

Colombia: A Vicious Circle of Drugs and War

María Clemencia Ramírez Lemus, Kimberly Stanton & John Walsh

Drug control issues have long been central to the agenda of U.S.-Colombian relations. Indeed, the U.S. public identifies Colombia, more than any other country, with the "war on drugs." In the Andean region, Colombia is now the focus of U.S. international drug control policy. When Colombians were consolidating their preeminent role in cocaine trafficking during the 1980s, Bolivia and Peru served as the major sources of coca, the plant from whose leaves cocaine is produced. In the mid-1990s, though, Colombia also emerged as the world's leading coca producer and a major producer of opium poppy, the raw material for heroin. By 2003, Colombia supplied an estimated 90 percent of the cocaine and a significant proportion of the heroin consumed in the United States.

Colombia is often described as one of the oldest democracies in Latin America, yet it is also a country racked by more than forty years of internal armed conflict. The cost of political exclusion for the majority of the population was the growth and consolidation of insurgent guerrilla movements, two of which are still engaged in armed insurrection against the Colombian state: the Revolutionary Armed Forces of Colombia (FARC), and the National Liberation Army (Ejército de Liberación Nacional, or ELN). In addition, right-wing paramilitaries, illegal armed groups with origins in Colombia's U.S.-aided counterinsurgency strategy, compete with the guerrillas for control of territory, resources, and support. Since the mid-1990s, the paramilitaries have been loosely organized under the umbrella of the United Self-Defense Forces of Colombia (Autodefensas Unidas de Colombia, or AUC). Evidence indicates that they continue to receive training, intelligence, and logistical support from members of the Colombian security forces. The FARC, the ELN, and the AUC are currently on the U.S. State Department's list of foreign terrorist organizations due to their systematic use of tactics that target noncombatants.¹ And they benefit, in different ways, from the resources provided by the illicit drug trade.

Colombia's history since the 1970s is marked by repeated attempts to

Colombia

Population	42,800,000
GDP	U.S.\$82.4 billion
GDP per capita	U.S.\$1,915
Share of Income	
• Poorest 10 percent of population	0.8%
• Richest 10 percent of population	46.5%
• Ratio of income of richest 10% to poorest 10%	57.8 times
Percentage living in poverty (<\$2/day)	26.5%
Percentage living in extreme poverty (<\$1/day)	14.4%
Public perception of corruption among public officials and politicians (0=more, 10=less)	3.7

Sources: UNDP, *Human Development Report 2004*; World Bank, *Inequality in Latin America: Breaking with History?*; Transparency International, *Corruption Perceptions Index 2003*.

Notes: Population and GDP data from 2003; share of income data 2000; poverty data 1990-2001.

come to terms with the scourge of drug trafficking and the threat of insurgency but without addressing effectively the underlying structural problems that feed both phenomena. These include the absence of land reform or a strategy for rural development that would ensure sustainable livelihoods for Colombia's small farmers and limit the attraction of growing coca. Although political participation is more open, only recently have new political movements begun to weaken the hegemony of the Liberals and Conservatives, after years in which serious opposition candidates were simply assassinated. And justice remains elusive. Impunity is nearly absolute, both for common crimes and for violations of human rights and international humanitarian law committed in the context of the armed conflict. The Colombian military has committed direct violations of human rights, including massacres, extrajudicial executions, and forced disappearances, and it has been complicit in or has tolerated these same abuses when committed by the notorious paramilitary forces.

U.S. foreign policy has played a key role in shaping Colombia's internal responses to its problems. Colombian leaders have sought U.S. engagement as well as economic and military assistance. However, the nature of

U.S. engagement and the composition of aid packages have been shaped far more by the political agenda in Washington than by Colombian interests and preferences. In spite of the fundamentally political nature of the problems Colombia confronts, the United States has viewed the country primarily through a security lens, privileging engagement with the armed forces and the police—a trend that has accelerated in the post-September 11 environment.

The U.S. government provided increasing levels of counterdrug assistance to Colombia beginning in the late 1980s and into the 1990s, initially to combat the Medellín, Cali, and other drug cartels. In the mid-1990s, as coca production began to soar, the United States increased funding for aerial eradication, where coca crops are sprayed with a potent herbicide intended to kill the crops. Highly controversial in Colombia, aerial eradication has led thousands of poor farmers to flee the areas being sprayed, often leading to coca production in new areas. Though a thorough and objective evaluation of the program's impact has yet to be carried out, numerous reports point to the negative consequences for people's health, food crops and cattle, and the environment. Nonetheless, aerial eradication remains the centerpiece of U.S. counterdrug efforts in Colombia.

Although for years the primary U.S. ally was the Colombian police, the bulk of U.S. assistance began flowing to the Colombian military after July 2000. The U.S. Congress approved a massive U.S.\$1.3 billion aid initiative termed Plan Colombia after an earlier initiative with the same name by the president of Colombia at the time, Andrés Pastrana. The U.S. package included U.S.\$860 million for Colombia, with the rest going to neighboring countries potentially threatened by Colombia's internal conflict and its booming illicit drug trade. Of the aid destined for Colombia, the vast majority was—and continues to be—provided to the security forces. Human rights conditions placed on U.S. assistance have largely failed to end recipient forces' complicity in human rights violations.

The rationale put forward by U.S. policymakers for the growing role of the Colombian military in what was, at the time, still considered a counterdrug mission, was guerrilla involvement in the drug trade. The "narcoguerrilla" terminology—though in use for many years previously—became the dominant discourse. After the September 11 terrorist attacks, U.S. policymakers shifted their language again. Colombia's guerrillas became "narcoterrorists," and the U.S. Congress authorized the use of counterdrug assets for counterterrorist purposes. Through a variety of programs and forms of assistance, the U.S. government now provides direct support to the Colombian counterinsurgency effort. Yet four years after the approval of Plan Colombia, the country is no closer to overcoming its structural problems, drug trafficking continues unabated, and peace remains a distant dream.

• Prelude to Plan Colombia

Colombia is a country racked by more than forty years of internal armed conflict, rooted in a period of intense nationwide strife known as La Violencia. Between 1947 and 1953, some 300,000 Colombians died during struggles over land rights and in armed clashes between the two main political parties, the Liberals and the Conservatives. The violence receded following a 1953 military coup. Six years later the civilian elite regained formal control under a power-sharing agreement in which elections continued to be held, but the two parties alternated the presidency between themselves. The agreement expired in 1974; in the meantime, however, the exclusion of other groups from the political process had contributed to the development of a number of insurgent guerrilla movements. Several of the groups, including the once-predominant M-19, disarmed and joined the electoral process in 1990. Two groups are still engaged in armed insurrection against the Colombian state: the 17,000-strong FARC, and the ELN, with perhaps 3,000 members.

Cold War and Counterinsurgency

During the Cold War, the United States fostered a close relationship with the Colombian military that it has maintained to the present. At the height of the East-West conflict during the 1960s, the administrations of John F. Kennedy and Lyndon Johnson considered Colombia a key front in the effort to stop the Cuban revolution from spreading throughout the Western Hemisphere. They lavished counterinsurgency assistance on the Colombian armed forces—including aid that supported the 1964 attack on Marquetalia, an armed peasant commune. That attack led to the formation of the FARC. U.S. assistance for Colombia's military continued at moderate levels throughout the Cold War, complemented by training programs.

The Colombian paramilitary groups of today also have their origins in the 1960s, when U.S. military advisers first recommended the organization of "indigenous irregulars" as a fundamental component of Colombian counterinsurgency strategy.² The legal basis for state sponsorship of paramilitary organizations, officially called "self-defense forces," was a 1965 decree law that had enshrined the U.S. Doctrine of National Security in Colombian law and allowed the government to "mobilize the population in activities and tasks" to restore public order. (The doctrine, described more fully in endnote 1 in Chapter 2, defined threats to national stability and development very broadly, and implicitly legitimized the use of any measures deemed effective against such threats.) Self-defense groups became part of military doctrine: the army was "to organize in military form the civilian population, to protect itself against the action of guerrillas and support the execution of combat operations."³ From the mid-1960s on, the armed forces actively sought the involvement of businessmen, landowners,

and political leaders in the creation and financing of such groups.⁴ Today the loosely organized paramilitary network, the AUC, is said to number about 13,000.

Over time, both the guerrilla and the paramilitary forces became major players in the drug trade. As described in more detail below, key paramilitary groups have been, from the outset, closely linked to drug traffickers. In the 1980s, the FARC began taxing coca production by small farmers in territories under its control. Over time, the drug trade became a major source of financing for the FARC, as its role expanded to include control of laboratories, marketing, and trafficking, at least in some regions.⁵ In the mid-1990s, the paramilitaries decided to challenge FARC control of coca territory and markets, and they gained increasing resources from the illicit drug trade as well. Statements by paramilitary leaders suggest that they currently earn 40–70 percent of their income from the drug trade.

Beginnings of Colombia's Drug War

Colombia's war against drugs had its origins in the late 1970s, when eradication programs in Mexico pushed the cultivation of marijuana to Colombia's Atlantic coast. Beginning with the administration of Jimmy Carter (1977–1981), the United States pressed Colombian authorities to eliminate illegal drug crops and to pursue drug traffickers within a law enforcement framework that included the possibility of extraditing Colombian traffickers to the United States. Colombia's first aerial eradication campaign took place during the government of Julio Cesar Turbay (1978–1982), when thousands of acres of marijuana were sprayed with the chemical herbicide paraquat. Turbay also signed a 1979 extradition treaty that was quickly ratified by the U.S. Senate and went into effect in 1982.

During the 1980s, the Medellín and Cali cartels, which managed the marijuana trade, expanded their business into processing Peruvian and Bolivian coca and then trafficking the cocaine they produced. The power of these family-based criminal networks grew quickly and dramatically. As the cartels consolidated control over a billion-dollar drug industry, their leaders sought political power through legal and illegal means—all backed by the threat of violence. Colombian authorities pursued the cartels because of their drug trafficking, and the authorities strongly resisted cartel efforts to penetrate the state. In August 1983, President Belisario Betancur (1982–1986) appointed Rodrigo Lara Bonilla as minister of justice. Lara Bonilla launched an intense campaign against the cartels. On March 10, 1984, in a major joint operation with the U.S. Drug Enforcement Administration (DEA), the Colombian government captured ten metric tons of cocaine and destroyed 101 coca-processing laboratories.⁶ Six weeks later, Lara Bonilla was assassinated on the orders of the Medellín traffickers.

AUC
Guerrillas
Paramilitaries
to drug trade

to drug trade
FARC

Paramilitaries

In response, Betancur declared "total war" against the cartel. He gave up his principled opposition to extradition and refused offers from cartel leaders to give up their drug businesses in exchange for, among other things, a promise that they would not be extradited to the United States. The traffickers, who came to be known as the "extraditables," then unleashed a series of brutal attacks that left hundreds of judges, police investigators, journalists, and other public figures dead. The victims included presidential candidate Luis Carlos Galán, assassinated in August 1989.⁷

The killings did not prevent Betancur or his successor, Virgilio Barco (1986–1990), from proceeding with extradition. When Colombia captured Medellín cartel leader Carlos Lehder in February 1987, he was immediately extradited. But extradition went forward by means of "a complex and judicially dubious process,"⁸ as the executive branch sought ways around court decisions—some made as a result of threats and intimidation by the traffickers—that voided the extradition treaty.

