

COLOMBIA: PEACE AT LAST?

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COLOMBIA: PEACE AT LAST?

EXECUTIVE SUMMARY AND RECOMMENDATIONS

After decades of failed negotiations and attempts to defeat the Revolutionary Armed Forces of Colombia (FARC) guerrillas and the smaller National Liberation Army (ELN) militarily, a political solution to the Western Hemisphere's oldest conflict may be in sight. Following a year of secret contacts, formal peace talks with FARC are to open in Oslo in October 2012 and continue in Havana. They may be extended to the ELN. There seems a firmer willingness to reach an agreement, as the government realises military means alone cannot end the conflict and FARC appears to recognise that the armed struggle permits survival but little else. With no ceasefire in place, both sides must act with restraint on the battlefield to generate immediate humanitarian improvements. And they will need to balance the requirements of fast, discreet negotiations and those of representativeness and inclusion. The government and the guerrillas have the historic responsibility to strike a deal, but only strong social and political ownership of that deal can guarantee that it leads to the lasting peace that has been elusive for so long.

There are many challenges, but they are, on balance, less formidable than on previous occasions. Scepticism towards the guerrillas remains widespread, and there is political opposition to the talks, most vocally and radically articulated by former President Álvaro Uribe (2002-2010). His discourse resonates strongly among large landowners and other powerful regional actors with significant stakes and a historical proclivity for using violence to defend their interests. But the large majority of Colombians back a peace process, and mainstream political forces have endorsed it, though a failure to secure quick results could breathe new life into political resistance. The security forces are better aligned with the civilian leadership than in the past and represented at the negotiation table, reducing risk of the coordination failures between political and military agendas that have marred previous peace attempts.

Broader conflict dynamics also encourage a political settlement. With neither side likely to win by arms alone, both have a strong incentive to negotiate. FARC is weakened militarily, but an entire generation of its leaders now has possibly its last opportunity to vindicate decades of struggle in a peace deal that responds to some of the issues that

spawned the insurgency and that allows the guerrillas to participate in the construction of peace as social and political actors. The government operates from a position of strength. Its military advantage, if not decisive nevertheless appears irreversible; Santos, who is more sensitive than his predecessor to victims' rights, has started to tackle problems such as rural development that are of direct concern for the guerrillas, and his administration has acknowledged the state's responsibility for some key human rights violations. It also still has a reasonably cohesive partner to deal with, avoiding the problems that can be envisaged if more years of heavy military pressure were to cause FARC to splinter.

Nevertheless, the outcome depends on more than the will and negotiating skill of the parties. After 50 years of guerrilla warfare, systematic human rights violations and indifference by both to the plight of rural areas, communities in conflict regions no longer consider the guerrillas defenders of their interests and have lost faith in the state's capacity and willingness to solve their problems. Negotiations thus need to be sustained by the active participation and endorsement of civil society, notably of rural and indigenous communities. To lay the foundations for durable peace, talks will ultimately need to lead into a wider social process aimed at tackling the problems affecting the countryside that provide the backdrop for the conflict. Lasting peace is also only possible on the basis of accountability for the many grave abuses committed by all sides in the conflict. The international community, represented during the talks primarily by Norway, Cuba, Venezuela and Chile, will need to stand by Colombia throughout, including as it takes up the challenges of a post-conflict society.

Fears over peace talks are tactically exaggerated by their opponents. But those promoting a political settlement also need to keep expectations in check. A deal would not eliminate violence. It likely would fail to convince some FARC elements to lay down arms, notably those deeply involved in the drugs trade. There would still be significant security threats from illegal armed groups rooted in the officially demobilised paramilitaries and from other organised criminal gangs. Nor can the socio-economic problems underlying the conflict be solved overnight. But ending the conflict

with the guerrillas would give Colombia the best prospect yet to come to grips with all these issues. Crisis Group will accompany the process with analysis and recommendations on the substance of the agenda.

Ten years of intense counter-insurgency warfare have greatly weakened the combat strength of the guerrillas and pushed them into ever more remote rural hideouts, substantially reducing the impact on the major urban centres. But the conflict still costs lives on a daily basis, holds back socio-economic development and impedes the consolidation of a truly inclusive and pluralistic democracy. The road ahead will not be short or smooth, but Colombia cannot afford to muff this chance for peace.

RECOMMENDATIONS

To mobilise broad social, political and institutional support for the peace process and minimise the potential influence of spoilers

To the Government of Colombia:

1. Ensure civil society ownership and effective buy-in to the peace process, notably in conflict-affected communities, by:
 - a) delivering swiftly on the reform agenda, with a priority on consolidation policy, land restitution and other forms of victims' reparation as provided for in the 2011 Victims and Land Restitution Law; and improving protection of community leaders, human rights advocates and endangered land recipients by mechanisms consulted with them;
 - b) ending the stigmatisation or criminal prosecution of even the most strident peaceful political dissent; and
 - c) providing for inclusive, well-organised, safe and effective civil society participation on and input to all points of the negotiations agenda, as promised in the 26 August pre-accord; actively reach out to conflict-affected communities and to indigenous peoples as well as Afro-Colombian communities, in line with their consultation rights under the constitution; and ensure full accountability for decisions.
2. Involve key political decision-makers as negotiations advance, balancing the need to reach substantive commitments with FARC at the negotiations table with respect for democratic processes so that the appropriate institutions remain the main forums for relevant policy decisions.

3. Ensure that any political settlement leads into a wider social peacebuilding process aimed at meeting basic rights and addressing Colombia's rural problems in continuous dialogue with local communities.
4. Ensure buy-in of the security forces, including by:
 - a) reducing judicial uncertainty through strengthening of the independence, capacities and impartiality of military courts; and
 - b) beginning discussion on eventual security sector reform and post-conflict mechanisms to provide benefits to demobilising security personnel.
5. Reduce impunity risks by ensuring that all grave human rights and international humanitarian law (IHL) violations remain under civilian jurisdiction and by strengthening mechanisms to guarantee the transfer of cases from military jurisdiction to civilian courts.
6. Step up efforts to fight New Illegal Armed Groups (NIAGs) and other organised crime groups, including front structures and corrupt networks, in a more integrated manner, particularly by giving law enforcement agencies the resources, capacity and incentives to investigate and prosecute the full spectrum of NIAG and related crimes, starting in the conflict-affected regions.
7. Publish, through the Vice Presidency's Human Rights and IHL Observatory, timely and constantly revised updates of major conflict variables so as to facilitate the objective of monitoring of hostilities and their humanitarian impact during the negotiations.

To the Government, the Armed Forces and FARC:

8. Achieve a bilateral ceasefire in an early phase of negotiations, and in the meantime, in order to produce humanitarian relief in conflict zones and minimise risk of destabilising the peace talks, immediately exercise military restraint, in particular by:
 - a) respecting the principle of distinction and, particularly, the rules of precaution and proportionality in attacks, as stipulated by customary IHL. This implies stopping the use of civilian infrastructure, such as schools, to hide and conduct military operations; and taking all possible measures to avoid direct or indirect violence against civilians;
 - b) granting and securing permanent access to the conflict areas to humanitarian agencies and public social institutions in order to guarantee health, food and other basic services;

- c) FARC should accept all international standards on the conduct of conflict, including those that prohibit the use of minors, and progressively release such minors as may be in its forces; security forces should no longer use minors for intelligence and surveillance tasks and make this commitment public;
 - d) security forces should restrict bombardments, in particular in areas close to civilian housing; reduce aerial coca fumigation to the absolute minimum; refrain from actions that result in mobility restrictions for communities; give communities explicit guarantees that allow local and unavoidable communication with FARC for humanitarian purposes; and recognise that such or similar incidental contacts or physical proximity do not make civilians guerrilla supporters; and
 - e) FARC should immediately release hostages it might still hold and provide information about those whom it formerly held and are unaccounted for; halt attacks using car bombs or other devices with indiscriminate effects that pose significant risks for civilians; refrain from attacks on water, energy and electricity infrastructure and armed blockades; and lift existing restrictions on access for humanitarian actors.
12. Announce willingness to assist in providing technical, financial or other support as may be requested by parties to implement agreements.

Bogotá/Brussels, 25 September 2012

To all parties to the negotiations, including international facilitators:

9. Ensure that women effectively and substantively contribute in all aspects and elements of the peace process; and commit to comply with all relevant international norms, including those enshrined in the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and Security Council Resolution 1325 and associated texts.

To the International Community, in particular major donors including the U.S. and European Union:

10. Enhance and renew political and financial support for the initiatives aimed at improving the humanitarian condition of the affected population, including demining, return of the displaced and reintegration and reparation for victims.
11. Maintain and, if possible, increase levels of funding for human rights defenders, local or regional peace initiatives and capacity-building programs for local NGOs and social movements; and support civil society in critically, autonomously and constructively engaging with the negotiation process and the resulting post-conflict order.

COLOMBIA: PEACE AT LAST?

I. INTRODUCTION

Ten years after the last serious attempt to reach a political deal with the guerrillas ended, Colombia's President Juan Manuel Santos announced on 4 September 2012 a pre-accord with the Revolutionary Armed Forces of Colombia (FARC).¹ The sides pledged to begin negotiations, aimed at definitively ending decades of violence, in a formal ceremony in Oslo in early October. Direct, continuous talks will then be held in Cuba until a final agreement is reached in the shortest possible time. Cuba and Norway will be guarantors for the negotiations; Venezuela and Chile are to accompany them. The agenda has six subjects: integrated agrarian development; political participation; termination of the conflict; solution of the problem of illicit drugs; victims; and implementation and monitoring.²

This report analyses the current opportunity for a political settlement as well as efforts needed to render negotiations successful and prepare lasting peace. In contrast to previous attempts, both parties have strong incentives to negotiate, as they appear to realise that the war cannot be decided by arms alone. The government's military superiority and FARC's weakness provide a more promising constellation than at the last attempt (1999-2002).³ The power of spoilers has arguably also diminished since then, though violence remains a serious risk factor. But success will not come automatically. Given Colombia's history of often traumatic failed peace talks, both sides have to take actions to overcome important political resistance, build trust and mobilise broad societal support, as well as deal with widespread scepticism that the guerrillas really want peace. The international community needs to meaningfully support the process and a post-conflict period. Subsequent reporting will offer further analysis and recommendations on specific aspects and issues of the negotiations.

It is still unclear whether and under what conditions, the National Liberation Army (ELN), the second guerrilla movement, might join the process. It has repeatedly signalled its intention to engage in peace talks.⁴ In his 27 August 2012 address confirming the existence of exploratory conversations with FARC, President Santos acknowledged this interest, and the pre-accord invites "other guerrilla forces" to join the process. A negotiation with both groups would likely have a larger immediate impact on violence, but Colombia has a tradition of partial peace agreements with specific groups.

The field research on which this report is based was conducted in some of Colombia's most conflict-torn areas, such as the Middle Magdalena region and the departments of Cauca, Norte de Santander and Caquetá, and includes a broad range of interviews with security forces, government officials, local communities, religious leaders, politicians, NGOs and demobilised FARC members, among others.

¹ For previous analysis of peace prospects with FARC, see Crisis Group Latin America Report N°30, *Ending Colombia's FARC Conflict: Dealing the Right Card*, 26 March 2009, and N°1, *Colombia's Elusive Quest for Peace*, 26 March 2002.

² The full text of the pre-accord is at Appendix B below.

³ For an overview of previous peace talks with FARC and other guerrilla groups, see Álvaro Villarraga Sarmiento (ed.), *Biblioteca de la paz*, five volumes (Bogotá, 2008).

⁴ See "Entrevista exclusiva al máximo comandante del ELN", *Marcha*, 14 September 2012. See also Luis Eduardo Celis, "El presidente Juan Manuel Santos y el ELN están muy lejos de una mesa de negociaciones", *Semanario Virtual Edición no. 292*, 24 February-1 March 2012; Nicolás Chamat and Emilia Frost, "Nueva ruta con el Eln: evitando los errores del pasado", *Cien días no. 75*, May-July 2012, pp. 8-11; also Crisis Group Latin America Report N°2, *Prospects for Peace with the ELN*, 4 October 2002; and Briefing N°16, *Colombia: Moving Forward with the ELN?*, 11 October 2007.

II. A WAR WITHOUT WINNERS

Following a decade of intensive war, the government's military advantage over FARC appears irreversible. As a result, the intensity of the conflict on a national scale has declined, and fighting has moved deeper into the periphery of the country. Major urban and economic centres along the Andean valleys are ever less impacted. But final defeat of the guerrillas on the battlefield is as remote as the sort of structural collapse that would leave it with no other option than to surrender. This is not because the government has not tried militarily, but due to the capability of the guerrillas to adapt to circumstances and limitations in government strategy, including the lack of progress in establishing rule of law in conflict regions. The real security progress Uribe achieved has made it easier to look the other way, but communities at the periphery of the country remain heavily exposed to violations of human rights and international humanitarian standards, and the war effort remains, if not unsustainable, at least very costly for all involved.

A. THE STATE OF THE ARMED CONFLICT

FARC reached its military highpoint in 1998. In November that year it captured for a time the city of Mitú (capital of the south-eastern Vaupés department). This followed a series of resounding victories, including the 1996 destruction of the military base of Las Delicias (Putumayo) and the 1998 defeat of a counter-guerrilla unit in El Billar (Caquetá). These attacks marked the culmination of a military build-up that had been underway since FARC's seventh conference (1982), in which it adopted a strategic plan to take political power. The group highlighted its ambitions by adding the qualification "Army of the People" (EP) to its name and embarked on an unprecedented increase in the number of its combatants, from 1,300 in 1982 to around 16,980 in 2001.⁵ The attack on Mitú was its closest attempt to upgrade from mobile guerrilla warfare to conventional combat.⁶

Since then, the balance of forces has turned increasingly in the government's favour, in particular since the concerted military offensive implemented during the presidency of Álvaro Uribe (2002-2010). His Democratic Security Policy (DSP) gave priority to defeating the guerrillas, breaking with the conflict resolution strategy of governments since the 1980s that had combined military pres-

sure with attempts at negotiation.⁷ Operation Orion aimed at dislodging FARC and ELN militias from Medellín's Comuna 13 neighbourhood, while Operations Freedom I and II frustrated guerrilla plans to encircle Bogotá and re-established state control over urban areas, highways and infrastructure in Cundinamarca and other central areas. Plan Patriot (2003-2006), the largest offensive in Colombian history, deployed 18,000 troops in Caquetá, Meta, Putumayo and Guaviare to hit the eastern and southern blocs, FARC most powerful structures.

To project such force, Uribe relied on foundations that were in part put in place before his presidency. Since the end of 1990s, the armed forces have undergone an unprecedented reform. Command and control structures have been streamlined and equipment upgraded, partly with support from the multi-billion dollar U.S. aid package Plan Colombia, which also funded training.⁸ This ensured air superiority, improved mobility and reaction time and greater capacity to operate at night, as well as improved intelligence.⁹ Between 1998 and 2002, the size of the armed forces grew by 60 per cent to 132,000, some 55,000 of whom were professionals (up from 22,000 four years earlier).¹⁰ Uribe continued the build-up, with the military reaching 283,000 and national police 159,000 by the end of his two terms.¹¹ The elite counter-insurgent Task Force Omega was created in 2003, and Uribe also established

⁷ The original formulation of DSP is in "Política de Defensa y Seguridad Democrática", presidency and defence ministry, 2003. The follow-up, the 2007 Democratic Security Consolidation Policy (DSCP), emphasises consolidating territorial gains by increasing the state presence in conflict regions. In 2009, the Strategic Jump modified this with the National Territorial Consolidation Plan (PNCT). These were important evolutions of Uribe's security policy but did not break with the original emphasis on the military dimension. This report refers to DSP as Uribe's and Santos's overall strategy; distinctions are made only when specific aspects such as the consolidation strategy are discussed.

⁸ Crisis Group interview, senior military official, Bogotá, 3 February 2012. Plan Colombia was signed into law by President Clinton in July 2000. In 2002, the U.S. Congress approved use of its funds for counter-insurgency, not just counter-narcotics. However, its implementation in cultivation zones under strong FARC influence meant that the plan was always de facto directed against the guerrillas. Total funding has reached nearly \$7 billion.

⁹ Andrés Villamizar, *Fuerzas militares para la guerra. La agenda pendiente de la reforma militar* (Bogotá, 2003), pp. 41-70.

¹⁰ Alejo Vargas Velásquez, *Las fuerzas armadas en el conflicto colombiano: antecedentes y perspectivas* (Medellín, 2010), pp. 191-192.

¹¹ "Logros de la Política de Consolidación de la Seguridad Democrática-PCSD", defence ministry, June 2010, p. 73.

⁵ Daniel Pécaut, *Las FARC: ¿Una guerrilla sin fin o sin fines?* (Bogotá, 2008), p. 106.

⁶ See Eduardo Pizarro Leongómez, *Las Farc, 1949-2011* (Bogotá, 2011), pp. 275, 292.

Joint Commands to address army-air force-navy coordination,¹² military police coordination was also improved.

The entrenchment of the military-led approach was facilitated by a constitutional change in 2005 that made it possible for Uribe to stand for and win a second four-year term. This weakened a long-standing FARC strategic advantage. For over 40 years, a stable command gave the guerrillas a long time horizon. By contrast, military policy cohesion had suffered under the regular four-year presidential turnover.¹³ Greater policy stability was also facilitated by a reduction of turnover in military leadership. President Andrés Pastrana (1998-2002) had just one army commander and Uribe three in his two mandates.

These developments yielded results. FARC was ousted from central Andean departments and lost its urban presence as well as control over strategic corridors and was forced to retreat to hideouts in ever more remote rural areas. Over 12,000 FARC members were killed by security forces between 2002 and May 2009; another 12,000-plus were captured between 2003 and 2009; and over 17,000 were demobilised between 2002 and August 2012.¹⁴ The number of fighters dwindled to some 9,000 in 2012.¹⁵ As a result, the number of municipalities exposed to offensive military operations by FARC shrank from 377 (of some 1,100) in 2002 to 142 in 2010.¹⁶ At the same time, security forces extended their presence across the territory. By 2006, the police had at least some presence in all municipalities, up from 932 in 2002, even though territorial control in peripheral areas remains often restricted to urban centres.¹⁷

But the returns on DSP have been tailing off since the mid-point of Uribe's second term. This is most clearly seen in the increase in FARC's military actions since 2009. The guerrillas have exploited the strategic advantages offered by the vast and ill-controlled borders with Venezuela and Ecuador, including possibilities to rest, re-equip and expand illicit businesses.¹⁸ From a low of 200 registered in 2008, they steadily increased offensive operations to 479 in the first ten months of 2011 and have maintained a high operational tempo in 2012.¹⁹ As a result FARC have been able to partially rebuild strength in departments such as Putumayo and Nariño.²⁰ DSP has also proven itself of limited effectiveness in ejecting FARC from traditional strongholds in south-eastern Caquetá and Meta; in the latter it has been able to move again closer to some urban centres.²¹ There are also reports that it has stepped up efforts to regain territory in the departments of Chocó, Caldas and Risaralda.²²

FARC has also made progress in handling improvised explosive devices (IEDs) and car bombs, some now detonated by telephone.²³ Some operations, such as in January 2012 against a radar station in El Tambo (Cauca), have been carried out by large numbers. This does not mean FARC has regained the initiative. Many operations are primarily defensive, aimed at protecting leaders and holding back, wearing out or distracting government troops by landmines. The number of its offensive operations, such as attacks on police or military posts or infrastructure, remains lower than a decade ago. That the number of combats initiated by the military has been falling since 2007, likely reflects FARC's reduced presence and manpower more than a diminishing government effort.²⁴ To reverse

¹² See Andrea Escobar, Nathalie Pabón and Laura Mendivil, "La actual reforma militar en Colombia: La renovación de las fuerzas armadas", in Alejo Vargas Velásquez and Carlos Alberto Patiño Villa (eds.), *Reforma militar en Colombia: Contexto internacional y resultados esperados* (Medellín, 2006), pp. 206-211.

¹³ Eduardo Pizarro Leongómez, *Las Farc*, op. cit., pp. 284-285.

