forced displacement, looting, torture, threats and restrictions on freedom of movement of persons and goods.¹⁵ According to a Colombian human rights NGO, there were 177 crimes against activists in 2009, 47 per cent committed by paramilitaries, 18 per cent by state agencies, 9 per cent by guerrillas and 26 per cent by unidentified actors.¹⁶ Additional concerns have been expressed over state intelligence activities

against journalists, indigenous communities and trade union leaders.¹⁷

The military's image was badly damaged in the "false positives" scandal, first revealed in September 2008, in which innocent citizens were claimed as members of illegal armed groups killed in combat in order to raise body count statistics.¹⁸ By March 2010, only 43 of the 1,354 cases of alleged extrajudicial executions (involving 2,321 victims) assigned for investigation to the National Human Rights and International Humanitarian Law unit of the attorney general's office had resulted in convictions.¹⁹ In its 2010 report, the UN High Commissioner for Human Rights (UNHCHR) noted that, though the number of alleged extrajudicial executions attributed to the security forces declined in 2009, the under-resourced unit of the attorney general's office still faced a caseload of such size as to indicate that the executions were not an isolated phenomenon.²⁰

Pursuant to a comprehensive policy issued in 2007 by the defence ministry, security forces are guided by a detailed operations manual in respect of human rights and IHL, army legal advisers help plan operations in conformity with international standards, and military inspectors are charged with documenting and investigating possible offences.²¹ According to senior Uribe government officials,

age. Human rights organisation CODHES speaks about a cumulative number of 4.9 million IDPs in the past 25 years. "Salto estratégico o salto al vacío", CODHES, Boletín Informativo No. 76, 27 January 2010, p. 1.

¹³ See Crisis Group Latin America Briefing N°21, *The Virtuous Twins, Protecting Human Rights and Improving Security in Colombia*, 25 May 2009, p. 11. There were complaints that two FARC massacres against the Awá indigenous community in February 2009 could have been avoided if risk reports had received adequate attention. Carlos Guevara, "Qué está pasando con las alertas de la Defensoría?", *Somos Defensores*, 1 March 2009. According to an international humanitarian organisation, FARC attacks in Caldonó, Jambaló and Cajibío (Cauca department) on 20 February 2010 had been preceded by warnings from local authorities and the ombudsman's office. Crisis Group interview, Cali, 26 February 2010.

¹⁴ See "Audit of USAID/Colombia's Human Rights Program", USAID Office of Inspector General, 6 March 2009, pp. 8-9.

¹⁵ See UNHCHR report, op. cit., p. 14.

¹⁶ These consisted of 99 threats, 32 murders, seventeen assassination attempts, fifteen arbitrary detentions, one case of torture, three injuries and ten arbitrary legal persecutions. "174 defensores (as) de derechos humanos fueron agredidos en 2009", press release, Programa Somos Defensores, 24 May 2010. Many organisations continued referring to "paramilitaries" after 2006, the year in which the demobilisation of the Colombian United Self-Defence Forces (AUC) officially ended, so as to stress the continuation of paramilitary practices by active illegal armed groups. Crisis Group refers to NIAGs and paramilitary successors, recognising that some active groups came from ex-AUC units that never demobilised or left the process; others pre-date AUC; still others are entirely new. For further discussion on NIAGs see Crisis Group Latin America Report N°20, *Colombia's New Armed Groups*, 10 May 2007.

¹⁷ The Inter-American Commission on Human Rights condemned the alleged illegal detention of journalists Hollman Morris and Camilo Raigozo by the armed forces while covering a FARC hostage-release operation. The government argued that Morris ignored protocol and did not advise of his movements. Annual Report of the Inter-American Commission on Human Rights 2009, OEA/Ser.L/V/II, 30 December 2009. Violations against other groups are denounced, among others, by Human Rights Watch and Amnesty International in their 2009 reports on Colombia.

¹⁸ See Crisis Group Briefing, *The Virtuous Twins*, op. cit., p. 8. Seventeen soldiers involved in the scandal were released in early 2010 because the three-month period for bringing them to trial had elapsed, causing outrage among victims' families. "Caso de falsos positivos refleja vacíos en el sistema penal", *Semana*, 12 January 2010.

¹⁹ See "Still Waiting for Justice", U.S. office for Colombia, (an NGO not affiliated with the U.S. government), 28 September 2010, p. 1.

²⁰ There were seven alleged cases in 2009, 144 in 2008. UNHCHR report, op. cit., p. 9. On his mission to Colombia in June 2009, Philip Alston, UN special rapporteur on extrajudicial, summary or arbitrary executions, concluded that the number of killings suggested they were not isolated cases. "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, addendum, mission to Colombia" A/HRC/14/24/Add2, 31 March 2010, p. 9.

²¹ According to the defence ministry, 54 legal advisers and seven inspectors were appointed in 2008, the latter to each of the army divisions. "Protecting rights. Actions and outcomes of

the immediate dismissal of 27 army officers involved in the “false positives” scandal delivered a clear message to all units and eliminated this criminal behaviour from the ranks.²²

Investigations, however, suggest that the policies are not systematically and effectively enforced, that informal incentives for soldiers to kill illegally persist²³ and that high levels of impunity prevail.²⁴ Evidence gathered by Crisis Group indicates that enforcement and implementation of human rights and IHL obligations in the field and among the lower ranks frequently depend more on local commanders than instructions from the top brass in Bogotá.²⁵ In a number of regions, communities continue to complain of abuses against civilians by the military, and an army perceived to have a deeply embedded culture of abuse and violence is still distrusted.²⁶

The hard military line against insurgents was pursued across the border. Uribe publicly accused Venezuela and Ecuador of acquiescing or tolerating the presence of FARC and ELN on their territory and even of aiding and financing them.²⁷ Relations with both neighbours seriously deteriorated, leading to a diplomatic and commercial standstill with Caracas and a tense relationship with Quito.

the National Security Forces in the protection of human rights, 2002–2008”, defence ministry, 2008. Crisis Group Briefing, *The Virtuous Twins*, op. cit., p. 2. Crisis Group interview, defence ministry, 19 January 2010. The delegates in units are often based inside the barracks, raising concern over their independence. Crisis Group interview, pacific regional office of the Nariño government, Tumaco, 25 February 2010.

²² Crisis Group interview, office of the vice president, Bogotá, 14 January 2010. However, none of those officers have been charged with crimes. “Still Waiting for Justice”, op. cit., p. 1.

²³ “Report of the Special Rapporteur”, op. cit., p. 2.

²⁴ According to Philip Alston, the current rate of impunity in extrajudicial-killing cases is nearing 98.5 per cent. “UN expert finds progress but also a pattern of unlawful killings and ongoing ‘serious problems’ with Colombia’s security policies”, press release, UN, 27 May 2010.

²⁵ UNHCHR report, op. cit.; Crisis Group interviews, Acción Social, Tumaco, 23 February 2010; Mesetas, 12 April 2010; Pasto, 9 February 2010.

²⁶ Crisis Group interview, conflict resolution expert, Bogotá, 15 January 2010.

²⁷ Operation Fénix (March 2008), in which a FARC camp was bombed and secretariat member Raul Reyes was killed by Colombian forces, was conducted inside Ecuador. Computer information recovered indicated that senior government officials from both Venezuela and Ecuador had been in contact with FARC. See Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., p. 8.

Venezuela toughened its treatment of Colombian citizens along the border,²⁸ and humanitarian organisations expressed concern over the possibility of mass displacement.²⁹ The lack of cooperation in the border regions of Arauca, Vichada and Norte de Santander permitted illegal groups to move freely into Venezuela, expand and consolidate drug routes and increase fuel and food stocks.³⁰ Members of the FARC secretariat are believed to be living on the Venezuelan side of the Serranía de Perijá,³¹ while ELN allegedly controls five of seven illegal entry points from Arauca into Venezuela.³² The Uribe government requested an extraordinary meeting of the OAS permanent council on 22 July 2010 to present evidence of ELN and FARC camps inside Venezuela and called for a commission to verify the claims. President Hugo Chávez responded by breaking diplomatic relations.³³

Military collaboration with Ecuador has remained relatively good on border security, including joint intelligence operations,³⁴ but the poor state of diplomatic relations has nevertheless affected cooperation along the 365-mile frontier that is mostly jungle and otherwise inaccessible terrain, thus facilitating drug smuggling, money laundering

²⁸ Crisis Group interview, local government official, Cúcuta, 1 March 2010. In 2010, there have been a number of incidents against Colombians in Venezuela accused of spying. “Son 22 los colombianos acusados de espionaje en Venezuela”, *El Espectador*, 10 April 2010. Colombian fishermen and traders have complained of harassment by Venezuelan border patrols and frontier police. “Denuncian nueva detención de colombianos en Venezuela”, *El Espectador*, 17 April 2010.

²⁹ Crisis Group interview, international humanitarian organisation, Cúcuta, 2 March 2010.

³⁰ Crisis Group interviews, former senior Colombian diplomat, Bogotá, 12 January 2010; police personnel, Cúcuta, 2 March 2010; defence ministry official, Bogotá, 19 January 2010. See also “Vargas Lleras revela presencia de FARC y ELN en Venezuela”, *El Universal*, 20 March 2010. The charge was reaffirmed publicly by the defence ministry on 15 July 2010.

³¹ Crisis Group interviews, international humanitarian organisation, senior defence ministry official, Bogotá, 19 January, 13 May 2010.

³² Ávila and Núñez, “Las Dinámicas Territoriales”, op. cit., p. 26.

³³ Colombia’s ambassador was recalled to Bogotá for consultations. A 3 August 2010 Mercosur summit recommended that the presidents meet. The commercial repercussions were severe, as Venezuela had been Colombia’s largest trading partner until the end of 2008, with close to \$7 billion bilateral trade. Not only large industries in the main cities were affected, but also thousands of families who are dependent on trade along the border. See also Crisis Group Latin America Briefing N°22, *Venezuela: Accelerating the Bolivarian Revolution*, 5 November 2009, p. 10.

³⁴ Crisis Group interviews, police, Pasto, 15 February 2010; military personnel, Tumaco, 24 February 2010.

and FARC use of Ecuadorian territory.³⁵ President Rafael Correa has been especially critical of Colombia's attempts to destroy coca plants by aerial spraying.³⁶

B. NEW ILLEGAL ARMED GROUPS (NIAGS)

Focusing on the guerrillas as the declared main security threat, the former government tended to downplay the menace emerging from NIAGs and paramilitary successors.³⁷ Police estimates of 3,749 members³⁸ operating in six groups in 159 municipalities and eighteen departments have been contested by NGOs, who believe these groups may have up to 10,000 members in at least 173 municipalities and 24 departments.³⁹ According to a human rights NGO, successor groups of former AUC structures that never demobilised and NIAGs, many of which appear to operate in similar fashion to the old paramilitaries, killed or disappeared at least 4,300 people between 1 December 2002 – the start of the ceasefire by the paramilitaries – and 30 June 2008.⁴⁰ Dealing with the groups largely as common criminals under the label of “BACRIM” (criminal groups), the former government underestimated their complex nature and connections to former paramilitary structures, which it claimed had been successfully dismantled in the demobilisation process that started in 2003 and officially ended in mid-2006.

In its final days, in July 2010, the Uribe administration addressed limitations of its policy by creating an Inter-institutional Commission against Criminal Groups and Networks (Comisión Interinstitucional Contra las Bandas

y Redes Criminales),⁴¹ strengthening judicial resources,⁴² establishing regional committees for local action, seeking to protect the rights of children involved in the criminal groups and putting in place mechanisms for the military to use, in coordination with the police, against the groups in certain circumstances. Though not framed as part of an integrated citizen-security strategy capable of fully dealing with the problem, these new measures can potentially improve an approach that has suffered from lack of clarity and coordination.⁴³

Another problem in dealing with NIAGS is that the police have been weak, often largely absent or inadequately protected by the army.⁴⁴ More worrying, however, has been the security forces' apparent tolerance of or collusion with these groups. This ranges from simply allowing criminal activities (smuggling of drugs and contraband) to situations in which state forces and these groups are accused of working together.⁴⁵ Distrust of the police and local au-

⁴¹The commission and other provisions were established by Decree 2374, ministry of interior and justice, 1 July 2010. The commission is headed by the interior and justice ministry and includes the defence ministry, national police, presidential intelligence agency (DAS), the attorney general, public prosecutor, ombudsman and president of the administrative section of the superior council of the judiciary.

⁴²Consisting of a special unit of judges with regional and national jurisdiction and new jails (Establecimientos de Reclusión del Orden Nacional, ERON). Most accused were being released on bail or granted house arrest, and insufficient numbers of judicial police, attorneys, judges and defence lawyers in rural areas meant cases could not be dealt with rapidly, and many detained had to be released eventually. Decree 2374, op. cit., pp. 2-3.

⁴³In 2006, the government launched a national strategy against criminal bands (Estrategia Nacional contra Bandas Criminales, ENBAC). Despite creation of an entity to coordinate the ENBAC, led by police intelligence (DIPOL) and monitored by both the UN Office on Drugs and Crime (UNODC) and MAPP/OAS, each force appeared to work individually and conduct operations according to its own intelligence. Crisis Group interviews, NGO monitoring the peace process with paramilitaries, Bogotá, 11 December 2009; DIPOL, Bogotá, 26 January 2010.

⁴⁴See Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., p. 14. The army argues that the police have the ability to protect themselves. Crisis Group interview, government official, Vistahermosa, 13 April 2010.

⁴⁵In Quibdó, the local authorities are accused of allowing known drug traffickers to operate. Crisis Group interview, Quibdó, 17 February 2010. In Coveñas, there are rumours of complicity between traffickers and marines, allegedly bribed to allow drugs to pass the Coveñas/San Antero checkpoint and move freely around Tolú, Coveñas and San Onofre. Crisis Group interview, Sincelejo, 23 March 2010. In some areas, there is allegedly a stronger relationship, “connectivity” (*conectividad*), with the state forces and armed groups apparently collaborating to drive other illegal actors out, obtain information from the population or consolidate drug routes. Crisis Group interviews, Nariño, 9

³⁵Douglas Farah and Glenn Simpson, “Ecuador at Risk: Drugs, Thugs, Guerrillas and the Citizens' Revolution”, International Assessment and Strategy Center, January 2010, p. 11.