With extradition at risk, the United States asserted that Colombia was not doing enough against the illicit drug trade. On the day that Galán was murdered, however, Colombia's Council of Ministers restored extradition by administrative decree, and the action was subsequently upheld by the Colombian Supreme Court.⁹ Shortly thereafter, the United States sent an additional U.S.\$65 million in counterdrug aid.¹⁰ By February 1990, fourteen extraditions had taken place, although a subsequent evaluation of these found that they had no effect in reducing drug trafficking.¹¹ When Colombia adopted a new constitution in 1991, extradition was prohibited.

The bruising experience with extradition shaped a proposal by the government of César Gaviria (1990–1994) in which drug traffickers who turned themselves in, and confessed to a crime that allowed a judge to open a case against them, would be spared extradition and benefit from a reduced sentence. Backed by increased resources provided through President George H. W. Bush's Andean Initiative, the strategy produced the surrender in January 1991 of three Ochoa brothers, leaders of the Medellín cartel. Pablo Escobar, the notorious head of the Medellín cartel, turned himself over in June 1991.¹² (He escaped from jail in July 1992 and was later killed in U.S.-assisted operations in December 1993.) By the end of Gaviria's presidency, the Medellín cartel had been virtually dismantled.

The government of Gaviria's successor, Ernesto Samper (1994–1998), was marked by a crisis in U.S.-Colombian relations due to allegations that the Cali cartel, which benefited from the dismantling of the Medellín organization, had financed his presidential campaign. Samper was eventually cleared in a formal investigation by the Chamber of Representatives that began in June 1994, but the investigation provoked a severe crisis within the government. The United States canceled Samper's U.S. visa and decertified Colombia for lack of cooperation in drug control, although it

continued to provide counterdrug aid. Ironically, in part because of the scandal, Samper pursued a highly aggressive and punitive counterdrug policy. Investigations by the police and the attorney general's office led to the arrests of five leaders of the Cali cartel in the summer of 1995. By September 1996 all the Cali leaders were imprisoned.¹³ A year later, seeking to improve the relationship with the United States, the Colombian Congress amended the constitution to restore extradition.

However, the breakup of the two largest cartels by the mid-1990s did not lead to a long-term decline in Colombian drug trafficking. Rather, it presaged a new phase in the drug war; the cartels were quickly replaced by smaller organizations that lacked the capacity to operate transnationally, and coca production in Colombia increased dramatically. In December 1994, Colonel Leonardo Gallego, head of the counter narcotics police, described the south-central province of Guaviare as "a sea of coca."¹⁴ Colombia's National Narcotics Directorate (Dirección Nacional de Estupefacientes, or DNE) reported a total of 43,000 hectares of coca in 1994, 67,200 in 1996, and 79,500 in 1997, at which point Colombia became the largest producer of coca in the Andean region.¹⁵

Samper responded to the expansion of coca production by increasing aerial eradication, or fumigation, as it has come to be known. Large-scale fumigation of coca began in the province of Guaviare, at that time the zone of greatest coca cultivation. From 1995 through 1997, pilots sprayed more than 38,000 hectares. The total area sprayed increased to more than 65,000 hectares in 1998, when operations were extended to the neighboring province of Caquetá.¹⁶ By the end of Samper's presidency, as drug trafficking continued apace, the counterdrug strategy had shifted decisively toward attacking the cultivation of coca, which in practice meant targeting peasant producers. Fumigation became the centerpiece of the U.S. aid package negotiated by President Andrés Pastrana (1998–2002), known as Plan Colombia; it remains at the heart of U.S. and Colombian counterdrug efforts.

• Plan Colombia

In the late 1980s and early 1990s, during the heyday of Colombia's infamous drug cartels, U.S. military assistance to Colombia increased significantly over Cold War levels. By 1991, Colombia had surpassed El Salvador as the region's largest recipient of military and police aid. In this period the primary beneficiary of counterdrug aid was the Colombian police. As late as 1997, as much as 90 percent of the aid went to the police for interdiction efforts and for fumigation of illegal crops. With the initiation of Plan Colombia, however, the Colombian military surpassed the police as the primary beneficiary of U.S. assistance.¹⁷

After the FARC handed the Colombian armed forces important defeats

Plan Colombia
Military Transition

in the mid-1990s, some U.S. policymakers sought consideration of counterinsurgency aid. Winning support for this proved politically difficult given the controversial U.S. involvements in Vietnam and Central America. However, by reframing Colombia's internal armed conflict as being internally connected to the issue of drug control, U.S. policymakers were able to garner support for Plan Colombia.

Designing Plan Colombia

Andrés Pastrana was elected president in 1998 on a platform that pledged control of the drug trade as well as a negotiated end to Colombia's forty years of conflict. A series of meetings with FARC leaders led to formal peace negotiations and to the government's withdrawal from five municipalities in the provinces of Meta and Caquetá, creating a "cleared zone" (*zona de despeje*) completely under FARC control. Though it had inspired great hope, the peace process collapsed in February 2002.

Late in 1998, however, as he prepared for negotiations with the FARC, Pastrana unveiled his Plan Colombia, described "as a policy of investment for social development, reduction of violence and the construction of peace."¹⁷ The proposal recognized the need for social investment directed toward small cultivators engaged in producing coca to offset their lack of economic alternatives. Pastrana hoped that the international community, including the United States, would make major financial contributions to the plan. However, over the course of the next year, Plan Colombia would be fundamentally altered to reflect U.S. analysis and priorities, and the new, U.S.-influenced version would downplay development in favor of military aid. Other countries were to show themselves unwilling to support the U.S.-dominated plan.

At the time Pastrana was elected, the FARC controlled or operated freely in 40–60 percent of Colombian territory and had de facto control over much of the southwestern part of the country. Much of Colombia's coca was being produced in FARC-controlled areas, and half of the FARC's income, some U.S.\$200–400 million, was believed to come from its involvement in drug trafficking.¹⁸ Drug income helped finance the FARC's improved military capacity.

Some officials in the administration of President Bill Clinton (1992–2000), particularly Clinton's drug czar, General Barry McCaffrey, and leaders of U.S. Southern Command (Southcom), viewed the FARC and its role in the drug trade with growing concern and sounded alarms within the executive branch. "We have an emergency situation in Colombia and it requires a broad-gauge response which may require additional resources," McCaffrey warned in mid-1999.¹⁹ As the administration debated what to do about Colombia, these officials strongly urged a revival of assistance to Colombia's armed forces. At the same time, the administration remained

cautious about diving into an outright counterinsurgency mission in Latin America: "The issue raises too many human rights concerns and has been a searing experience for us in Central America," wrote Ambassador Myles Frechette in a January 1997 cable in apparent reference to the hundreds of thousands of people who were tortured, killed, dispossessed, or disappeared during U.S.-backed counterinsurgency efforts in El Salvador, Guatemala, and Nicaragua during the 1980s.²⁰

Meanwhile, the Colombian armed forces had avoided any significant role in drug control efforts—a mission for which the Clinton administration had much more enthusiasm. The armed forces viewed illegal drugs as a law enforcement issue, to be dealt with by the police, while their primary adversaries were the guerrillas.

U.S. defense officials sought a way to help Colombia's armed forces stave off the guerrillas within the confines of the drug war. The answer lay in using the promise of aid to encourage Colombia's military to help fight drugs in Putumayo, a center of coca cultivation and guerrilla activity. In December 1998, Colombian defense minister Rodrigo Lloreda and U.S. Defense Secretary William Cohen agreed to form an elite, highly mobile counternarcotics battalion within the Colombian army.²¹ Endowed with thirty-three Huey helicopters, the 950-man battalion was to guarantee security conditions for aerial eradication in the provinces of Putumayo and Caquetá, which in 1999 accounted for the greatest part of the coca cultivated in Colombia. "Guaranteeing security conditions" was clearly understood to mean confronting armed groups directly on the ground—something not contemplated in the previous police-aid model.

The brigade completed training at the end of 1999, without the U.S. Congress ever specifically appropriating money for it. The new military aid strategy was already well under way by the time the Clinton administration asked Congress for a large appropriation to continue and expand it.

The basis for the administration's request was the revised version of Plan Colombia. The Colombian government had produced the new plan—in English—in September 1999, after U.S. diplomats promised President Pastrana that the United States would "sharply increase aid if he develop[ed] a comprehensive plan to strengthen the military, halt the nation's economic free fall and fight drug trafficking."²² In the revised version, investment in social capital, infrastructure, and productive projects gave way to a new mission: "to assure order, stability and compliance with the law; guarantee national sovereignty over territory; protect the State and the civilian population from threats by groups in arms and criminal organizations; [and] break the links existing between these groups and the drug industry that supports them."²³ The new Plan Colombia, with its explicit counterdrug and implicit counterinsurgency focus, was only minimally circulated in Colombia, received spotty media coverage, and was never dis-

cussed in the Colombian Congress. Nevertheless, in July 2000, the U.S. Congress approved a special supplemental appropriation of U.S.\$1.3 billion for the initiative, of which U.S.\$860 million was designated for Colombia.)

Pastrana's original Plan Colombia had included no mention of military aid. But in the version funded by the U.S. Congress, 75 percent of Colombia's share—\$642.3 million—went to the armed forces and the police, and most of that to the military (Figure 4.1).²⁴ The centerpiece, which administration documents called the "push into southern Colombia," involved the addition of two more counterdrug battalions to form the Counternarcotics Brigade within the Colombian army. Equipped with forty-five helicopters, communications and intelligence gathering equipment, arms, and ammunition, and provided with light infantry training, the 2,300-man brigade would ease the way for massive fumigation in Putumayo. Additional assistance went to Colombia's navy to expand the riverine program, while the air force and the police were given more aircraft and equipment.

(The initial U.S. aid package did provide U.S.\$218 million for alternative development, aid to the internally displaced, human rights, judicial reform, and rule of law programs. While the amounts marked a significant increase over prior levels of U.S. social and economic aid, they fell far

short of the levels of social investment that President Pastrana had originally called for.)

Those critical of the U.S.-backed Plan Colombia also pointed out that it underplayed paramilitary involvement in the drug trade, despite the fact that the U.S. government has requested the extradition of numerous paramilitary leaders on drug-trafficking charges. The AUC is also, as pointed out previously, on the U.S. State Department's list of terrorist organizations. Nonetheless, to date U.S. military aid under Plan Colombia has not been directed at combating paramilitary forces. Instead, these illegal groups have expanded their presence and consolidated their control of territory throughout the country.