¹⁴ Figures on killings cited in "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston", UN General Assembly, A/HRC/14/24/Add.2, 31 March 2010, p. 10; "Subversivos capturados por la Policía Nacional a nivel país, periodo del 1 de Enero año 2003 al 31 de Diciembre año 2009", numbers provided to Crisis Group by Policía Nacional Dirección de Investigación Criminal e Interpol, 28 February 2012; "Presentaciones individuales voluntarias totales por años lapso 2002-2012", Grupo atención humanitaria al desmovilizado, defence ministry, 2012.

¹⁵ "El Gobierno calcula que las FARC tienen 9.000 integrantes", *Semana*, 7 September 2012. The ELN currently is estimated to have 2,000 men under arms, *ibid*.

¹⁶ Camilo Echandia Castilla, "Situación actual de las FARC: Un análisis de los cambios en las estrategias y la territorialidad (1990-2011)", Fundación Ideas para la Paz, September 2011, p. 30.

¹⁷ "Seguridad Democrática, 2002-2010", Policía Nacional de Colombia, n.d., p. 58.

¹⁸ See Crisis Group Latin America Report N°40, *Moving beyond Easy Wins: Colombia's Borders*, 31 October 2011.

¹⁹ "Acciones de los grupos armados al margen de la ley por presunto responsable, departamento, municipio y mes a nivel nacional", dataset provided to Crisis Group by the Presidential Program on International Humanitarian Law and Human Rights, August 2012. This data is updated only to October 2011. Alternative data from the think-tank Nuevo Arco Iris suggests a slightly different but not totally incompatible picture. According to it FARC attacks have been edging up since 2004 and markedly accelerated since 2008 to reach in 2011 the highest level in over a decade. See Ariel Avila, "Las FARC: la guerra que el país no quiere ver", *Arcanos* no. 17 (2012), p. 37. "Primer Trimestre 2012: Persiste el deterioro de la seguridad", Centro Seguridad y Democracia Universidad Sergio Arboleda, 2012.

²⁰ Crisis Group Report, *Moving Beyond Easy Wins*, op. cit.

²¹ This is the case, for instance, of Mapiripán (Meta). Crisis Group interview, analyst, Villavicencio, 7 March 2012.

²² Juan Carlos Monroy Giraldo, "Farc y Eln quieren recuperar poder en Chocó y Risaralda", *El Colombiano*, 23 January 2012.

²³ Crisis Group interviews, NGO, Cúcuta, 14 March 2012; police, Cúcuta, 15 March 2012.

²⁴ Echandia, "Situación actual de las FARC", op. cit., p. 9.

the strategic balance, the group would also need to weaken government air superiority. It is suspected to have tried to acquire surface-to-air missiles, but these have not appeared in combat. The guerrillas claimed they caused the crash in July 2012 of a Super Tucano Air Force plane, but this is unproven and denied by the government.²⁵

As the defence minister responsible for DSP under Uribe, Santos has adjusted security strategy without altering its fundamental direction. In early 2012, authorities shifted the military focus from hunting down high-value individual targets to dismantling FARC's most important military and financial units.²⁶ As part of this approach, the government has created several new joint task forces to increase pressure on FARC rear guards, such as Arauca and Cataumbo. Yet, such revisions, as even members of the military recognise, have mostly served the public relations purpose of demonstrating that, despite the evolving conflict dynamics, the leadership remains on top of the game.²⁷

DSP has contained and reduced the insurgency but not defeated it. Despite important gains, Colombia remains stuck in a "catastrophic equilibrium of contending forces", marked by the inability of either side to reach decisive victory.²⁸ Unless broken by a negotiated solution, this equilibrium is likely to hold at least over the medium term. Officials increasingly recognise this, and the government has moved to diversify its options for resolving the conflict. At the initiative of the Santos administration, Congress passed in 2012 a Legal Framework for Peace, a constitutional reform specifically aimed at providing legal and judicial mechanisms to facilitate new negotiations.²⁹

B. THE LIMITS OF GOVERNMENT STRATEGY

The government has claimed that the intensification of the conflict in some regions was nothing more than the last hurrah of the guerrillas, as the military penetrated its last hideouts. This is unconvincing, given the gradual and

multi-year build-up of FARC military activities. More to the point, four factors have greatly reduced the effectiveness of DSP. First, FARC has been able to adapt to the military pressure. Its 2008 Plan Rebirth, implemented under Alfonso Cano, the group's leader between 2008 and 2011, put a stamp on the return to guerrilla war tactics, including increased use of snipers, anti-personnel mines and other explosives by smaller and mobile units to avoid fights and hold back the army's advance. The investment in communication devices and weapons was directed at improving intelligence and coping with pressure from the air. Cano upgraded the role and equipment of the urban militias network, called for strengthening FARC's links to social movements and revived its international work.

Secondly, DSP faces increasingly deep strategic trade-offs. Security forces have to balance how to reconcile the missions of securing infrastructure and recovering territory. With oil and mining industries booming, efforts to protect roads, oil fields and installations in Arauca and Putumayo departments absorb a large share of the military's capacity and limit offensive possibilities. There is concern among the military that the mining boom will tie up even more resources at a time when the security forces are set to take over additional responsibilities in the context of efforts to return to victims land grabbed by illegal armed groups, including paramilitaries. The opportunity costs are not negligible. In several parts of the south, some security gains were reportedly reversed, as troops moved on to new conflict theatres opened by the guerrillas. Insiders also report strategic coordination problems as "commanders only think of their theatre of operations".³⁰

Thirdly, increase in guerrilla strength also reflects the failure to construct fully the social legitimacy of the state and boost the capacity of civilian institutions in conflict zones. FARC enjoyed its best time when the state was in deep crisis during the Samper administration (1994-1998), mired in accusations that the president's electoral campaign was financed by the Cali drug cartel. Under Uribe, extrajudicial executions, evidence of widespread paramilitary infiltration in local and national politics and abuse of the presidential intelligence agency DAS to spy on opposition politicians and judges further undermined state legitimacy, giving FARC's political discourse traction.³¹

The government has been aware of the need to extend state presence and rule of law to undercut FARC's social

²⁵ See "Así tumbamos el Supertucano", FARC-EP, 17 July 2012.

²⁶ See Luis Jaime Acosta and Jack Kimball, "Exclusive: Colombia revamps war plan against guerrillas", Reuters, 17 February 2012; "La nueva estrategia contra las FARC", *Semana*, 25 February 2012.

²⁷ Crisis Group interview, high-ranking military officer, Bogotá, 31 January 2012.

²⁸ Gonzalo Sánchez, *Ensayos de historia social* (Bogotá, 1984), p. 218; also Leongómez, *Las FARC*, op. cit., p. 293.

²⁹ This constitutional amendment has generated concerns among Colombian and international human rights activists, as well in some of the diplomatic community, about its impact on accountability for grave violations of human rights and IHL. See also letter from Crisis Group to Senator Luis Fernando Velasco Chávez read out in public senate hearing, "Referencia: Acto Legislativo 14 Senado – 94 Cámara", 1 June 2012.

³⁰ Crisis Group interviews, retired high-ranking military officials, Bogotá, 27 January; senior military official, Bogotá, 7 February 2012. Security forces have to protect victims and social leaders on the land restitution process. See Section V.A.

³¹ See also Daniel Pécaut, *Las FARC*, op. cit., pp. 175-177. DAS is the Spanish acronym for Administrative Department of Security.

support. Its main instrument is the Consolidation Policy, launched in 2007 and formalised in 2009 under Uribe.³² It has a sequenced approach: establish military control of conflict zones first, then install civilian governance and lastly boost public services and economic development. Civilian institutions are supposed to gradually take the lead as security threats weaken.³³ This has, however, remained a largely unfulfilled promise.

Efforts have been concentrated mainly on two of the original fifteen focal regions – La Macarena and the Montes de María – and the military has remained the dominant player.³⁴ That soldiers lead humanitarian missions or build roads has been justified as a security necessity and trust-building measure, but it also exposes communities to FARC retaliation; soldiers resent feeling everything is left to them, and the state does not come in behind them.³⁵ Santos has revised the policy, creating its own administrative structure and reducing the number of priority zones, but by June 2012 this had not yet significantly changed dynamics in critical zones such as Catatumbo or San Vicente del Caguán.³⁶

The weakness or absence of functioning judicial and police institutions has also become a real obstacle in the conduct of war and more so as FARC increasingly uses militias in combat roles.³⁷ These are civilian-clad FARC members operating within communities. They originally had a support role, to provide information on troop movements and give logistical support but are increasingly involved in military operations, such as throwing bombs or distracting security forces with sniper attacks.³⁸ For instance, they reportedly played an important role in recent attacks in

Norte de Santander.³⁹ Combating militias poses legal and operational challenges, as they are hard to distinguish from non-combatant civilians. This constrains use of military force against them.⁴⁰ They are better handled by police, intelligence and judicial action, but even this can put at risk cooperative civilians.⁴¹

Fourthly, evidence is accumulating of a contradiction between security goals and wider economic policies. In particular, the expansion of extractive industries, partly in the wake of improved security conditions under DSP, is proving counterproductive for conflict resolution. They have become income sources for all illegal armed groups, including FARC, mostly via extortion. Given their illegal nature, there is no direct evidence for payments, but attacks against oil and mining sectors reportedly mainly motivated by failure to pay extortion are rising.⁴² FARC has repeatedly struck the railway tracks of Cerrejón, the largest coal mine, and pipelines such as the Transandino and Caño Limón Coveñas have again become frequent targets.⁴³ Despite military protection, FARC has repeatedly attacked trucks carrying oil from San Vicente del Caguán and even produced a production halt.⁴⁴ Kidnapping risks for oil workers have increased.⁴⁵ This is costly not just for oil companies and the state.⁴⁶ Pipeline attacks also cause sub-

³² Presidential Directive no. 01/2009, 20 March 2009.

³³ “Reporte Ejecutivo Plan Nacional de Consolidación”, CCAI, 2010, pp. 10-11.

³⁴ Crisis Group Latin America Report N°34, *Colombia: President Santos's Conflict Resolution Opportunity*, 13 October 2010, pp. 10-12. See also “Balance de la Política Nacional de Consolidación Territorial”, Fundación Ideas para la Paz, September 2011.

³⁵ Crisis Group interview, humanitarian organisation, Cauca, 14 January 2012.

³⁶ Crisis Group interviews, analyst, Cúcuta, 13 March 2012; analyst, Cúcuta, 15 May 2012; local government official, San Vicente del Caguán, 20 February 2012; NGO, Florencia, 8 June 2012. See also Crisis Group Report, *Moving Beyond Easy Wins*, op. cit., pp. 9, 24-26. The Special Administrative Unit for Territorial Consolidation is linked to the newly created Department for Social Prosperity, itself the successor of the Presidential Agency for Social Action and International Cooperation.

³⁷ Crisis Group interviews, high-ranking military official, Bogotá, 27 January 2012.

³⁸ Crisis Group interviews, demobilised FARC militia, 2012; analyst, Popayán, 12 January 2012; NGO, Florencia, 8 June 2012. See also Román Ortiz, “Una ‘tercera fase’ contra las FARC”, *El Espectador*, 13 August 2011.

³⁹ Crisis Group interview, police, Cúcuta, 12 March 2012.

⁴⁰ For a discussion of how this affects the application of IHL in Colombia, see “Interview with Sergio Jaramillo Caro”, *International Review of the Red Cross*, vol. 90, no. 872 (2008), pp. 823-833.

⁴¹ Echandía, “Situación actual de las FARC”, op. cit., p. 26.

⁴² Crisis Group interviews, social worker, San Vicente del Caguán, 20 February 2012; NGO, Florencia, 8 June 2012. This is also suggested by a comment of Alejandro Martínez, president of the Colombian Oil Association, that companies refusing to pay extortion would be “attacked very hard”. “Petroleras piden al Gobierno que refuercen seguridad ante aumento de ataques guerrilleros”, Caracol Radio (online), 5 July 2012.

⁴³ See “Primer Trimestre 2012: Persiste el Deterioro de la Seguridad”, op. cit.

⁴⁴ John Montaña, “Parálisis petrolera en Caquetá deja pérdidas millonarias”, *Portafolio*, 10 July 2012.

⁴⁵ In 2011, FARC kidnapped 23 oil workers in Vichada and three Chinese nationals in Caquetá. In July 2012, a FARC attack on oil infrastructure in Puerto Caicedo (Putumayo) killed five people and injured two.

⁴⁶ The attacks forced Ecopetrol, Colombia's largest oil producer, to reduce production targets in July from 800,000 barrels per day (bpd) to 780,000 bpd. Heather Walsh, “Ecopetrol cuts 2012 output target on rebel attacks”, Bloomberg, 30 August 2012. In July 2012, average oil production was 929,201 bpd, well below the government's one million bpd target, a shortfall at least partly due to continued attacks. “En julio de 2012, la producción promedio de crudo en Colombia se ubicó en 929.201 barriles por día”, Sistema informativo del Gobierno, 9 August 2012. See also Juan Carlos Monroy Giraldo, “Ataques frustran meta del millón de barriles de crudo”, *El Colombiano*, 8 July 2012.

stantial environmental and collateral social and economic damage, for instance water contamination.⁴⁷

Communities across the country are not convinced that the economic strategy based on the extractive sectors is serving their best interests. The government considers mining projects an economic “locomotive”, but levels of social conflict have increased in several zones where they exist, along with concerns about land use and environmental damage. The recent intensification of conflict dynamics in Cauca, for instance, coincides with demands by mining companies for 1,200 licences that reportedly could cover over half the department’s territory.⁴⁸ This has direct repercussions on the confrontation with FARC, as it creates complex, difficult to manage situations that open space the guerrillas seek to exploit, claiming they defend community interests.⁴⁹

C. THE INVISIBLE CONFLICT

DSP has reduced the humanitarian and economic impact of the conflict. Kidnappings are down from 3,572 registered cases in 2000 to 305 in 2011. The murder rate is 32 per 100,000 inhabitants, the lowest in decades. On a national scale, the impact of the conflict on civilians has declined, with the daily average of civilian victims down from 9.5 between July 2001 and June 2002 to 3.5 over the same period in 2009-2010.⁵⁰ Economic growth has picked up, and foreign direct investment (FDI), mostly in the primary sector, is at record levels. This may vindicate Uribe’s preoccupation with repairing “investor confidence”, though strong international demand for commodities is possibly more important in explaining the investment boom. All this contributes to DSP’s popularity but also makes it easier to overlook that FARC’s guerrilla style of fighting and how it has been confronted have produced a continuing degradation of the conflict the impact of which is increasingly borne by communities in marginalised areas, thereby rendering it more invisible, at least in the urban centres.

Internal displacement remains the most dramatic manifestation of the humanitarian tragedy. At the end of 2011, Colombia had officially some 3.9 million Internally Displaced People (IDPs), among the world’s highest.⁵¹ DSP’s impact on displacement dynamics is ambiguous. After a nationwide peak in 2002 of over 460,000, new cases fell to 240,000 in 2004, but increased to 339,000 in 2007. Since then displacement has again slowed, to 133,000 new cases in 2010, the fewest since 2000, according to the government. However, this improvement has been uneven across the country. Not all displacements are caused by FARC or efforts to combat the guerrillas, but the failure of DSP to mitigate conflict dynamics in peripheral regions is clear from 2011 displacement rates in departments such as Caquetá (1,778 expulsions per 100,000 inhabitants), Chocó (1,463), Guaviare (1,274) and Nariño (1,299), all over four times the national average (311).⁵² 44 of the 100 municipalities with the highest rates in 2010 were places where the consolidation policy is applied.⁵³

Extrajudicial executions have also been a serious problem. According to the human rights organisation CINEP, the number of victims rose from nine in 2001 to 244 in 2006 and 388 in 2007.⁵⁴ DSP has been partly responsible, by increasing pressure to produce results against the guerrillas.⁵⁵ Such killings have diminished since 2007, following introduction of a comprehensive defence ministry policy under which security forces are guided by a detailed operational manual and legal advisers. Military inspectors are said to support both the planning of operations and rules enforcement.⁵⁶ An end to generalised impunity and stronger judicial action in civilian courts has also helped deterrence. By June 2012, some 1,800 members of the security

⁴⁷ Oil spills are not the only conflict-induced environmental damage; this also includes the presence of armed groups in natural parks and soil and water contamination caused by drug-production. Elsie Garfield and Jairo Arboleda, “Violence, Sustainable Peace, and Development”, in Marcelo M. Guigale, Olivier Lafourcade, Connie Luff (eds.), *Colombia: The Economic Foundation of Peace* (Washington, 2003), p. 49.

⁴⁸ Fernanda Espinosa Moreno, “Las razones detrás del conflicto en el Cauca”, *Nuevo Arco Iris*, blog, 14 July 2012.

⁴⁹ Crisis Group interviews, NGO, Florencia, 16 February 2012; analyst, Cúcuta, 13 March 2012; Catholic Church, 14 March 2012.

⁵⁰ “Ejecuciones extrajudiciales, homicidios sociopolíticos y desapariciones forzadas”, Comisión Colombiana de Juristas, March 2012.

⁵¹ Unofficial numbers are much higher, however. According to a local NGO, Codhes, there were over 5.4 million displacements between 1985 and 2011. “Desplazamiento creciente y crisis humanitaria invisibilizada: la situación en 2011”, Codhes, March 2012.

⁵² All displacement data is from “Desplazamiento forzado (por expulsión), a nivel nacional, por departamento y municipios, 1997 – 2011”, dataset provided Crisis Group by the Presidential Program on Human Rights and International Humanitarian Law, August 2012. Displacement rates are calculated with population estimates from the National Administrative Statistics Department (DANE).

⁵³ “¿Consolidación de qué?”, Codhes, March 2011, p. 28.

⁵⁴ “Colombia, Deuda con la humanidad II: 23 años de falsos positivos (1988-2011)”, CINEP/PPP, 2011, p. 326.

⁵⁵ This is now being recognised by some military commanders who served under Uribe. Crisis Group interview, retired high-ranking military, Bogotá, 27 January 2012.

⁵⁶ See Crisis Group Report, *Colombia: President Santos’s Conflict Resolution Opportunity*, op. cit., pp. 3-4

forces had been charged with 2,984 murders.⁵⁷ But the problem has not disappeared. 2010 and 2011 registered twelve and seventeen false positives respectively.⁵⁸

Partly because of strong international pressure and aid conditionality, the security forces have made progress in respecting human rights and International Humanitarian Law (IHL), inter alia by establishment of human rights units in the armed forces and the defence ministry, extensive IHL training and instructions on how to conduct operations. But violations of basic principles remain frequent, with communities risking being dragged into the confrontation. In conflict zones, civilian infrastructure is exposed to armed attacks. Schools, hospitals and houses are turned into targets for guerrilla attacks, as soldiers use them to hide or security forces are stationed nearby.⁵⁹ The guerrillas continue to recruit minors, and they and the security forces both frequently use civilians, including minors, for intelligence tasks.⁶⁰

All this makes winning hearts and minds, a mission propagated by the defence ministry, an uphill task. In conflict regions, locals often perceive the police as a threat, not a protection: attacks have forced civilians to stay overnight in houses some distance from police stations, often located within the urban centres of municipalities.⁶¹ Communities in several places have asked to relocate police stations or

to withdraw security forces.⁶² Efforts by security forces to regain territory have led to competition for allegiance and cooperation that risk putting communities in a crossfire. FARC routinely prohibits communities in areas under its influence from interacting with security forces. Civilians are, inter alia, forbidden to serve as guides or to enter military or police installations.⁶³ Collaboration with the often only temporarily present security forces risks serious retribution, while refusal to cooperate often leads the authorities to stigmatise individuals and entire communities.⁶⁴

In regions including Arauca, Caquetá, Norte de Santander and Middle Magdalena, community leaders and human rights defenders have been detained based on allegations of collaboration with the guerrillas, sometimes with scant or even fabricated evidence.⁶⁵ In Caquetá, communities report that security forces have blocked transport of food, medicine and other goods to rural areas, arguing that these were intended for the guerrillas or meant to be used as for drug-production.⁶⁶ People from San Vicente del Caguán, the municipality at the core of the ill-fated peace talks under President Pastrana, complain that they are still being singled out at every military checkpoint.⁶⁷ Unsurprisingly, the militarisation of territories that remains the government's predominant counter-insurgency strategy is met with scepticism by local authorities and communities.

