

UNITED STATES INSTITUTE OF PEACE WORKING PAPER

New Hopes for Negotiated Solutions in Colombia

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September 25, 2007

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About This Report

This report, “New Hopes for Negotiated Solutions in Colombia,” examines the status of current peace initiatives in Colombia with the ELN and the FARC; assesses the paramilitary demobilization process; and analyzes the role of local, national, and international third-party actors in each of these processes. It draws from a series of conferences and events organized by the U.S. Institute of Peace that dealt with these themes, as well as a visit by the author to Colombia in June 2007 to participate in a week-long program sponsored by the Catholic Peace-building Network and the Colombian Episcopal Conference/Caritas Colombia, among others. The analysis has been updated to reflect developments on the ground through the end of September 2007.

Acknowledgments

The author wishes to thank Jennifer Schirmer for her multiple roles in conceptualizing, organizing, and participating in the USIP conferences in Washington, D.C. in May 2007, and for her comments on early drafts of this paper. Thanks also to Remy Friedmann, Angela Giraldo, Adam Isacson, Alberto Lara, Cong. Jim McGovern, and Leon Valencia for their conference presentations; to Brian White, Erin Barrar, Shira Lowinger, and Peter Rockwood for their assistance with logistics and administration; to Paul Wee for his suggestions; and to David Smock, Steven Heydemann, Adam Isacson, John Crist, and Mike Lekson for reviewing drafts of this paper. Support for the conferences came from the Jennings Randolph Program and the Religion and Peacemaking programs at the U.S. Institute of Peace, which in 2007 designated Colombia as a priority conflict area deserving of greater attention.

The presentations at the USIP conferences are part of the public record; the quotes contained herein have been drawn from notes of the proceedings and panelist papers. The discussion generated by the panelists is summarized here on a not-for-attribution basis. This paper does not represent the views of USIP, which does not advocate specific policies.

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UNITED STATES INSTITUTE OF PEACE – WORKING PAPER
New Hopes for Negotiated Solutions in Colombia

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ABSTRACT

New Hopes for Negotiated Solutions in Colombia

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This working paper analyzes recent peacemaking efforts between the Colombian government and two of the remaining armed guerrilla groups—the Colombian Revolutionary Armed Forces-Popular Army (FARC-EP) and the National Liberation Army (ELN). It evaluates the demobilization process with the paramilitary umbrella organization known as the United Self-Defense Forces of Colombia (AUC), and current efforts to implement the Justice and Peace law that regulates the paramilitary process. The paper analyzes the roles of third-party actors—primarily the church, civil society more broadly, and the international community—in peace initiatives. In Colombia, these roles include pressuring for peace, setting the stage for peace accords, establishing spaces for dialogue and democratic discussion, creating the mechanisms for conflict resolution necessary for a sustainable peace, facilitating or mediating peace processes themselves, and implementing and monitoring peace agreements.

While in Colombia and elsewhere peace is usually negotiated between the government and one armed group at a time, this paper underscores that where there are multiple armed actors involved, it makes sense to approach peacemaking in a more comprehensive way. The paper underscores the need to be attentive to the ways that the dynamics within and between each set of armed actors impact the prospects for peace with other armed groups. The USIP conferences on which this paper is based for the first time brought together in Washington, D.C. participants in and analysts of current peace efforts with the AUC, FARC-EP, and ELN. This paper underscores the need to continue to put the experiences of each armed group into dialogue with each other and the need to anticipate the impact (and potential impact) that negotiations and agreements with one sector will have on the other groups and on the prospects for a sustainable and comprehensive peace.

PEACEMAKING IN COLOMBIA

“Peace is the number one imperative for Colombia,” noted Congressman James McGovern (D-MA) at a recent USIP event on Capitol Hill. Congressman McGovern observed that “peacemaking is a neglected topic inside and outside of Colombia.” He said, “Too much time, effort and resources are focused on military solutions – not just to the various armed conflicts [with] the paramilitaries, the FARC, the ELN – but to ending the cultivation of illegal crops, emptying conflict zones of their civilian populations by forcible displacement, and making intractable demands of negotiations so that continued armed conflict remains the only option left on the table.” Congressman McGovern observed that a great deal of political will in Colombia, the United States, and the international community is needed to change this dynamic.

United Nations High Commissioner for Human Rights Juan Pablo Corlazzoli concurred. At a talk at USIP on June 15, 2007, Corlazzoli underscored the urgency of peace as he presented the findings of the UNHCHR’s latest report on the situation of human rights in Colombia. The March 2007 report notes that during 2006, “the internal armed conflict, together with drug trafficking and organized crime, continued to be among the main factors affecting the lives of Colombians, disrupting democratic institutions and hindering socio-economic development.” (A/HRC/4/48).

The internal armed conflict in Colombia has resisted resolution for nearly half a century. For many, the war seems almost intractable. Its resolution is complicated by the need to deal with not just one insurgent group, but multiple illegal armed groups. These groups vary tremendously among themselves and by region, and they have changed over time as drug trafficking has pervaded the conflict, provided the financial underpinnings for its persistence, and complicated its resolution.

The Colombian government has employed distinct processes to deal with each group of illegal armed actors and has managed over the last two decades to demobilize some armed sectors. In Colombia peace has usually been negotiated with one party while those not part of the accord concurrently faced renewed military force against them. The failure to reach a comprehensive peace or to reach a series of agreements that lead to a comprehensive peace suggests that the path to reconciliation may not be found via the piecemeal approach that has ordinarily been tried. Partial negotiations with one group concurrent with military force against those who are left outside the accord may change the playing field, but thus far it has not led to sustainable peace or to the reconciliation of the country. Sensitivity to the ways that each process might affect the others is warranted as a first step toward a more comprehensive approach.

When Alvaro Uribe took office as President in 2002, three major illegal armed groups--the paramilitary Autodefensas Unidas de Colombia/United Self-Defense Forces of Colombia (AUC), the Fuerzas Armadas Revolucionarias de Colombia-Ejército Popular/Colombian Revolutionary Armed Forces-Popular Army (FARC-EP), and the Ejército de Liberación Nacional/National Liberation Army (ELN)--remained. Widespread disillusion at the failure of President Andrés Pastrana, Uribe's predecessor, to bring peace talks with the FARC from 1998-2002 to fruition set the stage for Uribe's subsequent election on a platform committed to a renewed military effort against the FARC.

During his first term (2002-2006), President Uribe made no public overtures to the FARC, focusing instead on intensifying military pressures against that group. Discussions with the ELN proceeded in fits and starts in Uribe's first term. Notwithstanding a brief and unsuccessful effort at facilitation with the ELN by the Mexican government the Colombian government has sought to defeat both guerrilla groups on the battlefield.

On the other hand, President Uribe invested tremendous political capital in a plan to demobilize the right-wing AUC forces and to secure passage of a law that would establish the

terms for this paramilitary process. Following the demobilization of more than 30,000 combatants, High Commissioner for Peace Luis Carlos Restrepo announced in April 2006, that the largest demobilization in the history of Colombia had been successful and the AUC was officially disbanded. Nonetheless, serious problems, which will be addressed later in this report, remain.

The paramilitary process, the controversial Justice and Peace law which is regulating it, and the “parapolitical” and other scandals that are rocking Colombia have garnered considerable public attention--particularly in the context of Uribe’s visits to Washington in May and June 2007, Colombian requests for a major new U.S. aid package, and pending free trade legislation. The two major remaining guerrilla groups—the FARC and the ELN—have been all but forgotten in Washington, despite new initiatives for a humanitarian accord with the FARC and renewed efforts in Uribe’s second term to reach an agreement between the government of Colombia and the ELN.

