

**CUTTING THE LINKS BETWEEN CRIME AND LOCAL POLITICS:  
COLOMBIA'S 2011 ELECTIONS**

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## **CUTTING THE LINKS BETWEEN CRIME AND LOCAL POLITICS: COLOMBIA'S 2011 ELECTIONS**

### **EXECUTIVE SUMMARY AND RECOMMENDATIONS**

Deeply entrenched connections between criminal and political actors are a major obstacle to conflict resolution in Colombia. Illegal armed groups seek to consolidate and expand their holds over local governments in the October 2011 governorship, mayoral, departmental assembly and municipal council elections. The national government appears more willing and better prepared than in the past to curb the influence of illegal actors on the elections, but the challenges remain huge. The high number of killed prospective candidates bodes ill for the campaign, suggesting that the decade-old trend of decreasing electoral violence could be reversed. There are substantial risks that a variety of additional means, including intimidation and illegal money, will be used to influence outcomes. The government must rigorously implement additional measures to protect candidates and shield the electoral process against criminal infiltration, corruption and fraud. Failure to mitigate these risks would mean in many places four more years of poor local governance, high levels of corruption and enduring violence.

Decentralisation in the 1980s and 1990s greatly increased the tasks and the resources of local government, but in many municipalities, capabilities failed to keep pace. This mismatch made local governments increasingly attractive targets for both guerrillas and paramilitaries. Violence against candidates, local office holders and political and social activists soared. With a largely hostile attitude to local governments, guerrillas have mainly concentrated on sabotaging and disturbing the electoral process. By contrast, paramilitary groups, particularly after the formation of a national structure under the United Self-Defence Forces of Colombia (AUC), used their links with economic and political elites to infiltrate local governments and capture public resources. That peaked in the 2003 local elections. Since then, and particularly after the official demobilisation of these groups in 2006, the influence politicians linked to paramilitaries enjoyed has weakened but not disappeared.

The October elections are the first test of how democratic institutions under the government of President Juan Manuel Santos cope with the growing power of new illegal armed groups and paramilitary successors (NIAGs),

now acknowledged as the country's biggest security threat. These organisations, which the government calls BACRIM (criminal gangs), are unlikely to have a unified stance towards the elections. Some will be content with minimal relations to local politics to guarantee their impunity, access to information and freedom of action. But NIAGs are rapidly evolving into larger, more robust criminal networks, so some could develop a more ambitious political agenda. Several advocates of land restitution for the victims of Colombia's long-running armed conflict already have been assassinated, suggesting that this major Santos initiative is likely to be met by alliances between criminals and some segments of local economic elites, in defence of the status quo. Meanwhile, frequent attacks against prospective candidates and civilians suggest that the weakened FARC wants to prove it is not a spent force.

Colombia is better prepared than in the past to take on these challenges. Impunity is decreasing, as judicial investigations into links between politicians and paramilitaries have resulted in the conviction of some two dozen members of Congress. Investigations and indictments are now moving down to the local government level, albeit slowly and unevenly. In July 2011, the government signed into law a far-ranging political reform, paving the way for the imposition of penalties on parties that endorse candidates with links to illegal armed groups or face investigation for drug trafficking and crimes against humanity. Election financing rules and anti-corruption norms have also been stiffened, although shortcomings in the legal framework remain.

Over the long term, these changes should favour more competitive and cleaner local elections, but in the short term, their impact will, for a number of reasons, be limited. The approval of the political reform law less than four months ahead of the elections has heightened uncertainty, and time is running short to apply some of the innovations. More broadly, political parties remain weak, and there are doubts whether they can even effectively determine their own nominees in all cases. Meaningful competition is unlikely to emerge in regions where the political and economic environment is heavily biased towards elites formerly linked

to paramilitaries. Clientelism continues to be a drag on local politics, while links between criminals and politicians are frequently difficult to expose because of deep-seated popular mistrust of unresponsive local authorities.

Guaranteeing the conditions for free, fair and competitive elections remains the dominant immediate challenge for the government. But more needs to be done to protect local government from the influence of illegal armed groups over the long term. The National Electoral Council (CNE) must be strengthened and become more independent. Congress needs to update and simplify Colombia's diverse electoral rules. Political parties must establish stronger internal structures and develop a culture of accountability. These changes will ultimately be insufficient, however, if local government continues to lack the institutional capacities to guarantee democratic, clean and efficient management of its affairs.

## **RECOMMENDATIONS**

*To provide the conditions for safe and secure local elections*

### **To the Government of Colombia:**

1. Review methods and criteria currently applied to identify security threats, link its risk assessments to those provided by civil society organisations and rigorously implement measures to provide security to candidates and political organisations, without discrimination.
2. React in a timely manner to all threats to candidates or social activists, as well as to early warning reports from the ombudsman office, and ensure that officials who fail to act comprehensively on threats or early warning reports face legal consequences.

*To reduce the influence of politicians linked to illegal armed actors*

### **To Political Parties:**

3. Screen prospective candidates rigorously before endorsing them and reject all with a questionable past, including those who are close relatives of politicians linked to paramilitaries or who are put forward by politicians linked to illegal armed actors.

*To prevent illicit campaign financing and electoral crimes and improve transparency*

### **To the National Electoral Council (CNE):**

4. Direct Sectional Electoral Guarantee Tribunals to make more active use of their competence to audit campaign accounts during the electoral process.

### **To Political Parties and Candidates:**

5. Voluntarily and publicly report campaign contributions and campaign spending well ahead of the elections.

### **To the Government of Colombia:**

6. Launch a campaign immediately to increase awareness among political organisations, candidates, contributors, media and civil society of campaign finance rules and the changes introduced in the 2011 political reform.
7. Provide additional resources to the National Civil Registry to ensure that the biometric voter identification system can be used in the 2011 elections, at least in the departments at highest risk of electoral fraud.
8. Improve, through the interior and justice ministry, public access to the records of the Immediate Reaction Unit for Electoral Transparency (URIEL), making it easier for the electorate to hold institutions accountable for follow-up on complaints.

### **To the Government and Congress of Colombia:**

9. Provide additional resources to the attorney general's office to ensure that a dedicated unit for electoral crimes becomes operational and produces concrete results as quickly as possible.

*To maintain a level playing field for all candidates*

### **To the Offices of the Attorney General, the Public Prosecutor and the Comptroller and to Courts:**

10. Prosecute and if applicable impose sanctions expeditiously against unlawful interventions of incumbents in the electoral campaign.
11. Monitor closely the execution of public reconstruction works following the heavy rainstorms and follow-up rigorously on accusations of misuse of those resources by local incumbents for political purposes.

*To guarantee that political rights of vulnerable populations are protected and promoted*

### **To the Government of Colombia:**

12. Communicate clearly ahead of the elections that access to state subsidies and support programs such as Families in Action is a right, not a political favour.

### **To the Government and Congress of Colombia:**

13. Introduce instruments and mechanisms that more effectively protect political rights of internally displaced persons (IDPs), including considering the possibility to grant them the opportunity to cast absentee ballots away

from their original residence, as well as introduction of seats reserved for them in local governments.

*To strengthen scrutiny and reporting of the electoral process and confidence in the results*

**To the Government of Colombia, the Office of the Attorney General and Electoral Institutions:**

14. React in a timely way to threats to journalists, not only by providing protection, but also by swiftly investigating the origin of threats and prosecuting those responsible for them.
15. Ensure that journalists and civil society organisations have equal and unhindered access to all official electoral information.
16. The government should invite the Organisation of American States (OAS) to send an electoral observer mission, equipped with an extensive mandate, so as to ensure international scrutiny, including during the pre-electoral and the post-electoral stages, focusing on:
  - a) departments and municipalities exposed to high risks of violence and/or electoral fraud; and
  - b) ballot counting, in particular if the procedural changes in the political reform law are implemented for the October elections.

**To Candidates and Campaign Officials:**

17. Pledge publicly to respect the work of journalists during the campaign and contribute to an informed electoral debate.

**Bogotá/Brussels, 25 July 2011**

## CUTTING THE LINKS BETWEEN CRIME AND LOCAL POLITICS: COLOMBIA'S 2011 ELECTIONS

### I. INTRODUCTION

Local government is one of the lesser-known victims of Colombia's decades-old internal armed conflict.<sup>1</sup> As Colombians head to the polls on 30 October 2011 to elect governors for the 32 departments and mayors in the 1,102 municipalities, as well as members of departmental assemblies, local councils and of Local Administration Boards (JAL), illegal armed groups and criminal actors will look to redefine their relationship to local politics.<sup>2</sup> Bullets and ballots have long coexisted in one of Latin America's most stable democracies, but the interference of criminal groups in local politics has become stronger as an unintended consequence of the extensive decentralisation process introduced in the 1980s and 1990s.<sup>3</sup>

Violence has been an important part of how armed actors have related to local governance, but their entry into political competition and the subsequent reproduction of criminal networks have been facilitated by weaknesses that have long marred the country's elections. Armed actors and their political allies have taken advantage of a legacy of strongly clientelistic political mobilisation to tap into practices of vote buying and other forms of corruption and electoral fraud. This in turn has contributed in many municipalities to a wider erosion of both legitimacy and legality, as well as to the emergence of a vicious cycle of institutional weakness, entrenched corruption, poor governance and persistence of violent conflict.

This report analyses the risks posed by criminal actors in the 2011 local elections and suggests measures to slow down the reproduction of this cycle. It focuses particularly on actions that can still be undertaken before the polls. It does not address in detail more structural issues, such as the often weak accountability for use of public resources and the lack of de facto independence of local judicial institutions, that continue to facilitate the criminal infiltration of local government. It is based on fieldwork in the departments of Norte de Santander and Nariño as well as in the Urabá region (departments of Antioquia, Chocó and Córdoba).<sup>4</sup>

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<sup>1</sup> For previous analysis of recent conflict dynamics in Colombia, see Crisis Group Latin America Report N°34, *Colombia: President Santos's Conflict Resolution Opportunity*, 13 October 2010.

<sup>2</sup> Mayors and governors are elected by a simple majority vote, while departmental deputies, local councillors and JAL members are elected via a proportional representation system that leaves parties the choice of presenting open or closed candidate lists; most parties opt for open lists. The JALs support mayors and local councils by exercising oversight over public services and investment projects, among other functions (see Article 318, 1991 Constitution of Colombia). The following analysis mainly concentrates on the municipal elections.

<sup>3</sup> For a more long-term view on relations between politics, parties and crime, see Francisco Gutiérrez Sanín, *¿Lo que el viento se llevó? Los partidos políticos y la democracia en Colombia (1958-2002)* (Bogotá, 2007), pp. 343-416.

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<sup>4</sup> Preliminary findings were shared and discussed with a number of experts in a focus group discussion in Bogotá on 11 May 2011.

## II. CRIME, CORRUPTION AND LOCAL POLITICS

### A. DECENTRALISATION AND CONFLICT

Decentralisation started in 1986 with the introduction of popular elections for mayors.<sup>5</sup> The 1991 constitution reinforced this by introducing the election of regional governments and mechanisms to foster direct citizen participation.<sup>6</sup> An accompanying fiscal and administrative reform completed Colombia's transition from a highly centralised state into one of Latin America's most decentralised.<sup>7</sup> The central government is responsible for collecting taxes and royalties but then transfers substantial portions of these revenues to departmental and municipal governments, which in turn are required to spend much of the money for specific policies, most notably health and education.<sup>8</sup>

The transition to decentralised governance had three unintended consequences. First, local governments became vastly more attractive economic targets for illegal actors. Total transfers to sub-national governments roughly trebled, from 1.9 per cent of GDP in 1982 to almost 6 per cent in 2002. Transfers to municipalities grew from 0.5 per cent to 3.1 per cent of GDP over the same period.<sup>9</sup> In response, both guerrillas and paramilitaries stepped up efforts to capture public rents in a bid to complement the income they derived from drug trafficking, kidnapping, extortion

and other sources. The battle to control these resources fuelled the confrontation between them. In key regions, the paramilitaries had won this struggle by the turn of the century. The impact was particularly strong on the National Liberation Army (ELN), the smaller of the two main insurgencies, which, because of its relatively lesser engagement in the drug business, was more dependent on captured public rents.<sup>10</sup>

Secondly, decentralisation facilitated alliances between politicians and particularly paramilitary organisations. Decentralisation was part of a wider political opening that also included peace negotiations with the Revolutionary Armed Forces of Colombia (FARC), the largest guerrilla group, during the Belisario Betancur administration (1982-1986). Some local political elites considered that broader access to political office and greater political competition were threats to their position and turned to paramilitaries for support.<sup>11</sup> Guerrillas did not forge alliances with local politicians, but they were also keen to consolidate territorial and political control over local governments.

Thirdly, corruption increased.<sup>12</sup> The mismatch between low institutional capacities and increased funds and competences paved the way for a systematic misuse of resources, most notably in smaller towns – the vast majority of Colombian municipalities.<sup>13</sup> The problem is particularly severe in municipalities that receive transfers of royalties from mining and oil operations, as most of these are in departments with high conflict dynamics and a strong presence of illegal armed actors.<sup>14</sup> The agents of corruption

<sup>5</sup> Colombia's transition towards decentralised governance was part of a wider trend in Latin America during the 1980s and 1990s; see Kathleen O'Neill, "Decentralization as an Electoral Strategy", *Comparative Political Studies*, vol. 36, no. 9 (2003); and Tim Campbell, *The Quiet Revolution* (Pittsburgh, 2003).

<sup>6</sup> These instruments include the referendum, the legislative initiative and the possibility to recall elected officials; see Alberto Maldonado C., "Evaluación de la descentralización municipal en Colombia", Departamento Nacional de Planeación, November 2001.

<sup>7</sup> In 2001, sub-national governments were allocated over 40 per cent of total government spending, compared with an average of 15 per cent in the rest of the region; see Alberto Alesina, Alberto Carrasquilla, Juan José Echavarría, "Decentralization in Colombia", in Alberto Alesina (ed.), *Institutional Reforms. The Case of Colombia* (Cambridge, Massachusetts 2005), p. 177.

<sup>8</sup> The main norms governing the decentralisation program are Articles 356 and 357 of the 1991 constitution and Law 60 of 1993, which develops the constitutional mandate. The management of royalties is regulated by Articles 360 and 361 of the constitution, Laws 141 of 1994 and 619 of 2000; for more details, see Alesina et al., "Decentralization in Colombia", op. cit., pp. 180-181; and Fabio Sánchez and Mario Chacón, "Conflicto, estado y descentralización: del progreso social a la disputa armada por el control local, 1974-2002", in Francisco Gutiérrez, María Emma Wills and Gonzalo Sánchez Gómez (eds.), *Nuestra guerra sin nombre* (Bogotá, 2006), pp. 369-372.

<sup>9</sup> Figures are from Sánchez and Chacón, "Conflicto, estado y descentralización", op. cit., p. 372.

<sup>10</sup> Ariel Fernando Ávila, "Injerencia política de los grupos armados ilegales", in Claudia López Hernández (ed.), *Y refundaron la patria...* (Bogotá, 2010), p. 204; see also Crisis Group Latin America Report N°11, *War and Drugs in Colombia*, 27 January 2005, pp. 17-19.

<sup>11</sup> See Mauricio Romero, *Paramilitares y autodefensas, 1982-2003* (Bogotá, 2003), pp. 79-80; and Claudia López Hernández, "La refundación de la patria", de la teoría a la evidencia", in *Y refundaron la patria...*, op. cit., p. 53.

<sup>12</sup> Crisis Group interview, political analyst, Bogotá, 15 March 2011; see also Alberto Maldonado Copello, "Corrupción y descentralización: la cosa no es tan sencilla", *Razón pública* (www.razonpublica.com), 11 April 2011.

<sup>13</sup> In 2010, over 65 per cent of the population lived in the 100 biggest municipalities. In turn, almost 80 per cent of municipalities had less than 30,000 inhabitants. In bigger municipalities, including the metropolitan areas of Bogotá, Medellín and Cali, institutions are generally stronger, although there are exceptions. Estimates based on *Proyecciones de población municipales por área, 2005-2020*, Departamento Administrativo Nacional de Estadísticas, Bogotá, www.dane.gov.co/files/investigaciones/poblacion/proyepobla06\_20/ProyeccionMunicipios2005\_2020.xls.

<sup>14</sup> According to Transparencia por Colombia, the local chapter of Transparency International, corruption risks in the eastern plains – the region comprising inter alia the top three royalty recipients, Casanare, Meta and Arauca – are higher than in the rest of

are not necessarily only armed illegal actors or their political allies, but the ensuing networks of corruption effectively facilitate the entry of illegal actors.

The impact of these developments on local democracy was devastating. Proponents of decentralisation had hoped that it would lead to a decrease in violence and to improved social services, such as education. While successful regarding the latter, however, it backfired regarding the former.<sup>15</sup> Reflecting the higher value of controlling local and regional governments, political and electoral violence soared. Between 1988 and 2001, 70 mayoral candidates were murdered, and over 90 candidates for local councils and fourteen for other elected offices were killed. In 1988, the first year of local elections, murders of local officials and political leaders surged from almost non-existent to around 180, highlighting the pressure not just on the electoral processes but also on the day-to-day management of local affairs.<sup>16</sup>

Since the mid-1990s, violence against local politicians has been flattening off, albeit slowly and unevenly. In 2010, twelve mayors and former mayors as well as four local councillors were killed, down from twelve mayors and 77 councillors in 2002.<sup>17</sup> Pre-electoral violence has, however, proven more difficult to reduce. Eight mayoral candidates and sixteen prospective local councilmen were killed during the 2007 campaign.<sup>18</sup> In contrast to the improvement of other key public security indicators under former President Álvaro Uribe (2002-2010), this was only a relatively modest decrease from the 2003 electoral season, during

which 29 candidates – thirteen for mayor, fifteen for local councils and one for governor – were killed.<sup>19</sup>

## B. THE PARAMILITARIES

For both paramilitaries and guerrillas, violence was an important but not the only mechanism to relate to local politics. Reflecting differences in attitudes towards public institutions and access to social, political as well as economic elites, they developed broadly different relations to local politics.

