

COLOMBIA:
NEGOTIATING WITH THE PARAMILITARIES

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COLOMBIA: NEGOTIATING WITH THE PARAMILITARIES

EXECUTIVE SUMMARY AND RECOMMENDATIONS

Eighteen months after the rupture of peace talks between its predecessor and the main insurgent group, the Revolutionary Armed Forces of Colombia (FARC), the Uribe administration has entered upon a high risk-high gain negotiating process with the main paramilitary group, the United Self-Defence Forces of Colombia (AUC), that will test its skill and its good faith.

An accord signed on 15 July 2003 after an AUC “unilateral ceasefire” and seven months of highly confidential preliminary talks directs the start of formal negotiations with the goal of completely disbanding the AUC by 31 December 2005. It offers the first break in more than a year of escalating violence.

The news was received with a mixture of hope and suspicion. The U.S. and EU expressed support for the negotiation process but stressed that demobilisation should not come at the expense of justice. Colombian analysts welcomed the potential benefit of eliminating from the conflict one of the illegal armed groups most responsible for civilian casualties but also warned of difficulties. Fearful the AUC would not be held accountable for past crimes and suspicious it would not be kept strictly to the ceasefire, domestic and international human rights groups were the strongest critics.

There are many questions regarding both sides’ motives for participating in the negotiating process and its feasibility under conditions of ongoing warfare. In part the Uribe administration has undercut the original rationale for the paramilitaries’ existence by expanding the state’s presence across its territory and improving the army’s capacity to confront the insurgents. It has also increasingly applied military pressure against the paramilitaries, while the U.S., Canada, EU and others have labelled them terrorists and called more loudly for Uribe to end longstanding

military-paramilitary ties. The U.S. has indicted senior paramilitary commanders for drug trafficking, and the Uribe government’s counter-narcotics policy has begun to hurt their economic base.

Implicit in the concern, however, is uncertainty about what the Uribe administration is actually prepared to offer the paramilitaries to lay down their arms. There is worry that parts of the government and the AUC may not really see themselves as full adversaries; that just as elements in the country’s traditional power structures may have fostered the paramilitaries’ rise, so they may be preparing to use the peace talks to cleanse them politically and thus legitimise their wealth and power.

President Uribe faces two main challenges. The first involves the complexities of demobilising and reintegrating the paramilitaries into society (DR) while the conflict with the insurgents and paramilitaries who oppose the process continues, including how to protect demobilised ex-combatants, verify their adherence to the ceasefire and keep them out of drug trafficking.

To prevent the insurgents from occupying regions formerly under paramilitary control, the government security and civilian presence must expand across the country in step with paramilitary demobilisation. The Uribe administration will need to deal with all paramilitaries, not just the AUC. Refusal to participate in the ceasefire and negotiations should trigger the highest priority military targeting of dissident groups. Stepped up eradication of illicit crops under paramilitary control should be part of the demobilisation process.

The second challenge involves ensuring that the state does not undermine its own legitimacy and the rule of law by turning a blind eye to paramilitary crimes.

All paramilitary fighters will need to be subjected to judicial screening to determine whether they are responsible for serious crimes, such as massacres and kidnapping. Those found guilty for such crimes will need to be dealt with severely while the rights of paramilitary victims should be protected through means such as an independent truth and reconciliation commission and a special reparation fund, with some benefits coming from confiscation of paramilitaries' drug profits.

It is vital for the Uribe administration to demonstrate that it is serious about pursuing its declared aims with the paramilitaries. If it fails to conduct DR in a just and accountable manner, including moving resolutely to sever ties between the military or others in the Colombian elites and paramilitaries, its credibility and legitimacy will be severely affected, both domestically and internationally. If it does so act, however, it can expect to receive important international political and financial assistance to see the job through.

The odds are against this difficult process succeeding but the possible benefits make it a chance worth taking. Not the least of these would be the demonstration to the insurgents, who also must eventually be disarmed and reintegrated, that the government has both good faith and iron resolution. But transparency throughout the process is the key to avoiding shipwreck and violent backlash.

RECOMMENDATIONS

To the government of Colombia:

1. Seek to establish a single negotiation table with all paramilitary groups, or if not feasible, a parallel table for non-AUC groups, and assign highest military priority to the capture or defeat of paramilitary groups that refuse to participate or have broken a ceasefire.
2. Strengthen the government's capacity to compel participation in the demobilisation and reintegration (DR) process by establishing special police units and prosecutors whose sole duty is to arrest and bring to justice non-cooperative paramilitary members - and armed forces members who continue to support them - and by providing more support for and monitoring of the Human Rights Unit in the Attorney General's Office.
3. Charge a high-level commission with coordinating, in support of the High Commissioner for Peace, all aspects of the DR process, including a reparation fund for victims of illegal armed groups that could identify and draw on illegally obtained paramilitary assets.
4. Ensure full cooperation of the armed forces, police and local and regional governments in concentrating paramilitary fighters for demobilisation in areas which are close to where their groups previously operated, which are easy to protect, and which are accessible for food and other deliveries.
5. Organise an international conference with government and non-government experts on lessons learned from other DR processes, including international monitoring and verification mechanisms, and request international support for the conference and for technical teams to assist the government in developing DR plans.
6. Appoint a presidential commission of distinguished Colombian and international figures to monitor and report on actions taken and steps still required to sever ties between the armed forces and the paramilitaries.
7. Establish a truth and reconciliation commission to document and disseminate information about abuses committed by all irregular armed groups.
8. Continue to expand the presence of government armed forces and police, as well as civilian judicial institutions, the Ombudsman Office and other state institutions, across the national territory, while reassessing the peasant soldiers program in view of its goals and achievements.
9. Continue to eradicate illicit crops with special emphasis on regions under paramilitary control, while implementing alternative development programs and basic social service programs in those regions and in rural areas generally.
10. Maintain support for UN facilitation to engage the insurgent organisations in peace talks, including a ceasefire with an end to the killing and abduction of civilians and to drug trafficking.

To the AUC and all paramilitary groups:

11. Comply fully with the ceasefire, enter into negotiations, turn over all underage fighters, cease immediately the killing and kidnapping of civilians and the trafficking of drugs, and release any currently-held kidnapping victims.

To the UN, the Groups of Friends, the European Union and the U.S. government:

12. Engage the government in a regular policy dialogue about paramilitary DR and the need to link this process to the opening of structured negotiations with the insurgents, while making clear that there will be no international financial support until the government has shown concrete willingness to prosecute senior paramilitary leadership and jail those found responsible for crimes against humanity.
13. Once the government has taken steps to create the special police and prosecutor units, provide complementary funding alongside that of the international financial institutions (IFIs), to support:
 - (a) design and implementation of the DR plan;
 - (b) truth and reconciliation and DR commissions;
 - (c) programs to assist internally displaced persons and victims; and
 - (d) judicial and prison institutions.

14. The U.S. should provide to the Colombian government as rapidly and fully as possible any information it holds or obtains on ties between the military or important civilian figures and the paramilitaries in order to facilitate appropriate action.
15. The U.S. and the EU should freeze assets and refuse or revoke visas for Colombians – and their family members - who maintain ties to or otherwise support paramilitary groups and leaders that do not participate in the ceasefire, negotiations and DR process.

To the FARC and ELN:

16. Respect the paramilitary DR process and enter promptly into peace negotiations with the government on the same basis.

To the Colombian business community:

17. Help in the DR process by offering employment opportunities to demobilised fighters seeking to join the labour market.

Bogotá/Brussels, 16 September 2003

COLOMBIA: NEGOTIATING WITH THE PARAMILITARIES

I. INTRODUCTION

Soon after taking office, President Uribe began preparing the ground for formal negotiations with any armed group in the country's civil conflict, including the paramilitaries, that was prepared to meet his conditions. His framework for negotiations required the groups to agree to enter into a ceasefire, stop killing and abducting Colombians and end drug trafficking.¹ In December 2002 he obtained parliament's approval of Law 782/02 (former Law 418/97), which modifies the conditions that an armed group must meet in order to qualify as a party in negotiations with the government. The law expressly excludes granting political status to any group as a precondition for talks.

Uribe further appointed a six-member exploratory commission headed by the High Commissioner for Peace, Luis Restrepo, and charged it with establishing contacts with the paramilitaries and building trust between the parties to pave the way for formal conversations. As a precondition, the government demanded a ceasefire and the severing of all links to drug trafficking. The ceasefire was unilaterally announced on 1 December 2002 by the largest paramilitary group, the United Self-Defence Forces of Colombia (AUC), whose leader, Carlos Castaño, launched a publicity campaign that condemned drug trafficking and requested the various AUC fronts to cut links with the illegal trade. That issue has caused deep fissures within the paramilitary camp, and serious doubt exists as to whether there has in fact been any change in AUC involvement with drug trafficking.

The Colombian government has been cautious not to publicise too much about the talks with the AUC and the steps that would follow the exploratory phase. Early in 2003 High Commissioner for Peace Restrepo stated, "we are walking in the middle of a dense fog with a flashlight and we can just see to a distance of 30 meters. We don't know what is there later on".²

In late May 2003, President Uribe announced his administration's readiness to grant pardons or probation to paramilitaries and insurgents who voluntarily surrender to the authorities.³ This offer could include the option of exile for demobilised paramilitary fighters.⁴ While the announcement was aimed at encouraging desertion of insurgents, it was also intended to facilitate formal negotiations with the AUC. In late June, the exploratory commission submitted a list of ten recommendations to the government, urging it to begin formal "peace negotiations". Three weeks later, government, AUC and Church representatives signed the "Accord of Santa Fe de Ralito to Contribute to Peace in Colombia", stipulating complete AUC demobilisation by 31 December 2005.⁵

Few issues have been as controversial in Colombia during the last decade as the role of paramilitary and self-defence groups in the armed conflict. Cattle ranchers, large landowners and regional politicians have supported or facilitated the creation of these irregular armed groups to contain the advance of the insurgents or regain social and political control in conflict-riven regions of the country. They have argued that as long as the state is incapable of protecting their lives and property, they have a right

¹ Uribe has said since the beginning of his electoral campaign in mid-2001 that if the paramilitaries "agree to stop killing Colombians, my government would negotiate with them". *Cambio*, 27 August 2001. He said similar things about the the insurgents in his political program "Manifiesto Democrático: 100 puntos".

² ICG interviews, Bogotá, February and May 2003; *El Tiempo*, 23 February 2003, p. 1/18.

³ *El Tiempo*, 29 May 2003, p. 1/2.

⁴ *Ibid.*

⁵ "Acuerdo de Santa Fe de Ralito para contribuir a la paz en Colombia", 15 July 2003.

to defend themselves.⁶ Drug traffickers turned landowners have provided leadership and resources in this endeavour, counting on the support or collaboration of individuals and groups within the government armed forces.⁷

Most observers recognise those origins of the paramilitary groups and believe strong links to the state security structure remain, though they do not consider that these necessarily reflect current government policy. Some, however, say that the paramilitaries are part of a government counterinsurgency campaign to restore order in regions where the rebels have influence or where there are pressing social problems.⁸ Without question, civilians have been the paramilitaries' main targets, especially social and human rights activists, trade union leaders, rank and file members of social movements, grass-roots organisations, and leaders of left-wing political parties and movements, but also common people living in areas of guerrilla activity.

Even the name given to these groups is controversial, and, in a way, the linguistic struggle forms part of the armed conflict. While cattle ranchers and agro-industrial elites call them "self-defence groups" and the army "illegal self-defence organisations", human

rights groups point to their links with the armed forces and consider the term "paramilitaries" more accurate.⁹ Carlos Castaño, their best known leader, defines his organisation as "para-statal", an allusion to what he considers its support of the Colombian state's fight against the insurgents.¹⁰

In this heated context, the government-AUC talks were the cause of some concern to UN officials on mission in Colombia, the political opposition,¹¹ and human rights organisations. Cattle ranchers, who are among the strongest sympathisers and sponsors of the paramilitaries, are among the main supporters of Uribe, himself a prosperous rancher in the department of Córdoba.

If one of the three illegal armed groups responsible for massive killings in the conflict can be demobilised in a way that is accepted domestically and internationally, it could eventually open a window of opportunity to peace and reconciliation. However, the Uribe administration and the international community must not underestimate the challenges and risks.

During the past twenty years, the paramilitary groups and the insurgents have been responsible for massive violations of domestic and international humanitarian law, including causing massive internal displacement, committing massacres and engaging in drug trafficking. One of the most frequently voiced concerns regarding peace negotiations with the paramilitaries is whether an eventual agreement would grant immunity to those responsible for grave violations of human rights and, as a corollary, what would happen to the rights of the victims and their relatives. It would be disastrous to allow the men with guns to believe that they could engage in terrible brutalities today and be pardoned tomorrow. It seems that the government's elimination of political status as a condition for initiating talks is not likely to affect

⁶ ICG interview, Bogotá, 23 July 2003; *Credencial*, No. 196, March 2003.

⁷ Several investigations have pointed to the connection of individuals and groups within the military, police and other state authorities to the paramilitaries. See Human Rights Watch, "Colombia's Killer Networks", Washington, 1996, and "Colombia: The Sixth Division", Washington, 2001; Amnesty International, "Paramilitaries: 'Disappearances' and Impunity", London, 1998; Colombian Ombudsman Office, IV "Informe del Defensor del Pueblo al Congreso" Bogotá, 1994; and, from the United Nations High Commissioner for Human Rights Colombia Office, see the annual reports and analyses by department, among others. The links between social, political and economic powers and the paramilitaries are described not only by independent investigators but also by judicial investigators in various cases. See Carlos Medina Gallego and Mireya Téllez, "Paramilitares, narcotráfico y autodefensas: El caso de Puerto Boyacá", Bogotá, 1990, and "Violencia parainstitucional, paramilitar y parapolicial en Colombia", Bogotá, 1994; and the declarations by the paramilitary Alonso de Jesús Baquero Agudelo, alias Vladimir, 1995-1996. *Semana*, 30 August 1996, at <http://www.semana.com/archivo/articulosView>; "Colombia Nunca Más", and http://www.derechos.org/nizkor/colombia/libros/nm/z141/a_nexo.html; See also Attorney General's Office, under case N. 101...FM.

⁸ ICG interview, Bogotá, 12 June 2003.

⁹ *Ibid.*

¹⁰ Mauricio Aranguren, *Mi Confesión: Carlos Castaño revela sus secretos* (Bogotá, 2001). The author interviewed Castaño at length to produce the volume. For the sake of simplicity, this report employs the term "paramilitaries" when referring to illegal armed groups other than the insurgents.

¹¹ For example, in the presidential campaign of early 2002, the official Liberal candidate and current Colombian Ambassador to the OAS, Horacio Serpa, denounced the AUC's efforts to prevent distribution of his campaign material and instead to promote that of Uribe, who is also a Liberal but ran as an independent with significant support within both traditional parties. *El Tiempo*, 6 April 2002.

the possibility for the AUC to negotiate legal and political benefits in exchange for stopping the killing of civilians.¹²

The Colombian office of the UN High Commissioner for Human Rights (UNHCHR), in turn, stated, “it is necessary to be clear about which of the AUC leaders’ conditions can be accepted without forfeiting the rule of law and the fundamental rights to truth, justice and reparation”. The UNHCHR report to the UN Human Rights Commission earlier in 2003 called on President Uribe “to take all necessary steps to ensure that, independently of any dialogue conducted between the Government and the paramilitary groups, any links between public officials and members of such groups are severed”.¹³

Another problematic issue is the relationship between the AUC and former members of the Cali and Medellín drug cartels and the areas of illegal crops under control of the armed groups. The risk is that drug-traffickers may use the negotiations to launder their records or property in order to integrate into society without punishment.¹⁴

The U.S. government is watching the talks closely. It included the AUC on its list of terrorist organisations in September 2001, requested the extradition on drug trafficking charges of Carlos Castaño and Salvatore Mancuso, the main AUC commanders, in September 2002 and added the AUC to its list of drug trafficking organisations in mid-2003.¹⁵ These decisions allow Washington to freeze the U.S. assets of the AUC and other paramilitary groups, as well as to impose sanctions against persons in the U.S. doing business with them.¹⁶

The divisions within the AUC caused by apparent

disagreements about the negotiations with the government and Castaño’s appeals to his partners to stop drug trafficking have complicated matters. Since early 2003, four of the main fronts – Bloque Metro, Bloque Elmer Cárdenas, Ramón Isaza’s group in the Middle Magdalena Valley and the Bloque Central Bolívar – have voiced concerns about the capacity of the state to guarantee the security of the zones under AUC control after demobilisation. The Central Bolívar and eastern plains blocs have asked for separate negotiating tables. Rivalries within the AUC leadership and differences within it about drugs led the government to set up three parallel tables for exploratory talks. The Uribe administration expects to organise a single agenda, however, for the formal negotiations that are expected later in 2003.