On May 22-23, 2007, the U.S. Institute of Peace convened two events on consecutive days—one on [Capitol Hill](#) on “The Outlook for Negotiated Solutions in Colombia,” and the other on “Peacemaking and Mediation in Colombia” at the [Institute](#)—to address these neglected topics and to discuss evolving prospects for peace in Colombia. The conferences brought together leading figures from the NGO, academic, legal, and diplomatic communities to discuss the status of talks in Havana between the ELN guerrillas and the government of Colombia, to brief the Washington policy community on initiatives surrounding a humanitarian accord with the FARC, to evaluate the prospects for justice in the paramilitary process, and to discuss the role of third-party actors—including churches, civil society, and the international community—in each of these processes with an eye toward evaluating how the international community and Colombian civil society might build on the foundations of these efforts to construct a sustainable peace. The conferences for the first time convened in Washington participants and analysts of the three different sets of peace efforts with each of the main armed groups in Colombia--AUC,

FARC-EP, and ELN. The conferences were designed to provide a more comprehensive view of the different strands of peace initiatives with each armed group, to analyze how each process might impact the others, and to consider whether greater integration of these discrete efforts might be warranted.

The conference organizers—senior fellow Jennifer Schirmer and senior program officer Virginia M. Bouvier—asked how best to pursue these disparate peace efforts and whether lessons from one peace negotiation might be useful for other efforts. To this end, conference panels addressed the following questions:

1. What are the challenges and opportunities for Colombian civil society and the international community vis-à-vis the current ELN peace talks, the efforts of the Colombian relatives of FARC-held hostages to obtain a humanitarian accord, and the implementation of justice for victims of paramilitary violence?
2. What might the impact of the paramilitary process be on future peace accords with the ELN and the FARC?
3. How might the ELN process affect prospects for an agreement with the FARC and how might it affect the unfolding paramilitary process?
4. What challenges do the public prosecutors face in their attempts to apply the Law of Justice and Peace to the paramilitaries? How will their success or failure shape prospects for peace accords with other armed actors?
5. Should the Justice and Peace law be applied to the ELN and the FARC? What are the potential consequences for the peace talks with the ELN and humanitarian efforts with the FARC if there is an insistence that this same Justice and Peace law should be applied to them?
6. How might the State armed forces be prepared constructively for peace settlements, demands for justice, and humanitarian accords with each of the three armed groups, as well as for participation in post-conflict and demobilization processes?

While broader questions about the applicability of lessons garnered from the Colombian experience for other conflicts with multiple illegal armed actors were not raised in the context of the meetings, it seems clear that further work to discern relevant paradigms, issues, and best practices from the Colombian experience would add to discussions of peacemaking efforts in other conflict zones.

Recent Initiatives with ELN and FARC

Both USIP conference events began with a focus on the status of peace initiatives with the ELN and FARC. Support for political approaches to dealing with these remaining groups is growing, according to recent Gallup polls. An April 2, 2007 Gallup poll found that 79 percent of those surveyed in Colombia favored negotiations with the ELN (versus 18 percent who opposed them). A similar percentage, 79 percent, favored talks with the paramilitaries. And those who favored dialogue with the guerrillas over a military solution rose from 39 percent in an April 2003 Gallup poll to 64 percent in April 2007.

Subsequent to the May meetings, new events have unfolded in relation to the humanitarian accord and the ELN process that appear to have broadened further public support for a political solution to the conflict, and in particular, for a humanitarian accord with the FARC—usually understood in the Colombian context as an exchange of FARC prisoners being held by the government for hostages being held by the FARC. First, in early June, President Uribe announced the release of more than 180 FARC prisoners, including, at the request of French President Nicolas Sarkozy, Rodrigo Granda, the FARC's so-called "foreign minister." Uribe gave special dispensation to Granda to serve as an intermediary between the FARC and the Colombian government to explore conditions for a humanitarian accord. With the facilitation of the Catholic Conference of Bishops, Granda subsequently left Colombia for Havana; it is unclear what role, if any, Granda might have in next stages. Uribe's move to release FARC prisoners, characterized as bold by some, and counterproductive by others, nonetheless

focused public attention on the plight of the hostages. The action was explicitly predicated upon the hope that the FARC would reciprocate, but many felt that Uribe (unless he had struck a deal in private) had given away a valuable chit without any guarantees. Likewise, some wondered whether such a move could set legal precedents for the release of members of other illegal armed groups (e.g., the paramilitaries) currently being held, and what the implications for future humanitarian exchanges with other groups might be.

A second set of events since the USIP conferences unfolded following the news at the end of June 2007 of the death in crossfire of 11 of the 12 departmental legislators who had been kidnapped in 2002 from Valle del Cauca, including the brother of Angela Giraldo, one of the USIP conference panelists. Some five million Colombians took to the streets in protest. While the details of what happened have yet to be confirmed, Colombian intelligence sources reported that the FARC had ordered the killings after they mistook another group of insurgents for the army (*BBC News*, July 29, 2007).

Concurrently, Gustavo Moncayo, father of Pablo Emilio, a soldier captured by the FARC more than a decade ago, was galvanizing public opinion as he walked 900 kilometers across Colombia from the southwestern province of Nariño to Bogotá, gathering more than two million signatures on a petition in favor of a humanitarian accord. In late July, Mr. Moncayo ceremoniously delivered the petition to President Alvaro Uribe in Bogotá's Plaza Bolivar, prompting the president to announce that he would consider establishing a temporary "safe haven" for peace talks if the FARC agree to the release "hundreds of hostages." (*BBC News*, August 3, 2007).

In recent months, the international community has also increased pressure on the Colombian government to address the hostage situation, with the OAS holding a special session on June 29, and the Europeans, U.S. Members of Congress, NGOs, Latin American leaders, and the Group of 24 "Friends" constituted during the earlier peace process under President Andres Pastrana also weighing in (*Semana*, June 30-July 8, 2007). NGOs, especially

those in France, organized a major conference for diplomats in Haute-Savoie in early September 2007. (One of the FARC hostages, ex-presidential candidate Ingrid Betancourt, holds dual French-Colombian citizenship.) Within the Colombian Congress and at the local level as well, Colombia's elected leaders have launched campaigns calling on Uribe and the FARC to open talks that would move toward an end to kidnapping and the release of the hostages held by the FARC.

Under these conditions of growing interest and mounting pressure, Uribe in mid-August 2007 appointed Liberal Senator Piedad Córdoba as facilitator for a humanitarian accord. Senator Córdoba made overtures to Venezuelan President Hugo Chávez, who met with members of the hostage families, flew to Bogotá for a summit with President Uribe on the topic, and agreed to facilitate discussions between the parties. Senator Córdoba then met for two days at an undisclosed location in southern Colombia with Raúl Reyes, spokesman for the FARC, and the latter proposed via a videotaped statement a meeting with President Chávez on October 8th. For the first time, there is discussion about a possible meeting between the Manuel Marulanda Vélez ("Tirofijo"), commander of the FARC and President Alvaro Uribe. The outcome of these developments has yet to be determined, but the flurry of activity provides a glimmer of hope that has not been seen in awhile.

Finally, while at the May conference there was tremendous excitement about what appeared to be an imminent agreement for a ceasefire between the ELN and the government, more than two months have passed, the seventh round of talks was concluded, and no agreement was forthcoming. From August 20-24, the government of Colombia and the ELN conducted a further round of talks in Havana; these talks likewise failed to reach agreement.

1. *The ELN Peace Process*

Toward the end of Uribe's first term in office, with the paramilitary demobilization officially completed and under pressure from civil society, the administration began to engage more

actively in pursuing discussions with the ELN. These talks have built on previous initiatives. Most directly, in late 2005, a civil society commission created the House of Peace (Casa de Paz) in Medellín to facilitate a consultation process between Colombian civil society and the ELN. This led subsequently to a series of formal meetings between the ELN and the Colombian government in Havana, Cuba, facilitated since December 2005 by Norway, Switzerland, and Spain, with the logistical support of Cuba and Venezuela. Eight rounds of these meetings have now been completed.

