

PRESENTATION

The present publication is the result of systematic thought and assessment, begun late in 2001, on the nature, scope and impact of the international community's involvement in past and future negotiations to settle the Colombian conflict. The project was presented by Ideas for Peace (IFP), under the auspices of the Ford Foundation. It is one expression of what the country's business community is doing to create opportunities for a better understanding of the Colombian conflict and to enhance possibilities for dialogue and negotiation.

Rodrigo Pardo García-Peña and Pilar Gaitán Pavía directed the project. Juan Manuel Osorio Acevedo served as a permanent adviser and Arturo García provided valuable support.

The project culminated with a seminar on the "International Community, Armed Conflict and Prospects for Peace in Colombia" (Cartagena de Indias, Colombia - April 25-16, 2002); preparation of a report on the seminar, which is available on the IPF web page; and four working documents. The latter constitute the bulk of this book. The fundamental objectives of the project can be summarized as follows:

- Examine the specific nature of the armed conflict in Colombia to identify its priorities, needs and the possibility of the international community participating in efforts to reach a negotiated political settlement. The idea was to evaluate the kind of specific participation that is most appropriate and makes peace more viable in the future.
- Identify and examine the overriding perceptions and concerns of the countries involved in the Colombian peace process, specifically in terms of actual developments and prospects for reaching a settlement. In this sense, the goal was to recognize how the United States, Canada, and the European and Latin American countries perceive the conflict and their approach to its dynamics, the behavior of those involved, topics for negotiation and their relation to the new priority issues on the world agenda. The perceptions and approaches adopted by these countries can influence and/or determine how the international community participates in the process.
- Assess the new international scenario in light of the tendency towards globalization and based on a perspective that is political, legal and cultural, as well as economic. In this case, the objective was to examine two specific manifestations of this process: namely, the establishment of supranational justice and – after the events of September 11 - the formation of a global alliance against terrorism.
- Gauge the concerns and fears of Latin American countries, mainly Colombia's neighbors, as to the course of the country's internal armed conflict and its possible side effects (spillover).

- Furnish qualified information on the primary objectives of the project to the academic community, policymakers and civil society in countries that somehow have been involved in the Colombian peace process.

Four work groups were created to conduct the project. Each focused on one of the four general objectives. These were small groups, comprised of a coordinator and two or three additional members, all of whom have the proper academic credentials and sufficient knowledge of government instances. Also, they are opinion makers in their own countries and in their fields of expertise.

Group No. 1: How the International Community Can Participate in Addressing the Armed Conflict and the Peace Process. **Coordinator: Eduardo Posada Carbó.** Members: Ana Guadalupe Martínez and Augusto Ramírez Ocampo.

Group No. 2: Perspectives and Concerns of Participating Countries with Regard to the Armed Conflict and the Peace Process. **Coordinator: Michael Shifter.** Members: Miriam Kornblit and Joaquín Roy.

Group No. 3: Globalization, International Justice, the Armed Conflict and the Peace Process. **Coordinator: Carlos Vicente de Roux.** Members: Robert Goldman and José Miguel Vivanco.

Group No. 4: Regional Security, the Armed Conflict and the Peace Process **Coordinator: Alfredo Rangel.** Members: Harold Klepak, Daniel Pécaut and Francisco Rojas.

Mónica Hirst, Sofía Macher, Ana María Salazar and Joaquín Villalobos contributed at this stage of the project with written contributions submitted respectively to work groups 2, 3, 4 and 1.

Besides being the basis for the documents published in this book, the work of these groups provided a fundamental frame of reference for successful deliberations at the final seminar, which was attended by prominent experts and members of the academic community in Canada, the United States, Europe and Latin America. Representatives from the embassies of the countries that have taken part in negotiations up to now were in attendance, as were representatives of Colombia's major presidential candidates. A list of participants is provided at the end of the book.

Neither the success of this process, nor the proposals and possible lines of action suggested for stronger, more coherent and effective participation by the international community in the search for peace and national reconciliation would have been possible without a clear-cut commitment from those who accompanied the project, particularly the Executive Committee of Ideas for Peace. Also crucial were the interest and valuable academic and economic support shown by the Ford

Foundation, and the logistics and administrative support supplied by IPF, particularly by Sandra Fonnegra and Silena Mendéz, who made sure the final event was not only pleasurable and friendly, but also conducive to work and reflection.

Knowing how important it is to circulate this material appropriately and effectively, in order to reach a large number of readers, IPF has joined forces with the magazine *Cambio* and the publisher Alfamega Colombiana S.A. to make this publication part of the *Books for Change* series.

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INTRODUCTION

Systematic consideration of what the international community has done and could do to promote a political settlement to the armed conflict demands an analysis of several major issues, as does progress towards the development of proposals to make the search for peace viable. The international community's participation is irreversible, given its growing presence in negotiations to date and because of the international components of the conflict (its link to the drug traffic, human rights violations and infractions of humanitarian law, environmental devastation, migration, forced displacement, etc). The Pastrana administration's support of "diplomacy for peace" is also a factor, as is the increasingly generalized and firm belief in Colombia and internationally that participation of this sort in future negotiations is both necessary and appropriate.

However, regardless of the consensus, it is important to stop and examine the particular merits and advantages of international participation, and its difficulties. This is especially crucial if the idea is to internationalize a political settlement to the conflict in a positive way and to avoid internationalization that could have a "perverse effect" on how the Colombian armed conflict is addressed and eventually settled.

It is also essential to be clear about what is meant by the "international community". This concept can be ambiguous or even erroneous. It seems important that the definition include both formal and informal aspects, and consider not only states and institutions within the government, but non-governmental organizations, institutions and international public opinion. Accordingly, the international community cannot be regarded as a monolithic and static whole. We must identify and define individual actors and be aware of the agendas and interests that prompt international agents to participate.

Another fundamental task is to define the nature of the armed conflict in Colombia. Given the new national and international environment, we must reconstruct the history of the conflict and examine its "subjective agenda". It is also important to study its territorial and primarily rural nature; to analyze its territorial expansion and capacity to permeate local power structures; and to evaluate its political origin and considerable transformation over the last ten years.

The longevity, complexity and constant worsening of the conflict make it extremely confusing in the eyes of the world. A discussion to define the adversary's status is clearly urgent, as an exercise in sovereignty for Colombians. The country is still debating the legitimacy and representative nature of the armed actors and their position as spokesmen for the social changes that are needed, and if they should be instituted by the state, regardless of whether or not political negotiations are ongoing. Likewise, we must remember that a settlement to the armed conflict will not, in itself, bring about social peace. The state must take immediate steps to institute the structural reforms required by the critical economic, social and political

situation in which the country finds itself. Until now, these reforms have been inconclusive and delayed. And, it must do so without depending on an eventual political process of negotiations with the armed actors in the conflict.

In this sense, defining the nature of the conflict must not be conceived as merely an academic exercise. It has legal consequences and, above all, political ones of considerable magnitude. The way the conflict is defined affects the position and terms of any commitment by the international community to subsequent negotiations.

This approach is particularly valid when considering that both guerrilla organizations: the FARC and the ELN, have been classified as terrorist groups by the US Department of State, as have the United Self-defense Forces of Colombia (AUC). The European Union has also classified the AUC and the FARC as such. Accordingly, what we have is an opportunity to redefine the objectives of negotiations with the guerrillas and to indicate the purpose behind an end to the armed conflict: demobilization, laying down of arms and reintegration into society.

This implies strengthening the state and its institutions, which somehow goes against the idea of a negotiated political settlement to the conflict. It is, therefore, necessary to support the state's right to monopolize force and to use it, with all due respect for human rights and humanitarian law, to deal with each and every armed group operating outside the law.

The Colombian state can be characterized as weak and absent in many parts of the country, but not "failed" or "collapsed", as is the case in Somalia and Cambodia. Preservation of its institutional system, the fact that power is alternated through regular elections, and the democratic legitimacy this affords cannot be ignored. The circumstance of weakness or strength in which the state interacts with the international community also determines how the latter participates and the sort of action it would undertake in the event of "humanitarian intervention".

Another relevant topic proposed for consideration involves building a frame of reference with a series of principles and basic rules to guide the international community's participation in helping to settle the conflict. In this sense, the international community is invited to take systematic stock of its participation up to now and to rethink the means and scenarios it has used. This frame of reference should include a specific assessment of the role played by various governments and organizations, particularly the United Nations, in negotiations with the FARC and the ELN during the Pastrana administration. The government did not always define this role clearly or coherently, as it was unable to establish the mandate and scope of international participation with any degree of precision.

The foregoing frame of reference would be a starting point for designing a participatory strategy for international actors, one that is comprehensive, long-term

and has a definite agenda. Having a design for this strategy would keep it from being constructed in response to events as they occur and without the sort of basic consensus that provides a solid foundation and possibilities for success.

The strategy should seek basic points of convergence between possible participation by the United States, which would be extremely important, and participation by the European Union. Creation of an ad-hoc regional instance similar to the Contadora Group should be explored with the idea that it could play a vitalizing and highly credible role in a negotiating process. In a more permanent and decided way, the strategy should also contemplate the tools made available through multilateral mechanisms, and seek to consolidate a “special relationship” with neighboring countries, but without involving them directly in a settlement to the conflict. This standard is especially applicable to Venezuela.

A long-term strategy that is both comprehensive and coherent, such as the one proposed, must take into account the various perspectives and concerns countries have with regard to the armed conflict in Colombia and its possibilities for a settlement. This is particularly important, since Colombia is perceived as a “problem country” and an eventual threat to security and stability in the region. Accordingly, it makes sense to encourage and undertake policies and measures in conjunction with all countries whose own violence, political instability, deteriorating economic situation and rising rate of organized crime provide feedback for the Colombian conflict.

On the other hand, the strategy must not lose sight of the international community’s role in paramount matters, such as instituting new policies for hemispheric defense and security, and its actions and stance on globalization of justice. This last issue has acquired special momentum in terms ensuring respect for and compliance with democratic values, observance of the basic principles of international law, and acceptance of binding decisions pronounced by international courts. The growing importance of international judicial cooperation among nations can affect an ongoing peace process and considerably reduce the margin of tolerance for the impunity that can result from a political settlement to the conflict. “Justice without borders” has acquired special force and obliges us to confront an overwhelming reality: the clamor for trial and punishment of serious human rights violations and infractions of humanitarian law.

As to the subject of international mediation, selecting a mediator of the highest caliber and political representation is crucial, as is an opportunity for the mediator to fulfill his or her mandate. In any case, mediation must be armed with persuasive ability, force and credibility, plus the necessary guarantees and internal and external support to accomplish its mission. A role for the United Nations and its Secretary General appears to be the most advisable course. It could be supported by a group of countries friendly to the Secretary General, who would act under his coordination, lending plurality and greater political force to the task and largely ensuring the coherence of his actions and statements. The United Nations

agencies in Colombia, such as the Office of the High Commissioner for Human Rights, can also be fundamental in this respect. The High Commissioner's mandate should be enlarged specifically to include his support in an eventual process of mediation.

In this context, an increase in the international community's presence and participation in Colombia poses enormous challenges to the country's diplomacy, ones to be examined in depth and properly assessed. International initiatives to help settle the armed conflict would have to be part of Colombia's foreign policy and must not operate as "loose canons." Also, they would have to be implemented by officials who are properly trained for the task and qualified to cope with the variety of fronts now required by the broad and inclusive definition of the international community.

Efforts to modernize the Foreign Ministry and to professionalize the foreign service must focus on developing a capacity to respond to new challenges as they arise. These challenges involve a complex range of issues and interests, many of which are related to Colombia's domestic conflict.

Finally, it is helpful to have a senior government office working in close cooperation with the Ministry of Foreign Affairs to compile a record of the experience acquired in past negotiations and to institutionalize the management of future talks. It should be headed by the President of Colombia and comprised of prominent experts.

Ideas for Peace Foundation

1. Types of participation of the international community in the armed conflict

Prior to a systematic reflection on the participation of the international community in the Colombian armed conflict to the date and in the future, it is necessary to study in depth certain central topics. This preliminary studies would help such reflection produce viable proposals in the search for peace. With this in mind, eight main aspects were discussed.

First of all, the participation of the international community seems irreversible given its increasing presence in the processes held up to now, the international factors of the conflict (its links to the illegal drugs phenomena, Human Rights violations and infractions to the Humanitarian Law, environmental impact, migrations and displacement of people, etc.) and the impulse it received from the “Diplomacy for Peace” policy during the Pastrana administration. It was also stated that both internally and externally the involvement of the international community in eventual future negotiation processes is increasingly being considered necessary and convenient.

Even though there is apparent consensus in regard to such participation, it is also fundamental to think about the benefits, advantages, limitations and difficulties attached to such involvement. This revision is of utter importance in the seek of a positive internationalization of the political solution to the conflict and to avoid an internationalization with “perverse effects” for the management and the resolution of the armed confrontation in Colombia.

Second, it is considered imperative to define as clearly as possible the meaning of the concept ‘international community’, for it can be equivocal or ambiguous. Such definition should include formal and informal aspects, and account not only for States and intergovernmental institutions but also for non-governmental organizations and the international public opinion.

It was added during the debate that it is not appropriate to see the international community as a monolithic and static whole. Also, that it is necessary to identify individual actors and the various agendas and interests that could motivate the participation of the multiple international agents.

In third place, it was deemed fundamental to define the nature of the internal armed conflict. Given the new national and international circumstances it is necessary to reconstruct and examine the “subjective agenda” of the conflict. Further analysis is also required on the territorial character of the conflict and its fundamentally rural nature, its territorial expansion and its ability to permeate local power structures, and its political origin and substantial transformation in the past ten years.

The longevity, complexity and permanent degradation of the conflict makes it rather confusing to the eyes of the rest of the world. It is urgent to promote a discussion, as an act of self-determination by Colombians, to clearly define the status of the opponent. In the country, arguments still go on on the legitimacy, representation and validity of the armed actors, the social transformations required and the appropriateness of having the State implement those transformations, regardless of an ongoing political negotiation.

It was then said that the resolution of the armed conflict does not solve, by itself, the issue of social peace. The definition of the nature of the conflict is not a mere academic exercise; on the contrary, such definition has not only juridical consequences but also political consequences. Such definition will have an influence and, to a certain extent, it will determine the attitude and the terms of engagement of the international community in regard to the negotiation processes.

This reflection acquires particular relevance after the inclusion of the main two guerrillas, the FARC and the ELN, and the paramilitary force AUC, in the list of terrorist organizations of the U.S. Department of State. It must also be taken in account that the European Union took similar measures.

This reflection was seen as an opportunity to redefine the goals of a negotiation process with the guerrilla groups and to state that what is sought is an end to the armed conflict. The latter means that armed groups ought to demobilize, leave their arms and reinsert to society.

In this context, an appeal was done to acknowledge the legitimacy of the State to exercise the monopoly of force –with utter respect for Human Rights and the Humanitarian Law– to confront all the irregular armed groups. Even though the Colombian State could be characterized as weak and absent in several places of the territory, it cannot not be said to have “failed” or “collapsed” as in Somalia or Cambodia. In all cases, the preservation of institutional validity, the alternation in office through regular elections and the democratic legitimacy this provides cannot be disregarded. The conditions under which the Colombian State resorts to the international community will also determine the types of participation of the international community and the sort of actions it could undertake, for example, in regard to an eventual “humanitarian intervention” .

In fourth place, an appeal was made to build a framework with principles and basic rules to direct the involvement of the international community in the policies concerning the conflict. It was added that a careful balance of such participation is needed to reconsider the mechanisms and scenarios used.

It was then suggested that the framework proposed should include a specific evaluation of the role played by the various international governments and organisms, particularly the United Nations, in the negotiation processes during the Pastrana administration. The Colombian government has not always clearly

defined such role, mainly because it has been unable to establish precisely the purpose and reach of the participation of the international agents.

The framework proposed would be the starting point for the design of an integral, long-term and well defined participation agenda of the various international actors. The careful design of this strategy would make it solid and likely to succeed by preventing improvisation, reactive behavior and the lack of basic agreements. It was also mentioned as a complementary aspect the importance in all negotiation processes of the discretion and low profile of all international agents.

In fifth place, in regard to future negotiation processes, the following proposals were advanced: to look for coincidences between an eventual participation of the U.S. and the European Union; to create a regional *ad-hoc* committee similar to the Group of Contadora to play an energizing and good-will role in a negotiation process; to resort more decidedly and permanently to the tools supplied by multilateral mechanisms, and to devise a "special relation" to be applied to neighboring countries to keep them from involving directly in the resolution of the conflict. This last criterion would apply particularly to Venezuela.

In sixth place, on the topic of international mediation, though no significant progress was made on the specific features of such mediation, it was pointed out the crucial relevance of an adequate selection of the mediator and the guarantees for him to accomplish his task. In all cases, mediation ought to count with persuasiveness, strength and credibility, and all the guarantees and support, both internal and external, to accomplish its task. The U.N. and its general secretary were considered the most suitable to assume this role. The support of specialized organisms within the U.N. like the Office of the High Commissioner for Human Rights could prove to be fundamental.

In seventh place, attention was called to the challenges that a widespread presence and participation of the international community present for Colombian diplomacy. It was said that these challenges ought to be studied in depth and properly considered. International actions related to the negotiation of the armed conflict must be an integral part of the Colombian international policy not to become a 'loose wheel'. Such actions should be conducted by state officials specifically trained and able to adequately cover the multiple fronts required by today's ample and inclusive concept of international community.

The modernization of the Colombian Ministry of International Relationships and its external service must seek to develop abilities to meet the new, incoming challenges, which demand attention for a complex variety of topics and interests, many of which could be related to the internal conflict.

A final recommendation was made to create a branch office of the highest level, lead by the President and closely coordinated with the Ministry of International Relationship. This office would be trusted to experts of recognized experience and

professional qualities. The purpose of this office would be to introduce the past experiences, build a memory of the various negotiation processes and institutionalize the management of the negotiations that could take place in the future.

2. Perspectives and concerns of the international community in regard to the armed conflict and the peace process

This section of the seminar began by acknowledging the serious and growing concern in the countries of Europe and America over the Colombian conflict. Such concern has deepened after the breakdown of the peace conversations with the FARC in the past month of February.

In neighboring countries, disquiet arises mainly from the increase in the production and traffic of illegal drugs, the expansion of violent acts and criminality beyond borders and the growing number of displaced people. There is also unease in regard to the role of the United States in the conflict and the emphasis put on military aid. For a considerable number of Latin Americans, such emphasis reduces the space for an effective diplomatic action tending to solve the conflict. They perceive the emphasis placed on fighting drug traffic and terrorism as counter-effective.