It is difficult to determine how AUC compliance with the three conditions formulated by President Uribe will be monitored and by whom. So far, there is no indication that the AUC has cut its links with the illegal drug business. It is not clear whether the recent reduction in kidnapping reported by the police and government is in part a result of the AUC’s “good behaviour”. The killing of civilians is ongoing.¹⁷ Expanding the presence of civilian and military state authorities in regions formerly under paramilitary control will be a huge challenge for the government.

Finally, there are a number of logistical, financial and operational problems related to demobilisation. If AUC demobilisation is to succeed, the government needs to design a comprehensive medium-term strategy. It ought to include the selection of appropriate areas in which to concentrate and disarm the paramilitaries, protection and control of these areas and the raising of sufficient funds to complete demobilisation, judicial screening and reintegration of the former combatants by the end of 2005.

This report examines the context and main problems of the negotiations between the Uribe

¹² Decree 128 of 22 January 2003 stipulates the principles for amnesties, pardons and other legal benefits that may be granted to armed groups that successfully complete a peace process with the government.

¹³ “Recommendations for Colombia 2003”, contained in the Report of the UN High Commissioner for Human Rights Regarding the Situation of Human Rights and International Humanitarian Law in Colombia, 2002, issued in Bogotá, March 2003, p. 7.

¹⁴ ICG interview, Bogotá, 19 February 2003.

¹⁵ U.S. Department of State, “2001 Report on Foreign Terrorist Organisations”, Washington, 5 October 2001; U.S. Department of State, Press Conference, 24 September 2002; U.S. Department of State, “Foreign Narcotics Kingpin Designation Act”, Washington, 29 May 2003.

¹⁶ Ibid.

¹⁷ One notorious example is the assassination of Tirso Vélez on 4 June by suspected paramilitaries in Cúcuta. Vélez, former mayor of Tibú (Norte de Santander), was the candidate, and likely winner, of the left-wing Democratic Pole coalition for governor of Norte de Santander. This department has lately been at the centre of a fierce dispute between the guerrillas, the government armed forces and the AUC.

administration and the paramilitaries.¹⁸ The way forward is full not only of logistical obstacles but political and ethical minefields as well. A wrong step could put the Colombian state's credibility and legitimacy at risk. Success in demobilising the paramilitaries without forfeiting the rule of law, in turn, would be a significant contribution toward ending the long-standing armed conflict.

II. ORIGINS AND TRANSFORMATION OF THE PARAMILITARY GROUPS

A. COUNTER-INSURGENCY

Paramilitary and self-defence groups have a long history in Colombia. The insurgent group that in 1966 came to be the FARC began as an armed association of Liberal peasants resisting the violent onslaught of Conservative hit squads during the administration of Laureano Gómez (1950-1953).¹⁹

The Alliance for Progress – launched by the administration of U.S. President Kennedy in 1961 – was geared toward fostering economic and social development in Latin America, but was accompanied by support for the military and police in an effort to combat what were perceived as Cuban-inspired revolutionary threats. As part of a counter-insurgency doctrine to contain the spread of communist revolution, armed “civil” or self defence groups were to be organised by the military. Too often, they made no distinction between revolutionary armed groups and leftist, but democratic, political parties, union organisers and activists.

In Colombia, this was reflected in the armed forces' launching of Plan Lazo in 1962, following a visit by a U.S. Army mission.²⁰ While the military presented this as a “hearts-and-minds” campaign to win civilian support through public works and programs to improve the conditions believed to foment armed subversion, it also incorporated the U.S. Army mission's principal recommendations: armed civilians – called “civil” or “self-defence”

¹⁹ See ICG Report, *Colombia's Elusive Quest*, op. cit.

²⁰ The mission's report proposed that “this civilian-military structure...will be used to perform counter-agent and counter-propaganda functions as necessary, execute paramilitary, sabotage and/or terrorist activities against communist proponents. It should be backed by the United States”, quoted in Michael McClintock, *Instruments of Statecraft, U.S. Guerrilla Warfare, Counterinsurgency, and Counterterrorism, 1940-1990* (New York, 1992), p. 222. See also Human Rights Watch, “Killer Network”, op. cit.; Dennis Rempe, *The Past as Prologue? A History of U.S. Counterinsurgency Policy in Colombia, 1958-66* (Miami, 2002); Colombian Commission of Jurists, “Nunca Más (Never Again) Project”; Colectivo de Abogados José Alvear Restrepo (Lawyer's Collective); CINEP; Justicia y Paz (Justice and Peace); Amnesty International; Inter-American Commission for Human Rights; and United Nations High Commissioner for Human Rights.

¹⁸ For information on the other armed actors in Colombia (FARC and ELN) and a historical perspective of Colombian armed conflict, see ICG Latin America Report No. 1, *Colombia's Elusive Quest for Peace*, 26 March 2002, and ICG Latin America Report No. 2, *Colombia: the Prospects for Peace with the ELN*, 4 October 2002.

groups, among other terms – were expected to cooperate directly with troops.²¹ The Colombian army published the Spanish version of the U.S. Army’s “Manual on Operations against Irregular Forces”, which developed the idea of employing civilians in counter-insurgency warfare and, in 1963, the book *The Modern War*, which recommended the creation of paramilitary forces.²²

In December 1965, President Guillermo León Valencia (1962-1966) established the legal basis for the involvement of civilians in counter-insurgency operations through Decree 3398.²³ It defined the defence of the nation as “the organisation and tasking of all residents of the country and its natural resources...to guarantee national independence and institutional stability”, and temporarily legalised the arming of civilians by the ministry of defence.²⁴

In 1968, the administration of Carlos Lleras (1966-1970) promulgated Law 48 which converted Decree 3398 into permanent legislation. It authorised the creation of civil patrols by the ministry of defence that could be provisioned with “weapons restricted to the exclusive use by the armed forces”. Although few civil patrols were ever formally created, military commanders frequently cited Law 48 as the legal foundation to employ civilians in counter-insurgency operations.²⁵ This “legal period” of the Colombian civil-patrol or self-defence groups lasted until 1989, when President Virgilio Barco called the paramilitary groups terrorist organisations, and added:

In reality, the majority of their victims are not guerrillas. They are men, women, and even

children, who have not taken up arms against the institutions. They are peaceful Colombians.²⁶

On 25 May 1989, the Supreme Court ruled that the articles of Law 48 that enabled the army to distribute restricted weapons to civilians were unconstitutional. In June 1989, through Decree 1194, the government established criminal penalties for civilians and members of the armed forces²⁷ “who recruit, train, promote, finance, organise, lead or belong to the armed groups, misnamed paramilitary groups, that have been formed into death squads, bands of hired assassins, self-defence groups, or groups that carry out their own justice”.²⁸ This was the first time in almost a quarter-century that Colombia defined paramilitary activities as a crime. The application of Decree 1194 allowed the government to investigate, arrest and prosecute “all people who are linked in any way to these groups”.

Barco’s stance produced the arrest of paramilitary leaders; military officers with ties to paramilitaries were relieved from service, while some paramilitary training centres were dismantled and a special police unit was created to prosecute paramilitaries.²⁹ Despite the decree, however, impunity and generalised support for paramilitary actions continued.³⁰ Pressured by the armed forces, Barco did not totally close the door on the paramilitary groups’ existence. Decree 815 permitted the creation of armed groups of civilians with the approval of the president and the ministries of defence and government, but only for collaboration in “non-aggressive activities” that at any moment could “imply the use of restricted weapons.” In 2000, the definition of paramilitary activities as a crime was eliminated from national legislation when a new Criminal Code was adopted. However, actions of

²¹ Francisco Leal, “El oficio de la guerra”, quoted in Human Rights Watch, “Killer Networks”, op. cit.

²² República de Colombia, Fuerzas Militares, Ejército Nacional, “Operaciones contra las fuerzas irregulares”, Bogotá, 1962, and Roger Trinquier, *La guerra moderna*, Biblioteca del Ejército Colombiano, No. 12 (Bogotá, 1963), quoted in *Colombia, nunca más: Crímenes de lesa humanidad*, Vol. 1, Chap. 1, “Tipicidad del ciclo vigente de violencia – delimitación de un período”, November 2000.

²³ Quoted in Javier Giraldo, “Miradas al fenómeno paramilitar en Colombia”, Bogotá, 2001, unpublished document in ICG possession; Carlos Medina Gallego and Mireya Téllez, *Violencia*, op. cit.

²⁴ Quoted by Giraldo, op. cit.; *Colombia, nunca más* op. cit.; and Human Rights Watch, “Killer Network”, op. cit., among others.

²⁵ Americas Watch, “The Killings in Colombia”, New York, April 1989, pp. 50-51.

²⁶ Statement by President Virgilio Barco in *El Tiempo*, 20 April 1989.

²⁷ The Colombian police is subordinate to the ministry of defence and forms part of the armed forces.

²⁸ Decree 1194, translation by Human Rights Watch. See also the *Nunca Más* Project, Vols. 1-3.

²⁹ This special unit has been reformed several times. After the Mapiripán massacre (July 1997), the Samper government formed a special “search group”. Its organisation was based on the model used to bring down the Medellín and Cali drug cartels. Pastrana subsequently ordered the armed forces to join the police in the struggle against the paramilitaries. David Spencer, *Colombia’s paramilitaries: criminals or political force?* (Miami, 2001).

³⁰ See section III below.

paramilitary groups and their collaborators continue to be considered crimes under other legal definitions – such as conspiracy to commit crimes (*concierto para delinquir*), mass murder, torture, causing internal forced displacement and creation of private justice groups (*creación de grupos de justicia privada*) – but with lighter punishments than before.³¹

Despite this history, today's paramilitary groups cannot be explained exclusively by pointing to the counter-insurgency strategy of the Colombian army during the 1960s and 1970s. Such an emphasis would downplay the role of drug traffickers³² as well as the involvement of regional elites, in particular large landowners who have perceived the peace negotiations between the guerrillas and the government since 1982 as a potential threat to their interests. The opposition of drug-traffickers-turned-landowners and traditional landed elites to a possible redistribution of land and power to poor peasants and demobilised insurgents as a result of the negotiations created common ground between these two segments of society. The resistance of the armed forces to negotiating with the guerrillas as equals was another emotion shared by polarised members of the armed forces, the old landed elites and their new drug trafficking partners.³³

Although the origins of the present paramilitary groups are diverse, there is a confluence of four factors:

- (a) Regional elites ready to support them financially and politically;
- (b) advice or cooperation from the government armed forces;
- (c) leadership of groups or individuals linked to drug trafficking; and
- (d) sufficient political and military pressure from the insurgents to maintain a diverse group's unity.³⁴

In the 1980s, these irregular armed groups had specific local dynamics and were not in a single organisation as was the AUC in the late 1990s. Polarised sectors of the army, cattle ranchers, merchants and truckers were the leading social forces supporting the initial armed groups. The more drug traffickers laundered their profits by buying large estates in the regions with social conflict, alternative political parties, and guerrilla influence, the more they took control of the groups as private enforcers. Political decentralisation and the first election of mayors in 1988 added new allies against the peace negotiations. Regional politicians, mainly from the Liberal Party, who saw their electoral supremacy threatened by the new parties emerging from the negotiations between the guerrillas and the government, gave support and protection. The case of the Northeast region of the department of Antioquia is characteristic. Fidel Castaño, the oldest of the Castaño brothers, in collaboration with the local police and army, with the death squads trained in Puerto Berrío by the XIV Army brigade, reportedly conducted the massacre of 43 members and sympathisers of the Unión Patriótica (UP) and injured 50 more. This happened just after the UP won the first mayoral election in Segovia in 1988, defeating the Liberal candidate supported by César Pérez García, then President of the House of Representatives. The prosecutor's office linked Mr. García to the investigation as one of the intellectual authors of the massacre.³⁵

Despite regional variations, it is possible to identify two main groups from which the present organisations evolved: the Death to Kidnappers (*Muerte a Secuestradores*, or MAS) and the civilian counter-insurgency groups organised by the XIV Brigade in the Middle Magdalena Valley.

Around 1981, drug traffickers created the MAS38 with the objective of eliminating criminals or guerrillas who had observed their conspicuous wealth and decided to acquire a share through extortion or kidnapping. From birth the MAS was closely linked to security forces of the army and the police. This helps to explain how the initial objectives of the alliance were readily broadened once the drug lords turned landlords and consolidated their economic power as important property owners and investors.

³¹ Decree 1194 established penalties of between twenty and 30 years in prison for those who conspired to commit crimes. The Criminal Code establishes penalties between six and twelve years for the same offence.

³² Bert Ruiz, *Estados Unidos y la guerra en Colombia: una mirada crítica* (Bogotá, 2003), pp. 294-298.

³³ Romero, "Paramilitares", op. cit.

³⁴ Ibid.

³⁵ Romero, "Paramilitares", op. cit., pp. 196-201.

The second nucleus can be located in the organisation, equipping, and training of self-defence groups by the XIV Brigade of the army in the Middle Magdalena during the early 1980s.³⁶ These armed groups formed by farmers and rich landowners had the original intention to protect themselves from the FARC, but they soon became controlled by the Medellín drug cartel. Later they became the source of the hired guns who eliminated candidates for public office, presidential hopefuls and activists from the Patriotic Union and the Democratic Alliance M-19 (two leftist groups that were a product of the peace process of the 1980s). They also killed congressional representatives, mayors, judges, journalists, trade unionists, guerrillas, and all who confronted drug traffickers, such as Luis Carlos Galán, the Liberal presidential candidate who was viewed as a sure winner in the 1990 presidential race. Their methods have varied from individual and selective murders to massacres, torture and forced disappearance. The first three volumes of the *Nunca Más* project – promoted and supported by eighteen Colombian NGOs – recorded 40,000 victims in only two regions between 1966 and 2000.³⁷

B. REACTION TO GOVERNMENT NEGOTIATIONS WITH THE INSURGENTS

In 1986, the ministry of defence began registering “illegal self-defence groups”. Their existence – particularly in the Middle Magdalena Valley – was already widely known in the early 1980s and acknowledged by the authorities.³⁸ These groups have stepped up their armed activities since then, growing in numbers, national coordination, strategic capacity, and political and geographic influence. Evidence shows that paramilitary expansion is more pronounced when the government pursues peace negotiations with the insurgents.

Over the period 1986-1990, the regional paramilitary groups grew substantially. The election of a constituent assembly in 1990 and the promulgation of a new constitution in 1991 had an impact in the regions where the self-defence and

paramilitary groups were emerging. Five guerrilla groups and about 5,000 armed combatants demobilised in late 1990 and early 1991 as a result of negotiations with the government.³⁹ Despite the violence against social movements, the killing of two presidential candidates of the Patriotic Union (UP) in 1987 and 1990 and one of the Democratic Alliance M-19 (AD M-19) in 1990, there were high political expectations with the constituent assembly and the opportunities presented by the new constitution. A number of paramilitary groups, including that led by Carlos Castaño’s brother Fidel, demobilised and disarmed in 1991.

