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**COLOMBIA'S DEMOCRATIC SECURITY AND DEFENSE POLICY IN THE
DEMOBILIZATION OF THE PARAMILITARIES**

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ABSTRACT

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This paper examines the Colombian Government's policies and strategies for dealing with right wing paramilitary organizations, including the goal of demobilization. The nature of the conflict between the government and paramilitary organizations is examined, including an analysis of the strategy used by the Colombian Government. Strategic implications of the narco-traffic and terrorism problem are discussed, as well as the Justice and Peace Law, which is intended to reestablish the equilibrium between justice and reconciliation. Finally, this paper analyzes the Colombian government's policies and strategies and the impact these policies have on national security.

COLOMBIA'S DEMOCRATIC SECURITY AND DEFENSE POLICY IN THE DEMOBILIZATION OF THE PARAMILITARIES

Colombia has been mired in internal conflict for more than four decades. The complex characteristics of Colombia's internal strife make it unique. Narco-trafficking and terrorism conducted by former communist guerrillas and right wing paramilitary groups represent the main components of the problems facing the government and society. To deal with these complex issues, the President Alvaro Uribe administration designed a strategy known as "Democratic and Defense Policy," which showed significant results for the period 2002 to 2006. One of the most significant results was the demobilization of 31,671 members of illegal right wing paramilitary organizations. Despite this significant achievement, the process that resulted in this large scale demobilization was full of hardships and obstacles. The continued narco-trafficking, terrorist activities, and domestic criminal activity committed by paramilitary organizations created huge controversy and distrust within the civilian population. Despite the controversial nature of some of the government's policies and strategies, there has been improvement within the country, and only after some time has gone by will the true effectiveness be known.

This paper will examine the internal conflict and the effectiveness of the government's policies and strategies for dealing with it. To understand the demobilization process of paramilitary organizations the nature and development of internal conflict in Colombia will be reviewed. Next, the strategy used by the government and the influence of those policies on the demobilization process will be examined. Manifestations of peaceful resolution of the internal conflict, including problems involving terrorism, illegal trade drugs, and massacres, will be studied. Finally, an analysis of the effectiveness of the government's policies and strategies in dealing with the demobilization of the illegal paramilitary organizations will be offered.

Nature and Development of Conflict

In the history of Colombia political violence, civil wars and armed conflicts of national or regional nature have been frequent, dating all the way back to the formation of the Colombian state in the nineteenth century. These instabilities and conflicts have had great impact on the internal political dynamics on which the constitution and laws are based. Internal armed conflict again reappeared in the middle of the 20th century, continuing up to the present. Like a metamorphosis, this conflict has evolved from the political violence of the 1950s to the guerrilla warfare conducted by insurgent movements during the 1960s and 1970s. During the 1980s terrorist activities were added to the situation. Finally, a phenomenon emerged during the 1990's that became known as "narco-terrorism," which involved domestic terrorist organizations,

financed by illegal drug trafficking and supported by organized crime with international links, threatening the stability of the country and continuing up to the present time.

When the first Republic of Colombia was formed in 1810, two political parties were founded: the “Conservative Party” whose political leanings were to the right and the “Liberal Party” whose political leanings was to the left.¹ The radicalization of the population in favor of these parties gave birth to political violence, which during the 19th century resulted in 52 regional or general civil wars in (Liberals against Conservatives 3, Conservatives against Liberals 14, and Liberal against Liberals 25).² These wars weakened the state and paved the way for revolt and conspiracy. The last civil war was the called “War of a Thousand Days,” and occurred between 1899 and 1902.

Following the War of a Thousand Days Colombia lived in relative peace during the first decades of twentieth century. But the truce between Liberal and the Conservative Parties was broken in 1948 with the assassination of Jorge Eliecer Gaitán,³ starting the period known as “La Violencia.”⁴ In 1957 the two parties agreed to create the National Front, designed to alternate the presidency between the parties and more fairly apportion political power.⁵ Several years later an insurgent movement appeared which was made up of various groups. The pro-Soviet “Fuerzas Armadas Revolucionarias de Colombia” (FARC) was created in 1964 with help from the Russian Communist Party. The pro-Cuban “Ejército de Liberación Nacional” (ELN) was born in 1965 out of the student movement and the union of oil workers. The pro-Chinese “Ejército Popular de Liberación” (EPL) was created in 1969 by an internal split within the FARC. The “Nationalist Movimiento 19 de Abril” (M-19) was formed in 1974 by the radical wing of the Alianza Nacional Popular (ANAPO) Party, motivated by the electoral fraud perpetrated on April 19, 1970, resulting in the ouster of their presidential candidate, the former dictator Gustavo Rojas Pinilla (1953-1957).⁶ Each of the major illegal armed organizations will be examined in detail.

Fuerzas Armadas Revolucionarias de Colombia (FARC)

The disturbances that greatly affected the Colombian agrarian society, as well as the large number of perceived errors in the approach and handling of situations created by the bipartisan violence, gave fertile ground for the germination of the communist armed movement. Sectarian political violence during the latter half of the 20th century led to the formation of ideological guerrilla organizations, of which the FARC is the oldest and most extreme. In 1965, one year after its foundation, this organization changed its original name “Self Defense Farmers” to “Revolutionary Armed Forces from Colombia” (FARC).⁷ It was formed as an armed branch of

the communist party, following Soviet Stalinist communist philosophy and having Soviet support.