FARC increasingly uses imprecise makeshift bombs (*tatucos*), gas cylinder bombs and other IEDs. It justifies this saying it lacks more sophisticated weaponry.⁶⁸ It has also increasingly resorted to landmines, often to stymie the advance of the military or to protect coca plantations and

⁵⁷ Figures from the Attorney General's office cited in Adriaan Alsema, "Colombia's security forces investigated for 3,000 extrajudicial killings", Colombia Reports, 13 August 2012.

⁵⁸ "Colombia; Deuda con la humanidad 2", op. cit, p. 326. The term "false positives" refers to civilians executed by security forces who were subsequently claimed to be guerrillas killed in combat. See for background, Crisis Group Latin America Briefing N°21, *The Virtuous Twins: Protecting Human Rights and Improving Security in Colombia*, 25 May 2009, pp. 8-12.

⁵⁹ Crisis Group interviews, analyst, Popayán, 12 January 2012; social leader, Popayán, 12 January 2012; humanitarian organisation, Cúcuta, 13 March 2012; analyst, Cúcuta, 15 May 2012.

⁶⁰ Crisis Group interview, indigenous leader, Santander de Quilichao, 13 January 2012. Between January 2009 and August 2011, there were reports of FARC child recruitment and threats of it from 121 municipalities in 22 of the 32 departments. FARC is not the only armed group that enlists children. A recent UN report called the recruitment and use of children by non-state armed groups "widespread and systematic". "Report of the Secretary General on children and armed conflict in Colombia", Security Council, S/2012/171, 21 March 2012, para. 14; numbers of FARC child recruitment taken from para. 16. According to another recent report, no less than four out of each ten FARC members were recruited when children and the total number of those who have been recruited by illegal armed groups reach 18,000. Natalia Springer, "Cómo corderos entre lobos", Instituto Colombiano de Bienestar Familiar, September 2012.

⁶¹ Crisis Group interview, humanitarian organisation, Cúcuta, 15 March 2012.

⁶² Crisis Group interviews, analyst, Popayán, 12 January 2012, humanitarian organisation, Cauca, 13 January 2012; government agency, Cúcuta, 13 March 2012; analyst, Cúcuta, 13 March 2012.

⁶³ "Recomendaciones a la población civil", Estado Mayor de las FARC-EP, March 2012.

⁶⁴ Crisis Group interviews, human rights defender, Barrancabermeja, 9 February 2012; government agency, Florencia, 16 February 2012, community leader, San Vicente del Caguán, 21 February 2012. A mayor in Cauca said, "FARC has been here for 30 years, and the day the army entered they started to treat us like guerrilla members".

⁶⁵ Crisis Group interviews, human rights defenders, Barrancabermeja, 8-9 February 2012; community leader Cartagena del Chairá, Florencia, 24 February 2012. "International Verification Mission on the Situation of Human Rights Protection in Colombia, November 28 to December 2, 2011", U.S. Office on Colombia and Latin America Working Group Education Fund, July 2012, pp. 24-27.

⁶⁶ Crisis Group interview, community leader, San Vicente del Caguán, 21 February 2012.

⁶⁷ Crisis Group interviews, community members, San Vicente del Caguán, 20-23 February 2012.

⁶⁸ Crisis Group interview, indigenous leader, Popayán, 13 January 2012.

drug laboratories. Incidents involving IEDs, anti-personnel mines (planted by FARC and to a lesser degree the ELN) and unexploded ordnance (UXO) reached a maximum in 2011 with 18,386 events. Between 1990 and July 2012, these incidents have killed or injured 22,437 civilians, with over 84 per cent of the casualties caused since 2002; in the same period, 38,317 soldiers were wounded or killed in such incidents. In 2011, the most affected departments were Caquetá (38 civilian victims per 100,000), Arauca (22), Putumayo (nineteen) and Nariño (fifteen), again highlighting concentration in marginalised zones.⁶⁹

FARC retains sufficient territorial control in its strongholds to forcefully prohibit or severely restrict free movement of local populations temporarily through so-called armed strikes. There are no data on how often it does so, but it is frequent in Arauca (also a core ELN region), Putumayo and Chocó.⁷⁰ These stoppages cause economic hardship as access to markets is interrupted or obstructed. They also lead to confinement of these communities in conflict zones, complicating access to public services and humanitarian support, while children's school attendance suffers.

All parties to the conflict also commit acts of sexual violence. Statistics are scarce and of limited value, due to under-reporting of cases and/or identities and circumstances. According to official data from the Legal Medicine Institute, instances rose nearly constantly between 2002, when 14,421 events were registered and 2011, when 22,597 were investigated. Sexual violence, as other forms of violence, cannot be totally separated from the conflict, but only a relatively small part of the known caseload appears to stem from actions of actors in the conflict, and even in these the direct link to the conflict remains unclear. In 2011, 44 women and three men were abused by members of the armed forces and the police, according to the institute, and one man and two women by the guerrillas.⁷¹ This suggests that in line with their internal rules and unlike the paramilitaries and NIAGs, the guerrillas appear not to use rape as a systematic tactic, but sexual slavery practic-

es and forced abortion violate female FARC members' rights to an unknown extent.⁷²

The intensification of confrontation in the marginal zones of the country has hit indigenous communities particularly hard. Indigenous people, in particular in Cauca, have long stated their neutrality in the conflict, but neither the government nor FARC respected this stance. To the contrary, the conflict has contributed to bringing 34 indigenous tribes close to extinction, as the Constitutional Court has recognised.⁷³ Indigenous people are at significantly higher recruitment risk, and, in the case of hunter-gatherer communities, the frequent restrictions on movement can threaten their livelihood. Violence against the indigenous has tended to fall since 2002 but this has not brought much relief. In the first half of 2012 alone, 54 have been killed or have died as a consequence of deficient health care; in the same period, over 8,800 have been displaced due to fighting between the guerrillas and the army, bombardments and incidents with landmines and other UXO, as well as other conflict-related events.⁷⁴

The conflict has also had a large socio-economic impact. While it is difficult to empirically distinguish the costs of criminal activity from those directly caused by the armed conflict, there are several channels through which it affects growth and welfare. The conflict soaks up a large portion of public spending. Between 2000 and 2010, military spending nearly doubled in real terms, from \$5.72 billion to \$10.42 billion – an annual average consistently above 3 per cent of GDP, higher than in any other country of the region, except Chile.⁷⁵ The 2013 budget, currently under discussion by Congress, would allocate some \$14 billion to security and defence, corresponding to some 14 per cent of total projected spending.⁷⁶

⁶⁹ All data in the paragraph from "Eventos por MAP, AEI y MUSE Nacional, por departamento y municipio". "Victimas civiles por MAP, AEI y MUSE. Nacional, por departamento" and "Victimas militares por MAP, AEI y MUSE. Nacional, por departamento", datasets provided to Crisis Group by the Presidential Program on Human Rights and International Humanitarian Law, August 2012. Victim rates are calculated with DANE population estimates.

⁷⁰ Some of these events are tactically motivated; others serve to demonstrate power on symbolically important dates, such as anniversaries. See "Mantienen FARC paro armado por aniversario de muerte de 'Raúl Reyes'", Notimex, 2 March 2012.

⁷¹ "Forenis 2011", Instituto de Medicina Legal, August 2012, p. 216. These numbers should be treated with caution, given the likely problems.

⁷² Internal FARC rule cited in "Beligerancia", Suplemento Resistencia, Comisión Internacional FARC-EP, 2000, p. 9. Crisis Group interviews, demobilised female FARC members, 2012. Medicina Legal registered in 2011 nineteen presumed cases of sexual violence committed by members of illegal armed groups that are not guerrillas; this likely refers to NIAGs. "Forenis 2011", op. cit., p. 216.

⁷³ "Auto 004/2009", Constitutional Court, 26 January 2009.

⁷⁴ "Entre enero y julio de 2012 54 homicidios cometidos contra miembros de Pueblos Indígenas", Organización Nacional Indígena de Colombia, August 2012.

⁷⁵ "Military Expenditure Data"; Stockholm International Peace Research Institute (SIPRI), 2012. The data includes funds levied under the so-called "war tax", a wealth surcharge introduced by the Uribe government. Figures are expressed in constant 2010 U.S. dollars.

⁷⁶ "Pese a esperanza de paz, Colombia aumenta presupuesto de defensa y seguridad", Efe news agency, 13 September 2012.

Violence also costs human capital, with negative long-term consequences for economic growth as well as posing severe obstacles for reduction of poverty and inequality. There is evidence, for instance, that school enrolment decreases in violent municipalities and that attacks significantly increase the probability of school drop-outs, in particular for pupils between ages twelve and seventeen.⁷⁷ Underlining the detrimental impact on social development, municipalities where illegal armed groups, including FARC, operate have lower coverage rates of needs-based, subsidised health insurance and higher infant mortality rates.⁷⁸

III. FARC: MILITARY SURVIVAL, POLITICAL DECAY

The government's military offensive has left FARC in disarray. But despite accelerated leadership turnover, communication problems and diminished central control, it has avoided battlefield defeat or fragmentation. This reflects solid organisational fundamentals that have proven robust enough to prevent its disintegration and sufficiently flexible to help it adapt to a changed balance of power. Yet, this resilience is something of a Pyrrhic victory, as the emphasis on military survival has increasingly compromised its political project. This is not to say that the grievances at the origins of FARC's struggle, mostly relating to rural development and inclusion, would today be seen as illegitimate or resolved, but the group has progressively lost support in urban settings as well as among its rural core constituencies. It is having a hard time regaining real, not just rhetorical leadership, over social discontent in marginal regions.

A. COHESION AND IDENTITY

The military onslaught has taken a toll. A key aim of DSP has been to break the group's structure. Since 2007, improved intelligence and operational capacities have permitted security forces to eliminate high-value targets such as front leaders and members of the Joint General Staff (EMC) and Secretariat, FARC's two most important decision-making bodies. This began with the killings of Negro Acacio, leader of the 16th Front and a key operator in FARC's drug business, and Martín Caballero of the 37th Front in September and October 2007, respectively. In March 2008, Raúl Reyes became the first Secretariat member to be killed by the military; the same month, FARC's founder, Manuel Marulanda, died of natural causes. This was followed in 2010 by an operation that removed Mono Jojoy, the organisation's military leader. A year later, in November 2011, the security forces killed Marulanda's successor as supreme leader, Alfonso Cano. In the first two years of the Santos administration, they have also killed three EMC members, thirteen front commanders and five leaders of mobile columns.⁷⁹

Removal of these leaders was supposed to have destabilising effects across the organisation by reducing command and control and battering rank-and-file morale.⁸⁰ This appears to have happened to a degree. Leadership turnover has accelerated, at least compared to the historical high

⁷⁷ Felipe Barrera and Ana María Ibañez, "Does Violence Reduce Investment in Education? A Theoretical and Empirical Approach", CEDE, Universidad de los Andes 2004; Catherine Rodríguez and Fabio Sánchez, "Armed Conflict Exposure, Human Capital Investments and Child Labour: Evidence from Colombia", CEDE, Universidad de los Andes, 2009.

⁷⁸ See Ana María Díaz and Fabio Sánchez, "Los efectos del conflicto armado en el desarrollo social colombiano", in Fabio Sánchez, *Las cuentas de la violencia* (Bogotá, 2007), pp. 393-459.

⁷⁹ "En 37 municipios se concentran acciones guerrilleras, dice Ministro de Defensa", *El Colombiano*, 30 July 2012.

⁸⁰ "Consolidación de la Seguridad Democrática. Un esfuerzo con decisión y resultados", defence ministry, 2009, pp. 13-14.

level of stability. Five of the seven current Secretariat members have been appointed since 2008. Cano survived at the helm for just over three years, a good part of which he had to spend on consolidating his leadership. There is also some indirect evidence that the military pressure has had adverse psychological effects on fighters. Between 2003 and 2008, individual demobilisations more than doubled, reaching 3,027 in 2008. However, since then, this trend has reversed, with only 1,308 fighters surrendering in 2011.⁸¹

But the strategy has clearly failed to trigger a major destabilisation. Deputy commanders at all levels are trained to seamlessly assume the functions of their superiors, thus minimising disruptions. Leadership talent may, however, dry up at some point. Demobilisations of fighters with five to fifteen years of experience within the organisation and who had already assumed some responsibility were among those increasingly surrendering up to 2008.⁸² Some military operations now also appear to target the leadership pipeline. In March 2012, for instance, the military dealt a blow to the Eastern Bloc when it killed in a single operation six front commanders and a dozen mid-level commanders who had gathered for a leadership course in a camp in Meta.⁸³ But it is hard to judge from the outside how far FARC may be from a point where it would face a shortage of leaders and whether the operational tempo is sufficiently high to approach such a point.

Intense military pressure, loss of territory and the increasing technological superiority of the armed forces have complicated FARC's internal communications. The ninth EMC conference in 2007 was reportedly held by email for security reasons, and preparations for the tenth were interrupted by Mono Jojoy's death.⁸⁴ Such difficulties were possibly most evident in 2008, when security forces tricked FARC into handing over fifteen high-profile hostages, including former presidential candidate Ingrid Betancourt and three U.S. contractors, to a fake humanitarian mission.⁸⁵ The existence of communication problems was implicitly acknowledged by FARC's leader in 2012.⁸⁶

More cumbersome communication is partly responsible for FARC's reported difficulties in maintaining organisational discipline. The Secretariat, some members of which allegedly operate from outside Colombia, has problems monitoring some local front commanders. Failures of the central command to uphold internal order, traditionally imposed by strict rules backed with harsh sanctions, have enabled local commanders "to do what they like", an indigenous leader in Cauca complained.⁸⁷ However, the degree of front commander autonomy is not uniform and depends on local interests and power positions within the organisation; commanders of financing fronts enjoy more independence. Accountability issues are compounded by the more frequent use of militias for combat tasks. The frequent lack of clear command and control structures for them has fostered the impression among communities that FARC relies on them without being able or willing to take full responsibility for their actions.⁸⁸

Yet, communication capacity is better than often assumed. Sources in the field report that FARC is not reduced to communicating only through slow and cumbersome human couriers. To the surprise of officials, Cano had apparently detailed information on recent developments within the organisation, contrary to the widespread assumption that intense military pressure had completely isolated him before his death.⁸⁹ The organisation was also able to respond quickly to his loss, naming Rodrigo Londoño Echeverri, alias "Timochenko", as his replacement within days.⁹⁰ This suggests not only that FARC has contingency plans but also a working level of communication and coordination among Secretariat and EMC members.

The group is under threat of losing its identity as a left-wing guerrilla group. With involvement in the drug business since the 1980s, it is increasingly seen as purely criminal, in particular by conservative analysts and politicians. Evidence for its supposedly ongoing criminalisation is reinforced by occasional alliances with NIAGs that have

object of controversy afterwards. "Red Cross slams misuse of logo in Betancourt release", Agence France-Presse, 6 August 2008.

⁸⁶ See the response of the new leader, Timochenko, to a July 2011 open letter from Colombian historian Medófilo Medina to Cano, in which he maintains that it is a "true feat" to communicate with the rest of the world. "Carta a Medófilo Medina", *Batalla de Ideas* vol. 1 (2012), p. 20.

⁸⁷ Crisis Group interview, indigenous leader, Cauca, 12 January 2012.

⁸⁸ Crisis Group interview, community leader, Santander de Quilichao, 13 January 2012.

⁸⁹ Crisis Group interview, government official, Bogotá, 23 January 2012.

⁹⁰ FARC's announcement, made public on 15 November, said the Secretariat unanimously named Timochenko on 5 November, a day after Cano died. "Cayó en combate", *Secretariado del Estado Mayor de las FARC-EP*, November 2011.

⁸¹ "Presentaciones individuales voluntarias totales por años lapso 2002-2012", defence ministry, 2012.

⁸² "Consolidación de la Seguridad Democrática: Un esfuerzo con decisión y resultados", defence ministry, 2009, p. 15. Those deserting the cause, of course, are almost by definition not the ones with a strong leadership vocation.

⁸³ "The value of honour", *The Economist*, blog, 3 April 2012.

⁸⁴ Rodrigo Rojas, "¿Qué tan cerca están las FARC de negociar?", *Razón pública*, 30 October 2011.

⁸⁵ FARC allowed the hostages to board an army helicopter bearing the ICRC logo on the basis of a faked command from Eastern Bloc commander Mono Jojoy; the unauthorised use of the ICRC logo by the Colombia military in this operation was the

emerged from the imperfect demobilisation of the right-wing paramilitary United Self-Defence Forces (AUC) that ended in 2006. While there was some business cooperation even with its AUC foes, relations with NIAGs appear to go beyond this. In regions such as Catatumbo in the north east (bordering Venezuela), FARC reportedly works hand-in-hand with other criminal groups, and there are reports of joint operations and arms caches.⁹¹ This has led to claims that guerrillas, NIAGs and drug-traffickers have formed a common front against government law enforcement.⁹²

Whether such alliances are part of a broader trend remains, however, an open question. Links with NIAGs are largely driven by the need for a business partner and based on opportunism.⁹³ Agreements with the Rastrojos, the strongest NIAG, have been broken, for instance, in Nariño, as evidenced by reports of clashes.⁹⁴ Some FARC fronts fought while others cooperated to advance drug-business interests with the Popular Revolutionary Anti-Terrorist Army of Colombia (ERPAC), the third biggest NIAG.⁹⁵ At a minimum, the increasing number of confrontations between FARC and NIAGs, the rapid evolution of NIAGs and the strength of FARC in some regions caution against too strong an interpretation regarding a possible fusion with criminal groups. It is also a misunderstanding to think that involvement in criminal activities necessarily comes fully at the cost of the movement's political character or that purely criminal activities are homogenous across the organisation. At the least the Secretariat and some front commanders have maintained a strongly ideological discourse.

FARC is under serious stress. Current trends, if continued at the same speed, might eventually take the group down the road toward a loosely structured federation of semi-independent operating fronts with little or no central control and guidance. Such fragmentation would be bad news for future peace prospects, as it would leave the government without a negotiating partner. Worry is justified, but evidence from the field suggests that, for now, FARC remains a reasonably cohesive organisation, albeit one that

struggles to control its fringes, including the behaviour of some local commanders, militia operations and involvement in criminal activities. Senior military officers privately acknowledge that their strategy has underestimated the capacity of FARC thus far to withstand escalating military pressure.⁹⁶

B. THE REASONS FOR RESILIENCE

FARC's capacity to withstand military advances is partly owed to shortcomings in government strategy. In some cases, the removal of leaders simply did not weaken the group, as officials had assumed. The killing of Mono Jojoy, for instance, did not lead to the breakdown of the powerful Eastern Block. Instead, it freed up a substantial number of combatants who had been committed to protecting him.⁹⁷ With some 4,200 fighters, the Eastern Bloc remains FARC's single most powerful structure, and the guerrillas have been advancing again in some regions of the eastern plains over which they had lost control. The psychological impact of eliminating well-protected leaders may also be more ambiguous than strategists assumed. While the killing of leaders can demoralise the rank and file, there is also some evidence that their removal may actually increase cohesion by transforming them into martyrs.⁹⁸

Beyond unintended consequences of government strategy, there are three main explanations for FARC's resilience. First, it retains access to money, despite declining income from drug trafficking and kidnapping. Secondly, it has proven capable of replenishing its ranks, thus mitigating the substantial losses from combatant deaths and defections. Thirdly, a strong institutional structure and organisational culture that have grown over five decades have enabled FARC to absorb shifts in the balance of power and the elimination of some of its high-ranking leaders.

Engagement in the drug economy was instrumental in financing expansion. Taking advantage of its presence in cultivation zones, FARC initially restricted itself to protecting and taxing coca growers, allowing transformation of the leaves into coca base and setting prices for buyers. Over time, despite strenuous leadership denial, its role has expanded along the entire value chain, including refining and trafficking.⁹⁹ Involvement remains uneven across the

⁹¹ Crisis Group interview, police, Cúcuta, 12 March 2012. "Policía descubre arsenal de las FARC y 'Los Rastrojos', en Cali", *El Heraldo*, 23 April 2012. Officials have blamed a FARC-Rastrojos alliance for a January 2012 bomb attack on the Tumaco police station that left nine dead and over 80 wounded. "Farc y 'Rastrojos' serían autores de atentado en Tumaco: Mindefensa", *Semana*, 1 February 2012.