With the first mayoral elections, paramilitaries increased their dirty war against popular organisations, trade unions and human rights defenders.<sup>20</sup> Activists of the traditional Liberal and Conservative parties were also targeted, but the hardest hit was the Patriotic Union (UP), a left-wing party established in 1985 as a consequence of peace talks with FARC.<sup>21</sup> It celebrated some electoral successes early in the decentralisation process but was then subjected to ruthless, violent persecution until it faded into political irrelevance.<sup>22</sup> In this phase, violence against political leaders was most pronounced in Antioquia (in particular the Urabá region), Meta and the northern coastal departments.<sup>23</sup>

The paramilitary incidence in local politics peaked after the founding of the AUC, a nationwide umbrella organisation, in 1997. Amid revived peace talks with FARC during the Andrés Pastrana government (1998-2002), winning control over local government to defend the status quo became a strategic goal. Shortly ahead of the 2000 local elections, the leader of the AUC's Northern Bloc, Rodrigo Tovar Pupo (alias "Jorge 40"), convened several hundred politicians to determine candidates for local councils, mayor and the governor position in the coastal department of Magdalena.<sup>24</sup> In 2003, a combination of intimidation, violence

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Colombia, except for the Amazonas region. "Índice de Transparencia Departamental – Resultados de Gobernaciones, Alcaldías y Contralorías Territoriales 2008-2009", Transparencia por Colombia, n.d.

<sup>15</sup> For an analysis of the effects of decentralisation on education, see Jean-Paul Faguet and Fabio Sánchez, "Decentralization's Effects on Educational Outcomes in Bolivia and Colombia", *World Development*, vol. 36, no. 7 (2008).

<sup>16</sup> All numbers in this paragraph are taken from Sánchez and Chacón, "Conflicto, estado y descentralización", op. cit., pp. 374-376, based on data from the Human Rights Observatory of the Colombian vice-presidency. The increase in violence does not mean that decentralisation as such has been responsible for the intensification of violent conflict during the 1980s and 1990s. But decentralisation created incentives that both legal and illegal actors were quick to exploit. Crisis Group interviews, political analysts, Bogotá, 24 February, 22 March 2011.

<sup>17</sup> "Homicidios de alcaldes, ex-alcaldes y concejales por departamento y municipio, 1998-2011", dataset provided to Crisis Group by the Presidential Program on Human Rights and International Humanitarian Law, May 2011.

<sup>18</sup> "Indicadores sobre derechos humanos y DIH Colombia", Observatorio del Programa Presidencial de Derechos Humanos y DIH, 2007, p. 18.

<sup>19</sup> "Informe Anual de Derechos Humanos y DIH 2003", Programa Presidencial de Derechos Humanos y de DIH, 2003, p. 104.

<sup>20</sup> See Ávila, "Injerencia política de los grupos armados ilegales", op. cit., pp. 105, 118.

<sup>21</sup> See the statistics in Pilar Gaitán Pavía and Carlos Moreno Ospina, *Poder Local* (Bogotá, 1992), pp. 80-81. FARC helped establish the party in 1985, but it became increasingly independent from the guerrillas from the early 1990s on. Crisis Group Latin America Report N°30, *Ending Colombia's FARC Conflict: Dealing the Right Card*, 26 March 2009, p. 3.

<sup>22</sup> In 1988, the UP elected sixteen mayors and over 250 councillors. Ávila, "Injerencia política de los grupos armados ilegales", op. cit., p. 106. An estimated 3,000 UP activists and supporters were killed, including two presidential candidates. Crisis Group Report, *Ending Colombia's FARC Conflict*, op. cit., p. 3.

<sup>23</sup> See Ávila, "Injerencia política de los grupos armados ilegales", op. cit., p. 107.

<sup>24</sup> Thirteen candidates for mayor and 395 candidates for other positions subsequently signed the so-called Chivolo Pact. The candidate chosen on this occasion to run for the Magdalena governor



and strong social control permitted the paramilitaries to impose single candidates for governor in Magdalena and Cesar.<sup>25</sup> In other cases, paramilitaries gave money to specific candidates.<sup>26</sup> The mix of strategies and the depth of paramilitary infiltration remained uneven across the country, however, reflecting the degree of political ambition of different paramilitary fronts, economic interests and local conflict dynamics.<sup>27</sup>

Paramilitaries also pursued economic goals. Access to local government opened the door to a lucrative revenue stream that was used partly to strengthen the military apparatus and partly for personal enrichment. In June 2011, a Bogotá court sentenced six former mayors of Casanare department for having agreed with paramilitaries to trade electoral support against the award of 50 per cent of the municipal budget and 10 per cent of public contracts to the Autodefensas Campesinas de Casanare.<sup>28</sup> More broadly, paramilitaries were quick to take advantage of the opportunities opened by health reforms during the 1990s that gave a greater role to private service providers. These were, at least in some

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position, José Domingo Dávila, went on to win the election; in 2011, the Supreme Court sentenced him to a 90-month prison term for his paramilitary links. For details see: “Condenan a ex-gobernador José Domingo Dávila por ‘parapolítica’”, *Verdad Abierta* (www.verdadabierta.com), 23 February 2011; “Yo estuve en el pacto de Chivolo”, *Verdad Abierta*, 27 April 2009; and “José Domingo Dávila Armenta”, *Corte Suprema de Justicia*, Acta no. 060 de la Sala de Casación Penal, 23 February 2011. The other important accord between politicians and paramilitaries is the July 2001 Santa Fé de Ralito Pact, in which some 30 politicians from coastal departments and paramilitary leaders pledged to “re-found the fatherland” and “sign a new social contract”; for a contextual analysis see María Clara Torres Bustamante, “El contrato social de Ralito”, *Cien días*, no. 60 (April 2007).

<sup>25</sup> Hernando Molina Araújo, the winner of the unopposed Cesar elections, was sentenced in May 2010 to seven years and six months in prison for his links with alias “Jorge 40”. See: “Condenan por parapolítica a Hernando Molina, ex gobernador del Cesar”, *El Espectador*, 6 May 2010. Trino Luna, his Magdalena counterpart, was sentenced in 2007 to 44 months and fifteen days in prison for links with “Jorge 40” and Hernán Giraldo Serna, a leader of the paramilitary Resistance Tayrona Bloc. The 2003 elections also saw unopposed candidates for mayor’s offices in several municipalities in Magdalena.

<sup>26</sup> See the recent declarations before the Supreme Court of paramilitary leader Freddy Rendón Herrera, alias “El Alemán”, according to which the AUC’s Élmer Cárdenas Bloc supported candidates for governor and mayor with 50 million Colombian pesos each (some \$25,000). See “‘El Alemán’ reitera que financió campañas de excongresistas Torres y Sánchez”, *El Espectador*, 8 March 2011.

<sup>27</sup> See Rodrigo Losada, “Implicaciones electorales de la reinserción política de las autodefensas en Colombia”, *Papel Político*, vol. 11, no. 1 (2006).

<sup>28</sup> “Condenados seis ex alcaldes de Casanare”, *Verdad Abierta*, 21 June 2011.

regions, thoroughly penetrated by paramilitaries.<sup>29</sup> Central government transfers of mining and oil royalties were also highly vulnerable to capture.<sup>30</sup>

The 2003 elections probably marked the peak of direct paramilitary influence over local politics. According to estimates from the Colombian NGO Nuevo Arco Iris, paramilitaries had a hand in the election of no less than nine governors, 251 mayors and more than 4,000 councillors.<sup>31</sup> The picture started to change with the demobilisation of the AUC, officially completed in 2006, and the “parapolitics scandal” triggered by the first revelations in late 2006 of far-reaching links between politicians and paramilitaries.<sup>32</sup> However, the short-term impact of these developments was weak. Political networks at the local level remained largely intact, permitting politicians who had often risen to prominence only thanks to the backing of illegal armed actors to consolidate their positions.<sup>33</sup> Judicial investigations have only started to reduce their impunity.

The penetration of political parties was key to this development. Paramilitaries and politicians had seized the opportunity of a rapidly changing party system to take control over groups that were hardly more than short-term electoral vehicles that sought to capitalise on their alliance with the popular President Uribe. Parties like *Convergencia Ciudadana* and *Alas Equipo Colombia* became instrumental in filling the gap left by traditional parties, whose grip over local politics continued to weaken. In 2007, the Liberal and Conservative parties won only 206 and 240 mayoralties respectively, about half of what they had controlled in 1988. By contrast, *Alas Equipo Colombia* and *Convergencia Ciudadana* won 83 (up from 68 in 2003) and 72

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<sup>29</sup> Crisis Group interviews, political analysts, Bogotá, 24 February, 15 March 2011. See also Mauricio Romero, Ángela Olaya and Hernán Pedraza, “Privatización, paramilitares y políticos: El robo de los recursos de la salud en la costa Caribe”, in Mauricio Romero Vidal (ed.), *La economía de los paramilitares* (Bogotá, 2011), pp. 15-73.

<sup>30</sup> See Bernardo Pérez Salazar, “Historias de la captura de rentas públicas en los Llanos Orientales”, in *La economía de los paramilitares*, op. cit., pp. 75-147.

<sup>31</sup> Luis Eduardo Celis, “Las elecciones regionales de 2011 y la parapolítica”, *Caja de Herramientas*, 21 January 2011.

<sup>32</sup> Through the demobilisation process between 2003 and 2006, over 30,000 paramilitaries laid down arms; however, some paramilitary fronts did not demobilise, and some former combatants took up arms again later. For an analysis of the pitfalls of the demobilisation process, see Crisis Group Latin America Report N°8, *Demobilising the Paramilitaries in Colombia: An Achievable Goal?*, 5 August 2004; Crisis Group Latin America Report N°20, *Colombia’s New Armed Groups*, 10 May 2007; and Elvira María Restrepo and Bruce Bagley (eds.), *La Desmovilización de los Paramilitares en Colombia* (Bogotá, 2011).

<sup>33</sup> See López Hernández, “‘La refundación de la patria’, de la teoría a la evidencia”, op. cit., pp. 54-57.

(up from 21) mayoralties respectively.<sup>34</sup> Hence, even after AUC demobilisation, the influence of political forces with previous links to paramilitaries remained substantial.<sup>35</sup> Due to the paramilitary taint, these parties did not survive long, but the new National Integration Party (PIN) served as a haven for many controversial politicians in the 2010 legislative elections.<sup>36</sup>

### C. FARC AND ELN

Unlike the paramilitaries' strategy to strengthen links with local political and economic elites and to seek control over institutions, guerrillas have had, perhaps with the partial exception of the UP episode, a largely defensive and hostile relation to local government.<sup>37</sup> In the case of FARC, this is a consequence of a political project opposed to existing institutions and a result of the group's socially and economically relatively marginalised main constituencies.<sup>38</sup> FARC has instead resorted to a mix of strategies involving violent promotion of electoral abstention, sabotage of the electoral

process and promotion of alternative, citizen-based forms of political participation in areas under its control.<sup>39</sup>

Efforts to force electoral abstention and to sabotage the electoral process were most evident ahead of the 1997 local elections. Bolstered by an increase in its military capacity, FARC called for a complete shutdown of local government and a boycott of the polls. This triggered a surge of political violence that made the 1997 elections the bloodiest on record. At least 57 candidates were murdered, 100 kidnapped and a further 369 forced to withdraw their candidacies.<sup>40</sup> In the southern Putumayo department, on the border with Ecuador, where FARC had significant control over local coca growers, electoral participation plummeted by 70 per cent from the prior local elections.<sup>41</sup>

During peace talks with the Pastrana administration, FARC made a significant strategic turnaround that led to partial engagement in the 2000 elections, particularly in the demilitarised zone spanning parts of Meta and Caquetá, and a consequent strong reduction of electoral violence.<sup>42</sup> Yet, after the collapse of the peace talks, it reverted to using violence to promote electoral abstention, dissuade politicians from competing and sabotage the polling process. Even though the number of violent actions against politicians has been falling since 2003, FARC has been responsible for the bulk of electoral violence committed between 1997 and 2008.<sup>43</sup> The success of this strategy in electoral

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<sup>34</sup> All numbers from "Las recientes elecciones locales evidencian que el paramilitarismo está vivo en Colombia", Comisión Colombiana de Juristas, December 2007; and Fabio Velásquez, "Elecciones 2011: de dónde venimos y qué está en juego", *Razón pública*, 24 January 2011. Contrary to what happened in other Andean countries, Colombia's traditional parties have survived the dramatic changes of the party system during the 1990s and early 2000s and remain important political actors.

<sup>35</sup> Politicians with links to paramilitaries who were successful in the 2007 elections include Óscar López (elected Guaviare governor) and Justo Capera Caicedo (elected mayor of La Dorada, Caldas). In January 2011, the Supreme Court handed the former a 90-month prison sentence for his links to paramilitaries in the eastern plains. The latter was sent to prison for 90 months in 2010 for his links with the powerful AUC from Magdalena Medio. See "Condenan a Óscar López por 'parapolítica'", *Verdad Abierta*, 19 January 2011; and "Justo Capera, condenado a 90 meses de prisión", *La Patria*, 28 October 2010. Antioquia governor and ex-congressman, Luis Alfredo Ramos, is currently under investigation by the Supreme Court for presumed links to paramilitaries. See "Luis Alfredo Ramos investigado por parapolítica", *Verdad Abierta*, 2 February 2011.

<sup>36</sup> The PIN is the successor organisation of *Convergencia Ciudadana*. See María Jimena Duzán, "El ADN del PIN", *Semana*, 9 January 2010; "El fenómeno del PIN", *Semana*, 6 February 2010; and León Valencia and Oscar Sevillano, "De Convergencia al PIN", *Congreso Visible* ([www.congresovisible.org](http://www.congresovisible.org)), 21 May 2010. Paramilitary links thus persisted in the 2010 elections. Reportedly, 47 members of the Congress elected in 2010 face investigation for links to paramilitaries or could be potentially linked to them. "Congresistas, elegidos para el período 2010-2014, cuestionados por parapolítica", *Verdad Abierta* based on data from *Corporación Nuevo Arco Iris*, February 2011.

<sup>37</sup> Crisis Group interview, political analyst, Bogotá, 24 February 2011.

<sup>38</sup> Ávila, "Injerencia política de los grupos armados ilegales", op. cit., p. 168.

<sup>39</sup> See Ávila, "Injerencia política de los grupos armados ilegales", op. cit., pp. 181-182.

<sup>40</sup> See Sánchez and Chacón, "Conflicto, estado y descentralización", op. cit., p. 374, based on data from the vice presidency. The exact magnitude of electoral violence remains unclear. Police data for the same elections record 165 homicides, 431 kidnappings and 153 attacks (cited in Ávila, "Injerencia política de los grupos armados ilegales", op. cit., p. 180).

<sup>41</sup> María Clemencia Ramírez, Ingrid Bolívar, Juliana Iglesias, María Clara Torres, Teófilo Vásquez, *Elecciones, coca, conflicto y partidos políticos en Putumayo 1980-2007* (Bogotá, 2010), p. 35.

<sup>42</sup> Only candidates without affiliation to the traditional parties who had received the prior backing of "democratic assemblies" were allowed to compete, and candidates were required to subject themselves to "constant accountability"; see Rodrigo Losada Lora, "Violencia y elecciones en Colombia: año 2000", in Fernando Giraldo, Rodrigo Losada Lora and Patricia Muñoz (eds.), *Colombia: elecciones 2000* (Bogotá, 2000), p. 29. According to police data, the number of violent actions by FARC fell from 505 recorded in 1997 to 71 in 2000; see López Hernández, "La refundación de la patria", de la teoría a la evidencia", op. cit., p. 34.

<sup>43</sup> FARC was responsible for 55 per cent of total violence against politicians between 1997 and 2008, compared to just 7 per cent for the AUC (until 2006). Over 40 per cent of the FARC's electoral violence was committed in a single year, 1997. Levels of violence have tended to be higher in local than national elections, reflecting the higher interest of armed actors in them. See police data cited in López Hernández, "La refundación de la patria", de la teoría a la evidencia", op. cit., p. 34.

terms is hard to evaluate. But there is evidence that even in places where FARC had high levels of social and territorial control, it often failed to produce consistent results.<sup>44</sup>

Despite its overall anti-institutional bent, FARC has not shied from capturing public rents, including royalties. But unlike the paramilitaries' infiltration strategy, the insurgents used armed pressure and oversight to demand the execution of specific public works investment projects or direct payments as "war taxes". This was often convenient for the group's mobilisation purposes, but the allegedly community driven intervention in public policies was also part of an effort to maintain or reconstruct flagging popular support. By contrast, captured royalty payments were mainly used to finance the military machine.<sup>45</sup>

The ELN had a different posture toward political institutions, partly reflecting its social origins in urban academic circles and its links to leftist Catholic sectors of the so-called Liberation Theology.<sup>46</sup> With its comparatively solid social base in strongholds such as Bolívar, Cesar, Arauca and Antioquia, it engaged in the 1988 elections by promoting sympathetic candidates, while attempting to exercise armed oversight of local governance.<sup>47</sup> However, battered by the paramilitary expansion since the late 1990s into territories it had dominated, a bloody war with FARC and the concomitant violent attenuation of its social base, it was increasingly weakened.<sup>48</sup> It nevertheless maintains considerable influence in Arauca.<sup>49</sup>

### III. THE 2011 ELECTIONS: A NEW SCENARIO

Relations between politicians and illegal armed actors have been driven by opportunity, strategy and military capacity. Since the 2007 elections, the circumstances under which politicians choose to link up with criminals have changed. Investigations have reduced the previously generalised impunity, although substantial problems remain. Efforts for political reform have often been fraught with difficulties, but a 2011 reform improved rules for candidate selection, campaign financing and combating electoral fraud. At the same time, NIAGs have become the dominant security threats, and the modernising agenda of the Santos administration has spurred tensions between the national and local political levels.

#### A. IMPROVED PROSECUTIONS

Links between politicians and illegal armed groups thrived upon impunity, but there are clear signs that prosecutorial institutions no longer look the other way, at least at the national level. By February 2011, 121 members of Congress elected in 1998, 2002 and 2006 had come under investigation for alleged links to paramilitaries, 25 of whom have been sentenced.<sup>50</sup> In addition, some 27 politicians and other public officials faced prosecution for alleged links to FARC by 2009.<sup>51</sup> These investigations are slowly trickling down to the local arena. By February 2011, at least 103 acting and former local officials elected between 1997 and 2010 had come under investigation for alleged links to paramilitaries, including twenty acting and former departmental governors, seven of whom were found guilty of such connections.<sup>52</sup> In March 2011, a further thirteen local

<sup>44</sup> For instance, in the 2000 local elections, FARC was not always able to prevent the victory of candidates of traditional parties in the demilitarised zone. See Losada Lora, "Violencia y elecciones en Colombia", op. cit.