Through the 1960s and 1970s the FARC neither reached any important objective nor exerted any influence in the political life in the country. In fact, the 1970s ended for the classic guerrillas, including the FARC, the ELN and the EPL, with deep internal crises of growth and consolidation.⁸ As result of the collapse of the Soviet empire the channels of international support to communist guerrillas in Colombia were closed, and the ideological fights throughout the Third World rapidly lost their intensity. During the latter part of the 1980s as the Soviet Union was collapsing, insurgencies throughout Latin American were faced with the choice of either negotiating settlements with governments or finding alternative funding sources. Throughout Central America the majority of these organizations chose negotiated settlements. In Colombia, however, the drug trafficking business arose from small scaled concealment of illegal drugs to the most formidable international business of the century.

As the narcotics business grew, the illegal organizations changed tactics, adding large scale kidnapping and other terrorist activities. These new activities included collection of kickbacks from cattle dealers and farmers, physical assaults, extortion, and blackmail. The income of the guerrillas in Colombia grew to six hundred million dollars by 1988,⁹ nine hundred million dollars in 2000, and one billion and fifty two million in 2001.¹⁰ As a product mainly of drug trafficking, subversive groups obtained in only a year almost the equivalent budget that the United States gave to Colombia as part of Plan Colombia. In 1982 President Belisario Betancurt started a process of peace with subversive groups.¹¹ The FARC took advantage of this process to increase its size six fold, and the government backed out of the process in 1987. During the nineties the FARC became the biggest trader of illegal drugs in the world with a powerful military apparatus. In 2001 this organization had 17,000 members, the highest number in its existence, and remains active today.

Ejército de Liberación Nacional (ELN)

The ELN was formed when the second government of the National Front had nearly achieved pacification throughout Colombia, and was directly affected by the Cuban Revolution. This organization was born in 1965, following the Castro theory defined by Regis Debray as “*foco*”¹² which consists of the fast creation of “focus” of insurgency and continuous expansion. During the seventies, the ELN was almost eliminated by the Colombian Army. However, this group was resurrected in the petroleum rich region of Arauca, refinanced by the Limón-Coveñas Pipe Line construction company, to protect its infrastructure against insurgent threats.

The ELN reinitiated its illegal activities, including blackmail, kidnappings, and extortion. Additionally, upon completion of the petroleum pipe line, the ELN attacked the pipe line many times, resulting in millions of dollars worth of losses for the national economy and huge ecological disasters.¹³ The nineties were characterized by the intensification of terrorist acts against the economic infrastructure of the country by the ELN, no longer against only the pipe lines, but against electrical towers, coal mining operations, and bridges. They extorted multinational companies and funded their activities through the sale of illegal narcotics.

The ELN was effectively eliminated in 2002 when the military captured or killed a large number of members, including their most important leaders. By 1999 the ELN had only about 5000 members, and by 2005 this organization had roughly 2500 members.¹⁴

Ejército Popular de Liberación (EPL)

Founded in April of 1967, the EPL is a group that follows basic Maoist teachings and principles. The EPL is an insurrectionary movement of small political impact with small numbers of paramilitary members. In 1990 the military undertook a major offensive which resulted in the capture or killing of more than one hundred EPL members. Following that major defeat the group was forced to engage in dialogue with the government, resulting in the demobilization of over 1,000 members. The process culminated in 1996 with the demobilization and disbanding of the remaining part of the organization.

Movimiento 19 de Abril (M-19)

Jaime Batemán Cayón founded this subversive group in 1974 with entangled and confused Marxist philosophy, with little ideological identity involved. Inspired by the Tupac Amará socialist movement of Uruguay, M-19 began their operations with spectacular and bold actions concentrated on urban centers. Perhaps the group that benefited the most by the peace process between 1982 and 1986 was M-19. The peace process resulted in M-19 obtaining amnesty and pardons for all of its jailed members, as well as paramilitary forces still in the field. M-19 was formally demobilized in 1990, at the end Virgilio Barco government, and joined the established political framework.

Illegal Self-Defense (wrongly called Paramilitaries)

The disproportion between the size of the armed forces and the geographic space they were required to control, combined with the large number of geographically dispersed guerrillas in that same space, contributed to the sprouting of diverse forms of rural self-defensive groupings to deal with the guerrilla organizations that threatened them. The term self-defense

includes those legal organizations, such as CONVIVIR, set up by the Colombian government, as well as those established by the initiative of local leaders to deal with harassment by revolutionary guerrillas.

Based on the legislation promulgated in 1965 by the government of President Guillermo Valencia, rural self-defense groupings were authorized during the first years of the National Front¹⁵. The Army, and in some cases the Police, organized similar self-defense groups in the Middle Magdalena region, where they worked without difficulties. When narco-traffic and guerrilla organizations fractured and went separate ways in some geographic zones, the narco-traffic organizations made use of some self-defense organizations for their purposes. From that moment these self-defense organizations became criminal in nature. Then, through a campaign of promotion of the left, the unfortunate use of the term “paramilitary” arose, with two purposes to be fulfilled: first, to disqualify the self-defense forces, and to turn illegal all form of organization of the peasantry for its defense and support to the state; second, tacitly to mean with this term support to the Army by all self-defense organization, and its criminal conduct.¹⁶

In 1987 the government of President Virgilio Barco declared all self-defense organizations illegal. The term “paramilitary,” was quickly adopted by the mass media. Then, it took control to think that all organisms of rural self-protection acted in criminal form and were supported by the Army.¹⁷ Outside all civilian and military control of the state, the badly designated paramilitary started its own war against the subversion, framed as a counterinsurgent project of civil character.¹⁸ At the beginning, they only tried to offer security to the settlers of the countryside. Later, they initiated offensive operations destined to dispute control of certain territories with the guerrillas. As its economic and territorial power expanded, and gained the support of important sectors of the political, economic and social power of the country, their ambitions increased. However, the situation started to change, as these groups chose as the main form of action the use of terror against the civil population.