⁹² Jeremy McDermott, "Colombian Conflict Enters a New Phase", *Insight Crime* (online), 6 April 2012.

⁹³ Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012.

⁹⁴ See for instance Juan Carlos Monroy Giraldo, "Señalan a las FARC por masacre en Tumaco", *El Colombiano*, 2 July 2012.

⁹⁵ Crisis Group Latin America Report N°41, *Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender*, 8 June 2012, pp. 5-6.

⁹⁶ Crisis Group interview, retired high-ranking military official, Bogotá, 27 January 2012.

⁹⁷ Crisis Group interview, analyst, Villavicencio, 2 March 2012.

⁹⁸ Crisis Group interview, indigenous leader, Santander de Quilichao, 13 January 2012.

⁹⁹ Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012. See also "Carta a Medófilo Medina", *op. cit.*, p. 38, in which Timochenko argues that the only relation with drug traffickers consists in levying a tax for allowing them to operate in areas under FARC influence. FARC spokesmen repeated this

organisation. The Joint Central Command and the comparatively small Caribbean Bloc are only marginally involved, as their operational zones do not coincide with cultivation zones. All other blocs have units more or less fully dedicated to drug-related activities, inter alia funding the political leadership and elements more specialised in carrying out attacks.¹⁰⁰ How these operate largely depends on local power structures. In some areas, FARC remains restricted to overseeing cultivation and selling paste to selected traffickers. In others, such as Tumaco, the powerful Daniel Aldana mobile column controls the business up to delivering cocaine to international traffickers.¹⁰¹

FARC is also involved in marihuana cultivation and trafficking. The 6th Front in particular operates in municipalities with substantial marihuana cultivation, such as Corinto and Caloto (Cauca). Unlike cocaine, most marihuana is for internal consumption, with the exception of some trafficking to Caribbean islands.¹⁰² Given the illegal nature of drug-related activities, it is next to impossible to know with an acceptable degree of precision how much money FARC derives from it and how important it has become for its funding. In the early 2000s, the guerrillas were estimated to derive approximately half their income from such activities. Since then stricter state counter-narcotics policies (including greater interdiction capacity), loss of territory and increasing criminal competition probably have produced a decline in drug money. Nevertheless, police believe these activities remain its single biggest income source.¹⁰³

Kidnapping has also lost importance. When the crime peaked in the late 1990s and early 2000s, FARC was thought responsible for around 30 per cent of the more than 3,000 cases nationally per year, making it a major source of funding.¹⁰⁴ But the decimation of its urban networks and better

policing led to an estimated 93 per cent reduction of kidnapping revenues between 2003 and 2007.¹⁰⁵ FARC kidnappings hit bottom in 2009 with 45 registered cases and increased to 77 in 2011, a number substantially below the levels registered a decade ago.¹⁰⁶ Its announcement in early 2012 that it would abolish “Law 002” of 2000, under which it carried out kidnappings for ransom, sent an important political message but had almost no effect on financing.

The decline of drug and kidnapping revenue does not mean FARC is without resources. First, the drop in revenue has been accompanied by a decline in combat strength, so less money is required to remain afloat. Secondly, it can draw on alternative sources to partially offset losses. In particular, it remains strong enough to extract rents from businesses in areas where it has influence. In regions such as Caquetá and Cauca, extortion across all sectors is rampant.¹⁰⁷ The group is also reportedly becoming more engaged in cattle stealing and trading, taking advantage of its strong presence in Caquetá, Colombia’s main ranching department.¹⁰⁸ It also derives income from land it owns or has appropriated via displacement and exploits through front men, though the scope is unknown.¹⁰⁹

Extractive industries are particularly vulnerable. FARC has embraced the opportunity presented by the current oil boom to increase extortion earnings and, as have other illegal armed groups, has diversified in recent years into the mining sector. Legal mining companies in its strongholds are subject to extortion threats, but more importantly, its own illegal mining connections have become a major source of revenue in some regions.¹¹⁰ Links to unlicensed mining, in particular of gold, are strong along the Pacific coast department of Cauca as well in Nariño and Antioquia. FARC and NIAGs such as the Urabeños and Rastrojos reportedly control illegal mining operations in 489 of the country’s some 1,100 municipalities. This can take various forms, including protection payments or taxation of equipment used to operate mines.¹¹¹

in September in Cuba. “‘No tenemos nada que ver con el narcotráfico’: voceros de las Farc”, Caracol Radio, 6 September 2012.

¹⁰⁰ Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012. Examples of fronts substantially involved in the drug business include the 6th Front (Cauca), 29th (Nariño) and 48th (Putumayo); by contrast, the Teófilo Forrero mobile column remains a more military outfit. Crisis Group interviews, analyst, Popayán, 9 January 2012; NGO, Cúcuta, 14 March 2012; NGO, Florencia, 16 February 2012. See also Juan Carlos Monroy Giraldo, “Farc tienen 19 frentes que están dedicados a la coca”, *El Colombiano*, 10 June 2012.

¹⁰¹ Crisis Group interviews, analyst, Popayán, 9 January 2012; anti-narcotics police, Bogotá, 27 August 2012.

¹⁰² Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012.

¹⁰³ Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012.

¹⁰⁴ According to numbers from the National Planning Department (DNP), FARC were responsible for 26.9 per cent of all kidnappings between 1996 and 2002; this rose to 35.6 per cent

in the first part of 2003. See “Cifras de violencia 1996-2002”, n.d. and *ibid*, “II Trimestre 2003”, n.d.

¹⁰⁵ “Tendencias y Resultados 2007”, defence ministry, January 2008, p. 12.

¹⁰⁶ “Radiografía de los secuestros cometidos por las FARC, 2009-2011”, Fundación País Libre, March 2012.

¹⁰⁷ Crisis Group interviews, community members, Cauca and Caquetá, January and March 2012.

¹⁰⁸ Jack Kimball, “Colombia rebels selling cows as drug money drops: Santos”, Reuters, 17 January 2012.

¹⁰⁹ Crisis Group interview, rural development specialist, 15 August 2012.

¹¹⁰ Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012.

¹¹¹ Edward Fox, “Armed Groups Control Illegal Mines in Half of Colombia”, Insight Crime, 31 January 2012.

FARC's longevity also reflects its capacity to recruit. There are no reliable data on how many annually join; families of those who are recruited, particularly minors, often abstain from reporting due to security concerns.¹¹² FARC takes advantage of the depressed range of opportunities for upward mobility, particularly in its peripheral rural strongholds, that may make joining an armed group appear a reasonable option. Poverty and marginalisation often create the preconditions for recruitment.¹¹³ In its strongholds, recruitment is also facilitated by recurrent contacts and often by personal ties.¹¹⁴ In addition to such economic and sociological variables, there are psychological factors such as the promise of fighting for the oppressed, the prospect of exerting power through arms or the attraction of a supposedly more thrilling lifestyle.¹¹⁵

FARC uses a variety of techniques to exploit its opportunities. Recruitment can be by force, including by obliging families to send one child. But in other cases recruitment, including of minors, is based on a voluntary decision, even though all recruitment of minors is legally considered to be coerced. In Cauca, FARC has rhetorically emphasised the "voluntary" nature of enlistment and employed techniques of seduction. In Meta, a sophisticated method aims to gradually tie new members to the organisation. Minors are invited on short holiday trips during which they become familiar with guerrillas and learn to handle weapons; the trips are repeated, and children are gradually given intelligence tasks. After several years, they join the organisation as adolescents.¹¹⁶ Recruitment often takes place in school, with teachers concerned when pupils disappear and then return to attract others.¹¹⁷ Once a recruit has joined, the penalty for desertion is death.

FARC's resilience owes much to a high degree of institutionalisation. It is modelled on the hierarchical structure of regular armed forces, but decisions are collective. The most important decision-making institutions are the seven-

person Secretariat and the EMC, the latter technically the supreme organ, responsible, inter alia, for long-term strategic plans. Below these are the Joint Staffs of blocs (EMC- or Secretariat-appointed) and fronts (EMC-appointed), followed by commands of columns, companies, platoons (called "guerrillas") and squads.¹¹⁸ This structure makes FARC far more able to withstand the loss of individual commanders than movements such as Peru's Shining Path that have been more dependent on personal leadership.¹¹⁹ While there are persistent rumours of divisions within the Secretariat, supposedly between a more pragmatic wing and military hardliners, its decisions are regarded as policies that guide long-term orientation. Thus, Timochenko said the decision to end kidnapping for ransom resulted from a deliberation process promoted by Cano, who died three months before the announcement.¹²⁰

This solid institutional structure is reinforced by a strong foundation myth that forms the backdrop of almost every rhetorical "justification" of the armed struggle. The group has the ambition to reach power, but it justifies guerrilla war on an original aggression of the Colombian state. This consisted in military attacks on communist-oriented peasant communities that government and Congress considered "independent republics" outside the normal legal order. FARC views the 27 May 1964 attack on a community in Marquetalia (Tolima) as its birthday, though it adopted its final name only two years later.¹²¹ Beyond this self-defence argument, FARC has developed little in terms of a political program, the 1964 call for an agrarian reform and the ten-point Platform for a Government of Reconstruction and National Reconciliation apart.¹²² In fact, ideological

¹¹² Crisis Group interview, government agency, Popayán, 12 January 2012.

¹¹³ A community leader said, "FARC's flagship is the marginal condition. The state does not care about people here. The guerrilla just says: 'Join us, you can eat here'". Crisis Group interview, community leader, San Vicente del Caguán, 20 February 2012.

¹¹⁴ Crisis Group interviews, Cauca and Caquetá, January, February 2012.

¹¹⁵ Crisis Group interviews, demobilised FARC members, 2012; indigenous leader, Santander de Quilichao, 13 January 2012.

¹¹⁶ Crisis Group interview, NGO, Villavicencio, 7 March 2012. A former FARC member said, "I really do not know when I joined FARC. It was a gradual process, and one day I was carrying a weapon". Crisis Group interview, demobilised FARC member, 2012.

¹¹⁷ Crisis Group interview, government agency, Popayán, 12 January 2012.

¹¹⁸ "Estatutos FARC-EP", n.d., pp. 3-5, 13. FARC also has a disciplinary code and specific internal command rules. Ibid, p. 1.

¹¹⁹ After the arrest of Abimael Guzmán, its top leader, in September 1992, Shining Path rapidly declined. Two small columns still operate in connection with the drug business.

¹²⁰ Timochenko, "Carta a la Sra. Marleny Orjuela", 3 March 2012. Orjuela is the leader of the Association of Relatives of Security Force Members Held by the Guerrillas.

¹²¹ FARC repeated in the last statement commemorating its anniversary: "We, the FARC-EP, did not start this war; it was declared to us by the oligarchy that governs Colombia". "FARC-EP: 48 años de lucha armada rebelde", Secretariado del Estado Mayor Central de las FARC-EP, 27 May 2012. The attacks on the "independent republics" were, however, not the only cause for its emergence. A perception in the Communist Party that a military coup could happen any time soon, together with the emergence of ELN and the Popular Liberation Army (EPL) which threatened its hegemony on the radical left, also contributed. Eduardo Pizarro Leongómez, *Las FARC*, op. cit., pp. 168-170.

¹²² See "Programa agrario de los guerrilleros de las FARC-EP. Proclamado el 20 de Julio de 1964 en el fragor de la lucha armada de Marquetalia, corregido y ampliado por la Octava Conferencia Nacional de las FARC-EP, abril 2 de 1993", Plataforma para un Gobierno de Reconstrucción y Reconciliación Nacional", Octava Conferencia Nacional Guerrillera, 3 April 1993.

parsimony has been another key to its longevity, as it has helped avoid fissures over programs.¹²³

C. ESTRANGEMENT WITH SOCIETY

The flipside of military survival is FARC's persistent political decline. Far from being a revolutionary vanguard, the movement is out of touch with a society substantially different from the 1960s when it emerged. During that decade, urban population first became a majority; in 2011 the urbanisation rate was 75 per cent.¹²⁴ This has been accompanied by economic structural changes, with the service sector gaining and agriculture losing importance.¹²⁵ Poverty has dropped, but remains a problem, specifically in rural areas. By and large, FARC has failed to keep pace with these changes, though its political discourse still articulates the grievances of its original marginalised rural constituencies, and its call for "peace with social justice" has some echo in a land with significant inequalities.¹²⁶

FARC long functioned as the armed wing of the Communist Party, epitomising the strategy of "combining all forms of struggle" (political and armed) that the party formulated in 1961. The ambivalence implied by this formula was only resolved in the 1990s, when FARC severed ties with the Communist Party and increasingly emphasised military strategy over political aspects. This followed a catastrophic experience during the 1980s, when paramilitaries and drug traffickers killed some 3,000 militants and sympathisers of the Patriotic Union (UP), a left-leaning party founded as part of a peace process between FARC and the Belisario Betancur administration (1982-1986). For FARC, the killings demonstrated that adequate conditions did not exist to compete in the political arena and thus also indirectly justified its armed struggle.¹²⁷

The group's political capital declined rapidly as warfare, kidnapping and other organised criminal activities increased. The drug-trafficking involvement in particular began to

haunt FARC already in the 1980s, when U.S. Ambassador Lewis Tambs coined the term narco-guerrilla.¹²⁸ The failure of the 1999-2002 peace talks was widely blamed on the movement, cementing the perception it was not genuinely interested in a political solution but sought instead a military victory financed by drug money. Designation as a terrorist organisation by the U.S. (since 1997) and the EU (since 2002) and the Uribe administration's denial of the existence of an armed conflict further diminished room for political manoeuvre. The terrorism label, which has some justification – FARC partly employs such tactics as car bombs and indiscriminate attacks with civilian victims – has importantly undermined the movement's political legitimacy both nationally and internationally.

Ties with communities in rural areas, still FARC's most important constituencies, have also frayed. The group traditionally had strong links to peasants in agricultural frontier regions. In the Caguán area, for instance, it worked with communities to formulate political demands in the context of chaotic economic development and uncontrolled colonisation spurred by the coca boom of the 1980s. These demands were channelled through state institutions, such as Community Action Boards (JAC).¹²⁹ Coca growers have evolved into FARC's most important social base. Its influence was clear when coca growers in Putumayo and other regions staged mass protests in 1996 against the increasing fumigation. FARC maintains some regulatory functions, including attempts to limit the crop,¹³⁰ while fumigation and forced eradication continue to undermine the state's legitimacy in cultivation regions.¹³¹ But the allegiance of coca growers is precarious, as it is built on the coincidence of economic interests; a switch of allegiance to another illegal armed actor with a better offer can happen.¹³²

More broadly, the necessity to finance its military expansion has come at the cost of community relations. In regions such as Nariño and Chocó, it lacks a significant rural

¹²³ Daniel Pécaut, *Las FARC*, op. cit., p. 143.

¹²⁴ Carmen Elisa Flórez N., *Las transformaciones sociodemográficas en Colombia durante el siglo XX* (Bogotá, 2000), pp. 63-88. 2011 data from "World Urbanization Prospects: The 2011 Revision", UN, Department of Economic and Social Affairs, Population Division, April 2012.

¹²⁵ Miguel Urrutia and Carlos Esteban Posada, "Un siglo de crecimiento económico", in James Robinson and Miguel Urrutia (eds.), *Economía colombiana del siglo XX. Un análisis cuantitativo* (Bogotá, 2007), pp. 17-19.

¹²⁶ The Gini coefficient, a measure of inequality where one designates perfect inequality and zero perfect equality, was 0.559 in 2010, one of the highest in Latin America, on par only with Bolivia, Brazil and Honduras, "GINI index", World Bank.

¹²⁷ Steven Dudley, *Walking Ghosts: Murder and Guerrilla Politics in Colombia* (New York, 2004).

¹²⁸ See Ricardo Vargas, "The Revolutionary Armed Forces of Colombia (FARC) and the Illicit Drug Trade", Transnational Institute, 7 June 1999.

¹²⁹ Jaime Jaramillo, Leonidas Mora, Fernando Cubides, *Colonización, Coca y Guerrilla* (Bogotá, 1986), pp. 159-190. There was coca cultivation in the region before FARC was strongly present; the existence of an illegal economy which could at any moment repressed by the state provided the ground for guerrilla growth, *ibid.*, p. 179.

¹³⁰ Crisis Group interview, NGO, Cúcuta, 14 March 2012.

¹³¹ Crisis Group interviews, government agency, Popayán, 12 January 2012; analyst, Cúcuta, 13 March 2012.

¹³² Teófilo Vásquez, "Recursos, política, territorios y conflicto armado", in Teófilo Vásquez, Andrés R. Vargas and Jorge A. Restrepo (eds.), *Una vieja guerra en un nuevo contexto: Conflicto y territorio en el sur de Colombia* (Bogotá, 2011), p. 416.

base and appears to operate mainly for economic reasons.¹³³ In other regions, the guerrillas have dealt pragmatically with extractive industries, allowing some mining and oil operations in return for extortion payments. But this has meant that communities see the guerrillas less and less as defenders of their interests or valid “interpreters” of social conflicts, as FARC often describes itself.¹³⁴ In several areas, including Putumayo, the loss of political leadership has been exacerbated by failure to defend communities against paramilitary violence.¹³⁵ Such developments have led to communities increasingly adopting a stance of neutrality toward both parties to the armed conflict. This is articulated particularly forcefully among indigenous people in Cauca, but also by peasant and community organisations in other regions.¹³⁶

Under Cano, FARC intensified its work with grassroots organisations in an effort to repair community relations and recover political ground. This appears to have worked in some places, and DSP’s inability to slow regional conflict dynamics has opened new opportunities, even though the intense military pressure makes political work within communities more difficult.¹³⁷ If it is to rescue its political profile FARC needs to meet an increasingly acute generational challenge that the government’s offensive has accelerated. Those who replace its killed or captured leaders ensure the military survival of the group but are often seen as lacking the political vision of more experienced commanders.¹³⁸ This generational rupture has been felt in critical regions such as Putumayo, where fewer FARC leaders command a certain recognition and respect among communities.¹³⁹ The increasingly thin pool of politically-adept leaders might, however, also be an incentive for the

current leadership, which mostly joined in the 1980s, to strike a peace deal that salvages FARC’s political character.

What remains of FARC’s social and political capital often just reflects the group’s de facto power and the lack of alternatives in its rural bastions. With state institutions inefficient or not trusted, FARC enforces in some areas a basic social order, punishing crimes, regulating personal relations and sometimes removing other, unwanted illegal armed actors, but communities are increasingly weary of efforts to impose a semblance of legitimacy through the gun.¹⁴⁰ Relations with the guerrillas are also strongly conditioned by friendships and family ties between FARC and community members. In these remote regions, FARC has been around for decades and is viewed as part of normal life. Maintaining good relations, for instance through collaboration on food supply, be it voluntary or coerced, is an essential survival strategy for communities in these areas.¹⁴¹

FARC has tried several strategies to reverse its political decline. Under Cano, it established in 2000 two political organisations directly responsible to the Secretariat: the Clandestine Colombian Communist Party (PCCC or PC3) and the Bolivarian Movement for the New Colombia (MBNC). Reflecting the traumatic UP experience, however, both operate clandestinely. The PC3 has historically been in charge of preparations for a possible future political party; its possible role in the current peace process remains unclear. The MBNC, led by Secretariat member Pablo Catatumbo, has a broader brief. Its militants are expected to infiltrate social movements and agitate for issues such as labour and human rights and against natural resource exploitation.¹⁴² In 2003, the Bolivarian Youth Movement was created to capture sympathies of secondary school and university students. These organisations also seek to reconstruct FARC’s battered urban networks. Their clandestine nature makes it hard to judge their effectiveness.

The endorsement of the Bolivarian ideology was meant to insert FARC into a wider regional political dynamic.

¹³³ Crisis Group interview, Jesuit Church, Bogotá, 30 January 2012.

¹³⁴ Crisis Group interviews, Catholic Church, Florencia, 17 February 2012; social worker, San Vicente del Caguán, 23 February 2012. See also the letter of indigenous people in Cauca to FARC: “The guerrillas do not protect us from the attacks of security forces; if the armed forces arrive, the guerrillas leave and take care of themselves; neither do they impede the arrival of multinational companies; to obtain the resources that sustain their army, they make agreements with them”. “ACIN: Carta a las FARC”, Asociación de Cabildos Indígenas del Norte de Cauca, 16 July 2012.