The European countries, as well as Canada and the U.S. have also expressed their concern over the implications of the worsened economical situation, the high rates of kidnapping and insecurity, and the violations of the Human Rights perpetrated by all actors. In addition to this, even though there is great admiration for the strong democratic tradition in Colombia, there is also worry for the widespread corruption that undermines the various institutions.

In the United States, the versions according to which the Colombian State has "collapsed" are seen as real. This explains the harshening of the public opinion in the country and the increasing support for more authoritarian solutions.

Colombia is seen with more interest in the United States than in Europe or Canada. The three countries in Latin America more closely involved in the Colombian conflict are Cuba, Mexico and Venezuela. For other South American countries like Brazil, Colombia is important but not a priority.

The general feeling was that the Pastrana administration did not sufficiently committed itself in an effort to engage other countries in the support for the peace process. Several countries have good will but they require clearly defined functions to play an effective role.

Even though other Latin American and European countries understand the big differences between the Colombian challenge and the situation in Central America during the 1980s, permanent reference to the Contadora model is made. In spite of

the difficulties the United Nations had in its recent efforts to help in the peace process in Colombia, there is consensus on the usefulness of getting this organization to involve, through the Security Council for instance, and assume a more decisive role in the Colombian situation. It is obvious that the role played by the U.N. will depend on the focus adopted by the new government and the U.N.'s openness to accept a clear mandate for the coordination and verification of a definite peace agreement.

The climate after the events of 9-11 will also have an effect in the possibilities of such scenario. In European countries there is particular opposition to the logic associated to a "war" against terrorism lead by the U.S.

All external actors agree to point out that the institutions of the Colombian State need greater support to turn over the critical security situation. Many of them welcome the recent announcements on modernization and support for the military forces, though the feeling remains that such efforts are not enough. Certain evaluations suggest that even if the resources were to be increased four-fold they would still be insufficient.

There is also general agreement on the importance of undertaking deep reforms in the Colombian State. The resolution of the conflict implies social structural reforms and institutional reforms of considerable reach.

Considerable difficulties were made evident when discussing the possibility of incorporating the armed groups to the political system. Though such incorporation is favorable to a process of political negotiation, the growing delinquent nature of the armed groups must not be overlooked.

More attention is being given to the historical difficulties Colombia now faces, rooted to a considerable extent in a weak State with little presence in extended swaths of the national territory. Different international agents consider it convenient to provide external aid to enforce a lawful establishment and democratic institutions. This could grant a more effective participation of the international community in the political solution to the conflict.

There is ample agreement on the importance of the strategic role the United States could play. This, in spite of the diversity of opinions within the U.S. in regard to the characteristics and the opportunity of such involvement. At the moment, several political and social sectors in the U.S. are reviewing the external policy of the country. The current situation in which aid for Colombia is mainly restricted to back the war against drugs is likely to change and support could be extended to fight the armed actors.

To a certain extent, this is due to the changes of perspective after the events of 9-11 but also, which is perhaps more important, to the breakdown of the peace conversations and the harshening of the Colombian public opinion towards the

insurgent groups. The possibility of Colombia becoming the first priority of the U.S. depends considerably on what happens in the international scenario, particularly in the Middle East and Afghanistan.

Most probably the U.S will intensify their aid in spite of the growing disquiet both in Congress and in the Bush administration in regard to the commitment in Colombia to undertake the required institutional reforms. The main concerns focus on the percentage of the Internal Brute Product assigned to security and defense matters and a legislation on obligatory military service. Attention is also given to other issues like the tributary reform.

One of the topics that raises more concern in the U.S. is the growth of paramilitarism and the alleged links between these groups and the military forces of Colombia. The A.U.C. (the organization of paramilitary groups) are seen as a sort of "Frankenstein" and the future aid the U.S. would provide for security matters will considerably depend on the concrete results achieved in the control of these groups. Probably, this will be the main commitment the U.S. will try to settle with the next administration.

As a result of the growing uncertainty in the Middle East and the recent crisis in Venezuela, oil is likely to become an important issue in the U.S. politics towards Colombia. This can already be sensed in the budget request advanced by the Bush administration which includes an entry of nearly US\$100 to protect the oil pipelines. There is some disquiet on the perspective of setting a precedent leading to an endless involvement.

It was mentioned as a central point that possibilities of agreement on major points between the U.S. and Europe in regard to the Colombian conflict are now better. It is worth remarking that the attitudes of the different European countries are rather varied. For instance, Spain's viewpoints seem to be the closest to those of Colombia and the U.S., in regard, for example, to the Colombia Plan. As a matter of fact, many Europeans still hold serious doubts and reserves on the military emphasis of the U.S. policies and would prefer more political commitment and support for a negotiated solution.

There are also differences, particularly between the U.S. and Europe, on the importance of co-operation for the defense of Human Rights and the promotion of programs for social development. A debate was proposed to discuss if, in the scenario of a large scale growth of the confrontation, several countries of the European Union would decide or not to step aside and disengage from the Colombian conflict.

The events of 9-11 have not had a relevant impact on the attitudes of the European countries towards the Colombian conflict, except for the Spanish government. Most European countries still think the Colombian conflict is more closely related to structural inequities than to drugs or terrorism. In spite of certain changes in the

official discourse, wide portions of the European opinion remain skeptic on the terrorist factor for the Colombian case.

Most of Latin America, including governments and NGO's, is worried by the worsening of the political and social situation in Colombia. In Brazil, for instance, concern and analysis on the Colombian situation has grown, particularly on the drug traffic issue. Such interest and concern spreads to all the neighboring countries.

Even though the countries of the region have adopted policies to protect themselves from the contagion effect given the overflow of the conflict, there has been little intra-regional co-operation.

In this context, the Venezuelan crisis might bolster an agreement among the neighboring countries to design and develop, jointly with Colombia, a regional strategy to address the various frontier problems. Finally and given the current increasingly sensitive and complex hemispheric scenario, the United States ought to undertake a role as a catalyst to promote understanding and co-operation by exercising its leadership and promoting constructive and mutually agreed processes for the region.

3. Globalization, international justice, armed conflict and the peace process

The ongoing globalization process, which has become particularly evident during the last decade, has consequences that go beyond strictly economic matters. The international community calls for respect and the adoption of democratic values, the observance of the basic principles of International Law and the acceptance of the inclusive decisions of the international tribunals. Such demands could be fundamental to determine the international participation in the internal armed conflict in Colombia.

The importance gained by international judicial co-operation could have an effect in the peace processes and considerably reduce the margin of tolerance for the impunity a political solution to the conflict might produce.

The relevance of "Justice without borders" now days confronts us with a striking situation: the clamor for the prosecution and punishment of those responsible of serious violations of the Human Rights and International Humanitarian Law.

Several examples illustrate the worldwide efforts to end impunity: national legislations that give the most serious violations of Human Rights a supra-national treatment as in the cases of general Pinochet and the prime minister Sharon, the creation of *ad-hoc* courts for Rwanda and former Yugoslavia to deal with cases like the indictment of the chief of government Slobodan Milosevic, the agreement to establish a court in Sierra Leona and the constitution of an International Tribunal.

All of this is directly relevant to the humanitarian crisis in Colombia, which deeply worries the international community and is one of the priorities of the organisms in charge of defending Human Rights. Given the situation, it is necessary to design a justice scheme that takes in account the demands of globalization, looks into the specificities of the Colombian case and acknowledges the impossibility to clarify and punish all the events related to political violence. It is of utter importance to trust the prosecution and punishment of those responsible of atrocities to Colombian courts. International justice should serve as a complementary promotion factor.

As a general framework, Humanitarian Law was considered to be the appropriate criterion to establish the limits of what could be pardoned. Thus, serious violations of the International Humanitarian Law cannot be pardoned and forgot, while acts of violence that do not infringe it could be.

In first place, within that framework, a proposal was advanced to grant an ample amnesty to crimes that do not infringe the International Humanitarian Law. Such amnesty would include rightful war actions: political crimes (rebellion, mobbing, sedition), homicide in combat, collateral damage and destruction of civilian properties if they are not excessive. It was mentioned that such amnesty could not ignore the victims of those crimes and their rights to future reparations.

In second place, attention was called to the need to undertake a committed effort to prosecute and punish those responsible of the most serious infractions to the International Humanitarian Law perpetrated in the country during the past years. For this, a proposal was advanced to select a number of cases of atrocity such as major massacres, chains of homicides out of combat, kidnappings or forced disappearances perpetrated by the same individuals or in execution of a single plan (which qualify as crimes against humanity).

In third place, a proposal was made to keep the regular mechanisms of justice functioning in regard to crimes committed within the armed conflict but that do not belong to the two previously established categories. Flexible policies would apply to the execution of the penalties promulgated in such cases. These so called "intermediate cases" must be investigated and thoroughly prosecuted. These actions should ideally lead to the promulgation of penalties against those responsible of such crimes. However, the penalties promulgated for those cases would be subject to reduction, change (turning, for example, reclusion penalties into mandatory social services), suspension or other similar measures. International Law allows reduction or suspension of penalties, as a gesture of mercy, except for certain crimes like genocide. Also, stimulus and benefits could be granted to encourage victims to take part in the prosecution processes or those indicted to co-operate with justice.

This scheme could bolster a favorable climate to investigate violations of the Human Rights and International Law. It could also promote progress towards a

closing point of the cycle of the armed conflict and its effect on the history of violence in Colombia.

Another proposal was made to create a mixed (national and international) Commission of Truth. This Commission would be a valuable extra-judicial mechanism that would serve as a complement to the regular justice administration. It could also help clarify the violent past that burdens the country and provide an *authoritative history* of the recent past of the nation.

The Commission of Truth would also help to establish the responsibility of armed groups, political and social agents in the political violence and to determine the causes of such violence. It would also help victims frame their personal dramas within the national situation and help them overcome those dramas by engaging them in reconstruction projects for the country. The labor of the Commission of Truth would favor a social climate of support for the special efforts undertaken by the justice administration to bring to trial and punish those responsible of violations against the Human Rights and the International Humanitarian Law. It would also render a great service to attorneys and judges by providing them with denouncements and proofs collected on those violations.

About the International Tribunal it was said that one of its major contributions would be delineating the border of what is acceptable and what is not within the armed conflict. The International Tribunal would have jurisdiction over war crimes and crimes against humanity like the ones that have been and are still being perpetrated in the Colombian armed conflict. However, the rules applied to international tribunals do not allow them to handle directly and in a general manner the crimes committed in Colombia. This Tribunal would then serve as a subsidiary to national courts. Hence, the intervention of the International Tribunal depends on what is done or omitted by the national justice administration. The national justice administration must be required to perform its functions to a point where any action by the International Tribunal becomes unnecessary.

Nonetheless, the International Tribunal could still play a relevant role in promoting a comprehensive investigation of the violations of the Human Rights and the International Humanitarian Law in Colombia. If the national justice administration focuses exclusively on investigating the crimes perpetrated by only one of the armed actors, that would then open the gate for an action of the International Tribunal. This scenario would have the national justice administration reformulate its schemes of investigation and prosecution.

Also, meanwhile the armed conflict comes to an end and a negotiated solution is agreed, the International Tribunal could also help prevent and persuade the armed actors from committing violations against the Human Rights and the International Humanitarian Law.

During the debate, certain criticisms and observations were addressed to the proposal presented. Mainly, these criticisms and observations pointed out that the achievement of peace is hardly viable without tolerating high levels of impunity. Nonetheless, emphasis was made on how total impunity cannot be the price for peace.

The group proposed the search of an intermediate road, ethically acceptable and politically viable, leading to a negotiated solution to the conflict. Such alternative ought to take in account international judicial standards and the commitments acquired by the Colombian State.

A final challenge was stated: the question on how to develop future mechanisms of justice that have a sensible effect on the behavior of the armed actors, enforcing respect for Humanitarian Law and preventing the degradation of the conflict.

4. Regional security, armed conflict and the peace process

Amidst globalization, the weaknesses and flaws on security matters of a sole actor could have global consequences. It is thus required, given the international world system, that solutions to conflicts of considerable reach, like the ongoing confrontation in Colombia, include both local and global alternatives. This should reflect in legitimate agreements based on the international system.

After the end of the cold war and contradicting all predictions, the number of conflicts worldwide doubled. The post cold war era turned to be much more violent than expected.

In contemporary geopolitics, the hegemonic position of the United States in all areas and the unilateral character of its international politics are rather evident. That is why the viewpoints, threats and challenges of the new security agenda reflects those of the U.S. These threats are now related not only to state governments but mostly to non-state actors like terrorist groups and networks that support international organized crime.

One of the main current worries of the U.S. is the possibility of terrorist organizations having access to massive destruction weapons and using them against its internal security. That is why such possibility has become a central concern and a priority in the global fight against terrorism.

It was stated that the probabilities of having the U.S. projecting its internal tensions and directly intervening abroad are scarce, as long as the U.S. and its allies in the center do not think that countries in the periphery are supporting terrorist groups that threaten their security or that the decisions made by the governments of those countries affect the supply of natural resources essential to their survival.

It was also said that the biggest regional menace are anti-governmental armed groups financed by delinquent activities like kidnapping, extortion, drug and arms traffic. Of such groups, those which do not directly threaten the U.S. –as happens with the FARC– would not receive the same attention or treatment given to terrorist groups in Asia or the Middle East.

It was also discussed how the events of 9-11 served as a catalyst for the already existing trends in the security policies of the Bush administration. It was stated that 9-11 provided arguments to support the thesis that the attention and the resources of the U.S. should focus on “rogue states” and terrorist groups with access to massive destruction weapons. Latin America is not a real menace for the U.S. and it is therefore predictable that in the medium and long term major pressure will not be focused on this region.

It was then made clear that the concern of the U.S. on Colombia is mainly rooted in the fact that 80% of the cocaine and the heroine consumed in North America comes from this country. Attention is then centered on drug traffic and the so called “narco-guerilla”.

On this same topic, it was then suggested that a drastic increase of the military U.S. aid for Colombia is not likely to occur. The military package for the year 2000 has been and still is controversial due to the possibility of it being the starting point of a worsening of the conflict, which is associated by some to the Vietnam war. Restrictions and conditionings like Human Rights requirements or a roof for the presence of U.S. militaries in Colombia were introduced precisely as a response to that controversy. It was then made clear that ongoing debate on the military assistance for Colombia focuses on three main issues:

First, the increase of the assistance given to Colombia to fight drug traffic. Chances of a considerable increase of such aid are small for initial results are being impeached as well as the effectiveness of the programs for crop destruction and alternative development.

Second, the authorization to use the resources provided and the Colombian trained personnel against the guerrilla groups. Rules might become flexible on this issue for it is almost impossible to separate drug traffic from the activities of the armed groups.

Third, the search of other mechanisms to help Colombia more effectively in the fight against armed groups. It is not likely that an important anti-insurgent aid is provided as North American legislators hold serious doubts on the effectiveness of such aid and on the ability to prevent and punish violations against Human Rights.

Also, it was stated that there is growing support for the thesis that the efforts on security matters done by the Colombian state are insufficient. According to this thesis there is a lack of financial commitment and the budget for security matters

ought to be increased. A debate on the obligatory military service also took place. It was pointed out the importance of such service to include all social classes for it to have a wider reach and a democratic character. Within this same line, the need of promoting a civilian commitment on security matters was remarked.

Enforcing the military institution and providing professional training for its members is a part of the consolidation of the State as a whole; these are basic tools for the preservation of democracy. These processes are not opposite to the search of a negotiated solution; on the contrary, they are fundamental to recover the legitimate use of force and to open the path towards a peace process.

A reflection was made on the importance of evaluating the agenda designed by the U.S. and adjusting it, as much as possible, to the interests of the region. It must be taken in account that the emphasis made by the U.S. might not be useful or convenient for Colombia.

On a sub-regional scale analysis, it was first stated that Colombia endures a complex internal conflict involving several actors, which has produced one of the biggest humanitarian crisis in Latin America. The domestic dynamics of the conflict, particularly its growth and degradation, has had a significant impact in the political and military relationships with the neighboring countries. The collateral effects of the armed confrontation, that is its consequences beyond national frontiers, is a proven fact. Also, the place Colombia has in the international chain of illegal drugs production puts a spotlight of concern and attention on the country.

It was asserted that Colombia ought to do an important effort to prevent the conflict from overflowing its frontiers. It was thus affirmed that, in order to avoid a polarization and militarization of the relationships among states, which could lead to an internationalization of the conflict, it is mandatory to take preventive measures. Specifically, it is advisable to take measures to increase mutual trust and inter-state security in order to establish early alert mechanisms to avoid unwanted confrontations between Colombia and the neighboring countries. Also, it would be important to create a multilateral bureau to assume the leadership on this issue as a pre-active mechanism to reduce tensions and prevent or neutralize eventual conflicts.

In regard to the view of Colombia as a threat for regional security, it was asserted that in real terms that would imply will and ability to cause harm, premises that do not occur in the Colombian case. Still, well-founded concerns remain over the weakness, and in some cases absence, of the State and its institutions in certain regions, particularly in bordering zones, and over the difficulties to exercise an efficient monopoly of the legitimate use of force. However, it was made clear that Colombia is far from being a “failed state”.

An analysis on the possibilities of the application of “external solutions” lead to affirm that such solutions are not viable nor convenient. The Colombian

government, as much as Latin American countries, has been emphatic in proclaiming that a military intervention in the country would be inappropriate. The U.S. also seem unwilling of a direct intervention; neither do international organizations visualize a solution of this kind. It was emphasized that in the international political scenario a direct military intervention is not seen as an acceptable option. Other kinds of intervention are encouraged to protect, by democratic means, what seems to be desirable for society.

When discussing regional security matters, it was affirmed the existence of a 'mixed bag' of responses from the different countries. For instance, even though Brazil gives particular attention to the Amazonian Colombo-Brazilian frontier, afflicted by the traffic of drugs and arms, this country does not consider regional security matters, seen as a whole, as a priority in its security agenda. For Ecuador, the border with Colombia –where considerable traffic of explosives, ammunition and supplies for drug production takes place– is a priority for the armed forces; even more so given the incursions of the FARC into Ecuadorian territory.

In Panama, even though insurgent and paramilitary activity has caused considerable harm and deaths in the scarcely patrolled frontier zones, the armed forces of the country have serious difficulties to handle this matter with the resources available. In Peru, regional security matters are a main concern and are most likely to raise national interest. The situation in Colombia is a source of concern for Peruvians.

Venezuela has included the frontier with Colombia in its main security issues. Co-operation in regional security matters is at the same time limited by the continuous messages the Venezuelan government receives from Washington. Colombia is central for Venezuela's security politics. On the guerrilla issue, ambivalence and pragmatism are the predominant trend among some sectors of the Venezuelan military forces.