<sup>45</sup> See Ávila, "Injerencia política de los grupos armados ilegales", op. cit., pp. 181-182.

<sup>46</sup> Crisis Group Latin America Report N°2, "Colombia: The Prospects for Peace with the ELN", 4 October 2002, pp. 5-7. See also Mario Aguilera Peña, "ELN: entre las armas y la política", in *Nuestra guerra sin nombre*, op. cit., pp. 211-266.

<sup>47</sup> Ávila, "Injerencia política de los grupos armados ilegales", op. cit., p. 204.

<sup>48</sup> Crisis Group Latin America Briefing N°16, "Colombia: Moving Forward with the ELN", 11 October 2007.

<sup>49</sup> Ávila, "Injerencia política de los grupos armados ilegales", op. cit., p. 211; Ariel Fernando Ávila Martínez y Magda Paula Núñez Gantiva, "Las dinámicas territoriales del Ejército de Liberación Nacional: Arauca, Cauca y Nariño", Corporación Nuevo Arco Iris, April 2010.

<sup>50</sup> Based on data on from NGO Corporación Nuevo Arco Iris published in [www.verdadabierta.com/reconstruyendo/1856-estadisticas](http://www.verdadabierta.com/reconstruyendo/1856-estadisticas).

<sup>51</sup> Figures taken from López Hernández, "La refundación de la patria", de la teoría a la evidencia", op. cit., p. 35. Former President Uribe has alleged that the substantially lower number of politicians under investigations for presumed guerrilla links reflects a bias in prosecutorial and judicial institutions. See, for instance, "¿Qué pasa con la farcpolítica?", *Semana*, 21 May 2011. More likely, this difference reflects the different ways in which AUC and guerrillas have related to politics.

<sup>52</sup> Based on data from Corporación Nuevo Arco Iris. These include the already mentioned cases of former Magdalena Governors Trino Luna and José Domingo Dávila, former Guaviare Governor Óscar López and former Cesar Governor Hernando Molina. Former Sucre Governors Salvador Arana Sus (2000-2003 term) and Jorge Anaya (2004-2007 term) serve prison sentences of 40 years and 90 months, respectively. See "Corte Suprema condena a 40 años a Salvador Arana", *Verdad Abierta*, 3 December 2009; and "Corte condena al ex gobernador de Sucre Jorge Anaya", *Verdad Abierta*, 11 September 2009. In 2007, the Supreme Court sentenced former Meta Governor Edilberto

politicians from the Urabá region were added to the growing list of regional “parapolitics” suspects.<sup>53</sup>

Even though the roster of regional “parapolitics” cases is not complete, these investigations only touch the tip of the iceberg.<sup>54</sup> By 2010, prosecutors dealing with demobilised paramilitary leaders under the 2005 Justice and Peace law (JPL) had passed to competent authorities evidence for the possible involvement of 24 governors, 225 mayors, eleven members of departmental assemblies and 55 local councillors.<sup>55</sup> Moreover, progress in uncovering links between local politicians and armed actors is notoriously uneven. While investigations have been developed in nineteen departments, just three of them – Sucre, Magdalena and Casanare – together account for over 50 per cent of the cases. This reflects the substantial paramilitary penetration in these regions, but some departments, including Nariño and Norte de Santander, are clearly lagging behind, with zero and one local investigations respectively.<sup>56</sup>

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Castro Rincón (2004–2007 term) to 40 years in prison for the murder of three political leaders by the paramilitaries. “La autoría intelectual de tres homicidios por parte del ex gobernador del Meta oculta un novelesco relato”, *Semana*, 9 November 2007.

<sup>53</sup> They are facing accusations of links to Freddy Rendón Herrera alias “El Alemán”, the leader of the Elmer Cárdenas bloc of the AUC. See “Acusan 13 dirigentes del Urabá por parapolítica”, *El Espectador*, 14 March 2011; see also “Parapolítica en Urabá se mueve”, *El Espectador*, 31 March 2010. In May, eight local politicians and local government officials, including former San Juan de Urabá Mayor Náscar Pájaro Torres (2004–2007 term), accepted “parapolitics” charges, and were sentenced to 45 months in prison. “Condenados por nexos con grupo de alias El Alemán”, Fiscalía General de la Nación, 12 May 2011. As a core area of the paramilitary movement, Urabá has been one of the most deeply penetrated and co-opted regions. Crisis Group interview, Medellín, 29 March 2011.

<sup>54</sup> Not included in the list are cases in the department of Caldas that include at least César Alzate (mayor of La Dorada, 2001–2003 term), Jaime Gutiérrez Ángel (mayor of La Dorada, 2004–2007 term), Celio Aristizábal Mejía (mayor of Manzanares, 2004–2007 term) and Orlando Ríos Galvis (mayor of Pácora, 2004–2007 term); in May 2011, police detained Óscar Diego Trujillo Sánchez, a former mayor of Aguadas (2004–2007 term). For these cases, see “Capturan a ex alcalde de Aguadas por presuntos nexos con paramilitares”, *Portafolio* ([www.portafolio.co](http://www.portafolio.co)), 18 May 2011; and “Parapolítica enreda a un ex alcalde de Aguadas”, *La Patria*, 19 May 2011.

<sup>55</sup> Figures from the attorney general’s office cited in “5 años de Ley de Justicia y Paz”, Ministerio del Interior y de Justicia, 2010, p. 15. The JPL offered reduced sentences to some 4,000 demobilised paramilitaries who committed crimes against humanity in return for full confessions and collaboration in the reparation of victims; see Crisis Group Latin America Report N°30, *Correcting Course: Victims and the Justice and Peace Law in Colombia*, 30 October 2008.

<sup>56</sup> In Norte de Santander, former Cúcuta Mayor Ramiro Suárez (2004–2007 term) was accused of links to the paramilitaries, but

The uneven pace of cleansing local politics is directly linked to wider problems of the demobilisation process. Declarations of former paramilitaries under the JPL advance only slowly and are, in some places, undermined by former combatants dropping out of the process and continuing to engage in illegal activities.<sup>57</sup> Civil society observers in places such as Nariño and Norte de Santander attribute the low effectiveness of local investigations in their regions to the continuing capacity of politicians and criminals to stymie the procedures.<sup>58</sup>

More broadly, weak local institutions are an important obstacle to local and regional “parapolitics” investigations. While governors are investigated by the attorney general’s office and are being tried before the Supreme Court of Justice, local institutions often lack the necessary independence to advance cases. The careers of local judges are often dependent on good relations with politicians.<sup>59</sup> Local *personeros* often lack the necessary independence from politics and are also vulnerable to threats and violence.<sup>60</sup> Low confidence in local institutions and in the prospect that complaints would prosper, as well as the potential for serious retribution, thus fuel a vicious circle that deters citizens from denouncing the often locally well-known links between armed actors and politicians.

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a Bogotá court cleared him of the charges in 2009. In Nariño, Rodolfo Useda alias “Julio Castaño”, a commander of the AUC’s Libertadores del Sur Bloc (BLS), suggested in 2011 that paramilitaries had an extended network of political contacts. See “La parapolítica hará ‘temblar’ a Nariño”, *Diario del Sur*, 15 February 2011.

<sup>57</sup> For instance, only four of the 23 paramilitaries demobilised under JPL in Caquetá had made declarations by mid-2009. See “¿Se destapa la parapolítica en Caquetá?”, *Verdad Abierta*, 17 June 2009.

<sup>58</sup> Crisis Group interviews, political analyst, Cúcuta, 7 March 2011; ombudsman’s office, Cúcuta, 9 March; local journalists, Pasto, 10 March; international organisation, Pasto, 11 March.

<sup>59</sup> Crisis Group interviews, electoral expert, international organisation, Bogotá, 28 April 2011. Cases are, therefore, sometimes removed from local jurisdiction. An example is the 2008 trial of former Aguazul (Casanare) Mayor José Mauricio Jiménez, which the Supreme Court moved to Bogotá. In its decision, the court said that a trial in the local jurisdiction would jeopardise “judicial impartiality and independence”, given the “intimidating and corrupting power” of paramilitaries. Corte Suprema de Justicia, Cambio de radicación 30766, 2 December 2008. Jiménez was sentenced to 29 years in prison in 2011. “Ex alcalde de Aguazul, Casanare, sentenciado a 29 años de cárcel”, *Verdad Abierta*, 1 February 2011.

<sup>60</sup> Crisis Group interviews, local journalists, Pasto, 10 March; electoral expert, Bogotá, 28 April 2011. The *personero* is broadly tasked with guarding social order at the local level, including the defence of human and political rights. The *personeros* are part of the public ministry alongside the offices of the ombudsman and the public prosecutor, who heads the ministry.

## B. STRONGER RULES

A mere three and half months ahead of the elections, on 14 July 2011, President Juan Manuel Santos signed into law a political reform that provides for substantial changes in electoral rules.<sup>61</sup> The Statutory Law (LE), which develops a 2009 constitutional reform, paves the way for the introduction of robust penalties on political parties whose candidates have links to illegal actors.<sup>62</sup> It stipulates that parties or political movements that endorse politicians with connections to illegal armed groups may be forced to pay back public money received for campaign financing or could even lose their legal status.<sup>63</sup> These sanctions also apply if parties endorse politicians who have been sentenced for drug trafficking, electoral offenses and/or crimes against humanity. Moreover, parties are not to be allowed to replace candidates facing proceedings for those crimes.<sup>64</sup> The LE likewise sets out a range of sanctions for party directors who fail to exercise due diligence, for example when en-

dorsing candidates who turn out to have ties to armed illegal groups.<sup>65</sup>

The reform also makes strides in reducing the importance of private funding for campaigns. Under the new rules, parties can claim an advance corresponding to up to 80 per cent of the public campaign funding they received in the previous electoral contest, an option that was formerly only available in presidential elections.<sup>66</sup> Individuals are prohibited from contributing more than 10 per cent of the total allowed campaign costs. However, financing from own resources is exempt from this limitation.<sup>67</sup> The measure also requires that larger electoral campaigns move money through a single bank account and under the responsibility of a specifically designated campaign manager.<sup>68</sup> In an effort to reduce spiralling campaign spending, political advertising in the media will not be allowed until two months prior to election day.<sup>69</sup>

The reform also contains two operational changes that are aimed at making electoral fraud more difficult. First, it calls for the nationwide use of biometric voter identification, from information stored on ID cards.<sup>70</sup> The system, which has already been used in several by-elections over the last two years, would make abuse of ID cards in elections – one of the most frequent electoral frauds – much harder.<sup>71</sup> Secondly, vote counting is to begin directly after the poll-

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<sup>61</sup> The measure has been published as Ley Estatutaria 1475 de 2011 (LE) por la cual se adoptan reglas de organización y funcionamiento de los partidos y movimientos políticos, de los procesos electorales y se dictan otras disposiciones, Diario Oficial 48130 of 14 July 2011. Congress approved the measure in December 2010, but the Constitutional Court completed its obligatory review only in June 2011. See “Sentencia C-490/11, Revisión de constitucionalidad del Proyecto de Ley Estatutaria No. 190/10 Senado – 092/10 Cámara”, Corte Constitucional, 23 June 2011. While the court declared the law constitutional, it did strike down a number of articles or parts of articles, including a highly controversial provision that would have excluded several million voters from the electoral roll. The change of electoral rules so close to the elections is, of course, far from ideal, as it increases uncertainty and imposes great time pressure to implement the changes (see “Incertidumbre sobre las reglas del juego”, Misión de observación electoral, 12 July 2011). International practice suggests that changes to electoral rules should be ready for implementation at least one year ahead of the next elections.

<sup>62</sup> The constitutional changes are contained in Acto Legislativo 1 de 2009 (AL 1/2009), published in Diario Oficial 47410 of 14 July 2009. For more detailed analysis of the political reform see “I. ¿Quién responde? Las sanciones a las organizaciones políticas y a sus directivos”, Konrad Adenauer Stiftung, November 2010; “II. El financiamiento de la política en Colombia”, Konrad Adenauer Stiftung, November 2010; and “Partidos políticos y elecciones 2011”, Programa de Naciones Unidas para el Desarrollo, 2011. Among other changes, Article 28 of LE requires that parties reserve at least 30 per cent of list places for women, if lists have five or more candidates. Given low female participation rates, most parties will struggle to meet this requirement. “Reforma política y participación femenina en elecciones”, *Boletín Congreso Visible*, no. 20 (May 2011), pp. 6-13. If parties fail to comply with the new rules, their lists could be declared invalid.

<sup>63</sup> See AL 1/2009, Article 1 changing Article 107 of the constitution and LE, Article 12.

<sup>64</sup> This provision is known as “the empty seat”. See AL 1/2009, Article 6 reforming Article 134 of the constitution.

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<sup>65</sup> LE, Articles 10 and 11.

<sup>66</sup> See AL 1/2009, article 3 reforming article 109 of the constitution and LE, Article 22. Colombia has a mixed system of campaign financing under which both the state and the private sector contribute to the costs. The state reimburses parties a portion of campaign costs. The amount is proportional to the number of votes obtained by the party. In addition, the CNE also sets a limit for campaign spending; the limits for 2011 have been published in CNE Resolutions 078 and 079 of 2011. For details on the political finance system, see also Carlos Ariel Sánchez Torres, *Derecho e instituciones electorales en Colombia* (Bogotá, 2006), pp. 323-383. Parties are required to submit campaign accounts to the CNE after the elections. Following an audit, the accounts are published in a newspaper with nationwide circulation; for details on transparency and accountability rules, see “Financiamiento Electoral en Colombia”, Misión de Observación Electoral, 2010.

<sup>67</sup> LE, Article 23. Civil society organisations proposed to include a requirement for candidates to publicly declare their assets, but this recommendation was not included in the definitive version of the article. “II. El financiamiento de la política en Colombia”, op. cit., pp. 28-29.

<sup>68</sup> LE, Article 25.

<sup>69</sup> *Ibid*, Article 35; see also Juan Fernando Cristo Bustos, “La nueva reforma política”, *La Opinión*, 10 December 2010.

<sup>70</sup> See LE, Article 39. The reform also calls for the introduction of an electronic voting system for the 2014 congressional and presidential elections. See “Registrador y Gobierno admiten que sólo habrá voto electrónico hasta el 2014”, RCN Radio, 16 February 2011.

<sup>71</sup> Crisis Group interview, National Civil Registry, Bogotá, 9 June 2011.

ing stations close on election day.<sup>72</sup> Under previous rules, the final and decisive count only began two days after the elections, a delay that heightened uncertainty over outcomes and opened the door for fraud.

Moreover, the measure also tries to break up corrupt networks of local politicians and private businesses. The LE outlaws anonymous campaign contributions, bans gambling companies from financing campaigns and forbids contributions from companies or individuals more than 50 per cent of whose income is derived from public contracts.<sup>73</sup> A new anti-corruption statute enacted in July 2011 complements this provision by making persons who have given contributions accounting for more than 2.5 per cent of the maximum campaign costs set by the CNE ineligible for public contracts.<sup>74</sup> Under the statute, companies in the health sector will also be barred from making financial contributions to electoral campaigns.<sup>75</sup> This comes against the background of increasing evidence of how paramilitaries captured health resources as well as of a major scandal involving investigation of several health insurers for alleged corruption.<sup>76</sup>

### C. THE RISE OF NEW ILLEGAL ARMED GROUPS

With the guerrillas locked in a lengthy decline, new illegal armed groups and paramilitary successors (NIAGs) have over the last years emerged as the dominant public security threat.<sup>77</sup> According to a local NGO, Conflict Analysis Resource Center (CERAC), the new groups have since 2006 consistently been responsible for more unilateral violent actions than FARC and ELN combined.<sup>78</sup> After the previous administration had downplayed the problem, the Santos government has acknowledged the serious risks posed by what it calls criminal gangs (BACRIM).<sup>79</sup> In February 2011, the government launched a crackdown

under its new D-6 strategy.<sup>80</sup> It also deployed additional security forces to battle NIAGs in Córdoba department and in the Pacific coastal regions of Cauca, Nariño and Valle departments, in January and May 2011 respectively. A new national security plan presented in May 2011 lists the BACRIM as the biggest threat to security after the guerrillas.<sup>81</sup>

There are no reliable, methodologically robust data on NIAG strength and operations. Estimates from the government and from civil society organisations present irreconcilable differences. The government recognises seven gangs, compared to the fifteen registered by the Institute for Peace and Development Studies (Indepaz), a local NGO.<sup>82</sup> According to the police, the seven muster some 2,800 combatants, a number that rises to around 4,100 members if support networks are included. However, independent analysts calculate the number of combatants to be substantially higher, with estimates ranging between 7,100 and 8,200, if support networks are included. Differences on territorial presence are even more pronounced. While the police believe gangs operate in 151 municipalities (down from 159 in 2010) in seventeen departments, Indepaz has identified 360 municipalities in 32 departments with NIAG presence, up from 278 municipalities in 30 departments in 2009.<sup>83</sup>

<sup>72</sup> See LE, Article 41.

<sup>73</sup> Ibid, Article 27.

<sup>74</sup> See Law 1474 of 2011, Article 2. See also "El decálogo de la corrupción que ataca el estatuto", La Silla Vacía (www.lasillavacia.com), 2 June 2011.

<sup>75</sup> "Congreso prohibió a las IPS y EPS financiar campañas políticas", Caracol Radio, 4 May 2011.

<sup>76</sup> "Allanan sedes de firmas de salud colombianas en investigación por corrupción", EFE news agency, 24 May 2011.

<sup>77</sup> See Crisis Group Report, *President Santos's Conflict Resolution Opportunity*, op. cit.; and Crisis Group Latin America Briefing N°23, *Improving Security Policy in Colombia*, 29 June 2010.

<sup>78</sup> Jorge A. Restrepo, Juan David González and Alonso Tobón, "Paramilitarismo: la amenaza sigue viva", Razón pública, 7 March 2011.

<sup>79</sup> The BACRIM denomination is controversial, as it suggests the groups are above all characterised by their ordinary criminal activity; alternative names such as neo- or narco-paramilitaries, by contrast, stress the links with the officially demobilised paramilitary groups.