León Valencia--a former member of the ELN Central Command who demobilized in 1994 under the terms of a peace agreement with the Colombian government--has been close to the Havana talks as they have unfolded. At the USIP event on Capitol Hill in May 2007, he announced the promising news that, 20 months after meetings began in Havana, the ELN and the Government of Colombia were on the brink of signing an agreement for both a cessation of hostilities and a ceasefire. The agreement would also address topics such as the release of the kidnapped, the de-mining of zones, and the return of displaced peasant communities to their places of origin.

Nonetheless, the seventh round of meetings concluded without a ceasefire agreement, having stalled when Luis Carlos Restrepo, the government's chief negotiator, insisted that the ELN, which has a military presence in 23 departments in Colombia, agree to concentrate its combatants in a zone or zones that would enable verification of the cessation of hostilities—a condition that ELN leaders rejected in favor of the creation of a series of connected zones.

Though the last round of talks in late August also ended in a stalemate, it included greater involvement of more social actors—members of the National Peace Council, churches, civil society, unions, and others. While agreement about the mechanisms for a temporary ceasefire, security and living arrangements for those demobilizing, and verification of the ceasefire has been elusive, the inclusion of more stakeholders in the process may well open up

new opportunities for advancement, contribute new ideas for unblocking earlier discussions, and may ensure broader support for future peace agreements.

Remy Friedmann noted that three European nations (Spain, Switzerland, and Norway) have followed the talks in Havana and supported the Casa de Paz as a space for discussion with civil society in keeping with their role to “support and legitimize the process.” At the beginning of the seventh round of talks these countries were called in as witnesses in order to enhance the trust between the parties. “This [the seventh] round of talks is expected to culminate in a first agreement that would incorporate a cease-fire as well as a thematic agenda for a final settlement,” noted Mr. Friedmann at the May meetings.

Father Darío Echeverry, who has also been close to the ELN process, noted at a Catholic Peacebuilding Network conference in Bogotá in late June 2007 that the process had nearly been aborted weeks earlier, but after intense resuscitation efforts, was revived and seemed to be progressing on track.

León Valencia put the recent developments with the ELN peace process in a broader context of the dynamics of the war in past years. He noted that the ELN is weaker militarily than the FARC or the paramilitaries. With the degradation of the conflict, the FARC and paramilitaries both opted to remove populations from their lands and occupy territory, causing tremendous displacement and violations of human rights and international humanitarian laws that protect civilians. The FARC and the paramilitaries also increasingly have relied on drug trafficking to finance their fighting. Finally, the paramilitary forces and the FARC have carried out massive recruitment of children, enticing economically needy youths to join in exchange for financial incentives.

The ELN leadership on the other hand made a conscious decision, based largely on ideological reasons, not to attack civilian populations, although Valencia noted that there were violations of this principle by some fronts. Likewise, while some of the ELN fronts have engaged in drug trafficking, notably in Nariño and Arauca, this was not condoned by the ELN

leadership, according to Valencia, who observed that kidnappings were the more common form of raising revenue for the ELN. Finally, unlike the other armed actors, the ELN did not engage in massive recruitment of child soldiers, but recruited selectively and for ideological reasons.

If engagement with drug trafficking contributed to the strengthening of the FARC and the AUC, the ELN decision not to engage in drug trafficking simultaneously contributed to the ELN's decline as a military force, as it cut off a lucrative avenue of financing. The ELN wants to include the issue of drug trafficking at the negotiating table, recognizing that drug trafficking feeds the other armed actors and perpetuates the conflict.

The ELN is prepared to abandon violence as an instrument of political action, noted Valencia. Nonetheless, security challenges for the ELN are enormous. The ELN continues to be under heavy attack by the State, paramilitaries, and the FARC alike. When guerrillas demobilized in the 1980s and entered the political system as elected representatives, about 4,000 leftist party members were killed, including 8 members of Congress, 2 presidential candidates, 60 district councilors (*concejales*), 11 representatives (*diputados*), and 13 mayors (*alcaldes*), with more than 5,000 people forced into exile, noted Valencia. Thus the ELN leadership is searching for a resolution that will allow the demobilized ELN to survive in the regions where the paramilitaries flourish. ELN and demobilized paramilitaries have been meeting discreetly to explore options in this regard.

Though the ELN will likely request amnesty and pardons (*indultos*), they hope to address directly the issues of truth, justice, and reparations. Given that international standards of justice have changed since earlier demobilizations, ELN leaders are aware that they will need to take responsibility for crimes against humanity, including kidnappings, the death of the citizens of Machuca (a town devastated by a botched fuel-pipeline bombing in 1998), and the death of a Catholic Bishop.

Valencia observed that ELN leaders would welcome signs of support from the U.S. Congress and other parts of the U.S. government to secure a final peace accord. He noted that

the ELN believes a negotiated settlement without U.S. government participation is not possible. The ELN is interested in ensuring that the issues of drug trafficking and paramilitarism are on the negotiating table, and since U.S. drug policy is driving U.S.-Colombian relations and there are no outstanding extraditions against ELN leaders, U.S. interests may be well served by supporting the peace talks with the ELN. Valencia cautioned that Colombian and U.S. authorities should be particularly wary of creating alliances with drug traffickers in order to fight insurgency (as they have done in their counter-insurgency efforts against the FARC), as they will find that they are inadvertently deepening the conflict and increasing the strength of their drug trafficking ally. He noted that the issue of drug trafficking might be addressed with greater success through a reconciliation process rather than through military approaches.

2. The Humanitarian Accord: Gateway to Negotiations with FARC?

There are currently no peace negotiations underway between the government of Colombia and the FARC. The Colombian government's strategy toward the FARC, with the backing of the U.S. government (through Plan Colombia, Plan Patriota, and Plan Victoria), continues to be primarily military. Nonetheless, there has been renewed and growing interest in Colombian civil society, within government circles, and in the international community around the idea of a humanitarian accord that would facilitate a prisoner-for-hostage exchange.

According to an Indepaz poll in March 2007, public support for a humanitarian accord is at nearly 60%, up from earlier polls. (The April 2007 Gallup poll, however, noted 48% support based on phone interviews in four urban areas). Developments since March, including the death of the 11 legislators, stepped-up efforts of the hostage families, the leadership of Senator Piedad Córdoba, and the engagement of international figures such as French President Nicolas Sarkozy and President Hugo Chávez have heightened public awareness on this issue. This public attention and political will may translate into new opportunities to move forward.

The FARC currently holds some 4,000 “economic” hostages for ransom, and at the time of the conference in late May 2007 was holding 57 (now 45) others who are considered as political hostages, or “canjeables” (exchangeables). The political hostages include 1 remaining legislator from the Valle del Cauca department; 2 senators; 4 Congressional representatives; former presidential candidate Ingrid Betancourt (who is a dual citizen of Colombia and France), her campaign manager, and the latter’s 3-year old son born in captivity; the governor of Meta; 32 Army and police officers; and three U.S. military contractors (Marc Gonsalves, Thomas Howes, and Keith Stansell) captured in 2003.