¹³⁵ Crisis Group interview, academic, Bogotá, 26 January 2012.

¹³⁶ A community leader told Crisis Group: “The parties to the conflict do not like the autonomy of the people. But the social organisations work on their own behalf; we are not sponsored by anybody”. Crisis Group interview, community leader from Cartagena del Chairá, Florencia, 24 February 2012.

¹³⁷ Crisis Group interviews, analyst, Popayán, 12 January 2012; social worker, San Vicente del Caguán, 20 February 2012.

¹³⁸ Crisis Group interview, NGO, Florencia, 16 February 2012; social worker, San Vicente del Caguán, 23 February 2012.

¹³⁹ Crisis Group interview, academic, Bogotá, 26 January 2012.

¹⁴⁰ Crisis Group interviews, demobilised FARC member, 2012; peasant leader, Tambo, 12 January 2012; indigenous leader, Santander de Quilichao, 13 January 2012; social worker, San Vicente del Caguán, 20 February 2012. On FARC’s offer of justice services, see also Mario Aguilera Peña, “Justicia guerrillera y población civil, 1964-1999”, in Boaventura de Sousa Santos and Mauricio García Villegas (eds), *El caleidoscopio de las justicias en Colombia. Tomo II.* (Bogotá, 2001), pp. 389-422.

¹⁴¹ Crisis Group interviews, local community members, Caquetá and Cauca, January and February 2012.

¹⁴² Crisis Group Report, *Ending Colombia’s FARC Conflict: Dealing the Right Card*, op. cit., p. 4. Pablo Catatumbo, “Saludo de Pablo Catatumbo al Movimiento Bolivariano y al Partido Comunista Colombiano Clandestino PC3”, ABP Noticias, 8 January 2012.

References to Simón Bolívar, the nineteenth century independence hero, were present before, for instance in the title of Guerrilla Coordination Platform Simón Bolívar (CGSB), which FARC joined in 1987. But the Bolivarian discourse, emphasising notions of sovereignty and independence, has gathered steam only since the early 2000s. Venezuelan President Hugo Chávez is its most important proponent and the driving force behind the Bolivarian Alliance for the Peoples of Our Americas (ALBA), a group of eight Latin American and Caribbean countries.¹⁴³ At the regional level, there is also the Continental Bolivarian Movement (MCB), a platform of South American left wing organisations.¹⁴⁴

The Bolivarian card has not been a big winner for FARC. There were some positive returns, notably the support of Chávez, in January 2008, to recognise it as a belligerent force in the Colombian conflict, a long-standing aim of the group. But his backing for the armed struggle has been less enduring and decisive than FARC might have hoped. In October 2008, he insisted that guerrilla warfare was “history”, and since Santos repaired rocky bilateral relations, Venezuelan security forces have more firmly combated the presence of guerrillas in their country, capturing and extraditing several wanted fighters. However, Chávez has played an important role in FARC’s secret contacts with the Santos administration and used his influence to encourage the movement to negotiate. Venezuela also remains strategically important for FARC as a relatively safe refuge.

FARC’s social and political isolation has implications for the peace process. It has stifled programmatic development and made it hard for society to know what the movement really wants and what it would take to satisfy its core demands, an uncertainty that spoilers might be able to exploit by exaggerating the consequences of any deal. FARC still listens to some degree to its core rural constituencies, but the weaker the links become, the less power these have to influence it toward accepting the sort of compromises necessary for successful negotiations. That FARC understands the dangers of its isolation may be suggested by Timochenko’s welcoming of a letter addressed to it by a prominent historian as a possible “opening through which common people could learn the argumentation of FARC and weigh up our current vision and proposal for the future”.¹⁴⁵

IV. OBSTACLES TO PEACE

Resistance to a political settlement and consolidation of a peaceful post-conflict order comes in various shapes. Political opposition is articulated most vocally and radically by former President Uribe and his closest allies. Reservations also are widespread within the military forces, which are formally barred from commenting on politics. There are also spoilers with no qualms about using violent and illegal means to thwart peace talks they anticipate would threaten their positions. Such spoilers, including paramilitaries and rogue parts of the security forces, as well as guerrilla elements wishing to sabotage peace processes with competing groups, have dealt heavy blows to several peace dialogues in the past. This was particularly true of talks with FARC during the Betancur (1982-1986) and Pastrana (1998-2002) administrations, though government mistakes, procedural difficulties, a legacy of mistrust and FARC’s lack of serious interest in a negotiated settlement also contributed to those failures.¹⁴⁶

How strong resistance to peace negotiations will be and what roles spoilers might play is uncertain. Compared to the Caguán negotiations under Pastrana, when paramilitaries were embarking on unprecedented growth, and civil-military tensions were reaching crisis level, the danger posed by violent spoilers has arguably diminished. Military attitudes have moderated, and a high-profile retired general is on the official negotiation team. Paramilitaries have been demobilised, if imperfectly. But there is still an ample potential supply of violence from NIAGs (often built around remains of former paramilitary groups) or newly emerging networks. In the initial enthusiasm for the new talks, opposition is somewhat sidelined, but failure to achieve tangible results quickly might turn the mood, and an aggressive political discourse might generate, against intention or will, new violence. This is a concern in a country where the dividing line between democratic politics and violence has historically been thin, and central control over certain regional political and economic actors, historically main promoters of political violence, remains deficient.

Even if obstacles during the negotiations may well be less than in the past, Colombia would be likely to face a difficult transition if it reaches the post-conflict phase. Parts of NIAGs and drug-trafficking organisations might stay calm during negotiations but may look to expand in regions cur-

¹⁴³ Antigua and Barbuda, Bolivia, Cuba, Dominica, Ecuador, Nicaragua, Saint Vincent and the Grenadines, Venezuela.

¹⁴⁴ Until its second conference, the movement was named Bolivarian Continental Coordination. In 2010, the movement named Cano its honorary president.

¹⁴⁵ “Carta a Medófilo Medina”, op. cit., p. 21. See also in same letter, p. 29: “You [i.e. Medófilo Medina] acknowledge not being an expert on FARC. There seems to be academic expertise about us. As far as we know, none of these experts have ever come

here to interview us. This is the least we could expect of those who write books on us and give lectures about our struggle”.

¹⁴⁶ Carlos Nasi, “Spoilers in Colombia: Actors and strategies”, in Edward Newman and Oliver Richmond (eds.), *Challenges to peacebuilding: Managing spoilers during conflict resolution* (Tokyo, 2006), pp. 219-241.

rently under FARC control, possibly creating new violence. Post-conflict security would likely be further complicated by resistance of FARC structures deeply involved in the drug business to follow the leadership into demobilisation.

A. POLITICAL RESISTANCE

Political resistance to peace talks with FARC has become more visible with the deterioration of relations between Uribe and Santos, who was elected as his heir. Tensions between them have largely been driven by issues broadly related to conflict resolution, though ministerial appointments of Uribe opponents and allegations against persons in his inner circle, such as his agriculture minister, Andrés Felipe Arias, and his former peace commissioner, Luis Carlos Restrepo, have contributed.¹⁴⁷ The former president has been fiercely critical of the rapprochement with Venezuela and Ecuador, Santos's silence on the continuing guerrilla presence in neighbouring countries and judicial action against military personnel accused of human rights violations. The acknowledgement that an internal armed conflict exists and greater efforts to provide victims with reparations and return land grabbed by the paramilitaries, as well as the Legal Framework for Peace Congress passed have marked further key stages in the estrangement.

While Santos has continued to insist he does not seek a dispute with Uribe, relations apparently reached a point of no return in July 2012, when Uribe was among the founding members of the Pure Democratic Centre (PCD), a new political movement in clear opposition to the president. PCD largely aims at restoring Uribe's policy framework, summarised by the principles of democratic security, social cohesion and investor confidence, that supporters think the Santos administration has abandoned. This includes the insistence on a predominantly military solution and the rejection of peace talks that might grant any political benefits to the guerrillas. The launch of PCD in the presence of former generals and ministers coincided with establishment of a programmatic Front against Terrorists following a bomb attack on ex-Interior Minister Fernando Londoño in May. Colombia First, a think-tank led by former presidential adviser José Obdulio Gaviria that aims at

promoting Uribe's political principles, supports the PCD and the front.

Their opposition to peace talks largely revolves around six questionable claims on the nature of the guerrillas, the causes of the conflict and the consequences of a deal. First, FARC are terrorists rather than politically-motivated guerrillas. This, it is said, closes the possibility for peace talks because there is nothing to negotiate with terrorists except the terms of surrender.¹⁴⁸ Secondly, the conflict is primarily driven by drug trafficking and other organised criminal activities.¹⁴⁹ Thirdly, FARC does not represent any important sector of society, apart from criminal interests.¹⁵⁰ Any peace dialogue would thus inevitably face a deep legitimacy deficit. Fourthly, FARC is not serious about peace. It talks about it only to gain political space and time to recover military capacity. Fifthly, the administration's search for a peaceful settlement is a main cause for the apparent deterioration of public security, as measured by the increase of FARC attacks.¹⁵¹ Sixthly, a deal would fundamentally alter political institutions, transforming Colombia into a socialist regime like Venezuela or Cuba, both partners in the negotiations.¹⁵²

Of course, not every opponent endorses all six. More moderate positions, which are probably the most widely shared, mostly only accept the scepticism regarding the willingness of the guerrillas to close and implement a deal and the doubts about whom FARC speaks for. Before the government confirmed the pre-accord with FARC in September, PCD promoters thought the group could garner some nine million votes in the next presidential election, easily enough to win. This was built on the assumption that security would

¹⁴⁷ Arias is under investigation for alleged corruption in running an agricultural subsidy scheme while minister. He maintains his innocence. Restrepo left the country in January 2012 after he was linked to an allegedly fake demobilisation of a FARC front. He has denied any involvement. Others close to Uribe with legal issues include former secretary of the presidency Bernardo Moreno, and former DAS head María del Pilar Hurtado, who is in Panama; both have denied all charges against them. Uribe's former security chief, police General Mauricio Santoyo, pled guilty in August 2012 before a U.S. court to collaborating with the paramilitaries. Uribe condemned Santoyo's actions.

¹⁴⁸ "Colombia does not want and should not discuss with terrorists a program of social demands. There cannot be a political dialogue, only demobilisation accords", "Manifiesto del Frente de Unidad en contra de los terroristas", July 2012. Even opponents of peace talks acknowledge that this is not a full description of FARC, but rather a rhetorical strategy to curtail political space for the guerrillas. An opponent explained: "The war is won on the military field, but even more on the political field. It is therefore necessary to delegitimise FARC's struggle". Crisis Group interview, Colombia First, Bogotá, 23 July 2012.

¹⁴⁹ "The terrorists are neither left nor right, nor do they work for an 'altruist purpose'. Their ideas are no political program; they are a despicable excuse to justify murders, kidnappings, drug-trafficking and the destruction of community goods", "Manifiesto del Frente de Unidad", op. cit. "This war, which afflicts and kills us, is caused by drug-trafficking", Fernando Londoño Hoyos, "Cinco errores sobre la Guerra", *La Patria*, 17 July 2012.
¹⁵⁰ Mauricio Vargas, "¿A quién representan las Farc?", *El Tiempo*, 22 January 2012.

¹⁵¹ Crisis Group interviews, cattle ranchers association, Bogotá, 31 January; analyst, Bogotá, 11 July 2012.

¹⁵² Jose Obdulio Gaviria, "Mobiliario para la paz", *El Tiempo*, 4 September 2012; Eduardo Mackenzie, "No es un proceso de paz", *Blog Debate Nacional*, 3 September 2012.

continue to deteriorate, and voters would demand the return of Uribe or a true heir.¹⁵³ The expectations also reflected Uribe's enduring high popularity – 62 per cent in August 2012.¹⁵⁴

These are now distant prospects. Scepticism about peace talks cuts into the Party of the U and the Conservative Party, both members of Santos's National Unity legislative coalition that also includes the staunchly supportive Liberal and Green Parties, as well as Radical Change. Following a controversial June 2012 Santos manoeuvre that pressured Congress in an extraordinary session to revoke a justice reform it had approved shortly before, his relationship with the legislature is strained.¹⁵⁵ In the wake of the September announcement, however, all coalition party leaders closed ranks behind him in support of the peace talks. The talks might still precipitate the departure of some radical opponents from the coalition, but there are not likely to be sufficient defectors to stymie legislative work or to significantly weaken political support for negotiation. Legislators can be expected to carefully balance their political preferences with the need to remain part of the ruling coalition and to retain the access to public sector jobs that entails.

The growth opportunities for political resistance are strongly conditional upon what happens at the negotiations. Lack of quick progress and unrestrained hostilities have the potential to revive the appeal of critics. However, this would still not solve the problem for the PCD, which lacks an obvious leader with proven vote-getting ability. The constitution bars Uribe from standing for the presidency again, because he has served the permitted two terms, and it is uncertain how effective his endorsement of a candidate would be. Both Santos and FARC have strong incentives to avoid a situation that would facilitate the return to power of conservative hardliners in the 2014 legislative and presidential elections.¹⁵⁶ Nevertheless, the threat to the peace process posed by political opposition cannot be written off.

B. THE MILITARY

Lack of coordination between political and military agendas complicated past peace processes. The military has traditionally had substantial autonomy in managing the conflict. From its perspective, it and not the entire range of other state institutions is decisive for winning or losing the war.¹⁵⁷ This attitude has caused tensions whenever presidents attempted to prioritise a political solution. During the Betancur presidency, Defence Minister General Fernando Landazábal resigned over the conduct of negotiations. Lack of coordination was also evident in the attack on FARC's headquarters on 9 December 1990, hours before the opening of polling stations to elect a constituent assembly, an act equivalent to excluding FARC from the more inclusive and peaceful democratic order that the new constitution was meant to initiate.¹⁵⁸ Under Samper (1994-1998), the military leadership questioned plans to demilitarise La Uribe municipality (Meta) as the locale for negotiations.¹⁵⁹ Under Pastrana, the establishment and management of the demilitarised zone (DMZ) were near constant points of contention.

Military influence over the conflict has been weakened since the 1980s, with the gradual reduction and subsequent abrogation of state-of-siege measures that had been in place for long periods since the 1960s; in 1987, military courts lost jurisdiction to try and sentence civilians. This was explicitly ruled out in the 1991 constitution that also introduced stronger time limits for state-of-siege measures as well as guarantees that human rights and fundamental freedoms could not be lifted during an emergency. In 1991, Rafael Pardo, a Liberal Party leader, became the first civilian defence minister in over four decades. As an unintended consequence, however, the stronger civilian and judicial control also facilitated the establishment of paramilitary forces that were often used to do extra-legal tasks official troops would no longer risk.¹⁶⁰

¹⁵³ Crisis Group interview, Colombia First, Bogotá, 23 July 2012. Jose Obdulio Gaviria, "Cuatro años de estragos", *El Tiempo*, 31 July 2012.

¹⁵⁴ "Estos son los mejor y los peor calificados, según los encuestados por Gallup", Caracol Radio, 30 August 2012. In the same poll, Santos had a 51 per cent favourable rating. "Santos aumenta a 51 por ciento su imagen favorable", *Semana*, 30 August 2012.

¹⁵⁵ The reversal followed strong reactions in civil society and media against provisions in the reform that would have increased impunity risks in cases of politicians linked to paramilitaries, as well as increased immunity of parliamentarians.

¹⁵⁶ Juanita León and Martha Maya, "A partir de hoy Santos asegura su reelección pero arriesga su lugar en la historia", *La Silla Vacía*, 4 September 2012.

¹⁵⁷ Carlos Alfonso Velásquez, "Las fuerzas militares en la búsqueda de la paz con las FARC", Fundación Ideas para la Paz, June 2011, p. 40.

¹⁵⁸ *Ibid.*, p. 20.

¹⁵⁹ In June 1995, in an incident referred to as the "rattling of sabres", a group of army generals sent a secret memo warning President Samper they considered his decision unconstitutional. It was later leaked to the press. "Ruido de sables. Los militares notifican al gobierno que no aceptan la desmilitarización total de La Uribe", *Semana*, 31 July 1995.

¹⁶⁰ Mauricio García Villegas, "Constitucionalismo perverso, normalidad y anormalidad constitucional en Colombia: 1957-1997", in Boaventura de Sousa Santos and Mauricio García Villegas (eds.), *El caleidoscopio de las justicias en Colombia. Tomo I* (Bogotá, 2001), pp. 317-370; and Mauricio Romero, *Paramilitares y autodefensas, 1982-2003* (Bogotá, 2003), pp. 228-235.

The military has come some way to accept peace talks. Links to illegal armed groups are officially no longer tolerated, though some continue.¹⁶¹ The current command has toned down the triumphalism that marked military discourse under Uribe, particularly in the last years of his administration, distancing itself from the slogan – frequently invoked by the former head of the armed forces, General Freddy Padilla – that the campaign against FARC had entered “the end of the end”. General Navas, in charge since September 2011, has also recognised that peace will not come without some form of social change.¹⁶² Such developments appear largely driven by a slow generational change, as older, more radical officers retire and promotions privilege more moderate views.¹⁶³

Still, doubts about peace negotiations linger. In line with the position since Uribe, General Navas has repeatedly insisted that a negotiation would only be viable after military action had broken “the combat will” of the guerrillas. The ensuing talks would not be a “political negotiation”, which is seen as unviable because “FARC do not represent a sector of Colombian society”, and “they do not give society confidence to sit down at a negotiation table to talk about a reform”.¹⁶⁴ Segments of the military continue to equate negotiations with their own defeat,¹⁶⁵ but most fear above all a repeat of the Caguán talks that conferred on FARC control over a vast DMZ it used to train new combatants and as a sanctuary from which to launch attacks and secure hostages.¹⁶⁶

That negotiations will begin amid continuing hostilities, and no territory will be demilitarised should bolster military support of the process. Nevertheless, there are still tensions in civil-military relations. The relationship had reached a high point under Uribe, as a result of DSP’s emphasis on fighting the guerrillas, the increase in resources for the military, rejection of political talks and the president’s close involvement in operations (he talked directly by phone to the generals). It has become slightly more strained under Santos, amid a growing sense of unease

particularly among retired officers.¹⁶⁷ This has been driven by a number of factors related directly and indirectly to fresh peace talks. Soldiers reportedly no longer see a point in putting their lives on the line, given the prospect of a political settlement.¹⁶⁸ The more modest official rhetoric has deepened such motivational problems.

Troops are reportedly upset about a lack of clarity regarding combat rules. The 2009 Handbook on Operational Rules has no legal status and is said to enjoy little authority among soldiers, having been written by defence ministry civilians.¹⁶⁹ Troops blame an alleged lack of clarity over accountability for human rights and IHL during military operations on a 2006 agreement, reportedly signed under international pressure, between an Uribe defence minister, Camilo Ospina, and then-Attorney General Mario Iguarán. This allowed the Technical Investigation Body (CTI) of the latter’s office to investigate scenes of military operations and hand over evidence to civilian jurisdiction.¹⁷⁰ In the military’s view, neither civilian judges nor the attorney general’s office are competent to understand the complexities of a combat situation; worse, it widely considers they deliver partisan justice because of a supposed anti-military bias.¹⁷¹

Accelerating judgments in civilian courts against soldiers for extrajudicial executions and sentences in high-level cases have reinforced this perception.¹⁷² In the eyes of many in the armed forces, problems with civil jurisdiction became particularly evident in June 2012, when a Bogotá

¹⁶¹ Crisis Group Report, *Dismantling Colombia’s New Illegal Armed Groups*, op. cit.

¹⁶² See “Derrota de Farc, señal para usar llave de paz”, *El Nuevo Siglo*, 3 June 2012, in which General Navas is quoted as saying, “we know that there need to be sticks and carrots for peace, because just with sticks no people or society can vindicate itself, because the more terrorists fall, the more will be born if certain social phenomena persist as a breeding ground”.

¹⁶³ Crisis Group interview, conflict expert, Bogotá, 17 July 2012.

¹⁶⁴ Quotes taken from the extensive interview of Navas, when he was still head of the army, with a local daily, in “El ‘centro de gravedad’ de las Farc no es Cano”, *El Nuevo Siglo*, 27 March 2011.