It was affirmed that even though Colombia does not considers itself as a threat to its neighbors, they do regard the country as a problem. Also that neighboring countries are a factor of Colombia's security, so long as illegal activities in those countries feed the internal conflict. It was made evident the need to build strong, integral relationships with the neighboring countries, acknowledging shared problems and looking for joint solutions.

The need of acting conjointly to define a regional security agenda was pointed out, together with the importance of advancing proposals to make effective the treaties, agreements and mechanisms for regional co-operation to prevent them from becoming, as it is now happening, merely formal documents.

Emphasis was made on how bilateral efforts to address these issues are not enough and that multilateral actions are required (conducted by regional groups, for example). For this, an appeal was made for the creation of an *ad-hoc*

committee of the highest level to address the problems and define common goals. Also, the inclusion of all regional actors was considered desirable: “more globalization, more multilateralism”.

About the Colombia Plan it was said that it has shown limited capacity to effectively articulate itself with wider efforts. These limitations make it unlikely to become a decisive factor to change the logic of the internal conflict. Although it was said that it is too early to evaluate its effectiveness, many participants had no doubts in calling it a failure for they consider there has been no favorable results in the destruction and substitution of crops, which is its main component. The fear that the Colombia Plan would cause massive migration over the borders was said to have been overestimated. Also, it was brought forth how the Colombia Plan has reinforced the idea, mostly in Brazil and Venezuela, that the Colombian conflict does represent a threat to the neighboring countries.

Attention was called to the need of devising strategies to involve not neighboring countries that have shown their interest in co-operating but that deem the security issue as untouchable. Remarks were made on the importance of involving the European Union in the security issue without this having implications in the specifically operative military field. The co-operation of the European Union will be fundamental in topics like air clearance as an alternative to fumigations, assets laundry, the lifting of financial secrecy policies, exchange of proofs, support for combating paramilitaries, the social reconstruction of the country and backing for institutional development. It was added that the scheme “U.S. war aid, Europe peace aid” is an oversimplification and draws a false disjunctive.

On other matters, it was affirmed that even though the Colombia Plan has had a direct effect in the growth of the Colombian armed forces, regional balance remains safe and sound. Such growth does not worries Brasil or Peru, and, up to now, has not raised any reaction in Panama or Ecuador. However, it does raise concern in Venezuela.

Finally, it was said that the diversity and complexity of the described panorama demands the construction of new opportunities in a context full of difficulties. For this, it was pointed out as an important challenge to explore new options for co-operation in security matters. This demands attention for the trends that somehow have an effect on the action fields within international security matters, given the new events and the ability to correct the spotted flaws.

The following were mentioned among the causes that explain the lose of opportunities: the maintenance of self-referential geopolitics in the Andean area, weakness to put into action the political discourse and the will to consolidate an institutionalized peace, the lack of coordination and the institutional insufficiency in security matters for the region within the global context and in organizations like the OAS or the UN, distrust among Latin Americans and between Latin America and the United States, the inertia of the prerogatives and spaces of the armed

forces, institutional weakness and the lack of compromise to articulate the statements in an inclusive mandate.

I. How the International Community Can Participate in Addressing the Armed Conflict and the Peace Process.

Coordinator: Eduardo Posada Carbó. Members: Ana Guadalupe Martínez and Augusto Ramírez Ocampo.

Introduction

When the crisis in January, 2002 – which anticipated the breakdown in negotiations between the Pastrana administration and the FARC - appeared to have been overcome, *El Tiempo* published an inventory of what had happened, plus a series of interviews with a number of the country's leaders. According to the report, "all those consulted mentioned international participation as a major gain derived from the process."¹ One month later, when the breakdown in negotiations with the FARC was announced, President Andrés Pastrana stated that one of his administration's achievements was having included "for the first time in Colombian history, the entire international community in our peace process."

What form did the international community's participation take during the peace process launched by the Pastrana administration? How might the international community participate in the future, particularly during the Uribe administration? Will it be in the interest of renewed negotiating efforts or with continuation or aggravation of the armed conflict? These questions sum up the principal topics discussed by the members of the work group. Their proposals are summarized in the following paragraphs and contained in separate documents that answer a series of questions on these topics, which were complemented by a discussion held on March 23 in the city of Bogotá². In addition to summing up the positions of the group members and making additional comments, I would like to venture some thoughts on aspects that I believe warrant more attention. I have also included several bibliographic references that were helpful in preparing this report.

Before delving into the main topics, the group carefully examined some of the conceptual elements that provided a general framework for the discussion: namely, the nature of Colombia's domestic conflict, a definition of the "international community" and the principles by which its involvement in Colombia's problems should be guided. This document begins, therefore, with the discussion of these points.

1. The Nature of the Conflict, the International Community and the Principles for its Participation

¹ "Lo que dejó la crisis" (The Aftermath of the Crisis), *El Tiempo*, January 21, 2002.

² Arturo García, Executive Director of IPF, and Juan Manuel Osorio also took part, in addition to group members Ana Guadalupe Martínez and Augusto Ramírez Ocampo,

1.1 Any attempt to define the nature of the Colombian conflict eventually has deep-seated repercussions with respect to the “international community”. Defining the conflict is clearly important if the state and society remain interested in actually giving the international community more of a role in the search for a settlement. If there is no explanation of the conflict, or if the explanation is confusing, the “international community” might make decisions in the wrong direction; that is, contrary to what is supposedly the objective, or simply prefer to remain on the sidelines.³

The members of the group agreed on the particular features of the Colombian conflict; namely, its longevity and “deterioration” as a result of drug trafficking and the other criminal activities perpetrated by the subversives. These are entirely unrelated to any political motive for the conflict and are based only on a desire for profit. This “deterioration” is also reflected in the proliferation of self-defense or “paramilitary” forces, and in violations of human rights and international humanitarian law. The group also referred to the territorial dimensions of the conflict; that is, its expansion and impact on local power structures and its international repercussions, since Colombia shares land and maritime borders with a number of countries. Another outstanding feature is the predominantly rural nature of the conflict. It is important to underscore the significance of this rural component, in which the weakness of the state is clearly reflected.

Despite its political origins, we now have a conflict sustained mostly by what Paul Collier refers to as the “economic agenda”, in which its nature is identified more with “the silent force of greed” than the “loud discourse of grievance”.⁴

A more complete and precise understanding of the conflict implies an appreciation of Colombia’s democratic condition. Naturally, the guerrillas say no such condition exists, however they definitely are not fighting a dictatorship. Without denying its shortcomings and problems, the Colombian state is a complex structure based on a system of electoral representation that confers limited mandates to those who temporarily hold power in the various branches of government.

“Our democracy,” said Jesús Antonio Bejarano, “is not the best of all possible democracies, but its levels of legitimacy cannot be equated with those of the guerrillas.” He also warned about “the false game of illegitimacy”, which tends to place the guerrillas and the state on the same level of illegitimacy.⁵ The propensity to do so was evident among some opinion makers during the recent crisis and is often echoed in the certain international circles where the conflict in Colombia is defined as a struggle between two equally illegitimate forces that are equally guilty of victimizing so-called “civil society”.

³ See Michael Ignatieff’s book *The Warrior’s Honor. Ethnic War and Modern Conscience* (London, 1999).

⁴ Collier, Paul. “Doing Well Out of War: An Economic Perspective” in Mats Berdal and David Malone, Eds. *Greed and Grievance. Economic Agendas in Civil Wars*. Boulder and London, 2000. Pg. 101.

⁵ Bejarano, Jesús A. *Una agenda para la paz. Aproximaciones desde la teoría de la resolución de conflictos*. Bogotá, 1995, pg. 138.

The group members underscored the enormous complexity of the Colombian conflict in their written replies and during the discussion. Yet, regardless of how it is defined, the conflict is not foreign to the interests of the “international community”. As Augusto Ramírez Ocampo noted, it involves three important topics on the world agenda: the war on drugs, defense of human rights and international humanitarian law, and environmental protection.

The attitude of the “international community” will depend on how the conflict is defined. Therefore, different definitions will spawn different formulas for finding a solution. If, as stated by the United States Assistant Secretary for the Western Hemisphere, “there are no insurgents” in Colombia,” only “criminals and terrorists financed by the drug traffic,”⁶ the policy to follow will perhaps be very different from the one suggested by the Secretary General of the United Nations. In a statement issued on February 21, he said: “Colombia’s 40-year conflict will only be resolved by a negotiated solution that addresses its deeply social and political causes.”⁷ The “international community’s” attitude would also be different were the opinion expressed by United States Representative Serrano to predominate. “I don’t know who the good guys are in Colombia,” he said.⁸ This line of thinking has gained force with some opinion makers.

Before trying to resolve what is a complex topic from any angle, the message of the discussion on the nature of the conflict should be that the state and society must be clearer and more consistent in their narrative of the conflict, if the “international community” is to understand it better.

1.2 The “international community” is a vague and general concept that must be defined as well.⁹ A minimalist notion would identify it with states, intergovernmental institutions and inter-state organizations such as the United Nations. The contemporary notion now in vogue is much broader and includes non-governmental organizations (NGOs), whose international role is becoming more and more prominent¹⁰ (The Union of International Associations, a UN affiliate, recognizes 14,500 NGOs. Nearly 13 percent of all international aid to developing countries is channeled through NGOs¹¹).

The members of the group endorsed an even broader definition, one that includes international public opinion as well as states, intergovernmental institutions and NGOs. The relatively important bearing public opinion has on foreign policy

⁶ “En Colombia no hay insurgentes”, *El Tiempo*, March 14, 2002.

⁷ “A Statement Issued by the Office of the Spokesman for Secretary General Kofi Annan,” February 21, 2002.

⁸ A statement made at a hearing of the Justice Subcommittee of the House of Representatives Appropriations Committee March 6, 2002.

⁹ “The international community is not monolithic...There is no international community,” warns Fernando Cepeda Ulloa. See “Existe una política de la Unión Europea hacia Colombia?” a position paper presented at the IDB-IHEAL Seminar held in Paris on March 19-20, 2002.

¹⁰ Brown, Michael. *The International Dimensions of Internal Conflict*. Cambridge, Mass., 1996, pg. 603.

¹¹ Jett, Dennis C. *Why Peacekeeping Fails*. London, 2001. pg. 9.

decisions in western democracies definitely warrants consideration. Several authors refer, for example, to the “CNN effect” on the public’s attitude in the industrialized countries. After being subjected to televised reports on a conflict or humanitarian disaster in some “far off” corner of the world, people begin to call for “something to be done”. Naturally, it would be an exaggeration to suggest that the so-called “CNN effect” determines the course of foreign policy. However, as warned by a former US Secretary of State, it “is driven more by the daily events reported on the TV than it used to be.”¹²

A definition of the “international community” that incorporates both its formal and informal elements, public opinion included, seems to be the most appropriate. This poses even greater challenges to Colombian diplomacy, as will be discussed later. However, according to Ana Guadalupe Martínez, this definition must not be incompatible with the need for us to be more specific when referring to the “international community”. In other words, the international agents who are most relevant to the Colombian situation must be identified clearly. Individual references - whether to certain countries, intergovernmental institutions or NGOs - can be more useful than vague allusions to the “international community”. This allows, among other things, for identifying various interests and, therefore, various forms of possible participation Colombia by the “international community”.

1.3 The benefits of involving the “international community” in the search for a solution to the Colombian conflict are apparently unquestionable. There seems to be a considerable degree of national consensus on this point,¹³ with which the members of the group agree. According to Augusto Ramírez Ocampo, this participation is “fundamental” to ensuring the credibility and seriousness of peace processes and to following up on the obligations outlined in peace agreements. “Without the presence of a strong third party,” said Ana Guadalupe Martínez, “a conflict with the dimensions and complexities of the one in Colombia is impossible to resolve.” Accordingly, international participation appears to be both convenient and necessary.

Given its already irreversible presence and the international components of the conflict, such as the global nature of the drug traffic, it may be too late to address the question of whether or not international participation in the search for a solution to the Colombian conflict is appropriate, Nonetheless, the warning by certain

¹² Ibidem. Op.cit. No. 11, pg. 29. Also see Mayall’s introduction in: Mayall, James. *The New Interventionism 1991-1994. United Nations Experience in Cambodia, Former Yugoslavia and Somalia*. Cambridge, 1996. pg. 2. See what Tim Allen has to say about exaggerations of the media’s impact on foreign policy.

“Perceiving Contemporary Wars” in: Allen, Tim and Seaton, Jean. *The Media of Conflict. War Reporting and Representations of Ethnic Violence*. London and New York, 1999. pg. 38-39.

¹³ Press coverage during the critical days in January and February is proof of this fact. Also see Tirado Mejia, Alvaro. “El papel de la comunidad internacional en el proceso de paz.” In: Cepeda Ulloa, Fernando. *Haciendo paz. Reflexiones y perspectivas del proceso de paz en Colombia*. Bogota, 2001. pg. 204 and thereafter.

authors should not be ignored: international participation, including humanitarian aid, occasionally prolongs rather than placates a conflict.¹⁴

It is also wise to acknowledge the limitations inherent in any participation by the “international community “ in matters not its own. As Malcolm Deas observed, few foreigners “are interested in the fate of the country, and even fewer know it well.” In his opinion, foreigners (i.e., the “international community”) “are neither capable nor willing to contribute as much as is expected to solve the country’s problems. In the best of cases, they can do little more than help. They cannot, however, replace nationals in their efforts.”¹⁵

The members of the group warned the effectiveness and appropriateness of participation by the international community in the search for a solution to the conflict would be subject to conditions. According to Augusto Ramírez Ocampo, the role played by the international community in negotiations must : (1) have moral authority; (2) be neutral; (3) possess sufficient logistic capacity; and (4) have a field of action clearly established, in writing: facilitator or mediator, arbiter, or testimonial, or simply good works. He also believes the international community can, in no way, “become a negotiator in replacement of the parties.”

Ana Guadalupe Martínez listed some of the principles to guide international participation: (1) direct involvement in all matters that enhance respect for human rights and observance of international humanitarian law; (2) help in strengthening democratic institutions and government control throughout the country; and (3) a better understanding of the characteristics of regions where the conflict is particularly intense. This will help to define special policies on participation and the means for their eventual application.

There are no models for ideal participation by the international community in the armed domestic conflicts that have multiplied since World War II. This, however, does not imply that other experiences should be ignored. As noted by Augusto Ramírez Ocampo, those in Latin America would be the most relevant to the Colombian situation, although he also suggested taking a look at the experiences in Northern Ireland, South Africa, Angola, Mozambique and Sierra Leone.

¹⁴ “Inept intervention can prolong wars by preventing one side from prevailing (...) Interveners can also exacerbate conflict by pursuing internally inconsistent strategies.” A quote from Snyder, Jack and Jarvis, Robert. “Civil War and the Security Dilemma” in: Walter, Barbara and Snyder, Jack. *Civil War, Insecurity and Intervention*. New York, 1999. pg. 27. Several authors also suggest humanitarian aid and peacekeeping forces can prolong war. See observations: Ibidem. Op. cit. No. 11. P. xvi and 56; and King, Charles. *Ending Civil Wars*. Adelphi Papers 308: London, 1997. pg. 55.

¹⁵Malcom Deas. “Una isla rodeada de consejos”. *Cambio*. January 27, 2002. The following is his advice: “Don’t think the presence of foreigners can produce miraculous agreements at the bargaining table. Don’t be so eager for programs and aid. In life, it is sometimes better, cheaper and quicker for you to pay the bill. Oftentimes, what outsiders offer is more advantageous for them than for the recipient.”

Ana Guadalupe Martínez believes other experiences can be particularly helpful when it comes to identifying differences more than similarities. For example, references to the Salvadoran peace process can provide some important lessons. Among the many features distinguishing it from the Colombian case, the following were emphasized as being particularly important: a questioned government whose institutions had little or no legitimacy, international solidarity with the guerrillas, who had a networks of activists abroad; extensive grass-roots support for a guerrilla organization that had not lost sight of its political objective; clarity as to the aim of negotiations being disarmament and incorporating the guerrillas into a reformed political system; and the decisive presence of the “international community” in negotiation and verification of the agreements. According to Martínez, if the “international community” is able to provide a measure of financial and technical support for observance of the agreements in a negotiating process, “it teaches, learns, audits and contributes resources in a peace process.”

2. The International Community and the Pastrana Peace Process

2.1 As Fernando Cepeda Ulloa noted in a recent position paper, the “international community” has not been absent from Colombia’s efforts to reach agreements with guerrilla organizations over the last 22 years.¹⁶ The most recent events leading up to the Pastrana initiatives occurred during the previous administration, even though there was no official peace process at the time. In his last address to Congress, then President Ernesto Samper indicated the “international community” must “not be excluded” from the search for peace. “Although the problem will have to be solved in a Colombian way, by Colombians, the participation of the international community is indispensable.”

During the Pastrana administration, this participation took a qualitative leap, reaching unprecedented proportions in terms of accompanying negotiations, a growing presence, and increased financial contributions. On June 8, 1998, during the presidential campaign, candidate Andres Pastrana outlined his plans for peace in a document that underscored the importance of “international participation” in every stage of the process, not only to help set the stage for negotiations, “but to propose understandings that could encourage negotiations, to witness to commitments and to verify their fulfillment.”¹⁷

Once in office, President Pastrana undertook what came to be known as “diplomacy for peace”. He defined this as a policy to secure “ support from the international community for the peace process, including political backing, financial cooperation and technical assistance.”¹⁸ According to Augusto Ramírez Ocampo, “diplomacy for peace” involved two fundamental tasks: (1) “recovering the prestige,

¹⁶ Ibidem. Op. cit. No. 9.

¹⁷ “Una política de paz para el cambio.” Bogota, June 8, 1998. In: Office of the President of Colombia. *Hechos de Paz*, Bogota, 1999. Vols. V-VI, pg. 34.

¹⁸ “Address given by President Andres Pastrana at the French Institute of International Relations.” Paris, January 22, 2001.

credibility and, in some cases, the very existence of Colombia's image abroad; and (2) trying to internationalize peace, not war, as part of a permanent national policy on peace." This policy met with resistance in a variety of sectors, where there was skepticism about "internationalizing" peace. In other words, the initiative implied general advocacy - even with the guerrillas - to convince people of its advantages. At this point, it is important to mention a paradox of the Colombian peace process: contrary to what seems to be the universal norm, it is the state and not the insurgency that is most interested in involving the "international community". At any rate, as Ana Guadalupe Martínez observed, the "idea that international participation in the peace process is both necessary and useful has been reinforced" in recent years. Even those who were most critical of the peace process, such as then presidential candidate Alvaro Uribe Vélez, acknowledged that "President Pastrana's biggest success was having secured international support for the peace process."¹⁹

2.2 "Diplomacy for peace" branched off in several directions, according to the different aspects of the conflict, the course of negotiations and the international agents involved. Growing participation by the international community in the search for a solution to the Colombian conflict has taken a variety of forms, via different means and different actors. This is not the time or place for a closer look at how this participation evolved in recent years. However, it is important to mention the most predominant forms of participation by the leading players.