In December 2005, the governments of France, Spain, and Switzerland presented to the Government of Colombia and the FARC a proposal called “Security System for a Humanitarian Encounter in the Cordillera Central.” This proposal envisions a meeting between the government and the FARC in the central Andean region of Colombia, guaranteed by the presence of international observers, with an eye toward creating the conditions for a humanitarian exchange of prisoners. The European proposal defines terms that include establishing a fixed period of 45 days for agreement to be reached, the naming of negotiators for each side (Luis Carlos Restrepo for the Colombian government, and Fabián Ramírez, Carlos Antonio Lozada, and Felipe Rincón for the FARC-EP), and the disarmament of each party. According to Remy Friedmann, the Colombian government publicly accepted the plan shortly after receiving the proposal, but the FARC have maintained their demand for the demilitarization of two municipalities--Pradera and Florida in the Valle del Cauca department--as a precondition for such an encounter. The FARC argues that demilitarizing the zone (which is about the size of New York City) would guarantee the security of the hostages and FARC combatants during the exchange. President Uribe, recalling the failure of the “despeje” during his predecessor’s reign, has so far has refused to countenance the notion of such a zone. At the time of the USIP conference events, “demilitarization” was seen as the major sticking point for both sides, with some conference participants wondering whether the stalemate might be primarily due to a lack

of political will. Discussion among the conference participants addressed the role of the military in the establishment and implementation of an “encounter zone” for discussions about a humanitarian accord. One participant clarified that the FARC demands for “no active military presence” does not mean that the government security forces would not have an active role in helping to establish the zone or in ensuring that the zone of encounter is respected. More current circumvent some of these divisive issues, at least in the short term, by introducing options for meeting off Colombian soil—perhaps in Venezuela or Brazil.

If discussions do proceed, obstacles that will need to be addressed include whether Ricardo Palmera (aka Simón Trinidad) and Nayibe “Sonia” Rojas, two FARC leaders currently serving time in U.S. prisons, would be included in the exchange (this would necessitate a presidential pardon from U.S. president George W. Bush), and the fate and conditions under which the FARC prisoners would be released. At this writing, it was announced that Senator Córdoba was planning a visit to Washington to meet with the two FARC leaders and Justice Department officials to discuss such matters.

Seven U.S. Congressmen sent a letter in March 2007 offering their support for the European initiative, and another letter in late June reiterating this support following the death of 11 of the hostages. Rep. Jim McGovern (D-MA), referring to the humanitarian accord, noted, “It is truly a humanitarian effort to help ‘humanize’ the war, and to try and build some level of confidence and success at talks that might lead the Government and the FARC to once again sit down at the table and negotiate a lasting peace.” He observed, “I – along with six of my colleagues [Janice D. Schakowsky (D-IL), Raul M. Grijalva (D-AZ), Sam Farr (D-CA), Peter Welch (D-VT), Maurice Hinchey (D-NY), William D. Delahunt (D-MA)]--have made a commitment to the Spanish, French, Swiss and Colombian governments and to the FARC that we support the Humanitarian Accord initiative and that we are willing to stand witness to negotiations and a prisoner exchange if such actions on our part might be helpful.” He noted that the European sponsors of the initiative, the Uribe government, and the FARC had all

responded with interest to the offer. Remy Friedmann confirmed, "The letter of support sent by seven United States' members of Congress to the Colombian Government and to the three countries' foreign ministers is of utmost importance and underlines that the proposal remains the best at hand." Furthermore, he added, "it represents a great source of encouragement and motivates us to take further action on reaching a humanitarian agreement."

Variations on the European initiative, including one proposal by Alvaro Leyva Durán--a former Minister, Congressman, and peace negotiator--that refines the Europeans' proposition and provides greater details about the location for talks and the nature of the zone of encounter, are also under consideration. Leyva's proposal circumvents the need for agreement on a demilitarized zone by calling for a zone where constitutional order would be enforced. More local initiatives may emerge from the recently convened National Peace Council, a civil society group constituted as an advisory group for the executive on peace policies that, until now, has been largely in abeyance under Uribe's administration. At a meeting of the Council in August, members agreed that at the next meeting, currently scheduled for late September, they would establish a subcommittee to deal specifically with the humanitarian accord.

At the USIP meetings in May, Angela Giraldo--Peace Commissioner of the Government of Valle del Cauca; sister of Francisco Giraldo, one of the recently killed Valle del Cauca departmental legislators kidnapped by the FARC in 2002; and representative of the relatives of that group of hostages--applauded the European initiative, and the support of the U.S. representatives. She encouraged the U.S. government to take a more active role in the promotion of a humanitarian accord in Colombia, noting that Colombia and the United States enjoy close relations, and that President Uribe would be likely to respond favorably to U.S. pressures. In addition to the current human rights criteria that condition some U.S. military aid to Colombia, Giraldo recommended that the U.S. Congress should consider making the free trade agreement conditional upon the release of the three U.S. hostages through a humanitarian accord.

Giraldo opposed President Uribe's proposal to release FARC prisoners unilaterally in the absence of any kind of negotiated accord. Although Uribe has expressed hope that the FARC would reciprocate, Giraldo observed that there would be no way to guarantee anything in return from the FARC if the government's gesture was not performed in the context of a joint agreement.

Likewise, while President Uribe has pronounced 2007 as the "Year of Military Rescue Operations," Giraldo discounted this approach to the hostage situation for several reasons, including the danger such operations presented to the hostages and their ineffectiveness. Currently the hostages are made to sleep above explosive devices, are well guarded, and are surrounded by mines. Rescue operations thus pose tremendous risks to already precarious living conditions. Giraldo noted that rescue operations for those hostages who have been held for longer than 6 months have also had a painfully low success rate--.02 %--often with unintended consequences. The military rescue operation on May 5, 2005, resulted in the death of 10 hostages who were killed in the attempt--including former governor of Antioquia Guillermo Gaviria, his peace commissioner, and 8 Army officials who the FARC had held since 1997--and the escape of two captured military personnel who hid beneath the corpses of their co-captives.

Giraldo also affirmed that a prisoner exchange is permitted under codes of international humanitarian law governing internal armed conflicts. She noted that 89% of Colombians now recognize that there is an internal armed conflict in Colombia, as does the International Committee of the Red Cross (ICRC). She recalled too that there are precedents for negotiating for the release of hostages. The Colombian government has facilitated ransom payments for the rescue of economic hostages. It also recently negotiated through the good offices of the French government for the release of a Colombian captured in Afghanistan.

Giraldo noted that a humanitarian accord with the FARC is not a peace agreement, and it cannot substitute for a peace process. The primary purpose of a humanitarian accord would be to protect and defend the right to life of those who have been kidnapped, and to reduce

suffering. Nonetheless, a humanitarian accord is an entry point that makes dialogue possible when there is no apparent possibility of peace. Giraldo observed that a humanitarian accord could provide a way to break the current impasse whereby the government is unable to beat the FARC militarily and the FARC is unable to take power. Angela noted that the FARC continues to be strong, and that no members of the FARC secretariat are currently in jail. (FARC leaders “Simón Trinidad” and “Sonia,” currently under indictment in the United States, are not part of the FARC Secretariat or Central General Staff.) Under such circumstances, a humanitarian accord could serve as both an end in itself and a confidence-building measure that could be a step toward future talks.

Conference discussion touched on the question of why past talks with the FARC had not been successful. The reasons mentioned were multiple: no ceasefire was agreed upon beforehand; no rules were set before the demilitarization; paramilitary massacres were going on—the extent of which is just now being revealed; and there were a succession of incidents, including human rights violations and other actions from the military that sabotaged the talks. Also, another participant noted that civil society was marginalized from the talks, their input at “thematic forums” was ignored, and mechanisms such as the National Peace Council that had been established to engage the church and civil society in generating ways to move the process forward were not used. Furthermore, others noted, the talks were limited to members of Pastrana’s innermost circle, who lacked experience as negotiators. Other leading members of Pastrana’s party—to say nothing of military officials—were not privy to the talks. One participant noted that in previous peace talks, the military were not adequately prepared to embrace a peace agenda and they felt threatened by peace. Last but not least, participants noted that Plan Colombia increased the belief that a military victory over the guerrillas might be possible at precisely the time that the talks were taking shape, thus undermining efforts to find a negotiated solution and contributing to the militarization of the conflict.

The Paramilitary Process and Current Challenges

Two years after President Uribe presented a draft law to provide a legal framework for the demobilization of the right-wing AUC paramilitary force, the Colombian Congress approved the so-called “Justice and Peace law.” This law, which critics argued would institutionalize impunity, was modified from its original version with input by sectors of civil society, the international community, and the UN High Commissioner for Human Rights to give greater regard to international standards regarding truth and reparations. More significant changes came with a mid-2006 decision by Colombia’s Constitutional Court.