¹⁶⁵ Crisis Group interview, retired high ranking-military official, Bogotá, 16 January 2012.

¹⁶⁶ Crisis Group interview, former vice defence minister, Bogotá, 17 July 2012.

¹⁶⁷ The most visible expression of this was an email from a retired official to other retired members of the forces saying that the moment would come when the military would “demand” that Santos “comply with his obligations and electoral promises” or would “remove him from the position [of president]”. This was always far-fetched. The idea did not enjoy wide support among either retired or active military officers. Colombia has also no tradition of military coups; its only military government, under General Rojas Pinilla (1953-57), was weak, at least compared to South American military dictatorships. See also Camila Osorio Avendaño and Martha Maya, “El posible golpe militar es por ahora puro ruido”, *La Silla Vacía*, 23 May 2012.

¹⁶⁸ Crisis Group interview, analyst, Bogotá, 11 July 2012.

¹⁶⁹ Crisis Group interview, former senior defence ministry official, Bogotá, 17 July 2012.

¹⁷⁰ Crisis Group interview, analyst, 11 July 2012. The text of the agreement is cited in “Fuero militar: un enredo de Álvaro Uribe”, *Semana*, 22 March 2012.

¹⁷¹ Crisis Group interview, military jurisdiction specialist, Bogotá, 12 September 2012. See also Saúl Hernández, “¿Perdón? ¡No faltaba más!” *El Mundo*, 5 February 2012.

¹⁷² Large parts of the military do not deny the existence of these extrajudicial executions but think the interpretation of the cases as a systematic practice, rather than the action of some rotten apples, underscores the problems with the civilian courts. Crisis Group interview, former senior defence ministry official, 17 July 2012.

court confirmed a 30-year prison sentence for Luis Alfonso Plazas Vega, a retired army colonel, who was found responsible for the forced disappearances of eleven persons during the 1985 recapture of the Justice Palace from M19 guerrillas. The judgment against an officer who is revered in some military circles as a national hero has reinforced longstanding resentments against former guerrillas and peace accords.¹⁷³ Many officers resent that while soldiers are held responsible for their actions in court, past peace deals have opened the door via pardons to successful political careers for prominent ex-rebels such as Antonio Navarro and Gustavo Petro.¹⁷⁴ This has also increased concerns within the institution over eventual post-conflict judicial treatment of crimes committed by the military.¹⁷⁵

It is important not to overstate problems in civil-military relations. Motivation issues may be real, but the strong views about civilian courts have been stoked by retired officers and politically magnified as Uribe and his allies have taken up the discourse.¹⁷⁶ Many retirees have a private agenda, as they are often the ones with the highest potential exposure to criminal charges for past human rights abuses. They are also not a homogenous group, and those who have been most vocal are not necessarily those with the largest influence among active-duty troops.¹⁷⁷ Strong command and control structures decrease the margin of manoeuvre for individuals opposed to the talks. Both President Santos, a former defence minister, and current Defence Minister Juan Carlos Pinzón, who comes from a military family, remain well respected within the armed forces. And unlike other armies in the region, subordination to a civilian president is part of the self-image of Colombia's armed forces.¹⁷⁸

¹⁷³ “Plazas Vega es un héroe nacional”, *El Tiempo*, 14 September 2011.

¹⁷⁴ Previously a member of the M19, Antonio Navarro was one of the presidents of the Constituent Assembly in 1990 and went on to serve as health minister, senator and governor of the Southern Nariño department. Gustavo Petro, another former M19, currently is mayor of Bogotá, often referred to as the country's second most important political position. Previously, he was a member of Congress.

¹⁷⁵ Crisis Group meeting with military high command, Bogotá, 6 July 2012.

¹⁷⁶ See, for instance, the comment from Uribe's vice president, Francisco Santos: “We need to take apart the war strategy that security forces now have and design a new one that will require profound constitutional changes. The first is to totally protect the security forces, even if excessive and without doubts. We need to recuperate combat morale at whatever price”. Francisco Santos Calderón, “Cambio de estrategia”, *El Colombiano*, 29 July 2012.

¹⁷⁷ Crisis Group interviews, former senior defence ministry official; retired senior military officer, both Bogotá, 17 July 2012.

¹⁷⁸ Crisis Group interview, retired general, Bogotá, 3 February 2012.

Still, tackling the unease remains important for both fighting the war and winning peace. By designating retired General Jorge Enrique Mora, a former head of armed forces under Uribe, as part of the government negotiating team, Santos ensured that the concerns of the active and retired military will be well represented.¹⁷⁹ But the government should resist pressures to reduce concerns over combat rules and courts by extending the scope of military jurisdiction, currently understood as an exceptional justice that is restrictively applied to a narrow set of crimes committed by those on duty.¹⁸⁰ An attempt to do just that within a broader justice reform collapsed earlier in 2012, amid pressure from Colombia's international partners and human rights organisations. But a separate legislative project to overhaul military jurisdiction, constitutional reform bill 192/2012, is scheduled to be debated and passed on in Congress by December 2012.

It would introduce five fundamental changes. First, it would establish a list of offences that military courts could never handle, including crimes against humanity, genocide, forced disappearance, torture, extrajudicial execution, forced displacement, sexual violence and recruitment and use of minors. Secondly, it would state that IHL violations committed by security force members (except the above) will be “exclusively” judged by military courts. Thirdly, it would introduce a “technical commission”, composed of members from military and civilian jurisdictions, that could intervene in the settlement of jurisdictional disputes between the two systems. Fourthly, it would create a Penal Guarantees Tribunal, tasked, inter alia, with settling conflicts between the jurisdictions; half of its eight members would be retired military. Fifthly, it would propose statutes be developed to “harmonise” penal law with IHL.¹⁸¹

If approved, this project would significantly expand, at the expense of civilian justice, the jurisdiction of military courts that have long been incapable or unwilling to prosecute severe crimes, including grave human rights abuse.

¹⁷⁹ The designation of General Mora became public after the Association of Retired Military Officials (Acore), a lobby group, demanded “ample” and “permanent” participation at the negotiation table. “Militares (r.) piden espacio en mesa de negociación con representantes”, *El Tiempo*, 3 September 2012. Acore has also announced that it intends to channel all concerns through Mora. “Militares anuncian al general (r.) Mora como su vocero”, *Semana*, 4 September 2012. Another member of the government delegation is the former director of the national police, General Oscar Naranjo.

¹⁸⁰ This view has been developed by the Constitutional Court, in line with international standards. See “Sentencia C-358 de 1997”, Corte Constitucional, 5 August 1997, and “Sentencia C-373 de 2011”, Corte Constitucional, 12 May 2011.

¹⁸¹ See for these points “Acto Legislativo Número 16 de 2012 Senado, 192 de 2012 Cámara”, Article 3, *Gaceta del Congreso* 343, 12 June 2012.

It would set a dangerous precedent by weakening the present rule that cases in which there is doubt about which jurisdiction is competent are automatically referred to civilian courts.¹⁸² The technical commissions would have de facto power to direct the course of investigations. The authority that would be granted to the Guarantees Tribunal for deciding conflicts of competences between the jurisdictions would encroach on functions currently exercised by the Superior Council of the Judiciary, a high court that, unlike the proposed new body, is fully independent from the military.¹⁸³

Reserving some crimes explicitly for civilian courts does little to allay concerns over extending the scope of military justice. The list set out in the project would reserve for civilian courts crimes that are already excluded from military courts, while permitting military judges to take on cases of arbitrary detentions and other IHL violations that are not on the exclusionary list. Although there remains room to improve harmonisation between IHL rules and Colombia's criminal law, key crimes and procedures are already in place in the code. This has spurred concerns that the draft may be an attempt to relax accountability standards for security forces.¹⁸⁴ Rather than expanding impunity risks, reform should concentrate on improving military courts and their cooperation with civilian courts in order to contribute to legal certainty.¹⁸⁵ Military buy-in to a peace agenda is critical, but the price should not be greater impunity that would undermine the conditions for a sustainable peace.

The problems of the 1998-2002 peace process suggest that close management of relations with the military is essential before, during and after negotiations. Encouragingly, backstage discussions on the design, role and tasks of the military in a post-conflict situation are taking place.¹⁸⁶

¹⁸² Directiva Permanente 19/2007, defence ministry, 2 November 2007; also Michael Reed-Hurtado, "Reforma constitucional de la justicia penal militar: ¿seguridad o escudo?", *Razón pública*, 1 April 2012.

¹⁸³ Crisis Group interviews, human rights lawyer, Bogotá, 22 August 2012; military criminal justice specialist, Bogotá, 14 August 2012. If approved as it stands, there would be three institutions in the settlement of disputes between jurisdictions (the commissions, the tribunal and the council). As the relationship among these three remains unclear, this arrangement would be unlikely to produce the legal certainty that the projects seek to guarantee. Crisis Group interview, military criminal justice specialist, Bogotá, 12 September 2012.

¹⁸⁴ "Alarmante reforma al fuero penal militar", *Comisión Colombiana de Juristas*, 30 August 2012.

¹⁸⁵ Crisis Group interview, military criminal justice specialist, 14 August 2012.

¹⁸⁶ See "Fuerzas militares realizan primera conferencia sobre Justicia Transicional en Colombia", *Comando General de las Fuerzas Militares*, press release, 17 May 2012.

Security sector reform should not be an issue for the negotiation table; it will necessarily have to wait until a definitive peace agreement is in place, as the talks will start while hostilities continue, and the government will need to maintain its full dissuasive capacity. But forging an internal consensus about security sector reform would reduce uncertainty and probably be the most effective way to avoid the military undermining peace moves out of fear of the unknown.

How in detail such post-conflict armed forces should look like remains largely speculative, but the main questions are clear. The military will have to downsize, as resources now spent on the war effort will be needed for different purposes. In principle, commanders seem to acknowledge this,¹⁸⁷ although the substantial growth in resources and manpower since the end of the 1990s, in particular under DSP, suggests that reversing course is likely to produce some resistance. But the pain should be eased, as transition to a consolidated post-conflict situation is likely to be gradual, since Colombia will likely continue to face challenges to public order. Nevertheless, there is need to prepare credible and generous demobilisation and reintegration plans for the rank and file, including alternative professional training or further education to facilitate integration into the civilian labour market. It will be also necessary to contemplate other reforms, such as expansion (including a well-organised rural guard) and demilitarisation of the national police, and perhaps a more active role in international peacekeeping missions.

C. PARAMILITARY SUCCESSORS AND ENABLING NETWORKS

NIAGs pose substantial threats to peace, even though they probably have a lower capacity to spoil negotiations than their paramilitary predecessors. The latter emerged and strengthened during the 1980s and beyond in large part in reaction to peace processes with guerrillas, including FARC. The coalition behind the paramilitaries was diverse and included regional political and economic elites, drug traffickers who controlled large areas of land and parts of the military. These saw rapprochement with guerrillas as a threat to their respective positions. The paramilitary movement thus substantially revolved around the effort to violently defend the status quo against the political, social and economic changes implied by reforms undertaken or promised as part of peace processes.¹⁸⁸

¹⁸⁷ Crisis Group interview, general, Bogotá, 31 January 2012.

¹⁸⁸ Mauricio Romero, *Paramilitares y autodefensas*, op. cit., pp. 18, 40. Paramilitary groups began operating in the early 1980s as private self-defence groups for drug traffickers and landowners. Their growth accelerated during the peace processes of

Paramilitaries were a driving force behind the “dirty war” against Patriotic Union (UP) activists that contributed to the failure of peace talks with FARC under the Betancur, Barco, and Gaviria administrations (1982-1994).¹⁸⁹ The strong increase in paramilitary activities – massacres more than doubled to 236 between 1998 and 2000¹⁹⁰ – as well as lack of progress in dismantling them and their support networks then also contributed to the deadlock in the Caguán talks during Pastrana’s term (1998-2002). In January 1999, FARC suspended talks almost immediately after they opened, after the paramilitaries killed over 100 persons in less than week.¹⁹¹ An interruption of several months (November 2000 to early 2001), resulted when FARC sought clarification of the government’s position on paramilitaries. A bloody paramilitary offensive against ELN strongholds stymied talks with the smaller movement under Pastrana.¹⁹² Paramilitaries also promoted mass local mobilisations against the planned demilitarised Zone of Encounter in Bolívar department, a precondition for ELN talks the government had accepted.¹⁹³

The window for the demise of the paramilitaries opened with the Uribe administration, which wanted to concentrate on a full-scale offensive against the guerrillas. But the demobilisation of over 30,000 paramilitaries that ended in 2006 was riddled with problems. In several regions, NIAGs, often with substantial participation of mid-level paramilitary leaders who either re-armed or had never demobilised, emerged to fill the space the paramilitaries had left and to take over their illegal business interests.¹⁹⁴ Since their emergence, these groups have consolidated into six organisations, down from 33 in 2006, with, in April

the Betancur administration. The second stage of paramilitarism came during the peace talks of the Pastrana administration. That expansion had been predated by consolidation of groups into a nationwide federation, the United Self-Defence Forces of Colombia (AUC).

¹⁸⁹ The Inter-American Court of Human Rights has declared the responsibility of the state in one of these killings, the emblematic 1994 murder of UP Senator Manuel Cepeda Vargas. “Caso Manuel Cepeda Vargas vs Colombia”, Sentence 26 May 2010, Corte Interamericana de Derechos Humanos. The state apologised for this crime in August 2011, but a wider recognition of official responsibility in the extermination of UP is still pending.

¹⁹⁰ “Casos de masacres por departamento y municipio a nivel nacional, 1993-2012”, dataset provided to Crisis Group by the Presidential Program on Human Rights and International Humanitarian Law, August 2012.

¹⁹¹ Édgar Téllez, Óscar Montes and Jorge Lesmes, *Diario íntimo de un fracaso: Historia no contada del proceso de paz con las FARC* (Bogotá, 2002), pp. 104-110.

¹⁹² See “Panorama actual de Barrancabermeja”, Vicepresidencia de la República, December 2001.

¹⁹³ Crisis Group Report, *Colombia: The Prospects for Peace with the ELN*, op. cit., pp. 13-14, 16-17.

¹⁹⁴ Crisis Group Latin America Report N°20, *Colombia’s New Armed Groups*, 10 May 2007.

2012, some 4,800 members and a presence in 167 municipalities. The three largest, the Rastrojos, the Urabeños and ERPAC, account for around 80 per cent of their fighting power.¹⁹⁵

NIAGs are unlikely to have a unified stance towards a peace agenda, but they are a risk factor, especially in the run-up to and aftermath of talks. Rather than attract government attention with spoiling operations, NIAGs with an interest in controlling zones important for drug production or trafficking might prefer to keep a lower profile during negotiations and move to fill in behind an eventual FARC demobilisation. Drug-trafficking organisations may behave similarly. This would threaten the consolidation of a peaceful order in conflict zones. But NIAGs are more than the purely criminal gangs the government likes to portray them as. Rather like their paramilitary predecessors, some seem to be enforcing other, broader interests that could potentially be affected by a peace process. Some are increasingly engaged in counter-insurgency operations, and some use forced displacement, as well as political violence, including threats and selective killings of social leaders, to increase their social and territorial control.

Worryingly, Colombia has not fully overcome the problem of which paramilitarism was an expression. In some rural areas, violence remains a strategically deployed instrument to defend the status quo against potential political and social openings. This is clear from the violence against campaigners for land restitution that has been accelerating since 2010 in reaction to efforts of the Santos administration to promote the return of land to victims of the armed conflict. Threats are on the rise and, according to the local NGO Nuevo Arco Iris, 68 land restitution campaigners have been killed since 2005, the majority in the last two years.¹⁹⁶ The violence is concentrated in regions with a strong paramilitary legacy, corrupt or infiltrated local state institutions and significant NIAG operations. Antioquia and the Caribbean coast departments, in particular Córdoba, account for over half the murders; the pacific coast departments of Valle and Chocó are also heavily affected.

NIAGs appear to have been partly responsible for this violence. The Urabeños in particular are alleged to have been behind it in their strongholds in the Urabá region and Cór-

¹⁹⁵ Crisis Group interview, police, Bogotá, 7 May 2012. Unofficial number of NIAG presence are however much higher. According to local NGO Indepaz, the groups could have as many as 8,000 members distributed over 406 municipalities. “Presencia de los Narcoparamilitares en el 2011”, Unidad de Investigaciones, in Punto de Encuentro no. 58, Instituto de Estudios para el Desarrollo y la Paz (Indepaz), March 2012, p. 37.

¹⁹⁶ Ariel Ávila Martínez, “La guerra contra la restitución”, Nuevo Arco Iris, blog, 10 July 2012.

doba department, reportedly at the behest of front men from the old AUC with an interest in thwarting land restitution.¹⁹⁷ There is also growing evidence of the emergence of new illegal armed groups specifically targeting the land restitution process. Such groups were first denounced in early 2012, and in June the ombudsman's office warned against threats posed to communities demanding the restitution of land in the coastal department of Sucre. Following threats to thirteen social leaders and human rights defenders by a self-identified "Anti Restitution Army", President Santos named in July 2012 for the first time two individuals supposedly behind such groups.¹⁹⁸

Whether perpetrated by NIAGs or by new formations, killings and threats against land restitution campaigners are a reminder of the continuing demand and supply for private violence. But it appears unlikely for several reasons that this phenomenon can again reach the proportions seen during the time of the paramilitaries. The Uribe administration long played down the threat from NIAGS (to protect paramilitary demobilisation, one of its signature policies, from criticism). The Santos government, however, has recognised them as the single largest threat to public security, and there have been increasing arrests of members and killings or captures of Rastrojos, Urabeños and ERPAC leaders in the last two years. In a controversial process about a third of ERPAC members surrendered to justice in December 2011.¹⁹⁹ All this has not been enough to defeat NIAGs, but they are more unstable and fragile than the former paramilitaries, which, thanks to their strong ties with security officials, were long able to function largely undisturbed by the state.

Nevertheless, the increasing violence against social leaders casts doubt about the capacity of the national government to contain the regional actors who have been the main promoters of political violence. Some economic sectors that benefited from the paramilitary expansion, such as large cattle ranchers, have at least paid lip-service to land restitution. Others remain opposed to peace dialogue, and the claim by political opponents of talks that the government has squandered Uribe's security legacy and neglected the interests of investors and business sectors may again energise a demand for private self-defence groups. This is a particular concern as at least some large landowners and other powerful regional actors have shown a historical proclivity for using violence to defend their in-

terests. Nevertheless, the potential demand for such violence seems smaller now, as there is increased awareness within the private sector of what it means to operate in conflict zones.²⁰⁰ Multinational companies are also likely to be careful to protect their reputations given possible exposure to legal action, both in Colombia and the U.S.²⁰¹

In the pre-accord with FARC, the government pledges to increase efforts to combat criminal organisations and their support networks and to clamp down on violence against human rights defenders and social leaders. To implement these commitments, it needs to act decisively to bring to justice those responsible for violence against land restitution leaders and social movements. It also needs to improve its strategy for combating the NIAGs, but the use of military force, as proposed in a bill before Congress, is not a promising approach.²⁰² Success is likely only if police and prosecutors focus on taking apart the contacts with security forces and the political and economic networks that underpin NIAG structures.²⁰³

D. GUERRILLAS

Past peace processes have suffered under the traditional rivalry among Colombian guerrilla groups that has impeded the construction of a durable umbrella federation strong enough to lead peace talks (as happened in Central America) and that has led in extreme cases to acts of violence among competing movements. This was perhaps most notably the case in the aftermath of the 1991 demobilisation of the Popular Liberation Army (EPL), when FARC targeted former members for abandoning the revolutionary struggle.²⁰⁴

Such risks remain latent in the current process. How they play out will to a large degree depend on the dynamics of

¹⁹⁷ Ibid.

¹⁹⁸ Daniel Restrepo Tabares, "Defensoría advierte sobre 'ejército' anti-restitución en Sucre", *El Heraldo*, 27 June 2012. "Presidente Santos ofrece recompensas para capturar a quienes amenazan a reclamante de tierras", Sistema informativo del Gobierno, 7 July 2012.

¹⁹⁹ See Crisis Group Report, *Dismantling Colombia's New Illegal Armed Groups*, op. cit.

²⁰⁰ Crisis Group interview, NGO, Bogotá, 1 February 2012.