³⁶On 31 March 2008, Ecuador sued Colombia at the International Court of Justice for damages caused by aerial fumigation. “Fumigaciones: CIJ autoriza replicas a Ecuador y Colombia”, *El Nuevo Siglo*, 3 July 2010.

³⁷See Crisis Group Report, *Colombia's New Armed Groups*, op. cit., pp. 20-21.

³⁸“El rearme”, Fundación Ideas para la Paz (FIP), 29 July 2010.

³⁹See Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., p. 9. One NGO report has the groups operating in 293 municipalities. Ariel Fernando Ávila: “Los retos de Juan Manuel Santos en materia de seguridad”, Corporación Nuevo Arco Iris, 7 August 2010. The six groups identified by the police are: Los Rastrojos, los Paisas, Urabá (o Urabeños), Ejército Revolucionario Popular Antiterrorista Colombiano (ERPAC), Renacer and los Machos.

⁴⁰“Colombia: La metáfora de la promesa del cese de hostilidades en relación con el derecho a la vida”, Comisión Colombiana de Juristas, Bogotá, 2010, p. 25. “La Reintegración: logros en medio de rearmes y dificultades no resueltas”, 2nd report of the National Commission for Reparation and Reconciliation (CNRR), Bogotá, July 2010, pp. 56-58.

thorities in certain regions has increased on account of such partnerships. There are also indications that the pressure which the DSP placed on military personnel locally to produce results may have fostered collaboration with illegal groups.⁴⁶

Apart from the general security threat NIAGs pose, they constitute a serious obstacle for the state's demobilisation and reintegration efforts. Ex-combatants have become frequent recruitment targets of NIAGs and paramilitary successors, though the figures vary.⁴⁷ The government maintains that approximately 2 per cent of demobilised paramilitaries are now in NIAGs;⁴⁸ former High Commissioner for Reintegration Frank Pearl indicated that 8.5 per cent of the demobilised population – including former insurgents as well as paramilitaries – are involved in some kind of criminal activity;⁴⁹ police figures suggest that between 2001 and 2010 more than 11 per cent of demobilised ex-combatants have been captured by the security forces.⁵⁰ Former paramilitary combatants have also been threatened and killed by NIAGs, which many analysts interpret as an indication that mid-level paramilitary commanders never demobilised and today target those who did.⁵¹

February 2009, Cúcuta, 2 March 2010. In Puerto Rico, there are rumours of close army-NIAG collaboration. Crisis Group interview, Granada, 14 April 2010.

⁴⁶ Crisis Group interview, member of security forces, Tumaco, 24 February 2010.

⁴⁷ In a 2008 survey of 4,557 participants of a workshop for demobilised combatants by the governor of Antioquia department, 79.4 per cent confirmed they had received offers from illegal armed groups in the last year. "Décimo Cuarto Informe Trimestral del Secretario General al Consejo Permanente sobre la Misión de Apoyo al Proceso de Paz en Colombia (MAPP/OEA)", Organisation of American States, 26 April 2010, p. 16.

⁴⁸ Crisis Group interview, senior government official, 22 February 2010. The police confirm this statistic is realistic, adding that the average in other peace processes has been 13 per cent. Crisis Group interview, DIPOL, Bogotá, 26 January 2010.

⁴⁹ María Luisa González, "Frank Pearl: Comisionado de Paz defiende proceso de reintegración", Agencia EFE, (www.colombia.com), 20 April 2009. According to Pearl, the percentage is higher for former paramilitaries.

⁵⁰ "Desmovilizados colectivos e individuales, informe de control y monitoreo a Marzo del 2010", national police, March 2010. 1,464 demobilised ex-combatants (over 2.8 per cent) are said to have been killed in police operations, between 2001 and 2009, a figure that contributes to the inconsistency of official sources. Carlos Otalora Castañeda: "La reincidencia de los desmovilizados en Colombia: las cuentas no cuadran y el fenómeno crece", *Semana*, 16 December 2009.

⁵¹ "La reincidencia de los desmovilizados en Colombia: las cuentas no cuadran y el fenómeno crece", op. cit. See also "El Rearme", op. cit., p. 6.

C. COUNTER-DRUG EFFORTS

The Uribe government sought to address the drug problem by raising the costs of the business and associated risks and reducing profits. The tactics have been to decrease illicit crops gradually through aerial and manual eradication and alternative development programs; strengthen interdiction of chemicals and precursors, laboratories and illegal runways; capture drug traffickers and disrupt their organisations; and promote prevention campaigns to reduce demand.⁵²

The efforts have been supported by Plan Colombia, the joint Colombia-U.S. counter-drug and counter-insurgency strategy in which Washington has invested more than \$7 billion over ten years.⁵³ Though there is no consensus,⁵⁴ the figures appear to show the results have been insufficient, as senior U.S. officials acknowledge.⁵⁵ While statistics for 2007-2009 indicate reductions in cultivation and production, it is uncertain whether this is a long-term trend or merely part of a fluctuating decade-long pattern.

According to UN figures, the country had a cultivated area of 102,000 hectares and a coca production potential

⁵² See "Acciones y Resultados 2008", Observatorio de Drogas de Colombia, 2009.

⁵³ See "CRS Issue Statement on Latin America and the Caribbean", Congressional Research Service, IS40343, 30 June 2010, p. 1. The U.S. has been closely identified and strongly engaged with Colombia's battle against the FARC and its counter-narcotics efforts for more than a decade, since the Pastrana administration and the design and then implementation in early 2001 of Plan Colombia. Throughout the Uribe administration, much of that time with Santos as defence minister, the U.S., under the Bush administration, saw Colombia as its strongest ally on counter-drug efforts. That posture also tended to isolate Colombia within the region.

⁵⁴ Figures on potential cocaine production and cultivated area vary due to differences in the measurement methodologies. The Colombian government has relied on the UNODC Coca Cultivation Monitoring System since 1999; the U.S. Departments of Justice and State and the White House Office of National Drug Control Policy conduct their own measurements and report varying statistics. Crisis Group Latin America Report N°25, *Latin American Drugs I: Losing the Fight*, 14 March 2008, p. 2.

⁵⁵ Speaking generally about U.S. anti-drug policy rather than Plan Colombia, Gil Kerlikowske, the director of the Office of National Drug Control Policy, said, "in the grand scheme of things, it has not been successful. 40 years later the concern about drugs and drug problems is, if anything, magnified, intensified". See "US drug war has met none of its goals", Associated Press, 13 May 2010. Similarly, the former ambassador to Colombia, William Brownfield, said the critics were right, when they said that the counter-drugs policy was deficient, and the U.S. was, therefore, in the process of modifying it. "'Estamos cambiando nuestra estrategia': Brownfield", *El Espectador*, 25 March 2010.

of 580 metric tons when Uribe came into office in 2002.⁵⁶ There were crops in 21 of 32 departments with 71 per cent concentrated in Guaviare, Nariño, Putumayo, Caquetá and Norte de Santander departments. Notwithstanding year-to-year variations, the cultivated area was not significantly reduced between 2002 and 2007, but rather merely shifted from one area to another. While it grew in some departments (Nariño, Córdoba, Santander, Cauca, Bolívar, Antioquia, Vichada, Chocó, Valle del Cauca and Cundinamarca), it was stable in others (Putumayo, Boyacá, Arauca, Meta and Guainía) and decreased in yet others (Vaupés, Amazonas, la Guajira and Magdalena).⁵⁷ Production potential oscillated between 440 and 640 metric tons.

Between 2007 and 2009, cultivated area and potential production decreased. Figures produced by the UN Office on Drugs and Crime (UNODC) indicated a reduction from 99,000 hectares in 2007 to 81,000 in 2008, while the U.S. State Department reported a decrease from 167,000 to 119,000 hectares in the same period.⁵⁸ The U.S. noted a 39 per cent decline in cocaine production potential (from 482 to 295 metric tons), while the UN figure was 18 per cent and 430 metric tons down from 600. UNODC reported a further decrease in potential production (to 410 metric tons) and cultivated area (to 68,000 hectares) for 2009.⁵⁹

Nevertheless, despite this recent trend and the interdiction of over eighteen tons of liquid chemical substances and 26,000 tons of solid chemicals, the destruction of close to 18,000 laboratories and the confiscation of over 10,000 tons of cocaine between 2002 and 2009, Colombia remains the world's largest cultivator, with 43 per cent of the hectares that are devoted to the crop globally, distributed over 22 of its 32 departments.⁶⁰ Coca cultivation in national nature reserves (mainly the Paramillo, Macarena and Nukak parks) increased by 17 per cent between 2008 and 2009, reaffirming the tendency to use forest areas since 2006.⁶¹

Losses in exports, mainly related to interdiction, have encouraged traffickers to develop a larger internal market and raise local demand, which has produced a surge in domestic trafficking and contributed to increased violence in cities such as Medellín, Cúcuta and Cali and a business that may be worth up to \$5.5 million monthly.⁶² The OAS mission in support of the peace process (MAPP/OAS) noted that illegal armed groups are increasingly present in cultivation areas and drug corridors⁶³ and that FARC and ELN, individually and through alliances with NIAGs and other criminal organisations, continue to control segments of the drug business.⁶⁴ Porous and uncontrolled borders with Venezuela, Ecuador, Panama, Peru and Brazil have contributed to the expansion of drug trafficking and other transnational criminal activities.⁶⁵

The attempt to suppress cultivation through aerial spraying has had limited success, as farmers have developed counter techniques.⁶⁶ Budget cuts and armed groups' actions have affected manual eradication, which usually reports lower re-growth rates.⁶⁷ Aerial eradication operations

⁵⁶ "Colombia Coca Survey for December 2002 & Semi-Annual Estimate for July 2003", UNDOC, pp. 2-3. The Office of National Drug Control Policy (ONDCP) reported 169,800 hectares at the end of 2001. See "Coca Estimates in Colombia", U.S. General Accounting Office, GAO-03-319R.

⁵⁷ "Colombia Coca Cultivation Survey", UNODC, June 2005, p. 15; "Colombian – Monitoreo de Cultivos de Coca 2009", UNODC, June 2010, p. 14.

⁵⁸ See "Colombian – Monitoreo de Cultivos de Coca 2009", op. cit.; "International Narcotics Control Strategy Report", U.S. State Department, vol.1, March 2010, p. 201.

⁵⁹ "Colombia Coca Cultivation Survey 2009", op. cit., p. 17. U.S. cultivation and production statistics for 2009 are expected in October, Crisis Group interview, U.S. government official, Washington, 1 October 2010.

⁶⁰ Nariño and Guaviare account for the largest portions.

⁶¹ See Crisis Group Report, *Latin American Drugs I*, op. cit., p. 3.

⁶² Trafficking in Medellín is thriving and largely controlled by alias "Valenciano" and alias "Sebastián". Medellín city communes 1,2,3,6 and 13 have up to 150 groups (*combos*) all fighting for control of the trade. Crisis Group interview, local government official, Medellín, 4 February 2010. In Cúcuta, trafficking accounts for most homicides, particularly in communes 6, 7, 8 and 9. Crisis Group interview, national police, Cúcuta, 2 March 2010.

⁶³ "Décimo Segundo Informe Trimestral del Secretario General al Consejo Permanente sobre la Misión de Apoyo al Proceso de Paz en Colombia (MAPP/OEA)", Organisation of American States, 27 February 2009, p. 5.

⁶⁴ Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., p. 2.

⁶⁵ Crisis Group interviews, former senior Colombian diplomat, Bogotá, 12 January 2010; police personnel, Cúcuta, 2 March 2010; defence ministry official, Bogotá, 19 January 2010; also Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit., pp. 7-8.

⁶⁶ Techniques to frustrate spraying cycles include mixing crops, cultivating in far smaller areas and washing the chemicals off plants immediately after spraying. Crisis Group Latin America Report N°26, *Latin American Drugs II: Improving Policy and Reducing Harm*, 14 March 2008, p. 17.

⁶⁷ In 2009, manual eradication was down 48 per cent compared to 2008 due to funding problems. "Por falta de plata, erradicación manual tuvo una reducción de 48% este año con respecto a 2008", *El Tiempo*, 15 December 2009. According to UNODC, manual eradication programs have been reduced by 70 per cent, as too slow and costly. Crisis Group interview, 26 January 2010. Between January and June 2010, eradication operations left five police dead and 26 injured; three eradicators dead and twenty injured; two soldiers dead and 44 wounded; and two navy personnel dead and two wounded. Crisis Group interview, national police, anti-narcotics department, 20 June 2010.

have also on occasion harmed relations between the state and local communities, by conflicting with local projects.⁶⁸

Alternative development efforts, such as the Forest Wardens (Familias Guardabosques) and Productive Projects (Proyectos Productivos) programs,⁶⁹ have yielded some results, but in the absence of adequate security and public services for the communities have not been sustainable alternatives to coca cultivation. In many cases, eradication and crop substitution initiatives are not applied simultaneously, thus encouraging communities to refuse eradication or return to illicit crops for survival.⁷⁰ In others, the state has been slow to provide transition assistance to cooperating communities.⁷¹ The single-minded pursuit of the “zero tolerance/coca” principle has been criticised even by the U.S. government, which argues that the conditioning of state support to farmers on prior eradication has hampered economic development in cultivation zones.⁷² Promising early results in the La Macarena test area (see below) indicate how critical it is to integrate counter-drug efforts with security and access to services, strengthen civilian institutions and provide viable development alternatives.⁷³

⁶⁸ Nariño Governor Antonio Navarro Wolff launched the “Yes We Can” (*Sí Se Puede*) Plan for crop substitution in Rosario and Leiva municipalities. The police agreed to suspend fumigation during the project. In February 2010, fumigation allegedly destroyed legal crops, and the community complained the police had breached the agreement; the police argued fumigation resumed because illegal crops were found again. The police are the sole arbiter of complaints, so the community had no further recourse. Crisis Group interviews, national police, Pasto, 15 February 2010; community leaders, Sánchez, 12 February 2010; church representatives, Pasto, 10 February 2010; international human rights organisation, Bogotá, 16 February 2010.

⁶⁹ Investment in alternative development was \$117 million in 2009, with \$54.7 million allocated to the Forest Wardens program, \$9.2 million to the Productive Projects Program and \$53 million to the mobile eradication groups. “Política Nacional de Erradicación Manual de Cultivos Ilícitos y Desarrollo Alternativo para la Consolidación Territorial”, National Council for Economic and Social Policy, no. 3669, 28 June 2010, p. 14.