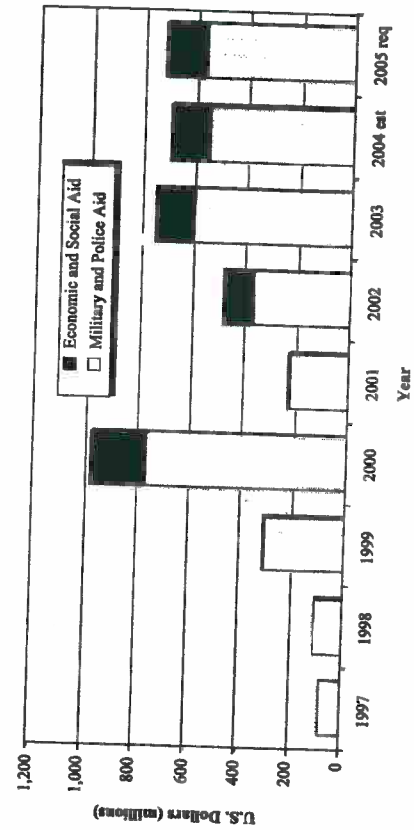
The Pastrana government had estimated the full cost of its Plan Colombia at U.S.\$7.5 billion, of which U.S.\$3.5 billion in contributions was to come from the international community. But as of June 30, 2002, Colombia's comptroller general reported that non-U.S. grant contributions to Plan Colombia had totaled only U.S.\$106.32 million.²⁵ European disapproval at being excluded from discussions of the plan, fundamental disagreements with the United States over drug control strategy, and lack of interest in a country outside Europe's sphere of influence were the reported reasons for the scanty contributions.²⁶

The name Plan Colombia continues to be widely used to refer to the U.S. aid package to Colombia, even though since FY2002 the funds have actually been provided under the rubric of the Andean Counterdrug Initiative (ACI), which also includes counterdrug assistance for neighboring countries. Although Plan Colombia was presented as a five-year program, its funds must be approved annually through the foreign operations appropriations process and related supplemental appropriations legislation. Since 2000, Colombia has received U.S.\$3.15 billion; U.S.\$2.52 billion has gone to Colombia's military and police.²⁷ The George W. Bush administration requested an additional U.S.\$724 million for FY2005, in principle the final year of the program. The security focus of the aid package has been maintained; in any given year, between 68 percent and 75 percent of Colombia's ACI aid has gone to the military and police. Additional aid provided through U.S. Defense Department accounts has increased the security forces' share to 75–80 percent annually. Economic and social aid peaked at U.S.\$218 million in the first appropriation in 2000 and has remained level at U.S.\$150 million since 2003, despite the efforts of some in the U.S. Congress to increase the amount.

The Counterinsurgency Mission

While the composition of the U.S. aid has not changed, the counterinsurgency objectives have become more and more explicit. To enforce the distinction between counterdrugs and counterinsurgency, the Clinton adminis-

Figure 4.1 U.S. Aid to Colombia, 1997–2005



Source: Data from the U.S. State Department, Bureau for International Narcotics and Law Enforcement Affairs, *International Narcotics Control Strategy Report*, various years. Please see WOLA website, www.wola.org, for full listing.

tration issued an executive order banning the U.S. military from sharing nondrug intelligence with its Colombian counterparts. Before the September 11 attacks, the Bush administration was also somewhat reluctant to officially endorse involvement in counterinsurgency, and the U.S. Congress was still on record that fighting drugs should remain the U.S. priority.²⁸

September 11 substantially undercut opposition to an explicit counterinsurgency mission. In August 2002, Congress granted the Bush administration's request for "expanded authority" for a "unified campaign" in Colombia against drug trafficking and activities by organizations designated as foreign terrorist groups, that is, the FARC, the ELN, and the AUC. The following November, Bush reversed Clinton's executive order banning the sharing of nondrug intelligence. Expanded authority has since been renewed twice, in the FY2003 and FY2004 foreign operations appropriations legislation. The broadened authority has allowed U.S. aid to pay for a host of new nondrug military and police aid initiatives in Colombia, including a new army commando unit to pursue the leaders of guerrilla and paramilitary groups. New police units are being deployed, with U.S. support, in many conflict areas. U.S. funds are supporting antiskidnapping units, presidential security, and an expanded signals intelligence gathering effort. The aerial interdiction program was revived for Colombia in August 2003 (it had been placed on hold after a 2001 incident in Peru in which a U.S. missionary and her child were killed). The Colombia program's scope has broadened to include interdiction of aircraft suspected of trafficking arms.

In a second step toward an explicit counterinsurgency role, at the end of 2002 the U.S. Congress approved a U.S.\$99 million program to help the Colombian army protect an oil pipeline in the conflict-ridden province of Arauca, located along the Venezuelan border in the northeastern part of the country. The Caño Limón-Coveñas pipeline, of which the U.S. firm Occidental Petroleum owns a major share, was bombed 170 times by guerrillas in 2001 and about forty times in 2002.²⁹ By mid-2003, dozens of U.S. Special Forces were in Arauca, training members of the Colombian army's 18th Brigade and the new 5th Mobile Brigade. According to Southcom operations chief General Galen Jackman, "I think that these brigades that we're talking about will be very offensively oriented. That is, focused on the enemy, as opposed to a static defense around the pipeline."³⁰

The pipeline protection program is funded through Foreign Military Financing (FMF), the main nondrug military aid program under the Foreign Assistance Act. In April 2003, only a couple of months after the U.S.\$99 million was approved and despite strong opposition in the House of Representatives,³¹ Congress approved an additional U.S.\$37 million in FMF for Colombia (and U.S.\$68 million in International Narcotics Control and Section 1004 funds) as part of a bill to fund the Iraq War. During

FY2004, the Bush administration planned to spend U.S.\$110 million more in FMF for Colombia, only a portion of which is for the pipeline protection effort. Most is not earmarked for specific projects—it can be spent to meet contingencies as they arise, as was the case for most U.S. aid to Cold War allies like El Salvador years ago. The Bush administration requested an additional U.S.\$108 million in FMF for FY2005.

The third indicator of the growing counterinsurgency emphasis in U.S. policy is the recent effort to increase the "troop cap," the limit on the number of U.S. military personnel and contractors who can be deployed in Colombia at any one point in time. When the U.S. Congress approved Plan Colombia in 2000, some members were concerned that the United States could be drawn into a growing military commitment in Colombia. As a result, deployment was limited to 800, including a maximum of 500 troops and 300 private contractors. In the FY2002 appropriation, the overall limit of 800 was retained, but the composition was changed to a maximum of 400 troops and 400 private U.S. citizen contractors. The same cap was retained for FY2003 and FY2004.

Since late 2003, Southcom has been developing a proposal to nearly double the cap, to 800 U.S. troops and 600 military contractors. The rationale is support for the Colombian government's Patriot Plan, designed to expand military presence in parts of southwestern Colombia—territory that remains under FARC control two years after the collapse of peace talks. The U.S. Defense Department proposes to provide direct support to the Colombian military in the form of communications, intelligence, and logistical support at the brigade level, at an initial estimated cost of U.S.\$320 million over three years. There is no pretense of a counterdrug objective.

The Uribe Government

Even as the post-September 11 global war against terrorism has facilitated the U.S. shift toward a counterinsurgency emphasis in Colombia, the Colombian president, Alvaro Uribe, who took office in 2002, has wholeheartedly embraced the language of counterterrorism, and he has implemented the U.S. aid package he inherited under the logic of counterinsurgency.

Uribe was elected in May 2002 in reaction to the deep popular disillusionment that followed the collapse of Pastrana's negotiations with the FARC. Colombians who had voted for peace in 1998 opted in 2002 for a hard-line approach to dealing with guerrillas. The FARC reacted to Uribe's inauguration on August 7, 2002, by launching gas cylinder bombs that missed the new president but killed several people in nearby neighborhoods. Within days, Uribe declared a "state of internal unrest" and placed large regions of the country under military control. During 2002 and 2003, he increased the number of combat troops, established programs to draw

the civilian population into collaborating with the military, and pursued legal and constitutional reforms that expand the military's powers or weaken civilian and judicial oversight of the security forces. At the same time, Uribe pursued fumigation with a vengeance. In 2003, 127,000 hectares of coca were fumigated, the highest number in the history of Colombia's fumigation program.

Uribe's actions, which have enjoyed the full and unconditional support of the Bush administration, distanced Plan Colombia even more from Pastrana's original vision. While counterterrorism has become another objective of U.S. policy in Colombia, the impact of Plan Colombia should be evaluated according to the original U.S. goals. Foreign policy discourse has changed, but at the end of 2003 Colombia was still the leading producer of cocaine in the Western Hemisphere, and the internal armed conflict was still raging.

• **The Fumigation Strategy**

Aerial eradication has been conducted in Colombia with U.S. support since the 1980s, when the primary target was marijuana. In the mid-1990s, as coca and opium poppy cultivation surged in Colombia, U.S.-backed fumigation efforts intensified. But cultivation continued to expand, alarming U.S. policymakers and setting the stage for a far more significant escalation of fumigation as the central strategy of Plan Colombia.

U.S. support for the fumigation campaign is delivered through the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL) and the U.S. embassy's Narcotics Affairs Section (NAS) in Bogotá. The spraying operations are conducted by a police unit, the Colombian Antinarcotics Directorate (known as DIRAN), with NAS funding technical support, herbicide, fuel, and spray aircraft. By the end of 2003, twenty-four fixed-wing aircraft were flying spray missions. The planes are piloted by U.S. citizens, Colombians, and third-country nationals contracted by the INL through Virginia-based DynCorp Aerospace Technologies. DynCorp contractors also provide maintenance, training, and logistical support.³²

The spray flights are accompanied by armed, NAS-provided helicopters to protect them from potential attack by the FARC or other armed groups active in the drug production zones. Despite these armed escorts, spray planes have frequently been targets of ground fire; 194 were hit by hostile fire in 2002, and 380 were hit in 2003, resulting in the loss of four INL planes.³³ Five U.S. civilian contractors died in Colombia in three separate incidents related to the fumigation campaign in 2003, a year in which one helicopter and four spray planes either crashed or were severely damaged because of ground fire. In February 2003, a plane carrying U.S. and Colombian personnel crashed in FARC-controlled territory. One

Colombian and one U.S. citizen were murdered, and as of mid-2004, three other U.S. citizens were still being held by the FARC.³⁴ In September 2003, one pilot was killed when his spray plane crashed due to ground fire.³⁵

The pilots spray a chemical mixture whose active ingredient is glyphosate, a nonselective systemic herbicide that kills most plants and trees if a sufficient dose is applied. The glyphosate used for coca fumigation is manufactured by the St. Louis-based Monsanto Corporation and sold under variations of the trade name Roundup.³⁶ The mixture applied in Colombia consists of a glyphosate formulation, water, and a surfactant, Cosmo-Flux 411F, which increases the effectiveness of the herbicide.

Rapid Expansion

Under Plan Colombia, fumigation has been conducted on an unprecedented scale: from 2000 through 2003, the U.S.-backed fumigation program sprayed herbicide on more than 380,000 hectares of coca, equivalent to more than 8 percent of Colombia's arable land.