In terms of Colombia's foreign policy, the priority was on rebuilding relations with the United States, which had been seriously undermined during the previous administration. This effort resulted in a sizable package of US aid (confused with the controversial Plan Colombia): initially US\$1 billion and earmarked largely to modernize Colombia's military for anti-narcotics operations. This assistance was supplemented with other funds from the so-called Andean Regional Initiative. After the breakdown in negotiations with the FARC and based on the new anti-terrorist policies adopted after September 11, the United States Congress debated the possibility of using anti-narcotics aid to help fight the guerrillas. The Bush administration has also asked Congress to approve US\$98 million in aid to help Colombian authorities protect the country's oil pipelines against guerrilla attack, plus another US\$35 million for other anti-terrorist activities²⁰.

The United States backed President Pastrana's efforts to negotiate with the guerrillas, but has stayed out of the country's peace efforts. At a meeting in Costa Rica in December 1998, there was an attempt to establish contact between members of the US State Department and the FARC. However, any intention in this direction ceased to be viable after the assassination of three American Indian activists at the hands of the FARC in March 1999.

¹⁹ Interview with Oscar Collazon in: Collazos, Oscar. *El poder para quién. Serpa, Sanín, Uribe, Garzón y Betancourt responden*. Bogota, 2001. pg. 270.

²⁰ The debate in Congress was ongoing at the time this document was written. See "US Seeks End to Limitations on Aid." *The Washington Post*, April 10, 2002.

Therefore, United States participation can be understood as institutional and “strategic” assistance of a predominantly military and technical nature, along with a significant measure of social assistance²¹. Critics of United States aid point to the possibility that it might intensify and aggravate the conflict. Yet, it is difficult to visualize any serious prospect for peace without a correlation of forces to persuade the guerrillas of the advantages of negotiating a settlement in which they would lay down their arms.

The European Union (EU) has played a very different role compared with the United States. The EU takes an opposite view of how to combat the drug problem, and has distanced itself from “any military initiative associated with Plan Colombia”.²² It agreed to implement a European program in support of the peace initiative, specifically with respect to defense of human rights, the fight against the causes of violence, and protection of the environment.²³ EU political support for peace efforts with the FARC - up until the breakdown in talks - and with the ELN has been voiced clearly in numerous statements. These cited negotiation as the only alternative and expressed a desire that peace be adopted as a “state policy”.²⁴

A group of EU countries served as facilitators in an attempt to create a climate of trust between the parties. For example, they hosted a tour for representatives of the FARC and the Colombian government to visit several European countries.²⁵ The European Commission was part of the so-called Support Group for the Peace Process in Colombia and EU member states were on the Facilitating Committee for negotiations with the FARC and among the so-called “friendly countries” in talks with the ELN.

Specific participation by the “international community” in the various processes for peace in Colombia has had both formal and informal components. Countries such as Venezuela, Germany and, more recently, Cuba have helped to facilitate meetings between the ELN and representatives of the Colombian government and civil society. The “international community” became officially involved in negotiations with the ELN on June 22, 2000 when the Commission of Friendly Countries was created. Its members are France, Spain, Norway, Cuba and

²¹ For a valuable summary that chronologically distinguishes the various stages in the role played by the United States, see *Ibidem*. Op. cit. No. 9.

²² “Communication from Mr. Patten and Mr. Nielsen to the Commission.” Brussels, October 12, 2000.

²³ “A Statement by the President on Behalf of the European Union at the Second Meeting of the Support Group for the Peace Process in Colombia.” October 9, 2000.

²⁴ For a review of this European demand, see *Ibidem*. Op. Cit. No. 9. A critique of the notion of a “state peace policy” can be found in : Posada Carbó, Eduardo, Deas, Malcolm and Powel, Charles. *La paz y sus principios*. Alfaomega S.A.: Bogota, May 2002.

²⁵ See: Office of the President of Colombia. *Hechos de paz. Un recorrido por Europa construyendo la paz*. Bogota, 2000. Vol. XIII.

Switzerland. Initially, this group was assigned tasks that involved “accompanying the process, conciliation, verification and humanitarian efforts”.²⁶

The international community’s involvement in negotiations with the FARC began to take shape with the so-called Los Pozos Agreement, when the parties agreed to invite “a group of friendly countries and international organizations to become familiar with the status of the process and its development, so as to encourage their collaboration.” Some 25 countries, along with the Vatican State, the European Commission and the Special Delegate of the United Nations Secretary General, comprised what was known as the Support Group for the Peace Process. Colombia’s Minister of Foreign Affairs, Guillermo Fernández de Soto, called it “a momentous invitation from the Colombian government to involve the international community in Plan Colombia and, particularly, in all that concerns Colombia’s institutional build up and the peace process.”²⁷

This participation did not become official until March 8, 2001 at a meeting held in the demilitarized zone with ambassadors and representatives of more than 26 countries. The following day, a ten-nation facilitating commission was created to “propitiate development of the process and a negotiated solution to the conflict, at the request of the parties.”²⁸ Comprised of Canada, Cuba, France, Italy, Mexico, Norway, Spain, Sweden, Switzerland and Venezuela, the commission was to be part of an even broader support group.

After the crisis in January 2002, there was another official step to involve the international community: an “agreement on national and international efforts to guide negotiations” was signed on February 7. It appealed to the Facilitating Commission, the adviser to the UN Secretary General and the Catholic Church in Colombia to provide negotiators with “permanent guidance and the benefit of their good offices.” Among its tasks, the Facilitating Commission was to assist and participate actively in meetings between the negotiating parties, to offer recommendations at their request, to help overcome obstacles, and to explore means for the international community to support any agreements reached.²⁹

As indicated earlier, this is not an exhaustive description, however, it does serve to illustrate the variety of actors and different ways the international community has participated in efforts to resolve the Colombian conflict. Other forms of involvement observed increasingly in recent years would have to be included as well, such as humanitarian assistance provided through organizations such as the International Committee of the Red Cross and the United Nations Commission for Refugees, human rights protection afforded through the United Nations office or organizations

²⁶ See “Hechos de Paz. Proceso de paz con el ELN”. www.presidencia.gov.co.

²⁷ Interview in: *Cambio*, June 26, 2000.

²⁸ See “Hechos de Paz. Participación de la Comunicad Internacional,” www.presidencia.gov.co.

²⁹ “Acuerdo sobre acompañamiento nacional e internacional a la mesa.” Office of the President of Colombia. Ancol. February 7, 2002.

such as Amnesty International and Human Rights Watch, and development efforts undertaken through institutions such as the Inter-American Development Bank.³⁰

2.3 On a number of occasions, the government expressed its intent to give the “international community” an active role in the peace process. Clearly, in negotiations with the FARC, the primary role of the “international community” was that of a “facilitator” or provider of “good offices”. In other words, it did “no more than help to involve the parties in direct talks.”³¹

However, during the January crisis, which preceded the breakdown in the peace process, representatives of the international community came close to being mediators in the effort that led to negotiations being renewed on January 20, 2000. Even so, Ambassador Julio Londoño Paredes claimed their involvement was little more than a question of “good offices.”³² At any rate, the most insistent clamor during the days of the crisis was for a third mechanism, specifically international mediation, which will be discussed later.

2.4 On the whole, the “international community’s” involvement in negotiations with the guerrillas has been, in the words of Augusto Ramírez Ocampo, “highly disorganized. Limits and means of action were lacking, as was a pre-established project or scheme to rank the participating countries by interest groups.” This disorganization “prevented possible scenarios for guidance from being used.” Nevertheless, Ramírez Ocampo says the international community’s involvement in talks with the ELN has been “much better planned and executed.”

A more profound stocktaking than ours is necessary to examine the various actors or agents involved and how they performed their particular roles. For example, as suggested by Ramírez Ocampo, the effect of participation by neighboring countries must be gauged carefully for a clear frame of reference. Although participation by the group of friendly nations has been outstanding, it does have a number of “voids and imperfections born of collective improvisation.” Coordination of the Facilitating Committee should not be a revolving task.

Specifically, it is important to take stock of what the United Nations has done, both in terms of the fundamental role it appeared to play, as well as the expectations concerning its participation in any future negotiations. With some fourteen programs being carried out by its agencies in Colombia, the United Nations has a “considerable” presence in the country. Perhaps the most important innovation with respect to the peace process was the involvement of one of the Secretary General’s special advisers: first Jan Egeland, and later James Lemoyne³³. Their

³⁰ See Jan Egeland’s remarks in his position paper published by the Woodrow Wilson International Center for Scholars. *The Peace Process in Colombia and US Policy*. Washington, 2000, pg. 78.

³¹ Berridge, G.R. *Diplomacy. Theory and Practice*. Basingstoke, 2002, pg. 188.

³² See statements in “Mediación: el as bajo la manga.” *El Tiempo*, January 20, 2002.

³³ His presence in Colombia is not the result of a “formal mandate” from the United Nations, but the “good offices of the Secretary General.” See the interview with Jan Egeland in *Semana*. August 2001.

work -"initially discreet, but always effective," according to Augusto Ramírez Ocampo - has yet to be examined in detail.³⁴

At times, this "discreet" role became more prominent. In August 2001, when Jan Egeland publicly expressed his support for renewal of the demilitarized zone, he said the search for a negotiated end to the armed conflict must become "state policy", and called for "another well-organized negotiating effort with the participation of the international community."³⁵ Early in 2002, James Lemoyne played an important role in the arrangements that led to the January 20 Agreement. Initially acclaimed by the public, his involvement later came under some criticism.³⁶

The group's members agreed the ambassadors were somewhat too prominent at the end of the process, when a more discreet stance would have been preferable. However, part of the reason is the way the process was designed. Another factor was having agreed to negotiate with the guerrillas "in front of the entire country," a process in which there was a general lack of discretion. In the opinion of Ana Guadalupe Martínez, the international community should have been less tolerant of the violations of international humanitarian law during the course of the process.

2.5 In spite of these observations, the members of the group believe the "international community's" participation in recent years in the search for a solution to the armed conflict has been positive. "Diplomacy for peace" received considerable support in and outside Colombia. Important progress was made towards modernizing the armed forces. Above all, as Ana Guadalupe Martínez says in her conclusions, the state gained what may have been unprecedented levels of international legitimacy for the use of force "as the starting point for rearranging the process".

3. Future Scenarios

3.1 The members of the group agreed that further participation by the "international community" in the search for a solution to Colombia's armed conflict is irreversible and advantageous. The dominant climate of public opinion in Colombia is favorable to increased involvement;³⁷ the same can be said of

³⁴ See the analysis by Fernando Cepeda. Ibidem, Op.cit. No. 9.

³⁵ "Declaración de Jan Egeland". Bogota, August 21, 2001; "Colombia no es caso perdido". *El Espectador*. August 30, 2001; and his interview in *Semana*. August 2001.

³⁶ The efforts of Lemoyne and the ambassadors of the friendly nations were well received. "La tercera." *Semana*. January 20, 2001. However, several days later, D'Artagnan was one columnist who expressed serious reservations. *El Tiempo*. Also see Fernando Cepeda's observations. Ibidem. Op.cit. No. 9.

³⁷ See, for example, the editorials published in *El Tiempo* and *El Colombiano* on January 10 and 13, 2002, respectively. All the major presidential candidates commented positively on the international community's participation, although with widely different approaches. However, this is not the place to discuss these differences. See, for example, Horacio Serpa's speech announcing his candidacy. *El Tiempo*, October 27, 2001; the interview with Alvaro Uribe, *Pais* (Madrid), January 19, 2002; and Noemi Sanin's speech to the ANDI Assembly in Cartagena on August 16, 2001.

important sectors of international public opinion that are interested in the country's fate.

It is difficult to imagine talks being resumed with the FARC during the Pastrana administration. Ana Guadalupe Martínez believes the time should be used to rebuild the objectives of a future peace process; that is, demobilization and reinsertion of the guerrillas, and to redefine the entire scheme of negotiations with absolute clarity. In the eyes of the "international community", the state is "legitimate in its use of public force to combat 'those responsible for violence'", and must protect this legitimacy by performing its role with due respect for human rights" and by distancing itself completely from any ties with the "paramilitaries".

We are not faced with a simple alternative between "peace and all out war". The idea would be to establish a "correlation of forces" for to a return to the bargaining table³⁸. The possibility of an escalation of the fighting makes the topic of respect for international humanitarian law and human rights even more relevant, particularly in the eyes of public opinion worldwide, including the United States. According to Augusto Ramírez Ocampo, an agreement on international humanitarian law could be the path back to negotiations with the FARC. An agreement of this type, accompanied by a truce, might be possible with the ELN during the current administration.

3.2 The likelihood of a new peace process with the FARC anytime in the near or distant future and the continuity of negotiations with the ELN necessitates serious thought about what role the international community would play, under what arrangements and who would be involved. The procedure for this participation, as August Ramírez Ocampo observed, would have to "be agreed on and strategically organized sufficiently in advance," if its contribution is to be more than a reaction to events as they occur. Its "sphere of action" must be defined with precision.

During the crisis in January, for example, *El Tiempo* and other influential voices of national leadership suggested "recognizing the need for an international mediator".³⁹ At the same time, groups in "civil society" were asking for "permanent means of international facilitation to make continuity of the process viable."⁴⁰ In diplomatic circles, "facilitation" and "good offices" are something very different from "mediation". While the function of the first is more limited, as noted earlier, with "mediation," a third party "searches actively for a settlement. This implies drawing up an agenda, summoning and chairing sessions, imposing solutions and employing threat."⁴¹

³⁸ Ana Guadalupe Martínez noted how, at times of extreme crisis in El Salvador, direct dialogue between the parties ceased for a year, until a "framework agreement" was developed.

³⁹ "Por un país en paz." *El Tiempo*, January 20, 2002.

⁴⁰ A communiqué published in *El Tiempo* on January 12, 2002.

⁴¹ Ibidem. Op.cit. No. 31. C. 11 and pg. 188. Also see the introduction in: Touval, Saadia and Zartman, William, *International Mediation in Theory and Practice*. Boulder and London, pgs. 7-17.

According to Berridge, the “ideal mediator” must be perceived by both parties as “impartial”, have “effective power”, be able to lend continuous and systematic attention to the dispute, and have a strong incentive to reach a lasting peace.⁴² He also believes “single mediation, albeit assisted by ‘friends,’ is better than simultaneous multiparty mediation.”⁴³ Just as there is talk of the “ideal mediator,” some authors have tried to identify the best time to resolve a conflict through mediation. Naturally, mediation is possible by means of an agreement between the adversaries in the conflict. Once produced, it transforms the negotiating structure “from a dyad into a triangle”.⁴⁴

These considerations are not intended to spark an exhaustive debate on mediation at this point, but to indicate there is considerable literature on the subject, based on a variety of experiences with lessons which should not to be ignored. As a tool, international mediation is winning the favor of public opinion.⁴⁵ However, it is important to know just what international mediation entails for the country and, above all, when and how it should be undertaken to ensure success. Until now, there seem to be more general and vague appeals for “international mediation” than specific proposals.

3.3 An institution mentioned frequently for the role of mediator is the United Nations. For example, during the crisis in January a committee of French scholars spoke of the need for “authentic international mediation under the auspices of the United Nations, with the participation of “friendly countries” and the Latin American nations.”⁴⁶ There are all sorts of suggestions as to the role the United Nations could play in helping to resolve the Colombian conflict. Some are highly general, such as those - in the words of *El Colombiano* - that regard “permanent intervention” as “essential”;⁴⁷ others are more specific requests for the presence of a UN peacekeeping force (the “blue helmets”).

However, according to Augusto Ramírez Ocampo, “the presence of armed UN ‘blue helmets’ in Colombia is just as unfeasible as the presence of foreign armed forces.” Although Ana Guadalupe Martínez also agrees the presence of a UN security force is not viable in the short term, she does believe a “multinational military force” might be required at some point to implement an eventual peace agreement. Ramírez Ocampo suggests eventually having unarmed “blue berets

⁴² Ibidem. Op.cit. No. 31, pg. 197 and thereafter.

⁴³ Ibidem. Op.cit. No. 31, pg. 200.

⁴⁴ Ibidem. Op.cit. No. 41, pg. 10.

⁴⁵ While a candidate, Alvaro Uribe proposed - in item 41 of his democratic manifesto - that “international mediation in the search for dialogue with violent groups must inevitably start with a halt in terrorism and an end to the hostilities.” In his victory speech on May 26, as president elect, he reiterated his proposal by saying “first thing tomorrow, we will begin to appeal for international mediation, with a specific purpose and a specific mandate, which is to establish talks with groups operating outside the law, based on a halt in terrorism and an end to hostilities.” *www.El Tiempo. Com. May 27, 2002.*

⁴⁶ A communiqué published in *El Tiempo* on January 14, 2002.

⁴⁷ “¿Un frenazo, o un salto al vacío?. *El Colombiano*, January 13, 2002.

for verification purposes, as provided for in the Havana Agreement”. However, any decision in this respect would “require an agreement between the parties”.

Perhaps it is worth mentioning that international optimism generated by the “blue helmets” at the start of the 1990s has been dampened somewhat by the results of their operations. In spite of the unquestionable success of UN involvement in El Salvador⁴⁸, the negative outcome of other experiences, as in Bosnia, Rwanda, Angola and Somalia⁴⁹, suggest at least the need for serious thought about the appropriateness of such intervention (multi-faceted by definition) and how it could be employed. Some authors even go so far as to suggest the United Nations “is not the best mediator”⁵⁰. Again, far from being conclusive, these observations only point to the need for further discussion on the matter.⁵¹

According to Augusto Ramírez Ocampo, the United Nations should play a “discreet role in the months ahead, while processing and evaluating its assignment to date. It should form a small Colombia office in its political division and maintain contact with the parties, while keeping a genuinely ‘low profile’.”

3.4 The work group agreed on the importance of continuing to receive diplomatic support from so-called “friendly nations”. Yet, Ana Guadalupe Martínez warned “assemblies and negotiating meetings with ambassadors present further complicate the scenario.” Both group members also agreed that fewer countries should be involved, so as to make diplomatic support more operational. The ideal group, according to Augusto Ramírez Ocampo, would be comprised of the United States, Spain, France, Sweden or Norway, Cuba and Mexico. Nevertheless, as Ana Guadalupe Martínez pointed out, it is difficult, if not impossible to imagine Cuba and the United States sitting down at the same table as “partners” for peace in Colombia.