Under the Justice and Peace law--also known as the Law of Alternative Sentencing (Law 975)--if a judge establishes that the demobilized ex-combatant has told the truth and provided adequate compensation, the usual sentence of 40-plus years would be suspended and the beneficiary would be given an alternative sentence of 5-8 years. Provisions that allow those who committed crimes against humanity to be given this reduced sentence are under review by international bodies such as the International Criminal Court and the Inter-American Court of Human Rights.

USIP conference participants discussed the status of the paramilitary process and noted that the negotiations with the AUC were incomplete, as was the demobilization and disarmament--31,000 paramilitaries have turned in 17,000 arms. Since the process began, human rights violations have decreased, but the paramilitary phenomenon remains intact, and the drug trafficking network and political alliance with regional leaders was neither dismantled nor even dealt with at the negotiating table. The demobilization process failed to address paramilitarism as a phenomenon with broad social support in the regions outside of the capital, especially among the entrepreneurial class. Furthermore, the demobilization has also generated new configurations of criminal and drug trafficking organizations and networks. Participants noted the recent International Crisis Group report’s documentation of the emergence of some

two dozen such criminal groups. (See ICG, “Colombia’s New Armed Groups,” *Latin America Report*, N°20, May 10, 2007.)

At the Hill event, Rep. McGovern observed, “Everyone supports seeing one of the most violent illegal armed actors leave the battlefield, disarm, and commit itself and its members to renouncing violence and illegal operations in exchange for re-entering lawful, civilian life.” He lamented that it has not worked out that way, and observed, “Thousands of so-called demobilized paramilitaries are unaccounted for; a pitiful number of arms were turned in; illegal financial networks remain intact; and thousands of paramilitaries have reconstituted themselves into criminal mafia-like networks or into new paramilitary organizations.” He proposed that “the process needs to be strengthened, improved, and made to work – or redone altogether to achieve its aims – including holding accountable those who committed gross violations of human rights and other crimes.”

3. *Colombian Justice under Stress*

Notwithstanding the emergence of new criminal groups and related serious issues, the paramilitary process has nonetheless shifted the political landscape in Colombia. Confessions of ex-combatants and investigations by courageous journalists, human rights workers, and legal professionals have begun to produce evidence that has led to the discovery of more than 500 mass graves of victims of paramilitary crimes, and the public exposure of the extensive links between political elites close to President Uribe and paramilitary crimes. Recent revelations of wiretapping operations by the police against opposition politicians, government officials, and journalists have revealed that imprisoned paramilitaries continue to conduct their drug-trafficking operations by cell-phone and led to the forced resignation of 12 generals. As a result Colombian democracy has been placed under severe strain, as an already overloaded judicial system seeks to exercise the rule of law.

The judicial branch is the cornerstone of any process to ensure that adequate standards of truth, justice, and reparations are attained without sacrificing the rights of the victims, affirmed Alberto Lara, a human rights lawyer and consultant for the UNDP's program on strengthening the judiciary. The Constitutional Court, charged with ensuring compatibility between Colombian law and international standards, reviewed the Justice and Peace law and ruled in favor of changes that would require a higher level of truth and reparations. First, the Constitutional Court determined that paramilitarism could not be considered as a crime of sedition or a political crime, and thus opened up the possibility that ex-combatants could be extradited. (Those charged with political crimes cannot be subject to extradition.) Secondly, it found that beneficiaries of the law would be required to confess all of their crimes, or their benefits would be suspended. Third, it ruled that prosecutors must be granted a "reasonable" amount of time to verify and investigate allegations. Fourth, the Constitutional Court found that the paramilitaries should be obliged to give reparations based on the entirety of their patrimony—including both licit and illicit goods.

Various other layers of Colombia's judicial branch are also engaged in the fight against impunity, noted Lara. The Supreme Court of Justice and the Supreme Penal Court are investigating the links of Colombia's political elites with illegal paramilitary activity, not only for their violations in going after insurgents, but for their cooptation of regional political offices, corruption, and misuse of public funds. The Attorney General's Office (Fiscalía) is implementing the Justice and Peace law, investigating the governors and mayors under indictment, and handling the case against the former head of DAS, the Colombian national intelligence agency. (Recently, the Fiscalía has also been caught up in scandals relating to the protection of paramilitary drug traffickers. See "Conversaciones peligrosas," *Semana*, Sept. 1, 2007; online at www.semana.com).

The unexpectedly large number of demobilized paramilitary ex-combatants and the recent revelations about political collaboration with the paramilitaries has put a severe strain on

the Colombian judicial system. “If justice is not protected, hope will collapse very quickly,” noted Lara.

The main problem now appears to be a lack of resources and adequate staffing to investigate and prosecute the caseload. The challenges include the following:

1. The sheer volume of affected victims. By May 2007, 55,000 individuals had filed complaints and claim to be direct victims of paramilitary crimes. About 30,000 Colombians have “disappeared,” and 2.5 million people have become internally displaced—approximately 80% at the hands of the paramilitaries. With each complaint filed, the victims must be informed about, oriented to, and represented at the hearings where the paramilitaries are giving testimony and being indicted; victims must also be prepared to participate in the reparations hearings.
2. Unclear or overlapping jurisdictional responsibilities. The offices of the Attorney General, Inspector General (Procuraduría), Ombudsman (Defensoría del Pueblo), and the National Commission for Reparations and Reconciliation are all responding to the victims’ claims. But, as one conference participant noted, when each has a similar function, no one does it, or everyone does it badly. Accountability is difficult to come by under such circumstances.
3. Mass graves and cemeteries. In the past year, the Attorney General’s Office (Fiscalía) has received denunciations of 3,710 clandestine cemeteries; most of which they have been unable to investigate due to a lack of resources. By late April, 533 bodies had been found, and only 13 have been identified through DNA testing (Luz María Sierra, “Colombia Busca a 10,000 Muertos,” *El Tiempo*, April 24, 2007). In each case, the prosecutors’ investigators (fiscales) must respond by physically going to each site and disinterring the bodies of the dead. It has proved difficult, if not impossible, to follow certain international protocols concerning exhumations, such as identifying whom you are looking for before exhumations, particularly since there is no national registry of

disappeared or missing persons. It has also been difficult to develop adequate safeguards for the protection and conservation of evidence.

4. Vulnerability of victims, witnesses, investigators, and prosecutors. The armed conflict continues while these investigations are under way, making investigations particularly problematic and dangerous. The prosecutors and the technical investigative unit of the Attorney General's office travel to Putumayo, the Llanos Orientales, the Zona Oriente and the Zona Costera where they are threatened and attacked by the FARC, the paramilitaries who have not demobilized, and some who have. The victims, victims' families, and investigating judges face death and threats thereof, and frequently lack safeguards or protection. By July 2007, at least six victims who had testified in public hearings were known to have been killed.

4. Lessons from the Paramilitary Process

Future initiatives have much to learn from the failure of the paramilitary process to address the roots of paramilitary violence or to develop a transparent process with a common and clear understanding of the agreements reached. The process also highlights the need to clarify jurisdictional responsibilities regarding investigations and prosecutions of crimes committed, the need to ensure sufficient resources for enacting the rule of law and the protection of witnesses, and the need to establish mechanisms to monitor the implementation of agreements and to prevent the emergence of new forms of violence.