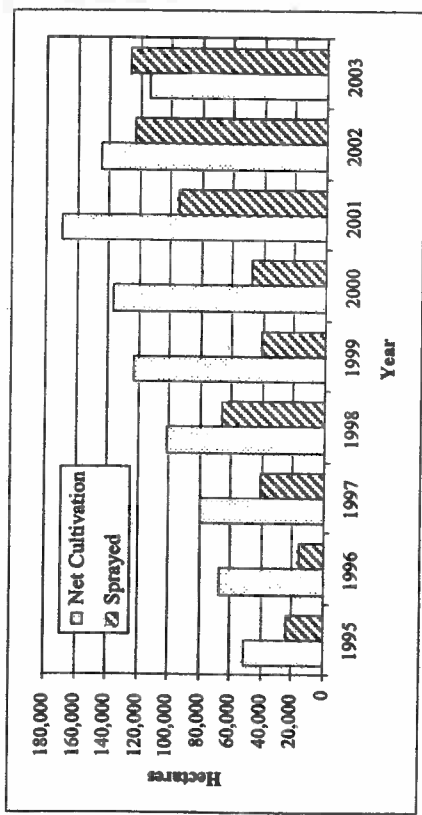
Although the spraying began in December 2000, its full impact was not felt until 2002. In 2001, 94,127 hectares were fumigated, but new plantings brought total coca production to 169,800 hectares that year. In 2002, a record 122,695 hectares of coca were sprayed, and though new planting continued, total coca cultivation reportedly dropped 15 percent to 144,450 hectares. According to the State Department, the spraying of 127,000 hectares in 2003 led to a further 21 percent decline, to 113,850 hectares (Figure 4.2).

Dubious Claims of Success

The U.S. and Colombian governments trumpeted these reductions as evidence of the success of Plan Colombia. In March 2004 testimony to Congress, Robert Charles, assistant secretary of state for the INL, maintained that U.S.-Colombian fumigation efforts "brought us close to the tipping point where sustained suppression of illegal crops and alternative employment incentives together will convince growers that further cultivation is a futile proposition."³⁷ Time will tell whether even the steep declines in 2002 and 2003 will translate into strategic success, namely, deep and sustainable reductions in the production of coca leaf in Colombia and in the availability of cocaine in the United States. But there are several reasons for skepticism. First, even the sharp reductions in 2002-2003 did not bring cultivation back down to the 1998 level: 101,800 hectares, according to State Department estimates. Colombia remains the largest coca-growing country in the world.³⁸

Second, in the past, when coca cultivation has declined in one geographic area, it has increased in another, in what is known as the "balloon effect" (see Chapter 1). Past experience suggests that eradication success in

Figure 4.2 Colombian Coca Cultivation, 1995-2003



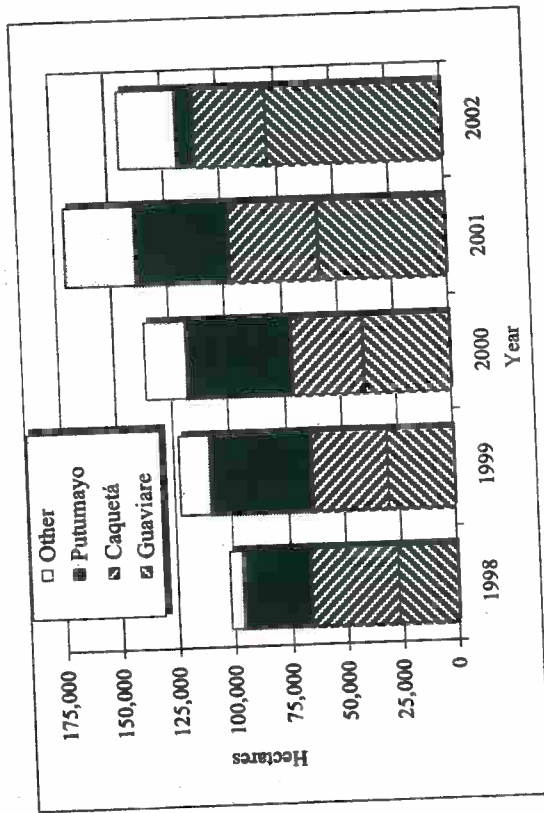
Source: U.S. Department of State, *International Narcotics Control Strategy Report* (INCSR), years 1995-2003.

Note: One hectare is equivalent to 2.47 acres.

Colombia will likely be frustrated in the future by stepped-up coca production in other countries. In the wake of eradication, coca cultivation has spread within Colombia as well: the Colombian government reported that the number of provinces in which coca was known to be cultivated rose from twelve to twenty-two between 1999 and 2002.³⁹ According to the State Department, the emphasis placed on Putumayo under Plan Colombia resulted in a marked decline in cultivation in that province, from a peak of 47,400 hectares in 2000 to 8,200 hectares in 2002. As Figure 4.3 shows, however, the reductions in other regions have been not been nearly as impressive, and the State Department reported that in the Guaviare region the land under coca cultivation actually rose from 38,200 hectares in 2000 to 78,500 hectares in 2002.⁴⁰

Coca survey data for 2000-2002 compiled by the United Nations Office on Drugs and Crime (UNODC) also reveal "the high degree of mobility of coca cultivation, both within and across department boundaries."⁴¹ Significant declines in overall cultivation were led by sharp drops in Putumayo and Caquetá. But the UNODC also found increases in coca cultivation in ten provinces. While most of the increases were fairly small in absolute terms, in Nariño, the province on Putumayo's western border, coca cultivation was nearly two-thirds higher in 2002 than in 2000.⁴² And in Guaviare—the province from which coca cultivation migrated south toward Caquetá and Putumayo under the pressure of aerial eradication in

Figure 4.3 Colombian Coca Cultivation by Region, 1998-2002



Source: U.S. State Department, Bureau for International Narcotics and Law Enforcement Affairs, "Colombian Coca Cultivation," INL, 14 March 2003. www.state.gov/g/jml/r/is/other/18650.htm.

the mid- to late 1990s—cultivation rose 55 percent. It is worth noting that neither U.S. nor UN surveillance methods are considered accurate in detecting newly planted fields or in measuring the extent of coca fields outside the major established coca-growing zones.⁴³

Another reason for skepticism about the effectiveness of the fumigation strategy is its high cost. According to the INL's Robert Charles, after 2004 the United States "expects to enter a maintenance phase of spraying smaller, more isolated coca fields, instead of the larger fields we have sprayed since our program began. The endgame will then involve a ramp down to maintenance levels."⁴⁴ But the State Department has yet to define the level of cultivation it believes will be manageable for the Colombian government to handle without significant infusions of U.S. aid. In June 2003, the U.S. General Accounting Office (GAO) observed that:

Neither the Colombian Army nor the Colombian National Police can sustain ongoing counternarcotics programs without continued U.S. funding and contractor support for the foreseeable future.... As GAO noted in 2000, the total costs of the counternarcotics program in Colombia were unknown. Nearly three years later, the Departments of State and Defense have still not developed estimates of future program costs, defined their

future roles in Colombia, identified a proposed end state, or determined how they plan to achieve it.⁴⁵

As the costs to the United States of the global war against terrorism mount, and as U.S. budget deficits grow, the financial feasibility of maintaining a large-scale, ongoing fumigation program is highly questionable.

• **Fumigation's Collateral Damage**

The fumigation strategy in Colombia is not merely ineffective; it is also counterproductive. It has destroyed the livelihoods of thousands of peasant farmers who lack viable economic alternatives to producing illicit crops, also endangering their health and the environment. The implementation of the fumigation program in disregard of Colombian legal principles, and against the will of local and regional elected officials, has undermined the rule of law and government authority. And as coca cultivation has dispersed in response to the fumigation, the illegal armed actors have followed the new production, further extending the reach of the internal armed conflict.

Alternative Development: Too Little, Too Late

The spray program targets coca fields of all sizes, from industrial-size plantations to plots of less than two hectares grown by peasant farmers and indigenous people.⁴⁶ The Colombian government's attitude toward such small cultivators has been ambiguous. On the one hand, Law 30 of 1986 specified that the cultivation of marijuana, coca, and opium poppy in excess of twenty plants was a crime. Law 599 of 2000, which revised Colombia's penal code, reaffirmed that growing these crops is illegal and increased the penalties for violations. On the other hand, policy initiatives throughout the 1990s differentiated between "industrial" or "commercial" production (extensions of land as large as 300 hectares or more, directly controlled by drug traffickers) and "small cultivators" (peasant and indigenous farmers cultivating coca on parcels of land between two and five hectares).⁴⁷ The latter were to be assisted with programs for crop substitution and alternative development, in recognition of the economic, social, and political conditions that foster reliance on illicit crops.

When fumigation intensified in the mid-1990s, the expectation of differential treatment led to protests that culminated in a march of 200,000 coca farmers in July 1996. The participants called for voluntary eradication accompanied by long-term development projects. They also demanded that the government fulfill agreements promising social investment and development infrastructure that it had signed in 1994 and 1995 with peasant organizations in the Guaviare and Putumayo regions.

Plan Colombia was also shaped by the distinction between small-scale and large-scale cultivators. As the U.S. Congress was debating whether to

support the aid package in 2000, Clinton administration officials asserted that most of Colombia's coca was produced on industrial plantations. The claim helped persuade many members of Congress to accept the heavy reliance on fumigation. At the same time, the first appropriation for Plan Colombia included U.S.\$68.5 million to support alternative development projects, with an additional U.S.\$15 million to provide emergency assistance to small producers likely to be displaced by the spraying.

UNODC estimated that in 2002 and 2003 more than 60 percent of Colombia's coca crop was grown on plots less than three hectares in size.⁴⁸ Though large-scale producers are known to fragment their coca fields in order to avoid detection, most small coca plots are cultivated by individual farmers for their own subsistence. Moreover, the highest concentrations of coca are in provinces with especially high indicators of poverty. Even so, the amount of development aid provided under Plan Colombia was inadequate from the beginning. Between 2001 and 2003, nearly 340,000 hectares of coca were sprayed, but the U.S. Agency for International Development (USAID) supported the cultivation of fewer than 39,000 hectares of legal crops.⁴⁹

In addition, the disbursement of aid under Plan Colombia has been marked by significant delays, and the models for aid delivery have changed frequently. Between December 2000, when fumigation began, and July 2001, the Colombian government signed thirty-three "social pacts for voluntary eradication and alternative development" with 37,775 families in nine municipalities in Putumayo. The agreements imposed a one-year deadline for families to eradicate their coca in exchange for aid. According to the Latin America Working Group, "More than two years later, only 21 percent of the aid for food security projects had been delivered, and only 24 percent of those participating in social pacts had received all or a portion of the promised aid."⁵⁰

Over the years, the lack of follow-through on development aid has left many farmers skeptical that the Colombian government will actually provide aid once their coca is eradicated and doubtful that aid programs that commence will be sustained long enough to make a difference. They are therefore reluctant to voluntarily eradicate their coca.

In Putumayo in 2001 and 2002, because so much of the aid was not delivered, many families did not eradicate their coca, leading the Pasirana government and USAID to declare the social pacts a failure.⁵¹ In July 2002, the Colombian government began a major punitive fumigation campaign in which areas covered by the pacts were sprayed. Meanwhile, USAID was already implementing a different model, known as "early eradication," in which communities had to commit to eradicating 100 percent of their coca, subject to verification, before receiving assistance. From 2000 to 2003 there were also numerous reports, official and unofficial, that fumigation

had caused significant damage to legal food crops, pasture, fish, livestock, and agricultural development projects. This damage exacerbated the problems related to aid delivery.