<sup>80</sup> D-6 stands for the six lines of actions against the NIAGs. These include dismantling structures and support networks as well as the set up of special units within the armed forces and the police; see "Gobierno traza seis líneas de acción contra las bandas criminales", *El Tiempo*, 7 February 2011.

<sup>81</sup> The plan describes BACRIM as "nationally disjointed criminal structures, with high corrupting, intimidating and armed power that have combined the production and sale of drugs with the violent infringement of civil rights and liberties in certain rural zones and the periphery of some urban centres". See "Política integral de seguridad y defensa para la prosperidad", Ministerio de Defensa Nacional, May 2011, p. 17.

<sup>82</sup> The groups are the Rastrojos, the Urabeños, the Anti-Terrorist Popular Revolutionary Army of Colombia (ERPAC), the Machos, the Paisas, Renacer and the Alta Guajira. "Bandas criminales narcotraficantes 2011", Policía Nacional, Dirección de Carabineros y Seguridad Rural, presentation, 7 February 2011. The status of the Águilas Negras remains unclear. This group is not recognised by the police, but people in the field refer to it as an actor. Crisis Group interviews, international humanitarian organisation, Cúcuta, 8 March 2011; ombudsman's office, Pasto, 10 March 2011. Indepaz includes the Águilas Negras and the Oficina de Envigado, a group formerly led by extradited drug trafficker and paramilitary leader alias "Don Berna". See "V Informe sobre narcoparamilitares en 2010", Instituto de Estudios para el Desarrollo y la Paz, March 2011. NIAGs have fluid identities, making it often difficult to identify them. Crisis Group interview, international humanitarian organisation, Cúcuta, 8 March 2011.

<sup>83</sup> "Bandas criminales narcotraficantes 2011", op. cit. The alternative estimates come from "V Informe sobre narcoparamilitares

Reflecting their involvement in the drug-economy, NIAGs tend to be concentrated in drug-producing regions and along the strategic zones for trafficking: the eastern plains, largely dominated by ERPAC; the Pacific coast, including Nariño and Valle del Cauca, the homeland of the Rastrojos; and the Atlantic coast, Bajo Cauca Antioqueño, Córdoba, and northern parts of Cesar and Magdalena, the latter three territories of which are more contested among the gangs.<sup>84</sup> They are also engaged in a range of other illegal activities, including prostitution, extortion of businesses and gambling.<sup>85</sup> The new groups share with the guerrillas an interest in controlling both legal and illegal mining projects in departments such as Antioquia, Nariño and Norte de Santander.<sup>86</sup>

But at least some NIAGs are more than just criminal gangs. They have often emerged in territories formerly controlled by the AUC,<sup>87</sup> and there are substantial links in their membership and practices with former paramilitaries. Local populations recognise many NIAG combatants as rank and file members of old paramilitary gangs who often were left out of the demobilisation talks, abandoned the process or never demobilised.<sup>88</sup> NIAGs have also heavily recruited among mid-level paramilitary commanders and drug-trafficking gangs. A prominent example is Pedro Oliveiro Guerrero (alias "Cuchillo"), who founded ERPAC after his notional demobilisation from the AUC's Centauros Bloc,<sup>89</sup> both the Rastrojos and the Machos have their origins in rival factions of the Norte del Valle Cartel

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en 2010", op. cit. The upper limit of Indepaz's membership estimates is 14,200 members, more than three times the maximum government number.

<sup>84</sup> "Bandas criminales narcotraficantes 2011", op. cit.; and Crisis Group interview, political analyst, Bogotá, 15 March 2011.

<sup>85</sup> Diego Quiroga, "¿Que tan nuevas son las bandas criminales?", *Cien días*, no. 72 (April-July 2011), p. 5.

<sup>86</sup> Crisis Group interviews, political analyst, Bogotá, 17 February 2011; electoral expert, 28 April 2011; public prosecutor's office, Bogotá, 3 June 2011. See also "In Colombia, New Gold Rush Fuels Old Conflict", *The New York Times*, 3 March 2011.

<sup>87</sup> One of the clearest examples of this dynamic is the now defunct Organización Nueva Generación, which emerged in Nariño almost directly after the July 2005 demobilisation of the BLS with a high continuity of staff from the Brigadas Campesinas Antonio Nariño, one of the three BLS fronts. Crisis Group interview, international organisation, Pasto, 11 March 2011; and Crisis Group Report, *Colombia's New Armed Groups*, op. cit., pp. 11-14.

<sup>88</sup> Crisis Group interviews, community leaders, Antioquia, April 2011.

<sup>89</sup> In the 1980s, alias "Cuchillo" worked for Gonzalo Rodríguez Gacha (alias "El Mexicano"), a drug trafficker and a driving force during the foundation of the first paramilitary groups. In 2001, he was behind the murder of Miguel Arroyave, the head of the AUC's Centauros Bloc, in an effort to grab control over the drug trafficking routes in the eastern plains. Cuchillo was killed in an army operation on 24 December 2010. See "¿Quién era alias 'Cuchillo'?", *Semana*, 29 December 2010.

(NDVC).<sup>90</sup> Finally, some groups are also involved in counter-insurgent operations, even though partial alliances between rebels and NIAGs suggest that local conflict dynamics, rather than ideology, shape the volatile and often contradictory relations with the guerrillas.<sup>91</sup>

While NIAGs lack an apparent political ideology, they are rapidly evolving. Some, like the Urabeños, are increasingly engaged in political violence and social control.<sup>92</sup> In rural areas, NIAGs frequently imitate the operating style of paramilitaries.<sup>93</sup> Their violence against community leaders is well documented.<sup>94</sup> There is also evidence that NIAGs are responsible for the displacement of civilian population in several regions.<sup>95</sup> As was the case with the paramilitaries, there is also evidence that the groups are operating in some regions with at least the tacit accommodation of local security force elements.<sup>96</sup>

#### D. A NEW POLITICAL CONSTELLATION

Strong links between the national government and the dominant regional political forces characterised the 2007 local elections. The 2011 polls, however, will occur against the backdrop of a new alignment. The political scene has

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<sup>90</sup> The Rastrojos were founded as the enforcement arm of Wilber Varela (alias "Jabón"), while the Machos were the private army of Diego Montoya (alias "Don Diego"), a bitter rival of Varela within the NDVC. See Jeremy McDermott, "Generational shift-Colombia's evolving drug cartel", *Jane's Intelligence Review*, December 2009.

<sup>91</sup> Crisis Group Briefing, *Improving Security Policy*, op. cit., pp. 10-11, "V Informe sobre narcoparamilitares en 2010", op. cit.; see also Soledad Granada, Jorge A. Restrepo and Alonso Tobón García, "Neoparamilitares en Colombia: una herramienta conceptual para la interpretación de dinámicas recientes del conflicto armado colombiano", in Jorge A. Restrepo and David Aponte (eds.), *Guerras y violencias en Colombia* (Bogotá, 2009), pp. 467-499.

<sup>92</sup> According to police intelligence cited in the press, the Urabeños are expanding activities in a bid to strengthen social control. This reportedly includes quasi-political forms of actions, such as the organisation of a public meeting. See Hannah Stone, "Beyond BACRIM, Urabeños Sets Sights Higher", *Insight Crime* (www.insightcrime.org), 7 April 2011.

<sup>93</sup> Crisis Group interviews, political analysts, Bogotá, 27 April 2011.

<sup>94</sup> See, for instance, "Indicadores sobre derechos humanos y DIH Colombia, año 2009", Programa presidencial para la protección y la vigilancia de los Derechos Humanos y el Derecho Internacional Humanitario, 2009, p. 16.

<sup>95</sup> "Se repite la historia: las bandas emergentes ahora son las que desplazan", *La Silla Vacía*, 7 October 2010.

<sup>96</sup> "Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Colombia", A/HRC/16/22, 3 February 2011, paragraph 36. According to press reports, as of June 2011, at least 700 public officials, including some 350 members of the army, 300 police officers, 30 DAS officials and twelve prosecutors, are under investigations for presumed links to NIAGs. "¿Neoparamilitares?", *Semana*, 4 June 2011.

fundamentally shifted since President Santos took office in August 2010, even though he was elected as the candidate guaranteeing the highest level of continuity with the agenda of his predecessor, Álvaro Uribe, whom he served as defence minister.

The Santos government is supported by a “national unity” coalition that commands an almost unassailable majority in both houses of Congress, leaving the legislature almost without meaningful opposition. The president enjoys the strong backing of urban economic elites and continues to boast substantial approval ratings.<sup>97</sup> From this base, he has embarked on an ambitious reform agenda that marks a significant departure from Uribe’s policy. Alongside recognition of the security threat posed by NIAGs and a new anti-corruption drive, his administration has backed a law to compensate victims of the armed conflict and speed-up land restitution. Diplomatic détente with Venezuela and the official recognition in May of the existence of an armed internal conflict (as opposed to a fight against terrorists and criminals) have spurred tensions between Santos and his still popular predecessor.<sup>98</sup>

The reform projects of the Santos administration have not only generated malaise among some right-wing and conservative sectors. They also have created tensions between the national and the local political levels that could be further exacerbated by the growing estrangement between the two leaders.<sup>99</sup> Tensions are particularly pronounced in regions that are directly impacted by the reform initiatives. In regions such as Urabá, political and economic elites are likely to fiercely defend the extensive gains they made during the 1990s, partly with the support of armed illegal actors, consolidated during the years of the Uribe administration. As the government has acknowledged, the high economic

stakes might give them again an incentive to enforce their interests through violent actors.<sup>100</sup>

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<sup>97</sup> Crisis Group interview, political analyst, Bogotá, 27 April 2011. President Santos’s ratings have recently come under pressure over the impact of severe rainstorms, a perceived deterioration of security and corruption scandals in Bogotá and the health system, but they remain substantial, at 67 per cent favourable. See “Popularidad presidente Colombia, estable por desempeño economía”, Reuters, 1 July 2011.

<sup>98</sup> See “Relación Santos y Uribe: lo que va del dicho al hecho”, *Semana* (online), 12 April 2011; “Crece distancia Santos-Uribe”, *El Espectador*, 16 April 2011; “Arremetida de Uribe contra gobierno Santos por reconocimiento de conflicto armado”, *Caracol*, 4 May 2011; and “Uribe pide al Gobierno rectificar posición frente al conflicto armado”, *El Espectador*, 5 May 2011.

<sup>99</sup> Some observers think the elections might see some competition at the local level between the two, as Uribe attempts to use them to further strengthen the position of the U-Party and Santos tries to increase his support in the regions and lay the ground for a possible re-election bid in 2014. See Fabio Velásquez, “Elecciones 2011: de dónde venimos y qué está en juego”, op. cit. Uribe is closely involved in the electoral process as the organiser and main attraction of what he and his supporters have named “democracy workshops” being held across the country.

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<sup>100</sup> “Ley de víctimas podría ser utilizada con propósitos electorales”, *El Universal* (Cartagena), 19 May 2011.



## IV. IMPLICATIONS FOR THE 2011 ELECTIONS

The changing scenario should have major implications for the 2011 electoral process, as political actors and illegal armed groups adapt to the new institutional and political circumstances, as well as to the changing structure of organised crime. Parties are likely to be more careful when endorsing candidates, while the legal changes should also favour more competitive and cleaner elections. However, it remains uncertain how strong the effect of these changes will be over the short run. At the same time, the rise of NIAGs triggers new security and infiltration risks.

### A. BETTER CANDIDATES?

The threat of financial and political sanctions set out in the political reform should make parties more cautious when it comes to nominating candidates, which they must do no later than 10 August 2011.<sup>101</sup> The rhetoric of party headquarters in Bogotá, if not the practice, has already been shifting since the 2010 legislative elections, with officials showing greater awareness of the problem posed by politicians linked to illegal armed groups or crimes against humanity. In anticipation of the changes introduced by the LE, parties have strengthened procedures to screen the background of candidates before giving an endorsement, even though the degree of due diligence varies.<sup>102</sup> The emergence of the

“parapolitics” scandal and judicial investigations into ties between politicians and illegal armed actors are also bound to have an impact on candidates’ behaviour.<sup>103</sup> Given the increased reputational and political costs of such connections, candidates who in the past might have accepted alliances with armed actors are now less likely to seek their financial or other support.

These changes may favour both better candidates and cleaner behaviour, but their impact will be mitigated by a number of factors. First, given the high political stakes, parties may balance the need to check more carefully on their candidates with the desire to win elections and be tempted to rely on the residual impunity implied by the slow pace of investigations into the regional dimension of “parapolitics” and on lengthy judicial proceedings.<sup>104</sup> In particular, the nomination battle frequently pits local or regional party structures against central party committees, which, under the new legal framework, will bear the brunt of responsibility and have the final say on endorsement. The award of advance public campaign funding to parties, as foreseen under the LE, should strengthen their hand vis-à-vis candidates, even though the political clout of local actors casts doubt upon the ability of central party directorates to impose their preferences.<sup>105</sup>

Secondly, the new responsibilities and the high number of electoral positions up for grabs put a substantial burden on parties that they will struggle to cope with.<sup>106</sup> The Liberal and Conservative parties have stronger structures, but the capacity problem will be pronounced for smaller and newer groups. Even the traditional parties, however, have historically not been able to fully control the nomination

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<sup>101</sup> LE, Article 30 would bring forward the deadline for registering candidates to 1 August 2011. On 18 July, the National Civil Registry clarified that this provision will not be applied in the October elections, arguing that changing the deadline would impinge on fundamental political rights. See Circular No. 110, Registraduría Nacional del Estado Civil, 18 July 2011. Lists of candidates are transmitted to the public prosecutor’s office to check whether the individuals can legally run for office. In 2007, the office barred 269 of 77,711 candidates for criminal, disciplinary or fiscal problems in their records. See “Procuraduría presenta lista de candidatos inhabilitados”, press release, Procuraduría General de la Nación, 28 August 2007.

<sup>102</sup> Parties generally check whether prospective candidates have a record with the offices of the attorney general, public prosecutor (see above) and comptroller general; left-wing party Alternative Democratic Pole (PDA) also checks the U.S. list of Specially Designated Narcotics Traffickers, the so-called “Clinton list”. Some parties also require would-be candidates to formally declare that they have no links to illegal armed groups or require them to produce local endorsements. Across the board, party officials claim that they have refused the endorsement of candidates due to doubts over their political background or their finances. Crisis Group interviews, party secretaries general, Bogotá, 25 March, 8 April, 13 April, 2 June 2011. In July, the security agency DAS said 414 prospective candidates of MIRA and the Liberal and Conservative parties had judicial records; the parties had asked it to check candidate backgrounds. “414 precandidatos a elecciones

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de octubre tienen antecedentes judiciales”, *El Espectador*, 8 July 2011. This came on the back of an announcement of Interior and Justice Minister Germán Vargas Lleras that his institution had developed a list of prospective candidates that parties should not endorse. Most cases are reportedly concentrated in the coastal departments of Sucre, Magdalena and La Guajira, but also in Nariño, Antioquia, Santander and Norte de Santander. See Daniel Valero, “El delito amenaza a las elecciones de octubre próximo”, *El Tiempo*, 9 July 2011.

<sup>103</sup> Crisis Group interviews, political analyst, Bogotá, 17 February; electoral expert, Bogotá, 28 April 2011. Accusations of links to paramilitaries can wreck political careers. Perversely, this has made “parapolitics” allegations a political weapon that has been used to discredit officials or remove them from the political scene, Crisis Group interviews, bilateral cooperation agency, Bogotá, 25 February 2011; local government specialist, Bogotá, 20 June 2011.

<sup>104</sup> Crisis Group interview, electoral expert, Bogotá, 28 April 2011.

<sup>105</sup> See “El gran chicharrón”, *Semana*, 23 April 2011; see also Juan Fernando Londoño, “Reforma política sin fórmulas mágicas”, *Razón pública*, 19 September 2010.

<sup>106</sup> Parties that compete for offices nationwide will have to vet between 10,000 and 17,000 candidates. Crisis Group interviews, party secretaries general, Bogotá, 25 March; 13 April 2011.

of candidates.<sup>107</sup> Despite reforms aimed at strengthening and democratising party structures, progress has been slow, in particular at the local level.<sup>108</sup> The LE should help parties, but its effect is likely to be felt only over the medium term.<sup>109</sup> For now, criticism of the new rules is already mounting.<sup>110</sup> Amid uncertainty about what exactly is required to make sure that candidates are clean, the risk is that parties might use their institutional weakness and alleged lack of access to relevant information about their candidates as an all too convenient excuse if they fail to comply with their obligations.<sup>111</sup>

Lastly, the speed and the depth of change triggered by electoral reform should not be overestimated. It is difficult to improve the quality of candidates and office holders in a context in which the recruitment of professional politicians remains problematic. As in other Latin American countries, family ties, rather than political skills, too often determine political careers. The ensuing relatively narrow talent pool is a weakness readily exploited by legal and illegal actors alike. As in the 2010 legislative elections, there is already evidence that relatives of politicians linked to illegal organisations look to participate, largely in an effort to perpetuate political control.<sup>112</sup> As parties hedge

their bets more carefully, they may be refused endorsement, but they still may be able to run as independents. The existing requirements for registration as an independent candidate are hardly a serious hurdle.<sup>113</sup>

## B. MORE COMPETITIVE AND CLEANER ELECTIONS?

The clear stance of the national government on the illegality of NIAGs, greater efforts to check the background of candidates and candidates who tread more carefully should help to make the October elections more competitive and cleaner, at least compared to 2007. But obstacles to electoral competition under equal conditions remain substantial. In many regions, especially the previous strongholds of paramilitaries, the environment within which polls will take place is one that allows some candidates to make use of an entrenched economic structure to obtain financial and other support that will skew the competition in their favour.

This risk is particularly pronounced in regions such as Urabá, where powerful actors have won control over vital political and economic institutions. In these regions, political and economic interests are entangled to a point that a level playing field for candidates does not appear to be

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<sup>107</sup> A specialist summarised that, in Colombia, candidates choose the party rather than the reverse. Crisis Group interview, electoral expert, Bogota, 28 April 2011. See also Eduardo Pizarro Leongómez, "Giants with Feet of Clay: Political Parties in Colombia", in Scott Mainwaring, Ana María Bejarano and Eduardo Pizarro Leongómez (eds.), *The Crisis of Democratic Representation in the Andes* (Stanford, 2006), pp. 78-99.