⁷⁰ Crisis Group interviews, local government official, Pasto, 15 February 2010; community leaders, Sánchez, 11 February 2010.

⁷¹ Crisis Group interviews, national police, Pasto, 15 February 2010; international humanitarian organisation, Cúcuta, 1 March 2010; local government official, San Juan de Arama, 13 April 2010; Acción Social, Bogotá, 19 July 2010.

⁷² “Política de ‘cero tolerancia’ frente a los cultivadores de coca es errónea, dice estudio de Usaid”, *El Tiempo*, 8 January 2010.

⁷³ According to UN figures, (Colombia Coca Survey 2009, op. cit.), in 2007 there were 10,386 hectares in Meta (29 municipalities) and in 2009 4,295 hectares. In the municipalities where the regional coordination centre operates, cultivation decreased from 6,527 hectares in 2002 to 1,848 in 2009, and cocaine production potential was also substantially reduced.

D. TRANSITIONAL JUSTICE AND REINTEGRATION

In 2003, the government engaged with the paramilitary United Self-Defence Forces of Colombia (AUC) to negotiate their demobilisation, disarmament and reintegration (DDR).⁷⁴ It was, however, not until 2005, that a legal framework for transitional justice, the Justice and Peace Law (JPL), was adopted to punish crimes against humanity, establish the legal truth behind the acts of illegal armed groups and compensate victims.⁷⁵

The dedication of the Justice and Peace Unit (JPU) of the attorney general's office, responsible for much of the implementation of the JPL, is widely acknowledged. It has begun investigations against 3,115 demobilised paramilitaries, registered 281,661 victims and received the testimony of 50,461 of them. Its specialised units have recovered 3,131 bodies of persons reported missing, identified 2,579 informal burial grounds (*fosas comunes*), and returned 908 bodies to relatives.⁷⁶ However, overall progress has been slow.⁷⁷ Only two of the 4,162 individuals who put their names forward to be prosecuted under the law have so far been convicted and they for only part of their crimes. Moreover, the decisions are still being appealed.⁷⁸

⁷⁴ The legal framework available was Law 782 of 2002 (today Law 1106 of 2006), which had mechanisms for negotiating demobilisation of armed groups members but did not contemplate punishment for crimes against humanity. As international law does not permit full amnesty or pardon for such crimes, a new law was needed so offenders could be tried in Colombia.

⁷⁵ See Crisis Group Latin America Reports N°16, *Colombia: Towards Peace and Justice?*, 14 March 2006; and N°29, *Correcting Course: Victims and the Justice and Peace Law in Colombia*, 30 October 2008. Legal truth refers to the information submitted by the paramilitaries in their confessions within judicial proceedings.

⁷⁶ Frank Pearl, “Buscando un Equilibrio entre la Justicia y la Paz, Avances y Perspectivas de la Ley 975 de 2005”, Corporación Pensamiento Siglo XXI, Konrad Adenauer Foundation, Oficina Alto Comisionado para la Paz, June 2010, pp. 19-20.

⁷⁷ Some who give the JPU technical aid and resources maintain there is a lack of strategy in its activities, as it tries to address all issues at once. There are no time limits on the law's application, no consensus on the legal treatment of certain issues or on which crimes should be the priority, a considerable rotation of investigators and attorneys and problems in centralising information. Crisis Group interviews, international cooperation agency, Bogotá, 20 January, 23 August 2010.

⁷⁸ In June 2010, two AUC Montes de María block commanders, Edward Cobos Tellez (alias Diego Vecino) and Uber Banquez Martínez (alias Juancho Dique), were each sentenced to eight years imprisonment (maximum JPL punishment). Cobos Tellez was convicted of conspiracy to commit crimes, kidnapping, illegal possession of weapons and military uniforms, homicide,

Reparation of victims has been hampered by the slow judicial proceedings,⁷⁹ as well as by the meagre inventory in the victims' national reparation fund.⁸⁰ To address the problem, the government created an administrative mechanism that allows victims to claim economic reparation more rapidly.⁸¹ Using this mechanism, 330,702 victims have registered for reparation, and close to \$110 million was disbursed in 2009. The 2010 national budget has allocated \$165 million to indemnify 15,000 individuals.⁸² The administrative mechanism provides a relatively rapid means of partial relief, but because it puts the emphasis on economic reparation, it may undermine the prospect that victims will also receive other elements of reparation including learning the truth about the crimes from which

they suffered.⁸³ The decree's specific denial of all state responsibility for paramilitary violence is also controversial.

A Victims' Law designed to afford better protection and guarantees for enforcing rights failed passage in Congress in 2009.⁸⁴ The May 2008 decision to extradite several former AUC commanders to the U.S., where they were wanted for drug trafficking, potentially affects the right of victims to truth,⁸⁵ while many attempting to enforce their legal rights are being threatened and not adequately protected by the state.⁸⁶ State institutions charged with legal or administrative responsibilities in the process, among them the JPU, face considerable security and other operational problems⁸⁷ and are badly under-resourced.⁸⁸ Likewise, the authorities' ability to verify that defendants have

participation in a massacre and forced displacement; Banquez Martínez of involvement in the Las Brisas (Bolívar) massacre. "Condenan a 'Diego Vecino' y a 'Juancho Dique' a 8 años de prisión", Caracol Radio, 29 June 2010. Neither has yet been charged for participation in the El Salado (Bolívar) and Chengué (Sucre) massacres, among the bloodiest paramilitary actions. In August 2009, the Supreme Court annulled the first JPL conviction, of Wilson Salazar (alias El Loro), for homicide, ruling that conspiracy to commit a crime was a "vital and essential" part of belonging to an organisation such as the AUC and must be part of a conviction. "Por qué la Corte tumbó la primera sentencia de Justicia y Paz", *Semana*, 18 August 2009.

⁷⁹ JPL Article 23 establishes the appropriate stage in proceedings for victims to demand reparation. As it comes late in the process, and overall progress in legal proceedings has been slow, there have been few such occasions. The JPU of the attorney general's office reports only three reparation demands are presently due. Unidad Nacional de Fiscalías para la Justicia y la Paz, Fiscalía General de la Nación, (www.fiscalia.gov.co/justiciapaz/Index.htm).

⁸⁰ JPL Article 54 created the fund, which currently has 5,539 assets; 93 per cent of these assets are cattle; the remainder include 37 urban properties, nineteen vehicles, four boats, two aircraft, 37 cash payments and 273 rural properties. "Caminos", National Commission for Reparation and Reconciliation, June 2010. Allegedly, at least two million hectares are held by fronts of the illegal armed groups, a major obstacle to confiscating the land. "Falta de dinero y líos judiciales, principales obstáculos del revólucion agrario", *El Tiempo*, 22 August 2010.

⁸¹ Through Decree 1290 (2008) victims of violations committed by illegal groups before 22 April 2008, excluding crimes against property, collective crimes or crimes by agents of the state, were entitled to claim administrative reparation before 22 April 2010 to the Committee for Administrative Reparation (Comité de Reparaciones Administrativas), which would pass the claim to Acción Social. The Victim's Reparation Committee (Comité de Reparación de Víctimas) had to decide the claim within eighteen months. "El ABC de la reparación administrativa", Comisión Nacional de Reparación y Reconciliación, 5 July 2009; also Frank Pearl. "Buscando un Equilibrio", op. cit., p. 19.

⁸² "Justicia Transicional en Colombia: 5 años de Justicia y Paz", interior and justice ministry, July 2010.

⁸³ Economic reparation is only one component of comprehensive reparation, which also includes restitution, rehabilitation, satisfaction and guarantees of non-repetition. See "Clases de Reparación", Comisión Nacional de Reparación y Reconciliación.

⁸⁴ Two issues defeated the bill – a Liberal party initiative – in Congress. The Uribe government convinced a majority that the state was unable to commit to the financial costs. Also, the government refused to include reparation for abuses committed by state agents. "Ley de Víctimas fue negada por el Senado, tras decisión de Uribe de no apoyarla", *El Tiempo*, 4 August 2009.

⁸⁵ The extradition of top commanders means that they will be tried in the U.S. for drug trafficking and money laundering committed there, not for crimes against humanity. Although Colombia and the U.S. have formally agreed that the extradited must cooperate with proceedings in Colombia and honour their obligations to justice, truth and restitution, critics argue that in practice this will not be feasible, and the decision will gravely affect victims' rights. Recent steps to concentrate commanders in fewer U.S. prisons and the commitment to offer technological resources for long-distance court hearings may facilitate cooperation with JPL processes. Crisis Group interview, MAPP/OEA, Bogotá, 1 September 2010.

⁸⁶ Starting with the case of Yolanda Izquierdo (killed in her house in Montería, 31 January 2007), 45 leaders attempting to advance victims' claims to recover land have been murdered. "Ya son 45 los líderes de víctimas asesinados por reclamar sus tierras; en 15 días murieron tres", *El Tiempo*, 3 June 2010. According to the CNRR, the number is 41. Threats and homicides are particularly common in the Urabá region (Antioquia), as well as Córdoba, Chocó, Huila and Sucre departments and the regions of Bajo Cauca and Sur de Bolívar. "Décimo Cuarto Informe Trimestral", op. cit., pp. 3-4.

⁸⁷ JPU teams responsible for exhumation face security problems, as illegal groups place grenades and mines near bodies being recovered from informal burial grounds used by AUC. "Hasta con 'cadáveres bomba' atentan contra comisiones de Justicia y Paz que hacen exhumaciones", *El Tiempo*, 3 August 2010.

⁸⁸ Crisis Group interview, international cooperation agency, Bogotá, 20 January 2010.

met the criteria to establish eligibility for the JPL's reduced penalties is deficient.⁸⁹

Overall, the transitional justice process is significantly constrained by the fact that it is taking place in the context of an ongoing armed conflict. Victims of past violence not only have few guarantees that their rights to truth and comprehensive reparation will be enforced, but also run the risk of becoming new targets due to their participation in legal proceedings.

While government efforts have facilitated demobilisation of combatants,⁹⁰ their effective reintegration has proven a major challenge.⁹¹ Basic health, psychosocial and education services have been provided for much of the demobilised population,⁹² but the authorities have not been successful in generating opportunities to insert them into the work force.⁹³ Under these circumstances, it becomes easy for criminal organisations to lure an ex-combatant back into illegality.⁹⁴

E. SECURITY CONSOLIDATION

With U.S. funds and assistance,⁹⁵ Uribe's government launched the "democratic security consolidation policy" (DSCP) in 2007 aimed at sustaining military gains by bringing state institutions and services to regions previously abandoned by the state, many of them with strong presence of illegal armed groups.⁹⁶ Under the tutelage of the Presidential Program for Social Action and International Cooperation (Acción Social), the Coordination Centre for Integrated Action (Centro de Coordinación de Acción Integral, CCAI) was created and made responsible for twelve state agencies in fifteen selected regions.⁹⁷ Each region was assigned a director to coordinate field activities from a CCAI desk in Bogotá. This was modified in 2009 by the National Territorial Consolidation Plan (Plan Nacional de Consolidación Territorial, PNCT).⁹⁸ Acción Social began to set up coordination centres (CCR) in the regions, each with military, civilian and police divisions under a coordinator⁹⁹ and responsible for designing a strategic plan to address governance, social, economic and infrastructure development and other matters related to local needs.¹⁰⁰

Coordination centres are still at a very early stage. The most advanced are La Macarena (Meta department) and Montes de María (Sucre and Bolívar departments),¹⁰¹

⁸⁹ JPL Article 10 sets criteria to be met by accused who seek reduced punishment under the law, including commitment to contribute to dismantling their armed group, which has proved difficult to enforce.

⁹⁰ Between August 2002 and April 2010, 53,037 individuals demobilised, among them 31,671 ex-AUC who demobilised collectively. Frank Pearl, "Buscando un Equilibrio" op. cit., pp. 17-18.

⁹¹ See Crisis Group Report, *Colombia: Towards Peace and Justice*, op. cit., pp. 14-16.

⁹² See "Rendición de Cuentas del Gobierno nacional – Logros y Retos 2008-2009", Alta Consejería Presidencial para la Reintegración, August 2009.

⁹³ According to the government as of July 2010, 19,000 demobilised individuals are working. "Un gobierno de puertas abiertas al diálogo", Oficina Alto Comisionado para la Paz y la Reintegración, 24 July 2010. Reporting on DDR, the CNRR critically noted that the government had changed its discourse, hiding lack of success on jobs by emphasising successes in professional training programs. IV Encuentro Nacional del Área de Desmovilización, Desarme y Reintegración (DDR) de la CNRR, Bogotá, 23-24 August 2010.

⁹⁴ This has been the case particularly in La Mojana (Sucre), Tumaco (Nariño), Montes de María, La Dorada (Caldas) and Arauca. See "Décimo Cuarto Informe Trimestral", op. cit., p. 14. There have been some results in projects in the Magdalena river region, but efforts in Atlántico department to engage the private sector have gone slowly. In Cartagena, a small project with a cold-storage depot has provided some opportunities, but the demobilised are not taken on as staff but as trainees. Crisis Group interview, international organisation, Barranquilla, 26 March 2010.

⁹⁵ The U.S. was actively involved in developing the Integrated Action Doctrine (DAI), which is at the heart of DSCP and aims at implementing joint military-civilian programs in conflict regions, as well as setting up the CCAI. To enhance these efforts, in 2009, the U.S. embassy developed the Colombia Strategic Development Initiative (CSDI) to focus and integrate U.S. security and development aid. It was meant to support the "strategic leap" announced by then-Defence Minister Santos in 2009. See Adam Isaacson and Abigail Poe, "After Plan Colombia: Evaluating 'Integrated Action', the Next Phase of US Assistance", Center for International Policy, December 2009, pp. 5-6; "Strategic Development and Enhanced Livelihoods Initiative", U.S. Agency for International Development (USAID), 2009.

⁹⁶ See "Policy for the Consolidation of Democratic Security Consolidation Policy", op. cit.

⁹⁷ The institutions are: Acción Social, the armed forces, the national police, the defence, interior and justice, social protection, education and agriculture ministries, the National Institute for Child Care (ICBF), the National Sports Institute (Coldeportes), the National Institute for Rural Development (Incode) and the state's technical training agency (SENA).