According to the State Department, the fumigation program is designed to avoid harm to humans and other crops, and officials say herbicide spraying is carefully targeted and done only under conditions that minimize spray drift. They cast aspersions on the motives of those who report such damage and accuse farmers of having intermingled coca with other crops.⁵² However, the sheer number and consistency of the reports of damage lend them credibility, and many complaints have been verified by Colombian state agencies, intergovernmental commissions, or independent parties. Herbicide spray drift is a probably a major cause of the damage; models created by the U.S. Environmental Protection Agency (EPA) show that herbicides can drift up to 600 feet downwind from their targets. Although, on paper, a procedure exists to compensate small farmers whose legal crops are destroyed by spraying, in practice it has not functioned. Anecdotal reports suggest that some farmers left destitute by fumigation are joining the guerrillas or the paramilitaries out of economic necessity.⁵³

Fueling Displacement

The clearest indication that the fumigation strategy is having a devastating effect on the livelihood of small farmers is found in statistics on the movement of people out of fumigated regions. UNODC reports that, with the exception of Nariño, all the coca-growing areas "show very high levels of forced displacement of population."⁵⁴ Much of this displacement is evidently due to the armed conflict. However, according to the Colombian government's ombudsman, fumigation was one of the causes of the displacement of more than 17,000 people from Putumayo in 2001; the spraying deprived them of their subsistence income from coca and threatened their food supply.⁵⁵ According to the Social Solidarity Network, in 1999 415 people were displaced from Putumayo by political violence.⁵⁶ By August 2003, after the fumigation operations had been launched, the population displaced from the province had risen to nearly 56,000.⁵⁷

Colombia's nongovernmental Council for Human Rights and Displacement estimates that in 2001 and 2002 alone fumigation led to the displacement of more than 75,000 people nationwide.⁵⁸ This process has deepened the crisis affecting small farmers and indigenous groups in Colombia and along the border with Ecuador. Displaced families typically live in poverty and profound insecurity. Those displaced by fumigation are not eligible for emergency food aid and other services provided by the Social Solidarity Network to those displaced by political violence. Since many small farmers do not hold title to their land, they often forfeit their right to return when forced to abandon their homes.⁵⁹ While most of the

displaced remain in Colombia, some have fled to neighboring Ecuador (see Chapter 7). Of those who remain in the country, some had settled recently in the coca-producing zones and have now returned to their regions of origin.⁶⁰ Others have moved more deeply into tropical forests, including indigenous reserves. Dispossessed and without other options for survival in their new locales, many displaced people become engaged in coca cultivation and harvesting, as well as the processing and transporting of coca paste and cocaine.⁶¹

Health and Environmental Risks

Beyond fumigation's direct impact on farmers' livelihoods, there are numerous reports of adverse health and environmental effects. Spray zone residents say frequent exposure to the spray mixture has caused a variety of skin, respiratory, and other ailments. Concerns have also been raised about the impact that widespread spraying may have on Colombia's diverse and fragile tropical ecosystems, which are home to one in every ten known species on earth. About one-third of Colombia's approximately 50,000 known plant species are found nowhere else, and about one-third of all known vertebrate species live in Colombia.

The U.S. State Department has consistently downplayed health and environmental concerns, however. Officials argue that the ill health suffered by many people in the spray zones is the result of generally poor conditions or exposure to agricultural and drug-processing chemicals. They say glyphosate, the herbicide used, has been shown to be fairly benign in its environmental effects. They are silent on the effects of the surfactant.

However, concern about the health effects and environmental impact of fumigation led the U.S. Congress to set conditions on the disbursement of aid for the aerial eradication program. Passed as part of the annual foreign aid appropriations bills for FY2002, FY2003, and FY2004, the conditions have varied somewhat each year, but all made the disbursement of U.S. aid contingent on reports by the secretary of state, in consultation with the EPA, on the effects of fumigation.

As a result, the EPA has provided the State Department with assessments of the health and environmental impacts of the fumigation campaign, and the State Department has interpreted the EPA's findings in a favorable light. However, there are major gaps in the information available to the EPA. Most important, the EPA analysis is based strictly on information about the spray program provided by the State Department. EPA cannot collect its own primary data or contact other organizations with relevant expertise. What's more, the EPA assessments were conducted without the benefit of any information specific to the local environment in Colombia. Meanwhile, the State Department submits little specific information to the EPA on how spraying operations are actually implemented. As a result, fun-

damental questions about the effects of the spray program remain unanswered.

The State Department cites the environmental destruction wrought by drug crop cultivation as justification for the aerial eradication program, maintaining that spraying "discourages the cultivation of illicit crops and thereby slows the rate of deforestation."⁶² The evidence to date, however, suggests that spraying has actually encouraged the spread of coca farming to new areas, including relatively pristine forests and national parks. These have in turn been subjected to deforestation and pollution as farmers clear additional forest areas to replace eradicated croplands, and those processing the coca pollute new soil and waterways with processing chemicals. Although not quantified precisely, deforestation due to illicit crop cultivation has greatly increased the risk of extinction for many Colombian bird and plant species.⁶³

In short, assertions that the spray program is essentially harmless to human health and the environment are questionable at best. Health and environmental monitoring, and studies specific and rigorous enough to measure the impact of the spraying as it is being implemented in Colombia, have not yet been conducted.

Disregarding Colombian Laws

From the moment fumigation began, it also provoked controversy and disension within the Colombian government. Although the police and the president's office have supported the spraying, agencies charged with protecting the environment and public health have consistently voiced concern about or opposition to it.

Colombia's key antidrug statute, Law 30 of 1986, required the prior approval of health and environmental agencies for aerial eradication. National Narcotics Council Resolution 0001 of February 1994 laid out procedures to be followed for that approval process to take place. On the environmental front, the National Narcotics Directorate (DNE) was to contract an environmental auditor to control and supervise the implementation of the fumigation. In August 1996, the Ministry of Environment ordered DNE to produce an environmental management plan for carrying out fumigation with glyphosate. Not until January 2002, however, after six years of back-and-forth among the relevant agencies, including litigation, was the Environmental Management Plan (EMP) finally put in place. The plan has not been strictly enforced, and under the Uribe administration its original provisions have been weakened.

The fumigation policy has also been seriously questioned on other legal and constitutional grounds. The comptroller general and the public ombudsman have repeatedly urged that aerial eradication be suspended for contravening various Colombian legal and constitutional guarantees per-

taining to public health, environmental protection, and prior consultation with affected communities.⁶⁴ The grounds for the challenges include government failures to implement an epidemiological monitoring plan, to develop contingency and mitigation plans, to comply with spray buffer zones, and to refrain from spraying sensitive environments such as water bodies and protected areas. The recommendations to suspend spraying have not been followed by the National Police.

In June 2003, the Administrative Court of Cundinamarca ruled that the fumigation program violates citizens' constitutionally guaranteed rights to public health, security, and a healthy environment. It found the government to be in violation of numerous laws, including compliance with the EMP. The court ordered DNE to suspend the aerial eradication program completely until it has achieved full compliance with the EMP and conducted rigorous studies to measure the impact of fumigation on human health and the environment. President Uribe promptly denounced the ruling, declaring, "While I am president, fumigation will not be suspended."⁶⁵ The government appealed the ruling and refused to comply with the court order to suspend spraying.

Nor have the objections of local and provincial elected leaders succeeded in slowing or significantly modifying implementation of the spraying program. In 2001, the governors of the departments of Putumayo, Nariño, Cauca, and Tolima met with members of the U.S. Congress and Bush administration officials in Washington, requesting that fumigation be suspended in favor of manual eradication and increased development assistance. Charging ahead with fumigation, the governors predicted, would simply promote the migration of illegal crops and the spread of armed conflict. But as of early 2004, even the minimal funds for community-based development projects were coming to an end, and the Uribe government communicated to USAID its interest in focusing on large-scale industrial projects, which are of doubtful feasibility or benefit to the peasants most affected by fumigation. In 2003 Colombia's inspector general opened disciplinary investigations against several of the governors for their opposition to the national policy of fumigation.

Notwithstanding the concerns of regional governments, the affected communities, government agencies, or the courts, President Uribe has considered implementation of the fumigation program to be nonnegotiable. The minimal safeguards that had been put in place are either being dismantled or disregarded in practice. In particular, in close cooperation with the U.S. State Department, the Uribe government has rolled back many of the environmental protection measures included in the 2001 Environmental Monitoring Plan. The modified EMP reduces the buffer zones required to avoid spraying environmentally sensitive areas and settlements and allows for aerial spraying in Colombia's national parks. The newest version of the

U.S. fumigation conditions also accepts spraying in national parks, although the issue provoked such a public outcry that the Colombian government was forced to backtrack. In March 2004, the Colombian environment minister said that the government will resort to fumigation in national parks only if manual eradication fails.

The significant reductions in coca cultivation recorded since 2002 are attributed by the State Department almost exclusively to the record-setting pace of the fumigation program. By contrast, UNODC agrees that fumigation has been central to the overall decline, but it takes pains to put events into a broader context and to recognize that other factors come into play, including voluntary eradication, the dynamic of the armed conflict, and the prices for legal agricultural products. According to UNODC,

The armed conflict, which was fueled by narcotics production, deteriorated the security situation ... to a point that in some parts of the country it prevented farmers from even planting coca. Moreover, a recovery of the prices of some key farm products, such as cocoa and sugar cane in 2002, seemed to have reduced the incentives for farmers to switch to coca cultivation.⁶⁶

The high-profile political commitment to fumigation on the part of both the U.S. and Colombian governments precluded serious consideration of very different but more promising options, such as a concerted effort at integral rural development. While fumigation has alienated potential allies, a genuine and ambitious effort to promote rural development would likely attract more support in the region and from potential donor governments in Europe.

• Plan Colombia and Human Rights

In 1999, as President Pastrana was in conversations with the Clinton administration about U.S. support for Plan Colombia, the Inter-American Commission on Human Rights (IACHR) reported that "the situation of human rights in Colombia—which involves massive and continuous violations of the most fundamental human rights—is currently one of the most difficult and serious in the Americas."⁶⁷

Despite the fact that Colombia is a formal democracy and its 1991 constitution contains strong human rights protections, the nation's continuing insurgency and counterinsurgency efforts provided a context in which serious abuses have occurred. Government security forces have been regularly accused of massacres, extrajudicial executions, forced disappearances, and violations of due process and civil liberties. Guerrillas as well as paramilitary members have been charged with other massacres and executions and with indiscriminate attacks that affected civilian noncombatants—all violations of international humanitarian law. Impunity for those responsible for

the abuses, especially members and officers of the armed forces, has been nearly absolute.

The 1991 constitution was a by-product of negotiations between 1988 and 1990 that had led some guerrilla movements, including the M-19 and several smaller groups, to give up armed struggle and to take part in electoral politics.⁶⁸ The constitution recognized and guaranteed the full range of human rights. It also established new institutional spaces to ensure protection of those rights, including a strong constitutional court and a public ombudsman. It gave international human rights treaties ratified by Colombia precedence over domestic law, and it created *la tutela*, the right to request the immediate intervention of the courts if an individual believed his or her rights were being violated. This institutional framework was shaped by the deep involvement of the human rights movement in the writing of the constitution, but the dramatic human rights crisis Colombia faced at the end of the decade reflected the deeply rooted nature of the obstacles to progress in this area.