<sup>108</sup> Crisis Group interview, political analyst, Bogotá, 17 February 2011. See also Rodrigo Losada Lora, "Consecuencias de la reforma política de 2003 a nivel local: estudio de caso", PNUD IDEA, (Bogotá, 2009), p. 32.

<sup>109</sup> The reform calls on the CNE to establish a registry of political parties and movements, which would facilitate the organisation of internal party consultation (LE, Article 3). It also bars citizens from being affiliated with two parties or movements at the same time, strengthening internal party structures (LE, Article 2). Finally, the creation of a new party with significant links to a dissolved party will be considered fraudulent behaviour (LE, Article 15).

<sup>110</sup> Party officials privately complain about "excess" in the LE and that, to perform a complete background check of their candidates, they would have to transform themselves into police and intelligence officers. Crisis Group interviews, party secretaries general, Bogotá, 25 March, 13 April, 2 June 2011.

<sup>111</sup> Electoral experts think that compliance with the rules under the 2011 political reform is a question of will, rather than capacity. Crisis Group interviews, party secretary general, Bogotá, 25 March 2011; electoral expert, Bogotá, 28 April 2011.

<sup>112</sup> The perhaps clearest example to date is that of the Santander governor race, where Richard Aguilar, the son of Hugo Aguilar, a former governor who was barred from running again by the public prosecutor's office over alleged links to paramilitaries, looks poised to contest the elections. See "Richard Aguilar asumió la campaña a la Gobernación de Santander", *Van-*

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*guardia Liberal*, 13 April 2011; and Dora Montero, "Serpa vs. Aguilar, dos pesos pesados tras la Gobernación de Santander", *La Silla Vacía*, 20 February 2011. See also "Vuelve y juega", *Semana*, 11 June 2011; and "Alarma ante posibles apoyos ilegales a candidatos en la Costa", *El Tiempo*, 25 June 2011. For the 2010 electoral process, see "Familiares de 'Parapolíticos' buscan votos para las elecciones al Congreso de 2010", *El Tiempo*, 29 November 2009; and "Al nuevo Congreso llegan herederos de la parapolítica", *El Universal* (Cartagena), 16 March 2010.

<sup>113</sup> Contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011. Under Law 130 of 1994, Article 9, independent candidates must collect a number of signatures that varies with the size of the voting district. The maximum number of signatures required is 50,000. The highest-profile case of a controversial prospective candidate looking to run as an independent is that of Roberto Jiménez, the brother of extradited paramilitary leader Carlos Mario Jiménez (alias "Macaco"). Jiménez has already collected the necessary number of signatures to present his candidacy for mayor of Dosquebradas (Risaralda), but by July he was still having difficulties obtaining a required insurance policy, because his name appears on the "Clinton List". "Hermano del exjefe paramilitar alias 'Macaco' insiste en que aspirará a la Alcaldía de Dosquebradas, Risaralda", *RCN Noticias*, 10 June 2011; and "Roberto Jiménez, hermano de 'Macaco', se declara víctima del estigma", *El Tiempo*, 4 July 2011. While these requirements are easy to fulfil for wealthy contenders, the obligatory and relatively expensive insurance policy can be a real hurdle for poorer candidates. Crisis Group interview, electoral expert, Bogotá, 24 June 2011.

guaranteed.<sup>114</sup> While such structures have often come into being with the support of paramilitaries, their reproduction does not necessarily require new violence or violations of electoral laws. High levels of social control and deep distrust towards state institutions often stymie efforts to dismantle those structures. At the same time, some illegal actors also benefit from a local economic support base that can be mobilised for electoral purposes.<sup>115</sup>

Advance public contributions to campaign financing, as set out for in the LE, will provide some correction to these biases but are unlikely to be sufficient to level the playing field, as these entrenched structures often exacerbate traditional problems for electoral competition. Fraud and vote buying are attractive options in the Colombian context of relatively low electoral participation and often small voting districts that increase the chance to influence results.<sup>116</sup> Clientelism remains the main mode of electoral mobilisation in many regions, particularly rural areas.<sup>117</sup> Despite efforts to convince the electorate to support specific political programs, many voters continue to trade their ballots for tangible material benefits, thus often advantaging the candidate able to hand out the most cash or other goods and services.<sup>118</sup> Conditional government cash transfer programs, such as Families in Action, have, against

their original intention, increased the resources that politicians can use to manipulate the electorate.<sup>119</sup>

The execution of a big reconstruction program following the destruction of large chunks of the country's infrastructure in unusually heavy rainstorms risks making political competition even more uneven.<sup>120</sup> Local incumbents have long had a habit of intervening in the electoral process to promote their anointed successors. The inflow of over \$2 billion dollars to finance public works and provide humanitarian relief so shortly ahead of the October polls increases the probability that part of these funds will be diverted for electoral purposes.<sup>121</sup> In particular, there is a risk that incumbents will misuse these resources to reward loyal constituencies or pressure voters into specific decisions, in return for access to reconstruction funds. This is all the more serious as in many affected zones, such as the departments along the Caribbean coast and parts of Norte de Santander, the damage caused by the rain has magnified the existing governance problems posed by weak accountability mechanisms and the strong presence of armed actors.

The extent of the reconstruction also increases the already high corruption risks.<sup>122</sup> Local politics has been heavily marked by so-called contracting carousels, in which companies finance political campaigns in return for being awarded public works contracts. According to estimates from a high official of the departmental government, over 80 per cent of mayors in Nariño have engaged in such arrangements

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<sup>114</sup> In Apartadó, the economic centre of the Urabá region, there are, for instance, widespread concerns about the close links between the ruling PIN party and a health provider, which in turn is allegedly linked to a former politician with suspected ties to paramilitaries.

<sup>115</sup> The prime example is Magangué (Bolívar), where a 2009 by-election ended with the victory of Arcesio Pérez. He was supposedly the candidate favoured by Enilce López ("La Gata"), a controversial entrepreneur who controls the gambling sector in Bolívar and Sucre and who was sentenced in 2011 to nine years in prison for paramilitary links. The election of Pérez was supervised by both national and international electoral observer missions. Crisis Group interview, political analyst, Medellín, 30 March 2011; contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011. According to a Crisis Group source, the Liberal Party called off in May 2011 its primary elections in Magangué over concerns that a candidate supposedly linked to "La Gata" might win the nomination; more broadly, her political influence in the region continues unfettered. See also "La Gata sigue mandando a pesar de haber sido condenada", *El Tiempo*, 5 February 2011.

<sup>116</sup> Turnout has, however, been on the rise over the last years, reaching 56 per cent in the 2007 elections.

<sup>117</sup> Crisis Group interview, political analyst, Cúcuta, 9 March 2011. On clientelism see also Francisco Leal Buitrago and Andrés Dávila L., *Clientelismo. El sistema político y su expresión regional* (Bogotá, 1990).

<sup>118</sup> Crisis Group interview, political analyst, Medellín, 30 March 2011.

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<sup>119</sup> Crisis Group interview, international organisation, Bogotá, 28 April 2011. Families in Action is the Colombian government's largest conditional cash transfer program. The 2010 electoral process was marked by allegations that politicians have used programs such as this for electoral manipulation; there were also allegations that access to public services, such as electricity, has been used to pressure voters into specific electoral decisions.

<sup>120</sup> According to information from the National Administrative Statistics Department (DANE), the storms have affected some three million people across the country, 60 per cent of whom need permanent attention. "El 6,4% de la población colombiana está afectada por el invierno", *Semana* (online), 4 May 2011. Damages, including to infrastructure and agriculture, are estimated to total at least 10 trillion Colombian pesos (some \$5 billion). "Valoran en \$ 10 billones las pérdidas por invierno; cerradas 22 vías principales y afectados 17 departamentos", *Portafolio*, 17 December 2010.

<sup>121</sup> Crisis Group interviews, political analyst, Bogotá, 17 February 2011; local journalists, Pasto, 10 March 2011. In June 2011, President Santos said that 4.3 trillion pesos – of a total authorisation of 6.8 trillion pesos (some \$3.4 billion) – for reconstruction works and humanitarian relief are currently being expended. "Colombia: Inundaciones 2010-2011", Informe de situación no. 36, Sala Situación Humanitaria, UN Office for the Coordination of Humanitarian Affairs (OCHA), 6 July 2011.

<sup>122</sup> Over 90 per cent of local officials are estimated to face corruption investigations. See "Gobernadores y alcaldes tienen 1.845 investigaciones penales por corrupción", Caracol Radio, 25 April 2011.

with contractors.<sup>123</sup> Access to these resources has allowed politicians to constantly increase campaign spending, thus crowding out poorer rivals.<sup>124</sup> In turn, the flawed arrangements for award of public projects have benefited some corrupt companies and illegal actors seeking to capture public rents. Provided they are enforced by effective control mechanisms, provisions in the anti-corruption statute to restrict campaign contributions from companies that want to remain eligible for contracts should help to reduce these risks.<sup>125</sup>

### C. TOWARD BACRIMPOLITICS?

The behaviour of NIAGs during the electoral run-up and their attempts to influence outcomes are the big unknowns of the October polls. The 2010 legislative elections and possibly the 2007 local elections saw early NIAG electoral interference, but the approaching polls will be the new groups' first extensive opportunity to link up to local politics.<sup>126</sup> In March 2011, Defence Minister Rodrigo Rivera warned against the possible emergence of "Bacrimpolitics", that is, links between politicians and NIAGs, a warning that was vindicated by the first detention, that month, of a mayor allegedly linked to a criminal gang.<sup>127</sup> But the lack of a central command structure, as well as the multiplicity of their goals and criminal activities, suggest that NIAGs will not assume a uniform attitude towards politics and that local dynamics will determine the degree of their active involvement.

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<sup>123</sup> Crisis Group interview, Nariño government, Pasto, 10 March 2011.

<sup>124</sup> There is broad agreement that campaign costs have been strongly increasing over the last year; a local observer described the growth in campaign expenditure as "no longer rational". Crisis Group interviews, civil registry, Cúcuta, 8 March 2011; Nariño government, Pasto, 10 March 2011; local journalists, Pasto, 10 March 2011; civil society organisation, Tumaco, 4 April 2011.

<sup>125</sup> There is, however, a risk that restricting the contributions of possible contractors too much could backfire, if candidates with difficulties raising campaign funds otherwise then turn to illegal actors for contributions. Contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011; and Crisis Group interview, electoral expert, 24 June 2011.

<sup>126</sup> In 2010, parts of the Rastrojos intervened in Nariño to exert pressure for an ultimately unsuccessful candidate. Crisis Group interviews, Nariño government and ombudsman's office, Pasto, 10 March 2011. See also "'Rastrojos' dejan su rastro en las urnas de Nariño", Votebien ([www.votebien.com](http://www.votebien.com)), 12 April 2010. For a risk scenario of the 2007 elections, see Crisis Group Report, *Colombia's New Armed Groups*, op. cit., pp. 10, 13.

<sup>127</sup> "No toleraremos ni bacrimpolítica ni farcpolítica: Rivera", *El Nuevo Siglo*, 5 March 2011. The detained official, Bladimir Londoño Zulbarán, mayor of San José de Uré (Córdoba), is alleged to have diverted health resources to an unnamed criminal gang. See "¿Comienza el capítulo de la 'bacrimpolítica'?", *Semana* (online), 30 March 2011.

Risks of NIAG interference will be more strongly concentrated in municipalities that are important to their core business activities, notably the production and trafficking of drugs and money laundering.<sup>128</sup> In these municipalities, NIAGs will have to establish working relationships with local politicians. In many cases this will mean securing impunity or privileged access to information on law enforcement activities.<sup>129</sup> Regions with mining operations, including parts of Antioquia and Nariño, are also fast becoming high-risk zones for NIAG interference. Activities such as the capture of mining resources, however, require extensive political connections. This is also the case for gambling, which depends on departmental regulations and licences. Political contacts will thus have to be stronger, with criminals required to influence political decisions.<sup>130</sup> Especially in regions where illegal armed actors develop their activities in a security void, NIAGs could also have more far-ranging ambitions, including influencing voter choices and turnout and imposing sympathetic candidates.

NIAGs will carefully choose their means of influencing electoral outcomes. Acts of violence against candidates may occur, but this would attract substantial media attention.<sup>131</sup> Given the commitment of the national government to crack down on the gangs, NIAGs are likely to opt for less visible ways of influencing the elections. This includes threats against the population and selective violence against social leaders, but campaign financing is likely to become the major channel for attempted manipulation.<sup>132</sup> The preference for hidden influence also suggests that groups will seek to co-opt lower-rank officials, such as local councilors, rather than more prominent ones, such as mayors.<sup>133</sup>

While some NIAGs have operating styles as well as economic and political goals that resemble those of the paramilitaries, this does not mean that they will be able to achieve a similar degree of political penetration. The government has taken a clear position against the NIAGs, and parts of progressive economic elites think that links to armed actors are ultimately damaging for business.<sup>134</sup> Their fragmentation and institutional instability will also in practice limit their capacity to co-opt politicians, who are likely to favour stable and sustained interaction with

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<sup>128</sup> Crisis Group interview, political analyst, Bogotá, 1 March 2011.

<sup>129</sup> Contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011.

<sup>130</sup> Crisis Group interview, political analyst, Bogotá, 1 March 2011.

<sup>131</sup> There is some evidence that parts of NIAGs opt for low-key political relations, considering that too much interference with the electoral process attracts unwarranted attention. Crisis Group interview, Nariño departmental government, Pasto, 10 March 2011.

<sup>132</sup> Crisis Group interview, electoral expert, Bogotá, 28 April 2011.

<sup>133</sup> Contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011.

<sup>134</sup> Crisis group interview, civil society organisation, Medellín, 29 March 2011.

armed groups.<sup>135</sup> At the same time, in the core regions of former paramilitary influence, such as Urabá, the potentially important economic losses for some segments of both the economic elites and criminal actors that land restitution efforts are likely to cause could favour the convergence of their interests to defend the status quo.

The NIAGs are at an early stage of their evolution, in which protection of business interests and organisational build-up take precedence over political goals, a situation that may change once consolidation is achieved.<sup>136</sup> Worryingly, there is already evidence that three larger and organisationally more robust networks are gradually emerging, vying for control of territories, drug-trafficking routes and access to public rents.<sup>137</sup>

## V. MITIGATING ELECTORAL RISKS

The government is more committed to mitigating electoral risks than in the past.<sup>138</sup> Early in the electoral year, it has deployed a number of measures designed to shield the polls from the influence of armed illegal actors and to combat fraud. This stands in marked contrast to a long tradition of prior administrations to consider the mere functioning of a maximum number of polling stations as the most important indicator for the quality of elections.<sup>139</sup> This effort partly reflects the desire to avoid NIAG interference with the process. Substantial evidence of infiltration would carry high political costs, lending support to critics who claim that the groups should be classified as paramilitary successor organisations rather than as purely criminal gangs, as the government maintains.<sup>140</sup>

But more needs to be done to provide the conditions for safe, clean and transparent elections. A high level of electoral violence suggests substantial shortcomings in security plans and capabilities. Efforts to enforce campaign finance rules and punish electoral crimes face difficulties due to institutional weaknesses and deficient norms. Electoral rights of internally displaced persons (IDPs) remain insufficiently protected. The government, as well as electoral and prosecuting institutions, need to take both short- and medium-term measures to improve the conditions for free and fair elections.

### A. PROVIDING SECURITY

Guaranteeing safe elections will be the major challenge. With candidates not even yet officially nominated, there is already considerable political violence. There are numerous threats and, by mid-July, at least nineteen potential candidates had been killed. Given that killings tend to accelerate as the elections get closer, there is a substantial risk that the decade-old trend of falling electoral violence will be reversed. Violence is particularly pronounced in the departments of Valle del Cauca and Antioquia, which have seen four murders each, as well as in Córdoba (three cases).

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<sup>135</sup> Víctor Barrera, "Futuro incierto para 'bacrimpolítica' en elecciones", *Cien días*, no. 72 (April-July 2011), p. 11. Growing police pressure has accelerated the leadership turnover. After alias "Cuchillo", the to date most important NIAG leader to fall, the Machos are set to disappear following the April surrender of their leader, Hilber Nover Urdinola Perea. See Jeremy McDermott, "Head of the Once-Mighty Machos Surrenders", *InSight Crime* ([www.insightcrime.org](http://www.insightcrime.org)), 12 April 2011. In April, police captured Óscar Mauricio Galvis, the second-in-command of the Paisas. See Andrés Felipe Velásquez, "'Pantera', líder de bacrim, volvió a caer", *El Colombiano*, 2 May 2011. The capture of Galvis came on the heels of the killing of alias "Junior", the third-in-command of the organisation.

<sup>136</sup> Contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011.

<sup>137</sup> The first network is the Comando al Sur, an alleged cooperation between the Rastrojos and the Paisas. See "Nueva banda emergente del paramilitarismo siembra el terror en Córdoba", *Caracol Radio*, 14 January 2011; and "'Los Paisas' y 'Los Rastrojos' no trabajan juntos: Policía", *El Universal* (Cartagena), 20 January 2011. The second network could be formed around ERPAC, while the third might unite the Urabeños and their allies. See Mauricio Romero and Angélica Arias, "A diez años del inicio del Plan Colombia: Los herederos de las AUC, la geografía del narcotráfico y las amenazas de nuevos carteles", *Revista Arcanos 16* (April 2011), pp. 14-17.

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<sup>138</sup> Crisis Group interviews, political analyst, Bogotá, 17 February 2011; Nariño departmental government, Pasto, 10 March 2011. The Santos government has also assumed a more open stance toward NGOs. Nuevo Arco Iris cooperates with the Interior and Justice Ministry to identify electoral risks. This cooperation is particularly significant given the strained relations former President Uribe has with Nuevo Arco Iris director León Valencia. See "León Valencia denunciará a Uribe por injuria y calumnia", *El Espectador*, 5 May 2011.

<sup>139</sup> Crisis Group interview, civil registry, Cúcuta, 8 March 2011. See also Losada Lora, "Violencia y elecciones en Colombia: año 2000", op. cit., pp. 32, 44.

<sup>140</sup> Crisis Group interview, defence ministry, Bogotá, 15 April 2011.