⁹⁸ PNCT's main goal is increasing and strengthening integration of military, police and counter-drug efforts as well as efforts related to social, economic and institutional development in pilot regions. See Presidential Directive No. 01, 20 March 2009.

⁹⁹ As of June 2009, five centres had been established. See Isaacson and Poe, "After Plan Colombia", op. cit., p. 8.

¹⁰⁰ Crisis Group interview, Acción Social, Bogotá, 19 July 2010.

¹⁰¹ The coordination centre in La Macarena operates in six municipalities (Macarena, Mesetas, Puerto Rico, San Juan de Ara-

where, senior officials say, results will determine the success or failure of the consolidation strategy.¹⁰² Security gains have been made there, but sustaining them will be difficult under the current institutional framework.

La Macarena, traditionally a FARC stronghold, was selected as the most symbolic showcase.¹⁰³ State action there is designed in three stages: military recovery of territory; eradication of coca crops along with establishment of police, judicial authorities and other state institutions; and implementation of rural development plans and programs, including provision of public services.¹⁰⁴ In Montes de María the emphasis is on productive opportunities to allow internally displaced persons (IDPs) to recover their land and return to the communities from which the conflict displaced them.

Increased state presence has significantly improved security in parts of La Macarena and Montes de María. In the former, FARC has been driven out of the urban centres and deprived of the ability to launch large attacks. State institutions in the region give communities some access to public services and development opportunities. Social programs such as Families in Action (Familias en Acción) and Colombia Responds (Colombia Responde) have brought in productive enterprises and small infrastructure projects.¹⁰⁵ Inhabitants are now able to exercise the right to vote in more areas, and interest in private investment is

ma, La Uribe and Vistahermosa), covering some 34,000 sq km, and in Montes de María in four municipalities (San Onofre and Ovejas in Sucre and Carmen de Bolívar and San Jacinto in Bolívar).

¹⁰² Crisis Group interview, office of the vice president, Bogotá, 14 January 2010.

¹⁰³ This had been a FARC strategic corridor for reaching Bogotá through the Sumapaz River, as well as providing rearguard cover in Caquetá and Vaupes departments to the south. FARC had been the only visible authority there for decades, building strong community links and providing infrastructure and services. Crisis Group interview, international organisation, Bogotá, 3 February 2010. During President Pastrana's term (1998-2002), it was part of the 42,000 sq km area demilitarised for peace negotiations that also permitted FARC fronts 27 and 43 to reaffirm their control and use the territory to grow coca.

¹⁰⁴ The regional coordination centre (Centro de Coordinación Regional, CCR) divided the region into green (fully consolidated), yellow (transition area recovered by the army, awaiting other state institutions) and red (still uncontrolled) zones. Five of the six town centres are green, along with the villages to the north of the Guejar River and east of the Ariari River; those from the Guejar towards a nature reserve, including La Uribe and La Julia, are yellow. The area around Macarena municipality (except the "yellow" town centre) remains red. Crisis Group interview, Acción Social, Bogotá, 21 April 2010.

¹⁰⁵ Crisis Group interviews, Acción Social and local community leaders, Vistahermosa, 13 April 2010.

increasing.¹⁰⁶ Coca cultivation has been reduced substantially, and land values are increasing.¹⁰⁷ The FARC has been almost entirely expelled from Montes de María;¹⁰⁸ many people have returned to their land,¹⁰⁹ and increased security has attracted donor cooperation funds for local development programs.¹¹⁰

Both regions, however, still face considerable challenges. In La Macarena, security threats persist in many rural areas, where FARC continues to intimidate and attack the population,¹¹¹ preventing participation in development programs.¹¹² In Montes de María, there is evidence of increasing presence of NIAGs, mainly the Paisas and Ura-

¹⁰⁶ According to local authorities in Mesetas, better security has reduced murders from 70-80 in 2002 to two or three in 2009. In the last legislative elections over 2,100 people voted, compared to a previous maximum of 700. Polling stations were set up where it had previously been impossible. Crisis Group interviews, representatives of the mayor's office and human rights ombudsman in Mesetas, 12 April 2010. Private investors – mainly in the oil sector – have also started doing business, and there appears to be some potential for ecotourism. Crisis Group interview, community leaders, Vistahermosa, 13 April 2010.

¹⁰⁷ A hectare of land in Vistahermosa valued at approximately \$250 eight years ago today is worth around \$9,000. Crisis Group interview, CCR official, Vistahermosa, 13 April 2010.

¹⁰⁸ Crisis Group interviews, SIJIN (regional police criminal investigation section), San Onofre; and Marine Infantry Brigade 1, Corozal, 25 March 2010.

¹⁰⁹ According to Acción Social, over 300 families and approximately 6,000 people decided to return to their land. 113 families returned to Macayepo, 60 to Chinulito and over 210 to Ovejas. Crisis Group interview, Bogotá, 20 January 2010.

¹¹⁰ Including the UN Development Programme- (UNDP) sponsored "Networks" (*Redes*) program and EU-funded Peace Laboratories (Laboratorios de Paz).

¹¹¹ According to the ombudsman's SAT early-warning system (Report 032-2007), risk zones in La Macarena include Piñalito, Puerto Lucas, Caño Amarillo, Esmeralda and El Laurel, among others. Local authorities say armed groups are only sporadically present now and are requesting modification of the SAT Report, Crisis Group interview, mayor's office, Vistahermosa, 13 April 2010. Other analysts say that those authorities dare not travel 5km outside some municipal centres. Isaacson and Poe, "After Plan Colombia", op. cit., p. 13. Alias "Mono Jojoy", the FARC Secretariat member killed in Operation Sodoma, was camped 26 miles south of La Julia municipality in the Macarena region; see Section III.A.1 below.

¹¹² Due to FARC control in forest areas around Puerto Toledo, La Esperanza, El Danubio and El Cafre (Meta), among others, local inhabitants cannot participate in state-sponsored projects. Crisis Group interviews, church representative and police authorities, Puerto Rico, 14 April 2010. This FARC ban is also applied in other regions. In August 2009, FARC front 29 in Nariño declared all state and international cooperation projects military targets. "Report of the UN Secretary General on Children and Armed Conflict", S/2010/181, 13 April 2010, p. 33.

beños.¹¹³ In both, roads over which to move agricultural produce to markets are poor or non-existent,¹¹⁴ public services have very limited coverage, medical attention is difficult to obtain, and education is basic.¹¹⁵ Progress in formalising land titles has been meagre, preventing municipalities from collecting land tax and limiting farmers' access to credits. The risk of "land grabbing" campaigns has also increased.¹¹⁶

The experiments in La Macarena and Montes de María reveal several problems that need correction. The heavy military influence over consolidation efforts weakens the role of civilian institutions, which communities tend to perceive as clearly subordinate to the military. Military preponderance discourages engagement by the local administration and deters donors from committing to projects.¹¹⁷ It has also generated resistance among the communities, as the army empowers leaders who have not been appointed or recognised as such locally.¹¹⁸ Likewise, the experience of military abuses of the type described above reinforces the population's distrust of the state. Though officials and military personnel say that the regional coordination centres are in effect led by civilians and that a strong military role is essential in the early stages

but will gradually diminish,¹¹⁹ evidence gathered by Crisis Group suggests that army domination is both extensive and persistent.

Coordination between the army and the police, critical for ensuring protection of the population and institutions in recovered territory, is weak. Local officials argue that the police lack doctrine and guidelines on their role in consolidation and the regional centres and have not made that role a priority in the senior ranks.¹²⁰ The army says that it is often unable to move on to new areas, because the police and other institutions have not assumed their roles in recovered areas and that the police insist it remain to help protect the population.¹²¹

The consolidation and coordination framework lacks solid legal standing. The PNCT's mandate expired on 7 August 2010 with the departure of the Uribe administration, and the CCAI's staff is only funded until the end of the year. Additionally, it does not have a separate budget line and depends on funds allocated to Acción Social. The legal and financial dependence on Acción Social has also meant that staff, including regional coordinators, often lack authority to make decisions and direct access to the top people in Bogotá.¹²²

¹¹³ NIAGs Paisas and Urabeños are active in San Onofre, Tolú and Tolúviejo. Towards La Mojana in Sucre, drug trafficking groups filter in from Córdoba (Ayapel and Montelíbano). There are unconfirmed reports of extortion and death threats to farmers who try to inform the authorities. There are also increasing risks to demobilised personnel, whom the Rastrojos NIAG pressure to join in La Mojana, San Onofre and the Golfo de Morrosquillo areas. Recruiters have allegedly been spotted outside the educational centres where the demobilised attend workshops as part of the reintegration program. Crisis Group interview, international organisation, Barranquilla, 26 March 2010.
¹¹⁴ Fish farming, bakery, meat, watermelon and aquaculture projects in La Macarena have difficulty getting produce to market, as there are only a few army-built main roads and no secondary roads. Crisis Group interview, police authorities, Puerto Rico, 14 April 2010.

¹¹⁵ In La Macarena, only main town centres (*cabeceras municipales*) have electricity, water and sewage services. The consolidation zone has only two health facilities, poorly equipped and without a permanent doctor. Crisis Group interviews, NGO, Bogotá, 4 March 2010; Community leader, Vistahermosa, 13 April 2010; church representative, Puerto Rico, 14 April 2010; local government official, Puerto Rico, 14 April 2010; community leaders, Asojuntas, Mesetas, 12 April 2010.

¹¹⁶ Crisis Group interviews, Acción Social, Bogotá, 3 May 2010; National Commission for Reparation and Reconciliation, Sincelejo, 23 March 2010; Infantry Brigade No.1, Corozal, 25 March 2010. See Isaacson and Poe, "After Plan Colombia", op. cit., pp. 25, 36. See also Section III.B.2 below.

¹¹⁷ Crisis Group interviews, donors, Bogotá, 22, 26, 28 January 2010.

¹¹⁸ Crisis Group interview, international organisation, Barranquilla, 26 March 2010.

¹¹⁹ Crisis Group interviews, army, Vistahermosa, 13 April 2010; Acción Social, Bogotá, 19 July 2010.

¹²⁰ Crisis Group interview, Acción Social, Bogotá, 19 July 2010.

¹²¹ Crisis Group interview, army, Vistahermosa, 13 April 2010; Acción Social, Bogotá, 19 July 2010.

¹²² Crisis Group interview, Acción Social, Bogotá, 19 July 2010.

III. TOWARDS INTEGRATED CONFLICT RESOLUTION UNDER SANTOS

Despite important security gains over the past eight years, Colombia has not reached the post-conflict stage. To do so requires a more comprehensive conflict resolution strategy that better integrates a strong military and citizen-security policy respectful of human rights and IHL, with institutional and structural reforms geared to strengthening the presence and legitimacy of the state across the country in order to confront problems of illegality, weak governance and social inequality. Such a strategy can only be successfully implemented if based on a broad political and social coalition in which all sectors of society participate. It should also include the development of scenarios for negotiation with insurgent groups, a notion that was largely discarded under Uribe, because of the conviction that military victory was likely and preferable.

A. IMPROVING SECURITY POLICY AND HUMAN RIGHTS PROTECTION

1. Military action, law enforcement and respect for human rights

President Santos has indicated that he intends to maintain the strong military line against the FARC and ELN. Operation Sodoma, in which FARC secretariat member and military leader Victor Julio Suárez Rojas, alias "Mono Jojoy", was killed on 23 September, was the new president's first major military success.¹²³ Further military action should concentrate on the Pacific coast (in particular Nariño and Cauca), as well as Huila, Caquetá, Meta, Guaviare and Arauca – all areas with strong insurgent presence – and on protecting consolidation efforts, in close cooperation with the police, against the emergence or return of illegal armed groups. The armed forces need to further improve their intelligence and operational capabilities in order to respond effectively to the changed tactics of the guerrillas and target their NIAG alliances. The government should acknowledge that the expansion, capacity and violent impact of NIAGs require a stronger military response integrated with law enforcement; it should make extensive use, therefore, of the new measures authorised in the last days of the Uribe administration.¹²⁴

¹²³ In a joint army-navy-air force-police operation, a FARC camp was bombarded in the village La Escalera, approximately 26 km south of La Macarena, in Meta Department. Apart from alias "Mono Jojoy", at least twenty other FARC fighters were killed.

¹²⁴ In particular, the inter-institutional commission against criminal groups and networks and the new special judges unit provided for in Decree 2374 (1 July 2010) discussed in Section II.B above.

It is vital, however, that military action be accompanied – as has not always been the case – by unconditional respect for human rights and IHL. The armed forces have made progress over the years in inserting human rights and IHL doctrine into the ranks, but much remains to be done. Existing policy should be rigorously applied and enforced,¹²⁵ and full support should be given to the military inspectors charged with looking into potential abuses. Cases of violations involving civilian victims should be promptly investigated, prosecuted and adequately punished by civilian, not military tribunals.¹²⁶

The units of the attorney general's and the public prosecutor's offices need to be strengthened, financially and technically, to address the high levels of impunity related to cases of extrajudicial executions and other abuses.¹²⁷ The authorities should publicly account for progress in prosecutions, while better protecting victims and witnesses. President Santos should at the same time publicly remind officials to abstain from questioning the legitimacy of the work of human rights organisations and their members and establish that there will be consequences for individuals and entities that do not comply.¹²⁸

Any hint that state institutions – including the armed forces – have links to, tolerate or connive with NIAGs must be rigorously investigated, prosecuted and punished. It is vital that complaints and alerts from communities, the ombudsman's office or MAPP/OAS be responded to quickly.

After considerable internal discussion, the Obama administration certified that Colombia had complied over the previous year with the human rights conditionality U.S. law imposes on Washington's military assistance, thereby releasing funds for Colombia's armed forces. The certification referred to positive steps the Santos admini-

¹²⁵ In particular, Presidential Directives No. 07 (1999) and No. 01 (2000), defence ministry Directive No. 09 (2003), interior ministry external circular CRI01, the defence ministry's IHL and human rights policy (2007), and Presidential Directives 010, 019 and 300 (2007) and secret Directive 142 (2008).

¹²⁶ The fact that under the director of criminal military justice in office since August 2009 the transfer of cases has dropped from 40 per month to less than three per month, has raised concern. Crisis Group interview, international human rights organisation, 6 September 2010.

¹²⁷ The announcement by the government and the attorney general's office on 15 September 2010 about strengthening the investigation capacities of the relevant units is a step in the right direction. "Colombia: Fiscalía y Gobierno acuerdan reforzar investigaciones de las ejecuciones extrajudiciales", *Infolatam*, 15 September 2010.