The use of kidnapping, selective murder and indiscriminate massacres became standard operating procedure for the paramilitary organizations against all whom they determined were supporting the guerrillas. Terrorist attacks resulted in over 3,000 Colombians killed in 2001, many of them by paramilitaries. Another 2,856 were kidnapped, with the illegal armed groups and the paramilitary United Self-Defense Forces of Colombia (AUC) responsible for almost 2,000 of these. Among the kidnap victims were 289 children.¹⁹

The other significant problem with this organization is its involvement in narco-traffic, which provides its main source of financing. Territorial disputes among paramilitary and guerrilla organizations are common. The United Nations Office on Drugs and Crime (UNODC)

calculated that by 2003 there was paramilitary presence in 86 of 162 municipalities where coca is cultivated.²⁰ In 2003 the paramilitaries started a dialogue with the President Uribe administration in order to begin its demobilization.

The descriptions of these illegal organizations demonstrate the highly complex nature of the internal conflict within Colombia. These illegal organizations changed over time from politically motivated organizations to narco-terrorist organizations with powerful military apparatus. The unique blending of political, ideological, terrorist, and narcotics aspects of these organizations makes the problem an extremely complicated one for the government.

Colombian Government Strategy

The Colombian state has had, with respect to the insurgency phenomenon and the armed conflict, very dissimilar positions. These correspond almost totally with the changes of government that are made every four years, with neither guidance, nor clarity of intentions in the long term.²¹ During the first half of 1960's a plan of an excellent military-political conception, *Plan Lazo*, was designed.²² The *Plan Lazo* development was well received in the military camp, but in the political it remained on paper.²³ After this plan, and until the beginning of the Belisario Betancurt Administration in 1982, the government practically ignored the insurgent problem. It did not have a clear purpose to confront the guerrillas and it underestimated significantly its potential as a threat.²⁴

The Betancurt administration started a process of peace with the subversive groups, which was abruptly broken off by the M-19 and the EPL. The peace process was continued with the FARC until 1987. The Betancurt administration did not manage to unite the political establishment around his policy of peace. Neither the political class, Army, nor the private sector supported his incoherent project of reform.²⁵ The Betancurt administration culminated with disastrous results in the political, military and social fields. After having practically eliminated the ELN, defeated M-19 with most of their leaders jailed, and reduced the FARC to 1300 men; the peace process enabled the guerrilla groups to increase in size by six times. The government-directed cessation of combat operations enabled the guerrilla groups to scatter throughout the country and penetrate into urban areas as never before. These actions resulted in the formation of the illegal self-defense groups and the paramilitary groups. The nineties began with the successful demobilization of M-19 and EPL under the Cesar Gaviria administration.

President Gaviria developed the national strategy for dealing with the illegal organizations, recognizing the diverse factors that made the situation complex and volatile, and which was

designed to eliminate the violence. Unfortunately, President Gaviria's plan did not live beyond the end of his administration. President Ernesto Samper Pizano, in office from 1994 to 1998, was accused of financing his electoral campaign with money generated by drug trafficking. Despite these allegations, President Samper refused to resign and he spent the majority of his administration engaged in the defense of his government, having little impact on the national security situation. President Andres Pastrana, in office from 1998 to 2002, designed "Plan Colombia" with the support and guidance from the United States as a strategy to promote the peace process, fight the drug trafficking organizations, revitalize the economy, and strengthen governmental institutions. Although Plan Colombia is designed as a short term strategy to deal with these problems, it laid the critical foundation for future administrations and for the nation.

In 2002 Alvaro Uribe was elected President, and he designed and implemented an updated national security strategy called the "Democratic Security and Defense Policy." This strategy includes not only the military aspect but also the legal strategy for combating the terrorist organizations and drug cartels. Also, it embraces and encourages the coordination among all institutions within the Colombian government. Five strategic objectives are synchronized to reach the general aim, which is to strengthen the rule of law throughout the country through the reinforcement of democratic authority. They are as follows: consolidation of state control throughout Colombia, protection of the population, elimination of the illegal drug trade in Colombia, maintenance of a deterrent capability, and transparent and efficient management of governmental resources.²⁶ These five objectives are designed to specifically address the widely dispersed paramilitary and guerilla organizations throughout the country, the narco-traffic problem, and the heinous crimes against the civilian population.