It is directed against parties across the political spectrum, but most affected have been the Conservative and Liberal Parties, with five and four murdered potential candidates respectively, as well as the centre-right U Party (three cases).<sup>141</sup>

Despite the continuing improvement of broader public security indicators, such as homicides rates, the complex pattern of violence against community leaders, political activists and local government officials also hardly looks comforting.<sup>142</sup> At least eleven community leaders were killed between September 2010 and June 2011, apparently in response to accelerating land restitution efforts.<sup>143</sup> In some critical areas, such as Norte de Santander's Catatumbo region, illegal armed actors have ratcheted up pressure.<sup>144</sup> Left-wing activists complain about the high level of threats and physical violence they are facing.<sup>145</sup> Political violence against local and former officials is on the rise, and, amid attacks from FARC and NIAGs, mayors and local councillors have warned against the deterioration of their security situation.<sup>146</sup>

Threats to security emerge from three directions: drug traffickers, NIAGs and guerrilla groups. While the responsibility for most 2011 cases is still unclear, FARC, and to a

lesser degree, the ELN and the Popular Liberation Army (EPL, a much smaller guerrilla group), will likely remain the major single sources of violence against candidates and the electoral infrastructure.<sup>147</sup> Though substantially weakened, FARC in particular is set to attempt electoral sabotage.<sup>148</sup> In March 2011, police discovered evidence for 67 alleged FARC plots to disrupt the elections in Cauca.<sup>149</sup> In May 2011, FARC was alleged to be responsible for killing two potential mayoral candidates in Campamento municipality (Antioquia).<sup>150</sup> It also is believed to be behind the kidnappings of a potential candidate in San Juan de Arama (Meta) in June and of a prospective candidate and a local politician in Tumaco (Nariño) in July.<sup>151</sup> The extensive activity against the electoral process and increase in attacks over the last months suggests FARC wants to use the elections to prove it is not a spent force, particularly in its stronghold regions.<sup>152</sup>

"Plan Democracy 2011" is the government's flagship program to guarantee the security of the electoral process, including on election day. Some 280,000 police and military have been tasked with providing territorial control and security for candidates and campaigns, as well as intelligence about possible attacks and corruption schemes, with special attention to 111 municipalities that present sig-

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<sup>141</sup> All data in this paragraph based on press reports and on "Violencia preelectoral", dataset provided to Crisis Group by the Colombian Federation of Municipalities, June 2011.

<sup>142</sup> According to police information, there were 4,469 murders in 2011 through 28 April, 8 per cent less than over the same period in 2010. "Homicidios en Colombia han disminuido en ocho por ciento durante 2011", *Caracol*, 29 April 2011. In 2010, Colombia had a national murder rate of 34 homicides per 100,000 inhabitants, down from 70 in 2002. "Mindefensa revela que 2010 fue el más bajo de los últimos 24 años en materia de homicidio", Ministerio de Defensa Nacional, 21 January 2011.

<sup>143</sup> See "Líderes y personas en situación de desplazamiento asesinados del 1 de Marzo de 2002 a junio 8 de 2011", Codhes, 2011. Several of these cases have affected leaders of the Urabá region. Crisis Group interview, international organisation, Apartadó, 31 March 2011.

<sup>144</sup> Crisis Group interview, international humanitarian organisation, Cúcuta, 8 March 2011.

<sup>145</sup> Crisis Group interview, secretary general, PDA, Bogotá, 8 April 2011.

<sup>146</sup> See "Alcaldes y ganaderos advierten que su seguridad se ha deteriorado", *El Tiempo*, 18 February 2011; "3.000 concejales están amenazados en el país", *El Tiempo*, 3 May 2011. According to data from the Human Rights Observatory of the office of the vice president, six acting or former majors were killed between January and May 2011, compared to one in the same period in 2010; by contrast, murders of local councillors dropped from five to two over the same period. At least two of the murdered former officials, the ex-mayor of El Dovio (Valle del Cauca), Luis Fernando Morales Idárraga, and the ex-mayor of Convención (Norte de Santander), Carlos Eduardo Solano, were intending to run for re-election.

<sup>147</sup> The EPL has declared candidates in the Catatumbo region military objectives. The group has threatened a candidate in Ocaña (Norte de Santander) and in May supposed insurgents from the EPL murdered the conservative candidate for mayor of Convención (Norte de Santander). "Asesinan a candidato a la Alcaldía de Convención, Norte de Santander", *Caracol Radio*, 7 May 2011.

<sup>148</sup> With dwindling membership and battered by a series of high-level losses, including the 2010 death in combat of its military leader, Victor Julio Suárez Rojas (alias "Mono Jojoy"), FARC has lost substantial strength and capacity. But it remains a force to be reckoned with in several – generally sparsely populated – regions, including Cauca, Nariño and Catatumbo on the border with Venezuela. Even more than FARC, the ELN has lost substantial ground over the last years, but it continues to be a considerable force in several regions, mostly on the fringes of the country. See Crisis Group Report, *President Santos's Conflict Resolution Opportunity*; and Crisis Group Briefing, *Improving Security Policy in Colombia*, both op. cit.

<sup>149</sup> "FARC targeting Cauca elections: Police", *Colombia Reports* (www.colombiareports.com), 28 March 2011.

<sup>150</sup> "Crímenes enrarecen campañas políticas", *El Colombiano*, 1 June 2011.

<sup>151</sup> "Secuestrado candidato a alcaldía de municipio del Meta", EFE news agency, 19 June 2011. Ferney Satizábal, the kidnapped candidate for mayor of Francisco Pizarro (Nariño), and Dagoberto Ojeda, a councillor of the same municipality, were taken hostage on 12 July along with eighteen other persons off the coast of Tumaco. They were released a short time later.

<sup>152</sup> Attacks have been on the rise in Cauca department in 2011 and in June, FARC launched an attack against the municipality of Puerto Rico (Caquetá). See "Caquetá, el blanco de siempre", *Semana* (online), 14 June 2011.

nificant security risks.<sup>153</sup> The risk maps that guide the concentration of security efforts are to be updated monthly by the Integrated Electoral Intelligence Centre (CI2E), a platform bringing together state entities with a role in guaranteeing a transparent and safe electoral process.<sup>154</sup>

The other important inter-institutional platform is the Electoral Coordination and Follow-Up Commission (Comisión de Coordinación y Seguimiento Electoral), which brings together the interior and defence ministries, the public prosecutor's office, the attorney general's office and the security forces, among others.<sup>155</sup> It is replicated at the department and local levels with some differences in participating institutions. Both the national and sub-national commissions have already been activated across the country, permitting participants to share information about risk factors and to plan joint institutional action to shield the

process, for instance in matters of security and cases of alleged electoral interference by incumbents.<sup>156</sup>

Efforts to mitigate security threats have become increasingly complex, but challenges remain. Local elections with their estimated 130,000 candidates understandably stretch the capacities of the state. Despite the efforts to provide security, candidates, in particular those of left-wing parties, continue to face restrictions on where they can campaign.<sup>157</sup> Under "Plan Godfather", the police offer candidates temporary personal protection, for instance during travels in rural zones, but the authorities admit in private that threats to candidates and demands for security at campaign offices habitually increase three to four months before the elections, to a level that surpasses the institutional response capacity.<sup>158</sup>

But overstretch is not the sole cause for security problems on the campaign trail. Some candidates prefer not to accept police protection, because they lack confidence in specific officials or consider that a police escort during campaign events would damage their image.<sup>159</sup> More broadly, there is a widespread perception that the police and local authorities do not follow-up rigorously on threats, even outside the core electoral periods when volume is highest.<sup>160</sup> This is particularly damaging, because it undermines trust in institutions and can have a knock-on effect for participation and turnout.

The high number of attacks and the fact that at least some potential candidates have been murdered outside municipalities classified as high risk suggest problems in the identification of security risks.<sup>161</sup> Those from illegal armed groups are unevenly understood. Officials maintain that threats from insurgents, and in particular from FARC, are generally well identified by military and police intelligence.<sup>162</sup> The bigger problem from this perspective is likely

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<sup>153</sup> "Mindefensa anunció Plan Democracia para elecciones de octubre", Ministerio de Defensa Nacional, 4 March 2011. Of these 111 municipalities, 62 present an extraordinary security risk; 30 are classified as high risk and nineteen as medium risk. According to the underlying methodology, municipalities face extraordinary public order risk when they present three or more of the following variables: presence of terrorist groups, presence of BACRIM, operations from terrorists, operations from BACRIM, plans for violence according to intelligence reports, political violence in 2008 and 2009, named in early warning reports (communicated from the defence ministry). The names of 111 municipalities have not been disclosed; it thus is unclear the extent to which the list accords with the risk map of the interior ministry, which in February published its own list of 67 municipalities exposed to high electoral risk and a further 211 municipalities facing average risk. "Mininterior denuncia amenaza de grupos ilegales en 67 municipios del país contra las elecciones de octubre", Ministerio del Interior y de Justicia, 14 February 2011; and "67 municipios bajo amenaza electoral por grupos ilegales: MinInterior", Radio Santa Fe ([www.radiosantafe.com](http://www.radiosantafe.com)), 15 February 2011.

<sup>154</sup> Alongside the National Police, which hosts the secretariat of the CI2E and the armed forces, the centre includes the presidential intelligence agency (Administrative Department of Security, DAS), the defence ministry, the interior and justice ministry, and the National Civil Registry.

<sup>155</sup> Under Decree 1465 of 2007, the interior and justice, external relations, defence and communication ministers (or their delegates) and the DAS director are members of the commission; the public prosecutor, the attorney general, the president of the CNE, the head of the National Civil Registry, the comptroller general, the ombudsman, the president of the Supreme Council of the Judiciary, the commander of the armed forces, the director general of the national police and the director of the Anticorruption Program, as well as the executive directors of the Colombian Federation of Departments and of the Colombian Federation of Municipalities are permanent invitees. Representatives of political parties are often also invited.

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<sup>156</sup> Crisis Group interviews, Antioquia regional government, Medellín, 29 March 2011; police commander special district of Tumaco, Tumaco, 4 April 2011; National Civil Registry, Bogotá, 9 June 2011.

<sup>157</sup> Crisis Group interviews, political analyst, Cúcuta, 9 March 2011; electoral pre-candidate, Nariño, 5 April 2011.

<sup>158</sup> Crisis Group interview, defence ministry, Bogotá, 15 April 2011.

<sup>159</sup> Crisis Group interview, local government expert, Bogotá, 20 June 2011. A party secretary general maintained that effective protection depends less on the threat profile, more on good personal and political relations with the police and the capacity of the local police commander. Crisis Group interview, Bogotá, 2 June 2011.

<sup>160</sup> Crisis Group interview, bilateral cooperation agency, Bogotá, 25 February 2011.

<sup>161</sup> According to Defence Minister Rodrigo Rivera, Campamento (Antioquia), where FARC killed two potential candidates, is classified a medium risk municipality. See "Mindefensa y MOE denuncian alto riesgo de seguridad para candidatos", Colprensa, 3 June 2011.

<sup>162</sup> Crisis Group interview, defence ministry, Bogotá, 15 April 2011.

the substantial uncertainty surrounding the behaviour of the NIAGs that, unlike FARC, have fluid structures which have long been off the police radar.<sup>163</sup> The large discrepancy between official and civil society estimates over their strength suggests continuing intelligence problems. The May 2011 security plan vowed to devote special intelligence to them, but whether increased intelligence will produce results in time for the elections remains to be seen. It also is questionable whether the government's identification of NIAGs as purely criminal structures is sufficient to anticipate the possible political dynamics.

In order to avoid further bloodshed, police must respond quickly and impartially to protection requests from candidates or parties and provide robust protection where needed. Security officials should also review the methods used to identify security threats from illegal armed groups, concentrating in particular on the possible risks posed by NIAGs. They should likewise link their risk maps to those provided by civil society organisations so as to broaden the empirical base for mitigating security threats. Wherever possible, candidates should also coordinate their campaign activities with police. Given the high exposure of community leaders to risks of violence, in particular in core land restitution regions, authorities must react immediately during the campaign to threats and reports from the ombudsman's early-warning system (SAT) and ensure that officials who fail to do so face legal consequences.<sup>164</sup> In order to strengthen the confidence of communities, police and judicial authorities should promptly and rigorously investigate and prosecute existing cases of violence against community leaders.

## B. ENFORCING CAMPAIGN FINANCE RULES

Protecting electoral campaigns from the inflow of illegal money and enforcing campaign spending rules is the second major challenge. This has long been a weak link in efforts to guarantee fair and transparent elections, providing an easy entry door for criminal interests. Campaigns are often awash with difficult-to-track cash, particularly on election day, when most vote-buying takes place. And if proof was needed for the interest of criminal groups to

influence the polls via financial contributions, police arrested in April 2011 an alleged ERPAC member who was tasked with linking to local politicians and offering campaign support.<sup>165</sup>

Institutional action to identify, prevent and punish the flow of money originating in illicit activities to electoral campaigns has become stronger. The Unit of Information and Financial Analysis (UIAF) has previously worked on identifying campaign contributions from illegal actors, but its collaboration with the interior and justice ministry, the responsible line ministry, has become closer in 2011.<sup>166</sup> As a result, it has already shined a spotlight on the role front organisations play in financing electoral campaigns, in their bid to launder money and pave the way for capturing public resources or gaining political influence.<sup>167</sup> The unit is also updating a 2007 strategy paper on how criminals relate to campaign financing, and it is responsible for receiving denunciations of money laundering and illegal campaign financing.

The closer participation of the UIAF in monitoring financial flows during the electoral process doubtless represents progress. But concerns remain whether current rules and institutions are strong enough to constrain the inflow of illegal money. The UIAF is a relatively small, Bogotá-based unit that works with limited resources. Its 60 to 65 full-time officials are involved in detection and investigation of 55 types of criminal activities; given the workload, no official can, for instance, participate full-time in URIEL.<sup>168</sup> It does not have direct information on accounts of candidates or parties. Information from the CNE's Clear Accounts software, to which it has its own access, is not real time and becomes available only after the elections.<sup>169</sup> Introducing a requirement for reporting information on campaigns directly to the UIAF would make for a better

<sup>163</sup> Crisis Group Briefing, *Improving Security Policy in Colombia*, op. cit.

<sup>164</sup> Early warning reports are compiled by the regional analysts of the ombudsman's office. These reports are subsequently evaluated by the Interagency Early Warning Committee (CIAT), which decides on possible protection measures, makes recommendations to civil authorities, and follows up on the implementation of its recommendations (Decree 2862 of 2007 of the interior and justice ministry). There are long-standing coordination problems between the SAT and CIAT. See Crisis Group Latin America Briefing N°21, *The Virtuous Twins, Protecting Human Rights and Improving Security in Colombia*, 25 May 2009, p. 11.

<sup>165</sup> See "Cae infiltrado de las Bacrim en elecciones regionales", *El Espectador*, 14 April 2011.

<sup>166</sup> Crisis Group interviews, interior and justice ministry, Bogotá, 14 April 2011; UIAF, Bogotá, 2 June 2011. The UIAF was established in 1999 as a unit linked to the finance ministry. Its main task is to prevent and detect money laundering and terrorism financing (Law 529 of 1999). Detected irregularities in campaign financing are reported to the attorney general's office.

<sup>167</sup> "La UIAF vigilará que no haya campañas fachada para lavar dinero en elecciones", *Colprensa*, 25 March 2011.

<sup>168</sup> Crisis Group interviews, defence ministry, Bogotá, 15 April 2011; UIAF, Bogotá, 2 June 2011. URIEL is the acronym for the Immediate Reaction Unit for Electoral Transparency; for details see below.

<sup>169</sup> Crisis Group interview, UIAF, Bogotá, 2 June 2011. Clear Accounts is software originally developed by Transparencia por Colombia that candidates and parties use to transmit campaign spending reports to the CNE.



database and improve prospects for timely detection of possible irregularities.<sup>170</sup>

Recent reforms under the 2011 Statutory Law and the new anti-corruption statute should help to mitigate some adverse effects caused by the contracting carousels and facilitate control over spending. But problems remain. In particular, real-time control over campaign financing and spending is weak. The CNE's Sectional Electoral Guarantee Tribunals have some pro-active functions. Based in departmental capitals, they are tasked, inter alia, with monitoring compliance with electoral norms and auditing campaign accounts. The CNE claims the tribunals have a deterrent effect on candidate's behaviour.<sup>171</sup> However, press reports suggest that there are problems in cooperation with other entities, such as departmental governments.<sup>172</sup> Twenty tribunals will be deployed in 2011 in departments facing high risks for electoral fraud and violations of financing rules, up from fifteen in the 2007 elections, but the institution does not operate in the entire country.<sup>173</sup>

Apart from the tribunals, accountability is by and large post-electoral. Under the LE, parties are required to present campaign spending accounts to the CNE within two months of the elections; following its official audit, these must be published in a daily newspaper with national circulation. Review of the accounts has traditionally been an extremely slow process.<sup>174</sup> The use of the Clear Accounts software to submit account information online has substantially reduced the time for the spending information to become public.<sup>175</sup> Yet, the post-election disclosure still means that citizens have no chance to determine their vote on the basis of what money a candidate accepts, that parties and candidates have ample time to hush up irregularities and that officials take office before their accounts have been certified by the council.

This problem is compounded by the weakness of the responsible control institution, the CNE. Its permanent staff is too small to check the information submitted in reason-

able time; it has no budgetary autonomy; and it lacks independence from the political parties it is supposed to monitor.<sup>176</sup> In the past, candidates have counted on the CNE's institutional weakness and sometimes not even submitted their campaign spending accounts.<sup>177</sup> Another consequence is that Colombia's record in punishing violations of electoral campaign regulations remains very weak. There is still virtual impunity, for example, for violation of spending limits that under the LE theoretically could trigger the loss of office.<sup>178</sup>

Reforming and strengthening the CNE, therefore, remain medium-term goals, in particular considering that it has taken on new responsibilities under the 2011 Statutory Law.<sup>179</sup> Further changes to political finance norms also remain on the agenda. While recent reforms have focused particularly on limiting private campaign contributions, accountability and transparency norms need to become stronger in order to enable better oversight from media and civil society organisations.

At the beginning of the electoral campaign, parties and candidates should publicly pledge to respect finance rules, reject illicit financing and promote transparency as well as accountability.<sup>180</sup> But parties and candidates should further

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<sup>170</sup> Introducing such a requirement is currently under discussion. Crisis Group interview, UIAF, Bogotá, 2 June 2011.