Another issue that affects peace accords is related to how the judicial system classifies and deals with demobilizing groups. Demobilizing guerrillas in Colombia have usually been charged with the political crime of "sedition," given amnesties, and reintegrated into civic life. President Uribe's plan to demobilize the paramilitaries appears to have taken the country's previous guerrilla demobilizations as a model; his demobilization plan has established reduced

sentences for ex-combatants, and granted them the same protections that “political” criminals charged with “sedition” enjoy. Use of this paradigm for demobilizing paramilitary was overturned by the Constitutional Court, whose finding was recently confirmed by the Supreme Court. The latter ruled on July 11, 2007 that prosecution of the AUC would be subject to the norms of criminality and AUC activities would not be considered as crimes of “sedition” which carry more lenient sentencing, given that AUC paramilitaries had never tried to overthrow the government, but on the contrary, often collaborated with public security forces engaged in counterinsurgency activities. Under this finding, which temporarily threatened to bring demobilizations to a halt, demobilized paramilitary combatants are not entitled to amnesty, may not run for public office, and may not enjoy protection from extradition. President Uribe has presented legislation that will allow paramilitary ex-combatants to run for elected office. How these tensions are resolved, and whether the Supreme Court’s finding is effectively implemented will present a test case for the judiciary’s ability to hold firm to the rule of law in the face of counter-veiling political pressures.

Additional areas that may provide lessons for future processes relate to security for those demobilizing, the problems raised by the lack of a transparent process, and inadequate disclosure of the terms of the demobilization process. Likewise, tensions between newly demobilized ex-combatants who are the beneficiaries of government support and the populations that have been displaced by the violence highlight the need for those designing and implementing reintegration programs to consult extensively with receiving communities in order to anticipate and mitigate potential conflict between these two groups. In this regard, churches seem particularly well positioned to assist efforts to ensure just solutions on the ground.

Peace Processes and Third-Party Mediation

Third party actors—including both members of Colombian civil society and members of the international community--have played a role in Colombian peace processes with the AUC, the FARC, and the ELN. Faith-based groups have been an important site for grappling with the broader issues of truth, justice, and reconciliation. Likewise, other parts of civil society—especially women, indigenous and Afro-Colombian communities, labor, journalists, and human rights and peace organizations--have played roles in preparing the terrain and fostering the political will for a political solution.

Internationals have increasingly been called on to play a role in support of Colombian peace initiatives. The Organization of American States established the Mission to Support the Peace Process (MAPP) to oversee verification of the paramilitary disarmament and demobilization. Norway, Switzerland, and Spain have facilitated the recent series of ELN talks, with the logistical support of Cuba and Venezuela and strong involvement of Colombian civil society. The governments of France, Spain, and Switzerland have been accompanying the Humanitarian Accord initiative with the FARC. French President Nicolas Sarkozy has been visibly engaged since he came to office, and Venezuelan President Chavez's offer to facilitate appears to have caught the imagination of the FARC leadership. At an informal level, internationals are also supporting projects that are preparing the ground for peace by creating opportunities for structured dialogue among historically antagonistic sectors of society.

5. Churches and Civil Society in Colombian Peace Processes

Civil society in Colombia is highly developed, if fragmented, and there have been many efforts emerging from multiple sectors of civil society to move the country toward a sustainable peace. A special word about the role of the churches is warranted. The Catholic Church has been a behind-the-scenes player in each of the peace initiatives with the guerrilla insurgents and in the

facilitation of the demobilization of the paramilitaries. Protestant churches, though representing a minority within Colombia, are also engaged in local-level conflict mediation as part of their pastoral mission, though they do not enjoy the same legal protections and privileges offered to Catholic pastors when the latter engage in “pastoral dialogues.”

There are thousands of faith-based peace-building initiatives being undertaken at all levels of Colombian society and in all regions of the country. These interventions span the conflict cycle and include initiatives for conflict prevention, conflict management, humanitarian and development aid, support for negotiated solutions to the conflict, peace education, reconciliation workshops, and multiple other initiatives.

The Catholic Church has been active through its bishops, men and women religious, and lay leaders at the grassroots level in promoting dialogue and spaces for interactions among broad sectors of society, including the armed actors, noted Msr. Héctor Fabio Henao, director of the Colombian Catholic Church’s National Social Ministry Secretariat/Caritas. In particular, the Catholic Conference of Bishops has participated in facilitation, provided moral guidance, and engaged mediation in several cases of negotiation between the government and irregular armed groups. At the same time, the bishops are clear about the need to develop a permanent national peace policy to guide peace building. At a Catholic Peacebuilding Network conference in Bogotá in June 2007, Msr. Darío Echeverry noted, “Faced with the need to stop the armed confrontation and avoid a generation of new victims, the Church has oriented its efforts toward promoting a negotiated political solution to the armed conflict, humanitarian accords, and respect for human rights and international humanitarian law. At the same time, it has reiterated that peace requires truth, justice, forgiveness, and reparation, recognizing the limits and tensions of the transition itself and the difficulties of the eventual configuration of a post-conflict scenario.”

Adam Isacson, director of the Colombia program at the Center for International Policy, analyzed the ebbs and flows of Colombia’s civil society peace movement and its potential

impact on a national peace agenda. He discussed the emergence of a peace movement as a political force following failed peace talks with FARC and ELN in 1992, and mapped out the evolution of Colombia's peace movement with the establishment of REDEPAZ; the creation of the Colombian Conference of Bishops' National Conciliation Commission in 1995; the proliferation of sectoral peace groups such as Ruta Pacífica de Mujeres, Red Universitaria por la Paz, Planeta Paz, Ideas por la Paz, and the National Peace Council. He noted the growth of broad coalitions and public demonstrations in the mid-late 1990s that succeeded in pressuring for national peace policies, and put peace on the presidential agenda following the campaign that secured Andrés Pastrana's election in 1998. Isacson described the evolution of the peace movement with its inherent tensions—the broadening out to include the business community and other mainstream sectors of the church hierarchy and politicians, and the implosion of the coalition as class divisions deepened, mainstream sectors pulled back, guerrilla kidnappings increased, and U.S. money under Plan Colombia began to flow into Colombia to fund the war. He analyzed the strengths and weakness of the coalition-building (*convergencia*) model and its decline during the Pastrana years, and in particular the marginalization of the peace coalition during the Pastrana-FARC talks and its inability to respond at a national level when the peace talks collapsed in 2002.

In the aftermath of the failed talks, civil society has increasingly come to play a role behind the scenes in facilitating direct contacts between the government and the armed groups, in convincing foreign governments to support peace initiatives, and in engaging creatively in a proliferation of local efforts to negotiate local and regional solutions. These efforts include the establishment and implementation of peace and development programs, peace communities and local zones of peace; participation in opposition politics; and efforts to establish local conflict resolution mechanisms and strengthen accountability and democratic practices. These initiatives have faced harassment and isolation, and are sometimes hampered by growing divisions between national groups and the “regions.” Conference participants noted the need to

support these local initiatives and alliances for peace, and to make their work visible to the rest of the Colombian population. Many of those resisting the conflict are talking to local armed actors at great personal risk and they are currently stigmatized, endangered, and attacked.

With regard to the paramilitary demobilization process, initiated with the facilitation of the Catholic Church, with a few notable exceptions, most civil society groups distanced themselves from the process. Groups like Indepaz, REDEPAZ, and Nuevo Arco Iris, however, have performed oversight and provided constructive critiques of the process. Civil society leaders, including highly regarded leaders of the peace movement--such as Ana Teresa Bernal and Patricia Burfítica, and Bishop Nel Beltrán--are serving on the National Commission for Reparations and Reconciliation, established as part of the paramilitary process. Their participation has occasioned some criticism, as the commission, established by the Colombian government, is not seen as an independent body, but it has been one of the few official venues whereby civil society leaders might engage in the development of national public policies for peace.

Civil society has been less engaged at a national level with FARC initiatives, although behind-the-scenes discussions and local-level negotiations for resolving violent situations are occurring discreetly. The relatives of the FARC hostages have been active in the promotion of a humanitarian accord, and the Church and other civil society leaders have served as authorized intermediaries for accord proposals. There is considerable room, however, for civil society to engage more actively on this front, as it began to do in the aftermath of the June 2007 deaths of 11 FARC hostages.