Both group members emphasized that involving neighboring countries in this type of diplomacy does not seem wise. Ana Guadalupe Martínez said their participation could lead them to be “trapped by the logic of confrontation, if no obvious political results are forthcoming.” The case of Venezuela under President Chávez, with his apparent sympathy for the guerrillas and his repeatedly confused messages, would be a good example of the difficulties inherent in active participation in the peace process by neighboring countries. Augusto Ramírez Ocampo suggests a “special

⁴⁸ The successful Salvadoran experience has received considerable attention from the academic community. See Stanley, William and Holiday, David. “Peace Mission Strategy and Domestic Actors: UN Mediation, Verification and Institution Building in el Salvador.” *International Peacekeeping*. 4:2 Summer 1997. pp 22-49.

⁴⁹ For more on Somalia, see Mayall. *Ibidem*. Op.cit. No. 12. On Angola, see: *Ibidem*. Op. cit. No. 11.

⁵⁰ *Ibidem*. Op. cit. No. 11. pg. 181.

⁵¹ However, it is important to emphasize that the members of the work group; that is, Ana Guadalupe Martínez and Augusto Ramírez Ocampo, defended the convenience and benefits of United Nations participation.

relationship” be forged with neighboring countries, which hopefully would involve the Andean Community, along with Brazil and Panama.

3.5 These observations are relevant in the event talks are eventually resumed with the FARC and if dialogue with the ELN continues. However, a realistic approach calls for considering the possibility that the conflict will escalate, particularly given the repeated acts of terrorism perpetrated by the guerrillas. This scenario would suggest different responses from the “international community” to Colombia’s dilemmas, and a different Colombian attitude towards the “international community”.

The principle of combined world responsibility for the illegal drug problem suggests the need for international cooperation in the search for a solution to this issue, which has become key to continuation of the conflict. The direct link between the drug traffic and a series of other problems demands a joint and multinational approach. Augusto Ramírez Ocampo noted the international community “must help to block the trade in arms and chemical precursors,” and is obliged to “aid Colombia’s task by helping to locate the funds of illegal groups who are in contact with the international financial community, and by continuing the fight against money laundering.”⁵²

After the events of September 11, escalation in the global fight against terrorism introduces a new variable into Colombia’s relations with the international community. With the FARC, the ELN and the AUC officially classified as international terrorist organizations by the US Department of State, and by some European nations as well, Colombia can and must be the object of international solidarity in its fight to combat terrorism. At the time this report was written, President Pastrana was in Washington D.C. to request an extension of US military aid to deal with terrorism.

These demands for solidarity imply responsibilities for the country as well, particularly when more attention to Colombian affairs from the “international community” is to be expected. The world became less tolerant of terrorism after September 11. This complicated the Colombian government’s position in terms of sustaining unlimited negotiations with groups who use terrorist tactics. In fact, Colombia’s commitment to the fight against terrorism is beginning to be questioned in some circles in the United States, even within the Bush administration.⁵³

⁵² This is one area where the international community can be most effective in the search for a solution to internal conflicts. “The international community can work together to ensure that the business of war becomes increasingly unprofitable, especially in instances in which war profiteering has a substantial international component.” King, *Ibidem*. Op. cit. No. 14, pg. 68.

⁵³ See “Los Estados Unidos cuestiona compromiso de Colombia contra el terrorismo”: in *El Tiempo*, first week of April 2002. For a reply to this criticism, see “Guerra y contradicciones”: in *El Tiempo*, April 13, 2002.

Escalation of the conflict, as suggested earlier, makes firm observance of international humanitarian law and defense of human rights even more relevant. The serious and tragic situation of the internally displaced will force international humanitarian agencies for refugees to focus added attention on Colombia.

3.6 Regardless of whether the eventual scenario is one of negotiations or a build-up in the conflict, the task of Colombian diplomacy is enormous, given the increasing presence of numerous representatives of the international community. What the Pastrana administration has accomplished through “diplomacy for peace” must be preserved. However, it is important to be clear about the challenges posed to the country by more exposure to the “international community”.

One particular aspect to bear in mind is the growing role of non-governmental organizations and public opinion within the “international community”. Colombian diplomacy will have to do more to approach these sectors, possibly with greater imagination.

Our task is not to discuss the issue of “perceptions,” which is the subject of another group. It will suffice to warn of the need for a more dynamic style of diplomacy that goes beyond traditional borders and inter-governmental organizations. Meetings such as the one in San Jose de Costa Rica with NGOs in October 2000, or the meeting organized with French students and professors in Paris in January 2001, warrant more systematic follow-up.

Conclusions

The growing presence of the “international community” in the search for a solution to the conflict being waged in Colombia seems to be an irreversible fact. However, this does not mean that increased international participation in addressing the armed conflict is benevolent in itself, much less a guarantee of effective results. Although the members of the group agreed this sort of participation is convenient, and even fundamental under present circumstances, they warn its effectiveness is subject to a number of conditions. Listed in these conclusions are the issues suggested throughout the document to identify the criteria that should guide Colombia’s policy on participation by the international community.

- A fundamental starting point when considering the possibility of increased participation by the “international community” in resolving the armed conflict in Colombia should be to describe the nature of the conflict more clearly. This is not an academic proposal. The conflict is highly complex and continues to be very confusing to the “international community”. Any definition of its nature ultimately determines the terms of that community’s “engagement” with the country.

- A systematic stocktaking of President Pastrana's efforts to "internationalize" the peace process is an urgent necessity. The "international community" became involved in these negotiations through a number of actors and arrangements, all of which merit more careful examination, both individually and as a whole. "Diplomacy for peace" had unquestionably positive results; namely, closer relations with the United States, modernization of the armed forces and increased recognition abroad of the state's legitimacy. These are not minor accomplishments. They must be preserved and constantly reinforced. However, an initial analysis would also show the rather disorganized nature of participation by the "international community"; it involved too many agents and failed to maintain the low profile required by the situation. Any policy for the future will have to be constructed on the balance of what was accomplished in the last four years.
- The "international community", as such, does not exist. Any discussion on its participation in Colombia should be broken down according to the actors or agents who are directly involved with the country, such as the United States, the European Union and the European countries, neighboring countries, inter-governmental institutions such as the United Nations, organizations such as the International Committee of the Red Cross and specific non-governmental organizations. For example, the role of the United States has been very different from that of the European Union, even in spite of the visible differences among EU member countries. It is important to discuss how the participation of both could be more coherent.
- Preventing or containing any sign of so-called "regionalization" of the conflict is a priority. This calls for building a more special relationship with neighboring countries. Nevertheless, it seems unwise to involve them directly in negotiations with the guerrillas.
- Up to now, the "international community" has participated mostly as a "facilitator" of negotiations. Many sectors of opinion in Colombia have suggested the need for a "third party" or "international mediation". This is certainly an option, but not one to be taken lightly. Its every implication must be studied very carefully. If this path is favored, the mediator will have to be chosen wisely. The decision on how and when to resort to mediation is also crucial. "Mediation" is an important tool; if poorly timed or used inappropriately, it will be another wasted opportunity with serious consequences for achieving a negotiated settlement to the conflict.
- The role of the United Nations merits special consideration, not only because of the predominant part it has played in internal armed conflicts after the Cold War, but also because of expectations in Colombia. Without ignoring the importance of what the United Nations does, its efforts to solve internal armed conflicts in other countries have produced mixed results: the successful experience in El Salvador as opposed to the failure in Somalia and Angola.

Several authors have suggested the United Nations less than an ideal mediator in intrastate conflicts because of the way it operates internally. This is not intended to suggest that a role for the UN should be ruled out in advance, but merely a warning about the danger of expecting too much. If the United Nations were to play more of a part in Colombia, the effectiveness of its presence would have to be guaranteed.

- Increased participation by the international community must not be to the detriment of national sovereignty, which the country must continue to defend jealously. Intervention by foreign armies would not be unacceptable; nor does the presence of peacekeeping forces (such as the UN “blue helmets”) appear to be viable. However, the international trend in favor of “humanitarian intervention” warrants special attention. It has become something of a “right” or “obligation” for certain sectors, as observed in the report by the International Commission on Intervention and State Sovereignty, “The Responsibility to Protect”.⁵⁴
- Confronted with the breakdown in peace talks and the escalation of terrorist activities at the hands of the subversives, Colombia must do more to cooperate with the global fight against terrorism. In this case, the country could expect cooperation from the international community, but must also be prepared to meet its own responsibilities. An eventual return to negotiations with the guerrillas would have to be in keeping with Colombia’s international commitments to the fight against terrorism. At the very least, this implies acceptance of international humanitarian law as a determining principle in any future attempt at negotiations.
- Drug trafficking is a major problem in the armed conflict. It has profound repercussions on the crime rate in Colombia and on the stability of its democratic institutions. The sale and consumption of illegal drugs is, by definition, a multinational problem. Colombian foreign policy must continue to insist on cooperation from the international community in the war against drugs, based on the principle of shared responsibility. However, the country must also lead the search for a solution to a problem it has struggled with for decades, in spite of its global nature. At any rate, Colombia can not fail to explore all appropriate means of eradicating illegal drugs from its territory.

⁵⁴ The International Commission on Intervention and State Sovereignty, ‘The Responsibility to Protect’, December 2001 in www.iciss-ciise.gc.ca. The report regards intervention as a last resort, based on a secondary principle; that is, the “responsibility to protect”, which falls on the “international community” in cases where a particular state is unable to safeguard its own population after having depleted all possible resources to this end. Colombia is not Rwanda, nor Somalia or Kosovo, which are some of the experiences that motivated creation of the Commission. However, the country cannot ignore, with impunity, the new climate of international opinion reflected in the report. Moreover, the principles outlined therein should serve to support efforts towards a continued build-up in the state’s capacity to ensure the safety of all citizens and to secure international cooperation for this purpose.

- Any increase in the “International community’s” presence in Colombia poses an enormous challenge to the country’s diplomacy. The dimensions of this challenge must be appreciated fully. The “international community” is a broad concept, one that includes states and inter-governmental institutions, such as the United Nations, as well as non-governmental organizations and public opinion worldwide. These last two variables must be included in any foreign policy designed to seek more participation by the international community in the search for a solution to the conflict.
- It is fundamental, if not urgent, for the Colombian government to develop a firm and consistent discourse in defense of its democratic legitimacy and its capacity to govern. Contrary to what happened in Somalia or in Cambodia, the state in Colombia has not collapsed. Despite the seriousness of its problems, the country’s institutional system has been maintained and power changes hands through regular elections. Many sectors of the “international community” are predisposed against states, as a matter of principle. Therefore, a build-up in relations with the international community will imply redoubling efforts for effective human rights protection and observance of international humanitarian law, in addition to a discourse that defends the legitimacy of the Colombian state’s actions in the eyes of the world.

III. Globalization, International Justice and the Peace Process⁵⁵

Coordinator: Carlos Vicente de Roux

Members: Robert Goldman and José Miguel Vivanco

Work Method

The group responsible for this topic based its activities on a questionnaire prepared by the coordinator, which involved a variety of issues⁵⁶. Sofía Macher replied to the questionnaire in writing. Robert K. Goldman and José Miguel Vivanco did so verbally, during a two-day working meeting at which Pilar Gaitán, Carolina Esquenazi and the coordinator, Carlos Vicente de Roux, were present. The group's discussions did not center exclusively on the questionnaire, which was the starting point of deliberations. These deliberations were not limited to answering the questionnaire, which is one of the reasons why the present document does not follow the order contained therein.

As was to be expected, in spite agreement on various topics, the opinions of groups members on the issues outlined in the questionnaire were not unanimous, nor were those expressed during discussions on other points. This report is not intended to state the position of group members, be it pro or con, but to put forth simple and coherent proposals. Therefore, it was agreed the coordinator would be largely free to convey his view of the group's deliberations. He has attempted to do so, but emphasizes that the suggestions contained herein were developed through a series of highly stimulating discussions with Sofia Macher, Robert Goldman, José Miguel Vivanco, Pilar Gaitán and Carolina Esquenazi,⁵⁷ and ,to one extent or another, are the result of their contributions.

General Considerations

According to the fundamental values of justice, serious violations of human rights and international humanitarian law committed during the internal armed conflict must not go unpunished. Furthermore, any attempt to forge peace on the basis of impunity - through an agreement between the so-called "armed parties" - is doomed to fail. Peaceful coexistence in the midterm and in the long run is possible only if due honor is given to truth and justice.

In many sectors, there is the tendency to hope Colombia's problems will be resolved through international intervention. This is valid for some issues, such as administration of justice in cases of human rights violations and infractions of international humanitarian law committed within the scope of the internal armed

⁵⁵ The coordinator of the Working Group on "Globalization, International Justice and the Peace Process" wishes to thank Fundación Social for its operational support in the preparation of this document.

⁵⁶ Pilar Gaitán and Juan Manuel Osorio also contributed in this respect.

⁵⁷ Carolina Esquenazi prepared the minutes of the work group meeting. They were an extremely useful addition to the coordinator's notes and proved valuable in the preparation of this report.

conflict. A wide range of sectors aspire to having the perpetrators of atrocities apprehended, tried and punished by interstate organizations for justice or by foreign courts. Yet, even if conditions were right for successful intervention on the part of international courts, it would be a serious error for Colombia to evade its responsibility to investigate and punish those responsible for human rights violations and infractions of international humanitarian law. Certainly, this applies at least to the most serious violations. On the positive side, having the perpetrators of atrocities tried and condemned by Colombians themselves is of symbolic importance; in fact, the future credibility of the state and its administration of justice are at stake. However, this implies enormous challenges, as the Colombian judicial system is overwhelmed by the amount of crime and its level of prestige and credibility are extremely low.

Be that as it may, it is uncertain in what scenario justice would be administered once the armed conflict is over. There are at least two very different possibilities in this respect:

1. A military defeat of the armed structures harboring the perpetrators of serious human rights violations and infractions of international humanitarian law, or their total or partial collapse, for whatever reason.
2. Settlement of the conflict through an agreement between the armed parties, with one or more of their military structures preserved and with conditions created to protect former combatants, for different reasons (political, legal, etc.).

In either case, administration of justice is unavoidable. Yet, the scope and pace of action to this end would vary according to the specific nature of the situation. Neither of these two scenarios is static. The fall of the military dictatorship in Argentina after the country's defeat in the Falklands War, which exposed the perpetrators of human rights violations to justice, later evolved into a more complex situation where they found protection. On the other hand, Milosevic and Tudjman took part in the Dayton agreement, which brought an end to the war in the Balkans, but were not subject to immediate investigation or punishment for their role in the war crimes and crimes against humanity committed during the course of that conflict. Later, however, the shoe was on the other foot and the Serb government turned the first of these individuals over to the International Criminal Court. A similar pattern, although far more extended in time, occurred with Augusto Pinochet in Chile. The collapse of the Fujimori regime obviously fits the first scenario, but the course of the Peruvian situation is one of considerable uncertainty, as in all similar cases.

In the second scenario, room for justice is reduced substantially. Major concessions are required to stop the savagery. It is important to accept this and to await better times for justice. Nevertheless, even under these conditions, it is important for as many forces as possible to be engaged to preventing peace agreements from resulting in impunity.

This is not easily done. In agreements to end a conflict, the parties usually try to give themselves plenty of leeway for mutual impunity. Moreover, peace negotiators usually see the human rights issue as a straight jacket that limits their field of action, or as yet factor to consider when analyzing the situation of the parties, one to be taken into account for mere political pragmatism.

Many circles and social sectors begin to favor immediate reconciliation at any price, or almost any price. In this context, "reconciliation" is a bad word. It is an easy way out and leads to the adoption of measures that leave wounds unhealed - on behalf of which almost anything can be justified. When forced political relationships prevent the truth from being heard and justice from being served, it is better to acknowledge the situation as such and to wait for better times. The public should never be misled into believing it is obliged to live with impunity for the sake of a false reconciliation.

In Colombia, there are circumstances that complicate the situation considerably. There is no state policy for dealing with serious human rights violations committed on a mass scale. Law enforcement does involve itself in open and generalized aggression against life, integrity or individual freedom (as was once the case in Guatemala and Argentina). Only five percent of illegitimate political violence, or less, can be attributed to law enforcement. The situation in Colombia is one of the state's liability by omission (third parties or groups, such as the paramilitary forces, are allowed to violate people's rights). This occurs in a context where the value of life has been undermined, and where society is tolerant of violence, accepts impunity and accommodates itself to illegal or mafia-style protection. In this atmosphere, the line between what is acceptable and what is not fades easily and there is increased willingness to sacrifice justice for the sake of a misconceived reconciliation.

Certainly, one thing the International Criminal Court can do to improve the Colombian situation is to emphasize the limits between what is acceptable and unacceptable with respect to the violence found in armed conflicts and political crises. On the other hand, the impact of the events of September 11, 2001 is ambiguous, as is the international support the Colombian government received when talks with the FARC broke down. This impact will help to reinforce the idea that terrorism is absolutely inadmissible, but could contribute to a climate where human rights violations by states are tolerated. As far as Colombia is concerned, all things considered, the United States Congress and United States government still have a sensible attitude towards the country's human rights situation.

Administration of Justice in Colombia

There are many imponderables as to how justice will be administered if and when the armed conflict is brought to an end. However, it may be possible to begin to design a realistic blueprint for addressing the different types of human rights violations, without ignoring the demand for justice. The peculiarities of the Colombian situation (the intensity and duration of the armed conflict, a broad range of violent groups, a justice system overwhelmed by crime...) would have to be considered, as would the impossibility of clarifying or punishing all cases of political violence. Also, it is unlikely this blueprint could be imposed unilaterally by the state; it would have to be agreed on at the bargaining table. Nevertheless, it must be nothing short of a platform to promote justice and to fight impunity.

The overriding idea is that international humanitarian law is the point where the world of peace and the world of human rights come together. In short, humanitarian law sets the limit on what is pardonable for the sake of peace. Serious infractions of humanitarian law can neither be pardoned nor forgotten. Acts of violence that do not infringe on international humanitarian law can.

In more precise terms, the blueprint being proposed would contain three elements:

1. Broad amnesty for crimes committed within the scope of the armed conflict that does not constitute serious infractions of international humanitarian law.