²⁰¹ In one case, Chiquita Brands reached a plea agreement with the U.S. justice department in 2007, under which the company agreed to pay a \$25 million fine for giving money to the paramilitaries. Jim Lobe and Aprille Muscara, "U.S. banana firm hired Colombian paramilitaries", Al Jazeera, 8 April 2011. Chiquita has maintained that it made payments "solely out of well-grounded fear of retaliation against its employees if the company refused". Quoted in *ibid.*

²⁰² "Mindefensa abre puerta a un marco legal para combatir las bacrim", *El Espectador*, 6 June 2012. This would be a radical change from the current strategy under which combating NIAGs is mainly a police task.

²⁰³ For an in-depth discussion on legal treatment of NIAGs and the government strategy, see Crisis Group Report, *Dismantling Colombia's New Illegal Armed Groups*, op. cit.

²⁰⁴ The 1994 massacre in the La Chinita neighbourhood in Apartadó, the economic capital of the Urabá region, is perhaps the emblematic incident of this violence. See Bibiana Mercado, "Farc, las responsables", *El Tiempo*, 4 September 1994.

negotiations and on whether and how ELN participates. The two movements have not always been on good terms, but they are working more closely together since a December 2009 deal to end a bloody confrontation. This agreement is now respected nationwide, including in Arauca where hostilities flared until late 2010. It provides a more promising starting point, but in case negotiations begin without it, the ELN might still have an incentive to increase operations so as to press for inclusion or improve its bargaining position. Another complex situation with the potential to disrupt the negotiations could emerge in the event the government and FARC agree on a ceasefire while ELN continues in hostilities, since the guerrillas partly operate in overlapping zones.²⁰⁵ A joint negotiation would probably reduce risks of coordination failures but might have drawbacks also, including slowing the pace.

The arguably bigger risks stem from internal opposition to the peace process within FARC and its likely fragmentation. The decision to seek a deal with the Santos government was controversial. Some FARC members are reportedly convinced this is not the time to negotiate. They argue that the group has survived the most critical phase under Uribe, and its military power is again on the rise, so its bargaining position could be stronger later. Not much has become public about these differences, but reportedly Iván Márquez, a Secretariat member, is among those with doubts. If so, his designation as a member of FARC's official negotiation team could be a move to increase his commitment to the process and thus reduce the potential for internal friction.

The other and more obvious fault line is financial. A peace deal will be unlikely to convince fronts strongly involved in drug trafficking to lay down arms and exchange a viable business for an uncertain economic future in the legal economy for which most FARC members are hardly prepared.²⁰⁶ This would be in line with previous demobilisation processes, including the failure to fully dismantle parts of the AUC paramilitaries. How many FARC members might prefer not to demobilise is hard to predict, but fears over a splintering of FARC are particularly widespread in the south, where some of the drugs-heavy fronts operate.²⁰⁷ The concerns are well founded, given that the Southern Bloc is rumoured to defy orders from the Secretariat on occasions.

Any fragmentation after a successful negotiation would make the conflict much more a law enforcement problem. This might, however, not make things much easier, at least

in the short run. FARC dissident groups would further complicate security questions; as is clear from the struggle with NIAGs, mitigating threats posed by post-demobilisation armed groups requires strong civilian and judicial institutions, but those will not emerge overnight.

²⁰⁵ Reina Lucía Valencia, "¿Farc y Eln: juntos en la mesa de negociación?", *Nuevo Arco Iris* blog, 3 September 2012.

²⁰⁶ Crisis Group interview, anti-narcotics police, Bogotá, 27 August 2012.

²⁰⁷ Crisis Group interview, NGO, Florencia, 16 February 2012.

V. FOUNDATIONS FOR SUCCESSFUL TALKS

Reflecting the lessons of failed peace talks and its position of strength, the government is headed toward a negotiation with FARC that will be substantially different from previous ones. The possibly most significant difference is that it is aimed at ending the armed conflict, rather than at reaching peace. FARC previously maintained that substantial policy reforms and social changes were preconditions for disarming. These talks will be held abroad and secret, with periodic evaluations and reports to the public. At least if compared to the over 100 points supposed to be discussed during the Caguán negotiations, the agenda is more limited, though it still includes several substantial issues closely related to the origins and the dynamics of the conflict, such as rural development and drugs. Talks are meant to be concluded as fast as possible, and they will be held while hostilities continue.²⁰⁸

This negotiation model is meant to justify itself by producing results. But relying so heavily on legitimisation by result is risky, in particular if progress is slower than anticipated. A deal behind closed doors between the government and FARC risks being seen as lacking legitimacy, as neither side can credibly claim to fully represent the interests of victims, rural communities or indigenous peoples. The two negotiating parties will have to make difficult calls, including over the terms of political reintegration of FARC members and transitional justice measures that, unless endorsed by a broad social consensus, could quickly fall apart. Legislators and key political decision makers will also need to feel they have a real stake in the negotiations, as they will be the ones who will have to implement most of any agreement.

To strengthen the social foundations of peace and build trust on the ground, both parties should aim at creating immediate humanitarian gains for affected communities. Showing restraint in military operations, as soon as negotiations are underway, and complying with IHL obligations will be vital to minimise risks that ongoing warfare will destabilise the peace process. On the political level, the government will need to carefully balance the need to reach substantial agreement with FARC with the prerogatives of democratic institutions. And despite the understandable and justified emphasis on fast and discreet talks, the resulting agreement will be more likely sustainable if the voices of civil society – and particularly of victims and conflict-affected communities – are fully taken into account during the negotiations, and the process ultimately

leads into a participatory effort aimed at tackling the social and economic problems of the countryside that have provided the backdrop for the conflict.

A. MILITARY RESTRAINT, IHL AND HUMANITARIAN GESTURES

Negotiating abroad while hostilities continue is pragmatic, as alternative options such as concentration of fighters and demilitarised zones are political non-starters. A definite, bilateral ceasefire is on the agenda. FARC has announced it will raise it at the start of official talks, but Santos rules out a ceasefire until there is a comprehensive final agreement.²⁰⁹ This is in line with the negotiation principle, endorsed by the pre-accord, under which nothing is agreed until everything is agreed. It could also reflect security force opposition to an early ceasefire, seen by critics as a FARC ploy to evade military pressure. Negotiators must balance the imperative to end human suffering as soon as possible with the risk of stifling the process in complex negotiations over conditions and verification of a ceasefire that could easily dominate time and energy, while spoilers used bouts of violence to create discord.²¹⁰ Verification would be further complicated, as some violence is generated not by direct confrontation between the parties but activity related to FARC economic survival, eg, extortion and drug trafficking.

But as experience has also shown, negotiating amid hostilities is very demanding for both sides and society alike, especially communities in conflict zones. The parties need to avoid trapping themselves in a logic of escalation that equates their bargaining position with demonstrated military force. The increase in FARC actions over the last two years might well reflect a calculation that its negotiating position would be stronger, if it proved it was not a spent force. Such reasoning would quickly become counterproductive during negotiations. The social legitimacy of talks would invariably suffer if the process failed to generate tangible humanitarian relief quickly in conflict zones, and if the contradiction between acts of war and discourse of peace offered opponents of negotiations an obvious point

²⁰⁸ See, for all these points, “Acuerdo General para la terminación del conflicto y la construcción de una paz estable y duradera”, 26 August 2012. English version in Appendix B

²⁰⁹ “Santos reitera que solo habrá cese al fuego hasta llegar a un acuerdo final”, *Semana*, 7 September 2012.

²¹⁰ The last attempt to reach a deal with the ELN during the Uribe years failed to overcome a gridlock over a ceasefire. To verify a planned ceasefire, the government wanted to concentrate and identify ELN members. The guerrillas opposed this, inter alia over concerns that a concentration might jeopardise the security of combatants and confer strategic advantages on the government. Crisis Group interview, disarmament, demobilisation, reintegration (DDR) specialist, Bogotá, 30 January 2012. See also Crisis Group Briefing, *Colombia: Moving Forward with the ELN?*, pp. 12-13.

of attack. Once the honeymoon for negotiations ends, this could threaten public and political support.

To minimise risks hostilities destabilise the process, both sides need to exercise operational restraint. Adherence to IHL obligations and international human rights norms should be the yardstick. Both must respect the principle of distinction, enshrined in customary IHL, particularly the rules of precaution and proportionality.²¹¹ Permanent access to conflict areas for humanitarian agencies and public social institutions must be secured to guarantee health, food and other basic services. Parties need to stop using civilian infrastructure, such as schools, to hide in and conduct military operations from. Minors should no longer be used for intelligence and surveillance. Bombardments, in particular in areas near civilians, should be restricted. The government should cut aerial coca fumigation to the absolute minimum, as indiscriminate spraying also affects legal crops, so endangers rural livelihoods. Security forces must stop stigmatising civilians as guerrilla supporters and refrain from actions that restrict mobility for communities.

With the beginning of negotiations, the guerrillas need to halt attacks using car bombs or other devices that pose significant risks for civilians. FARC should immediately refrain from attacks on water, energy and electricity infrastructure that cause hardship for civilians and considerable environmental damage. Armed stoppages and all other forms of restrictions to mobility should also end immediately. FARC must also halt attacks on police stations in urban centres or near civilian housing, as their weapons do not allow precise targeting, and it should immediately lift restrictions on access for humanitarian actors.

To facilitate the objective monitoring of IHL violations as the negotiations get underway and to overcome the problems posed by the current lack of reliable conflict data that are based on transparent methodologies, the Vice Presidency's Human Rights and IHL Observatory should publish regular and timely updates on major conflict variables, including the number, nature and source of combat incidents. The data must be easily accessible and understandable and carefully verified.

²¹¹ Under customary IHL, rule 14 regarding the proportionality of an attack establishes that "launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited". Rules 15 to 21 regarding precautions in attack refer to mechanisms required to spare the civilian population, civilians and civilian objects. "Customary International Humanitarian Law", International Committee of the Red Cross, www.icrc.org/ihl.nsf/FULL/612?OpenDocument.

If a bilateral ceasefire cannot be agreed early in the negotiations, both parties should implement humanitarian accords to demonstrate their commitment to minimising suffering. Expectations need to be realistic. FARC is unlikely to agree to stop planting landmines, as this would deprive it of its most effectively defensive weapon. But incremental progress on these issues is possible and would lead to important humanitarian gains for affected communities. Any possible humanitarian agreements would need to be monitored by independent third parties. FARC and the government would need to create the conditions in which they could do so freely and safely. Verifiers also require clearly worded mandates endorsed by both parties and commitments to be given the technical and financial resources to carry out their task.²¹² Otherwise, it would be impossible to generate positive dynamics, given the mutual distrust and the resources that such an endeavour entails.

FARC may be unreceptive to a total ban on anti-personnel mines, but it should consider collaborating with demining efforts. This could, for instance, involve indicating the location of mine fields that are no longer of military use, notwithstanding the practical difficulties posed by some soils and rainy terrain that can cause mines to shift their location over time. FARC should also increase its efforts to inform civilians with precision of any mined areas. Both measures would go some way to reducing civilian risks in conflict areas.²¹³ Practices of some FARC fronts, such as charging civilian victims for the cost of the exploded mines, need to stop immediately.²¹⁴

Attention regarding minors should focus on bringing FARC into compliance with its international and domestic legal obligations. The movement's rules define membership as "personal, voluntary and conscious between fifteen and 30 years".²¹⁵ The fifteen-years age limit was in line with the Second Additional Protocol of the Geneva Convention. But FARC has regularly recruited members under this age, and despite efforts of some front commanders to comply with the rule, this continues to occur, in particular in zones where it is under military pressure.²¹⁶ FARC should immediately halt the practice where it still exists and redouble efforts not to deploy minors in combat roles. As a signa-

²¹² Carlos Franco Echavarría, "La verificación en un eventual proceso de paz", Fundación Ideas para la Paz, February 2012, p. 40.

²¹³ The ELN's own rules ("Code of War") oblige its fighters to inform civilians of mined areas "A collection of codes of conduct issued by armed groups", *International Review of the Red Cross*, vol. 93, June 2011, p. 490.

²¹⁴ Crisis Group interview, humanitarian organisation, Bogotá, 12 July 2012.

²¹⁵ Internal FARC rule cited in "Beligerancia", *Suplemento Resistencia*, Comisión Internacional FARC-EP, 2000, p. 8.

²¹⁶ In Caquetá, for instance, observers have noted an increase in recruitment efforts in apparent response to military pressure. Crisis Group interview, NGO, Florencia, June 2012.

tory of the 2000 Optional Protocol to the Convention on the Rights of the Child on involvement in armed conflicts, Colombia has agreed to raise the recruitment age to eighteen.²¹⁷ FARC should take steps to comply with this rule as well and to progressively release all minors under age eighteen.

FARC will also need to assume responsibility for kidnapping victims, including those who have disappeared during captivity. The February 2012 pledge to halt kidnapping for ransom has not been independently monitored, so compliance is shrouded in uncertainty, but FARC appears to have at least substantially reduced new cases. It might, however, still hold an unknown number of hostages.²¹⁸ FARC denies this. Secretariat member Iván Márquez declared in May 2012 that a poll among FARC blocs prior to the announcement that kidnapping was abandoned revealed no economic hostages. FARC negotiators repeated this in Havana in September.²¹⁹ Once peace talks get underway, FARC needs to release immediately any hostages it may still hold. Simultaneously, it should give information about those who died or disappeared while under its control. Families and human rights organisations require this information, and authorities should be allowed to identify burial sites and proceed with exhumation and proper burial by families.

Once the negotiations are under way, the government should ease the pressure on communities not to engage directly with FARC. Entering into contact with FARC, or

any other illegal armed group, is prohibited by law, with offenders liable to prosecution for conspiracy. While legal restrictions on interacting with FARC are justified, given the illegal nature of the group, they are a burden on communities trying to mitigate their exposure to the conflict and pragmatically solve emergency situations.²²⁰ A coalition of NGOs has asked the Constitutional Court to declare unconstitutional an article of the Legal Framework for Peace that authorises only national government representatives to talk with the guerrillas. The NGOs argue that this restricts constitutional rights to peace.²²¹ Independently of how the court decides, the government should guarantee communities a sufficient margin to engage in local and specific humanitarian contacts.

B. MANAGING THE DOUBLE POLITICAL AGENDA

The Santos administration has dedicated its first two years to developing an ambitious reform agenda. It has revised the Consolidation Policy and, backed by a large Congressional majority, passed a long overdue law on territorial arrangements, as well as a constitutional amendment providing for more equal distribution across the country of growing mining and hydrocarbon royalty earnings.²²² In terms of the peace process, the possibly symbolically most significant policy change is the Victims and Land Restitution Law, through which the government pledges to pay reparations to over four million victims of the armed conflict and hand back millions of hectares to peasants forced off their land by rightwing paramilitaries. The opening of the peace talks has added a second agenda for the second half of Santos's term. Managing both well will not be easy, as they are not automatically in sync.

The government has indicated that the opening of peace talks will not mean a halt to implementation of its reform agenda.²²³ This implies quickly getting the revised Con-

²¹⁷ This protocol sets out obligations for security forces and non-state armed actors. Article 4.1 stipulates that armed groups that are distinct from the armed forces of a state should not, under any circumstances, recruit or use in hostilities persons under the age of eighteen. Colombia adopted this norm in 2003 via Law 833.

²¹⁸ País Libre, a local NGO tracking kidnapping cases, maintains that FARC is responsible for some ten kidnappings in 2012 and that the whereabouts of 405 victims remain unknown. "Familias de secuestrados piden sinceridad a la guerrilla", *El Tiempo*, 6 September 2012; "405 secuestrados por las FARC no han regresado a sus hogares, dice País Libre", *Semana*, 8 March 2012. According to Rafael Guarín, a former deputy defence minister, the government reportedly has knowledge of 154 unresolved kidnapping cases. "Farc tienen 154 secuestrados y siguen traficando drogas, afirma exviceministro de Defensa Rafael Guarín", *Radio Santa Fé*, 10 September 2012.

²¹⁹ Iván Márquez, "Respuesta a María Jimena Duzán", *Bloques Iván Ríos y Martín Caballero de las FARC-EP*, www.resistencia-colombia.org, 11 May 2012. "No somos narcotraficantes ni secuestradores: Rodrigo Granda", *El Espectador*, 11 September 2012. Pablo Catatumbo, another Secretariat member, has taken a more cautious stance, limiting himself to stressing the "commitment" of all EMC members to guarantee compliance with the announcement. Pablo Catatumbo, "No todo lo del pobre es robado", *Bloques Iván Ríos y Martín Caballero de las FARC-EP*, www.resistencia-colombia.org, 19 May 2012.

²²⁰ Crisis Group interview, indigenous leaders, Cauca, January 2012.

²²¹ "Demanda de inconstitucionalidad", May 2012. Other aspects of the Framework have been legally challenged as well.

²²² The June 2011 Statutory Law on Territorial Arrangements (LOOT) provides for the association of municipalities and establishment of administrative and planning regions between the department and national level, with the aim to improve public service efficiency and boost regional competitiveness. "Sancionada Ley de Ordenamiento Territorial; se beneficiarán regiones", *El Tiempo*, 28 June 2011. A July 2011 constitutional amendment modifies distribution of the until then geographically highly concentrated royalties so as to advance development projects in poor regions. *Acto Legislativo 5 de 2011*, *Diario Oficial No. 48,134* of 18 July 2011.

²²³ "We will continue to do on the ground what we promised to Colombians: reconstitute land, repair victims, guarantee justice,

solidation Policy up and running. Decisive progress in carrying out land restitution in particular would be instrumental in weakening the deep distrust communities in conflict regions feel towards the authorities, fuelled also by the continuing, partially worsening violence against community leaders and human rights defenders. Santos's less confrontational rhetoric has been noted positively, but the government needs to prove it is willing and able to take on the local powers responsible for a large part of political violence and determined to oppose any social changes that could threaten their power. For security forces, especially the military, a successful (and non-violent) implementation of land restitution would be a golden opportunity to prove their commitment to guaranteeing the reform process, including the security of peasants, human rights activists and social leaders.²²⁴

Resolute implementation of land restitution might also convince FARC that the government is serious about social reforms. In 2011, Alfonso Cano recognised its importance, arguing that attention to victims and land restitution was essential for a "future of reconciliation and democracy".²²⁵ But from the government's point of view, taking up issues related to displacement and rural development would also reduce possibilities for the guerrillas to legitimise their armed struggle by reference to unresolved problems in the countryside and ongoing government neglect. This counter-insurgency rationale could in part explain why sectors within FARC have been opposed to land restitution, though threats to material interests, such as income from land the movement has seized, might also be an important motivation. The police say they have identified several FARC members allegedly linked to the so-called anti-restitution army.²²⁶

FARC's ambiguity toward land restitution highlights a wider challenge. While advancing its reform agenda, the government must take care to leave the movement sufficient political space to vindicate its struggle. This is particularly important for a movement that sees its history as a sequence of state-caused grievances. Conceding this space would also be an effective way to give FARC a stake in the post-conflict order.²²⁷ An agreement on rural development, as foreseen in the pre-accord, could be a bridge for the guerrillas to legal political participation. A planned

rural development law should thus be aligned with evolution of the talks and passage await final agreement between the parties. This draft legislation, conceived as the counterpart to the land restitution law, was long held up in mandatory consultation procedures with indigenous and Afro-Colombian communities but is almost ready for legislative debate. Pushing the measure now, however, might alienate FARC, which could interpret the move as an attempt to solve its most important grievance without its input.

Any agreement on substantial policy questions must in turn be endorsed by democratic institutions, as the main decision-making forums. Both parties should, therefore, consider closely involving leaders of political parties and members of key Congressional committees. Santos's legislative majority is strong enough to push through complex political reforms, but giving legislators a real stake would increase ownership and commitment with the process and almost certainly improve the prospects for and quality of implementing legislation. Moreover, it would allay concerns, frequent among critics of the talks, that the government intends to "negotiate the country" with an illegitimate insurgency.