It is estimated that in 2002 the government did not exercise control over an estimated 40 percent of its national territory, including the areas where illegal drugs were cultivated and where the FARC, ELN, paramilitaries, and narcotraffickers were active.²⁷ Since the late 1990s paramilitary territorial control developed more quickly than that of any other armed group, displacing left wing guerrillas from traditional strongholds especially in coca growing regions.²⁸ In 2000 seven United Self-Defense Forces of Colombia (AUC) blocs were in coca and opium poppy cultivation regions.²⁹ During the same time frame human rights abuses, criminal activity, and massacres of the civilian population were the norm in the regions with paramilitary presence. The government developed a series of tasks, utilizing six courses of action, to deal with this security problem. The six courses of action included coordinating all governmental interagency actions, strengthening governmental institutions, consolidating control of national territory, protecting the rights of all Colombians and the nation's infrastructure, cooperating for

the security of all, and communicating state policy actions to the population.³⁰ These courses of action will be discussed in further detail below.

The prerequisite for strengthening the rule of law was consolidation of state control over the whole national territory. Therefore the government started a gradual restoration of the presence of its military forces and the National Police throughout all 1098 municipalities. Additionally, a strong military offensive was launched throughout areas that were under the control or presence of paramilitary organizations. Military operations were conducted simultaneously with increased judicial actions against crimes having high social impact, as well as strengthening the administration of justice and state institutions.

Coordinating Governmental Actions

Colombia's responses to security challenges have perhaps suffered most from the lack of effective coordination between governmental agencies. To address this vulnerability the government issued directives setting out explicitly the roles and responsibilities for each agency. The National Defense and Security Council is the forum in which the president interacts with his ministers, the military services, and the National Police for the development and implementation of security and defense policy. The Ministry of Defense is responsible for coordinating the activities of the armed forces and National Police with those of other government institutions. Interagency support structures are set up to coordinate the actions of regional and local state bodies, and to facilitate the work of judicial authorities. These structures ensure not only that the justice system is protected and that state action is effective, but also provide a control mechanism to guarantee that they remain within the laws and uphold human rights.³¹

Strengthening State Institutions

A critical factor in dealing with Colombia's domestic security situation has been the government's efforts to strengthen the judicial system, armed forces, National Police, intelligence agencies, and state finances.³² The legal framework for the fight against terrorist organizations was updated, including amending some articles of the constitution.³³ An integrated crime policy enables the state to pursue individuals, such as terrorists and illegal drugs traffickers, who represent the greatest danger to society and democracy. The government program consists of 12 interrelated areas, including developing human rights investigative units, combating organized financial crime, supporting joint case investigations and prosecutions, and providing witness and judicial officer protection. The entire state investigatory and penal system was strengthened, and an accusatorial criminal justice system with oral trials was implemented, strengthening its investigatory powers.³⁴

The United States General Accounting Office report to Congress in 2004 showed some important achievements of the judicial system. Investigations increased significantly in fiscal years 2002 and 2003, arrest warrants increased by 35 percent, accusations by 73 percent, and guilty pleas more than 200 percent.³⁵ The judicial system also drafted a law to speed up the justice process and increase accessibility by citizens. Access to Houses of Justice and Peace³⁶ was improved, which enabled greater access to the system by those citizens living in remote areas. By October 2006, 44 Houses of Justice were in operation.³⁷ The military and National Police operated effectively in support of the judicial system reforms.

The Uribe Administration continues the process of transforming and modernizing the armed forces started by the President Andrés Pastrana. From 2002 to 2006 the Army created and integrated nine new mobile brigades, a Commando Brigade, five mountain battalions, and two infantry brigades.³⁸ The nine mobile brigades, specializing in counterterrorism operations, were assigned to the Seventh Army Division and designated to operate in the most critical zones. The Commando Brigade, a highly specialized unit, has the specific mission to capture terrorist leaders. The mountain battalions are assigned the mission of severing terrorist lines of communication and controlling the terrorist group's mobility corridors. The two infantry brigades were formed by creating 582 Peasant Soldier Platoons.³⁹ These units consist of soldiers performing their compulsory military service in the specific region they are from. They have the mission to protect every city in the region in order to strengthen governance by supporting civilian authority and the application of the law. The Peasant Platoons, in coordination with the National Police, operate around the cities in order to isolate the terrorists from the population.

The priority in strengthening the National Police was to extend its coverage to municipalities that lacked adequate police forces. Today, National Police are present in all 1,098 municipalities of Colombia. Further, 62 new mobile *carabintero* squadrons were created to increase patrols in rural areas. 10,000 new patrols and 10,000 regular auxiliaries reinforced the security plans in the cities.⁴⁰

Consolidating Control of National Territory

This line of operations has three major phases: recovery, maintenance, and consolidation of state control over territory.⁴¹ The government gradually restores state presence and the authority of state institutions, starting in strategically important areas. Once the Armed Forces and the National Police have re-established control over an area, Army and Police units maintain security and protect the civilian population. This enables state organizations and criminal investigation authorities to work in the area. Once a basic level of security has been

established, the state embarks upon a policy of territorial consolidation, re-establishing the normal operation of the justice system, strengthening local democracy, meeting the most urgent needs of the population, broadening state services, and initiating medium to long term projects aimed at creating sustainable economic and social development.

Protecting the Rights of Colombians and the Nation's Infrastructure

The basic mechanism used by the government for protecting the lives and rights of citizens is the strengthening of the rule of law throughout the nation.⁴² Additionally, the government has implemented several programs that provide protection, including people at risk, victims of forced displacement, victims of terrorism, victims of kidnapping and extortion, demobilized and child combatants, and economic infrastructure. The demobilization program⁴³ is one of the strongest tools used by the government to give incentives for paramilitary groups to disband and demobilize. It offers them a viable, flexible, and rapid way of starting a new life, returning to their "nuclear" family, and abandoning their clandestine way of life.