Military Autonomy

These obstacles included a military accustomed to significant autonomy and empowered to play an essentially unconstrained role in maintaining public order. The origins of the military's autonomy lie in the perception of its neutrality during La Violencia, when the army initially declined to be pulled into partisan conflict. In exchange for maintaining nominal civilian control of the government, the military was granted authority to design and implement national security policy largely independent of any civilian oversight.

The military's power grew as a result of the executive branch's almost permanent invocation of state of siege powers during the counterinsurgency campaigns of the 1960s through the 1980s. Under state of siege decrees, legal rights were suspended even though constitutional guarantees were not formally modified. The military was given power to investigate and judge civilians for many crimes, including rebellion and carrying arms. The Security Statute of 1978, informed by the U.S. National Security Doctrine, created the crime of "attacking the public order" and made the military's jurisdiction over civilians permanent.⁶⁹ The use of state of siege became a defining characteristic of Colombian political culture and "the means through which the Armed Forces ... significantly increased their presence in the political process and their power within the regime."⁷⁰

Between 1984 and 1989, in the context of the war against the drug cartels, a state of siege was invoked 139 times. In 1986 President Barco decreed laws extending the military's extraordinary powers to include trials of those accused of drug trafficking.⁷¹ The 1988 Defense of Democracy Statute sought to repress both the guerrilla movements and narcoterrorism

and ratified the extension of national security concerns to include drug trafficking.⁷² The statute led to the creation of special judicial procedures for trying drug traffickers and guerrillas, in what came to be known as "justice without a face." These remained in place until the mid-1990s.

Civilian control over the military had been further eroded by the military's penal code, under which the members of the armed forces charged with crimes were investigated and judged by the military itself; thus, members of the armed forces were protected from civilian courts regardless of the nature of their crimes. At the same time, the military justice system lacked any pretense of impartiality. Commanding officers served as military judges in cases involving soldiers in their units. Accusations of misconduct were likely to be dismissed, particularly if soldiers alleged that their commanding officers acted improperly. In practice, the military's jurisdiction over its own members guaranteed impunity, even as denunciations of human rights violations increased.

The military used its extraordinary powers to carry out widespread detentions throughout Colombia in the 1970s and 1980s and tried civilians in secret hearings without due process protections. The first Colombian human rights organizations were founded to investigate and report on military abuses and to defend those detained. The groups documented hundreds of cases of torture in military detention centers and brought legal cases challenging the military's practices. In 1987 the Colombian Supreme Court ruled that military jurisdiction over civilians and the secret hearings were unconstitutional.⁷³ The rejection of the military's practices as abusive and ineffective by large sectors of the Colombian public was reflected in the decisions of a 1991 constitutional assembly, when strict limits were placed on the use of states of exception such as state of siege or any other legally declared suspension of constitutional guarantees. But the military retained its autonomy and involvement in maintaining public order, and impunity was deeply entrenched.

The Paramilitary Phenomenon

A second key human rights issue as Plan Colombia was under consideration was the structural relationship between the armed forces and paramilitary organizations. The paramilitary organizations—first established at U.S. urging in the 1960s to complement military counterinsurgency efforts—expanded dramatically in the 1980s. As guerrilla pressure forced large landowners in the rich central regions of the country to abandon their estates, these were acquired by drug traffickers who sought to launder their profits and buy social standing. The drug traffickers joined with the military and local elites to form private armies. The expansion of the paramilitaries took place as the Betancur government was opening the door to peace negotiations with the FARC and other guerrilla groups. The paramilitary

US
Paris
①

growth reflected local elites' fear that an agreement with the insurgents would leave them unprotected, as well as the military's sense that it was being marginalized by the peace process.⁷⁴

The result was that the military's relationship with paramilitaries deepened even as the cartels unleashed their war against the Colombian state. As the paramilitaries grew, so did human rights violations involving the armed forces. Military doctrine referred to the "internal enemy" and characterized civil society actors as potentially subversive.⁷⁵ By the late 1980s, high-ranking military officials and military spokesmen were publicly linking unions, universities, judicial authorities, human rights defenders, and even the church to the guerrillas.

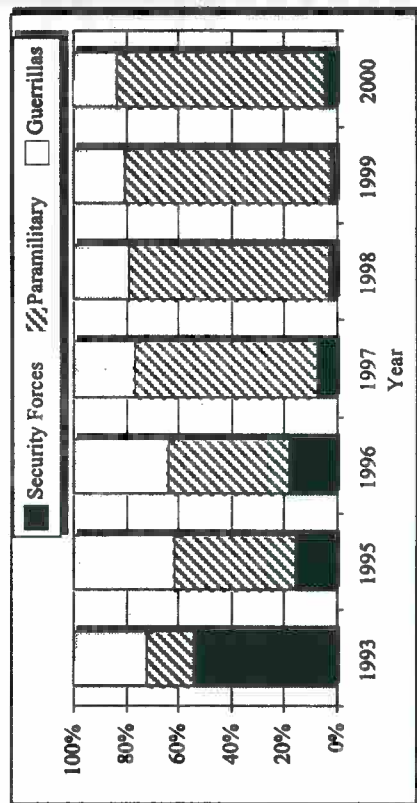
Small leftist parties—including the Patriotic Union (Unión Patriótica, or UP)—founded by the FARC in 1985 after the inconclusive end of that group's dialogue with the Betancur government—had enjoyed significant success in Colombia's first popular elections of mayors and other local officials in 1987. But paramilitary groups, with the support of drug traffickers, worked closely with local military commanders to eliminate "guerrilla sympathizers," thus decimating leftist political organizations. UP was a particular target; some 3,000 UP members have been assassinated since its founding.

In the La Rochela massacre of January 1989, paramilitary gunmen with military support massacred eleven members of a judicial team investigating paramilitary operations linked to local military commanders. As a result of this case, President Barco issued a series of decrees declaring the self-defense groups illegal.⁷⁶ Shortly thereafter the Colombian Supreme Court declared unconstitutional the provision of the decree that had authorized self-defense forces.⁷⁷ But five years after La Rochela, a new decree law revived the self-defense forces under the name *Convivir*.⁷⁸ By the time the right of these new groups to carry military arms was struck down in November 1997, the paramilitary phenomenon in Colombia had expanded qualitatively and had become well entrenched.⁷⁹

In the mid-1990s, paramilitary activity in Colombia had changed in several ways. First, and coinciding with the dismantling of the cartels, the paramilitaries had begun to challenge the FARC for direct control over coca-producing territories. Second, a national coordinating body, the United Self-Defense Forces of Colombia, was created. Following a July 1997 summit, the groups adopted an offensive strategy that entailed expanding operations into new regions of the country. Finally, the share of human rights abuses committed directly by the paramilitaries increased sharply, as the number of violations directly attributable to the armed forces declined (Figure 4.4).

These changes were interrelated. The newly targeted regions were traditional guerrilla strongholds. Increasing their control of the drug trade

Figure 4.4 Share of Responsibility for Noncombatant Deaths and Forced Disappearances



Source: Reports of the Colombian Commission of Jurists, available on the Center for International Policy website, www.ciponline.org/colombia/infocombat.htm.

allowed the paramilitaries greater autonomy and fed further expansion of their operations. The offensive campaign, announced in public documents and press statements, was carried out through massacres that also caused other residents to flee, thus clearing territory. Although members of the armed forces continued to be involved directly in killings, the military's role moved more toward that of intelligence and logistical support to the paramilitaries. The military was also increasingly involved in acts of omission—failing to act to prevent atrocities carried out against noncombatants, even when forewarned. Thus, even as the numbers of dead and displaced went steadily up, the military's human rights record appeared to improve.⁸⁰

The new operational relationship was visible in the first massacre that took place after the paramilitaries announced their new military strategy. During the period of July 15–20, 1997, AUC gunmen held control of the town of Mapiripán in the province of Meta and executed several dozen people. (The exact death toll was never established, as many of the bodies were dismembered and thrown into a nearby river.) Subsequent investigations showed that the military escorted the paramilitary killers to private planes, allowed the paramilitaries to pass through three highly militarized zones en route to Mapiripán, and failed to respond to reports of the massacre once it began. Hundreds of similar massacres followed, carried out throughout the country and affecting thousands of people.

The Mapiripán case was investigated by the military and the civilian

justice systems. Military courts sentenced Brigadier General Jaime Humberto Uscátegui to forty months in jail for dereliction of duty. Lieutenant Colonel Hernán Orozco, who testified against him, was also sentenced to thirty-eight months in prison. However, both sentences were subsequently annulled. The response of the civilian justice system has been more appropriate. A civilian court sentenced the local commander, Lieutenant Colonel Lino Sánchez, to forty years in prison for his role. As of mid-2004, both Uscátegui and Orozco were being tried in civilian courts for aggravated homicide and kidnapping, and the case is pending before the Inter-American Court of Human Rights.

A Changing Landscape for Human Rights

The consolidation of the paramilitaries, and the changing division of labor between them and the military, took place against the background of the crisis in U.S.-Colombian relations that followed accusations linking President Samper to the drug trade. Some U.S. officials recognized that isolating Samper had only served to weaken the Colombian state, although the object of their concern was the growing strength of the guerrillas, rather than the paramilitaries.⁸¹ As some U.S. officials began to discuss the possibility of increased funding for the Colombian military, the military's human rights record was a clear liability. At the same time, challenges to the armed forces from the Colombian courts and the human rights movement were gaining traction.

In 1993, the new Constitutional Court had confirmed the Supreme Court's 1987 decision striking down military jurisdiction over civilians.⁸² In 1997, the court issued a landmark ruling that violations of human rights and crimes against humanity could in no case be considered acts of service and therefore fell outside the jurisdiction of the military justice system.⁸³ The decision went to the heart of military impunity for human rights abuses and opened the door to public debate over reform of the military penal code. A bill revising the code was introduced during the Samper government and became law a few days after President Pastrana took office.⁸⁴ The revisions were imperfect in that the new code specified only torture, genocide, and forced disappearance as human rights crimes falling outside military jurisdiction. But the military understood that the new code represented a setback to its autonomy. General Manuel Bonnet, commander of the armed forces at the time, characterized the new penal code as seeking to "criminalize" the army and complained that "society should not send [troops] to combat unarmed, because the *fuero* is our shield."⁸⁵

These advances were due in no small part to the work of the Colombian human rights movement.⁸⁶ Two strategies were key: litigation and international advocacy. Seeking to make full use of the new protections for human rights in the 1991 constitution, Colombian groups pressed spe-

cific cases of human rights violations in the civilian, military, and administrative justice systems, sought reports and resolutions from the public ombudsman, and brought constitutional challenges to elaborate rights or to enforce limitations on the security forces.