But the paramilitaries began to grow again from 1993 on. The armed confrontation between the FARC and the ELN and the government of the Liberal Cesar Gaviria (1990-1994) intensified after the two guerrilla groups attempted to occupy most of the territory formerly controlled by the demobilised rebels. One of the most notorious cases of demobilisation was that of the Popular Liberation Army (Ejército Popular de Liberación, EPL) in the department of Córdoba and the Urabá region in northwestern Colombia. Fidel Castaño played an active role. After the disarming of the EPL, he distributed close to 16,000 hectares of land to poor peasants and organised the Foundation for the Peace of Córdoba (Fundación por la Paz de Córdoba, FUNPAZCOR), which offered technical and financial assistance to more than 2,500 families.⁴⁰ The distribution of land and other social programs benefiting poor peasants provided the Castaño family and associates with considerable political clout in the region and helped to expand their economic and military power.

Although at a slower pace, the paramilitary forces continued to grow during the government of Liberal President Ernesto Samper (1994-1998). This was stimulated by the February 1994 legalisation, under President Cesar Gaviria, of private, armed organisations for surveillance and intelligence (Cooperativas de Vigilancia y Seguridad Privada, CONVIVIR). These were civilians organised and trained by departmental authorities to protect their neighbourhoods against crime and violence

³⁶ Medina Gallego and Téllez, *Violencia*, op. cit.

³⁷ *Nunca Más* Project, Vols. 1-3 (Bogotá, 2000).

³⁸ See the report of Prosecutor General Carlos Jiménez Gómez, 19 February 1983, about the links between members of the armed forces and “death squads”, a term for today’s self-defence and paramilitary groups.

³⁹ EPL (Popular Liberation Army), M-19 (19 April Movement), MQL (Quintín Lame Movement, whose members were mostly ethnic minorities located in the southwest of the country), ADO (Workers Self-Defence) and Patria Libre (Free Country).

⁴⁰ Romero, “Paramilitares”, op. cit.

committed, in particular, by the insurgents. During the Samper administration, no peace talks were held with the FARC, and those with the ELN occurred at the very end of Samper's tenure and abroad. There was no need for an offensive against inclusion of the rebels in the polity, changes in the regional power balance or reforms.

The authorities paid little attention to the paramilitaries during this period. According to one analyst, "the figures of the Office of the Advisor for Peace for the period 1990-1997 showed that the armed forces undertook military action against the guerrillas 3,873 times, and the guerrillas combated the armed forces 5,389 times. In contrast, the military forces attacked paramilitaries on only six occasions".⁴¹

Nevertheless, 1994-1997 were years of intense coordination and organisation within the paramilitary organisations. The purpose was to give a clearer counter-insurgent profile to the diverse armed groups scattered throughout the country. The political and military centralisation was accomplished with the creation of the Peasant Self-Defence Forces of Córdoba and Urabá (*Autodefensas Campesinas de Córdoba y Urabá*, ACCU) at the end of 1994 and based in northwestern Colombia, and the AUC in April 1997, under the general command of Carlos Castaño.⁴²

Older brother Fidel, one of the first drug traffickers, and who accumulated a considerable fortune in the late 1970s and early 1980s while linked to the Medellín drug cartel, organised one of the most violent death squads in the departments of Antioquia and Córdoba, predecessor of the future ACCU. In the early 1990s, Fidel Castaño also organised the group People Persecuted by Pablo Escobar (*Perseguidos por Pablo Escobar*, Los PEPES). This death squad aimed at retaliating against Escobar, the head of the Medellín cartel, who at the time was being fiercely pursued by U.S. and Colombian authorities. Los PEPES were central in cornering Escobar and destroying his tight security system, leading to his death in Medellín. Carlos, the future commander of the AUC, took part in the hunt for Escobar alongside U.S. counter-narcotic agencies and Colombian authorities at the end of 1993.⁴³

In early 1994, Fidel Castaño died in a minor skirmish with dissident members of the EPL who had not demobilised in 1991.⁴⁴ The confrontation took place in San Pedro de Urabá, the heart of Castaño's domain, in northwestern Colombia. He was 45 years old, and his sudden death left Carlos, then in his early 30's, in charge of a rising counter-insurgency movement that aspired to national influence.⁴⁵

One of his first steps was to consolidate his power in the Upper Sinú Valley, in the department of Córdoba and the neighbouring banana belt in Urabá, in the department of Antioquia, northwestern Colombia. In association with banana planters, cattle ranchers, members of the Medellín cartel who became large landowners and investors in the region, merchants and others of the business community, Castaño organised the Self-defence Forces of Córdoba and Urabá, (*Autodefensas Campesinas de Córdoba y Urabá*, ACCU) in 1994 to fight the FARC, but also to avoid the consolidation of the Unión Patriótica (UP), as the largest electoral force in the region.

The bloody conquest of Urabá by Castaño and associates coincided with the election of Alvaro Uribe as governor of Antioquia (1995-1997) and the tenure of General Rito Alejo del Río as commander of the XVII Army brigade headquartered in Urabá. The period between 1995 and 1997 was the most violent in the history of Urabá: "From close to 400 homicides in 1994, the number increased to more than 800 in 1995, 1200 in 1996, and fell to 700 in 1997."⁴⁶ General del Río was named "Pacifier of Urabá" by the local elites, but he was removed from Urabá in 1998 and dismissed by the Pastrana government the next year for collaborating with the paramilitary groups there.

Generals del Río and Fernando Millán, another dismissed officer, were given a banquet by retired generals, political leaders, banana planters and other member of the business community in Bogotá in May 1999 at which the main speakers were Uribe,

Greatest Outlaw (Atlantic Monthly Press, 2001).

⁴⁴ This is the "official" AUC version of the death of Fidel Castaño.

⁴⁵ Aranguren, *Mi Confesión*, op. cit.

⁴⁶ Andrés Dávila, Rodolfo Escobedo, Adriana Gaviria y Mauricio Vargas, "El Ejército colombiano durante el período Samper: paradojas de un proceso tendencialmente crítico," *Colombia Internacional* No. 49-50, Centro de Estudios Internacionales, Universidad de los Andes (2001), p. 161.

⁴¹ Iván Orozco, "La situación jurídica política del paramilitarismo, hoy", in *Foro*, No. 36, 1999, p. 43.

⁴² Aranguren, *Mi Confesión*, op. cit.

⁴³ Mark Bowden, *Killing Pablo - the Hunt for the World's*

then ex-governor of Antioquia, and Fernando Londoño, future minister of interior and justice in the Uribe administration. The room was decorated with pennants bearing the motto “The Nation That Will Not Surrender”, referring to the peace negotiations between the FARC and the Pastrana administration.⁴⁷ Del Río was active in Uribe’s presidential campaign, although he has not held any position in the administration. He hopes to stand in the regional elections in October 2003 as candidate for governor in the department of Boyacá. However, the New Party, headed by ex-Minister of Defence Rafael Pardo, one of the administration’s main supporters in Congress, withheld its endorsement. Such a party endorsement is a legal requirement to register a candidacy.

In 1997, when the AUC was created as a federation of several regional counter-insurgent groups, it had almost 4,000 combatants. By 2000, it commanded more than 8,000 well-equipped fighters, controlled key areas of the country and was challenging the peace policies of President Andrés Pastrana (1998-2002), demanding instead a sweeping use of force. It became a main obstacle in the negotiations between the Pastrana administration and the FARC and ELN.

The ties some CONVIVIR had with common criminals and paramilitary groups led to their elimination by the end of 1997, following an intense regional and national debate about their convenience.⁴⁸ However, it is significant that for a brief period, there were over 400 such organisations across the country. According to the Colombian supervisory body of private security firms (Superintendencia de Vigilancia y Seguridad Privada), some 2,000 retired military officers worked for CONVIVIR.⁴⁹ The significant number of CONVIVIR in Santander foreshadowed the paramilitary offensive against the ELN and the inhabitants of the Middle Magdalena Valley from 1997 on.

Paramilitary growth accelerated in 1998 owing to the prospect of peace negotiations between the Samper administration and the ELN and then between the new Pastrana government and the FARC. FARC military advances in 1997-1998,

including several heavy blows dealt to government forces, also played a role.⁵⁰

That paramilitary growth increased during the peace negotiations demonstrates that the expansion was due not only to guerrilla offensives and kidnappings, as claimed by those who view the paramilitaries as a response to the absence of security for landowners, cattle ranchers and rural proprietors. It also suggests at least some elements of the commonality of interests between paramilitary groups and those who believed they would be negatively affected by a successful peace process, notably cattle ranchers, rural elites and local politicians of the traditional parties. These latter groups attempted during the same period to form a strategic alliance with segments of the armed forces and drug traffickers to stop peace negotiations and reforms that could result from them, especially those related to land reform.

Massacres by the paramilitaries increased in 1998, and there was a four-fold rise in attacks against civilians between 1998 and 1999.⁵¹ The most affected regions were Norte de Santander, Montes de María (Sucre), Urabá (Chocó), Antioquia, the Middle Magdalena and Cauca Valleys and parts of the foothills of the southwestern plains of the country, including Putumayo.⁵²

Although links between extremist groups of the Colombian elite and paramilitaries are easily found and demonstrated at the local level, it was Carlos Castaño himself who in 2001 explained his connections at the national level. In the book *Mi confesión* (My Confession), he spoke frankly about support from a shadowy “Group of Six”:

Thanks to them, today I am not a bandit, and even in the circles of power many people know about them, it is good that the other part of the country also know a bit of the history...It is necessary to locate the Group of Six broadly within national history; they are people from the highest levels of Colombian society, the cream of the crop. It was a privilege to pass through their lives...It was a group of six Colombians that I define as real patriots, committed to Colombia. They convinced me of the importance of

⁴⁷ Romero, “Paramilitares”, op. cit.

⁴⁸ See ICG Latin America Briefing, *The Stakes in the Presidential Election*, 22 May 2002.

⁴⁹ “Convivir, embuchado de largo alcance”, in *Revista Alternativa*, No. 8, March-April 1997.

⁵⁰ Otty Patiño, *El fenómeno paramilitar en Colombia*, unpublished manuscript provided to ICG.

⁵¹ See Table 1 in Appendix B.

⁵² CODHES, Informe No. 35, 17 April 2001.

acting patriotically and dedicating my life to the country's defence, and giving my life if necessary. They were elderly people with all respect and credibility who due to their age saw in me the possibility of having a patriot.

...I said to them: Gentlemen, I have found that some of the main FARC and ELN supporters are here. I showed them a list with the enemies' names, positions or locations and asked who of them we should kill. They went to the other room and then came back with the name or names of people to be killed...After that the actions were carried out with excellent results...Without them, who knows how I would have made war, without a true orientation...With them I learned that there are some military actions that someone else must carry out so that the state does not carry them out itself.⁵³

In May 2001, in a judicial raid on the headquarters of FUNPAZCOR in Montería, capital of the department of Córdoba and considered a paramilitary "sanctuary", authorities found a key dossier on the paramilitaries' supporters and collaborators. The attorney general's office found that FUNPAZCOR managed large amounts of money, estimated at several million U.S. dollars a month, to finance counter-guerrilla operations. The attorney general obtained the names of 357 people, 43 businesses in Antioquia and seventeen agricultural businesses in Córdoba "linked to paramilitaries through FUNPAZCOR". The foundation is located one block from the police headquarters, and there "paramilitaries met with ranchers, industrialists and politicians of the region in order to plan their tactical and strategic operations".⁵⁴

In a public debate in Congress about the responsibility of the military institutions for the proliferation of the illegal armed groups in 2000, Minister of Defence Luis Ramírez said that if Colombians wanted to know the truth about who supported the paramilitaries, they would have to be prepared for the "institutions of society to be shaken at their foundations".⁵⁵ Responding, Carlos Castaño admitted that the "main economic agents in the regions" where the AUC operates financed

his organisation. He added that he did not see Colombia advancing on the path to peace and reconciliation by "pursuing entrepreneurs, civilian leaders or defenceless citizens".

A renowned Colombian lawyer and former attorney general, who for years has analysed these violent entrepreneurs, says that the impunity surrounding the paramilitaries' actions is also social, specifically on the extreme right of wealthy sectors of Colombian society:

When I went to restaurants, public events or other places, I always found people from the Colombian elite who said to me, 'You are making a mistake when you attack the paramilitaries. They are saving us. They are our heroes. We support them, let them do their job...' Now I am convinced that the paramilitary groups were a mistaken counterinsurgency strategy of polarised members of the Colombian society and state.⁵⁶

C. DRUG TRAFFICKING

The paramilitary and guerrilla groups receive financing from different illegal sources. The links of all the armed groups to drug trafficking, the illegal trade of gasoline, extortion, kidnapping, and other criminal activities are well known, so it is not surprising that the ability of the AUC and the ACCU to sustain their growing forces is linked to the expansion of coca cultivation.⁵⁷ That expansion resulted from not only successful eradication campaigns in Peru and Bolivia, but also the intensification of the armed conflict in Colombia. The expense of their war led the illegal armed organisations to promote plantings, to control territory where illicit crops grew and to protect those engaged in the different steps of the drug business. Illicit crops are both a cause of the conflict and a consequence of the failure of the peace negotiations, especially those with the FARC. The protection provided by the armed organisations to coca and poppy farmers has enabled these crops to spread across Colombia rather than into bordering countries, such as Venezuela.

For the paramilitaries, drug money also represents economic autonomy from the government armed

⁵³ Aranguren, *Mi Confesión*, op. cit., pp. 116-117.

⁵⁴ *Actualidad Colombiana*, No. 316, 11-21 July 2001, at <http://www.atcol.ibliblio.org/doc/316>.

⁵⁵ The debate in the Senate was held on 6 September, 2000.

⁵⁶ ICG interview, Bogotá, 28 March 2003.

⁵⁷ Figures provided to ICG by the ministry of defence, July 2003. See tables in Appendix B.

forces; the gasoline trade represents further diversification beyond extortion and kidnapping. Funds from all these sources are used to acquire large stretches of land.⁵⁸ According to the latest U.S. State Department report on the human rights situation in Colombia, the AUC has changed from an organisation that just took advantage of narcotics “taxes” and transportation, to one “involved in all of the drug trafficking chain”.⁵⁹ This transformation explains the request for the extradition of Carlos Castaño and Salvatore Mancuso in September 2002 on charges of sending more than seventeen tons of drugs to the U.S. Paramilitary chiefs such as Adolfo Paz (“Don Berna”), head of the Nutibara Front, former security chief for the Medellín cartel and a founder of the group “People Persecuted by Pablo Escobar”, are close allies of the Castaño family and involved in drug trafficking.

Carlos Castaño has recognised that “although they do not use the AUC’s camouflage yet, the ‘owners’ [drug-traffickers] are part of the self-defence groups and their commitment is to respect the commanders’ statutes and guidelines”.⁶⁰ Recently, in a case against Fabio Ochoa - a Colombian drug-trafficker extradited in 2001 - U.S. Attorney General John Ashcroft announced that he would present evidence of paramilitary involvement in drug trafficking, including more than 1,000 recordings and 500,000 pages of documents.⁶¹

D. CONCENTRATION OF LAND AND FORCED DISPLACEMENT

Colombia’s drug-traffickers prefer to launder money by buying large estates and rural properties. Changes in landholding patterns during the last two

decades have been dramatic.⁶² By 1995, drug-traffickers had bought estates in about 400 municipalities, close to 39 per cent of the country’s territory. One analyst wrote:

Drug-traffickers bought the best land. Colombian food and nutritional security could be in their hands. Many drug-traffickers became landowners and decided to organise self-defence groups, and converted them into private armies... Their counter-insurgent participation against the guerrillas guaranteed them the necessary complicity of the authorities for their business, security regarding the military forces and the police, and impunity regarding the judicial system. ... Today it is possible to draw a detailed map of armed domination in many regions of the country. In some of them, guerrillas are the apparatus controlling the rural population... In others, everything depends on the war lords... Other regions are on the borders between guerrillas and paramilitaries, and there the civilian population is the victim and terrorised by both.⁶³

A miniscule 0.4 per cent of landowners (10,000) owned 61.2 per cent of the arable land in 2000, while 57.3 per cent of landowners were small peasants who owned 1.7 per cent.⁶⁴ Typical is Middle Magdalena Valley, where the paramilitary organiser and emerald miner Víctor Carranza is believed to own close to 250,000 hectares of the best land.⁶⁵ Landholding is the “best paramilitary instrument for laundering and saving money”, according to land issue experts.⁶⁶ In turn, the most efficient way to build a concentration of wealth is to force people to leave their land.⁶⁷ By 1997, approximately 70 per cent of Colombia’s internally displaced persons (IDPs) had rural links, and 42 per

⁵⁸ ICG interview, Bogotá, 14 February 2003. In mid-March 2003, the Colombian authorities occupied paramilitary properties valued at more than US\$1 million in Meta province. According to their investigation, these properties were bought with the ransom money from the kidnapping of Venezuelan industrialist Richard Boulton. See <http://www.elcolombiano.com>

⁵⁹ U.S. Department of State, “Colombia: Country Reports on Human Rights Practices - 2002”, Washington, 31 March 2003.