<sup>171</sup> See César Paredes, "Elecciones 2011: 'No es cierto que no haya garantías', CNE", *Semana* (online), 2 February 2011.

<sup>172</sup> "Sin garantías en tribunales electorales", *El Colombiano*, 3 March 2010.

<sup>173</sup> See Resolution 0599 of 2011, CNE, 12 July 2011. Budget constraints have impeded the coverage of all departments; see Gabriel Sonny Cubillos, "18 tribunales de garantías electorales funcionarían para comicios de 2011", *El Nuevo Siglo*, 9 April 2011.

<sup>174</sup> The CNE is still reviewing campaign accounts from the 2003 elections, Crisis Group interview, election expert, Bogotá, 24 June 2011.

<sup>175</sup> In June 2011, the CNE opened access to spending accounts for the March 2010 legislative elections, even before the certification process was finished. See [www.cnecontasclaras.com](http://www.cnecontasclaras.com).

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<sup>176</sup> Crisis Group interviews, electoral experts, Bogotá, 16 March 2011, 8 June 2011. Congress chooses the nine CNE magistrates; the composition of the council thus reflects the balance of power in the legislature. This could compromise the body's willingness and ability to monitor and punish the behaviour of political parties. See Catalina Vargas Silva, "La politización del Consejo Nacional Electoral", in Mauricio García Villegas and Javier Eduardo Revelo Rebolledo (eds.), *Mayorías sin Democracia* (Bogotá, 2009), pp. 283-313. The 2009 political reform (Article 12) confers "budgetary and administrative autonomy" on the CNE, but Law Project 149 of 2009 Senate/250 of 2011 House of Representatives, which implements this provision, is still under discussion in Congress. Gabriel Sonny Cubillos, "Embolatada la autonomía administrativa del CNE", *El Nuevo Siglo*, 9 December 2010. Reportedly, the CNE currently has a permanent staff of 46 officials; a further 30 officials are on loan from the National Civil Registry. See "Ponencia para segundo debate al proyecto de ley número 250 de 2011 Cámara, 149 de 2009 Senado", *Gaceta del Congreso*, 9 June 2011.

<sup>177</sup> Crisis Group interview, election expert, Bogotá, 24 June 2011.

<sup>178</sup> Crisis Group interview, international organisation, Bogotá, 28 April; comments, Crisis Group focus group discussion, Bogotá, 11 May 2011. A secretary general of an important nation-wide party said he still had to meet the first person punished for violation of campaign spending limits. Crisis Group interview, Bogotá, 2 June 2011. The LE implicitly recognises that the CNE's spending limits are deficient; it mandates the CNE and the finance ministry to provide a base-line study for determining the "real costs" of political campaigns within a year of entering into force (LE, Article 24).

<sup>179</sup> See "Partidos políticos y elecciones 2011", op. cit., p. 25.

<sup>180</sup> Along with the commitment to reject support from illegal armed actors, in the past such a pledge was contained in trans-

contribute to transparency by voluntarily opening their campaign accounts ahead of the elections. In the same vein, companies should disclose their contributions to candidates. To further facilitate control of campaign spending, media companies should reveal the prices they charge for political advertisements.<sup>181</sup>

### C. COMBATING ELECTORAL CRIMES

Practices such as *trashumancia* (the registration of a voter in a municipality or district where he or she is not resident), double voting or outright vote buying are crucial means both criminal groups and politicians use to illegally influence outcomes in local polls.<sup>182</sup> In the 2007 regional elections, cases of electoral *trashumancia* were particularly concentrated in Casanare and along the Caribbean coast, suggesting a higher level of electoral fraud in zones with a strong presence of criminal groups and with high incomes from royalties.<sup>183</sup> Four years on, there are fears that increased corruption risks will also lead to an increase in attempted electoral fraud. In April 2011, the National Civil Registry sounded the alarm over a suspiciously high number of voter registrations in 67 municipalities, including traditionally problematic ones such as Puerto Boyacá (Boyacá) and Puerto Gaitán (Meta).<sup>184</sup>

parency pacts signed by parties and candidates. The pacts were part of government efforts to provide conditions for free, fair and transparent elections. See for instance "Plan de garantías electorales 2010", Ministerio del Interior y de Justicia, n.d.

<sup>181</sup> See "Informe de Recomendaciones de la Misión de Observación Electoral-Elecciones de Congreso y Presidente 2010", Misión de observación electoral, July 2010.

<sup>182</sup> These and other practices are crimes under the penal law carrying monetary fines and prison sentences. See Sánchez Torres, *Derecho e instituciones electorales en Colombia*, op. cit, pp. 271-277. A 2007 reform (Law 1142 of 2007) stiffened the sanctions. Crisis Group interview, public prosecutor's office, Bogotá, 16 June 2011. See also "Irregularidades y delitos electorales", Misión de observación electoral, January 2010.

<sup>183</sup> "Mapa de riesgo electoral indica que 14 departamentos tienen riesgo alto y muy alto de trashumancia electoral", *Nuestra Huella*, Registraduría Nacional del Estado Civil, March 2011, pp. 14-15. Electoral fraud is, however, not just driven by royalties and conflict dynamics, as is clear from the case of Arauca, both a top earner of royalties and virtually free of cases of *trashumancia*. Electoral officials also blame this fraud on deeply rooted clientelism. Crisis Group interview, civil registry, Cúcuta, 8 March 2011.

<sup>184</sup> See "Registraduría Nacional alerta al Consejo Nacional Electoral y a la Procuraduría por el inusitado aumento de inscripción de cédulas en algunos municipios", Registraduría Nacional del Estado Civil, comunicado de prensa 72 de 2011, 11 April 2011. Some analysts affirm that the real level of *trashumancia* will not be known in 2011, as criminals have already used the 2010 national election to stimulate the illegal voter movement. Crisis Group interview, political analyst, Medellín, 30 March 2011.

Efforts to prevent electoral crimes suffer from lack of resources. Pressure on funding has already forced the civil registry to shorten the time for voter registration.<sup>185</sup> According to figures from that office, implementation of the LE in time for the 2011 elections would require additional budget appropriations of 192 billion Colombian pesos (some \$96 million) to enable it to comply with the new rules.<sup>186</sup> Now that the reform has been signed into law, it should still be possible for the government, despite the time pressure, to make good on its promises and provide the necessary resources to implement biometric voting, at least in the departments that are identified as most at risk for electoral crimes.<sup>187</sup>

Budget woes are exacerbated by the lack of cooperation between municipalities and the local registry offices. Municipalities are obliged to contribute to the costs of organising the elections, but local officials complain that they do not always comply, leaving the registry offices scrambling for resources and, as a result, more vulnerable to political pressures.<sup>188</sup> Institutional weaknesses at the local level compound the problem. In an effort to minimise collusion and corruption, the National Civil Registry habitually rotates officials across the country,<sup>189</sup> but its local branches are still often perceived as weak and corrupt.<sup>190</sup>

<sup>185</sup> The National Civil Registry claims that the government has given the office only 17 billion Colombian pesos (some \$8.5 million) for voter registration, instead of the 38 billion pesos (\$19 million) originally sought. See Carlos Ariel Sánchez Torres, "Inscripción de ciudadanos en la 'Edad de Piedra' electoral", editorial, *Nuestra Huella*, March 2011, p. 3.

<sup>186</sup> "Colombia vive una ciclotimia electoral: Registrador Nacional del Estado Civil, Carlos Ariel Sánchez Torres", Registraduría Nacional del Estado Civil, Comunicado de Prensa 55 de 2011, 23 March 2011.

<sup>187</sup> Crisis Group interviews, National Civil Registry, Bogotá, 28 March, 9 June 2011. Officials say implementation of the system is mainly a matter of funding and, possibly, time constraints, but not institutional capacity. Interior Minister Germán Vargas Lleras repeatedly said that, if the reform passes, the introduction of biometric voting would be a possibility. See "Ley de víctimas podría ser utilizada con propósitos electorales", *El Universal* (Cartagena), 19 May 2011.

<sup>188</sup> Crisis Group interviews, departmental civil registry, Medellín, 29 March 2011; civil registry, Tumaco, 5 April 2011.

<sup>189</sup> Crisis Group interview, registry office, Cúcuta, 8 March 2011; National Civil Registry, Bogotá, 28 March. In the 2007 elections, the National Civil Registry rotated 244 local officials and 44 departmental delegates. See "Informe nacional de observación electoral - MOE - de la sociedad civil", Misión de observación electoral, 4 December 2007, p. 6.

<sup>190</sup> Crisis Group interview, political analyst, Bogotá, 1 March 2011. Institutional capacities are improving with the introduction of a career structure, including a competitive entry exam. Crisis Group interviews, electoral expert, Bogotá, 16 March 2011; National Civil Registry, Bogotá, 28 March 2011.

While these problems continue to stymie the prevention of electoral fraud, the state's reactive capacity has increased. URIEL, a temporary platform that brings together officials from institutions competent to investigate different aspects of infractions of electoral rules, was inaugurated in 2007.<sup>191</sup> It functions as a one-stop shop for denunciations of electoral offenses, which it receives and passes for follow-up to the responsible institutions.

URIEL's participating institutions are committed to its mission,<sup>192</sup> but challenges remain. Coordination between institutions with diverse procedures can be difficult. Moreover, it is unclear what precisely happens with denunciations once they are passed to the responsible institutions. To increase the accountability of participating institutions, information showing the state of complaints should be made public in a way that is easy both to access and to understand. This information should be updated at regular intervals, including after the elections, so as to document progress in following up on the original complaints.

Institutions like URIEL are useful in that they give citizens the possibility to bypass little trusted and often highly politicised local institutions. This helps to mitigate the pervasive information problem that central-level institutions face when monitoring local elections. But there is still substantial impunity for electoral crimes.<sup>193</sup> Part of the problem is legal. It is often very difficult to conclusively prove an offence.<sup>194</sup> Yet, the bigger problem is institutional and organisational. Reflecting a shortage of resources, prosecutors in the attorney general's office struggle with large caseloads. Responsibility for electoral crimes is dispersed both within and across institutions, decreasing the visibility of processes and making objective monitoring almost impossible.<sup>195</sup>

This situation should, however, change with the inauguration – provided for in the LE – of a unit in the attorney general's office for investigating offences against democ-

atic participation.<sup>196</sup> The government and the attorney general need to ensure the unit is established quickly and supported with measures to guarantee its smooth functioning.<sup>197</sup> The government and Congress should make certain that sufficient resources are mobilised so that its work does not come at the expense of the existing high caseload. Prosecutors delegated to the unit also need to have sufficient expertise and experience in electoral law and crimes.

#### D. GUARANTEEING A LEVEL PLAYING FIELD

Complaints against public officials for intervening in local politics are common,<sup>198</sup> but the institutional response has long been hesitant. The active involvement of incumbents, at both the regional and local level, reinforces already existing competitive inequalities, increases corruption risks and often exacerbates local clientelism. In most cases, institutional action is needed to break the vicious circle of incumbent influence, unfair political competition and corruption from which many municipalities suffer.

Mayors, governors and other local officials are barred by both penal and disciplinary law from actively intervening in politics and from using resources of local governments to promote specific candidates.<sup>199</sup> Restrictions on public servants under the 2005 Electoral Guarantees Law entered into force on 30 June 2011. These ban governors, mayors, local government secretaries and other officials, inter alia, from participating in campaign meetings and from inaugurating public works or making changes to payrolls four months ahead of the elections.<sup>200</sup> However, spending to repair damages of the rainfalls is not covered by the Electoral Guarantee Law, increasing the risk that some of the funds devoted to reconstruction will be misused for electoral purposes.<sup>201</sup>

Since 2005, the public prosecutor's office has put in place national and regional electoral commissions tasked, inter

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<sup>191</sup> URIEL, which was created by Decree 810 of 2007, is located in the interior and justice ministry. Participating institutions include the public prosecutor's office, the attorney general's office, the CNE, the National Civil Registry, the police, the armed forces and the DAS. URIEL opened its doors for the 2011 elections in March and will work until November. Crisis Group interview, interior and justice ministry, Bogotá, 14 April 2011.

<sup>192</sup> Ibid.

<sup>193</sup> According to estimates from the Antioquia chapter of the MOE, only seven of the 977 denunciations of electoral fraud made in 2009 to the attorney general's office were adjudicated. "Vamos hacia legalización de compra de votos": Misión de Observación Electoral en Antioquia", *El Tiempo*, 14 March 2010.

<sup>194</sup> Crisis Group interview, public prosecutor's office, 16 June 2011.

<sup>195</sup> Crisis Group interview, interior and justice ministry, Bogotá, 14 April 2011.

<sup>196</sup> Crisis Group interviews, political analyst, Medellín, 30 March 2011; interior and justice ministry, Bogotá, 14 April 2011; contribution, Crisis Group focus group discussion, Bogotá, 11 May 2011.

<sup>197</sup> Crisis Group interview, electoral expert, Bogotá, 8 June 2011.

<sup>198</sup> URIEL received 54 complaints about officials intervening in politics during the 2010 legislative campaign, a number exceeded only by complaints for vote buying (71) and coercion and intimidation of voters (62). "Informe sobre el trabajo de la Uriel durante el proceso electoral del año 2010", interior and justice ministry, Bogotá, 26 May 2010.

<sup>199</sup> Crisis Group interview, public prosecutor's office, Bogotá, 16 June 2011.

<sup>200</sup> Electoral Guarantee Law (996 of 2005), Article 38. In March, the public prosecutor's office sent a directive to local governments to clarify the restrictions on public servants during the electoral run-up; this was followed in July by an interior ministry circular.

<sup>201</sup> "Desde este jueves comenzó a regir la ley de garantías", *El Tiempo*, 30 June 2011.

alia, with monitoring and controlling the behaviour of officials.<sup>202</sup> As with electoral crimes, however, there is a high degree of impunity. The office acknowledges that it lacks the resources to monitor, let alone punish, potential misbehaviour of some two million officials. It therefore pursues high-profile cases, hoping that this might create a wider deterrent effect.<sup>203</sup> The first such case was in 2010, when it barred former Valle Governor Juan Carlos Abadía from holding public office for ten years.<sup>204</sup> Investigating and punishing improper electoral intervention by public officials should remain high on the agenda of the public prosecutor's office, but further investigations of local officials and the application of penalties must progress more rapidly to maximise the deterrent effect.

## E. UPHOLDING POLITICAL RIGHTS

Providing the conditions for free, fair and transparent elections requires institutional action beyond the mitigation of electoral risks. The government also needs to step up efforts to guarantee that internally displaced persons (IDPs), a highly vulnerable group, can fully exercise their political rights. This is particularly important in the current electoral campaign, as the displacement generated by severe rainstorms has amplified the problem.

Internal displacement is an unresolved political and electoral, not only humanitarian, challenge.<sup>205</sup> While the overall rhythm of displacement has slowed, IDPs remain in a highly vulnerable position that impinges on both active and passive political rights.<sup>206</sup> Having been forced by vio-

lence to leave their residence, IDPs often cannot, for security reasons, return to vote. They can, however, generally exercise their political rights in their current location, if they have registered there. Yet, in both cases, they have no influence over political decisions in their home municipality. This is particularly damaging in the context of local elections, since the local level decides on questions, such as land use, that are often directly related to the causes of internal displacement.<sup>207</sup> If displacement occurs after the deadline for voter registration, IDPs face a de facto suspension of their rights to participate.

Moreover, provisions requiring minimum periods of residence in order to stand for local office make it difficult to generate political leadership among IDPs. Their high level of poverty leaves IDPs highly vulnerable to pressure to vote for candidates who can promise access to state subsidies and other support programs. In some places, IDPs who take part in local politics are the target of violent threats.<sup>208</sup>

In 2004, the Constitutional Court declared an "unconstitutional state of affairs" and ordered state institutions to adopt measures for effective protection of IDPs' fundamental political rights.<sup>209</sup> However, implementation of the ruling has been slow. There has been progress in supplying identification documents to IDPs through a special unit of the National Civil Registry, thus mitigating a frequent obstacle for their political participation.<sup>210</sup> But with priority given to basic humanitarian and economic issues, the protection of their electoral and political rights has not been emphasised.<sup>211</sup>

This will require both short-term and long-term measures. Over the short run, the 2011 political reform could make voter registration more flexible. In accordance with the new rules, the registration process could reopen to allow voters (not just IDPs) to qualify up to two months before elections.<sup>212</sup> Nevertheless, more needs to be done. Ahead

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<sup>202</sup> See resolution 444 of 2005 of the public prosecutor's office.

<sup>203</sup> Crisis Group interview, public prosecutor's office, Bogotá, 3 June 2011.

<sup>204</sup> Abadía was sanctioned in 2010 after having intervened to the benefit of the electoral campaign of Andrés Felipe Arias, a former agriculture minister and by then a prospective Conservative Party presidential candidate. See "Expediente No. IUS 2010-75976 Disciplinado Juan Carlos Abadía Campo, Gobernador del Valle", Fallo de primera instancia, Procuraduría delegada para la vigilancia preventiva de la función pública, Bogotá, 5 May 2010; and "Destituyen a Gobernador del Valle, Juan Carlos Abadía, por participación en política", *El Espectador*, 5 May 2010. Abadía is now also facing criminal prosecution by the attorney general's office over the same incident.

<sup>205</sup> See Corte Constitucional, Auto 218/07 and "Desplazados de la Democracia", MOE/Codhes, 2010.

<sup>206</sup> According to data from Acción Social, the government agency responsible for attention to IDPs, 109,358 persons were displaced in 2010. "Registro único de población desplazada", Acción Social, as of June 2011. According to estimates from the Colombian NGO Consultancy for Human Rights and Displacement (Codhes), the number is much higher, around 280,000, almost unchanged from the 286,000 registered in 2009. Almost half the IDPs are of voting age. Colombia has one of the highest numbers of IDPs worldwide. The precise number remains a matter

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of debate. The government estimates that some 3.7 million persons were displaced between 1997 and May 2011, while Codhes maintains the true number is 5.195 million between 1985 and 2010. "¿Consolidación de qué?", Codhes, March 2011.

<sup>207</sup> Crisis Group interview, NGO, Bogotá, 7 June 2011.

<sup>208</sup> Ibid; see also "Denuncian primeras amenazas a desplazados por apoyo político en Putumayo", *El Espectador*, 6 May 2011.