¹²⁸ This should involve issuing a revised Presidential Decree. Presidential Directive No. 07 (1999) dealt with respect for the work of human rights organisations but did not establish consequences for non-compliance.

stration had taken to improve respect for human rights.¹²⁹ The official document, released on 15 September 2010, noted, however, that “ensuring a lasting culture of respect for human rights at all levels of the Armed Forces remains a challenge, particularly due to the resistance of some commanders to important reforms...”.¹³⁰ It also noted the U.S. government’s concern over remaining levels of impunity and the unsatisfactory degree to which cases involving civilian victims have been transferred from the military judicial system to the civilian.¹³¹

2. Towards a comprehensive citizen-security policy

Because it conceived security policy mainly as military action against insurgents, the Uribe government never designed and implemented a comprehensive citizen-security policy to address other threats, including NIAG expansion, domestic drug trafficking and violence against both the victims of the conflict and their defenders. To deal with these complex security threats, which come from different types of criminal actors and affect both urban and rural communities, a comprehensive policy is needed that establishes solid guidelines at the national level, while leaving space for differentiated approaches regionally and locally.

President Santos announced the creation of an “integrated citizen-security strategy” for the cities in his 7 August inauguration address.¹³² Considering the increase in urban

violence since 2008¹³³ and the limited and mostly uncoordinated state response to date,¹³⁴ this should be a priority. The first need is to prepare an extensive diagnosis with accurate figures in order to identify and measure the dimensions of the problem. The resulting strategy should provide for intelligence and law enforcement measures targeting both individual perpetrators and their criminal structures.¹³⁵ Special emphasis should be placed on crime-prevention mechanisms, particularly for minors and youths, who are the most vulnerable segment of the population.¹³⁶ Fighting corruption in law enforcement agencies and engaging local authorities in the design and implementation of policies, should be closely-related priorities.¹³⁷

¹²⁹ Most Colombian- and U.S.-based human rights NGOs had argued that the slowdown in transfer of extrajudicial execution cases to civilian courts by the military was a failure by the armed forces to “fully” cooperate with the civilian justice system. They also cited rising cases of murders and threats against human rights defenders. The Obama administration decided that if it failed to certify (resulting in a very small loss of military aid whose availability expired on 30 September), it would be seen as a slap to the Santos administration. The counterview of many was that the decision would have been based on failures during the last year of the Uribe administration last year and would have provided greater leverage for Santos to obtain movement against impunity in the armed forces. Crisis Group interviews, U.S. government officials and NGO leaders, Washington, September 2010. Also see letter from Colombian and U.S. NGOs to the State Department, US Office on Colombia, August 2010, (www.usofficeoncolombia.org/uploads/application-pdf/letter%20re%20certificationfinal.pdf), and Gustavo Gallón Giraldo, “Certificación condicionada made in USA”, *El Espectador*, 22 September 2010.

¹³⁰ “Memorandum of Justification Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces”, Department of State, submitted 9 September 2010, p. 16.

¹³¹ *Ibid.*, p. 6.

¹³² See “Este es el discurso completo del Presidente”, *El Espectador*, 7 August 2010.

¹³³ According to the Accidents and Violence Information System of the National Institute of Legal Medicine and Forensic Sciences (Instituto Nacional de Medicina Legal y Ciencias Forenses), between January and October 2009 the homicide rate increased by 26.8 per cent (from 10,433 to 13,238); 75 per cent of homicides are concentrated in 5 per cent of the municipalities. Medellín reported a 133 per cent increase. Rates are also increasing in Sincelejo (61.7 per cent), Cartagena (40 per cent), Cali (38.4 per cent), Santa Marta (34.4 per cent), Bogotá (29.4 per cent), Neiva (27.7 per cent), Barranquilla (25.6 per cent) and Villavicencio (25 per cent), among others. Hugo Ace-ro Velásquez, “La violencia se urbaniza”, *El Tiempo*, 3 December 2009. The increase in urban crime is also reflected in sexual violence, drug trafficking in schools and human trafficking. Crisis Group interview, security analyst, Bogotá, 11 August 2010.

¹³⁴ Previous policies and programs have suffered from insufficient coordination between local authorities and police, lack of funding and a narrow focus on homicides as the main problem. Crisis Group interview, security analyst, Bogotá, 11 August 2010. See also Ariel Fernando Ávila, “Los retos del presidente Santos en materia de seguridad”, *Paz, Conflicto y Seguridad*, Boletín no. 7, Corporación Nuevo Arco Iris, 1 July 2010.

¹³⁵ Many maintain this needs to be solved by more police. Crisis Group interviews, former presidential candidate, police, defence and security analysts, senior government official, Bogotá, 14 December 2009, 13, 14, 26 January and 11 March 2010. The current deficit may demand an expansion, but a careful prior assessment is crucial, given the costs that may be involved and the fact that different crimes require different responses. According to analysts, the ratio should be 1 police: 250 citizens. To meet it, Colombia would need approximately 40,000 additional officers. The police added 26,553 (temporary and full time) in 2009, as well as 2,607 cars, 5,247 motorbikes, eight planes and six helicopters for over \$11 million. “Modernización de la Policía Nacional costó \$21,500 millones”, *El Tiempo*, 3 January 2010. In any case it is vital that existing police are adequately trained and resourced to fulfil their roles.

¹³⁶ Crisis Group interviews, inter-agency commission for the prevention of child and adolescent recruitment by organised illegal criminal groups, Bogotá, 18 January 2010; security analyst, Bogotá, 11 August 2010.

¹³⁷ See Section III.B.1 below. The police affirm that municipal authorities do not develop and discuss plans or policies, but simply react to situations when the police detect problems. Crisis Group interview, DIPOL, Bogotá, 26 January 2010.

Positive initial steps towards a more integrated approach have been made through creation of a National Security Council and appointment of senior officials.¹³⁸ It is, however, uncertain what their functions will be and how they will coordinate their work with other institutions in the security sector. On 5 October 2010, the government introduced a draft Citizen Security Law (*Ley de Seguridad Ciudadana*) to Congress that would, inter alia, introduce stronger punishments for minors, criminalise membership in armed groups, facilitate searches and raids (*allanamientos*) and improve supervision of individuals benefiting from house arrest, as well as envisage 20,000 new police over four years.¹³⁹ While some measures would address weaknesses of the current legal system and criminal policy, they are not framed within an integrated strategy based on thorough diagnosis of the problems. Although proclaimed by the government as a mix of carrots and sticks, the package's preventive measures are overbalanced by others involving reactive and repressive approaches that might further fill overcrowded jails with more prisoners than they can cope with, let alone rehabilitate.

With respect to violence in the countryside, the government needs to engage with affected communities and local civil society groups to better understand their security concerns and develop detailed protection plans. Priority should be given to the particularly vulnerable indigenous and Afro-Colombian communities. In areas that have been won back from the insurgents and other illegal groups, consolidation efforts can only succeed if state representatives can operate and citizens engage with them without fear of being targeted by armed groups. Equally, the government should improve coordination between the early warning system of the ombudsman's office, SAT (which needs additional staff and resources), and the inter-agency early warning committee, CIAT, to ensure that reports are public and acted on. Effective accountability mechanisms

are required, and decisions about alerts should be taken free from political pressure.¹⁴⁰

3. Drugs policy

A decade of counter-drug efforts has been unable to cut off the source of financing that fuels the conflict, suggesting that current policy, which has not produced any real breakthrough, should be revised. In 2007-2008, 57 per cent of counter-drug resources were allocated to eradication, only 38.1 per cent to institutional strengthening and alternative development and 3.7 per cent to demand-reduction programs.¹⁴¹ The three components need to be better balanced, including (within the eradication component) more resources for voluntary manual eradication. The U.S. should continue to shift the proportion between military and non-military parts of its overall assistance so that the latter accounts for no less than 50 per cent.¹⁴² Nariño, Putumayo, Guaviare and Cauca, the areas with high cultivation, should be priority locations for both eradication and institutional strengthening/alternative development. The increasing internal demand for drugs must be tackled by more and better-informed education and prevention campaigns in cities and offering treatment to drug users.¹⁴³

Stronger coordination between national and local authorities is needed to ensure that the components of a balanced policy are synchronised in a single framework and included in international cooperation agreements. Eradication and crop substitution will not succeed unless they are accompanied by a commitment to support communities with adequate and timely technical assistance and improved access to markets for their agricultural produce.

Colombia cannot solve its drug problems alone. It must persist in efforts to achieve greater cooperation from

¹³⁸ Chaired by the president, the council will include the defence, foreign and interior and justice ministries. Santos appointed former Vice-Defence Minister Sergio Jaramillo as high commissioner for security, a role he has compared to that of a national security adviser in the U.S. He also announced the creation of a High Commission for Citizens Living Together (*Alta Consejería para la Convivencia Ciudadana*), charged with coordinating actions between the national government and local authorities. "Gobierno designó a Sergio Jaramillo como Alto Consejero de Seguridad", *El Espectador*, 17 September 2010. Santos had designated Alfredo Rangel (defence ministry adviser and current head of *Fundación Seguridad y Democracia*) to lead the commission, but Rangel declined. "Rangel no aceptó cargo que le ofreció el gobierno", *El Tiempo*, 23 September 2010.
¹³⁹ Through modifications of the Criminal and Criminal Procedure Codes and the Children's Act. "Habrán 20.000 policías nuevos para las ciudades", *El Tiempo*, 5 October 2010.

¹⁴⁰ See Crisis Group Briefing, *The Virtuous Twins*, op. cit., p. 2; "Report of the Special Rapporteur", op. cit., p. 30.

¹⁴¹ See "Política Nacional de Erradicación Manual", op. cit., p. 10. The remaining funds went to environmental and international programs.

¹⁴² Congressional concerns on human rights, mandated in legislative conditionality on military assistance, and pressures to reduce the heavy aerial eradication focus of counter-drug actions changed the earlier balance of assistance from 80/20 military/non-military to a near 50/50 balance in the Obama budget for FY 2011. "Colombia: Issues for Congress", U.S. Congressional Research Service, 23 April 2010, (<http://opencrs.com/document/RL32250/>).

¹⁴³ In over 90 interviews in six departments between January and April 2010, Crisis Group learned that prevention programs were in place in less than 20 of the areas. Nationally, the main drug prevention program, "Colombia: Drug Free Territory" (Colombia, *Territorio Libre de Drogas*) was only formally inaugurated on 14 May 2010.

abroad to address transnational crime and drug trafficking, particularly along the borders with Venezuela and Ecuador. Law enforcement agencies must work with peers in other Latin American countries, the U.S. and Europe to cut supply routes, support networks and trafficking chains. Demand will not be curbed without more help from the largest consumer regions: the U.S./North America, Europe and Brazil/Southern Cone. A new consensus is required on the balance between law-enforcement measures – so far the predominant approach in Washington – and public health oriented policies as promoted by Brussels.¹⁴⁴ President Obama has indicated he wants to reduce drug use by addressing the problem from a public health perspective, but actions are yet to match words; almost three quarters of the U.S. drug control budget for FY 2011 is earmarked for interdiction and law enforcement.¹⁴⁵

4. Cross-border security policy

Rebuilding severely deteriorated relationships and establishing strong cooperation with Venezuela and Ecuador will be among Santos's biggest challenges. It is crucial both for addressing transnational crime and for reactivating trade. In his inaugural speech, the president announced that rebuilding trust with the two neighbours was one of his "fundamental aims" and that he preferred a "frank and direct dialogue" to mediation.¹⁴⁶ Three days later, he and the Venezuelan president met in Santa Marta, on the Colombian coast,¹⁴⁷ and agreed to restore diplomatic relations and establish five working committees to address priority issues such as trade, social development in the border region and security.¹⁴⁸ President Chávez also committed to acting against illegal armed groups camped in Venezuelan territory.

These events constitute a major step toward formal cooperation mechanisms, which have been absent for years. The presidents abstained from reviving old charges,¹⁴⁹

opted for a constructive and pragmatic approach and showed a disposition to facilitate multilateral engagement by inviting Nestor Kirchner, secretary general of UNASUR, to participate in parts of the meeting. It will not be easy to maintain this détente, however, because deep differences in ideology and interests remain, including Chávez's dislike of Bogotá's close relations with Washington and distrust of the U.S. military presence in Colombia.¹⁵⁰

Both countries should look towards regional bodies, such as UNASUR and the OAS, to help solve disputes and work for stronger regional security mechanisms. Though five of its twelve signatories, including Colombia, have not yet ratified the UNASUR treaty,¹⁵¹ and the organisation is still in its early stages, it has already proved useful in resolving problems in Bolivia and serving as a forum for discussing tensions over the Colombia-U.S. Defence Cooperation Agreement (DCA). The OAS may be more problematic, given Chavez's aversion to U.S. involvement in regional affairs, but it remains the hemisphere's main resource for addressing these issues.

Santos also quickly eased friction with Ecuador, handing over the evidence collected from Raul Reyes's laptop during Operation Fénix inside Ecuador.¹⁵² The foreign ministers have met twice, reaffirming a will to fully restore relations, launching joint energy, commercial and social projects and activating two commissions for dealing with Colombian refugees in Ecuador and other border security issues.¹⁵³

¹⁴⁴ See "Drugs and Democracy: Towards a Paradigm Shift", statement by the Latin American Commission on Drugs and Democracy, February 2009, p. 3.

¹⁴⁵ \$10 billion of the \$15.5 billion drug-control budget requested for 2011 will be allocated to interdiction and law enforcement. "US drug war has met none of its goals", Associated Press, 13 May 2010.

¹⁴⁶ See "Este es el discurso completo del Presidente", op. cit.

¹⁴⁷ The meeting was preceded by one between the Foreign Ministers Nicolás Maduro (Venezuela) and María Ángela Holguín (Colombia) on 8 August 2010.

¹⁴⁸ The presidents signed a declaration of principles committing to "re-establish diplomatic relations based on a transparent, direct and respectful dialogue". "Santos y Chávez relanzan relaciones", *El Tiempo*, 11 August 2010.

¹⁴⁹ Chávez did not repeat his accusations against the U.S.-Colombia Defence Cooperation Agreement (DCA) and Santos

did not refer to the accusations of guerrilla presence in Venezuela.