⁶⁰ Aranguren, *Mi Confesión*, op. cit., p. 208.

⁶¹ U.S. Department of Justice, Remarks of Attorney-General John Ashcroft, Washington, 28 April 2003; Caracol Colombia, “Carta de Fiscales sugiere vínculos paramilitares y narcotráfico”, at <http://www.caracol.com.co>

⁶² ICG interviews, Bogotá, February-March 2003.

⁶³ Alejandro Reyes, “El narco-feudalismo armado”, in *Estrategia Económica y Financiera*, No. 242, 31 August 1996, pp. 36-38.

⁶⁴ Darío Fajardo, *Tierra, poder político y reformas agraria y rural*, Vol. 1 of the series *Cuadernos: Tierra y Justicia* (Bogotá, 2002), p. 5.

⁶⁵ Diana Rodríguez Rojas, “Movimientos sociales: Movilización nacional agraria”, in *Actualidad Colombiana*, No. 343, at <http://www.actualidadcolombiana.org/boletines/343.htm>

⁶⁶ ICG interviews, Bogotá, 14, 17 and 24 February 2003; ICG field visit to Arauca, May 2003.

⁶⁷ See ICG Latin America Report No. 4, *Colombia’s Humanitarian Crisis*, 9 July 2003.

cent were proprietors, tenants or settlers. Of the former, 94 per cent admitted that they had abandoned their land, while 6 per cent had sold it.⁶⁸

“Between 1995 and 1999, 1,738,858 hectares belonging to small and middle-sized proprietors, settlers, peasants, Afro-Colombians and indigenous peoples were abandoned. The number coincides with reports that in the 1990s production almost stopped on 1,700,000 hectares for diverse reasons, many related to violence and displacement.”⁶⁹

For example, in 1996 the eastward expansion of large-scale cattle ranching from the Urabá region in Antioquia province to the northern parts of the department of Chocó displaced 15,000 to 17,000 farmers. Similar displacements occurred with the introduction of African palm plantations in Chocó. In both cases, paramilitary groups drove out the small farmers in order to permit agro-industrial expansion.⁷⁰

Thus, any negotiation between the government and the AUC needs to address the question of how to deal with the land of the displaced population. An additional problem is how the authorities will differentiate between drug-traffickers’ land and the properties owned by the AUC leadership. Issues such as the return of IDP families to their former lands and compensation to the victims of paramilitary crimes are key concerns that cannot be avoided in any peace process with the paramilitary groups.

III. PARAMILITARY POLITICAL, ECONOMIC AND MILITARY POWER

The titular head of the paramilitary forces, Carlos Castaño, has been partially successful in portraying himself and his associates as defenders of respectable rural business people and other civilian victims of insurgent aggression. He blames the central state for not protecting the regional elites and for encouraging the guerrillas through negotiations. He has managed to frame the AUC as a legitimate response to the FARC, “the biggest multinational of crime, whose income comes from extortion, kidnapping, and drug trafficking.”⁷¹

Employing a logic similar to that of the insurgents, who portray their rebellion as a reaction to the state’s aggression, the AUC appeals for public support by affirming that its fight against guerrilla cruelty deserves public recognition despite the use of violence against the civilian population. Castaño’s call to break the law to defend order, freedom, and property and the echo he has received from diverse sectors of urban society, have deepened the crisis of the Colombian state and frustrated the attempts to negotiate peace with the guerrillas.

The FARC killed Castaño’s father in 1980.⁷² In *My Confession*, he stated, “I can forgive everything, but not my father’s death”. However, it is not possible to justify more than two decades of violence as revenge for one murder.⁷³ The rationale of self-defence against the guerrillas is, at most, plausible at an individual level, but not as the paramilitaries’ collective war strategy.

The paramilitaries and polarised members of the armed forces and elites offer a security lens as the single perspective through which to analyse the Colombian conflict, blurring, as do the insurgents, the distinction between combatants and non-

⁶⁸ Darío Fajardo, *Tierra, poder político*, op. cit., p. 8.

⁶⁹ Jorge Rojas, *Desplazados: Lógicas de guerra, incertidumbres de paz* (Bogotá, 1999). On forced internal displacement, see ICG Report, *Colombia’s Humanitarian Crisis*, op. cit.

⁷⁰ Pastoral Social, *Situación de guerra y violencia en el departamento del Chocó, 1996-2002* (Bogotá, 2002).

⁷¹ Aranguren, *Mi Confesión*, op. cit.

⁷² Despite Carlos Castaño statement that his father was killed by guerrilla groups, there is another version according to which he died in the middle of a vendetta between drug-traffickers. See: Fernando Garavito and Joseph Contreras, *Biografía no autorizada de Alvaro Uribe Vélez. El señor de las sombras* (Bogotá, May 2002).

⁷³ ICG interviews, Bogotá, 19 February 2003; Daniel Pécaut, *Guerra contra la sociedad* (Bogotá, 2002).

combatants. They also use this strategy to camouflage their efforts to obstruct political and social reform and democratisation. Viewing the paramilitary groups only in the context of the right of regional elites to self-defence has tended to reduce the phenomenon to a problem of supply and demand for protection, hiding its devastating effects on the rural population and also on the political modernisation President Belisario Betancur began in 1982.

More than two-thirds of the deaths related to the political conflict between 1975 and 1995 have been civilians killed out of combat.⁷⁴ Most of these were leaders, regular members and sympathisers of reformist or radical social and political movements or common people living in the areas where these movements had influence.⁷⁵ This intense violence silenced a broad range of viewpoints. The paramilitaries and their sponsors have sought to justify their killing, repression, or displacement by labelling the victims as actual or potential guerrilla collaborators or supporters. Their use of this justification demonstrates the need for a political process to dissolve the links between the population and the insurgents, or to facilitate the insurgents' incorporation into the polity. As Rodrigo García, head of a branch of the cattle ranchers association in northwestern Colombia and public advocate of self-defence, suggests, "it's all about power".⁷⁶

In April 1997, after the first national conference of paramilitary leaders and commanders, Carlos Castaño announced the creation of the AUC as an "anti-subversive and armed" confederation. By 2001, Castaño said, it was:

... an illegal army that is not paramilitary, nor pro-government. It is an army that defends the system and the state with weapons that it takes from state authorities because it replaces it in some regions but does not combat it. We ask for justice and at the same time are on the edge of the law. It is a special pro-state group.⁷⁷

According to the Human Rights Observatory of the Colombian Vice-Presidency, in 1997-2001, as the AUC sought recognition as a political actor, the number of areas affected by its actions increased considerably.⁷⁸ Paramilitaries carried out massacres and selective murders in regions where the guerrilla groups had influence or territorial control, such as the departments of Meta, Norte de Santander, Putumayo, Caquetá and Casanare. This period, according to the Vice-Presidency, was the most deadly since the 1980s, and coincided again with open negotiations between the government and the FARC, as happened in the early 1980s.

The paramilitary strategy has largely been successful. In 1997 President Samper prohibited any contact with Castaño, and a TV spot offered a U.S.\$ 1 million reward for information leading to his capture. During the Pastrana administration, Castaño gave several widely broadcast television interviews, published his book, and set up the AUC website. In 2003, he has managed to embark his organisation on formal demobilisation talks with the Uribe administration. Right-wing sectors of the Colombian elites consider Castaño to be a hero despite 39 arrest warrants, at least five convictions and several trials in process for massacres, assassination of political leaders and other crimes.⁷⁹ He has acknowledged publicly numerous human rights violations and murders, while using the justification that the majority of paramilitary killings have been of "plainclothes guerrillas".

During the Pastrana administration, the AUC grew from 4,500 to approximately 11,000 combatants operating around the country.⁸⁰ The FARC used the existence and growth of these forces at least five times to justify breaking off formal conversations with Pastrana's government. On the border between Caquetá and Putumayo, several NGOs recorded more than 600 murders in 2002. Other atrocities include torture, mutilation, massacres, disappearances and threats. A 2002 study by a Colombian NGO concluded that paramilitary groups controlled 182 out of 1,098 municipalities in 27 of the 32 departments of

⁷⁴ Frank Safford and Marco Palacios, *Colombia, Fragmented Land, Divided Society* (Oxford, 2001).

⁷⁵ Camilo Echandía, *El Conflicto Armado y las Manifestaciones de Violencia en las Regiones de Colombia* (Bogotá, 1999).

⁷⁶ Aranguren, *Mi Confesión*, op. cit.

⁷⁷ *Ibid.*, p. 90.

⁷⁸ Observatorio de Derechos Humanos de la Vicepresidencia de Colombia, "Colombia: Conflicto armado, regiones, derechos humanos, 1998-2002", Bogotá, October 2002, p. 42 ff.

⁷⁹ Ronderos, María Teresa, *Retratos del poder: Vidas extremas en la Colombia contemporánea* (Bogotá, 2002), p. 189.

⁸⁰ Figures provided to ICG by the ministry of defence, July 2003.

the country and maintained an active presence in numerous strategic regions.⁸¹ Between July 2001 and June 2002, 59 per cent of the alerts issued by the Early Warning System (SAT) of the Colombian Ombudsman's office were generated by paramilitary actions.⁸²

The divisions that emerged within the AUC over the last months show that it is a confederation of groups joined in regional blocs. Among the most important are the Autodefensas Campesinas de Córdoba y Urabá (ACCU) led by Carlos Castaño and Salvatore Mancuso; the Self-Defence Forces of Casanare (Alianza de Oriente, Eastern Alliance); the Santander and Southern Cesar Bloc; Middle Magdalena Bloc (under the command of Ramón Isaza); the Metro Bloc; the Elmer Cárdenas Bloc; and the Central Bolívar Bloc.

A. STRATEGIC ALLIANCES WITH POLITICAL AND ECONOMIC ELITES

According to Castaño, the links between paramilitaries and industrialists, ranchers and businesspersons remain but the support is "less than before."⁸³ This may be explained by the Uribe administration's levying of a one-time "security tax" and the implementation of its far-reaching "democratic security policy".⁸⁴ The government still has to answer many questions regarding the collaboration between its armed forces and the paramilitaries, despite official statements about the prosecution of private enforcers.⁸⁵ Only eight of the army's 30 brigades are "certified" by the U.S. Department of State as complying with human rights norms.⁸⁶

⁸¹ The analysis of paramilitary presence in Colombia is by the Comité Permanente de Derechos Humanos (COMPERDH: Permanent Committee on Human Rights) in "Grupos armados que predominan en las regiones colombiana", unpublished document, Bogotá, 2002, made available to ICG.

⁸² See graph at <http://www.defensoria.org.co>

⁸³ Carlos Castaño interview on Caracol Radio, 4 February 2003.

⁸⁴ See ICG Latin America Briefing, *Colombia: Will Uribe's Honeymoon Last?*, Bogotá/Brussels, 19 December 2002. and the forthcoming ICG briefing paper on Uribe's democratic security policy.

⁸⁵ See, for example, the declaration by Minister of Defence Martha Ramírez quoted in *Semana*, 14-21 July 2003, p. 38.

⁸⁶ U.S. Department of State/Office of the Spokesman, "State Department Determination and Certification of Colombian Armed Forces with Respect to Human Rights Related Conditions", Washington, 9 September 2002; *El Tiempo*, 25 February 2003, p. 1/12. "Certification" with

In its 2002 Human Rights Report on Colombia, the U.S. Department of State pointed out that:

some members of the government security forces continued to commit serious abuses, including unlawful and extra-judicial killings. Some members of the security forces collaborated with paramilitary groups that committed serious abuses. Impunity remained at the core of the country's human rights concerns.⁸⁷

UNHCHR in Colombia stated, "it is worth noting that despite the expansion of military presence it has not been possible to counteract the AUC's expansion, which has complicated the situation in Arauca".⁸⁸ UNHCHR emphasises that it is necessary to eliminate connections between members of the army and police, on the one hand, and paramilitary groups, on the other, in any peace-building process. James LeMoyné, special adviser on Colombia to the UN Secretary General, said recently that:

Colombia's armed and police forces have problems of image because of their links with paramilitary groups...Our report on human rights indicates those ties; the report of the U.S. State Department, too, and the Human Rights Watch report emphasises this issue.⁸⁹

Ombudsman Eduardo Cifuentes pointed out that the links, which even high-ranking government officials have acknowledged privately, exist but are difficult to prove.⁹⁰

According to Human Rights Watch, during 2002:

Paramilitary groups operating with the tolerance and often support of units within Colombia's military were linked to massacres,

respect to human rights observance is a requirement mandated in U.S. legislation by the so-called Leahy Amendment before aid can be provided to a foreign military force.

⁸⁷ U.S. State Department, *Colombia: Country Reports on Human Rights Practices – 2002* (Washington, 31 March 2003).

⁸⁸ *El País*, 3 February 2003, p. A5; ICG visit to Arauca, 15-17 May 2003.

⁸⁹ *El Espectador*, 18 May 2003; interview with the Special Delegate for Colombia of the U.N Secretary General, James Lemoyne.

⁹⁰ *El Tiempo*, 27 July 2003, p. 1/19. Cifuentes also said he believed that human rights violations by the armed forces were decreasing.

selective killings and death threats. There were numerous and credible reports of joint military-paramilitary operations and the sharing of intelligence and propaganda, including Army-generated appeals to guerrillas to turn themselves in. Throughout Colombia, paramilitaries continued to move uniformed and heavily armed troops unhindered past military operations.⁹¹

Several domestic NGOs have documented numerous cases of connections between the armed forces and paramilitaries. The Human Rights Data Bank has published reports on the consolidation of the paramilitary strategy in the departments of Arauca, Sucre and Bolívar, parts of which the Uribe administration had declared Rehabilitation and Consolidation Zones (RCZs).⁹² In Putumayo, the early warning system issued three risk reports about joint operations and complicity between the government armed forces and the paramilitaries.