Civil society's role has been relatively more central in the ELN processes. Most recently, civil society was able to jump-start negotiations between the government and the ELN. Civil society leaders, including church representatives, have served as guarantors of the Casa de Paz in Medellín, and they have been present at the talks with the ELN in Havana. Throughout the process, civil society has established numerous mechanisms that would ensure the

participation of unarmed actors in shaping an agenda for peace that in the end civil society could help implement. ELN proposals for a National Assembly would further institutionalize the engagement of Colombia's civil society in moving toward sustainable peace. The ELN has also invited international accompaniment for its efforts. In this regard, Colombia may be pioneering a new model for civil society and international engagement in making and building peace.

6. Role of the International Community

Remy Friedmann discussed the role of the international community, and in particular the role of Switzerland, with regard to Colombia's two primary guerrilla groups. He noted that Switzerland has worked in Colombia for several years with different multilateral and bilateral partners, and has engaged in the following activities:

1. The facilitation of peace efforts. It has sought to put into place a structured, sustainable and participatory peace process with the armed groups.
2. The provision of technical advice and expertise. In partnership with the International Center for Transitional Justice in New York, Colombian state institutions – like the National Commission for Reparations and Reconciliation - and victims' organizations, Switzerland has provided for the implementation of transitional justice mechanisms that respect the rights of victims to truth, justice, and full reparation.
3. The strengthening of civil society initiatives for peace. It has sought to create synergies between peace facilitation efforts and initiatives by the private sector, NGOs, trade unions, ethnic minorities, women's groups, and peasant groups.
4. The promotion and reinforcement of the respect for human rights and international humanitarian law. It has supported international organizations like the Office of the High Commissioner for Human Rights of the United Nations, state institutions, and NGOs active in this field.

With regard to current peace facilitation efforts, Friedmann noted that Swiss efforts since 2002 have sought, with the governments of France and Spain, to facilitate a mechanism for a dialogue between the FARC and the Colombian government that would lead to a humanitarian agreement for the release of hostages and as “a first step towards a real peace process.” Some of this is necessarily low-profile work. “The three countries haven’t relented in their efforts,” he observed. “Our efforts continue to be intense but discrete, as this remains necessary in order to achieve a result. We cannot be satisfied, however, until the hostages recover their freedom.”

Likewise, Friedmann noted the role of the European initiatives in facilitating dialogue between civil society, the Colombian government, and the ELN, and in supporting the Casa de Paz. As the parties address substantial and difficult issues, they may call on the international community to help with expertise on matters like verification of a ceasefire, transitional justice, and public participation. “As far as Switzerland is concerned, we are ready to help and provide assistance when requested by the parties through a combination of diplomatic efforts, dialogue with the authorities, interlocution with the armed groups, support to projects in favor of civil society, and strengthening of human rights. This is how we hope to contribute to a peaceful solution for Colombia,” noted Friedmann.

In the ensuing discussions, participants considered the role of the broader international community with respect to the peace process with the ELN. If there is a ceasefire agreement reached with the ELN and the Colombian government, one participant asked, what role might international guarantors play to ensure that the agreement is sustainable? Friedmann anticipated a future role for the UN and the OAS in monitoring the implementation of agreements. If the parties request UN or OAS assistance on technical modalities related to the concentration of troops and such, however, the response must be done in a coordinated fashion. There is also a circle of observers, as well as Cuba and Venezuela, ready to assist. Friedmann cautioned that it is really up to the parties to determine what role the international

community can play to help this process move forward. With regard to the current peace talks with the ELN in Havana, he concluded that there is room for hope. “The road ahead is still paved with enormous difficulties, but we have noted a willingness and commitment on both sides,” he observed. He encouraged the U.S. Congress to join the efforts of the Europeans in the search for a peaceful solution.

Another participant asked whether there might be a place now for high-level foreigners to provide information about breaking developments and to broker information to each side. While such a role was considered to be premature for now, conference attendees noted that it might become appropriate with a comprehensive peace process. The presence of international observers and diplomats could help provide security, lend legitimacy to the process, and provide opportunities to build trust between the parties.

In addition to their role in accompanying national processes, internationals can play an informal role before peace talks are under way in preparing the ground for peace negotiations by creating a neutral, inclusive space for dialogue with potential spoilers—often groups who have been marginalized in the search for peace. USIP Senior Fellow and Latin American specialist Jennifer Schirmer noted that while local NGOs may also be in a position to play this role, often they are reluctant to do so for a variety of reasons--not the least of which relate to questions of their own security. Internationals are frequently unencumbered by official positions and have an advantage over locals insofar as the former usually lack a history of failed peace efforts. Dr. Schirmer described the project she directed for the last six years with the support of USIP and the Norwegian Foreign Ministry. This project, set up through the University of Oslo to broaden dialogues between the military and civil society, develops skills for all sides in the language and conduct of human rights and international humanitarian law, encourages political solutions over violence, and emphasizes respect for differences of opinion. The project has conducted 15 dialogues with 250 officers and 60 civilians on controversial themes including paramilitarism, land reform, the economic costs of war, trade unionism, and the rehabilitation of

ex-paramilitaries. Schirmer noted, “We have seen the slow disintegration of security forces’ resistance to the idea that peace is antagonistic to their institution. Some leftists have found that their predispositions toward the military have been erroneous. We have seen an increased curiosity on both sides, and an increased ability to listen and debate without having to agree with the other side.”

Dr. Schirmer’s experiences in this “peace skilling” project have led her to a number of conclusions regarding the role of the international community in peacemaking and peace-building in Colombia. First, she underscored the importance of supporting informal mechanisms for dialogue that include outreach to the armed actors. One cannot underestimate the importance of laying the ground for peace beforehand and including all actors at the table, she said. Second, she noted the importance of getting involved long before the peace process begins and maintaining an independent track from official peace talks. Her project’s independence meant that the work could continue after 2002, when negotiations between the FARC and the Colombian government broke down. Third, she noted that internationals bring to the table the elements of neutrality and inclusiveness, and these are essential to peace-building. Non-EU members such as Switzerland and Norway have an increasingly important role in the world of peacemaking today in keeping open the channels of communication with groups that have been placed on the various “terrorist lists” of the EU and the U.S. government. Fourth, Dr. Schirmer emphasized that the international community must have patience. The process of changing attitudes and institutional cultures to be more sympathetic to peace processes is a long-term process that involves the establishment and maintenance of trust, and one cannot expect immediate results. Fifth, the composition of the team for such dialogues is important, and it should include both international and local expertise. Finally, she noted that engagement in a peace dialogue does not require the parties to abandon their right to denounce violations of human rights and international humanitarian law that might occur.

CONCLUSIONS

Peace processes in Colombia move in fits and starts, and the rhythms of war and peace efforts there often respond to a combination of domestic and international imperatives. This is the case today. During his first term, President Uribe focused on demobilizing the paramilitary AUC and increasing military pressure on the remaining guerrilla groups. However, the paramilitary process has been fraught with problems, including the reemergence of new criminal groups, the failure to develop and sustain effective reintegration programs, a lack of prosecutorial capacity to stem the tide of impunity for paramilitary crimes, and other shortcomings mentioned elsewhere in this report. The process has revealed moreover a conflict between the paramilitaries' anticipation of guarantees for protection from extradition and prosecution, on the one hand, and growing demands for truth and accountability, on the other. Revelations about government collaboration with paramilitaries in undermining or eliminating political opposition and other adversaries has also complicated the demobilization process.