Cooperating for the Security of All

A vast network of citizens, in both rural and urban areas, has been created and organized in accordance with the principles of solidarity and the duty to contribute to the common security of all Colombians, which provides the authorities information about paramilitaries, guerrillas, and other types of criminals. Many citizens participate as volunteers in the program with no monetary reward. An additional program has been set up to reward those who provide information which leads to the prevention of a terrorist attack or the arrest of members of any of the illegal armed groups. These two programs have become very effective in the fight against illegal organizations. These programs are tied into governmental programs that foster international cooperation, working with the governments of several regional nations, which provide a strong tool to pursue and combat the illegal armed groups.

Extradition of Illegal Operatives

The government's extradition agreements with several nations give it great leverage to apply pressure on illegal organizations to coerce them to demobilize. It is the most feared legal action against terrorists and narcotraffickers in Colombia. The 1991 Constitution prohibited all extradition of nationals to other nations. But this prohibition was lifted through an amendment to the Constitution in 1997 which allowed citizens to be extradited for non-political crimes.⁴⁴ Under President Uribe's administration (as of May 2006) more than 350 Colombians had been extradited to the United States to stand trial, nearly all for crimes related to drug trafficking.⁴⁵

This amount is significant when compared to the 64 people who were extradited during the entire President Pastrana administration (1998-2002),⁴⁶ which was also far more than all preceding administrations combined. The proven link between the paramilitary organizations and illegal drug trafficking put them at very high risk for extradition to United States. By March 2004, eighteen paramilitary members were on the latest US Tier-II list of foreign narcotics trafficking kingpins worldwide, including key leaders such as the Castaño brothers, Salvatore Mancuso, and Diego Murillo (aka Don Berna).⁴⁷

As a result of the government's aggressive policy, extradition became a serious sticking point in the demobilization process. Extradition became a central negotiating point between paramilitary organizations and the government as they worked their way through the demobilization process. Extradition has proven to be one of the most effective policies the government has implemented in this long conflict.

Obstacles and Implications of Terrorism and Illegal Trafficking Problem

As described previously, illegal drug trafficking is a phenomenon that is closely related to the internal conflict. Large portions of the illicit crop growing areas are dominated by one or more illegal armed groups who fight for territorial control and access to strategic trafficking corridors. Both paramilitary and guerrilla organizations have as their main source of financing this illegal business. Official data estimates paramilitary organizations total income as approximately \$240 million a year, with 70 per cent (about \$190 million) coming from their drug trade.⁴⁸ But participation in the illegal drug industry is not the only method that these organizations use to create conflict. In 1997 paramilitary organizations were attributed with committing six massacres totaling 30 victims, and in 1999 that number was increased to 61 massacres with 408 victims.⁴⁹ In 2001 the atrocities committed by these paramilitary groups surpassed those committed in previous years. These atrocities resulted in both national and international condemnation, and caused the inclusion of these groups in the United States and European Community list of foreign terrorist organizations.⁵⁰

Because of the atrocities committed by these organizations throughout the years, there has been a great level of distrust of the demobilization process. International organizations, governmental organizations, citizens, and the victims all have great reason to resist the integration of former illegals back into society. Nevertheless, the government must do all that it can to end the decades-old internal conflict. The dilemma is then how to find the suitable balance between justice, reparations, and pardon. In any case the government must make concessions. But, this is a topic difficult to understand for many and unacceptable for others.

No illegal organization is going to want to demobilize itself if the conditions of justice are severe, or if the conditions do not provide it with incentives to cease its atrocities and armed conflict. Consequently, to deal with this issue, the President Uribe administration designed the Justice and Peace Law, which has policies that have caused huge controversy between supporters and opponents.

Legal Framework of the Justice and Peace Law

The current legal framework for individual and collective demobilizations rests on Law 418, enacted in 1997, which was extended by Congress as Law 782 in December 2002.⁵¹ These laws establish, *inter alia*, that a cessation of procedure, a resolution of preclusion of the investigation, or a resolution of dismissal may be granted on behalf of those who confess and have been or were accused of, or tried for political crimes, and have not been convicted by a firm judgment,⁵² provided that they choose to participate in an individual or collective demobilization.⁵³ According to these provisions, those who have benefited from a pardon, or to whom a cessation of procedure has been ordered, may not be tried or prosecuted for the same allegations giving rise to the granting of benefits.⁵⁴ Both Law 418 and Law 782 echo the limitation of benefits for those who have been involved in conduct constituting atrocious acts of ferocity or barbarism, terrorism, kidnapping, genocide, and homicide committed outside of combat, or when the victim is placed in undefended condition.⁵⁵

The initial negotiations between the government and the leaders of the paramilitary (AUC), revolved around establishing a legal framework for demobilization. That framework should encourage demobilization of the members of the paramilitary organization who were not in a position to benefit from the extinction of the penalty provided for by Law 782. The first initiative resulting from this effort resulted in the project of Law No. 85 in 2003. This project made it possible to have sentences other than imprisonment for persons who have committed serious violations of human rights and/or international humanitarian law. The purpose of this law was to provide incentive for their demobilization and reintegration to normal civilian life. After debate in Congress and in the face of the serious concerns expressed by members of civil society, members of the United States Congress,⁵⁶ the Office of the United Nations High Commissioner, the Inter-American Commission on Human Rights,⁵⁷ and the international community in general condemned Law No. 85.