<sup>209</sup> Corte Constitucional, Sentencia T 025/2004.

<sup>210</sup> Crisis Group interview, National Civil Registry, Bogotá, 9 June 2011. Since 2000, the registry has conducted 230 campaigns to supply identification documents to approximately 971,000 persons in conditions of vulnerability. Crisis Group interview, National Civil Registry, Bogotá, 9 June 2011.

<sup>211</sup> Crisis Group interview, NGO, Bogotá, 7 June 2011.

<sup>212</sup> It remains unclear, however, whether the new rules will be applied in the October elections, as the National Civil Registry fears that reopening the registration process would facilitate electoral fraud. Carlos Ariel Sánchez Torres, "Reforma política y Elecciones de Autoridades Locales", speech at the conference Estatato An-

of the elections, the government, including Acción Social, the agency responsible for IDPs, should also send a clear message that access to programs like Families in Action is a right, not a political favour. Any evidence that politicians threaten IDPs to cut benefits or promise benefits in return for their votes should be acted upon immediately, and possible misbehaviour must be prosecuted in a timely fashion.

Over the long term, the government and Congress should use the opportunity opened by the current rewriting of the electoral law to bring outdated provisions in line with today's requirements.<sup>213</sup> This could include the introduction of affirmative action measures, such as reserved seats for IDPs in local and regional assemblies. They should also reconsider the possibility to give IDPs the choice to vote in their original municipality by absentee ballot.<sup>214</sup>

The displacement generated by the rainstorms has magnified the problem and not just in emblematic cases like the hard-hit municipality of Gramalote (department of Norte de Santander), the urban centre of which was destroyed. A large number of voters has been displaced across the country, and voting infrastructure has been affected. An estimated 40 per cent of storm victims are also IDPs.<sup>215</sup> While in many municipalities it remains unclear where voters will be able to exercise their electoral rights, citizens in several affected municipalities have been given the opportunity to register outside the normal period. Final decisions on where they can vote should be taken and clearly communicated as early as possible, so as to minimise both the potential infringement on political rights and electoral fraud.

## F. PROTECTING JOURNALISTS AND STRENGTHENING OBSERVATION

Both domestic and international actors have important roles in monitoring the electoral process and denouncing violations of electoral rules or threats to local democracy and the quality of the elections. A free press and strong and independent civil society organisations are vital for highlighting threats to candidates, electoral interference by incumbents,

misuse of state subsidy programs and illicit campaign funding. Media at the national level is often vigorous and of high quality; reports from the Bogotá press have in the past been instrumental in uncovering egregious scandals, including the "parapolitics" affair. Print media and radio are now supported by online platforms dedicated to increasing political transparency and providing information on links between politicians and illegal armed actors.<sup>216</sup>

The situation is different at the local level. Internet-based journalism is opening up space,<sup>217</sup> but by and large the press is less independent and more susceptible to pressure. In many regions, journalists are in a vulnerable position. Some have a high-risk profile because they have political ambitions of their own. For others, maintaining good relations with local incumbents and promising candidates is often an economic necessity.<sup>218</sup> While attempts to suppress press freedom and impede the circulation of relevant electoral information are not always violent,<sup>219</sup> local journalists often are exposed to force. Murders of reporters have declined since the beginning of the century, but threats, including from NIAGs, are frequent and increase during campaigns, with 2011 being no exception.<sup>220</sup> Judicial investigations are often slow, with the result that violence against journalists often goes unpunished.<sup>221</sup> This in turn fosters self-censorship.

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ticorrupción y Elecciones 2011, Bogotá, 14 July 2011, [www.registraduris.gov.co/Reforma-politica-y-Elecciones-de.html](http://www.registraduris.gov.co/Reforma-politica-y-Elecciones-de.html).

<sup>213</sup> In June 2011, the interior ministry announced plans to reform the electoral code during the legislative period in the second half of 2011. Electoral institutions have great expectations for the reform, which is currently being prepared by a commission including, inter alia, the National Civil Registry, the CNE and the interior ministry. Crisis Group interview, National Civil Registry, Bogotá, 9 June 2011.

<sup>214</sup> This has already been studied once, but it was not implemented. Crisis Group interview, NGO, Bogotá, 7 June 2011.

<sup>215</sup> See "¿Consolidación de qué?", op. cit., p. 75.

<sup>216</sup> These include the information websites Verdad Abierta, La Silla Vacía, Votebien and Congreso Visible.

<sup>217</sup> Examples include Nariño Visible ([www.vocesdenarino.com/narino-visible](http://www.vocesdenarino.com/narino-visible)), a regional political watchdog website inspired by Congreso Visible.

<sup>218</sup> Crisis Group interview, NGO, Bogotá, 29 June 2011.

<sup>219</sup> A recent example of such a non-violent attempt comes from Santa Marta, the capital of Magdalena, where unknown persons bought on 18 June 2011 the entire print edition of the regional newspaper *El Heraldo* in an apparent attempt to prevent the circulation of an article discussing family networks in local politics and links to paramilitaries. See "'Telaraña mafiosa del Magdalena' agotó El Heraldo en Santa Marta", *El Heraldo*, 19 June 2011; and "MOE rechaza que mafias impidan una ciudadanía informada", press release, MOE, 20 June 2011.

<sup>220</sup> According to the Colombian NGO Foundation for Press Freedom (FLIP), one journalist had been murdered by mid-July 2011, and there were already 57 threats, compared to 49 registered in the entire 2010. In April 2011, Ombudsman Volmar Pérez denounced threats allegedly from Águilas Negras against journalists, lawyers and union leaders that were apparently part of alleged counter-subversive operations, "Defensoría denuncia amenazas contra periodistas", *El Periódico*, 17 April 2011. According to the Special Rapporteur for Freedom of Expression of the Inter-American Commission for Human Rights, Catalina Botero Marino, eighteen threats from NIAGs against journalists are currently under investigation. See "Investigan 18 amenazas a periodistas por bandas criminales", *Caracol*, 2 May 2011.

<sup>221</sup> "El olvido de la justicia", FLIP, 9 February 2011. See also "La prensa silenciada", Verdad Abierta, 20 April 2009.

Over the coming months, the Colombian NGO Foundation for Press Freedom (FLIP) will train local journalists in best election coverage practices. The government and security authorities need to complement this by reacting quickly to any threats and providing adequate protection. As importantly, the attorney general's office needs to increase efforts to bring to justice those responsible for threats and violence. Candidates and campaign officials should pledge publicly to respect press freedom and actively contribute to an informed debate. Electoral institutions and the government should also take measures to ensure that journalists and civil society organisation have equal and unhindered access to information.<sup>222</sup>

As in previous elections, an NGO, the Electoral Observer Mission (MOE), will provide extensive civil society electoral monitoring. To further strengthen confidence in the electoral process, Colombia should, as it has in the past, ask the Organisation of American States (OAS) to send an international observer mission.<sup>223</sup> In the same manner as for the 2007 local elections, this mission should be deployed significantly ahead of the day on which voting occurs, so as to focus on broader issues affecting the quality of the elections, including security threats, handling of complaints and transparency in campaign financing. International observers should be deployed particularly in municipalities that are at high risk of political violence and/or electoral fraud. If changes to ballot counting procedures set out in the LE are implemented, close international scrutiny will be crucial for generating confidence in results and preventing post-electoral violence.<sup>224</sup>

## VI. CONCLUSION

Colombia is approaching crucial elections in which more is at stake than just the next set of local authorities. The 2011 elections will be the first real opportunity for the fast evolving NIAGs to distort local politics. They will also determine the local political leaders who will be expected to support the implementation of crucial, yet locally often fiercely resisted government initiatives such as land restitution to victims of the armed conflict. The country is now better positioned to meet this challenge, and the Santos administration has raised expectations for freer, cleaner and more competitive elections by clearly acknowledging the threat posed by NIAGs and by increasing efforts to reduce the interference of illegal armed actors with the electoral process. In order to deliver on those expectations, it now needs to increase measures to protect candidates, improve intelligence to identify threats posed by armed actors – particularly the NIAGs – enforce campaign finance rules and prevent and prosecute electoral crimes.

Institutional action to mitigate electoral risks can make a real difference for the October polls but will be insufficient to break the cycle of conflict and corruption in which many municipalities are trapped. This will eventually require more structural reforms in at least three areas. First, electoral institutions, in particular the CNE, need to become stronger and more independent so they can exercise their oversight functions, and campaign financing norms need to be reformed to guarantee real-time transparency and stronger accountability. Secondly, political parties will have to become stronger so they can assume full control over the nomination of candidates and satisfy their accountability obligations. Thirdly, local government must develop a stronger institutional base that guarantees more accountability and transparency in the management of local affairs. Local justice will also have to be strengthened to allow it to assume a more prominent role in prosecuting links between criminals and local politicians.

A failure to embrace both the short- and long-term agendas would expose many of Colombia's regions to prolonged bad governance and violent conflict. Even as conflict dynamics evolve, the weakness of public institutions at the local level continues to drive alliances between politicians and illegal armed actors. If NIAGs are not prevented from strengthening and expanding their links to local politics, they will be able to operate with yet greater impunity. The capture of public funds would increase their resource base and consequently their potential to become even bigger threats to local democracy and national security. Recovering the legitimacy of local government and constructing democratically accountable, clean and efficient political institutions are central challenges Colombia must master in order to achieve a sustainable peace.

**Bogotá/Brussels, 25 July 2011**

<sup>222</sup> Crisis Group interview, NGO, Bogotá, 29 June 2011.

<sup>223</sup> As of the publication of this report, Colombia has not yet invited the mission. This is generating concerns in the OAS, because the schedule might become too tight to ensure appropriate financing.

<sup>224</sup> The 2007 electoral observer mission of the OAS noted that some 40 municipalities were affected by post-electoral violence over contested results. See "Informe de la misión de observación electoral: elecciones locales en la República de Colombia 28 de Octubre de 2007", Organización de los Estados Americanos, Consejo Permanente, CP/doc. 4293/08, 8 April 2008, p. 20. In March 2011, the National Civil Registry asked the Constitutional Court to delay the entry into force of provisions for an immediate decisive vote count until the 2014 elections, arguing that implementation under current budgetary constraints and with existing voting infrastructure would not be "viable". Letter of National Registrar Carlos Ariel Sánchez Torres to the Constitutional Court, Bogotá, 28 March 2011.

## APPENDIX A MAP OF COLOMBIA



Courtesy of The General Library, The University of Texas at Austin.

## APPENDIX B

### GLOSSARY OF TERMS AND ABBREVIATIONS

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AL 1/2009	Acto Legislativo 1 de 2009, political reform changing several articles of the 1991 Constitution.
AUC	United Self-Defence Forces of Colombia (Autodefensas Unidas de Colombia), umbrella body of paramilitary groups whose demobilisation started in 2003 and officially ended in 2006.
BACRIMs	Criminal groups (bandas criminales), term used by the government to refer to illegal armed groups formed after the end of the AUC demobilisation.
BLS	Bloque Libertadores del Sur, paramilitary unit of the AUC's Bloque Central Bolívar operating in Nariño; BLS demobilised on 30 July 2005.
CERAC	Conflict Analysis Resource Center (Centro de Recursos para el Análisis de Conflicto), Bogotá-based NGO.
CIAT	Interagency Early Warning Committee (Comité Interinstitucional de Alertas Tempranas).
CI2E	Integrated Electoral Intelligence Centre (Centro Integrado de Inteligencia Electoral), security coordination platform hosted by the police.
CNE	National Electoral Council (Consejo Nacional Electoral), body of nine magistrates in charge of supervising electoral processes.
Codhes	Consultancy for Human Rights and Displacement (Consultoria para los derechos humanos y el desplazamiento), Bogotá-based NGO.
DANE	National Administrative Statistics Department (Departamento Administrativo Nacional de Estadística), Colombia's official statistics office.
DAS	Administrative Department of Security (Departamento Administrativo de Seguridad), intelligence agency which is dependent on the office of the president.
ELN	National Liberation Army (Ejército de Liberación Nacional), Colombia's second largest guerrilla group.
EPL	Popular Liberation Army (Ejército de Liberación Popular), the country's smallest guerrilla group, the bulk of whose fighters demobilised in 1991 and formed a political party.
ERPAC	Anti-terrorist Popular Revolutionary Army of Colombia (Ejército Revolucionario Popular Antiterrorista de Colombia), illegal armed group and drug-trafficking organisation whose stronghold is in the eastern plains.
FARC	Revolutionary Armed Forces of Colombia (Fuerzas Armadas Revolucionarias de Colombia), Colombia's main insurgent group and the oldest guerrilla force in the Americas.
FLIP	Foundation for Press Freedom (Fundación para la Libertad de Prensa), Bogotá-based NGO.
IDPs	Internally Displaced Persons.
INDEPAZ	Institute for Peace and Development Studies (Instituto de Estudios para el Desarrollo y la Paz), Bogotá-based NGO.
JAL	Local Administration Boards (Juntas de acción local), institution tasked with supporting mayors and local councils.
JPL	Justice and Peace Law (Ley de Justicia y Paz), legal framework for transitional justice in Colombia.
LE	Ley Estatutaria 1475 de 2011, legal norm that implements AL 1/2009.
MOE	Electoral Observer Mission (Misión de observación electoral), Bogotá-based NGO.
NDVC	Norte del Valle Cartel, drug cartel formed after the disintegration of the Cali and Medellín cartels, operates in the northern part of Valle del Cauca department.



NIAGs	New Illegal Armed Groups and paramilitary successors, generic term to describe illegal armed groups that have emerged after the end of the demobilisation of the AUC.
OAS	Organisation of American States.
PDA	Alternative Democratic Pole (Polo Democrático Alternativo), left-wing political party.
PIN	National Integration Party (Partido de Integración Nacional), political party founded in 2009.
SAT	Early Warning System (Sistema de Alertas Tempranas) run by the office of the ombudsman.
UIAF	Unit of Information and Financial Analysis (Unidad de Información y Análisis Financiero), financial watchdog linked to the finance ministry.
UP	Patriotic Union (Unión Patriótica), leftist political party founded in 1985 as a result of peace talks between FARC and the Betancur administration; it lost recognition as a party in 2002.
URIEL	Immediate Reaction Unit for Electoral Transparency (Unidad de Reacción Inmediata para la Transparencia Electoral), inter-institutional platform for receiving and passing electoral fraud denunciations to competent authorities, hosted by the interior ministry.

## APPENDIX C

### ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 130 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, [www.crisisgroup.org](http://www.crisisgroup.org). Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is chaired by former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since July 2009 has been Louise Arbour, former UN High Commissioner for Human Rights and Chief Prosecutor for the International Criminal Tribunals for the former Yugoslavia and for Rwanda.

Crisis Group's international headquarters are in Brussels, with major advocacy offices in Washington DC (where it is based as a legal entity) and New York, a smaller one in London and liaison presences in Moscow and Beijing. The organisation currently operates nine regional offices (in Bishkek, Bogotá, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina and Tbilisi) and has local field representation in fourteen additional locations (Baku, Bangkok, Beirut, Bujumbura, Damascus, Dili, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria, Sarajevo and Seoul). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Cameroon, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Burma/Myanmar, Indonesia, Kashmir, Kazakhstan, Kyrgyz-

stan, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Taiwan Strait, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Macedonia, Russia (North Caucasus), Serbia and Turkey; in the Middle East and North Africa, Algeria, Egypt, Gulf States, Iran, Iraq, Israel-Palestine, Lebanon, Morocco, Saudi Arabia, Syria and Yemen; and in Latin America and the Caribbean, Bolivia, Colombia, Ecuador, Guatemala, Haiti and Venezuela.

Crisis Group receives financial support from a wide range of governments, institutional foundations, and private sources. The following governmental departments and agencies have provided funding in recent years: Australian Agency for International Development, Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Belgian Ministry of Foreign Affairs, Canadian International Development Agency, Canadian International Development and Research Centre, Foreign Affairs and International Trade Canada, Czech Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, European Commission, Finnish Ministry of Foreign Affairs, French Ministry of Foreign Affairs, German Federal Foreign Office, Irish Aid, Japan International Cooperation Agency, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Royal Norwegian Ministry of Foreign Affairs, Slovenian Ministry of Foreign Affairs, Swedish International Development Agency, Swedish Ministry for Foreign Affairs, Swiss Federal Department of Foreign Affairs, Turkish Ministry of Foreign Affairs, United Arab Emirates Ministry of Foreign Affairs, United Kingdom Department for International Development, United Kingdom Economic and Social Research Council, U.S. Agency for International Development.

The following institutional and private foundations have provided funding in recent years: Carnegie Corporation of New York, The Charitable Foundation, Clifford Chance Foundation, Connect U.S. Fund, The Elders Foundation, Henry Luce Foundation, William & Flora Hewlett Foundation, Humanity United, Hunt Alternatives Fund, Jewish World Watch, Korea Foundation, John D. & Catherine T. MacArthur Foundation, Open Society Institute, Victor Pinchuk Foundation, Ploughshares Fund, Radcliffe Foundation, Sigrid Rausing Trust, Rockefeller Brothers Fund and VIVA Trust.

July 2011

## APPENDIX D

### CRISIS GROUP REPORTS AND BRIEFINGS ON LATIN AMERICA SINCE 2008

- Latin American Drugs I: Losing the Fight*, Latin America Report N°25, 14 March 2008 (also available in Spanish).
- Latin American Drugs II: Improving Policy and Reducing Harm*, Latin America Report N°26, 14 March 2008 (also available in Spanish).
- Colombia: Making Military Progress Pay Off*, Latin America Briefing N°17, 29 April 2008 (also available in Spanish).
- Bolivia: Rescuing the New Constitution and Democratic Stability*, Latin America Briefing N°18, 19 June 2008 (also available in Spanish).
- Venezuela: Political Reform or Regime Demise?*, Latin America Report N°27, 23 July 2008 (also available in Spanish).
- Reforming Haiti's Security Sector*, Latin America/Caribbean Report N°28, 18 September 2008.
- Correcting Course: Victims and the Justice and Peace Law in Colombia*, Latin America Report N°29, 30 October 2008 (also available in Spanish).
- Haiti 2009: Stability at Risk*, Latin America/Caribbean Briefing N°19, 3 March 2009.
- Ending Colombia's FARC Conflict: Dealing the Right Card*, Latin America Report N°30, 26 March 2009 (also available in Spanish).
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## APPENDIX E

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