Within this shifting national context, we are once again seeing renewed efforts to seek political solutions to the conflict in Colombia. The humanitarian accord, in part due to the energy and persistence of the hostage families and their ability to engage and mobilize national and international public opinion, is increasingly seen as offering opportunities to renew discussions with the FARC that might lead toward eventual peace talks with the largest and oldest guerrilla fighting force in the world. The role of the international community—especially France, Spain and Switzerland, and most recently Venezuela—and the church have been pivotal in keeping the humanitarian accord alive. The direct personal engagement of French President Nicolas Sarkozy and Venezuelan President Hugo Chavez, and the catalytic role of Colombian Senator Piedad Córdoba have heightened hopes that the Gordian knot of intransigence may finally be severed. The U.S. government, with the exception of an influential group in the U.S. Congress, has yet to weigh in on the humanitarian accord; its voice could be

pivotal in shifting the pendulum even more decisively from a military approach toward a political resolution of the hostage situation.

The ELN process is also advancing intermittently. There remains hope that the talks with the Colombian government and the ELN in Havana may yield positive results. Civil society and the international community have been key guarantors of this process, and their input may be helpful in shaping the agenda of both sides, influencing the nature of the peace talks, keeping the pressure on the parties for talks to advance, and monitoring the implementation of any accords that are reached.

In Colombia and elsewhere, peace is usually negotiated between the government and one armed group at a time. This paper underscores however the need to consider the possible repercussions of decisions in one process for discussions with other armed actors. It seems clear that the fates of the three major illegal armed groups in Colombia are linked, and that the failure or success of peace initiatives with one armed group may impact possibilities for current and future initiatives with the others in complicated ways. Each effort to negotiate peace, whether it is ultimately successful or fails, closes some doors and opens others.

What lessons might the paramilitary process and its implementation offer for other processes? A major area of impact relates to the frameworks used for bringing armed actors to the table. Previously used paradigms that granted guerrillas amnesty in exchange for demobilization were the models used for the original Justice and Peace law proposed by the Uribe administration. Such national paradigms, given a changed international context, now stand in conflict with standards of international human rights and humanitarian legal norms that have evolved in the last two decades. Pending questions about the nature of the revised Justice and Peace law; its relevance as a potential framework for peace initiatives with other guerrilla groups; the shortcomings of the law in terms of truth, justice, and reparations; and the lack of transparency and clarity over agreements reached will each need to be considered in terms of their potential impact on future processes.

Another set of questions relates to the application of these “transitional justice” mechanisms. How should the Justice and Peace law be applied and to whom? Should the alternative sentence of 5-8 years envisioned in the Justice and Peace law be applied to the politicians, military, and businesspeople who have facilitated the paramilitary war as well as those who served as combatants and military leaders? If the Justice and Peace law is applied broadly for one process, will it undercut political support for other peace processes, or will it gain legitimacy and be seen as effectively challenging impunity and therefore a desirable model for the future? What are the implications of accepting a narrow versus a broad application of the Justice and Peace law for other peace initiatives?

The ways that security questions are addressed or neglected with regard to truth telling in the paramilitary process may shape the willingness of witnesses to come forward in this and other processes. Colombian policymakers and authorities should consider how the courts might be supported and witnesses protected as they seek to overturn impunity. Protection of witnesses and ensuring that perpetrators do not enjoy total immunity will be essential steps in creating the perception that the risks of coming forward in any peace process are outbalanced by the possibility that the truth will become known, justice might be done, and reconciliation and healing might begin. The extent to which the process with the paramilitaries can be strengthened enough to overcome widespread concerns about impunity may give greater legitimacy to future processes.

Questions also remain about the relationship between the paramilitary demobilization process and the process with the ELN and FARC. Clearly the demobilization of any armed group leads to a shift in the military balance of power in the field. This in turn affects the security considerations of all the groups—a key consideration for any group considering laying down its weapons—and the group’s subsequent negotiating positions.

The paramilitary process is not the only process that yields lessons for future peace initiatives. The other processes, incipient as they might be, also provide insights. First, the

potential role of civil society has been seriously underestimated in past peace efforts. The role and potential role of civil society and the international community during the FARC-Pastrana dialogues, the ELN-government discussions, and the efforts to secure a humanitarian accord are worthy of further analysis. Civil society (including the churches) and the international community can play and are playing key roles in facilitating discussions between the government and illegal armed actors at a national level, preparing the ground for peace talks, and engaging in discreet local (and frequently successful) dialogues with armed actors for conflict prevention and mitigation. Their past and current successes (and failures) in serving as third party observers, facilitators, and mediators suggest that they are key, and perhaps insufficiently utilized, resources for moving toward sustainable peace. A concerted effort should be made to find ways to engage these actors more effectively in the construction and implementation of national peace processes. For now, the prognosis offers hope on the horizon in this regard.

The meetings sponsored by USIP were part of a first attempt to recognize that what happens with one armed group shapes the possibilities and constraints for peace with other groups. This approach has not been common in Washington policy circles. Predictably, the presentations and discussions raised more questions than they answered, but the events helped to underscore the complexity of the multiple conflicts in Colombia and the need for more comprehensive approaches to peace in that country. This paper suggests the need to continue to put these processes and the scholars, mediators, and practitioners promoting, studying, and facilitating them into dialogue with each other so that greater consideration is given to the impact (and potential impact) that negotiations and agreements with one sector have on the other groups. Such an approach may well enhance the prospects for a sustainable peace in Colombia.

ABOUT THE AUTHOR

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RELATED PUBLICATIONS

Bland, Gary, rapporteur. *Peace and Security in Colombia: A Conference Report*. Washington, D.C.: Woodrow Wilson International Center, 2003.

<http://library.usip.org/record=b1007964>

Bouvier, Virginia. *Civil Society under Siege in Colombia*. USIP Special Report, no. 114. Washington, D.C.: United States Institute of Peace, 2004.

<http://library.usip.org/record=b1009598>

Bouvier, Virginia. *Harbingers of Hope: Peace Initiatives in Colombia*. USIP Special Report, no. 169. Washington, D.C.: United States Institute of Peace, 2006.

<http://library.usip.org/record=b1010374>

Bouvier, Virginia. *Colombia: Trip Report on Armed Conflict and Society*. USIPeace Briefing. Washington, D.C.: United States Institute of Peace, 2003.

<http://library.usip.org/record=b1010643>

Bouvier, Virginia. *U.S. Involvement Deepens as Armed Conflict Escalates in Colombia*. USIPeace Briefing Washington, D.C.: United States Institute of Peace, 2003.

<http://library.usip.org/record=b1010648>

Dominguez, Jorge I. *Boundary Disputes in Latin America*. USIP Peaceworks, no. 50. Washington, D.C.: United States Institute of Peace, 2003.

<http://library.usip.org/record=b1009520>

Hunter, Wendy. *State and Soldier in Latin America: Redefining the Military's Role in Argentina, Brazil, and Chile*. USIP Peaceworks, no. 10. Washington, D.C.: United States Institute of Peace, 1996.

<http://library.usip.org/record=b1004220>

McClintock, Cynthia. *Revolutionary Movements in Latin America: El Salvador's FMLN and Peru's Shining Path*. Washington, D.C.: United States Institute of Peace Press, 1998.

<http://library.usip.org/record=b1005209>

Simmons, Beth A. *Territorial Disputes and Their Resolution: The Case of Ecuador and Peru*.

USIP Peaceworks, no. 27. Washington, D.C.: U.S. Institute of Peace, [1999].

<http://library.usip.org/record=b1005832>

Studemeister, Margarita S., ed. *El Salvador: Implementation of the Peace Accords*. USIP

Peaceworks, no. 38. Washington, D.C.: U.S. Institute of Peace, 2001.

<http://library.usip.org/record=b1007415>

Suominen, Kati. *U.S. Human Rights Policy toward Latin America*. USIP Special Report, no. 65.

Washington, D.C.: United States Institute of Peace, 2001.

<http://library.usip.org/record=b1007379>

Wopperer, Suzanne and Michael Southwick. *Neighbors on Alert: Regional Views on*

Intervention. USIPeace Briefing. Washington, D.C.: United States Institute of Peace, 2003.

<http://library.usip.org/record=b1010570>