Article 8 of the International Criminal Court Statute is a guide to determining, by exclusion, the behavior in question. As stated therein, serious infractions of the 1949 Geneva Convention on Human Rights applicable to international armed conflicts would be considered war crimes, as would the infringements cited in common Article 3 of the same (which refers to armed conflicts of a non-international nature), provided they are committed against individuals who had no part in the hostilities. The civilian population falls into this category, as do members of the armed forces who have laid down their arms or have been left out of combat, for whatever reason.

The war crimes cited in Article 8 include, among others, homicide outside combat; torture; mutilation; rape; hostage taking; any intentional attack on the civilian population, on medical or health service buildings, medical units or vehicles of the parties, or those of the Red Cross, or against educational or religious centers; use of poison; use of weapons or methods of war that inflict superfluous damage or unnecessary suffering or have indiscriminate effects; intentionally provoking starvation of the population or depriving people of goods or objects indispensable to their survival; and recruitment of children under 15 years of age. These crimes may also include the collective punishment and acts of terrorism mentioned in Article 4 of Protocol II of 1977, added to the 1949 Geneva Conventions, and violation of the right to due process, as noted in Article 6 of the same protocol.

War crimes would not be subject to amnesty, nor would genocide. Amnesty would cover political crimes (rebellion, insurrection, attempted coup), homicide in combat, destruction of property and collateral damage to civilian goods and holdings when not excessive. In other words, it would include so-called legitimate acts of war.

The insurgents or other groups operating outside the law will probably attempt to align their behavior with what are considered to be acts of combat. Yet, this, in itself, should be no deterrent to legal action. Amnesty cannot leave the victims of these crimes unprotected by failing to provide reparation for the consequences. Unless some other formula is adopted, the state must assume responsibility for compensation and reparation, as may be the case.

2. A huge effort should be undertaken to hunt down and punish those responsible for the more serious infringements of international humanitarian law observed in Colombia in recent years.

This implies selecting a significant number of cases (one hundred, three hundred, five hundred?), including large massacres, any string of homicides outside combat, kidnappings or forced disappearances committed by the same people as part of the same criminal plan or design, plus the isolated crimes that have taken on aberrant characteristics. If it is not possible to clarify each crime individually or to identify each perpetrator, we must at least determine the criminal dynamics involved and the type of armed group to which the perpetrators belong. This means the authorities must join forces, with the support of the international community. A number of prosecutors and judges, selected especially for this purpose, would be assigned to investigate and try these cases. A variety of mechanisms along the lines of plea bargaining would help to bring certain kinds of suspects to justice, by facilitating their cooperation with prosecutors under terms that do not favor impunity but help to identify and locate those who are primarily responsible (for the effects of plea bargaining, surrender is not enough; other relevant evidence must be offered). Ways and means would also be adopted to encourage other types of witnesses to cooperate. Effective witness protection programs are one example.

In such cases, the victim must have full access to justice under the terms of articles 2.3 and 14.1 of the International Pact on Civil and Political Rights and articles 8.1 and 25.1 of the American Human Rights Convention⁵⁸. When selecting the type of

⁵⁸ According to Paragraph 1 in Article 8 of the American Convention on Human Rights, every person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal, previously established by law, in the substantiation of any accusation of a criminal nature made against him or for the determination of his rights and obligations of a civil, labor, fiscal, or any other nature. Pursuant to Article 25, Section 1 of the same convention, everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his or her fundamental rights. The basic content of these provisions reproduces what is stipulated in Article 2, section 3 and Article 14, section 1, of the International Pact on Civil and Political Rights.

terrifying cases referred to above, political bias must be avoided at all cost. For example, if the selection centers on large massacres committed by paramilitary groups and gives little weight to kidnappings by the guerrillas or the destruction of water systems, the entire scheme will lose legitimacy and credibility.

A geographic balance is crucial. There must be a bulk of cases on criminal acts perpetrated against peasants in remote areas of the country, and another on aggression against the community in small towns and villages, the population of intermediate cities and people of major urban areas.

Time is a particularly important factor when selecting criminal cases. Here again, all political bias must be avoided. A cutoff date favoring any of the armed parties would undermine the initiative. The criteria for defining the period in question and for selecting the cases must be reasonable and transparent enough to avoid any shadow of a doubt among the public in or outside Colombia.

In particularly serious cases, it is absolutely necessary to prevent the statute of limitations on criminal liability before or after sentencing from favoring criminals. If not, the entire process becomes a joke. This is based on the fact that, by reason of the conflict itself, neither the victims nor other witnesses have been in a position to benefit from justice within a framework of guarantees. For the desired effect, it is wise to amend domestic law by introducing, for example, the possibility of initiating or reopening a criminal case, even when the statute of limitations has run its course. This could be done when considered appropriate by an international supervisory body, such as the Inter-American Court or the Commission on Human Rights, or the Human Rights Committee of the International Pact on Civil and Political Rights. There would be resistance from traditional criminal lawyers, who would say it spells the end of the rule of law. However, what dismantles the rule of law is just the opposite; that is, allowing the members of large kidnapping bands or those responsible for massacres to remain at large.

The outcome of any investigative effort or justice of this type must be circulated widely. It is important to convey this information to the public as quickly as possible. It is appropriate, for a variety of reasons, to establish legal provisions that allow for proceedings to clarify and punish cases of extreme atrocity to be conducted within a relatively brief period of time (one and a half years? two years?). Acts for which a criminal indictment cannot be filed or a judgment issued within this lapse of time must cease to be the object of special treatment. An institutional and social effort as distinctive as the one proposed must not be paralyzed by a series of eternally inconclusive proceedings.

3. Continue to apply mechanisms to administer justice in the case of crimes committed within the scope of the armed conflict that do not pertain to either of the

two previous categories, but with flexible policies on the execution of criminal sentences.

The system for administration of justice must continue to apply in cases that are subject neither to amnesty nor to special formulas to encourage the investigation of appalling crimes. Here again, the victims must have full access to justice under the terms of articles 2.3 and 14.1 of the International Pact on Civil and Political Rights and articles 8.1 and 25.1 of the American Convention on Human Rights.

The *intermediate* cases referred to earlier must be subject to full investigation and prosecution. Ideally, this would result in sentences being levied against those responsible for the crimes in question. However, the sentences handed down in these cases could be reduced, converted (for example, by exchanging imprisonment for a particular type of obligatory social service), suspended or subject to similar measures, depending on the seriousness of the crime and its impact. The behavior of accused during criminal proceedings, particularly the extent of his or her cooperation with authorities and willingness to help repair the damage done to the victims, would also be considered (international law allows for reduced or suspended sentences as clemency measures, except for certain crimes, such as genocide).

Incentives could be created to accelerate the victim's involvement (filing accusations, presentation of witnesses, etc.) and to encourage the accused to collaborate with the authorities in the proceedings. Neither the victims nor the accused should be allowed to benefit indefinitely from these incentives. A period of three to four years would be sufficient. This would contribute to a favorable climate for investigating human rights violations and infringements of international humanitarian law, and would help to end the cycle of armed conflict and its effect on the nation's history.

The scope of a scheme that combines amnesty for certain crimes with criminal proceedings for others depends on how effectively justice is administered and to what extent the public has access to it. In Guatemala, where the justice system has serious shortcomings and offers few possibilities for access to the perpetrators of human rights violations, they were not overly concerned about the lack of amnesty. The opposite was true in Argentina at the time.

There are no healthy precedents for amnesty, at least in the American hemisphere; there are only self-amnesties decreed by the people in power. In other words, there are no examples worth imitating.

As to crimes not subject to amnesty - first the major atrocities, but other infractions of international humanitarian law as well - both criminal and civil liability must be determined. Liability must have patrimonial consequences for those who have violated humanitarian law. Property acquired by illegal armed groups through illicit

means must be confiscated and used to establish a fund to compensate the victims for damages.

Leaders who had a role in acts not subject to amnesty must be involved in criminal proceedings under the general definition of *command responsibility*, provided there is no evidence of more specific participation. This definition extends to cases of serious omission or neglect: *what he knew or based on what he should have known*, as understood by the Court in The Hague for the former Yugoslavia.

A Truth Commission

Establishing a truth commission when the conflict is over can be useful to clarifying the history of violence that hangs over the country. However, as opposed to judicial action, all types of extra-judicial efforts to determine the truth should be discouraged. Justice is retribution, and particularly punishment. What happens with a truth commission is collective catharsis, not *accountability*.

Nevertheless, a truth commission can play an important role in examining global phenomena, such as the national or regional dynamics of human rights violations and infringements of international humanitarian law (massacres, forced displacement, kidnappings). It can also examine the make-up and evolution of the perpetrators, and identify problems that affected specific categories of victims (women, children, and Indian communities). It has the authority to determine the responsibility of political and social sectors in political violence, and the scope to clarify the causes of political violence, so they can be prevented from occurring again. It can help victims to view their personal drama in the context of the national situation and attempt to overcome it by becoming involved in projects to rebuild the country. A truth commission is in a position to draft an *authoritative history* of a country's recent past, which helps to clarify what went wrong and why, and how to avoid similar problems in the future.

Clearly, the job of a truth commission is to create an atmosphere in society conducive to support for special efforts by justice authorities to punish those who have violated human rights and international humanitarian law. On the other hand, it can play an important role in helping judges and prosecutors, by conveying complaints and the evidence it collects on violations of this type (in fact, the stipulation should be that all evidence collected by a truth commission must be turned over to the authorities). This would give the commission *teeth*.

As with certain expressions of activity in the judicial branch, the period of time on which a truth commission would focus is crucial. This should be based on transparent and reasonable guidelines, with no political manipulation, nor the slightest hint of bias in favor of a particular government or armed party. Perhaps the commission could examine the forty years Colombians refer to when talking about the duration of the current armed conflict. A good portion of that period (about half) could be the subject of a broad overview entrusted to two or three

highly competent and credible historians. This would shed light on the events leading up to the other segment of the period, which could be addressed through case studies, but not without continuing to identify and examine the general dynamics and evolution of the parties and their victims.

The second segment (with the case-study approach) could begin at well-defined historic moments, such as the onset of the Turbay-Ayala administration, the M-19's seizure of the Palace of Justice, or adoption of the 1991 Constitution. Examining too long a period of time would be extremely costly, unless done in a very superficial way.

A truth commission must be extremely well balanced in terms of selection and orientation of the cases to be studied. The fact that the victims and the perpetrators come from a wide range of social, ideological and political sectors in Colombia offers a rather surprising advantage. It helps to depoliticize the issue of human rights violations and infringement of international humanitarian law, besides allowing the work of the commission to help reestablish peaceful coexistence.

All this is related to the make-up of the commission. Its members must be highly credible individuals of excellent professional and ethical standing. Ideally, the Colombian commission should be a mix of national and international members. For example, two of the seven could be foreigners, who should be experts with considerable experience in human rights and international humanitarian law. All the members, regardless of their nationality, should be appointed by an official of the highest order, such as the Secretary General of the United Nations or the President of Colombia.

It will take a qualified team of people working several months to define the commission's mandate and policies, and to design its composition and mode of operation. The blueprint for the commission should be preceded by a good deal of consultation. A variety of sectors must be heard, such as the spokesmen for armed groups and the organizations that represent the victims of human rights violations and infringements of international humanitarian law. However, it is not advisable for the representatives of victims to be part of the Commission, nor, in principle, the members, representatives or spokesmen of armed groups.

Definition of a commission and its activities should be the subject of official decisions and commitments. The government must be involved and, in the Colombian case, a truth commission should emerge from peace agreements that put an end to the conflict. Its mandate, composition, period, resources and operating standards should be defined by law, or through government decree, with extremely precise content. The commission must have the support of the President of Colombia, and public officials must be obliged to cooperate with its efforts, to the extent their duties will allow.

The government's commitment must be financial as well. Truth commissions usually have serious money problems. This was the case in Guatemala, as it is in Peru and Panama. Apparently, the best some governments can do is to transfer administrative personnel and provide office space for the commission. This is, therefore, an area where international support is necessary.

There is much discussion in specialized circles as to whether truth commissions should be authorized to identify the parties responsible for the violations under study. Some experts say no, because truth commissions have neither a judicial or quasi-judicial *role*, and because their investigations and verdicts do not always follow the rules of due process (presumption of innocence, right to defense, etc.). According to others, identifying the responsible party does not entail punishment being levied; therefore, the commissions need not be guided by the rules of due process.

In reality, there are different degrees in determining individual responsibility. The highest consists of the truth commission formally declaring a particular person guilty of a particular crime. In principal, it is not advisable to grant the commission this faculty. However, making absolutely no mention of those responsible for the crimes in question is far too little. There are points in between both these extremes. One is issuing a final report that mentions and quantifies the accusations against each of the alleged suspects in the cases under study. Another, broader option involves defining various levels of evidentiary certainty about the perpetrator of a crime (overwhelming evidence, sufficient evidence to support a particular conclusion beyond a reasonable doubt; numerous pieces of evidence; credible testimony) and assigning cases examined by the Commission to the respective categories. All of this is noted in the final report, but without formally accusing anyone of any crime (this was the pattern followed by the truth commission in El Salvador).

Either way, if the commission's reports are to mention those allegedly responsible for the crimes in question, these individuals will have to be summoned for a hearing and given an opportunity to answer the charges.

The faculties of a truth commission in terms of identifying the author of a crime ultimately depend on the extent to which justice is served. The more conclusive the work of prosecutors and judges in investigating human rights violations and infringements of international humanitarian law, the less the extent of the commission's field of action. On the other hand, the more prostrated the judicial system and the greater the difficulty in overcoming this situation, the more ambitious the commission's assignment should be. In any case, the more involved the commission is in shedding light on individual liability, the more rigorous and formal its work should be.

In Colombia, it would be appropriate for prosecutors and judges to be able to take the lead in investigating and, hence, imposing punishment for human rights

violations and infractions of international humanitarian law. The truth commission would operate parallel to the justice system, conveying information and evidence to the authorities, while obviously avoiding a judicial or quasi-judicial *role*. In the case of Colombia, this would rule out model used in South African, where the truth commission had certain functions particular to the administration of justice.

A sensitive point in the relationship between a truth commission and administration of justice is its access to information collected through judicial proceedings. Ideally, judicial authorities should be obliged to cooperate with the commission's work and to provide the information it requests, unless considered confidential by law or to protect the course of a criminal case.

If there are properly established boundaries between the duties and faculties of the judicial branch and those the truth commission, these instances can complement and support one another in attempting to discover the truth and to ensure that justice is served.

Many of the commission's proceedings will have to be public (as in South Africa, on a very large scale). However, private hearings to receive statements from victims and witnesses should not be ruled out, nor should closed-door sessions for the commission's deliberations. If a body of this type is to accomplish ambitious objectives, its efforts must be circulated widely. However, publicity should not become an automatic formula, as it could have a profound affect on the quality and legitimacy of the commission's work.

The final report of the truth commission must include a chapter on recommendations. There is considerable discussion among experts as to whether these recommendations should be mandatory for the government. Perhaps suggestions and recommendations should be separated and classified when drafted. The government could decide whether or not to heed the suggestions, but compliance with the recommendations per se should be mandatory (provided they fall within the jurisdiction of the agency or instance in question). If such were the case, the peace agreements should contain provisions to this effect.

It is important to prevent recommendations from becoming inane or futile proposals because of the general way they are worded. The truth commission should indicate how the recommendation is to be implemented. This necessitates setting specific guidelines for action by public agencies, in addition to providing an indication of the budgetary implications. If the recommendations are not compatible with existing legislation, the commission must explain why and in what sense the law should be amended.

One area that is open to proposals from the truth commission concerns reparation for damages caused by human rights violations and infringements of international humanitarian law. Judicial proceedings are, in themselves, a form of reparation for the victim, particularly if the accused is convicted and made to pay damages.

However, in addition to court action, a national reparation and compensation program should be established for individual victims and the groups or communities to which they belong, since the respective rights of these collective entities have been violated as well (e.g., the case of Colombia's indigenous communities). A system of presumption as to the form and extent of the damage could be applied for the effects of a reparation program with broad coverage.

The Argentine experience warrants consideration in this respect. In that country, any person subjected to government arrest under the dictatorship was entitled to a standard sum of money payable automatically by the government for each day of detention. There was no need for legal action, but victims were required to waive the right to file a claim for compensation.

Global reparation programs must include other benefits in addition to the payment of money to widows or orphans of victims of homicide or forced disappearance. These benefits can include free medical care and hospitalization, as well as scholarships.

As noted earlier, property acquired through the illicit activities of armed groups who operate outside the law should be confiscated to finance compensation for the victims. In the Colombian case, a situation where only the victims of certain illegal armed group receive compensation should be avoided at all cost. In this area, as in so many others, a political balance is of fundamental importance.

Symbolic reparation or compensation is a possibility not to be ruled out (e.g., monuments in honor of the dead or disappeared), provided it is highly evident, meaningful and no substitute for justice.

The International Criminal Court (ICC)

As mentioned earlier, the hope of preventing impunity in cases of human rights violations or infractions of international humanitarian law cannot be founded on the role of the International Criminal Court, nor that of any other foreign or international body of a judicial or quasi-judicial nature. Colombians must be tried in Colombian courts. This will give the justice system in Colombia an opportunity to recover its credibility with the public at home and abroad.

The International Criminal Court will have jurisdiction over crimes against humanity and war crimes, such as those committed during the armed conflict in Colombia.⁵⁹ However, its role will be supplementary to that of the national courts.⁶⁰

Therefore, ICC intervention with respect to events in Colombia will depend on what is or is not accomplished by national instances for the administration of justice. Ideally, these instances should be encouraged to perform their duties to the point where any action by the International Criminal Court would be unnecessary and inadmissible.

The ICC can also play an important role in the struggle to investigate human rights violations and infractions of international humanitarian law in Colombia. Were national instances for justice to focus exclusively on crimes committed by just one of the armed parties in the conflict, they would inadvertently open the way for ICC intervention. If this were the case, the ICC could hear one or more cases of particular importance (i.e., those equivalent to the *Death Caravan* case against Pinochet), which would shake up domestic institutions and prompt them to undertake more balanced and systematic efforts to seek out the truth and punish violations of this type.

⁵⁹ Specifically, the International Criminal Court will have the authority to investigate the crime of genocide, crimes against humanity (assassination, torture, rape, forced disappearance of people, forced transfer of the population...), war crimes and crimes of aggression (Article 5 of the Statute). As noted earlier, serious infractions of the 1949 Geneva Convention will be considered war crimes, including those stipulated in common Article 3, when committed against people who have no part in the hostilities (Article 8 of the Statute). Some of the acts regarded as crimes against humanity are also war crimes. A list of war crimes was presented earlier in this document for the purpose of illustration.