In Barrancabermeja (Santander) in 2002, the Ombudsman Office received 266 complaints of threats, homicides, kidnappings, forced displacement and disappearances, 130 of which (49 per cent) were the responsibility of the AUC, 76 (28 per cent) of the guerrillas and the remainder of unknown actors. During the first trimester of 2003, the regional Ombudsman Office recorded a 90 per cent increase in disappearances in Barrancabermeja.⁹³ The Popular Women Organisation (OFP) in Barrancabermeja has denounced constant threats from “paramilitaries supported by the army”.⁹⁴

In April 2003 the José Alvear Restrepo Lawyer’s Collective, an NGO, denounced human rights violations and joint operations between paramilitaries and the armed forces in Viotá (Cundinamarca) which forced the internal displacement of more than 2,900 people in one week. Between 6 and 30 March 2003, six persons disappeared. In April, two of these were found tortured and murdered, and two others were killed. According to this NGO:

At night, paramilitaries patrol near the local hospital, and the police and army have not acted to prevent it ... When a peasant attended a meeting invited by the army, he found that the armed and uniformed people said they were members of self-defence groups.⁹⁵

For this NGO, “what is happening in Viotá is a convincing example of military-paramilitary relations... Their main objective is to generate disruption of the social fabric and eliminate the survivors of the Unión Patriótica, Communist party, and members of the trade union movement...”⁹⁶

From July 2001 to March 2003, the Prosecutor General’s Office opened 33 files against members of the army, police and Department of Administrative Security (DAS) to investigate their links with paramilitaries.⁹⁷ Regarding human rights violations, between August 2002 and April 2003, the office opened 468 new files, 191 involving army members and 151 policemen. Most of the investigations are in the preliminary (42) or evaluation (131) phase. Officially, the Prosecutor’s Office has brought eleven cases against 52 army members, among them one general.⁹⁸

Accusations regarding paramilitary-military ties also come from dissident AUC blocs. The Metro Bloc, a force operating in Medellín (Antioquia), denounced the alliance between the army and AUC’s Nutibara Bloc and blamed it for killing two of its members.⁹⁹ The Peasant Self-Defence Forces of Casanare (ACC) accused members of the VII Brigade of the Colombian army of receiving money from the AUC in Meta and Guaviare departments, and of cooperating with rival paramilitary factions in Colombia’s southwestern regions.¹⁰⁰

During the Pastrana administration Carlos Castaño could still say, “we have become the darling, the hidden lover they only visit when they need her”.¹⁰¹ The relationship is more out in the open now

⁹¹ Human Rights Watch, *World Report 2003. Colombia: Human Rights Development* (Washington, 14 January 2003).

⁹² See “Boletines especiales: Arauca, Sucre y Bolívar”, at <http://www.nocheyniebla.org>; ICG field visit to Arauca, 15-17 May 2003.

⁹³ Radio Caracol, 22 May 2003.

⁹⁴ See Amnesty International, at <http://www.a-i.es/temas/defensores/colombia.shtm>.

⁹⁵ Colectivo de Abogados José Alvear Restrepo, *Acción Urgente sobre la actuación conjunta de las AUC y los militares del Batallón Colombia en Viotá (Cundinamarca)* (Bogotá, 7 April 2003).

⁹⁶ Ibid.

⁹⁷ Official documents provided by the Prosecutor General’s Office to ICG, 16 May 2003.

⁹⁸ Ibid.

⁹⁹ *El Tiempo*, 26 May 2003.

¹⁰⁰ *El Tiempo*, 23 May 2003.

¹⁰¹ Aranguren, *Confesión*, op. cit., p. 276.

because of the work of those cited above. It will need to be even more closely examined, however, because of the Uribe administration's decision to engage the paramilitaries in direct negotiations.

The Attorney General's Office

The 1991 constitution created the Attorney General's Office.¹⁰² It includes the Human Rights Unit, which was established to take charge of investigations involving cases related to the armed conflict and crimes against humanity, including the most complex or particularly dangerous.

Under Attorney General Alfonso Gómez Méndez (1998-2002), the Human Rights Unit focused on the links between members of the armed forces and paramilitary groups. Approximately 25 high-ranking military officers were investigated and convicted. Among the best-known cases were the massacre of 49 peasants by paramilitaries in July 1997 in Mapiripán (Meta), under the responsibility of Army General Jaime Uscátegui; the expansion of the ACCU in Urabá, when General del Río was chief of the Army Brigade, between 1995 and 1997; and the attempt by paramilitaries to kill Wilson Borja, union leader and currently a congressman, in 2000. The unit also opened several cases against guerrilla fronts, for example, in the Machuca tragedy that saw more than 40 persons burnt to death after the ELN bombed a pipeline in 1998, the abductions of soldiers during 1997 and 1998 and the killing of civilians throughout the country between 1998 and 2000.

Attorneys and investigators have been threatened and attacked. According to Human Rights Watch, between January 2000 and November 2001, 196 members of the Attorney General's Office were the object of constant intimidation and threats, and some had to flee the country.¹⁰³ In February 2003, the National Association of Employees of the Judicial System (ASONAL Judicial) reported that the armed groups had threatened 2,500 Colombian judges and attorneys.

Luis Camilo Osorio took office as the new attorney general on 31 July 2002. His tenure has been at the centre of a controversy with human rights organisations and the outgoing administration of Gómez Méndez. One of Osorio's first decisions was to release the retired army general, del Río, who had been arrested a few days before by his predecessor on charges of promoting paramilitary groups. Human rights organisations considered this release a bad start for the new attorney general. A Human Rights Watch report published at the end of 2002, said:

The Office's ability to investigate and prosecute human rights abuses has deteriorated significantly. This deterioration is the product of several factors under the Attorney General's control: a lack of support for prosecutors working on difficult human rights cases; a failure to provide adequate and timely measures to protect justice officials whose lives are threatened; and the dismissal and forced resignation of veteran prosecutors and judicial investigators. As a result, major human rights investigations that had gathered momentum during his predecessor's term have been severely undermined under Osorio's watch. The Attorney General's handling of these cases is likely to encourage the common perception among military and paramilitary forces that human rights abuses are an acceptable form of warfare.¹⁰⁴

In late 2002, Congressman Gustavo Petro, a member of Democratic Pole, the main opposition group in Congress, denounced the attorney general's prosecution of Richard Riaño, a former employee. Riaño had been in charge of hacking into web sites and e-mail accounts and tracing phone conversations of insurgent and paramilitary groups and suspected collaborators under Gómez Méndez. He reportedly found 52 frequent connections between home phone numbers of 49 staffers of the Attorney General's Office and mobile phones supposedly of paramilitary members or sympathisers in Arauca, Cúcuta, southern Bolívar, Bucaramanga and Bogotá.¹⁰⁵ Riaño was arrested and fired by Osorio. In September 2002, he left the country. Based on Riaño's research and other

¹⁰² In Colombia, the function of the Attorney General's Office is investigative and accusatorial, similar to the Office of the Public Prosecutor in the UK and district attorneys in the U.S. However, the Colombian Attorney General fulfils also some police and forensic investigation tasks.

¹⁰³ Human Rights Watch, *A Wrong Turn: The Record of the Colombian Attorney General's Office* (Washington, November 2002). See also the report on impunity in Colombia of the International Federation on Human Rights.

¹⁰⁴ Ibid.

¹⁰⁵ ICG interviews, Bogotá, 14 February and 12 March 2003, and unpublished documents on the infiltration of paramilitary groups into the Attorney General's Office obtained by ICG for this report; see also *El Espectador*, 10 November 2002.

information, Petro denounced AUC infiltration of the Attorney General's Office. According to ICG sources, the Attorney General's Office is investigating both Riaño's findings and possible offences he committed.¹⁰⁶

In April 2003, during the Tenth National Forum of Human Rights, the National Indigenous Organisation (ONIC) denounced the "loss" in the Attorney General's Office of the file on the investigation of the disappearance of Kimi Pernia, an indigenous leader of the Embera Katio community, in June 2002. This group populates the area of the Nudo de Paramillo and surroundings, the AUC stronghold in northwestern Colombia. ONIC claimed prosecutorial negligence. The officer in charge of the investigation asked ONIC to resubmit the missing evidence, but it replied, "the Attorney General's Office has not demonstrated any interest to find the one responsible for Kimi Pernia's disappearance".¹⁰⁷ In public, the attorney general has said that the accusations are just tales.¹⁰⁸ According to ICG sources, the Attorney General's Office is pursuing a murder investigation in the case of Kimi Pernia, although without the information allegedly submitted by ONIC, which, that office says, it has no record of ever receiving.¹⁰⁹

The 2003 UNHCHR report on human rights in Colombia exhibited deep concern about the situation in this state agency: "The Attorney General's Office is not showing sufficient willingness to investigate serious violations of human rights".¹¹⁰ Attorney General Osorio asserted that during his first year in office the legal processes against suspected paramilitary members increased by 105 per cent, and by 65.5 per cent between August 2002 and March 2003. In cases involving members of the armed forces, he claimed that investigations increased by 61.6 per cent.¹¹¹

B. INTERNAL FISSURES AND EXTERNAL PRESSURE ON THE AUC

On 10 September 2001, the U.S. government included the AUC in its list of foreign terrorist organisations. U.S. Secretary of State Colin Powell justified the decision, saying that:

The AUC has carried out numerous acts of terrorism, including the massacre of hundreds of civilians, the forced displacement of entire villages and the kidnapping of political figures to force recognition of AUC demands. Last year, AUC members reportedly committed at least 75 massacres that resulted in the deaths of hundreds of civilians. Many of these massacres were designed to terrorise and intimidate local populations so the AUC could gain control of those areas...¹¹²

One day later, the attacks on the World Trade Center and the Pentagon put the "global war against terrorism" at the top of the U.S. political agenda. Carlos Castaño has admitted that 11 September had a strong impact on the AUC's political perspectives. Inclusion on the U.S. list of foreign terrorist groups was decisive for the AUC's plan to look for a negotiated way out of the armed conflict. The EU in May 2002 and Canada in May 2003 also declared the AUC a terrorist organisation.¹¹³

Between May 2001 and May 2003, the AUC was divided over whether to negotiate with the government and cut links with drug trafficking. Its forces committed further serious crimes, including killings, drug trafficking, kidnapping and extortion, while the leadership debated how to make its intention to negotiate and its political project credible.

During that period, Carlos Castaño resigned three times from the top position of the AUC. After strong internal disputes, Castaño was named political chief and replaced by Salvatore Mancuso in the military leadership. On 18 July 2002, the dissolution of the AUC was announced, implying that the paramilitary movement might be about to

¹⁰⁶ Official document provided to ICG by the Attorney General's Office on 17 June 2003.

¹⁰⁷ Ibid.

¹⁰⁸ *Semana*, 17 November 2002.

¹⁰⁹ Official document provided to ICG by the Attorney General's Office on 17 June 2003.

¹¹⁰ UN Commission on Human Rights, "Chairperson's Statement. Situation of Human Rights in Colombia", Geneva, 4 April 2003.

¹¹¹ Fiscalía General de la Nación, "Fiscalía frente al informe de la Comisión de DDHH de la ONU", 25 April 2003.

¹¹² U.S. Department of State, "Designation of the AUC As a Foreign Terrorist Organisation", Washington, 10 September 2001.

¹¹³ The U.S., the European Union and Canada also consider the FARC terrorists. U.S. Department of State, "2001 Report on Foreign Terrorist Organisations", op. cit.; European Council declaration, 17 June 2002.

disintegrate into a number of bandit gangs operating according to their own interests in different regions of the country.

On 4 September 2002, after President Uribe took office, the paramilitaries decided to re-establish the AUC and seek peace talks. Over the past year, Castaño has released several documents expressing his concern about the AUC's future, its connections to drug trafficking, and the need to improve the paramilitaries' compliance with international humanitarian law.

In September, 2002, as noted above, the U.S. requested the indictment of Castaño and Mancuso on charges of drug trafficking. This sent a new shock through the AUC, but this time the group was left strengthened. Castaño defended members of the paramilitaries and their activities, and resumed public leadership. Subsequently, the AUC's political wing announced its intention to talk with the government.

Under Castaño, the AUC has largely achieved recognition as a "third actor" in the armed conflict, though this is rejected by the FARC, which considers it an appendage of the military. The third actor concept, however, conforms with Castaño's idea of negotiating an agreement with the government in accordance with the AUC's self-image as a pro-state but not pro-government armed group.

The public differences between various AUC blocs have highlighted divergence over negotiations and over how and when to cut links with drug trafficking. The armed clashes between pro-government and "non pro-government" paramilitaries may eliminate some of the potential spoilers of the negotiations. Notably, most recent army and police actions against the AUC have been directed at the fronts that are not included in the talks with the Uribe administration, such as the Metro Bloc and the Casanare Self-Defence Forces.¹¹⁴

¹¹⁴ Recently, the Casanare Bloc of the AUC announced its withdrawal from the talks with the government. The Metro Bloc has not participated in the talks since their beginning. Both the Casanare and Metro Blocs claim that the government armed forces are targeting them because they are not participating in the negotiations. More recently, a paramilitary group of Ramón Isaza's Bloc, which is also not participating, was destroyed in Honda (Tolima). In late July the Central Bolívar Bloc was putting pressure on the inhabitants of the town of Segovia (Antioquia) to end their alleged support for the Metro Bloc. The paramilitary group Elmer Cárdenas, under the command of "El Alemán", which had withdrawn

C. CONSOLIDATING LOCAL POLITICAL CONTROL

During the past three years, the paramilitaries have improved their political tactics and strategies to consolidate their institutional and territorial control in different areas of the country. They are gradually turning from massacres and mass displacement to selective murders and individual forced displacement. They or their allies have begun to intervene more forcefully in local politics, seeking influence at both the national and local levels. This became evident during the 2002 elections for parliament and the presidency and is again visible in the lead-up to the mayoralty and gubernatorial elections.¹¹⁵ They are also organising NGOs to implement social and economic projects in areas of conflict.¹¹⁶

In Tumaco (Nariño), local politicians denounced paramilitary groups for creating an NGO to carry out developmental projects aimed at consolidating their power with state resources.¹¹⁷ In this municipality the southern bloc of the paramilitaries has a strong urban presence. The paramilitaries wear civilian clothes but are easily detectable by their mobile phones and fast motorcycles. Graffiti on the walls read "we are all AUC".¹¹⁸ In the Rehabilitation and Consolidation Zone (RCZ) in the department of Sucre the paramilitaries imposed social norms, such as the prohibition of miniskirts for women, and expelled homosexuals.¹¹⁹ Similar allegations have been made in the Universidad San Francisco de Paula Santander in Cúcuta, capital of the department of Norte de Santander.¹²⁰

from the exploratory talks in January 2003, has returned to the negotiations. See *El Tiempo*, 28 April 2003; Press Office of the Ministry of Defence, "Desarticulado brazo de las autodefensas en Tolima", Bogotá, 24 April 2003; *El Tiempo*, 24 July 2003, p. 1/3; *El Tiempo*, 26 July 2003, p. 1/19, *El Tiempo*, 27 July 2003, p. 1/12.

¹¹⁵ According to local analysts, the paramilitaries are trying to consolidate their political power prior to demobilisation in order to have more leverage at the negotiation table. There is evidence that paramilitaries are forcibly stopping some candidates from running for mayor and governor in the October 2003 elections while sponsoring others who are close to their "cause". *Semana*, 18-25 August 2003, pp. 30-33; for background, see ICG Latin America Briefing, *The 10 March Parliamentary Elections in Colombia*, 17 April 2002.

¹¹⁶ ICG interviews, Bogotá, 14, 25, 26, 28 February 2003 and phone interview, 8 April 2003.

¹¹⁷ Information provided to ICG, Bogotá, 26 February 2003.

¹¹⁸ ICG field visit to Tumaco, 17-19 March 2003.

¹¹⁹ *Ibid.*

¹²⁰ *El Tiempo*, 2 May 2003; ICG interviews in Cúcuta, May 2003.

In April 2003, in Barrancabermeja (Santander) – the heart of the national oil industry – local council members accused Mayor Julio Ardila of corruption. He allegedly granted public contracts benefiting paramilitary commanders of the region. Two days later, suspected paramilitaries killed Emeterio Rivas, the journalist who had broadcast the story on the local radio station.¹²¹

This consolidation by “blood and fire” of the local power of AUC branches has also been matched with legal social and political programs showing a more friendly face. The aim is to create a new generation of community leaders and promote their election to the local council. The requirements are “to have a bachelor’s degree, leadership skills, and be accepted by their communities”. A first course at the AUC training school finished in January 2003; the second is scheduled to be organised in the coming months.¹²²

D. THE CASE OF TOLIMA DEPARTMENT AND THE COFFEE BELT

After the rupture of negotiations between the FARC and the Pastrana administration, paramilitary groups expanded their activities around the country. In the Coffee Belt – an area that includes the departments of Risaralda, Caldas and Quindío, all of which have been affected by a severe crisis in the coffee sector and have historically been areas in which guerrilla groups have had limited influence – paramilitaries have gained ground and begun offering “security services” in both rural and urban areas. In the capital cities of Pereira, Manizales and Armenia they have carried out “social cleansing” since the late 1990s with the suspected acquiescence or support of the local authorities and the private sector. Few of the killings are investigated by the judicial authorities and so far none has been registered as a political murder, despite several accusations pointing in this direction. A similar situation is developing in Cúcuta, the capital of the department of Norte de Santander.