C. SOCIAL OWNERSHIP

With 74 per cent of the population backing a peace process with FARC, support for talks had reached historic levels even before the first official confirmation of "exploratory talks" in August 2012.²²⁸ This is significantly more than what surveys have normally registered. Support for a political settlement hit a low of 36 per cent in the aftermath of the breakdown of talks in early 2002. Since 2004, it had been hovering around 60 per cent, and in June 2012, 52 per cent had preferred negotiations to attempts to defeat FARC militarily.²²⁹

This could still prove an unreliable foundation for the peace process. The current enthusiasm will not last indefinitely and could fade quickly as the inevitable setbacks and dead ends materialise. The apparently stable majority may well conceal fundamental differences about what people consider an acceptable opportunity cost for peace. Uribe's DSP has left a strong legacy, most visible in the wide belief that military victory is possible.²³⁰ This sug-

reduce poverty and create employment". "Alocución del Presidente de la República, Juan Manuel Santos sobre el 'Acuerdo General para la Terminación del Conflicto'", Sistema Informativo de Gobierno, 4 September 2012.

²²⁴ Crisis Group interview, land expert, Bogotá, 31 January 2012.

²²⁵ Alfonso Cano, "Saludo de las FARC-EP para el 2011 al Pueblo Colombiano", video, www.youtube.com/watch?v=haDmBGbpat0.

²²⁶ "Policía presentó el cartel de los que se oponen a la restitución de tierras", *El Colombiano*, 24 July 2012.

²²⁷ Crisis Group interview, academic, Bogotá, 11 September 2012.

²²⁸ "El 74,2% apoyaría un diálogo con las Farc, según encuesta", *El Tiempo*, 25 August 2012.

²²⁹ "Gallup Poll no. 89", Gallup Colombia, June 2012, p. 119. It is, of course, difficult to compare polls, inter alia because of differences in the wording of questions and in sampling methods.

²³⁰ The share of those convinced that military force can defeat FARC has been rising since Pastrana's time but increased substantially under Uribe, from 62 per cent in July 2002 to 85 per

gests that many might be unprepared to endorse major policy and economic changes as an outcome of the peace negotiations. With its geographic shift, the conflict also has already ceased to be a major preoccupation for cities and their economic elites, such as industrialists who are more worried about urban insecurity.²³¹ Finally, poll numbers do not necessarily reflect the opinion of communities in conflict zones, which may be wary about a process in which much is at stake for them but is led by parties many consider do not fully represent their interests.

Both parties should, therefore, make an effort to help foster the ownership that society perceives it should have of the process and of any future agreement. The scope for this participation as well as its impact on outcomes will from the outset be restricted within a process that is built around discreet, direct and rapid negotiations between the two parties. Nevertheless, there are mechanisms that can increase civil society ownership, without compromising the effectiveness of the process.

First, both parties, but in particular the government, need to take into account gender criteria when assembling their 30-member delegations. They should strive to achieve a balance that reflects the fact that women constitute over half the population and, as in other conflicts, have not only been particularly affected by the violence but also bring unique perspectives and qualities to the table.²³² This would bring Colombia in line with obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), as well as Security Council Resolutions 1325 (2000) and 1820 (2008), both of which stress the need for women representation in conflict resolution mechanisms.²³³ International gender equality norms should also be fully complied with in all verification and follow-up commissions that might be created during or as a result of the talks. International facilitators should pay attention to the gender balance and expertise of their own teams and consult with women's representatives and groups so as to understand their perspectives and priorities.

Secondly, the parties need to make sure that civil society can engage with the process in a well-organised and effective way. The pre-accord provides for establishment of

mechanisms to receive proposals from citizens and organisations as well as for conducting direct consultations; under the agreement, the organisation of consultations can be delegated to third parties. It is important that negotiating parties not perceive civil society participation as merely a box to check off. They need to pay serious attention to it, proactively seeking the input of those most affected by their discussions and decisions and providing the resources and opportunities to render participation safe, inclusive and effective. Particular efforts should be made to bring in the concerns of conflict-affected communities and of indigenous peoples and Afro-Colombians, in line with their constitutional consultation rights. It also means making sure that participation can cover the entire agenda and is protected by security guarantees. While parties are not obliged to adopt proposals from civil society, there needs to be full accountability for their decisions.

In the pre-accord, parties explicitly recognise the limited reach of any possible agreement between them and the responsibility of society as a whole in the construction of peace.²³⁴ Negotiations must ultimately lead into a wider social process aimed at addressing participation and basic rights of the population, and in which the guerrillas can eventually participate as social and political actors. Citizens need to be assured their futures will not be decided solely between the government and FARC. In addition, in many communities a sense prevails that the laying down of arms will not suffice to solve their problems.²³⁵ Given that many community members not only lack the economic resources for travel but also would face substantial technological barriers to online consultations, and that problems differ substantially according to local characteristics, this process would need to be as close to the conflict regions as possible. It might be inspired by and linked to existing efforts to construct peace in local or regional settings, such as the Middle Magdalena Regional Program for Peace and Development.

Negotiations and wider peacebuilding need to be embedded in pluralistic media coverage and political debate so as to ensure that traditionally marginalised voices are heard. Colombia has excellent journalism that more than once has uncovered conflict-related scandals. Online journalism has expanded space for independent political analysis and expression of views.²³⁶ But mainstream media too often simply follows the government's language and agen-

cent in July 2010. Under Santos, it fell to 74 per cent by June 2012. "Gallup Poll no. 89", op. cit., p. 117.

²³¹ Crisis Group interview, National Business Association of Colombia (ANDI), Bogotá, 1 February 2012.

²³² Neither the six-person government core negotiating team nor FARC's team include women.

²³³ Colombia ratified CEDAW in 1982. See also the open letter to Santos in which several female networks requested representation at the negotiation table. "Carta Pública al Presidente Juan Manuel Santos. Las Mujeres en las Mesas de Negociación", 3 September 2012.

²³⁴ The pre-accord establishes as a goal of the talks the signing of a "final agreement to end the armed conflict as a contribution to stable and durable peace".

²³⁵ Crisis Group interview, human rights defender, Barranquilla, 9 February 2012.

²³⁶ Notable websites include www.lasillavacia.com, www.congresovisible.org, www.verdadabierta.com and www.prensarural.org.

da.²³⁷ Information on the conflict is regularly taken from official sources, often with little or no critical examination. The close ties between government and media can be used to promote peace talks and marginalise unwanted opposition but are hardly the same as genuine debate. Media should appoint peace editors to refocus conflict reporting, currently almost exclusively covered from security and judicial angles. These editors should focus on the humanitarian impact and other conflict costs, feature discussion of local and national initiatives and generate debate on conflict resolution. Media should also increase resources for journalism in conflict regions.²³⁸

The Santos administration has assumed more strongly government's responsibility to provide the conditions for pluralistic political discourse. It dismantled the scandal-rocked presidential intelligence agency DAS that spied on critical journalists and other Uribe administration opponents.²³⁹ It needs to go further, however. In particular, officials should refrain from the too common reflex to criminalise radical dissent. A clear example came in July 2012, when officials, including the defence minister and public prosecutor and several legislators, called for prosecuting Piedad Córdoba, after a video showed the former senator supporting indigenous protesters in Cauca and fiercely criticising the military.²⁴⁰ Córdoba, who is also a prominent peace advocate, was barred in 2010 from holding public office for eighteen years for alleged links to FARC.²⁴¹ She has denied the charges. Officials have also repeatedly signalled that they believe the Patriotic March movement, a platform of grassroots organisations from the regions, is financed by FARC, an allegation it rejects.²⁴²

Instead of threatening criminal charges for radical political discourse, the government should tolerate and welcome dissent, as long as it is expressed within constitutional limits, as part of a vibrant and pluralistic democracy that reflects Colombia's diversity. This is important in normal times but crucial during peace negotiations that are meant to be the first step in the construction of a more inclusive society.

²³⁷ Crisis Group interviews, journalists, Bogotá, 17 January, 1 February 2012.

²³⁸ Correspondents in conflict areas are scarcer than in 1998, due to budgetary restrictions. Freelancers have replaced staffers, reducing the continuity and affecting the quality of the information. Travel to conflict areas is restricted and sometimes depends on military clearance. Crisis Group interviews, journalists, Bogotá, 5 and 6 July 2012.

²³⁹ Lisa Haugaard, Kelly Nicholls, et. al: "Far Worse Than Watergate: Widening Scandal Regarding Colombia's Intelligence Agency", Latin America Working Group Education Fund, U.S. Office on Colombia, Center for International Policy, The Washington Office on Latin America, June 2010.

²⁴⁰ See also María Jimena Duzán, "Sin Piedad", *Semana*, 28 July 2012 and Rodrigo Uprimny, "Piedad Córdoba y Noticias Uno: el derecho penal contra la libertad de expresión", *Razón Pública*, 5 August 2012.

²⁴¹ "Procuraduría destituyó a la senadora Piedad Córdoba", *Colprensa*, 27 September 2010.

²⁴² "Marcha Patriótica es financiada por las FARC: Mindefensa", *Caracol Radio*, 9 August 2012; "En Marcha Patriótica no somos miembros de las Farc": Piedad Córdoba", *El Espectador*, 13 August 2012.

VI. THE ROLE OF THE INTERNATIONAL COMMUNITY

The government and FARC are the actors who must make the peace negotiations work. Their discussions will be direct and without intermediaries, as President Santos has repeatedly said. But international actors remain important for the process, offering guarantees, financial and logistical support and possibly help in overcoming bottlenecks at the table. As both parties have acknowledged, the delicate secret pre-accord phase would probably not have been successful without the support of Cuba, Venezuela and Norway.

Cuba is arguably the only country where FARC members feel sufficiently safe to hold negotiations. Both Fidel Castro, who has long been personally committed to helping to end the conflict in Colombia, and Venezuela's Hugo Chávez have the political clout to nudge FARC into moves to abandon the armed struggle. Norway contributes significant experience in conflict resolution around the world and a reputation for neutrality and discretion that is buttressed by lack of any significant geopolitical or economic interest in the conflict. In addition to these three, Chile has been chosen to accompany the process for two reasons. Santos has good personal relations with his counterpart, President Sebastián Piñera, who also holds the rotating presidency of the Latin American and Caribbean Community of States (CELAC), a newish regional forum that does not involve the U.S. or Canada.²⁴³

These four will be the countries most closely involved, but as the pre-accord sets out, the parties can agree to invite further countries as needed. This will at some point likely involve the U.S., which has remained in the background, although President Obama issued a statement supporting the Santos initiative on 4 September and apparently had been kept informed about the progress of pre-accord talks.²⁴⁴ The most obvious reason why the U.S. (and the EU) will probably assume some role is related to the drug-trafficking issue. Although the agenda for the peace talks focuses on the supply side as well as the domestic consequences of consumption, a solution to these problems would be hard to sustain without the green light of the U.S., where the bulk of Colombia-produced cocaine

is consumed and the country's largest donor of counter-narcotics aid. Involvement of countries such as Brazil, which has repeatedly lent logistic support for unilateral releases of FARC hostages, and Ecuador, which with Venezuela has been the neighbour most affected by the conflict, will probably depend on negotiation dynamics.

International actors will have a major role in verifying agreements. This could start with a possible ceasefire or any other humanitarian deal that might be reached during the talks. The primary task might well fall to an organisation, such as the UN, that can mobilise technical expertise, has a reputation for neutrality and is trusted by both parties. Compliance with a final peace accord would probably also include an international monitoring and verification component, including with respect to disarmament, demobilisation and reintegration (DDR), a role filled today by the Peace Support Mission of the Organisation of American States (MAPP-OEA). Financial and technical cooperation agencies would need to help the government implement specific policy commitments, likely including refocusing priorities on socio-economic and integrated rural development and reconciliation in the war-torn areas.²⁴⁵

In parallel to the peace process and independent of its result, the international community needs to maintain its commitment to Colombia. The guerrillas' declining military strength and Santos's more reconciliatory rhetoric have fostered an impression that it no longer needs help. This has led to a significant decline of funding that has forced NGOs, including human rights groups, to reduce operations. This trend should be reversed immediately. Donors need to maintain and, if possible, increase current levels of funding for human rights defenders, local or regional peace initiatives and programs to build the capacity of local NGOs and social movements. A strong and confident civil society that can critically and constructively engage with the negotiation process and take a strong and autonomous part in the transition to a post-conflict order would be the best guarantee that peace can be sustained.

²⁴³ In December 2011, both FARC and ELN asked a CELAC summit to give "decisive support" to a peace process. "FARC y ELN piden mediación internacional para iniciar proceso de paz", *El Universal*, 3 December 2011.

²⁴⁴ "Statement by the Press Secretary on the Government of Colombia's Peace Negotiations with the Revolutionary Armed Forces of Colombia (FARC), The White House, 4 September 2012; "Obama knew about peace talks with FARC: Santos", *Colombia Reports*, 5 September 2012.

²⁴⁵ Agenda point six of the pre-accord speaks to international accompaniment during the implementation and verification phase.

VII. CONCLUSION

Engaging in peace talks with FARC is a bold gamble. Failure would significantly damage the political capital of the Santos administration and likely pave the way for hardliners to return to power in the 2014 elections, closing the window for a negotiated settlement for a long time. For FARC, failure would likely have grave consequences, especially if it bore most of the blame. Having lost a possibly last chance to end the conflict with a political deal and recognition of its struggle, it could anticipate a future of complete political irrelevance, further heavy military pressure and increasing internal tensions. But it is Colombia that would pay the highest price: deepening, possibly escalating regional conflict scenarios, with significant humanitarian, social and economic costs.

The country has, however, a more than even chance to avoid this scenario and make peace talks succeed. Long-term conflict trends look favourable, and obstacles to peace are arguably less daunting than in the past. An agreement with the guerrillas would not end the violence and would set Colombia on the path to an almost certainly rocky transition period, from which true peace would take time to emerge. Despite the difficulties, these peace talks are nevertheless a risk well worth taking, as alternative options for conflict resolution look increasingly exhausted. A decade of unprecedentedly intense counter-insurgency efforts has brought real achievements but has also shown that military operations can only do so much. Both the government and FARC know that the time for a political settlement is now or possibly never and that Colombia deserves to have peace at last.

Bogotá/Brussels, 25 September 2012

APPENDIX A MAP OF COLOMBIA



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

APPENDIX B

GENERAL AGREEMENT FOR THE TERMINATION OF THE CONFLICT AND THE CONSTRUCTION OF A STABLE AND LASTING PEACE

The below translation has been adapted by Crisis Group from the text at
<http://colombiareports.com/colombia-news/fact-sheets/25784-agreement-colombia-government-and-rebel-group-farc.html>

The delegates of the Government of the Republic of Colombia (National Government) and the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP):

As a result of the Exploratory Meeting held in Havana, Cuba, between 23 February 2012 and 26 August 2012, that counted on the participation of the Government of the Republic of Cuba and the Government of Norway as guarantors, and on the support of the Government of the Bolivarian Republic of Venezuela as facilitator of logistics and companion:

With the mutual decision to put an end to the conflict as an essential condition for the construction of stable and lasting peace;

Attending the clamour of the people for peace, and recognising that:

- construction of peace is a matter for society as a whole that requires the participation of all, without distinction, including other guerrilla forces that we invite to join this effort;
- respect of human rights within the entire national territory is a purpose of the State that should be promoted;
- economic development with social justice and in harmony with the environment is a guarantee for peace and progress;
- social development with equity and well-being that includes big majorities allows growing as a country;
- a Colombia in peace will play an active and sovereign role in peace as well as regional and worldwide development;
- it is important to broaden democracy as a condition to build solid foundations for peace.

With the government's and FARC-EP's full intention to come to an agreement, and the invitation to the entire Colombian society, as well as to the organisations of regional integration and the international community to accompany this process;

WE HAVE AGREED:

- I. To initiate direct and uninterrupted talks about the points of the agenda established here that are aimed at reaching a Final Agreement for the termination of the conflict that will contribute to the construction of stable and lasting peace.
- II. To establish a Table of Talks that will be opened publicly in Oslo, Norway, within the first two weeks of October 2012 and whose main seat will be Havana, Cuba. Meetings can take place in other countries.
- III. To guarantee the effectiveness of the process and conclude the work on the points of the agenda expeditiously and in the shortest time possible, in order to fulfil the expectations of society for a prompt agreement. In any case, the duration will be subject to periodic evaluations of progress.
- IV. To develop the talks with the support of the governments of Cuba and Norway as guarantors and the governments of Venezuela and Chile as companions. In accordance with the needs of the process and subject to common agreement, others may be invited.
- V. The following agenda:

1. Integrated agricultural development policy

Integrated agricultural development is crucial to boost regional integration and the equitable social and economic development of the country.

1. Access and use of land. Wastelands/unproductive land. Formalisation of property. Agricultural frontier and protection of reservation zones.
2. Development programs with territorial focus.
3. Infrastructure and land improvement.
4. Social development: health, education, housing, eradication of poverty.
5. Stimulus for agricultural production and for solidarity economy and cooperatives. Technical assistance. Subsidies. Credit. Generation of income. Marketing. Formalisation of employment.
6. Food security system.

2. Political participation

1. Rights and guarantees for exercising political opposition in general and for the new movements that emerge after signature of the Final Agreement. Media access.
2. Democratic mechanisms for citizen participation, including direct participation, on different levels and on diverse issues.
3. Effective measures to promote greater participation of all sectors in national, regional and local politics, including the most vulnerable population, under conditions of equality and with security guarantees.

3. End of the conflict

Comprehensive and simultaneous process that implies:

1. Bilateral and definitive ceasefire and end of hostilities.
2. Handover of weapons. Reintegration of FARC-EP into civilian life, economically, socially and politically, in accordance with their interests.
3. The National Government will coordinate revising the situation of persons detained, charged or convicted for belonging to or collaborating with FARC-EP.
4. In parallel, the National Government will intensify the combat to finish off criminal organisations and their support networks, including the fight against corruption and impunity, in particular against any organisation responsible for homicides and massacres or that targets human rights defenders, social movements or political movements.
5. The National Government will revise and make the reforms and institutional adjustments necessary to address the challenges of constructing peace.
6. Security guarantees.
7. Under the provisions of Point 5 (Victims) of this agreement, the phenomenon of paramilitarism, among others, will be clarified.

The signing of the Final Agreement initiates this process, which must be carried out within a reasonable period of time agreed by the parties.

4. Solution to the problem of illicit drugs

1. Illicit-crop substitution programs. Integral development plans with participation of communities in the design, execution and evaluation of substitution programs and environmental recovery of the areas affected by these crops.

2. Consumption prevention and public health programs.
3. Solution to the phenomenon of narcotics production and commercialisation.

5. Victims

Compensating the victims is at the heart of the agreement between the National Government and FARC-EP. In this respect, the following will be addressed:

1. Human rights of the victims.
2. Truth.

6. Implementation, verification and ratification

The signing of the Final Agreement initiates the implementation of all of the agreed points.

1. Mechanisms of implementation and verification:
 - a. System of implementation, giving special importance to the regions.
 - b. Verification and follow-up commissions.
 - c. Mechanisms to settle differences.

These mechanisms will have the capacity and power of execution and will be composed of representatives of the parties and society, depending on the case.

2. International accompaniment.
3. Schedule.
4. Budget.
5. Tools for dissemination and communication.
6. Mechanism for ratification of the agreements.

VI. The following operating rules:

1. Up to ten persons per delegation will participate in the sessions of the Table, up to five of whom will be plenipotentiaries who will speak on behalf of their delegation. Every delegation will be made up of up to 30 representatives.
2. With the aim of contributing to the development of the process, experts on the agenda issues can be consulted, once the corresponding procedure is realised.
3. To guarantee the transparency of the process, the Table will draw up periodic reports.
4. A mechanism to jointly inform about the progress of the Table will be established. The discussions of the Table will not be made public.
5. An effective dissemination strategy will be implemented.

6. To guarantee the widest possible participation, a mechanism will be established to receive, by physical or electronic means, proposals from citizens and organisations on the points of the agenda. By mutual agreement and within a given period of time, the Table can make direct consultations and receive proposals on these points, or delegate to a third party the organisation of spaces for participation.
7. The National Government will guarantee the necessary resources for the operation of the Table; these will be administered in an efficient and transparent manner.
8. The Table will have the technology necessary to move the process forward.
9. The talks will begin by discussing the issue of integral agricultural development policy and will continue in the order that the Table agrees.
10. The talks will be held under the principle that nothing is agreed until everything is agreed.

Signed on 26 August 2012, in Havana, Cuba.

Signatures.

APPENDIX C

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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. 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.

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