At the same time, the groups put Colombia's human rights record on the international agenda. They participated regularly in the IACHR, bringing key cases that had stagnated in the Colombian courts and providing semiannual updates on the overall human rights situation. In 1996 the significance of this strategy was reinforced by approval of Law 288, which recognized the obligatory character of recommendations handed down by the IACHR and the UN Committee on Human Rights.⁸⁷ The human rights groups also engaged the UN human rights system. Among their most significant achievements was the 1996 opening of the Office of the UN High Commissioner for Human Rights (OHCHR) in Colombia.

In spite of the advances made by the human rights community during the 1990s, the human rights situation remained critical as the U.S. policy debate on Plan Colombia got under way. The OHCHR reported 402 massacres in 1999, a 50 percent increase over the previous year.⁸⁸ Many of the "collective executions" had been announced in advance by paramilitary forces who were advertising the creation of "new war fronts." Testimonies pointed to the involvement of members of the armed forces in the organization of new paramilitary blocs.

At the same time, rates of impunity for all crimes in Colombia exceeded 90 percent. For human rights crimes, the figure was nearly 100 percent. Therefore, two key actions were required prior to the provision of U.S. security assistance: the structural relationship between the paramilitaries and the armed forces had to be severed, and impunity had to be ended.

However, only a few provisions in the version of Plan Colombia approved by the U.S. Congress were directly relevant to these two points. Of particular importance were human rights conditions added to the legislation by Congress, along with funding provided explicitly for programs to strengthen human rights and rule of law. Senators Patrick Leahy (D-Vermont), Ted Kennedy (D-Massachusetts), and Paul Wellstone (D-Minnesota) and Representative Jim McGovern (D-Massachusetts) were among the leaders on these issues.

U.S. Human Rights Conditionality

Human rights conditions focused on the military-paramilitary relationship have been included in the Plan Colombia appropriation every year. The conditions provide that a stated percentage of military assistance may not be disbursed until the U.S. secretary of state certifies to Congress that Colombia's military is suspending officers credibly alleged to have committed human rights violations or to have aided and abetted paramilitary

forces, that Colombia's government is cooperating with civilian human rights investigations, and that steps are being taken to sever links between the military and the paramilitaries.

Prior to making the certification, the State Department is required to meet with internationally recognized human rights organizations. In every such consultation, the groups have presented detailed information and benchmark cases relevant to evaluating Colombia's compliance.⁸⁹ With the exception of the first certification, however, when Secretary of State Madeleine Albright chose to waive most of the conditions, the State Department has consistently certified compliance. The State Department has relied on a narrow, legalistic interpretation of the conditions in which any cases or actions consistent with the conditions, no matter how minimal, constitute compliance.⁹⁰ As a result, the State Department is able to argue that Colombia is complying with the letter of the law, even though its own annual human rights report documents continuing collaboration between the Colombian armed forces and the paramilitaries, and even though impunity for human rights crimes remains nearly absolute.⁹¹

The human rights conditions are complemented by another legal provision inserted annually into U.S. foreign operations appropriations bills, known as the Leahy Amendment (see Appendix 1). The provision prohibits military assistance to foreign military units implicated in human rights violations, although aid may be resumed if the foreign government takes steps to bring the responsible members of the unit to justice. U.S. embassies are charged with implementing the Leahy Amendment by vetting potential beneficiaries of military assistance. Though interpretation of the provision has been subject to debate, particularly over the definition of a unit and what constitutes appropriate corrective measures, in practice the provision is probably an incentive to establish new, clean military units. In Colombia, the soldiers and officers recruited to staff the three new counterdrug battalions were vetted as individuals prior to assignment.

The case of the Santo Domingo massacre demonstrates the promise of the Leahy Amendment. In December 2002, the United States suspended aid to the 1st Air Combat Command of the Colombian air force, the unit involved in launching a rocket attack on the village of Santo Domingo, Arauca, during a December 1998 clash with the FARC. Seventeen civilians, including children, were killed when the unit dropped cluster bombs on the village and shot already-wounded passengers being transported in a truck. Pressure from the U.S. government concerning the case also led to the forced retirement of General Héctor Fabio Velasco, the commander of the air force. General Velasco had delayed investigation of the case to the point of obstructing justice. Velasco did not succeed completely, however. In the fall of 2002, Colombia's inspector general suspended from duty for three months a captain and a lieutenant in the case. In December 2003 the attor-

ney general charged the helicopter crew with involuntary manslaughter; as of May 2004 the case was also pending before the IACHR.

The strong pro-human rights message that should have been sent by General Velasco's retirement was undermined by President Uribe when the new commander of the air force was installed on September 8, 2003. Uribe, speaking before a military audience with high-ranking U.S. officials present, used the occasion to attack human rights defenders as "politickers at the service of terrorism."⁹² His targets included "collectives and lawyers," a reference to the Lawyers' Collective, the nongovernmental organization that brought the Santo Domingo case to the IACHR. Uribe concluded his remarks by urging that the incoming air force commander not allow the "traffickers in human rights" to deter him. Neither the State Department nor the U.S. embassy in Colombia publicly condemned or clearly distanced the U.S. government from Uribe's statements. Paramilitaries publicly embraced the president's position and in a communiqué issued on September 17 congratulated the president on his statements and identified several human rights groups as façades for the FARC and involved in "guerrilla diplomacy."

More generally, U.S. human rights policy under Plan Colombia has sent a mixed message. Even though imperfectly implemented, the human rights conditions have established a frame of reference for analyzing the military's human rights behavior. Some members of the Colombian armed forces—probably a growing number—have a clear interest in a clean and professional institution. According to a leading Colombian political analyst, the worst thing that can happen to a rising military commander is to be confronted with credible allegations of human rights violations.⁹³ U.S. behind-the-scenes pressure has likely been instrumental in ending the careers of some other high-ranking military leaders with highly problematic human rights records, including Generals Rito Alejo del Río, Fernando Millán, and Rodrigo Quiñones.⁹⁴ U.S. officials insist that they regularly discuss human rights concerns with Colombian officials. U.S. embassy officials have been responsive and genuinely helpful to threatened human rights defenders.

The links between the paramilitaries and sectors of the armed forces, however, have not been severed. The State Department and the OHCHR, among others, continue to document new cases of military-paramilitary collusion.⁹⁵ One egregious example is the killing of more than sixty members of the Kankuamo indigenous community, in the Sierra Nevada de Santa Marta region, since President Uribe assumed office in August 2002. Major military operations have coincided with paramilitary expansion in the same zones.⁹⁶ Paramilitaries currently have political control of several provinces and are visibly present in urban areas, including municipalities

such as Barrancabermeja, where security forces also have a strong presence. The basic goal of the human rights conditions has simply not been achieved.

U.S. Support for Human Rights and Rule of Law Programs

From the outset, Plan Colombia included funding for programs to strengthen key human rights institutions, both governmental and nongovernmental. Examples include support provided to the human rights units of the attorney general's office, the inspector general, and the public ombudsman; the Early Warning System (EWS), an interagency program coordinated by the Office of the Public Ombudsman and created to protect the civilian population from massacres, forced displacement, and other massive human rights violations; other protection programs for human rights defenders, trade unionists, and journalists; and the office of the OHCHR. The funding for these programs is provided by State Department counterdrug accounts, although the implementation of the programs is through USAID (and in some cases through the Justice Department). While it is beyond the scope of this chapter to provide a comprehensive analysis of the impact of human rights and rule of law programs, a few observations are in order.⁹⁷

By the time Plan Colombia was approved, the United States had provided more than a decade of support for judicial reform.⁹⁸ U.S.-backed reforms focused on increasing the efficiency of judicial processes, sometimes at the expense of due process protections. A key example was the highly controversial "faceless justice" system implemented in the early 1990s. Designed to protect threatened judges and lawyers, the system allowed for anonymous witnesses and secret trials. The human rights community documented cases in which individuals were prosecuted without legal recourse.⁹⁹ The U.S. government also supported the establishment of an accusatorial, jury-based system, which was approved by the Colombian Congress in December 2002 and is scheduled to be fully operational as of 2005.

Past experience with these reform efforts, however, underscore the importance of the Colombian government's political will in implementing the reforms effectively as well as the importance of its commitment to human rights and due process guarantees. When these are lacking, even well-planned efforts can fail to achieve their intended aim.

A case in point is the effort to provide protection for civil society leaders at risk because of their work on behalf of democracy and human rights. The protection program works with the Ministry of Interior to evaluate the risk faced by threatened human rights workers, union leaders, and local government officials and makes and implements recommendations for protection measures. The program was initially controversial because potential

beneficiaries were suspicious of funding provided through Plan Colombia. Over time, acceptance has grown; as of February 13, 2004, 3,364 individuals had benefited.¹⁰⁰

But while the program has increased security for individuals, it has been criticized for failing to address the broader issue of accountability for attacks and for significant operational problems.¹⁰¹ In some cases, these difficulties have contributed to the program's inability to protect threatened activists. To cite just one example, on January 12, 2003, presumed paramilitaries killed Enoc Samboni, a community leader from Cauca who was participating in the protection program. According to a coalition of human rights NGOs, the protection program has "played an important role in specific cases to safeguard the life and integrity of some people ... but has not developed a strategy for the program or policies that address the causes of risks."¹⁰² President Uribe's recent attacks on human rights defenders clearly reinforced skepticism about the government's political will to stop attacks on civil society leaders.¹⁰³

The EWS raises a different issue. From June 2001 through August 2002, according to official reports, 150 alerts were emitted, and the security forces responded to 107.¹⁰⁴ As of early 2004, the cumulative figures were 220 alerts and 170 responses.¹⁰⁵ The number of responses, however, fails to indicate the lag time between alert and response. Early in the implementation of the program, USAID circulated charts that showed a minimum two-to three-month lag time before any action was taken, and central government authorities and the security forces had a long history of ignoring warnings about pending atrocities.

Recommendations by human rights activists to sanction military authorities if they failed to respond to an alert were not accepted. Although the director of the EWS asserted that the system had saved 90,000 people from being victimized, it was impossible to evaluate the claim because no actual results indicators had been developed.¹⁰⁶ Still, the program benefited from the personal credibility of Public Ombudsman Eduardo Cifuentes. It did provide a mechanism for alerting authorities about potential atrocities, and it came to be seen as a positive step by international agencies.

Under President Uribe, however, the clearly preventive nature of the program is perceived to have been lost. Now, EWS issues "risk assessments" instead of alerts, and they are reviewed by a committee that includes the Ministry of Defense. U.S. and Colombian authorities assert that the committee is a mechanism to ensure a more effective response.¹⁰⁷ But some staff at the Office of the Public Ombudsman, and many in the human rights community, believe that the presence of the Ministry of Defense in the process has fundamentally altered the nature of the EWS. Instead of the EWS serving as a mechanism to ensure that the security forces act, the power of decision is again in the hands of security forces.