In Risaralda, between February 2002 and February 2003, paramilitaries committed seven massacres and hundreds of selective murders in towns such as Mistrató, Pueblo Rico, Balboa and Quinchía. Three mass graves were found in Santuario. In the first

months of 2003, more than 100 killings as part of social cleansing actions were recorded in the metropolitan area of Pereira and Dosquebradas.¹²³ According to sources interviewed by ICG, industrialists and businessmen of Dosquebradas are apparently involved in these acts.¹²⁴

At the same time, during a recent national forum on human rights, local NGOs from Risaralda denounced both Governor Elsa Cifuentes and Mayor Marta Bedoya for approving a private security network, apparently with links to local paramilitaries.¹²⁵ In this department, the Cacique Calarcá Bloc of the AUC has declared thirteen human rights defenders to be military targets.¹²⁶

In Caldas, paramilitaries control the onion trade, from sowing in Villamaría to sale in Manizales, the capital of the department.¹²⁷ Three different paramilitary groups are trying to cut the FARC’s strategic corridor in Caldas, among them the Central Bolívar Bloc, led by Ernesto Báez. Indigenous people, small farmers and coffee workers have been forced to flee, abandoning their land. Some areas of Caldas have been “taken” by paramilitaries, and it is increasingly difficult to obtain information from there.¹²⁸

In the department of Quindío, ICG obtained unconfirmed information that paramilitaries have bought more than 2,000 hectares of rural land, with the objective of establishing “areas for demobilised paramilitaries after the peace negotiations with the government.”¹²⁹

The Social Solidarity Network (RSS) in the Coffee Belt has recorded more than 100,000 IDPs, 50 per cent coming from the rural areas of Risaralda, Caldas and Quindío.¹³⁰ However, the Coffee Belt continues to be considered an “oasis of peace” and is not included in international humanitarian aid programs, which has complicated the situation for IDPs.

¹²¹ The accusation was made public on 4 April 2003; the journalist was killed on 6 April 2003.

¹²² *Vanguardia Liberal*, 21 March 2003.

¹²³ ICG interviews, Pereira, Manizales and Armenia, 14-16 April 2003.

¹²⁴ *Ibid.*

¹²⁵ The Tenth National Forum on Human Rights was held in Bogotá on 24-26 April 2003.

¹²⁶ Statements presented during the Tenth National Forum on Human Rights cited above.

¹²⁷ ICG interviews, Pereira, Manizales and Armenia, 14-16 April 2003.

¹²⁸ *Ibid.*

¹²⁹ *Ibid.*

¹³⁰ *Ibid.*

The department of Tolima, in the centre of Colombia, deserves special attention. Conflict has increased since 2000, the year in which Governor Guillermo Alfonso Jaramillo came to power with one of the country's few successful leftist coalitions. On 29 January 2003, during a departmental meeting with Colombian Vice-President Francisco Santos, the governor said that he would always accept peace negotiations, including with the paramilitary groups. However, he asked for transparency in any such talks and denounced continuation of military actions by paramilitaries in Tolima, mentioning the disappearance and killing of eleven hunters, numerous attacks against the civilian population and the lack of investigation by local military authorities. According to the governor, at the end of the meeting he was insulted and pushed by General Jairo Ovalle, military commander of the VI Brigade (located in Ibagué, Tolima's capital), in front of his team while other members of the military filmed the situation and his bodyguards were intimidated. In February 2003, the governor wrote President Uribe asking for an investigation of the military commander but he has not received a formal response.¹³¹

More recently, the mayor of the municipality of Dolores, Mercedes Ibarra, accused Jaramillo of being a guerrilla. The governor responded by claiming that 30 of Tolima's 47 municipalities have been "taken" by paramilitaries, among them Dolores. As a result of these factors and a hostile political climate, he became the first governor to ask the Inter-American Commission for Human Rights (CIDH) for special protection measures, which were granted on 6 May 2003.¹³²

Tolima department is considered to be a strategic corridor for guerrilla groups that have historically dominated the region and a battlefield on which the AUC is pursuing territorial control. According to the Ombudsman Office, 32 of its municipalities have expelled IDPs. The office agrees with the governor that 30 municipalities, in both the north and south, have an important paramilitary

presence.¹³³

Massacres such as those in Frías (nine people) and Palocabildo (four) on 15 September 2001; Méndez (eleven hunters) and Líbano (six fishermen) on 18 January 2003; and approximately 100 selective murders in fourteen municipalities in the north of the department have not been adequately investigated or prevented.¹³⁴ For example, despite the early warning alert from the Ombudsman Office to local and national authorities regarding the dramatic situation in those localities, seventeen people disappeared in Méndez and Líbano, six of whom have not yet been found.

The Permanent Committee of Human Rights (CPDDHH) recorded 247 selective murders in Tolima during 2002. In localities such as Dolores, where Mayor Ibarra recently announced she was prepared to take up arms against guerrilla groups if necessary, the fight for control has put the civilian population in the crossfire.¹³⁵

¹³¹ ICG interviews, Bogotá and Ibagué, March, April and 24 July 2003.

¹³² Letter from the CIDH to the Governor Guillermo Jaramillo, 6 May 2003, shown to ICG during interviews in Bogotá and Ibagué, March, April and 24 July 2003.

¹³³ Defensoría del Pueblo, "Resolución Defensorial Regional No. 005", Bogotá, 13 September 2002; *Tolima 7 Días*, 8-10 April 2003.

¹³⁴ ICG interviews, Bogotá and Ibagué, March and April 2003.

¹³⁵ *El Tiempo*, 13 April 2003.

IV. TALKS WITH THE URIBE ADMINISTRATION

The Uribe administration is the first Colombian government in more than a decade to advance demobilisation talks with the paramilitary groups, but not the first to talk with them. The Pastrana administration had secret contacts with Carlos Castaño. Conservative politicians in the department of Córdoba and Nobel Prize-winner Gabriel García Márquez took the initial steps. The former foreign minister of Spain, Abel Matute, offered his mediation for talks in that country. Yet, in the shadow of the always tenuous peace negotiations with the FARC and the ELN, these conversations never prospered.¹³⁶ Among other things, Pastrana and his team wanted Castaño to respect a planned demilitarised zone for the ELN in the Middle Magdalena Valley that the paramilitaries were unwilling to concede.¹³⁷ The government never informed the public about these talks and the reasons for their failure.¹³⁸

In contrast to his predecessor, President Uribe announced his intention to negotiate with the paramilitaries during his electoral campaign and, once in the presidency, demonstrated determination to achieve results by quickly preparing the ground for formal negotiations with the AUC.¹³⁹ As noted above, he obtained a law modifying the requirements for an armed group to qualify as a party in negotiations, appointed High

Commissioner for Peace Restrepo to lead an exploratory commission,¹⁴⁰ and charged that commission with contacting the paramilitaries to pave the way for formal conversations.

The government's condition was that the AUC enter into a ceasefire, stop killing civilians and sever all links to drug trafficking. Castaño and the AUC responded with the announcement of a unilateral ceasefire and a publicity campaign condemning drug trafficking that produced deep fissures within the paramilitary camp during 2002.

The exploratory commission, congressional representatives and members of the Catholic Church met with paramilitary leaders during the first months of 2003.¹⁴¹ The government was cautious not to make public any details about these explorations. High-level officials consulted by ICG in February and May stated that the main objective of an eventual negotiation would be the demobilisation of the paramilitaries in order to reduce the level of violence.¹⁴² They also said that the negotiations would not lead to the paramilitaries' "legalisation" (by incorporating them into the peasant soldier forces, for example) but pointed out that negotiations with any armed group always entailed a degree of "generosity". According to one official, this was necessary to consolidate peace but did not imply impunity. However, in January 2003, Minister of the Interior and Justice Fernando Londoño had candidly stated in a local newspaper interview that "any peace process brings with it impunity".¹⁴³

On 21 March, after two months of exploratory talks rendered difficult by the divisions within the paramilitary camp, the government and the AUC issued a first joint communiqué. It expressed their disposition to continue with the exploratory talks and "improve" the AUC's compliance with the ceasefire (especially regarding military actions against civilians), and invited the international

¹³⁶ One of the demands reiterated constantly by the FARC during the negotiations was that the government take decisive military action against the paramilitaries. The small numbers of paramilitary combatants that the government armed forces captured or killed during the Pastrana administration indicates that the government – focused on the peace talks with the FARC and combating illicit crops and drug trafficking through Plan Colombia – either did not perceive the struggle against the paramilitaries as a priority, or implicitly acknowledged that the paramilitaries were a strategic ally against the insurgents.

¹³⁷ See ICG Report, *The Prospects for Peace with the ELN*, op. cit.

¹³⁸ Aranguren, *Mi Confesión*, op. cit.

¹³⁹ Members of the Colombian Catholic Church were among the first to explore the possibility of peace negotiations with the paramilitaries. This was not a response to the Uribe administration's action in having earlier proposed the Church as "facilitator" for the process with the paramilitaries, but rather their own initiative aimed at helping to create conditions for peace. ICG interview, Bogotá, 23 July 2003.

¹⁴⁰ The members of the commission are Gilberto Alzate, Ricardo Avellaneda, Jorge Castaño, Eduardo Espinosa, Carlos Franco and Juan Pérez. With the exception of Carlos Franco, a demobilized EPL member who is in charge of the human rights program at the vice-president's office, none of the other members of the exploratory commission is holding public office or has been involved at a high level in previous peace negotiations with the insurgents.

¹⁴¹ *El Espectador*, 15 March 2003.

¹⁴² ICG interviews, Bogotá, 26 February and May 2003.

¹⁴³ *El Tiempo*, 12 January 2003, p. 1/3.

community and Colombian civil, political and economic society to support the peace efforts.¹⁴⁴ Even though this announcement did not reveal any details, it reflected some progress towards the formalisation of negotiations.

Three months later, on 25 June, the exploratory commission submitted ten more or less concrete recommendations to the government. It proposed moving from explorations to peace talks at a unified and national negotiation table. AUC compliance with the ceasefire should be “improved” and monitored and the paramilitaries should end their involvement in drug trafficking, gasoline theft, extortion and kidnapping. The best way of monitoring AUC compliance with the government’s conditions, the commission argued, would be to concentrate its forces in specific locations and fully implement the “democratic security policy” in areas under AUC control or influence. The proposed peace negotiations would focus on “defining and specifying judicial alternatives making a peace agreement possible”, and the Catholic Church and the international community should accompany them.¹⁴⁵

It appears that during the subsequent weeks, Restrepo and the AUC leadership discussed these recommendations. They then signed a first accord in Santa Fe de Ralito (Córdoba) on 15 July 2003 that stipulated the end of exploratory talks and the beginning of DR negotiations. The AUC agreed to demobilise all its troops gradually over two and a half years (to 31 December 2005). Furthermore, it pledged to comply fully with the ceasefire and, “in due course”, concentrate its forces in previously specified locations in which the government armed and police forces would be permanently present. The AUC also expressed agreement with the government’s anti-narcotics policy.

The government, in turn, pledged, in not very concrete terms, to “elaborate and implement measures aimed at reinserting the paramilitaries into civilian life”. Finally, both parties requested the permanent presence of the Catholic Church in the process and asked Colombians and the international community to support a DR process for AUC members.¹⁴⁶

Dissemination of the accord on 16 July caused surprise and disbelief in Colombia. In effect, it was not until almost a week later that the main newspapers and political magazines reacted and covered the story in some depth. Generally, local political analysts considered the Ralito accord to be an important achievement for the government but also warned of difficulties entailed in the demobilisation of the paramilitaries.¹⁴⁷

¹⁴⁴ “Comunicado a la Opinión Pública”, 21 March 2003.

¹⁴⁵ Comisión Exploratoria, “Proceso de paz con las autodefensas. Comunicado público”, Bogotá, 25 June 2003.

¹⁴⁶ “Acuerdo de Santa Fe de Ralito para contribuir a la paz de Colombia”, 15 July 2003.

¹⁴⁷ See *El Espectador*, 20 July 2003, pp. 2-3A; *El Tiempo*, 20 July 2003, pp. 1/2, 1/21; *Semana*, 21-28 July 2003, pp. 32-35; *Cambio*, 21-28 July 2003, pp. 22-24. Two days after the signing of the Ralito accord, the FARC published a letter to UN Secretary General Kofi Annan proposing an “interview, meeting, forum or seminar” with Annan in order to “submit full information on our [the FARC’s] unquestionable aim to contribute elements to the search for a political solution to the armed and social conflict”. In part, this letter could be seen as a reaction to the Ralito accord. FARC may believe it needs to do something to avoid greater international isolation. Secretariado del Estado Mayor Central de las FARC-EP, “Carta abierta de las FARC-EP al Secretario General de la ONU”, 17 July 2003.

V. IMPUNITY VERSUS JUSTICE, RECONCILIATION AND TRUTH

Human rights organisations have been among the fiercest critics of the government-paramilitary talks. They argue that the AUC and other paramilitary groups are not fighting the state, and their main targets have been and continue to be unarmed civilians. In other conflicts, amnesties and pardons have been granted to irregular armed groups, including insurgents and paramilitaries, in the context of peace and reconciliation. However, the Colombian government is only negotiating with one irregular armed group – the paramilitaries – so the critics fear negotiations will lead not to reconciliation but to impunity and legalisation of illegally acquired assets of paramilitary leaders and their supporters.

According to the non-governmental Colombian Commission of Jurists (CCJ), Decree 128 of 22 January 2003 entitles demobilised members of illegal armed groups to amnesty. If the judicial authorities determine that a demobilised combatant has not violated human rights and international humanitarian law, he or she is entitled to pardon. The CCJ states that, “given the existing impunity in the country, those sentenced or investigated for such crimes can be counted with the fingers on one hand”.¹⁴⁸

NGOs have demanded creation of a Truth and Reconciliation Commission, similar to those created elsewhere after peace agreements.¹⁴⁹ The government has said it is “open” to any proposals if they “can help all of us”.¹⁵⁰ Such a commission would permit the victims of violence and their relatives to voice their grievances and pain and provide an arena for public debate about reconciliation and reparation for citizens affected by paramilitary violence. A basic issue is whether displaced families will be allowed to return to, and regain ownership of, their properties and under what conditions.

The Colombian government sent a proposal on paramilitary disarmament to Congress on 22 August 2003 that essentially would give the president the authority to recommend no jail time even to the worst offenders against international

humanitarian law. This might be seen by some sectors of society as indicating an intent to forgive grave offenders.

International reactions to the talks between the Uribe administration and the AUC have been cautious. During the exploratory phase, the EU kept its distance owing to concerns expressed in Geneva by the UN Office for Human Rights. The EU called the Ralito accord “good news”, but said the process should not affect the rights of the victims to truth, justice and reparation.¹⁵¹ The UN special adviser, James Lemoyne, took the hardest line on the exploratory talks in mid-May, telling a newspaper interviewer:

We do not see the paramilitaries as a political actor making claims to the Colombian state. The UN’s intermediation works with armed actors with political claims, which imply political negotiations. Furthermore, the current government does not seem to have problems talking to the paramilitaries. There are sectors within Colombian society that know more about these groups, such as the Catholic Church. We support the government’s objective to eliminate one armed actor of the conflict, but it is necessary to do it carefully. Crimes against humanity and serious human rights violations cannot remain unpunished. If this happens, the international community’s and the UN’s reaction will be tough.¹⁵²

In a similar vein to the EU, the U.S. welcomed the Ralito accord but stressed it should not be at the expense of justice.¹⁵³ The Bush administration still has to define its stance fully, however. Different agencies have sent contradictory messages. Statements by officials that the extradition request for Castaño and Mancuso should not be considered an obstacle to progress in the negotiations appear somewhat at odds with the assertion of Attorney General Ashcroft that “with drug-traffickers and terrorists negotiation does not work.”¹⁵⁴ Following the government’s

¹⁴⁸ Comisión Colombiana de Juristas, “Colombia, Amnesty and Legalisation of Paramilitaries”, Geneva, March 2003.