¹⁵⁰ In October 2009, Uribe's government, relying on the bilateral DCA, authorised U.S. military presence in seven bases. This was ruled unconstitutional by Colombia's Constitutional Court in August 2010, on the grounds that such a matter requires confirmation by the Congress. Santos has so far appeared not to place priority on resolving this issue.

¹⁵¹ Following a meeting between the Colombian and Ecuadorian foreign ministers on 17 September 2010, Colombia committed to speeding up the process for ratifying the treaty. "Canciller de Colombia manifestó su compromiso en ratificación de tratado de Unasur", *El Tiempo*, 18 September 2010. The UNASUR treaty has been ratified only by Argentina, Chile, Ecuador, Venezuela, Guyana, Peru and Bolivia; there is not yet a permanent secretary general. Julio Sau Aguayo, "UNASUR, Una Instancia de Integración de Nuevo Tipo", Friedrich Ebert Stiftung, August 2009.

¹⁵² "Rafael Correa afirma que presidente Santos le entregó Computadores de 'Raul Reyes'", *El País*, 7 August 2010.

¹⁵³ "Colombia y Ecuador, más cerca del restablecimiento de relaciones", *Semana*, 26 August 2010.

B. IMPROVING CONSOLIDATION

The consolidation of security gains depends on increasing state and local government legitimacy and presence across the country. Millions of citizens affected by the conflict, particularly in rural areas, need to gain access to public services and legal income-generating opportunities. Restitution of land to the victims of the conflict under conditions which allow them to use it productively is necessary for the latter. Weaknesses in the transitional justice and DDR frameworks must be corrected and scenarios for negotiation with the insurgents should be explored.

1. Legitimacy and effectiveness of state institutions

Criminal influences and rule-of-law

Pervasive illegality and corruption have long undermined the legitimacy of Colombia's state institutions. Though analysts agree that convictions of politicians with links to criminals have reduced mafia-like involvement in politics,¹⁵⁴ the "parapolitics" scandal uncovered by opposition politicians and journalists and as a result of JPL investigations indicates the problem remains serious.¹⁵⁵ Through August 2010, 90 members of the 2006-2010 term Congress (48 senators, 42 lower house representatives) had been or continued to be under investigation; eighteen had been convicted.¹⁵⁶ Through July, 101 regional and municipal public servants had been implicated.¹⁵⁷

In the March 2010 legislative elections, there were warnings of possible mafia infiltration through candidates closely related to suspect and convicted politicians, particularly in Magdalena, Bolívar, Santander, Córdoba, Sucre and Valle departments.¹⁵⁸ Two political parties alleged by some to have links with criminal groups won seats in

Congress after changing their names,¹⁵⁹ though not all the allegedly questionable candidates were elected.¹⁶⁰

Demobilised paramilitaries tried under JPL provisions offering special treatment have provided information on police and army corruption in the regions. AUC criminals were allegedly protected by the police in Nariño, welcomed into army units for military training in Chocó¹⁶¹ and aided by senior officers in various locations.¹⁶² During field visits conducted between February and May 2010, Crisis Group was told paramilitary co-option of local authorities for actions ranging from urban crime to major drug trafficking was widespread in Nariño, Meta, Norte de Santander, Antioquia and Chocó.

Anti-corruption Program Director Oscar Ortíz has indicated that the country loses approximately \$1.5 billion per year to corruption and bribery in public contracts, equivalent to two-years' funding of the DSP policy, university education for 80,000 high school graduates or construction of 2,000 aqueducts in rural areas.¹⁶³ Senior officials are still under investigation following accusations that public resources were used to secure Uribe's re-election in 2006,¹⁶⁴ while information continues to

¹⁵⁴ After the March 2010 legislative elections and for the first time in 28 years, the Misión de Observación Electoral (MOE), a Colombian election-monitoring NGO, reported a decrease in the election of politicians with ties to illegal groups. Crisis Group interview, 10 May 2010.

¹⁵⁵ The "parapolitics" (*parapolítica*) scandal emerged after Polo Democrático party member Clara López asked the Supreme Court to investigate ex-AUC commander Salvatore Mancuso's public declarations that the AUC controlled at least 35 per cent of Congress. Élder Gutiérrez, "Guía práctica para entender el escándalo de la 'para-política'", *Semana*, 10 April 2007.

¹⁵⁶ "Listados de representantes y senadores procesados por parapolítica", Corporación Nuevo Arco Iris, 23 August 2010, (www.verdadabierta.com).

¹⁵⁷ Three governors and sixteen ex-governors; five mayors and 38 ex-mayors; six municipal council members and 21 ex-members; twelve ex-regional parliament members. "La Para-Política", *Verdad Abierta*, 27 July 2010, (www.verdadabierta.com).

¹⁵⁸ "Herederos de la 'parapolítica' se la juegan a fondo para llegar al Congreso en marzo", *Cambio*, 31 August 2009.

¹⁵⁹ Convergencia Ciudadana (which changed its name to Alianza Democrática Nacional, ADN), and Colombia Democrática (changed to Partido de Integración Nacional, PIN).

¹⁶⁰ María Clara Torres Bustamante, "Un análisis de las elecciones legislativas", *Cien Días*, Centro de Investigación y Educación Popular (CINEP), May 2010.

¹⁶¹ According to Luis Alexander Gutiérrez, alias 'Capi', AUC Libertadores del Sur Block coordinated its criminal actions with the army and police, meeting frequently in Túquerres, Guachacal, Aldana, Imues, Sapuyes, Leiva, Policarpa and Samaniego in Nariño. "Ex-capitán de la Policía coordinaba acciones de 'paras' con fuerza pública en Nariño", *Verdad Abierta*, 21 August 2009, (www.verdadabierta.com). Paramilitaries from Block Metro were allegedly trained in military barracks in Chocó in the late 1990s, following an agreement between Carlos Mauro García Fernández and senior regional army commanders. "Paramilitares se entrenaron en batallón del ejército en Chocó", *ibid*, 22 March 2010.

¹⁶² Based on declarations of former top AUC commanders, in particular Salvatore Mancuso and Freddy Rendón, the JPU summoned 140 army and police officers to proceedings under the JPL, including fourteen colonels and nine generals. "Con los tres altos militares llamados a indagatoria por la masacre de La Rochela, el número de generales salpicados por los paras supera la docena", *La Silla Vacía*, (www.lasillavacia.com), 11 June 2009.

¹⁶³ "Zar anticorrupción revela cuánto dinero se ha perdido por corrupción en contratos", podcast, RCN radio, December 2009, (www.rcnradio.com).

¹⁶⁴ Sabas Pretelt, ex-interior minister, and Diego Palacios, social protection minister under Uribe, among others, are being investigated in the "Yidis-politics" (*Yidispolítica*) scandal, in which officials are accused of bribing congressmen to secure Uribe's re-election. Crisis Group Report, *Uribe's Possible Third Term*,

come out relating to the scandal around the presidential intelligence agency (Departamento Administrativo de Seguridad, DAS) and the involvement of those closest to Uribe himself.¹⁶⁵ Reforms are needed to protect many of the political institutions against corruption and criminal influences.¹⁶⁶

The judicial system too often is unable to bring offenders to justice. Its capacity and independence need to be strengthened so it can better address high levels of impunity.¹⁶⁷ Special tribunals responsible for cases of confiscation and asset seizure from drug traffickers have been reduced;¹⁶⁸ courts in some jurisdictions can take two to twelve years to resolve cases.¹⁶⁹ Court congestion too often results in the release without trial of suspects because they cannot

be processed quickly enough. Overall, inefficiencies in the system gravely affect citizen trust in judicial institutions.¹⁷⁰

Relations between the executive and judicial branches had become toxic toward the end of the Uribe administration.¹⁷¹ Improving them is another important job for the new president. The office of the attorney general has for over a year been run by the former deputy because the Supreme Court has not appointed a successor from the twice-modified list of candidates submitted by Uribe.¹⁷² Santos has pledged his government will respect judicial independence, re-establish a separate justice ministry, which had been merged with the interior ministry, and push judicial reform in consultation with the courts.¹⁷³ His invitation to Supreme Court justices to visit his office and his subsequent return call on the court were welcome demonstrations of his respect for the judiciary.¹⁷⁴ As part of this new era of good feelings between the president and the court, they need to find a compromise quickly that results in a new, exceptionally well-qualified attorney general.

The new president will also need to overhaul the intelligence sector thoroughly to address the abuses reflected in the scandals described above. The legislation he has submitted to Congress to disband DAS is promising;¹⁷⁵ any new agency will need a clearly delimited mandate and to be subject to oversight from outside the presidency. Effective procedures for data protection and access to files will also be required, and care must be taken to preserve

op. cit., p. 11. The three judges appointed by the national election commission (CNE) declared that the committee for a referendum on a third presidential term ignored the rules on money allowed for collecting signatures. The report submitted by the committee had listed a \$1 million credit facility, which the CNE found false; close to \$900,000 of that money was invested in signature collection; the legal maximum was \$160,000. "La reelección de Uribe pende de un hilo por la 'luisguipolítica'", La Silla Vacía, 13 November 2009, (www.lasillavacia.com).

¹⁶⁵ In the "DAS-gate" scandal, officials are charged with spying on senior judges, presidential candidates, journalists, publishers, international organisations, human rights groups and others. These operations, including smears and death threats, were allegedly carried out under direct instructions of those closest to Uribe, including Secretary General Bernardo Moreno and presidential adviser José Obdulio Gaviria. Files released by the attorney general's office mostly date from 2004-2005, but also cover activities before and since. Lisa Haugaard, Kelly Nicholls, et al: "Far Worse Than Watergate: Widening Scandal Regarding Colombia's Intelligence Agency", Latin America Working Group Education Fund, U.S. Office on Colombia, Center for International Policy, The Washington Office on Latin America, June 2010.

¹⁶⁶ This includes stricter rules on campaign financing to prevent the infiltration of illegal funding into regional and national politics. A 2009 reform only marginally modified rules. The system lacks mechanisms for financial control prior to elections and sufficient monitoring and supervision authorities; its limited penalties are rarely applied. The government has not rigorously enforced existing campaign finance laws. Crisis Group interviews, political analyst, Bogotá, 12, 15 January 2010.

¹⁶⁷ See "Still Waiting for Justice", op. cit., pp. 1-2.

¹⁶⁸ Ex-Justice Minister Carlos Medellín expressed concern at closure of five mafia-asset tribunals, leaving three judges for all cases. "Consejo de la Judicatura cierra más juzgados por falta de presupuesto", *La W Radio*, 14 July 2009.

¹⁶⁹ A civil court case can take up to three times longer than almost anywhere else in the world and cost an average of 50 per cent more. Minor criminal matters (theft, embezzlement) can take between fourteen and 22 months; family court proceedings take up to five years, and a claim against the state can be delayed for ten to twelve years. Crisis Group telephone interviews, litigation attorneys, Bogotá, 8 June 2010.

¹⁷⁰ Local authorities indicate that many criminals are immediately released because the judicial authorities and police are unable to process additional cases, and the jails are overcrowded. Crisis Group interview, Cali, 22 February 2010. In Chocó, locals accuse judicial authorities of not acting. The police and ombudsman pass complaints to the courts and the attorney general's office, which fail to process them. Crisis Group interview, regional ombudsman's office, Quibdó, 17 February 2010.

¹⁷¹ High court judges accused the president of intervening in their affairs; Uribe accused the courts of intruding into politics.

¹⁷² "Aplazada una vez más la elección del fiscal general", *El Espectador*, 17 June 2010. The attorney general has still not been selected from the list which the Uribe government submitted. Some members of Congress suggest the impasse be resolved via a new list of candidates, but many argue that if Santos changed the list, he would be betraying his predecessor. Upon taking office, Santos withdrew his predecessor's controversial proposal to place the attorney general's office under the executive, but he has also said that the three names Uribe proposed are viable, and he will not change the list. "Presidente Santos no cambiará la terna para fiscal", *El Espectador*, 22 September 2010.

¹⁷³ See "Este es el discurso completo del Presidente Santos", op. cit.

¹⁷⁴ "Presidente Santos recibe a las cortes", *El Tiempo*, 8 August 2010; "Presidente Juan Manuel Santos visita a los magistrados de las altas cortes", *El Tiempo*, 25 August 2010.

¹⁷⁵ "Gobierno presenta proyecto para acabar el DAS", *El Espectador*, 17 August 2010.

and protect information during the transformation process.¹⁷⁶ Likewise, the new administration will need to guarantee that investigations currently underway to determine the responsibility of senior public officials in questionable DAS activities continue and that participants in those proceedings will be protected.

State presence and delivery of public services across the country

The attempt to consolidate security gains by expanding state institutions and services to areas formerly dominated by insurgents began toward the end of the Uribe administration. These need to be strengthened and expanded, since they have gotten off the ground only in La Macarena and Montes de María. The extent to which state institutions can provide protection, as well as access to justice, public services and alternative development schemes, will largely determine the sustainability of security efforts and conflict resolution prospects.

Agencies responsible for consolidation, in particular the CCAI, need to be legally and financially stable, with staff who enjoy seniority and the authority required to act and can access political decision-makers. The National Territorial Consolidation Plan (PNCT) must receive a new, structured mandate that empowers it to continue to set consolidation guidelines and strategy. It is also necessary to determine whether the CCAI structure should remain under Acción Social or become a high-level independent institution with its own budget and personnel. Each relevant government ministry should have a specific line-item for consolidation in its budget.