⁶⁰ The Preamble to the International Criminal Court Statute notes that all states are obliged to exercise their criminal jurisdiction against those responsible for international crimes. It also says the ICC would “complement national criminal jurisdictions.” In other words, if one of the crimes against humanity or one of the war crimes outlined in the ICC Statute is committed, it is the national jurisdictions that must intervene first to administer justice. Therefore, the ICC may hear a case only if the events in question are not subject to investigation or trial by the state in whose jurisdiction they occurred (Article 17 of the Statute), or if the state initiates an investigation with no firm intent to complete it or to proceed to trial, or if it is unable to do so, for whatever reason. Even if the suspect has been tried (and acquitted or convicted) by a national court, the ICC may intervene if the proceedings of said court “obey the purpose of extracting the accused from his penal responsibility for crimes within the court’s jurisdiction” or have been conducted in a manner “incompatible with the intention to submit the individual to justice” (Article 20).

However, until the armed conflict is over and a negotiated settlement is reached, the International Criminal Court can help to intimidate and dissuade those who violate human rights and international humanitarian law.

Extradition of nationals for trial by the ICC, or by foreign courts, is another subject, regardless of whether or not they invoke so-called *universal jurisdiction* for crimes in violation of human rights and international humanitarian law (terrorism being one example) or for any other crime (such as drug trafficking). Extradition can have a dissuasive effect on the perpetrators of such violations and can ultimately be an effective tool in fighting them. However, it is best for other countries and their systems of justice not intervene if a peace process is underway, or if recent agreements have been reached to end the conflict. The same applies if the domestic courts are moving quickly to identify and punish human rights violations or infringements of international humanitarian law, if there is *accountability*, and if a truth commission is in operation. For example, the United States refrained from requesting extradition of several FARC leaders until talks with that organization had ended.

Conclusions

Peace agreements (in the event there are no winners or losers), or unilateral measures formally ending the Colombian armed conflict (if there are winners and losers), should include provisions for truth and justice in the case of human rights violations and infractions of international humanitarian law committed within the scope of the conflict. These provisions should afford a central role to the national agencies responsible for administration of justice.

The function of foreign and international courts, the ICC included, can and must be no more than subsidiary. The standards governing international courts do not allow them to act in a direct and generalized way with respect to crimes committed in Colombia, nor is it advisable for them to take on the job of national instances. Yet, international courts can play a role in dissuading violators of human rights and international humanitarian law. And, if national instances are negligent, it is worth their advocating that particularly serious cases be heard. This would oblige the domestic courts to reconsider their procedures.

Formulas for administration of justice in the case of human rights violations and infringement of international humanitarian law must consider the particular facts of the armed conflict, the political forces at play when peace agreements are signed, and the spirit of these agreements. Nevertheless, it is advisable (and apparently feasible) for these formulas to contain three elements: amnesty for acts of war punishable under domestic criminal law but not prohibited by international humanitarian law; an arrangement for investigating and hearing two or three hundred of the most serious human rights cases; and a blueprint for investigating crimes outside these two categories, specifically one that contemplates measures to reduce, convert or suspend sentences.

A truth commission should be established to supplement the work of justice institutions by examining and describing the general situation of human rights violations and IHL infringement, according to political and social sectors; by identifying the causes of political violence; by producing an authorized version of the nation's recent history that obliges Colombians to face the facts; and by recommending measures to prevent the armed conflict and the atrocities from occurring again.

IV. Regional Security and the Peace Process in Colombia

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- **The New Global Environment for Security**

In a unipolar world, after the Cold War and with the disappearance of the Communist threat, which was long perceived in Latin America as the main outside enemy, the view of regional security underwent important changes. Security during the Cold War was characterized by a highly militarized and ideologically-oriented conflict in which the world of espionage and intelligence were the primary weapons for defense against what was perceived as a real possibility of the parties being annihilated, either by weapons of mass destruction fired from enemy ranks, or by the supremacy of one ideology over another. The result was a confrontation between the superpowers, with the rest of the world as the battlefield. The priority was on maintaining military and ideological supremacy over the enemy. There was intense rivalry between the poles. The possibility of war was real and the security agenda was dominated by political and military concerns. It was a world without alternatives (sum zero). The more one side gained, the more the other lost.

The emphasis in the political-military agenda was shifted to the countries on the periphery, including Latin America, through the transfer of arms and support for groups or governments aligned with the interests of the superpowers. Their rivalry was encouraged as well, by exploiting the conflicts existing in Third World countries.

When the Cold War ended, it was hoped the political-military agenda would disappear, along with the security agenda, and that other issues would emerge as a priority, such as the economy, society and the environment. The extent of conflicts the world over was also expected to decline and the approach to security would focus on areas that would ensure the development of less relevant countries. In fact, an entire body of theory on this concept of "human security" began to be promoted. Basically, it emphasized that progress towards well being in the less developed countries was good for the welfare of the developed countries

as well. The idea was also to reduce military and weapons spending for the sake of more investment in development and social services.

The optimistic view of what the post-Cold War era would be was sadly mistaken. Between 1990 and the dawn of the new century, the number of conflicts multiplied the world over. In one way or another, given the monopoly on arms and the political control wielded by the two superpowers, an unstable order and false peace was created around the world. Once the Cold War was over, the hegemon; that is, the United States, would intervene only in those conflicts directly affecting its national security or that of its closest allies. Moreover, the United States seeks to share more responsibility by addressing some conflicts in coordination with the United Nations and a group of allied countries (e.g., Bosnia-Herzegovina, the Gulf War). And, in some instances, it plainly desires direct participation, without the support of any country (the Palestinian-Israeli conflict). In others, it was domestic political pressure and international pressure that pushed the United States to intervene belatedly and reluctantly (genocide in Rwanda). In short, the post-Cold War era has, on many occasions, been more violent than anticipated.

The key change in the view of regional security in a world with only one superpower is clearly what the pole considers vital, and the consequences of the state of things to emerge from that situation. There is no denying the United State has unimaginable power in every field (military, political, economic, cultural, diplomatic and social). This power, the likes of which have not been seen since the Roman Empire, is not without rivals in the economic field but has none in military, political and cultural areas. A similar situation has not presented itself since the fall of Carthage more than two thousand years ago. We, therefore, are confused and very uncertain about the speed of change, as well as its scope.

There is no hope whatsoever of anything to offset the influence of the United States, except perhaps in the economic sphere. There is no Soviet Union, no Warsaw Pact. Nor is there a cultural or political entity capable of occupying such a role in the Western Hemisphere. Also, for most of the elite in the Americas, the current situation seems to be more than admissible. The United States model for world organization appears to be largely acceptable to the Latin American and Canadian elite, at least so far.

The new security agenda may reflect the interests of the United States, with its threats and challenges, more than those of Latin America. Latin Americans and Canadians are concerned about drugs, illegal immigration, international crime, disease that knows no borders, and similar matters, but not as much as the United States. However, for a better analysis of how security relations between the countries will likely play out, let us go back to some of the terms that best defined the security relationship between nations in 1990: that of the center and the peripheral countries. At the center of the circle is a group of countries that dominate the global economy, namely the United States, Canada, the European Union and Japan. There is a question as to where Mexico would fit in (with its

geographic proximity to the United States) and China (it has market potential and military capacity, but its policy is totally contrary to that of the other countries at the center). On the periphery are the countries with weaker economies and industries. They are, oftentimes, far more politically unstable, and they want to move towards the center.

Generally speaking, the biggest threats to countries at the center, including the United States, do not originate with governments, as in the past. They concern security risks posed by non-governmental elements: terrorism, organized crime, highly contagious diseases (e.g., ebola), huge natural disasters, and massive forgery (particularly the dollar and the euro). Moreover, the possibility of terrorist groups or organized crime having access to weapons of mass destruction (nuclear, chemical or biological) has made this one of the most important concerns for the countries at the center.

This does not mean certain nations pose no threat to international security. In fact, the United States has published a list of countries it believes are terrorist-oriented or protect and encourage international terrorists. Iraq and North Korea are two examples. One way to threaten the security of countries at the center (besides aiding the activities of terrorist groups or having access to weapons of massive destruction) is to adopt government decisions that jeopardize the flow of essential raw materials and natural resources. Once again, oil is a particularly important factor.

The countries at the center will look for more points in common and reach a consensus with less friction. They will try to create a security community among themselves. For example, at this point in history, a war between the United States and Japan or the European Union is unthinkable.

- **The United States and Latin America**

How does this situation affect patterns of security between countries at the center and those on the periphery? For one thing, there may be less likelihood of countries at the center eventually extending their conflicts or wars to countries on the periphery, as happened during the Cold War. Naturally, this depends on whether or not the countries at the center believe those on the periphery are supporting terrorist groups who threaten their security, or if government decisions jeopardize the flow of natural resources essential to the survival of countries at the center.

Armed groups who pose no direct threat to the United States (e.g., the FARC) would receive neither the treatment nor the interest, much less the resources to combat them the way that country and Europe have dealt with terrorist groups associated with the conflict in the Middle East. Furthermore, up to now, there have been no reports of any armed group in Latin America who has weapons of mass destruction or systematically encourages suicide bombings and similar terrorist

acts. There have been some reports in the press of terrorists Muslim fundamentalists on the American continent, but they are sporadic. In general, these reports have not had much of an effect on bilateral relations with the United States, nor has that country expressed any great concern.

Hypothetically speaking, the United States might intervene directly in Latin America if groups of international terrorists were to mount a direct attack on the lives and property of United States citizens in Latin American countries or within the United States. However, for the time being, this does not seem likely.

Therefore, although it may seem ironic, this new paradigm could result in the United States exerting less influence and pressure on Latin America and the continent, in the midterm and the long run, basically because there are very few threats to its security that originate in the region. What we are likely to see is more of a build-up in bilateral relations between the United States and certain countries (such as Mexico); in one way or another, there are crucial issues of common interest to both. Depending on the stability of Latin American countries, what could emerge is a situation where the leading countries in the region could command certain spheres of influence and power. Brazil would be an example. Up to now, it has exercised no leadership in Latin America, in spite of its size and the importance of its economy.

Previously, the countries on the periphery could use the Cold War as leverage to pressure the superpowers. This led to the birth of the Group of Non-aligned Countries. However, this means of pressure has disappeared. In the case of Latin America, the countries on the periphery have less strategic and political value for those at the center; consequently, less attention is given to crisis and relevant events in the region.

In this new scheme, and following the tendencies of the post-Cold War era, more conflicts could emerge between countries, especially territorial conflicts and those over sovereignty spurred by non-governmental actors (e.g., armed groups), as well as longstanding territorial quarrels provoked by leaders who seek some sort of political benefit. Unlike the countries at the center, which have reduced the conflicts among themselves, we are faced with a situation where the Latin American countries will have to deal with more than one conflict in their midst. This is due to a lack of leadership in the region, which has created a dangerous void. There is no country, process or institution to organize the countries in such a way that conflicts among them can be avoided by institutional means.

It is also important to underscore what has become the major threat to the countries of the hemisphere; that is, anti-government armed groups who finance their warfare through illicit activities. Until not long ago, these groups were fueled by outside support, whether from the United States, Russia or Cuba. Now, a lack of sponsoring countries has obliged armed revolutionary and paramilitary groups to rely increasingly on kidnapping, extortion, drug trafficking and illegal weapons

deals to support their activities. This explosive combination allows them to compete with the military capacity of any country and, unfortunately, more resources will be needed to fight them. With access to so many resources, these groups have little interest in reaching a negotiated settlement any time soon.

The activities of these groups will also increase tension among the countries. With armed incursions and people fleeing violence, countries look for ways to control these situations. Generally, the only solution is to militarize their borders. Unfortunately, this dramatically increases the possibility of confrontation between the armed forces of different countries, which would undoubtedly result in innocent victims.

The attacks on September 11 were, to some extent, a catalyst for the trends and events that were already underway in response to the new security policy represented by President Bush's team. Statements and articles published during the presidential campaign indicate candidate Bush wanted to reinforce certain areas of national security that had nothing to do with the continent. In the eyes of the Bush team, the events of September 11 confirmed the belief that the United States government's efforts and resources had to be focused on "rogue nations" (dysfunctional countries; that is, troubled and unpredictable ones) and on terrorist groups who have access to weapons of mass destruction.

- **The United States, Colombia and Plan Colombia**

The United States is interested in Colombia because 80 per cent of the cocaine and heroin consumed in that country comes from Colombia. However, its growing interest in Colombia as an oil-producing country should not be underestimated. This is because of the potential for future increases in its supply, uncertainty over the situation in Venezuela, which could affect oil supplies from that country, and the unpredictable situation in the Middle East.

Some studies interpret escalation of the Colombian conflict as one reason why the United States has dramatically increased its military aid. Nevertheless, United States interest in Colombia continues to focus primarily on the drug traffic and the so-called narco-guerrilla organizations. If the FARC decide to mount a major and systematic attack on United States citizens or interests in Colombia or abroad, this could change the primary objective of the United States with respect to Colombia.

Plan Colombia, which has demonstrated its limited scope and reduced capacity to tie in with broader initiatives, is unlikely to play a decisive role in changing the country's situation. The Colombian government has done a shockingly poor job of leading any type of regional effort against insurgents or drug traffickers. Although the United States can often be accused of a lack of subtlety, or even a unilateral approach, this is partly because Plan Colombia does not always appear as an initiative with topics and conditions determined by the Colombian government.

Furthermore, up to now, the Andean Initiative has suffered from ties to its national predecessor.

It is still too early to bet on the success of Plan Colombia in the field. National initiatives in the past accomplished little other than to pressure drug traffickers into pursuing their activity beyond the country's borders. However, the fear of occasioning large-scale internal and cross-border migration appears to have been exaggerated.

Will United States military aid to Colombia increase dramatically in this situation? Probably not. It is important to be clear on this point, since the recent debate has confused the issues surrounding this discussion. In the year 2000, the United States substantially increased its support and assistance to Colombia, including fumigation programs, alternative development, a build-up in the justice system and protection for human rights, besides an important package of military aid to fight the war on drugs. The military package included training for an anti-narcotics battalion, helicopters with maintenance and spare parts, and improvements in Colombia's intelligence mechanisms.

The most controversial part of this aid involves the military package, simply because it might be the start of an escalation similar to the one in Vietnam. So concerned were United States lawmakers about this possibility that they levied a series of restrictions on assistance, by requiring the Colombian armed forces to improve their human rights record and by placing a ceiling on the number of United States soldiers in Colombia.

At present, the debate is on three issues:

- Increasing assistance to Colombia in the war on drugs.
- Allowing Plan Colombia's resources and the Colombian personnel trained through the program to be used to fight the guerrillas (this is inadmissible under the current agreement).
- Finding other ways and means to provide Colombia with additional assistance to improve its fight against armed groups operating outside the law; namely, the guerrillas and the paramilitary forces.

Three opinions on this debate:

- I. There is now discussion as to whether the initial aid package has achieved results. The programs to eradicate coca and to encourage alternative development in Putumayo and Caquetá are being questioned. Therefore, the possibility of a dramatic increase in United States aid to fight the drug traffic is doubtful.
- II. The regulations on Plan Colombia resources and trained personnel will likely become more flexible, mainly because it is virtually impossible to separate

the drug traffic from the activities of Colombia's insurgent and paramilitary forces. Inasmuch as most of this assistance has already been delivered, a change in this respect seems possible, especially given the violence in the country.

III. Granting substantial aid for the fight against armed groups is difficult. United States lawmakers have too many questions about the effectiveness of what has been supplied so far. Furthermore, they continue to question whether the military leadership has done enough to prevent human rights violations and to punish those who perpetrate such crimes. Any additional aid to combat the guerrillas and the paramilitary groups will be limited and will not involve sending more United States soldiers, nor will it allow them to play an active role in the conflict.

At any rate, many sectors of public opinion in the United States are convinced the Colombian government has not done enough to control the situation. In their view, despite recent increases, military spending is extremely low and the size of the armed forces is very limited. However, the country's elite is not entirely disposed to paying substantially more taxes than at present, or to allowing its sons to run the risk of joining the military to fight the subversion and other illegal groups. Until this situation is resolved, these critical sectors in the United States will fail to see any wisdom in increasing or maintaining aid to Colombia.

Lastly, the problem all international donors have in Colombia is the absolute impossibility of instituting programs for social development, justice improvement or alternative efforts when there is no minimum security on site. It has even become difficult to guarantee the activities essential to a democracy, such as the right to vote or to move about the country. Not even the safety of presidential candidates can be ensured; after a series of assassinations in the nineties, they are probably the most protected people in the country. Until there is a major reduction in the violence and the level of conflict, it will be very difficult, if not impossible, to develop assistance programs in Colombia.

However, since the state has not collapsed, it is unlikely the option of humanitarian aid through the United Nations will be considered, even to help alleviate or resolve the Colombian situation. Very few countries are willing to offer their soldiers for humanitarian missions in highly complex and ambiguous circumstances, such as those in Colombia, particularly after what happened to the Netherlands in Bosnia. Its troops, acting within the scope of humanitarian intervention, were accused of failing to prevent a group of civilians from being massacred by rival armed forces.

4. The Role of the Military

The role of the military is influenced by today's environment of global and regional security, due to the new paradigm of relations and threats it has created. Given the possibility of more conflicts between peripheral countries, the primary and traditional function of the military – protection of territorial sovereignty – continues and will even warrant reinforcement in some cases. The new threats from armed

groups, whose illegal activities have given them added strength, mean the military will have to specialize in anti-guerrilla warfare, or combat extremely violent organizations. Generally, this is the role of law enforcement.

However, in view of how dangerous these groups are and the amount of resources and military capacity they have at their disposal, countries must rely increasingly on their armed forces to take the place of law enforcement in putting an end to threats of this type. In addition to activities associated with law and order, which are traditionally handled by the police, there will still be a certain amount of pressure on the military to perform other functions when the government or the population feels the agencies in charge are unable to do a proper job. A recent example can be found in Mexico, where the army is involved in the fight against kidnapping. It also performs other, more “traditional” activities, such as border control, fighting the war on drugs, migratory control, health services (vaccination, preventive health), and environmental protection (preventing trees from being cut).

International pressure will allow democratic trends in restructuring the armed forces to continue the bid for greater civilian control and supervision of their activities. However, the more the conflict intensifies, the slower this process will be. Consequently, at present, this type of restructuring should be regarded as a long-term goal.

Certain key elements in the relationship between the region’s armed forces and those of the United States have not changed dramatically since 1989. The overriding features of the inter-American security system remain unaltered. The Commanders Conferences, the Rio Pact, the education and training courses given by the United States, and most of the other features are still the same. Although the OAS has a security committee and a meeting with defense ministers of the Americas is held every two years, it would be a mistake to think recent years have witnessed major progress towards reform.