¹⁴⁹ ICG interviews, Bogotá, February and March 2003.

¹⁵⁰ ICG interview, Bogotá, 26 February 2003.

¹⁵¹ *El Tiempo*, 17 July 2003, p. 1/2.

¹⁵² *El Espectador*, 18 May 2003.

¹⁵³ *El Tiempo*, 17 July 2003, p. 1/2.

¹⁵⁴ Ashcroft has strongly promoted the extradition of Castaño, Mancuso and Juan Carlos Sierra-Ramírez since the unsealing of their indictments on 24 September 2002. U.S. Department of Justice, “Remarks of Attorney General John Ashcroft AUC Indictment”, Washington, 24 September 2002; Council of the Americas, “Remarks of Attorney-General John Ashcroft”, Washington, 28 April

announcement of its plan of pardon and probation in May 2003, the U.S. reiterated its request for extradition of AUC leaders. However, Phil Chicola, chief of the Andean Area in the Latin American Bureau of the State Department, said that the U.S. would not oppose negotiations.¹⁵⁵ Bogotá observers say that the U.S. wants to keep pressure on the AUC leadership and push it to a final settlement with the government, which could involve cooperation in the eradication of coca and poppy fields as well as making available information about drug trafficking routes.

Shortly before concluding her posting, U.S. Ambassador Anne Patterson stated that her government continued to be worried about military-paramilitary ties and paramilitary involvement in drug trafficking.¹⁵⁶ In a subsequent interview with a local newspaper, she appeared far more optimistic about the negotiations, saying that the U.S. was prepared to fund (U.S.\$2-3 million) the demobilisation of 1,500 paramilitary fighters during the remainder of 2003 and the same number during 2004.¹⁵⁷ However, she also reiterated that the U.S. would not lift the extradition requests for Castaño and Mancuso.¹⁵⁸

An unusually frank document that concluded the 10 July 2003 London Meeting on International Support for Colombia organised by the British government for some 24 government, international financial institution, UN and other international organisation delegations was strongly supportive of the Uribe government in many ways, including its efforts to “seek a negotiated solution to the internal conflict in Colombia including through direct engagement with those illegal armed groups.” Nevertheless, it “urged the Colombian Government...to take effective action against impunity and collusion especially with paramilitary groups”.¹⁵⁹

2003; *El Tiempo*, 28 April 2003.

¹⁵⁵ *El Tiempo*, 3 June 2003; see also speech of U.S. Ambassador Anne Patterson, “Relaciones Estados Unidos-Colombia después de la guerra de Irak”, Cartagena, 19 June 2003.

¹⁵⁶ Patterson, op. cit.

¹⁵⁷ Patterson admitted that there had been conversations between staff of the U.S. embassy in Bogotá and paramilitary representatives. *El Tiempo*, 29 June 2003, p. 1/2.

¹⁵⁸ *El Tiempo*, 29 June 2003, p. 1/2.

¹⁵⁹ *London Declaration*, Final Declaration approved by government participants to the London Meeting on International Support for Colombia, 10 July 2003.

A. THE SPECTRE OF IMPUNITY

Impunity is a key issue that the Colombian authorities have to tackle if they are serious in their attempts to strengthen the rule of law. As one analyst stated, “perhaps there is no other word that better defines the Colombian experience than impunity: lack of punishment, investigation and justice.”¹⁶⁰ Levels of impunity, understood as no criminal responsibility for a perpetrator, non-existence of civil, administrative or disciplinary responsibility and the lack of compensation to victims, are “too high to be acceptable, and there has not been any significant change recently”.¹⁶¹

While systematic data on impunity is not available, Colombian analysts point out that impunity in both common and human rights cases is alarmingly high.¹⁶² The government claims that it has made serious attempts to reduce impunity, including introducing a new penal code, but results have been few.¹⁶³ Impunity has had a strong negative impact on civil society, generating an environment of fear, distrust and permissiveness regarding human rights violations and offences against international humanitarian law. The reasons for this impunity are overburdening of the judicial system but also fear, pressure, and threats or direct attacks on investigators, attorneys and judges by criminals and armed groups. In some instances, judicial authorities lack interest in gathering evidence and summoning witnesses and – more seriously – may support one armed actor or another.

In the 1980s, death squads and drug-traffickers killed many judges, investigators and lawyers. Among them were Minister of Justice Rodrigo Lara,¹⁶⁴ Magistrate

¹⁶⁰ Efrén Ariza, *Evolución de la impunidad en Colombia 2000-2002*, unpublished document (Bogotá, 2003), at <http://www.colombiacivica.org>

¹⁶¹ Swedish NGO Foundation for Human Rights, *Impunity in Colombia: Report on the Mission to Colombia, 5-18 October 2002*.

¹⁶² Colombian analysts say that impunity is very high; in human rights cases it could even reach 95-100 per cent. ICG interviews, Bogotá, 26 February and 5, 14 March 2003; Corporación Excelencia en la Justicia, “Justicia para el nuevo siglo: aportes a la agenda de gobierno, 1998-2002”, Bogotá 1998; Natalia Springer, *Sobre la verdad en los tiempos del miedo* (Bogotá, 2002).

¹⁶³ See ICG Report, *Colombia's Elusive Quest for Peace*, op. cit..

¹⁶⁴ Killed in 1984.

Carlos Eduardo Valencia,¹⁶⁵ Prosecutor General Carlos Mauro Hoyos and ten investigators and judges who were gathering information on a mass murder. Several human rights defenders were also killed or disappeared, as was the lawyer of the relatives of the victims of the Trujillo massacre in the department of Cauca, Alirio de Jesús Pedraza.¹⁶⁶ In November 1985, M-19 insurgents occupied the Supreme Court building in the centre of Bogotá. In the subsequent military operation, eleven Supreme Court judges and 65 employees and visitors were killed.

After a debate about the judicial system in an environment of threats, political killings and armed conflict in the early 1990s, Colombia introduced “faceless” judges. The reform aimed at neutralising the threats of powerful drug barons and insurgent groups. However, the results did not fulfil expectations. On the contrary, national and international human rights organisations have denounced numerous violations of due process and the right to defence that have aggravated impunity.

Another policy to reduce impunity has been increasing punishment for those convicted of kidnapping, mass murder, genocide and extra-judicial execution, among others. However, tougher sentences have become what a former Ombudsman called “symbolic solutions to real problems”. Likewise, new crimes have been incorporated in the criminal code, such as causing displacement and recruiting children and adolescents. However, there is evidence that the lack of trust in the judicial system results in only 30 per cent of these crimes being reported to the authorities.

One of the most bitter disputes between the armed forces and human rights organisations during the last twenty years has been about the civilian jurisdiction of the military. While the 1991 constitution explicitly prohibits military courts from trying civilians, they deal with almost all cases against high-level officers accused of collaboration with paramilitaries or human rights violations, including massacres of civilians. The dispute between the civilian and military justice systems about what constitutes “an act on duty” (*acto propio del servicio*) has not been resolved.

Military courts have ruled in most cases that the military defendant committed an act of omission, despite often compelling evidence suggesting complicity or direct participation in violations committed by paramilitaries. Notoriously, over many years the military justice system has convicted only one high-ranking officer (Colonel Plazas, former chief of the army’s intelligence brigade) for violation of human rights.¹⁶⁷

A Supreme Court decision (March 2003) recently declared invalid a decision of a military tribunal favouring the members of the armed forces accused of the massacre of Riofrío (Valle).¹⁶⁸ It argued that a mass murder could never be considered an “act on duty” and concluded that military justice should not have dealt with the murder of thirteen civilians by a group of unidentified persons, some of whom wore military uniforms, and the subsequent cover-up of the crime by an army platoon.¹⁶⁹ This far reaching judgement could lead to new appeals to the Supreme Court requesting a civilian trial in cases of violation of human rights involving members of the armed forces that are currently investigated by the military.

Recently, the civilian criminal justice system has issued several decisions that seem to be changing the historical record of impunity in crimes committed by paramilitary groups. On 11 March 2003, the Supreme Court ordered the arrest of Carlos Marulanda, former Colombian ambassador to the European Union, Belgium and Luxemburg. In 2002, the Attorney General’s Office had released Marulanda during an investigation into the creation of paramilitary groups and terrorist actions in the Hacienda Bellacruz (César). Marulanda is now a fugitive. On 12 March 2003, the Attorney General’s Office ordered the arrest of General Jaime Uzcátegui for the 1997 Mapiripán massacre of 49 peasants. And on 25 April 2003 a special judge convicted Carlos Castaño and Salvatore Mancuso in absentia for the 1997 Ituango massacre of 40 peasants.¹⁷⁰

¹⁶⁵ Killed in July 1989.

¹⁶⁶ See “Trujillo, una gota de esperanza en un mar de impunidad, Conclusiones de la Comisión Interinstitucional para la Investigación sobre los hechos violentos de Trujillo”, Bogotá, 1998.

¹⁶⁷ The case was decided by a military judge in September 2002.

¹⁶⁸ Corte Suprema de Justicia, “Sentencia 6 de marzo de 2003”, Bogotá.

¹⁶⁹ The decision states that after the massacre, an army platoon arrived at the scene and, simulating an ambush, opened fire on the house containing the bodies of the thirteen civilian victims. The officer in command informed his superiors that his unit had killed thirteen members of the ELN in combat. *Ibid.*

¹⁷⁰ *El Tiempo*, 25 April 2003.

Truth, justice, reparation and forgiveness are the basis for any process of reconciliation. This applies to negotiations with the insurgents as well as the paramilitary groups. The Uribe administration should define and promote, in addition to the negotiations with the AUC, a policy of reparation for its victims and their relatives. The primary objective should be to dignify the victims and to send a clear message that violation of human rights and acts of violence against civilians will not be tolerated. This includes establishing a mechanism to encourage, receive and document charges by victims and their relatives of paramilitary violence, as well as seeking confessions from perpetrators. On the other hand, the government ought to create a commission charged with establishing what can be offered in terms of judicial benefits to paramilitary fighters in the process of demobilisation. Such a policy would give concrete shape to the government's concern for reaching international standards of respect for human rights and international humanitarian law and facilitating international support for the demobilisation and reintegration of the AUC.

VI. CHALLENGES AND RISKS OF NEGOTIATIONS

The Ralito demobilisation accord is important. It appears that after one and a half years of escalating violence, the prospect of the negotiated departure of one of the armed groups may once again permit Colombians to entertain hopes that an overall solution to the armed conflict could become possible. The apparent confluence of the goals of the government and the AUC as they relate to extension of the state presence throughout the country, the rising capacity of the military to confront the guerrillas – and at times the paramilitaries – unparalleled pressure from the U.S. and the wider international community for an end to paramilitary-military links, and the indictments of paramilitary leaders for drug trafficking all could eventually open a real window of opportunity for peace.¹⁷¹ However, many difficulties lie ahead, and many well-founded concerns voiced by critics of the talks with the paramilitaries have to be considered.

So far, the process lacks operational precision and a clear political course. If the government fails to conduct paramilitary DR in an accountable, just and transparent way, there is a high probability that it will see its credibility and legitimacy severely affected, both domestically and internationally. Moreover, the government has to be clear that failure in this demobilisation would produce even more civilian suffering, as was the case after rupture of the peace negotiations with the FARC under Pastrana in February 2002. The Uribe administration should seek to engage the insurgent organisations in a peace process as well.

The following sections highlight the difficulties associated with paramilitary demobilisation and reintegration under conditions of ongoing warfare. The government has to address two clusters of problems: those related to the demobilisation process as such and those related to upholding the basic principles of justice and truth and compensating victims and their families for the abuses and crimes committed by the paramilitaries.

¹⁷¹ The Uribe administration could be considered to be “complying” simultaneously with the demands of the AUC, by confronting the insurgents decisively, and the insurgents, by working for demobilisation of the paramilitaries.

A. DEMOBILISATION AND REINTEGRATION (DR)

The existing fissures within the paramilitary camp, or its “new confederate nature”, have prevented the administration from setting up one single negotiation table. In effect, the Ralito accord does not cover several thousand paramilitary fighters who belong to regional paramilitary organisations other than the AUC. Some, such as the Metro Bloc and Ramón Isaza’s group, have declined to participate in the exploratory talks with the government; others, such as the Peasant Self-Defence Forces of Casanare (ACC), have withdrawn from them. These groups could potentially spoil AUC demobilisation, for example by absorbing combatants who are not ready to demobilise or occupying territories abandoned by demobilised AUC contingents. While unlikely, continued government military pressure on the renegade groups could lead them to reach agreements with, or even join, the insurgents.

It is, therefore, crucial that the government make a strong effort to incorporate all paramilitary groups in a single negotiation format. The Uribe administration could do this through the exploratory commission and with the support of the Catholic Church, by convincing the renegade groups that participation with the AUC would not be to their disadvantage and that their disagreements with the AUC could be resolved at the negotiation table. If this strategy does not bear fruit owing to resistance from the paramilitaries or other problems, the government should strongly consider setting up a second negotiation table for the renegade groups. However, it is paramount that such parallel talks also aim at demobilisation by the end of 2005. Moreover, the government should only set up a second negotiation table after the renegade groups have effectively entered into a ceasefire and agreed to stop killing and abducting Colombians and to disengage from drug trafficking.

The Ralito accord contemplates the gradual demobilisation of AUC combatants over two and a half years. The drawn-out nature of the process harbours risks that have been brutally evident during the first half of 2003. For example, the FARC and ELN could attack paramilitary contingents concentrated in a given locality for demobilisation. They could further try to take control of the regions and rural assets, including illicit crop cultivations, from which the

paramilitaries have withdrawn. While the government and the AUC have agreed that the authorities will guarantee the latter’s security during the demobilisation process and expand state presence, it is by no means clear that the Colombian state has the capacity to achieve this crucial goal in the short-term. In effect, some sympathisers and sponsors of the paramilitaries, in particular cattle ranchers, agro-industrialists and local politicians, are not convinced that the insurgents will not subject them to pressure, extortion and attacks after the withdrawal of the paramilitary troops. In consequence, there is some likelihood that AUC units not scheduled for demobilisation would seek to protect their partners or, indeed, fight over their assets with the insurgents and that rural and regional economic and political elites would continue to sponsor and support paramilitary groups, perhaps even create new ones, and military-paramilitary ties might persist in some regions.

The UNHCHR report recommendations, which the government has accepted, urge it to report semi-annually on the steps taken to sever those ties. One way to give the process greater credibility would be for the government to request an independent Colombian/international ad hoc commission to document what the government has done and what remains to be done and to present this to President Uribe for publication. This would be a fundamental way, as the recommendation notes, independent of the negotiations, to demonstrate what is being done to combat any lingering military support for the remaining paramilitaries.¹⁷²

It is imperative that the government design a concentration and demobilisation strategy with the support of international experts. Central elements of such a strategy would be choosing adequate locations for the concentration of paramilitary fighters and designing a clear and not too lengthy procedure for their demobilisation. For example, the camps have to be reasonably close to where the paramilitary group is scheduled for demobilisation, easy to protect and accessible for large-scale food and other deliveries. It probably would be advisable to allow the fighters undergoing demobilisation to keep their weapons until they leave the camp. However, the authorities should register all

¹⁷² UNHCHR. “Recommendations for Colombia 2003”, op. cit., p. 7.

weapons and keep the distribution of ammunition under strict control.