The key objective needs to be progressive demilitarisation, so that civilian institutions take the lead in designing and implementing policy and executing development projects. Police and military roles must be clearly defined and integrated so that the population is protected and its interests advanced at the same time as illegal armed groups are fought. Strengthening of community organisations and engagement by the local departmental and municipal administrations are critical to this.¹⁷⁷ Coordination with the donor community should be promoted, so as to address the criticism that donor projects are often predetermined

in Bogotá and not suited to local realities.¹⁷⁸ Development projects in the territories of indigenous or Afro-Colombian communities must be consistent with the special protection those minorities enjoy under the constitution and international instruments.¹⁷⁹

2. Land restitution

The actions of illegal armed groups and the state's efforts to combat them have forced millions in the countryside to abandon their property.¹⁸⁰ Though estimates vary, approximately 5.5 million hectares – 10 per cent of the agriculturally productive territory – have been abandoned by some 385,000 families since 1980.¹⁸¹ In a process labelled “agrarian counter-reform” (*contra-reforma agraria*), criminal organisations have progressively appropriated – directly or through strawmen – large blocs of land, either for money laundering or investment purposes. Land has

¹⁷⁸ In Nariño, the local government has had difficulties negotiating donor priorities that correspond with the department's plans. Crisis Group interviews, 10, 15 January. Projects in Carmen del Atrato (Chocó) are allegedly not discussed with the governor or the local authorities, threatening their sustainability. Crisis Group interview, CNRR, Quibdó, 19 February 2010. In Tumaco, many international entities are immediately rejected, as communities perceive them as advancing their own agendas rather than local community initiatives. Crisis Group interview, Tumaco, 24 February 2010. In the Montes de María region, there are concerns about whether a large USAID investment package will benefit the four municipalities. Other organisations maintain that little effort has been made to coordinate new and existing activities, potentially resulting in duplication, dividing communities and affecting progress. Crisis Group interview, international organisation, Sincelejo, 24 March 2010.

¹⁷⁹ Articles 7, 63 and 246 of the constitution recognise the autonomy of minority groups, offer special protection for their territories and allow them to exercise their own authority. Law 21 of 1991 adopted International Labour Organisation (ILO) Convention 169, in which state parties undertook to consult with leaders on administrative or legislative decisions which affect the rights of those minorities.

¹⁸⁰ For a detailed account of land usurpation in Colombia due to guerrillas, paramilitaries and drug traffickers, see Alejandro Reyes, *Guerreros y Campesinos: El Despojo de la Tierra en Colombia* (Bogotá, 2009).

¹⁸¹ Luis Jorge Garay, Fernando Barberi, Jaime Forero and Gladys Celeide, “Certificación y valoración de las tierras y los bienes abandonados o despojados a la población desplazada en Colombia”, Comisión de Seguimiento a la Política Pública sobre el Desplazamiento Forzado, Bases para el Desarrollo de Procesos de Reparación”, Proceso nacional de Verificación, Décimo Primer Informe, Bogotá, 19 January 2010, pp. 10-11. The figures contemplated in the bill submitted to Congress in September 2010 differ substantially. According to it, 3 million hectares were abandoned by 750,000 households. Daniel Samper Pizano, “Una ley valerosa y otra injusta”, *El Tiempo*, 12 September 2010.

¹⁷⁶ There are concerns that intelligence information might be lost or misplaced during the restructuring process in the agency. “Gobierno nunca volverá a referirse a la oposición como terroristas: Vargas Lleras”, *semana.com*, 17 August 2010.

¹⁷⁷ Particular consideration should be given to “bottom-up” initiatives, where community-led programs have had positive results. Crisis Group interview, Acción Social, Bogotá, 8 January 2010. See also, “Evaluación de Impacto de los Programas Paz y Desarrollo y Laboratorios de Paz”, National Planning Department, November 2008.

also been acquired by third parties, including business-people involved in big agro-industrial enterprises.¹⁸²

The critical situation of the families who abandoned their land motivated the Constitutional Court to declare an “unconstitutional state of affairs” in 2004 and order President Uribe to address the issue. Five years later, it ruled that the government measures were insufficient and ordered that a new set of integrated policies be designed and implemented.¹⁸³ Subsequently presented to the court, these proposed to start with pilot projects in three regions.¹⁸⁴ Based on discussions with relevant actors and experts in legal and land matters, the Uribe administration also drafted a land restitution law, which was given to the interior and justice ministry as it left office.

Restitution of land to the victims of the conflict, along with formalisation and protection of their titles, are widely acknowledged as critical issues for conflict resolution, and they are a priority on the new government's agenda. President Santos has publicly committed to reverse the “agrarian counter-reform” and enable victims to recover their land.¹⁸⁵ Agriculture Minister Juan Camilo Restrepo has announced plans to recover at least 2 million hectares usurped by criminals and promised that returning farmers will be given productive opportunities and supported with technology and credits. Building on the draft from its predecessor, the government introduced the proposed “Land Law” (*Ley de Tierras*) in Congress in September 2010. It aims to simplify the legal proceedings for restitution and create a new group of judges specialising in land law within the civil court system and charged with enforcing ownership rights.¹⁸⁶ A main feature, the govern-

ment argues, is that the new law would reverse the burden of proof, requiring the person in possession of property to prove ownership, not the alleged victim.

Promising to advance the rights of victims of decades of violence, the law will face a number of practical problems. Tracing title from one possessor to another and determining whether at any stage an illegal act was committed can be difficult, especially since in many cases purchases are supported by notarised documents that meet formal legal requirements. Proving a person was forced to sell or abandon land by unlawful means can be complicated. At the least, tracing title records and legally establishing the rightful proprietors will be an immense administrative and judicial task demanding considerable financial and human resources.¹⁸⁷ Critics further note that the proposed law would benefit only part of the universe of potentially affected parties.¹⁸⁸ Additionally, it does not deal with the security or development perspectives of those who recover land. Restitution without adequate security measures or the state's commitment to provide basic services, infrastructure and help for productive use of returned land may be unattractive to many victims.¹⁸⁹ Credits, technical aid and market access must be part of the package for returnees.

2010. Crisis Group email correspondence, land expert and government adviser, Bogotá, 15 September 2010.

¹⁸⁷ There are other major administrative tasks, including formalising titles and deeds. Plots will have to be measured accurately and information recorded and kept current in a centralised manner, which is cumbersome under the current system. As of 1 January 2009, the Agustín Codazzi Geographical Institute (IGAC) had updated information on only 52.8 per cent of rural holdings. By law, such information should be collected every five years but lack of money and political will, nationally and locally, have impeded this. See “El rompecabezas de la restitución de tierras”, *Hechos del Callejón* No. 47, UNDP, June 2009, p. 6. Plot measurements are recorded in both IGAC and the Office for the Registration of Public Instruments, but the information held by the two distinct entities on size and characteristics of holdings differs. A further problem is that the environmental and forestry authorities have not coordinated with the title authorities on which areas are nature reserves, so may not be appropriated, and on their precise coordinates. Some land information has been irretrievably lost, since illegal armed groups often burn local public records. Crisis Group interview, local government official, Vistahermosa, 13 April 2010.

¹⁸⁸ The bill states that only cases involving facts which have been confirmed by JPL tribunals are admissible. There are only 13,000 such cases. Patricia Buriticá, presentation at conference “Foro de Tierras, Prosperidad y Paz” on land restitution attended by Crisis Group, Bogotá, 14 September 2010.

¹⁸⁹ According to the CNRR, 80 per cent who left their land do not want to return. The NGO Corporación Nuevo Arco Iris said many more would return if conditions and opportunities were improved. Crisis Group interviews, Bogotá, 30 August 2010.

¹⁸² There are claims that some industrial projects are on illegally appropriated land. A particularly sensitive case is the palm-oil project in the Curvaradó and Jiguamiandó regions (Chocó). See Crisis Group Briefing, *The Virtuous Twins*, op. cit., p. 4.

¹⁸³ Resolution (Auto) 008 (2009), Constitutional Court, 26 January 2009, p. 55.

¹⁸⁴ Following discussions with relevant state institutions, IDPs, international cooperation organisations and the commission for monitoring public policy for the displaced population, the government's policy on displacement and land (*Política de Tierras y Territorios para la Población Víctima del Desplazamiento Forzado*, en *Riesgo de Desplazamiento Forzado y del Despojo*) was submitted to the Constitutional Court on 30 June 2009. It focused on five main areas: prevention of displacement and usurpation; formalisation of land tenure; protection of land; restitution; and reparation for tenants or possessors without titles; as well as two additional cross-cutting issues: institutional and legislative revisions and a centralised, updated information system. The regions selected for pilot projects were Mampuján (Bolívar department), Turbo (Antioquia) and Chengue (Sucre).¹⁸⁵ “Este es el discurso completo del Presidente”, op. cit.

¹⁸⁶ Crisis Group interviews, Acción Social, Bogotá, 3 May 2010; land expert, Bogotá, 10 January 2010; former agriculture vice minister, Bogotá, 3 January 2010; legal adviser, Bogotá, 21 April

Because the law promises to challenge the interests of regionally powerful landowners – many with direct links to Congress – as well as of criminal groups, restitution claims could themselves potentially generate violence and endanger victims. Those in possession, including bona fide third parties who may have acquired the land without knowledge of any illegality, may be reluctant to accept court orders instructing them to leave, with or without reparation.¹⁹⁰ Many landowners and farmers have already expressed open opposition to the initiative;¹⁹¹ to date, more than 40 persons attempting to enforce rights of restitution have been killed and many others threatened.¹⁹² If it is to be successful, the law needs to be conceived not as a stand-alone measure, but rather as part of a series of policies and reforms for tackling criminality and pervasive illegality.

Protection of plots is critical to prevent a land-grab tendency emerging in some regions. This is complicated by lack of information on the background of potential buyers,¹⁹³ as well as disturbing allegations that such a campaign is being supported or even promoted by the state,¹⁹⁴ all of which could not only undermine restitution and related efforts but even contribute to criminals appropriating more land. To address this, the government is considering imposing special restrictions in critical zones such as Montes de María.¹⁹⁵ Additionally, the agriculture

ministry has announced that a second draft law is being prepared to deal with formalisation of land titles and other key issues and will be presented to Congress as soon as it has been discussed with all stakeholders.¹⁹⁶

3. Transitional justice, victims' rights

Prosecution and conviction of ex-combatants for crimes against humanity has been slow and government commitment during the Uribe years to protect and respond to the rights of victims weak. Effective implementation of the JPL will only be possible if the new government commits to funding and prioritising the strengthening of all institutions charged with responsibilities in the law and guaranteeing the rights of victims. Clarifying the mandate of the multiple agencies involved to reduce confusion and avoid duplication of efforts is essential.¹⁹⁷

The Santos administration's "Victims' Law" (Ley de Víctimas) was sent to Congress on 27 September 2010. It builds on the Liberal Party's 2009 draft, which failed because the Uribe government opposed key elements.¹⁹⁸ By defining as victims all persons or groups who have suffered (not only material) damage in connection with the armed conflict, it would significantly extend the number of those covered by the JPL proceedings.¹⁹⁹ It notably includes victims of crimes committed by state agents, something the previous government fought.²⁰⁰ It provides a comprehensive framework for protection and reparation of victims, the latter including financial and non-financial elements.²⁰¹ Material reparation, such as access to health and education services, professional training and psychological assistance are paired with symbolic reparation.²⁰² The bill

¹⁹⁰ If a claim is successful, and the tenant is ordered out, the bill indicates that bona fide third parties would be compensated with treasury bonds. The amount is uncertain, however, and might be less than the improvements made by the tenant.

¹⁹¹ Gustavo Petro, presentation at conference "Foro de Tierras, Prosperidad y Paz", op. cit.

¹⁹² Patricia Buriticá presentation, op. cit., gives a figure of 45. As mentioned above, the CNRR gives the number as 41.

¹⁹³ In Granada (near La Macarena), the community complained of the "sudden appearance of strangers interested in buying land". Crisis Group interview, community leaders, 12 April 2010. In La Uribe (near La Macarena), people are appearing with deeds and titles going back over 70 years. Some say they are envoys of alias "Cuchillo" and alias "Martín Llanos"; others maintain they have been sent by FARC. Crisis Group interviews, international organisation, Bogotá, 3 February 2010.

¹⁹⁴ There are charges that the state is supporting mass purchase of land in certain regions to promote large agro-industrial projects. In Montes de María, where many bought under the "70/30 scheme" (in which farmers paid 30 per cent of the value, and the state gave low-interest credit for 70 per cent), farmers are easily convinced to sell when the investor offers a reasonable price and assumes the debt. Crisis Group interview, international organisation, Sincelejo, 24 March 2010.

¹⁹⁵ The agriculture minister has stated that the government is evaluating the possibility of declaring Montes de María a "peasant farmer reserve zone" (*zona de reserva campesina*). Regulated by Article 80 of Law 160 (1994), these zones enjoy special protection, including how many hectares an individual can buy, conditions and obligations occupiers must adhere to

and other limitations regarding land use. Senado de la República, (www.secretariassenado.gov.co/senado/basedoc/ley/1994/ley_0160_1994.html).

¹⁹⁶ Juan Camilo Restrepo, comments at conference "Foro de Tierras, Prosperidad y Paz", op. cit.

¹⁹⁷ Andreas Forer: "Un feliz cumpleaños?", *El Espectador*, 2 July 2010.

¹⁹⁸ Crisis Group interview, Liberal Party senator, Bogotá, 1 September 2010; see also Section II.D above.

¹⁹⁹ "Proyecto de Ley de Víctimas", 27 September 2010, (www.verdadabierta.com/index.php?option=com_content&id=2750), pp. 9-12. The government speaks of some four million victims who would benefit from the law. "Santos pidió apoyo a Ley de Víctimas", *El Colombiano*, 30 September 2010.

²⁰⁰ *Ibid.*, pp. 25-26. Uribe opposed including any form of reparation for acts committed by state agents in legislation on victims' rights (including Decree 1290 of 2008), on the grounds this could result in mass law suits.

²⁰¹ On the issue of land restitution, the bill refers to the draft Land Law submitted on 7 September 2010 (see Section III.B.2).

²⁰² Such as a National Victims Solidarity Day, "Proyecto de Ley de Víctimas", op. cit., p. 25. The draft also differentiates between humanitarian assistance (such as government help for IDPs) and reparation.

also provides special protection schemes and legal aid for victims and gives priority status to women, children and farmers in recognition of their particular vulnerability.²⁰³ It would, however, set aside only \$22 million for reparation over fifteen years.²⁰⁴

If it becomes law, this bill would be consistent with international standards and a major step towards full recognition of victims' rights. The president has left no doubt about his stake in passage.²⁰⁵ Extensive prior consultations – symbolically sealed when Santos personally submitted the draft, surrounded by the heads of the government coalition parties, suggest it will have a more positive fate than its predecessor. While Santos has gained much credit for this initiative, victims' representatives caution against premature optimism. It will have to survive difficult legislative scrutiny,²⁰⁶ after which enforcement in the context of ongoing armed conflict will be another major challenge.