Some believe that the EWS has become an intelligence gathering tool for the military.¹⁰⁸ As of February 13, 2004, the EWS had issued a total of 104 risk assessments to the review committee, and it had in turn issued only thirty-seven alerts to local authorities to take preventive action.¹⁰⁹

A third example of the vulnerability of human rights initiatives in Colombia is the deteriorating ability of the Office of the Attorney General to investigate and prosecute human rights cases since coming under the leadership of Luis Camilo Osorio in July 2001.¹¹⁰ Since 2000, the U.S. Department of Justice has invested more than U.S.\$25 million in training, equipment, and the creation of satellite human rights units designed to facilitate the investigation of cases. However, many key justice officials who worked on sensitive human rights cases, including many who were trained with U.S. funds, were forced out of their jobs in the first year after Osorio assumed his position. Human rights cases that had gathered momentum under his predecessor, and are critical to the goal of severing the military-paramilitary relationship, have been severely undermined. News articles in 2004 have documented charges that the attorney general's office is infiltrated by paramilitaries.¹¹¹

While U.S. efforts to support human rights and rule of law initiatives in Colombia are clearly important, these examples suggest the limitations of efforts to create "a culture of respect for human rights" when a country's highest-ranking political leaders send equivocal messages.¹¹² Moreover, U.S. funding for these programs is extremely modest compared to the much larger security assistance program. In fact, some view U.S. assistance for human rights initiatives as a way of gaining congressional and public support for security assistance. These perceptions continue to undermine U.S. programs to promote human rights and the rule of law in Colombia.

The Government-Paramilitary Dialogue

Another issue that has raised questions about the Uribe government's commitment to human rights is the dialogue it has initiated with the AUC leadership concerning paramilitary demobilization. The Santa Fe de Ralito Agreement, signed in July 2003, is described as a peace process by Colombian and U.S. officials, who argue that removing a key actor from the conflict will save the lives of hundreds of innocent civilians. Sectors of the paramilitary movement that refuse to enter the dialogue will be targets of military action, according to the government. U.S. officials have indicated a willingness to provide resources in support of the demobilization.

If the dialogue with AUC held real promise for dismantling the paramilitary groups, it could be a significant contribution toward eliminating a major structural cause of the violation of human rights in Colombia. However, as of mid-2004 the focus was on the demobilization and social reintegration of a specific set of paramilitary fighters without affecting their

underlying structures of support, in particular their relationship with the armed forces and thus the Colombian state.¹¹³

To date, the dialogue process has not ended paramilitary violence. On the contrary, more than 600 killings have been attributed to the paramilitaries since the AUC declared a ceasefire in December 2002.

Nor is there a framework in place to ensure the return of assets illegally acquired by paramilitaries, including lands stolen from displaced populations. Instead, apparently anticipating that they will be allowed to retain their territorial gains through the demobilization process, paramilitaries have continued to forcibly displace the rural population.¹¹⁴ Colombian observers argue that the dialogue will facilitate the consolidation of paramilitary economic and political gains made over the last twenty years, including control over land in resource-rich regions of the country.

Of particular concern is the Uribe government's apparent willingness to forgo investigating the past or ensuring justice for victims of paramilitary crimes. In August 2003, the Uribe government proposed legislation to the Colombian Congress that, at the discretion of the president, would have allowed grave human rights crimes to be punished not with prison sentences but with a series of milder sanctions: preventing the violators from serving in public office or carrying arms for some period of time, limiting their freedom of movement, and requiring that they contribute to reparations for the victims. The legislation would not have ensured serious, impartial investigations or prosecutions and would not have required or compelled a truthful accounting of past actions. The bill provoked so much opposition within and outside of Colombia that the government was forced to modify it; however, a new version introduced in March 2004 also failed to meet the government's obligation under international law to respect the rights of victims to truth, justice, and reparations.

Those who would benefit from such measures include figures such as Carlos Castaño, the primary spokesman and self-styled political theorist of the AUC. Castaño is the subject of dozens of criminal cases and has more than two dozen formal arrest warrants issued against him. He is wanted in connection with the assassination of two presidential candidates and one senator, as well as multiple massacres involving the torture and death of hundreds of people. In some cases, like the Mapiripán massacre, he has already been convicted in absentia. Castaño himself admitted to many of these crimes in his best-selling autobiography. In April 2004, Castaño was the target of an assassination attempt, allegedly by rival paramilitaries, that killed six of his bodyguards. At this writing, his whereabouts are unknown.

If the legislation proposed by the Uribe government is passed, all those who participated in, collaborated with, facilitated, or failed to prevent the actions of the paramilitaries would also be spared by a less-than-thorough examination of Colombia's brutal history. As previously described, the

paramilitaries have their origin in state policy, and in spite of occasional efforts from the mid-1980s forward, the Colombian government has failed to stop the growth of paramilitary presence and power.¹¹⁵ Cases already before the courts have begun to provide details of the intimate relationship between the state and paramilitary violence. One general summoned in the Mapiripán case has threatened to reveal all he knows about the links between other military officials and paramilitarism if his trial goes forward.¹¹⁶ Ultimately, a full accounting will be the most effective, and perhaps the only, means for dismantling the paramilitary networks and finally severing the military-paramilitary link.

Other Security Measures

Since taking office, President Uribe has implemented a series of controversial security initiatives, including antiterrorist legislation that has been repeatedly declared unconstitutional by the Constitutional Court and criticized by the United Nations.¹¹⁷ He has sought to return judicial police powers to the military and to restrict Constitutional Court oversight of states of emergency. These measures would undo the advances of the 1990s in curtailing the military's autonomy and in limiting practices that contribute to impunity. At the same time, his administration is undercutting the ability of civilian oversight agencies to ensure that human rights are respected by slashing their budgets and publicly questioning their role. Public confidence in the judicial system, a fundamental component in strengthening the rule of law, has been eroded by the lack of independence demonstrated by the attorney general.¹¹⁸

At the end of 2003, the Colombian government reported significant reductions in some categories of violence—including murders, kidnappings, and forced displacement—and concluded that the overall human rights situation in the country had improved. These reported advances were attributed to the government's policies. However, it is far from clear what the long-term impact will be. Already, the policies' impact on the institutions and actors that promote and defend human rights is deeply disturbing.

Of particular concern is the practice of *señalamiento*, publicly seeking to discredit the work of human rights groups by linking them to the guerrillas. This is not new in Colombia: in 1988, the commander of the armed forces argued that human rights lent itself to political action by subversion.¹¹⁹ But whereas President Pastrana took action to penalize such statements by public officials, Uribe has embraced the tactic and combined it with judicial harassment. Detentions of human rights and civil society leaders and the judicial investigations against them have been based on unverified intelligence provided by paid informants. Organizations targeted include those that provide legal defense to individuals accused of political crimes.

The U.S. government's public silence in the face of these measures strengthens the hand of antidemocratic actors in Colombia and weakens many of the same institutions that it seeks to strengthen through its foreign aid programs.

• **Conclusion: Plan Colombia and Democracy**

A Colombian human rights organization recently observed that:

Currently it is the Congress of the United States that determines how much money goes for the war in Colombia and what the conditions are for war "assistance." It is the Environmental Protection Agency that determines the benefits of glyphosate, it is the Department of State that says whether human rights are being complied with or not, it is the Bureau of Political Affairs that says whether Colombia is or is not a regional or global threat. In this cycle of determinants, the only one who doesn't express an opinion is the Colombian Congress and it abstains voluntarily from doing so ... the blow to Colombian democracy is obvious.¹²⁰

As harsh as this statement is, however, the problem is not merely that key decisions lie in the hands of U.S. policymakers, most of whom know little of Colombia or its history. There are myriad other ways in which the implementation of Plan Colombia risks undermining democratic actors and institutions in Colombia.

For example, a continued focus on the importance of fumigation has undermined existing legal and constitutional limitations on the aerial spraying program, as well as the authority of the public ombudsman, the inspector general, the Ministry of Environment, and the courts. It also contradicts broader national development objectives. The failure to take into account the comprehensive regional development proposals of the elected governors of the southern provinces, which rely on manual eradication, weakens local government. Meanwhile, because citizen participation and transparency are lacking in the control and oversight of Plan Colombia development resources, much of the development aid does not even directly reach the affected communities.¹²¹

The cumulative effect of giving greater weight to outcome than to process is especially worrisome as counterinsurgency becomes an explicit goal of the U.S. aid package. From one perspective, real democracy in Colombia dates from the 1991 constitution. But the institutional and judicial advances of the 1990s have not fully overcome the legacy of military autonomy, much less put an end to impunity. Yet President Uribe is attempting to roll back those advances, while the U.S. government fails to use fully its leverage to defend either the achievements or those who made them possible.

Plan Colombia in its existing form will not achieve its drug control

objectives. Most likely, either coca production will increase in new areas, or sustaining the reductions of 2002 and 2003 will require a permanent fumigation campaign. Yet the collateral damage from the fumigation strategy, and from privileging engagement with the military, is undermining the consolidation of democracy and rule of law.

The moment for debate on the next phase of Plan Colombia is rapidly approaching as its initial five-year mandate comes to an end. U.S. policymakers have an opportunity to engage Colombia on restructuring the aid package for FY2006 and beyond in order to achieve lasting, sustainable solutions to the country's structural problems. That could provide an opportunity to return to the original vision of Plan Colombia, with its emphasis on rural development, social investment, and strengthening of democratic institutions and practices.

• **Notes**

1. The FARC and the ELN were placed on the list on 9 October 1997 and the AUC on 10 September 2001.
2. For detailed analyses of the armed forces-paramilitary relationship, see Ediciones NCOS, *Tras los Pasos Perdidos de la Guerra Sucia, Paramilitarismo, y Operaciones Encubiertas en Colombia* (Brussels: Ediciones NCOS, 1995), and the following Human Rights Watch reports: *Colombia's Killer Networks: The Military-Paramilitary Relationship* (February 2000); *The Ties that Bind: Colombia and Military-Paramilitary Links* (February 2000); and *The "Sixth Division"—Military-Paramilitary Ties and U.S. Policy in Colombia* (September 2001).
3. "Reglamento JC 3-10, Reservado, de 1969," army regulations cited in *Tras Los Pasos*, p. 21.
4. Ediciones NCOS, *Tras los Pasos*.
5. Drug Enforcement Administration Director Donnie Marshall, testimony before the Subcommittee on Criminal Justice, Drug Policy, and Human Resources, House Committee on Government Reform, 2 March 2001.
6. Juan G. Tokatlian, Eduardo Sarmiento, Luis Orjuela, and Carlos Arrieta, *Narcotráfico en Colombia* (Bogotá: Tercer Mundo Editores, Ediciones Uniandes, 1995).
7. See Jonathan Hartlyn, "Drug Trafficking and Democracy in Colombia in the 1980s," Working Paper no. 70, Barcelona, 1993.
8. *Ibid.*
9. Decree no. 1860 went into effect on 18 August 1989 and was declared valid by the Supreme Court on 3 October 1989.
10. Russell Crandall, *Driven by Drugs: U.S. Policy Toward Colombia* (London: Lynne Rienner Publishers, 2002), p. 34.
11. Tokatlian et al., *Narcotráfico en Colombia*, pp. 346-352.
12. Frontline, "Drug Wars: Thirty Years of America's Drug War, a Chronology," PBS Online and WGBH/Frontline, 2000, www.pbs.org/wgbh/pages/frontline/shows/drugs/cron/.
13. *Ibid.*
14. *Revista Semana*, "La Batalla del Glifosato," no. 659 (Bogotá: 20 December 1994), p. 23.
15. Dirección Nacional de Estupefacientes, *La Lucha de Colombia Contra las*