In contrast, the United States exerts considerable influence over the armed forces in Latin America, and even in Commonwealth countries such as Canada, which felt this influence less intensely up until a short while ago. The United States now wants democracy, together with constitutional and democratic civilian-military relations; this is a vital change. Yet, as the events of September 11 have shown, it is unclear as to whether this situation is necessarily permanent.

The Latin America military agrees with the United States army on certain points. There is concern over the drug issue, although generally far less than in the United States. Illegal immigration is another worry, but much less so than for Latin America’s partner to the north. International crime is a problem, but the role of Latin America’s military in most, if not all of this area has yet to be defined.

Latin America’s armed forces are reluctant to suffer the cutbacks in size, prestige, budget and sophistication often suggested by Washington. Nor do they want

globalization, regionalization and modernization as valid favorable trends. The military remains leery of what the new world order means for them institutionally and individually, and in serving the civilian leaders of national states.

There is considerable tension beneath the calm surface of military relations between Latin America and the United States. Most of it surrounds an almost generalized conception that, in some way, the United States wants Latin America's military forces to become mere gendarmes. In some countries, the historic importance of the armed forces and their tradition in defining visions of the nation gives them considerable stability and backing to continue their traditional roles.

As in the past, the United States military will continue its policy of drawing closer to other armed forces in the region, through training and exchange programs. The current situation makes activities of this type difficult because some countries (Venezuela and Brazil) lack the necessary environment. However, in view of the possibility that border tensions will increase dramatically in situations like the Colombian one, processes to build confidence among the countries are urgent. The United States could lead this effort, as could the OAS, the European Union or others. What is important is that someone takes the lead in this process, as a proactive way to reduce potential conflicts in the future.

Finally, the security structure provided by the Inter-American Treaty on Reciprocal Assistance (TIAR) can be expected to change eventually. For now, the TIAR is regarded as an old-fashioned and inoperable mechanism that generates different reactions among countries in the area. Mexico, for example, has already said it intends to withdraw from the treaty; Argentina and Chile have suggested it be modified. Venezuela proposes changing its structure entirely by establishing two levels: one exclusively for Latin American consultation and operation, and another to include the United States. Yet, there is not even the beginning of an agreement on the fate of the TIAR. Unfortunately, with the current situation (especially the tension between Colombian and Venezuela, and particularly United States interest in dealing with possible terrorist threats), it is difficult to imagine a new multilateral security agreement being negotiated at this time. Therefore, it is again imperative that any process to build confidence among the countries be a priority in the short term.

5. Colombia and the Sub-regional Environment

Colombia is living an internal war that has produced one of the largest humanitarian crises in Latin America. Yet, it is not enough to say Colombia is experiencing a war, this being understood in international terms as a confrontation resulting in a certain number of dead. It is also necessary to define the sort of war being waged. This analysis can focus on the type of actors or the parties involved. Colombia's complexity means there are multiple actors. It is not a bipolar conflict between two blocs fighting to defend their interests. Interference from the drug traffic and organized crime changes the determinants, given the complex

relationship between the parties in the country's different zones. The way these parties interrelate is not obvious, but it is clear that money from illegal drugs and organized crime is fundamental to sustaining the war.

It is not a classic war over national sovereignty. Therefore, it does not have the connotations of an interstate conflict. The central element, in terms of the loss of sovereignty, is not interstate in nature, but refers to the state's capacity to establish the rule of law throughout the country. An added complexity is the fact that the insurgents occupy territory beyond the nation's borders, outside the "range of traditional sovereignty". This makes the process even more difficult. Nor is it a traditional conflict between the two poles that clashed during the Cold War. In Colombia, the conflict does not appear as a war between the old East and West; the situation is more complex and not entirely "ideologized". Other categories will have to be found to define the type of war. This is essential in the search for options to end it.

Is Colombia a failed state? In other words, is Colombia a state in the process of disintegration? This question is particularly relevant in the context of the post-Cold War era. When applied to the Colombian case, it is possible to say the state has failed, in part, and faces tremendous obstacles to applying its policies. This is due to a partial loss of sovereignty within Colombia and the absence of a single rule of law throughout the territory that constitutes the state. Failure to exercise full sovereignty has an evident manifestation: absence of the monopoly on force. There is also a strong tendency for the bottom part of the state's structure; that is, local authority, to be further weakened by the corruption and armed influence of unlawful groups.

On the other hand, the answer is negative, since Colombia is not a collapsed state and its institutions and democratic system, founded on free and pluralist elections, are firmly established. Its institutions operate on the basis of democratic standards and representation. However, beyond the weight and volume of the warring factions, the internal armed conflict is becoming more and more akin to a "civil war". In other words, one part of the population is in conflict with the other part. Yet, unlike other cases in history, there has been no symmetric polarization of society up to now. It is, however, important to recognize that the insurgency has enough social backing to remain active, to face the state and, in fact, to perform state functions and to exercise control over an important portion of the nation's territory. Relatively speaking, the same can be said of the paramilitary groups, who represent a civil counter-insurgent project independent of the state.

The dramatic events in Colombia, particularly its "crisis/war", have important fallout for political and military relations with its neighboring countries. The impact of the conflict beyond the country's borders poses a serious threat to regional security. For example, the insurgents have bases in third countries, near the Colombian border. There is also the risk of Colombia's armed forces taking action in areas where third countries exercise national sovereignty. Independent action by the

insurgency in countries bordering Colombia is also a factor, as is the way the Colombian crisis feeds the drug traffic in those countries, along with corruption and the traffic in weapons and explosives.

Because of its role in the international chain of illegal drug production, Colombia is the object of close attention and concern in the region, the hemisphere and worldwide. Solving the problem is obviously not a question of “eliminating” production in one country, as long as the international demand for illegal drugs remains high. On the contrary, anti-drug policies and the actions of international organized crime affect Colombia’s involvement internationally and the security relations these elements imply.

In the traditional sense that a threat is the result of both the intention and ability to do harm, Colombia is in no way a threat to its neighbors in the region. Yet, the country’s inability to control its territory and its people, coupled with a particular weakness in crucial border areas, make it a concern to its neighbors. The Colombian context is full of questions for neighboring governments. Logically, they look to their armed forces to show the public they are actually doing something to control the risks inherent in the situation.

The strategic regional balance is safe and sound, and always has been. Colombia’s growing military might is no cause for concern to Brazil or even to Lima, and implies virtually no reaction from Panama or Ecuador. The only area of concern is Venezuela, where the armed forces believe they have been extremely patient while the Colombian military has expanded and distorted the traditional strategic balance between the two countries. This situation must be watched carefully in these dramatic days, not only because of Colombia’s instability but because of Venezuela’s problems as well.

Conflicts tend to cut across national borders, especially when they escalate in size. The overflow of the Colombian conflict is a proven fact. Not long ago, the Ecuadorian government discovered Colombian guerrilla camps in its territory, and the press has published reports on the possibility of Colombian insurgents being active in Peru. Colombian authorities have also complained the insurgents have camps in Venezuela. This points to at least the latent possibility of the conflict escalating in interstate terms. Appropriate steps are required to ensure this does not happen.

Preventive measures must be taken to avoid any polarization or militarization of interstate ties, which could internationalize the conflict. The specific recommendation is that measures for mutual confidence and interstate security be developed, not only to generate greater trust but also to establish early warning mechanisms to avoid undesired confrontation between Colombia’s military institutions and those of its neighbors.

Plan Colombia is the prime example of how the Colombian conflict has internationalized. Conceived as a program for joint action between the Colombian government and the government of the United States, its aim is to apply a policy for effectively containing the conflict. It is also a vehicle for receiving United States aid in this respect.

What about an “outside solution” to the conflict? In spite of the serious humanitarian crisis, an “outside” solution is unforeseeable, not in Latin America, nor from the standpoint of what the West can do. On various occasions, the Colombian government has said it opposes outside intervention in the country. Latin America has repeatedly stated it does not want to intervene militarily in Colombia, and the United States is also wary of direct intervention, in which it would likely play a role. Nor do international organizations approve of this alternative. What kind of “intervention” is possible and desirable? Politically speaking, direct military intervention does not appear to be an option. Other types of “intervention” might emerge to achieve what appears to be best for society, through democratic means. However, there is nothing definite as to the right time or where the necessary resources would come from.

We have what could be called a mixed bag of responses to the changes in regional security with respect to Colombia’s neighbors.

Brazil: Regional security is not a priority, provided it is understood as matters that affect the hemisphere as a whole. This was evident at various inter-American meetings, and even in Brazil’s military operations and its foreign policy for a number of years. Brasilia is preoccupied with national security issues of its own. These are tied to its borders, especially in the Amazon region, which has been crucial to national defense for some time. However, if regional security is understood as including the country’s border regions, particularly those adjacent to Colombia and other neighbors, it is very important to Brazil. The Amazon border with Colombia is permeated by the traffic in drugs and weapons.

Ecuador: Because of domestic problems and events outside the country (the 1995 war with Peru), Ecuador has been slow to adapt its stance on national defense to include the changes in regional security. Domestic matters and the border with Colombia are a priority for a military institution that is anxious to prove its usefulness and, thus, maintain its privileged position in Ecuadorian society. In fact, judging from undeclared public policy in the military field (Ecuador is only now studying the draft of a white book on defense), it is clear that the armed forces decide the country’s national security policy. And, although the Ecuadorian military is quite capable in many areas of regional security, it has other institutional and national priorities that take precedence over regional affairs.

Yet, here again, if one defines “region” as the immediate vicinity, then Ecuador takes regional security very seriously. It has placed more troops and aircraft in operation along the Colombian border, and is worried about Colombia’s weakness

and inability to control its territory. The border with Colombia has seen intense traffic in ammunition and explosives, as well as input for processing narcotics. The FARC apparently have rest-and-refuge camps in Ecuador. These are known to the Ecuadorian army, but tolerated. The army seems willing to not complicate things by repelling the guerrillas, provided they refrain from attacking Ecuadorian citizens and property.

Panama: The country's armed forces were eliminated in 1990 and, since then, Panama has felt less secure in the face of challenges that were never imagined when the United States intervened and pressured for abolition of the military in 1989. Paramilitary and insurgent activity in sparsely patrolled border regions has done considerable damage and caused some loss of life in these areas. The country is simply unable to address this matter with the security forces it has on hand, and seems to be doing little beyond what it can accomplish in this unfortunate situation. Accordingly, Panama is virtually an absent player in regional security, whether understood as hemispheric or involving the immediate vicinity.

Peru: The end of the Fujimori regime means that normal civilian-military relations can finally be established. However, it is still uncertain how successful the new government will be in this respect, or in making real progress in different areas of this agitated country. The military's self-confidence has been weakened. Diplomats have little time to spend on "games" like regional security; they are preoccupied with the difficulties of the transition to what, with some luck, will be a truly democratic government.

For lack of problems along the border with Colombia, relatively few troops or other equipment have been sent to this part of the country. However, the Colombian situation is a source of concern to the Peruvian military. The recent renewal of some activity by Sendero Luminoso (the Shining Path guerrillas) is a disturbing sign as well. Consequently, although regional security issues are not of direct concern to Peru, national interest in addressing these matters will probably remain the same, or even increase.

Venezuela: This country has referred to the situation along the Colombian border as a major security issue. At the same time, cooperation on regional security is limited by the fact that Washington constantly gives the Venezuelan government the "cold shoulder". Also, Venezuela has repeatedly proposed deep-seated changes in ongoing regional security agreements.

For example, Caracas has suggested a two-level, inter-American system be implemented, with Latin American nations on the first level, which would address most security issues. The OAS and the inter-American security system would be summoned only when genuinely inter-American issues are at stake. This is a serious blow to the United States, which has urged others to frustrate any movement in this direction, rather than doing so itself.

Under these circumstances, the changes in regional security agendas have not been incorporated entirely into national thinking under the Chávez government. Colombia, on the other hand, is central to Venezuela's concerns about its own security. In fact, Colombia is the main topic in discussions on security. The Colombian government's inability to control the country's borders and the upswing in violence dominate the security concerns of its neighbor. Also, there is ambivalence and pragmatism in some sectors of the Venezuelan military with respect to the Colombian guerrillas.

President Chávez's attitude towards the FARC and the ELN is a constant source of concern to Colombia. His declarations of neutrality in the conflict between Colombia's armed forces and the guerrillas imply tacit recognition of the latter as a belligerent force. Added to this concern are the recent complaints of plans to strike an agreement between certain sectors of the Venezuelan armed forces and the FARC. The idea would be to afford the guerrillas a measure of support and protection in Venezuela, provided they do not threaten security inside the country.

6. New Opportunities for Cooperation on Security

In the nineties, the end of the Cold War gave Latin America an opportunity to receive and apply the dividends of peace. Unfortunately, this opportunity was lost. New circumstances will have to be created at the start of the twenty-first century, in a context made more difficult by new events and the inability to overcome identified shortcomings.

The following are the primary reasons why opportunities have been lost.

- "Self-concerned geopolitics" in the Andean area, as demonstrated by the Peruvian-Ecuadorian war and the ups and downs in territorial differences between Colombian and Venezuela.
- Weakness in specifying the discourse on each party's political willingness to support an institutionalized peace. This includes the United States.
- Lack of articulation, coupled with institutional weakness in matters of regional security within the global environment. Limited coordination between the universal system (the United Nations) and the regional organization (the OAS).
- Distrust among Latin Americans and between Latin America and the United States. This was particularly evident in the question of drugs and certification. There is military distrust as well.
- The inertial weight of the military's prerogatives and space, or rather the weight of the armed forces as the government's sole support (Peru under Fujimori).

- Institutional weakness and lack of commitment to articulate declarations in a binding mandate.
- Recognizing the “lost opportunity” will allow the new concept of security to be viewed in a different light, making it easier to weigh the eleven principal tendencies that set the stage for involvement in international regional security at the start of the twenty-first century. These tendencies have positive and negative effects on areas of action in the international security environment. They affect the conceptions that define public policy and influence decisions on doctrine. The following is a brief description.
 - The end of the bipolar conflict, due to disappearance of the Soviet Union, eliminated the context in which policy was defined for half a century. Although the communism-anti-communism conflict maintains its inertia in some regions, and can have an effect on the Colombian case, it has ceased to be an element of global articulation.
 - The impact of globalization on different dimensions, particularly two: time and space. Both affect policy-making, response times, and the scale of phenomena.
 - Globalization has diminished the capacity of states. This is related to the changes in sovereignty. Global finance is a particularly telling tale of the decline in the state’s power to control global flows. Eminently global issues have emerged and will require answers in this area. The environment is one example.
 - New international actors. The emergence of new transnational actors is a predominant force in the new context. Multinational and transnational companies are not the only ones to gain new capacity within the context of globalization, non-governmental organizations have done so as well. Internet plays a fundamental role in global communications. Emergence of the individual and his expression as “global public opinion” acquire more gravitation in the new international architecture.
 - Growing global interdependence. International relations were once characterized by internal-external differentiation. However, in the context of globalization, the differences between domestic and external environments have disappeared. With respect to cause, the chain is global-local, often with no “national” in between.
 - Latin America has occupied a marginal position in strategic global affairs, as is still the case. No change in this tendency is foreseeable. At the same time, it is possible to say that Latin America has a low level of interstate conflict. In spite of particular setbacks, it has managed to keep militarization in disputes among states to a minimum. Nevertheless, it is a region with a high ratio of intra-

national conflicts. Internal violence is an important factor in Latin America and affects perceptions of security, even beyond the borders of each state.

- Latin America has consolidated a disarmament policy on weapons of mass destruction. In this area, it is always essential to improve policy and, especially, to generate effective ways and means of verification.
- Military spending in Latin America is low compared with the rest of the world and the region has no modern strategic weapons. Consolidating a tendency to reduce military spending leads to progress in policies for transparency, endorsement and the development of a second phase of measures for mutual confidence.
- The institutional framework for international security in Latin America is weak. It has not been modernized or updated. The result is detachment and loss of opportunities, not only for dialogue with the United States, but also to articulate policies of its own that reaffirm the trends towards peace and stability in the region.
- Although the presidents have stated their willingness, a common conceptual framework for security has yet to be established. This affects possibilities for constructing and implementing a system of binding rules on defense and international security. It also influences any definition of the public property to be promoted and protected in this area.
- During the Cold War, the United States was a leading player in the regional and hemispheric environment. It still is today, but with different and simultaneous roles. This complicates its job as a global and domestic player in the region. The United States is, at once, the organizer, the supplier of arms and military aid, and the player who limits acquisitions. Insufficient room for dialogue with the United States, for lack of a secure institutional framework, means fewer opportunities for cooperation.

Even if Colombia is no threat to its neighbors, they certainly perceive it as such. Colombian diplomacy must accept this perception and deal with problems more openly, trying less to hide what cannot be concealed. In other words, it must admit the country has problems and that they affect Colombia's neighbors, even if precarious security situations in other Latin American countries multiply and perpetuate themselves to the detriment of Colombia's problems. Consequently, initial victims of the spillover effect of the Colombian conflict may eventually become contributing factors as well.

These realities make it imperative to insist that countries in the area stabilize their own scenarios in the interest of creating a common conceptual framework for security. This can be done by analyzing the situation in a more independent way,

by defining particular agendas for their own security, and by setting priorities for dealing with common threats.

Bilateral mechanisms are useful in addressing certain situations and should be maintained. However, they are sometimes not enough to influence circumstances that might be developing simultaneously in several countries. All the players must be included and all common issues covered as the basis for collective action and more active and effective cooperation. Globalization imposes multilateralism, not as an option but as a necessity.

On the other hand, Colombia will have to increase its efforts to encourage the European Union to cooperate more actively in improving security within the country, particularly with respect to the war on terrorism and drugs. Maintaining a certain tacit agreement in the sense that the United States concerns itself with security problems in Colombia, while the European Union concentrates exclusively on development issues is not advisable. European resources, technology and experience can also help to avoid any further deterioration in Colombia's security.

7. Women and Security

There is considerable room for women to become involved in national security issues. However, it is important to recognize the important role they already play. Women are part of presidential advisory commissions on security and hold positions in planning offices at defense ministries. In fact, Chile's defense minister is a woman. Most armies and navies in the region now have a certain number of women in their ranks, especially the military academies (which train future officers). Clearly, the role of women in insurgent (and terrorist) groups is probably greater than ever before (possibly with the exception of the Cuban revolution and the "women soldiers" in the Mexican revolution).

However, make no mistake. Women's involvement necessitates an explicit public policy in this respect. Such a policy seems to be lacking, even in cases where the region's security forces have addressed the issue, and in spite of the fact that recent years have seen an enormous increase in the number of women police throughout the region.

V. Seminar Participants and Observers

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