4. Reintegration of ex-combatants

While recognising that it is not easy to convert individuals who have spent most of their lives as guerrillas in the mountains into regular wage earners, efforts to provide job opportunities to demobilised ex-combatants need to be stepped up. It is important to enhance cooperation with departmental and municipal authorities and ensure that reintegration-related objectives and indicators are included in more of their development plans.²⁰⁷ Devising and implementing comprehensive measures to prevent recruitment of demobilised fighters and to protect them from being otherwise targeted by NIAGs should be high on the government's agenda, including creation of a more effective monitoring system to measure the risk that these people will re-enter criminal and drug trafficking networks.

²⁰³ "Proyecto de Ley de Víctimas", op. cit., p. 25.

²⁰⁴ "La ley de víctimas y el reto de las confrontaciones partidistas", *Semana*, 27 September 2010. Based on the principle of prohibition of double reparation, benefits received under the administrative reparation scheme established under Uribe (Decree 1290, 2008) will be deducted from any future reparation claims.

²⁰⁵ For example, he stated that "if only this law passes, it will have been worth being president". "La ley de víctimas y el reto de las confrontaciones partidistas", op. cit.

²⁰⁶ "La ley de víctimas fue radicada en el Congreso", *Verdad Abierta*, 27 September 2010, (www.verdadabierta.com).

²⁰⁷ In 2008, fourteen departments included reintegration matters in their development plans. See "La Reintegración: Logros en medio del desarme y dificultades no resueltas", II Informe Nacional de la Comisión Nacional de Reparación y Reconciliación, Bogotá, July 2010, p. 42.

5. Negotiations with insurgents

Uribe's security policy and Santos's determination to continue and strengthen operations against FARC have registered significant military gains. FARC has lost most of the legitimacy that it once had in some domestic and foreign circles, is militarily weakened and incapable of threatening national government institutions or taking power by force. The recent killing of alias "Mono Jojoy" in Operation Sodoma might shorten the time until a negotiated end to the insurgency becomes feasible. However, the adaptive capacity it has always shown and its ability to finance itself by criminal actions ranging from kidnappings to drug trafficking, argue against premature claims of victory, as Santos seems to have understood by cautioning against triumphalism.²⁰⁸ The FARC secretariat's response to its latest setbacks is likely to be an even greater use of guerrilla tactics and, in the short run, further attacks to show it remains dangerous. There are, moreover, serious risks of its further fragmentation – thus making a single solution to the problems it presents less likely – and of its further criminalisation.

President Santos's announcement in his 7 August inauguration speech that the door to dialogue with the insurgents is not locked was a noteworthy change from his predecessor's line.²⁰⁹ Although he would no doubt face scepticism and even strong resistance from many sectors, Santos should use his political capital to open all available political channels in which to discuss formulas for ending the violence, as he maintains military pressure on the FARC and other illegal armed groups.

Colombians recall unfavourably the failed peace talks under Andrés Pastrana's government (1998-2002), which the FARC used to regroup in a demilitarised zone close to the size of Switzerland, strengthen militarily, expand its drug business and intimidate the population.²¹⁰ This time any discussions would have to be more narrowly centred on the disarmament, demobilisation and reintegration (DDR) of the insurgents, with nothing like that demilitarised zone.

²⁰⁸ "Es una gran Victoria pero no es hora de triunfalismo": Santos", *El País*, 24 September 2010.

²⁰⁹ He did publicly insist that conditions for dialogue remained unchanged. See "Este es el discurso completo del Presidente", op.cit. Crisis Group consulted sources closely linked to Vice President Angelino Garzón, who confirmed Santos has given instructions to use existing channels of communication to privately explore peace talks with FARC.

²¹⁰ Crisis Group interviews, community leaders, church representatives, local public officials, Granada, Mesetas, Puerto Rico, San Juan de Arama and Vistahermosa (Meta department), 12-15 April 2010.

In the same way as Uribe did with AUC paramilitaries, Santos would have to offer some direct legal and other benefits to FARC fighters in exchange for their agreement to DDR. Given the precedent of the Justice and Peace Law and the restrictions which international law imposes, it is unlikely that he would be able to offer much beyond the benefits contemplated in that legislation; nor should he, as victims' rights in Colombia too often have been ignored and those responsible for atrocities not held to account. Issues to be discussed could include the nature of any amnesties or pardons for the majority of the insurgents and the type and degree of leniency that might be accorded to those responsible for the commission of crimes not within the scope of an amnesty or pardon in exchange for the insurgents' immediate release of hostages, their demobilisation and commitment to justice, truth and reparation of victims as well as guarantees of non-repetition. The government would have to commit to protect the lives of ex-combatants.

The possible use of third parties of various kinds to assist at some stage of that process should also be explored. Santos has maintained that any discussions with insurgents should be undertaken directly, not through mediation.²¹¹ Past efforts by the UN to mediate under the Uribe administration were unsuccessful in part because the FARC was unwilling to accept demobilisation without power sharing, also in part because Uribe was unwilling to make any concessions and in part because the chemistry between the UN facilitators and the government was poor, resulting in serious deterioration of the administration's relationship with the UN.²¹²

Conditions have changed, for guerrillas and government, so Santos may want to re-examine third-party options. Such involvement has been useful in ending some conflicts around the world, and perhaps even more so in monitoring agreements, but success depends on context, balance of forces, interest of parties and skills of the mediators.²¹³ Beyond the UN, good offices of the OAS, which already does monitoring in Colombia, and possibly of near-by Latin leaders might be considered. Brazil is unlikely to want a formal mediation role²¹⁴ but has been willing to contrib-

ute to peace and might provide important backing.²¹⁵ As Santos has said he wants Colombia to ratify the UN-ASUR treaty, it might be helpful, despite thin infrastructure. Representatives of the Church have been a persistent conduit for government-insurgents communication and could be important, along with a few civil society groups. The government has an opportunity to act from a position of strength. The insurgents' response would be uncertain, but the potential for political resolution of the conflict should be seriously explored.

C. THE NECESSARY POLITICAL PLATFORM

Following his landslide election, President Santos enjoys a high degree of popularity as well as an absolute majority in Congress.²¹⁶ Nevertheless, he will be able to carry out the broader, more balanced and integrated conflict resolution strategy sketched above only if he consolidates the support of a wide political and social coalition. He has invited all sectors of the population to join together to build a "National Unity Agreement for Prosperity". Though he has not yet presented them as part of a single integrated strategy, he has impressed even many former critics by committing to ambitious reforms vital for conflict resolution. The motto of "democratic prosperity" as the successor of "democratic security" suggests a new emphasis on social and economic development.²¹⁷

By including some Uribe political enemies in a cabinet that has been called the "dream team"²¹⁸ and reaching out

a role in solving local problems. However, there are influential and senior level foreign ministry politicians who do advocate for a more active role regionally. Crisis Group telephone interview, senior foreign diplomat, Sao Paulo, 21 December 2009.
²¹⁵ Brazil provided the logistical assistance for the liberation of Sergeant Pablo Moncayo and Private Daniel Calvo in March 2010.

²¹⁶ Santos obtained the largest number of votes (nine million) ever by a presidential candidate. The Conservative and Cambio Radical parties, along with a large sector of the Liberal Party, formally backed his campaign after the first round in May 2010. The National Integration Party (PIN) followed suit. The left-wing Polo Democrático party urged its followers to abstain in the second round, but engaged in talks soon after Santos was elected in an effort to contribute to policy on key issues such as water and poverty. The Green Party announced it would only oppose policies which contradicted its basic principles, while supporting beneficial government initiatives. Santos thus has for now the support of approximately 80 per cent of Congress.

²¹⁷ See "Este es el discurso completo del Presidente", op. cit.

²¹⁸ Santos named German Vargas Lleras, perceived as a traitor in the Uribe camp, as interior and justice minister. Juan Camilo Restrepo, a constant Uribe critic, was chosen as agriculture minister. "Dream team", *Semana*, 7 August 2010.

²¹¹ "Santos descarta mediación internacional para dialogar con las FARC", CaracolTV, 1 September 2010.

²¹² Crisis Group interview, UNDP, 21 January 2010.

²¹³ In the hemisphere, the Central American conflicts had UN mediation in El Salvador and Guatemala and combined UN/OAS participation in Nicaragua, and various border disputes have seen good offices succeed in advancing sustainable agreements. "Review of Political Missions, 2010", Center on International Cooperation at NYU, (www.cic.nyu.edu), particularly the chapter "Political Missions, Mediation and Good Offices" by Teresa Whitfield.

²¹⁴ Brazil's approach has been mainly to strengthen its position as a major competitor internationally and has not sought to play

to civil society,²¹⁹ the new president is patching up divisions and building the kind of support needed for his political project. He has taken initial steps to repair relations with neighbours and has been given preferential treatment by the U.S. president.²²⁰ The media is enthusiastic, and polls show over 76 per cent approval. Seeking to take full advantage of his political honeymoon, he has moved boldly to prepare and introduce major legislation. Obtaining passage in Congress and then following through, however, will severely test his commitment and political skills and the strength of his coalition, as special interests, including powerful voices outside Bogotá, organise.

The nature of opposition to the proposals for land and victims' rights reform has been discussed above. Another confrontation looms over the draft law to revise the royalties system resulting from exploitation of natural resources – an issue traditionally associated with corruption. It will meet fierce opposition from the oil-producing departments, since it would redistribute some \$3.2 billion that currently goes into the treasuries of only 170 of the country's 1,102 municipalities.²²¹ The military is a constituency to which Santos will have to pay particularly attention. Having received large budget increases and been assigned pride of place by the government for eight years, it will be sensitive to any indication of new priorities. Both FARC attacks and several prominent army successes in recent weeks will have confirmed its expectation that it continues to deserve special treatment.²²²

²¹⁹ Soon after his election, Santos instructed Vice President Angelino Garzón to summon all relevant institutions and organisations, inside and outside government, to deliver a message of total commitment to respect human rights and a will to form policy in this field with all stakeholders. Santos also met with indigenous and ethnic communities and their leaders to discuss their problems and devise mechanisms for jointly addressing them. Crisis Group interview, Presidential Program for Human Rights and IHL, Bogotá, 2 September 2010.

²²⁰ The U.S. administration showed its pleasure with President Santos's inaugural statements, actions to alter Uribe's confrontation with the judiciary and legislative reform proposals, by President Obama giving Santos one of only five bilateral meetings with heads of state at the UN General Assembly in September 2010. The subsequent White House statement lauding those actions also announced a new "U.S.-Colombia High-Level Partnership Dialogue" to enhance cooperation across a broad range of issues, including social and economic opportunities; democracy, human rights and good governance. "Read-out of President Obama's Meeting with President Santos of Colombia", White House press release, office of the press secretary, 24 September 2010.

²²¹ "Regalías para todo el país", *Revista Dinero*, 1 September 2010.

²²² Since Santos entered office, FARC and ELN have killed some 35 members of the security forces in Antioquia, Nariño, Caquetá, Norte de Santander and Putumayo and wounded thir-

IV. CONCLUSION

President Uribe left his successor an improved but unresolved armed conflict situation. FARC is weakened but retains the capacity to inflict damage. NIAGs are gradually expanding and strengthening, partly belying the success of the paramilitary demobilisation. Counter-drug measures have not reduced the flow of money to insurgents and other illegal armed groups, and the virtual collapse of relations with Ecuador and especially Venezuela allowed crime and drug trafficking to thrive in the border regions. The effort to consolidate control of territory won back from the illegal armed groups by expanding and strengthening state presence has been flawed, and the transitional justice mechanisms have been unable to prosecute perpetrators and enforce victims' rights effectively.

Uribe's conviction that a military victory was the answer to the conflict largely prevented him from addressing the related and underlying problems. President Santos is in a position to understand both the successes and the shortcomings of his predecessor's policies. The wide support his initial actions have received presents an opportunity to build the kind of political and social coalition necessary to carry through critical reforms against what will undoubtedly be strong opposition from entrenched interests. Whether he does so and thereby puts in place a truly comprehensive and integrated conflict resolution strategy will determine whether Colombia is, as its friends hope, at the threshold of genuine and sustainable peace.

Bogotá/Brussels, 13 October 2010

teen in Pasto (Nariño). Operation Sodoma, in which senior FARC leader alias "Mono Jojoy" was killed on 23 September silenced the rising popular perception that the government was losing its grip on the insurgents.

APPENDIX B

GLOSSARY OF TERMS AND ABBREVIATIONS

Acción Social	Presidential Program for Social Action and International Cooperation (Agencia Presidencial para la Acción Social y la Cooperación Internacional)
AUC	United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia), umbrella organisation of paramilitary groups whose demobilisation started in 2003 and officially ended in 2006.
BACRIM	Bandas Criminales (criminal groups)
CCAI	Coordination Centre for Integrated Action (Centro de Coordinación de Acción Integral)
CCR	Regional Coordination Centres (Centros de Coordinación Regional)
CDSP	Democratic Security Consolidation Policy (Política de Consolidación de la Seguridad Democrática), successor of Democratic Security Policy (see below) under President Uribe aimed at consolidating security gains by expanding state presence and services to regions formerly dominated by insurgents.
CIAT	Inter-agency warning committee (Comité Interinstitucional de Alertas Tempranas)
CNRR	National Commission for Reparation and Reconciliation (Comisión Nacional de Reparación y Reconciliación)
DAS	Presidential intelligence agency (Departamento Administrativo de Seguridad)
DCA	U.S.-Colombian Defence Cooperation Agreement
DDR	Demobilisation, Disarmament and Reintegration
DSP	Democratic Security Policy (Política de Seguridad Democrática), security policy under President Uribe aimed at regaining control over territory by militarily defeating insurgent groups, countering drug trafficking and demobilising paramilitary groups.
ELN	National Liberation Army (Ejército de Liberación Nacional), Colombia's second largest insurgent group.
FARC	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia), Colombia's main insurgent group and the oldest guerrilla force in the Americas.
IDPs	Internally Displaced Persons
IHL	International Humanitarian Law
JPL	Justice and Peace Law
JPU	Justice and Peace Unit
MAPP/OAS	Organisation of American States Mission in Support of the Peace Process in Colombia (Misión de Apoyo al Proceso de Paz en Colombia de la Organización de los Estados Americanos)
NIAGs	New Illegal Armed Groups
SAT	Ombudsman's office's early warning system (Sistema de Alertas Tempranas)
UNASUR	Union of South American Nations
UNODC	United Nations Office on Drugs and Crime

APPENDIX C

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