The main criticisms voiced by the United Nations High Commissioner against enacting Statutory Law 85 of 2003 “by the Government dictate dispositions in pursuit of the reintegration

of members of armed groups that contributes in effective way to the attainment of national peace”⁵⁸ were:

- It does not show Colombia’s recognition of its obligations with respect to internationally recognized human rights conventions.
- It allows the state to suspend the execution of penalties with freedom privation to people who even have not begun to fulfill sentences imposed as a result of their commission of atrocious crimes.
- The Law opens the door to impunity because it voids execution of just sentences, and allows people convicted of violations to avoid jail.
- It anticipates that the beneficiary obtains freedom in a term of five years, without considering the duration of the sentence.
- It allows the state to apply to the people in charge of international crimes alternative penalties to prison, which violates the democratic principles of just restitution and the proportionality of penalty sanctions.
- It does not ensure that victims of these crimes receive just compensation.
- It does not clearly recognize the obligation of the state with respect to ensuring just punishment for leaders of criminal organizations.

These concerns were common throughout the response from the national and international community. As result of it, the project of Law 85 of 2003 was withdrawn and reworked. In April of 2004 the “Pliego de Modificaciones al Proyecto de Ley Estatutaria No 85 de 2003” (List of Modifications to Enacting Law No. 85 of 2003), was introduced in Congress, which included many changes from the previous version. But again it was the subject of great controversy, and Law 85 did not pass in Congress.

Finally, in July 2005, after an extensive domestic and international debate, the Colombian Congress approved the “975 Justice and Peace Law” to serve as the framework for the demobilization of paramilitary organizations.⁵⁹ This law also applied to the reintegration of members of any other organized illegal armed groups into society.

Almost a year later, however, new tensions erupted over the law’s interpretation. At issue was a May 2006 ruling by the Constitutional Court, the institution charged with ensuring that the country’s laws and executive decrees are consistent with constitutional guarantees. The Court took issue with a number of provisions deemed too lenient toward the paramilitary organizations and too compromising of the principles of justice in the midst of the search for peace.⁶⁰ In general, the Court tightened the penalties and consequences for lying to prosecutors about past involvement in atrocities and other crimes, extended the amount of time for government

prosecutors to carry out investigations of paramilitary leaders, and ruled that, in addition to returning illegally-obtained assets, paramilitary members could be required to pay reparations to victims from their legally and illegally-acquired wealth.⁶¹

The changes made by the Constitutional Court resulted in great proclamations of support at the national and international level, including one of the organizations most critical of the previous governmental laws, the international organization “Human Rights Watch.” Human Rights Watch said that the decision of Colombia’s Constitutional Court to strike down parts of the law governing the demobilization of paramilitary organizations corrected major flaws in that law. The amended law brought policy into line with constitutional and international standards on truth, justice and reparation.⁶²

As a result of these revisions to the law, paramilitary leaders threatened to withdraw from the process if the Court’s more stringent interpretation of the Justice and Peace Law were enacted. Nonetheless, after several meetings with the government representatives, many of the paramilitary leaders decided to continue with the process. Despite these setbacks, this law resulted in the largest demobilization of illegal armed groups in Colombian history.

Development and Results of Process

During his 2001/2002 presidential campaign, Alvaro Uribe Vélez affirmed that he was always willing to talk with members of all illegal armed groups, whether guerrilla, narco-trafficker, or self-defense (paramilitary), as long as they were willing to commit themselves to stopping their violent actions. His strategy was to enable dialogue and negotiations without recognizing the legitimacy of these organizations.

President Uribe’s strategy, along with the other incentives created to entice organizations into demobilization, paved the way for negotiations between the government and paramilitary organizations. Most incentives created by the government to get this goal are included in “Decree 128” of 2003. Decree 128 regulates the legal, socioeconomic, educational, economic, and other benefits derived from rejoining civilian life as a result of process of demobilization.⁶³ In October 2002 paramilitary groups sent to the government, through the Bishop of Montería Julio Vidal, their proposition to declare cessation of hostilities in order to initiate a peace process. As a result, Luis Restrepo, the Peace High Commissioner of the Colombian Government, initiated the first contacts with these groups in meetings that took place during November 2002.⁶⁴

Near the end of 2002 the paramilitary organizations declared a cease fire, meeting the first requirement of the government, enabling further negotiations and talks between the parties.

In a public letter sent to the President on November 29, 2002 the United Self-Defense of Colombia (the AUC) declared a cease of hostilities throughout Colombia beginning on December 1,⁶⁵ along with the AUC, the largest paramilitary group, three groups, the Central Bolivar Bloc, the Self-Defense Farmers of Casanare, and the Self-Defense of Meta-Casanare, all joined in the cessation of hostilities. The only group that refused to participate in the cessation was the Metro Bloc, which had separated from the AUC and was against the peace process.

On July 15, 2003 the Government and AUC signed the “Agreement of Santafe de Ralito to contribute the peace of Colombia” (hereafter referred to as “the Agreement”).⁶⁶ The government was committed to performing all necessary actions to restore AUC members to their civilian life, and the AUC agreed to complete demobilization of their organization before December 31, 2005. The gradual process began on November 25, 2003 with the demobilization of the Bloc Cacique Nutibara. Similar agreements were reached later with the smaller groups.