In order to prevent the insurgents from taking control of the areas from which the paramilitaries have withdrawn, the demobilisation process should be structured in such a way that it is in step with the expansion of the armed forces and police, as well as of the civilian state authorities, across the country, but especially in paramilitary strongholds. The peasant soldiers could play an important, but not exclusive, role in this process. However, it is important that the government reassess its peasant soldier program in light of the established goals and the situation on the ground. It is crucial that the paramilitaries still awaiting demobilisation comply fully with the ceasefire and that the government sanction them militarily and through rigorous law enforcement if they do not.

The paramilitaries' involvement in drug trafficking is a further problem. AUC leaders have to show their seriousness about the process by informing the government of all drug operations and by handing over immediately all their drug profits. As with the issue of territorial control, it is questionable whether the Colombian state has the capacity to eradicate the bulk of illicit crops and destroy most drug trafficking networks by the end of the Uribe administration. This implies that in all probability the insurgents would seek to take advantage of paramilitary withdrawal, increasing their share of a hopefully reduced drug business. Against this backdrop, it is likely that many paramilitary leaders will be reluctant to pull out of drug trafficking during and after demobilisation. The U.S. request for extradition of Castaño and Mancuso adds another element to this already problematic scenario. While the U.S. should not lift the indictment, it should consider whether other, less notorious paramilitary leaders might be afraid of eventual extradition to the U.S., knowing that their opportunities to act as chief witnesses and so avoid severe punishment would be limited. Many paramilitary chiefs will not want to give up illegally acquired assets, particularly land, in exchange for the comparatively small benefits entailed in demobilisation.

The government has to be adamant in conditioning negotiations with the paramilitaries on a pull out from drug trafficking. The message should be clear: if those paramilitaries who have not committed war crimes continue in the drug business, they will not

be eligible for the judicial benefits of demobilisation. The government should also step up eradication of drug cultivation in areas under the control of paramilitaries, while continuing with eradication across the country. After the withdrawal of the paramilitary groups from drug producing regions, the government should implement alternative development programs combined with improving basic social services. Where security conditions permit, demobilised paramilitaries should be employed in the manual eradication of illicit crops.

Finally, it is not clear how the Uribe administration will finance paramilitary DR. The government is struggling to consolidate its budget and raise the funds for its democratic security policy as well as for urgently needed social and social security investment. While the U.S., as noted, has offered to help finance paramilitary demobilisation and reintegration, it is clear that more funds are needed, including from domestic sources, to complete successfully a multi-year process involving possibly up to 13,000 fighters. According to the Office of the High Commissioner for Peace, DR of the AUC would cost approximately U.S.\$208 million.

Once the actual activities to be undertaken in the DR plan are defined and the costs determined, the government should lay out how it will raise domestic revenues through taxation to cover the bulk of those costs along with critical humanitarian and rural investment needs. The estimate from the High Commissioner needs to be examined closely and a determination made of what funds beyond state revenues are needed. The international community should focus first on giving technical advice and helping to finance the design of a plan covering all those paramilitary who are willing to abide by a ceasefire, stop killing and abducting Colombians and cease their drug trafficking, and should then concentrate on supplementing government funding for the plan's implementation.

The Uribe administration will need to take the primary responsibility for financing and managing the DR program for the paramilitaries. It is, therefore, paramount that it elaborate an appropriate budget soon. It would also be advisable for the government to organise an international conference on paramilitary demobilisation and reintegration as soon as possible, at which it could describe its strategy and planned results as well as ask the international donor community for specific

financial and technical advice and support. Before the conference, the government should show that it is really committed to ending impunity, to jailing paramilitary leaders and eradicating the paramilitary phenomenon in Colombia for good. If it fails to do that, the conference will be wasted effort.

B. TRANSITIONAL JUSTICE, TRUTH AND REPARATION

In order to achieve the successful demobilisation and reintegration of the paramilitaries and encourage reconciliation among Colombians, the government must address clearly and unequivocally issues of justice, truth and reparation. Otherwise, it is bound to lose credibility and legitimacy, both domestically and internationally. Reconciliation would become elusive. Government negligence regarding these crucial issues could even produce a worst-case scenario in which the insurgents regained some popular support.

To avoid failure, it is essential that the government achieve a balance between guaranteeing the success of DR and upholding the basic principles of justice. The Uribe administration should, therefore, aim at strengthening the judicial institutions, including the Attorney General's Office, guaranteeing their impartiality and reducing current high levels of impunity. Furthermore, it should judicially screen all paramilitary combatants in order to determine whether or to what degree they have violated international humanitarian law. Rigorous judicial screening should also help to identify common criminals and drug traffickers who might use DR to cleanse their records.

Following the judicial assessment and depending on findings in each case, the government should use regular penal justice as well as alternative justice. While punishment for lesser crimes could include sentencing paramilitaries to social reconstruction work such as mine clearing or manual coca eradication, war crimes and crimes against humanity must be punished according to international norms. The government should seek international expert advice on these questions of transitional justice.

The demobilisation and reintegration process has to respect the right to truth of victims and their relatives. It is crucial, therefore, that the

government establish an independent truth and reconciliation commission, charged with documenting and disseminating widely the abuses and violations committed by former paramilitary fighters. The government should further seek to compensate citizens for losses owing to paramilitary abuses and violence. It might do this through the creation of a special reparation fund for victims of illegal armed groups and the distribution of illegally acquired land, including of drug traffickers, among farmers forcibly displaced by paramilitary groups.

VII. CONCLUSION

Colombia is at a unique moment that, if used adequately by the Uribe administration, could result in decisive movement towards peace. The negotiations between the government and the AUC aim at eliminating, through demobilisation and reintegration into society, a major irregular armed actor. The process, which in the near future must encompass all paramilitary groups, has become possible because of an apparent coming together of government goals and those stated by the paramilitary groups, because of threats of extradition to satisfy U.S. criminal indictments, and also because government policy seems to be hitting the paramilitaries' illegal economic base.

A degree of trust in the government on the part of the paramilitaries also plays a role. Since the Uribe administration is making strong efforts to regain control over regions of the country where the state has been absent for decades and is fighting the insurgents, the paramilitaries have been losing their alleged *raison d'être*.

The Uribe administration's policy of eradicating illicit crops and destroying drug-trafficking networks is showing some results. The reduction of the overall size of the illegal drug business, as measured in the decline in cultivated areas and seizures of cocaine shipments, is hitting the paramilitaries and insurgents alike. Colombian-U.S. cooperation in combating drugs and the irregular armed groups is putting further pressure on them. In the case of the paramilitaries, this pressure has permitted – after seven months of exploratory talks – the opening of negotiations. In the case of the insurgents, who are increasingly isolated internationally and domestically and largely bereft of any ideological base, the pressure has so far not had the same effect. However, the open letter sent by the FARC High Command to UN Secretary General Kofi Annan two days after the Ralito accord was signed might indicate that the main insurgent organisation is reassessing its position vis-à-vis President Uribe's request for UN mediation.

If the Uribe administration is to take advantage of its opportunity with the paramilitaries, it will need to design and implement a DR strategy that is efficient, transparent and clear as to issues of transitional justice, truth and reparation for victims of paramilitary violence. By consolidating the legitimacy of the DR process with the paramilitaries, the government could open a similar window of opportunity for peace negotiations with the insurgents.

A crucial element here is that the Uribe administration remove the suspicion that the government-paramilitary relationship has been and remains less than fully confrontational and that the motives for the negotiation and the DR process have as much to do with "cleansing" the paramilitaries and their supporters and legitimising their power as with removing them from the armed conflict. Although the government says it has given "clear orders to punish any possible links between the self-defence forces and not only Public Force members but also any government functionaries whatsoever",¹⁷³ concrete measures seem slow in coming.

The international community and the UN should support Colombia decisively in both endeavours: demobilising the paramilitaries in a way that does not damage the rule of law, and engaging the insurgents in well-structured peace negotiations if they are ready to think about a ceasefire, stop killing and abducting Colombians, and disengage from drug trafficking. While there are serious difficulties and risks ahead, there is now a chance to take an important step along the road to peace.

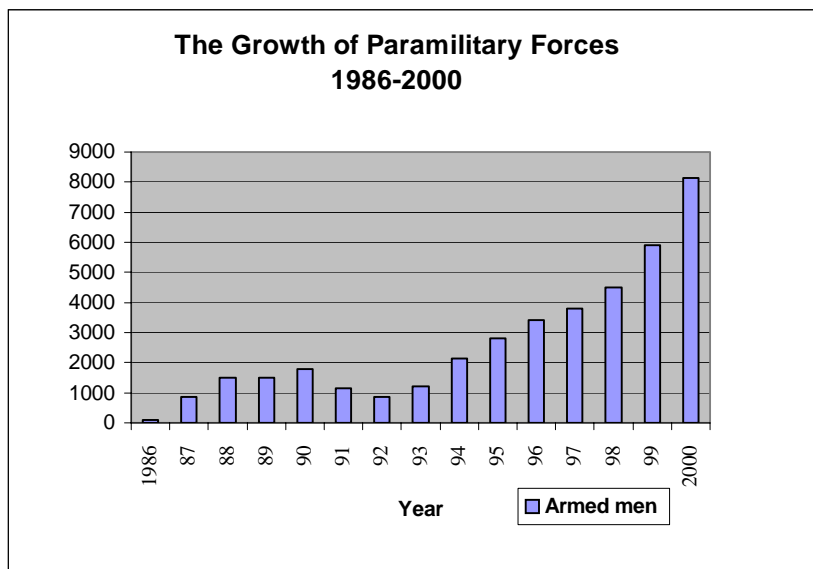
Bogotá/Brussels, 16 September 2003

¹⁷³ ICG correspondence with the Ministry of Defence of Colombia, September 2003.

APPENDIX B

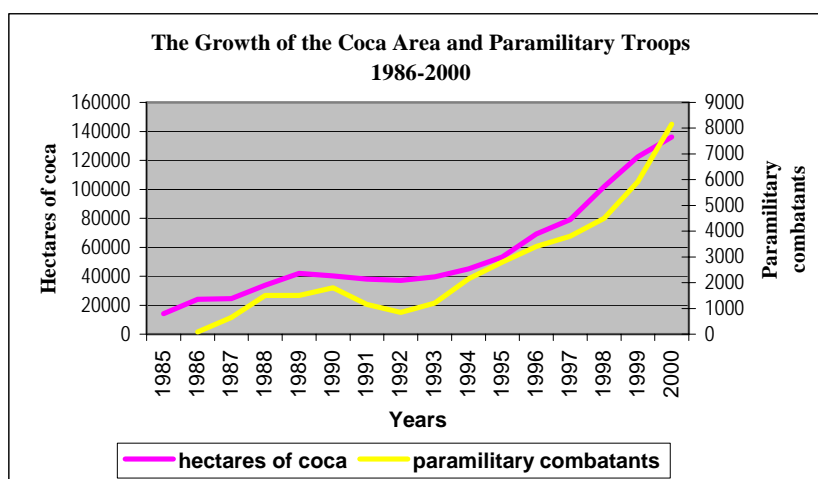
STATISTICS AND RELATED INFORMATION ON PARAMILITARIES

Figure 1



Sources: Ministerio de Defensa Nacional, *Los grupos ilegales de autodefensa en Colombia* (Bogotá, December 2000); Mauricio Romero, *Paramilitares y Autodefensas, 1982-2003* (Bogotá, 2003).

Figure 2



Source: Mauricio Romero, *Paramilitares y Autodefensas, 1982-2003* (Bogotá, 2003).

Table 1
Number of CONVIVIR by Department

1997

Santander	106
Cundinamarca	83
Antioquia	65
Boyacá	64
Córdoba	19
Caldas	12
Cesar	8
Meta	8
Otros	49
TOTAL	414

Source: Superintendencia de Vigilancia y Seguridad Privada, 1997

Table 2
Massacres Committed by the Paramilitary Groups

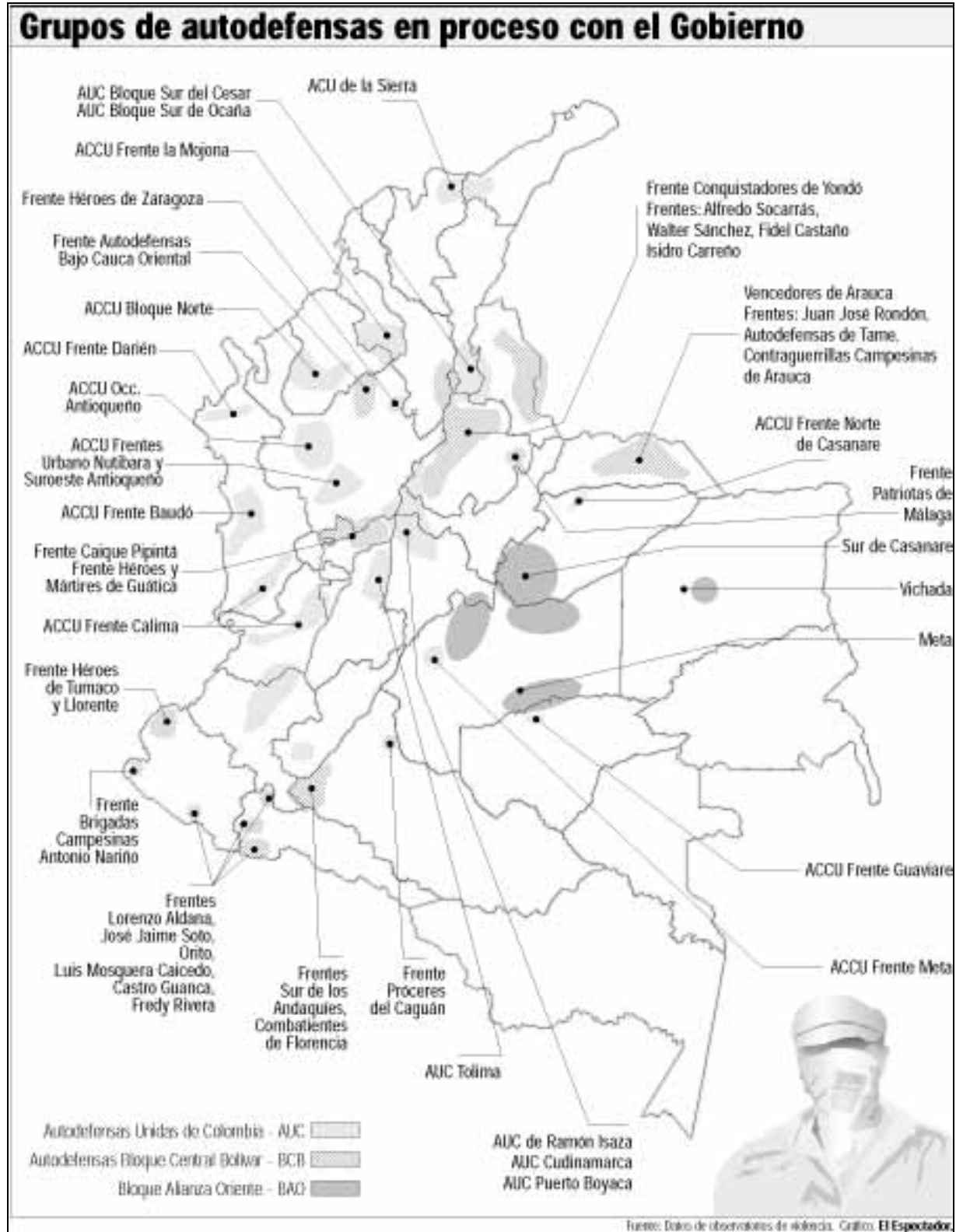
1997-2000

Year	Massacres	Víctims
1997	6	30
1998	16	111
1999	61	408
2000	83	593

Sources: Ministerio de Defensa, "Los grupos ilegales de autodefensa en Colombia", Bogotá, December 2000; Dirección de Policía Judicial e Investigación, DIJIN.

APPENDIX C

PARAMILITARY GROUPS ENGAGED IN TALKS WITH THE GOVERNMENT OF COLOMBIA



Source: *El Espectador*, Bogotá.

APPENDIX D

PARAMILITARY GROUPS THAT SIGNED THE RALITO ACCORD



Source: *El Espectador*, Bogotá.