On January 23, 2004 President Alvaro Uribe and the Secretary of the Organization of American States (OAS) Cesar Gaviria signed the agreement.⁶⁷ This agreement allowed the OAS to organize and start the Mission of Support to the Process of Peace in Colombia. The agreement also helped to jumpstart the process that resulted in the signing of the “Agreement of Fatima”⁶⁸ on May 13, 2004, which established a Temporary Zone of Location (ZUT) in Tierralta, Cordova.

The AUC started a series of collective demobilizations that began on November 25, 2004 in Turbo, Antioquia, with the surrender of weapons by the Bananero Bloc. By December 10, 2004 Salvatore Mancuso was demobilized along with the Catatumbo Bloc, beginning a process of collective disarmaments that extended until April 11, 2006. After an independent process of dialogue, the Elmer Cardenas Bloc was demobilized on August 15, 2006. This completed the demobilization process of the illegal “self-defense groups”. This collective demobilization process resulted in the peaceful reintegration of 31,671 men and women back into society, as well as the surrender of 18,025 weapons, during 38 acts of demobilization.⁶⁹

While this process has been debated extensively both in Colombia and internationally, these demobilizations represented a great advance in the search for peace. According to independent studies, the number of homicides from 2002 to 2006 dropped by approximately 20,000, with nearly half of that reduction attributable to the demobilization of paramilitary forces.⁷⁰ This means that some 10,000 killings were prevented as a result of the negotiations conducted with the armed groups. Kidnappings, internally displaced people, and terrorist acts also dropped significantly during these years as a consequence of the demobilization. The

number of people kidnapped in 2003 was 2,121, and by 2006 this number dropped to 687. Additionally, between 2002 and 2006, 32,253 internally displaced persons returned to their original places of residency. The number of terrorist acts dropped from 1,257 in 2003 to 646 in 2006.⁷¹ In the economic field, the real growth rate in private investment increased from 19.1% in 2003, to 31.3% in 2004, and to 24.2% in 2005. The unemployment rate dropped from 15.3% in 2002 to 12.8% by 2006. The gross domestic product growth rate rose from 2.3% in 2002 to 5.0% by 2004, 5.2% in 2005, and up to 6.4% through the first three quarters of 2006.⁷²

The demobilization process, however, has been the subject of criticism from various quarters. Much of this criticism is unfair and fails to take into account the extreme complexity and unique circumstances surrounding the process.⁷³ One of the main criticisms about the demobilization process centered on the seemingly insufficient sentences imposed on the brutal paramilitary criminals. These sentences ranged from five to eight years, whereas many would have been subject to sentence lengths of at least 40 years under ordinary criminal law. The question then arises as to how successful the demobilization process would have been if the state had imposed sentences above fifteen years. It is likely that tougher sentences would have caused the demobilization process to falter or fail. The government's endorsement of the Justice and Peace Law, and its ability to enforce it vis-à-vis the paramilitary forces, was a significant achievement. The law compels members of the paramilitary to acknowledge at least some of their crimes, serve sentences of five to eight years in prison, and provide certain reparations to their victims. The additional amendment to the law by the Constitutional Court (through the Sentence C-370/2006), brought the law into line with constitutional and international standards on truth, justice and reparation. This fact was recognized by the national and international community, including human rights organizations.

When compared to other demobilization processes in the world, the Justice and Peace Law proved to be the most effective process. For example, in Northern Ireland where Irish Republican Army (IRA) terrorist members of at least three paramilitary groups were being demobilized, the British state imposed no requirement for confessions of crimes, mandatory prison time, or payment of reparations to victims. Similarly, it is highly unlikely that the Spanish state, in demobilizing the Basque group ETA, will impose conditions as severe as those in the Colombian Justice and Peace Law.⁷⁴ On the other hand, in comparison with the legal framework of previous peace agreements between the government and leftist guerrillas in the late 1980s and early 1990s, the Justice and Peace Law is far more exacting and strict. The peace agreements of the late 1980's and early 1990's resulted in the demobilization of five guerrilla groups: April 19th Movement (M-19), Quintin Lame Armed Movement (MAQL), the

Popular Liberation Army (EPL), the Socialist Renovation Current (CRS), and the Revolutionary Workers' Party (PRT). The agreements entailed total amnesty for their members. Participants were not required to acknowledge their prior actions, nor did they serve prison sentences, nor did they make reparations to those victimized by their violence.

But, not everything in the process has been positive. Some aspects have caused concern, requiring the attention of the government in order to make the necessary adjustments and prevent possible failures of the process. The Mission of the OAS to Support the Peace Process in Colombia (MAPP/OEA) identified a number of violations of the demobilization commitments, including failure of some illegal armed units to demobilize. The Mission also found shortcomings and gaps in the reintegration of former combatants back into society. Official data estimates that about 5,000 demobilized paramilitaries have rejoined illegal organizations.⁷⁵ Additionally, official estimates are that, as of 15 June 2006, the Plan of Reincorporation to the Civilian Life (PRVC) has served only 19,752 of the 30,028 total demobilized combatants (about 65 percent).⁷⁶ Finally, the Colombian health system gives access to 32,777 beneficiaries of PRVC program (as of April 2006), which is enough to provide coverage for all demobilized AUC members, but inadequate to serve their immediate family members.

One area that caused disappointment and distrust within the government was the perceived violation of trust by members of the European Community. European nations distanced themselves from the demobilization process, primarily due to the human rights issues and the adjustments to the Justice and Peace Law. However it is important to note that the situation has been improving. By September 2006 four European countries were supporting the process. The Netherlands, the main contributor since the beginning, along with Sweden, Ireland, and Spain, have already contributed with important funding and other forms of support. Norway has shown a desire to contribute financially.

On the other hand, the United States has made major contributions of funding for the Mission. Canada, Chile, Mexico, and Brazil, have all provided critical funding and other resources.⁷⁷ This vital support provides critical help to the government, enabling the strengthening of its response capabilities for the Program for Return to Civilian Life of the Paramilitaries Demobilized.

Another subject which has generated enormous debate is the link that was discovered between paramilitary organizations and a few congressmen and other politicians. This phenomenon, known by the media and public opinion as "*para-política*" (para-politics), resulted in the arrest of eight congressmen on February 15, 2007, all accused of either collusion and/or

collaboration with paramilitary organizations.⁷⁸ Colombia's Supreme Court has called several other politicians in for questioning on allegations of links to paramilitary organizations. This situation has resulted in recriminations against not only the process, but the presidential administration, because several of the accused were members of the ruling party. Nonetheless, in the last Gallup poll, done in February 2007, the *para-política* scandal did not affect the approval index for President Uribe. The survey indicates that the approval level rose from 70% to 72%, whereas the disapproval rating of 24% fell two points.⁷⁹ Also, the survey shows that 75% agree with the peace negotiations between the government and paramilitary organizations. These results show that the President Uribe administration maintained its approval and legitimacy, which perhaps represents its center of gravity.

Under these circumstances the paramilitary demobilization process in Colombia continues. This is a process that is unique in the international community, and the government still has major challenges to overcome the gaps and weakness that it presents. The real success of the process will certainly stem from future government actions and its ability to avoid repeating the mistakes of past demobilizations, as well as those of other nation's demobilizations. In Guatemala, for instance, the reintegration process has not been completed, even after eleven years. In El Salvador the number of criminal organizations surged following the peace process, and in Liberia the government miscalculations of the number of demobilized people and their resources have created significant problems with the process.

Conclusion

In 2003 Colombia, a country dealing with internal conflict for more than four decades, began an ambitious process of demobilization of illegal armed organizations. That process, with a final balance of 31,671 people demobilized, constitutes without doubt the greatest triumph of the Democratic Security and Defense Policy of the President Uribe administration. Nevertheless, the process has been the object of intense debate at national and international levels because of paramilitary involvement with drug trafficking, terrorism, and human rights violations. These debates, while both good and necessary to ensure the demobilization process is conducted fairly and with oversight, reflect some basic misunderstandings about the true nature of the problems within Colombia.

The Justice and Peace Law was designed by the government to strike a balance between seeking justice and providing compensation for victims. It imposes more severe penalties and conditions than laws enacted in other countries in the world, such as Great Britain and Spain. Also, the legal framework of the Justice and Peace Law is more exacting than previous attempts

at demobilization within Colombia, which gave total amnesty to illegal organizations, requiring neither jail time nor reparations for the victims.

Finally, the central question remains – how much impact will the demobilization of paramilitary organizations have on resolving the internal conflict? The answer includes programs still under development, and the government has a huge challenge in the post-demobilization process. The strict application of the Justice and Peace Law, and the capacity of the state to control the areas previously occupied by paramilitary organizations are critical pieces of the answer to the central question. The measures taken by the government to stop the paramilitary involvement in illicit drug trafficking, and the adjustments made to the reinsertion program, also are significant factors for the final success of the process. It is still too early to make a judgment on the effectiveness of the paramilitary demobilization, and only time will tell if Colombia's policies and programs are truly successful.

Endnotes

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⁵² If the person is deprived of liberty, the governmental authorities should accord preference to the processing of requests for legal benefits, and in the ruling granting the petition for preclusion of the investigation or cessation of the proceeding, the order for the arrest of the beneficiary should be revoked, and the arrest warrants issued should be canceled. In this section the law does not establish any restriction for granting the benefits mentioned. Article 60 of Law 418 modified by Article 24 of Law 782. Grounds for extinction of the action.

⁵³ Article 50 of Law 418 modified by Article 19 of Law 782 notes that the National Government may grant the benefit of pardon to nationals who have been convicted by firm judgment for conduct constituting a political crime when the illegal armed group with which a peace process is being pursued, of which the applicant is a member, has displayed its will to rejoin civilian life. In addition, the law provides that this benefit may be granted, upon request, to those nationals who individually and voluntarily give up their activities as members of armed groups, having displayed their will to rejoin civilian life. In other words, the law provides for grounds for extinguishment of the action and of the penalty for proceedings that involve negotiations with illegal groups and with persons who seek to rejoin civilian life individually.

⁵⁴ Article 62 of Law 418. Nonetheless, Article 43 clarifies that these benefits may be annulled if the beneficiary commits any intentional crime within two years.

⁵⁵ Law 782, at Article 6, defines a victim of political violence as a member of the civilian population who suffers harm to his or her life, physical integrity, or property because of terrorist attacks, combat, kidnappings, attacks, and massacres in the context of the armed conflict. The displaced and minors who take part in the hostilities are also considered victims.

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Alvaro Uribe demanding an exhaustive revision of the Enacting Law 085/03, in order to punish in an adequate way those guilty of terrorist, illegal trafficking and human rights violations.

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