



POST-ELECTION COLOMBIA:

Careful Monitoring of the Paramilitary Demobilization Should Be Top Priority for Members of US Congress

As Colombian President Álvaro Uribe Vélez begins his second term, he should be encouraged to utilize his mandate to resolve the serious problems inherent in the implementation of the paramilitary demobilization process. Hailed by the Colombian Government as a way to remove at least one armed actor from the terrain of the internal armed conflict, the process aims to ensure that members of the paramilitary United Self-Defense Forces of Colombia-AUC (*Autodefensas Unidas de Colombia*) – an organization that is on the US list of Foreign Terrorist Organizations (FTOs) – turn in their arms and dismantle their organizational structures. To date, 30,144 paramilitary combatants have demobilized and begun the complicated process of reintegration into civilian life.

Despite the progress to date on reaching agreement with the AUC and on getting members to declare their intention to leave illegal armed activities behind them, there has been no corresponding progress on the key issue of dismantling underlying paramilitary structures and on ensuring that demobilized ex-combatants cease involvement in criminal activities, drug trafficking and threatening and violent behavior. ***Members of Congress should carefully monitor this situation because available information suggests that the demobilization process is not meeting the conditions for US assistance.*** To the contrary, the paramilitary demobilization process may be contributing to the formation of criminal networks, many engaged in drug trafficking, which promise to make US foreign policy goals increasingly difficult to achieve.

The paramilitary demobilization in Colombia currently faces several key challenges that, if they are not overcome quickly, could result in dismal failure:

1. As the Organization of American States (OAS) monitoring mission in Colombia has documented, in some areas of the country paramilitary groups continue to function – often in collaboration with state security forces;
2. The design and implementation of the legal framework governing the demobilization offers little promise of justice;
3. Insufficient progress is being made to identify land stolen from hundreds of thousands of internally displaced persons, or to return this land to its rightful owners.

Dismantling paramilitary structures, or re-treading the same tire?

US policy and funding aims to support a reintegration of these ex-combatants based upon full dismantlement of paramilitary organizational structures. In fact, ***current conditions governing US assistance to Colombia require that “the Government of Colombia is implementing a concrete and workable framework for dismantling the organizational structures of foreign terrorist organizations.”***¹ Unfortunately, the February 2006 report from the OAS monitoring mission in Colombia indicates that these illegal structures may be taking new forms rather than disappearing. This has led many analysts to ask if the demobilization process will be effective at eliminating these illegal armed groups, or if the process will simply allow the groups to legalize their activities. A reorganization and continuation of paramilitary power in Colombia will greatly weaken democratic governance and should be of tremendous concern to U.S. policymakers. This is particularly true because the implementation of the current demobilization of paramilitary organizations will set a precedent that could later determine conditions for demobilization of guerrilla groups like the FARC or ELN.

In at least five of Colombia’s thirty-two departments, ***the OAS has documented that demobilized paramilitaries have continued participation in armed activities.*** In Cesar, Córdoba, Meta, Sucre and Bolívar, demobilized paramilitaries have conducted massacres, offered security services to narcotraffickers, registered civilian populations and called people to mandatory community meetings, sold arms, and continued operating as if no demobilization had taken place.² On December 5, 2005, twenty-two civilians were brutally tortured and killed in the municipality of Curumani (Cesar Department) – allegedly by members of the Northern Bloc of the AUC acting on orders from notorious drug trafficker “Jorge 40”.³ The Northern Bloc was in the process of demobilizing when they committed these atrocities. Soon after the massacre, “Jorge 40” publicly accused members of the Colombian NGO Minga, which is investigating these crimes, by falsely charging that its members are guerilla sympathizers.⁴

The Colombia office of the United Nations High Commissioner for Human Rights reports that there is recruitment of youth (boys and girls) in Antioquia, Arauca and Norte de Santander.⁵ The OAS reported recruitment of new members and/or the creation of new groups in Norte de Santander, Valle del Cauca, Nariño, Chocó and Antioquia.⁶ The OAS also asserts that in Chocó a drug trafficking group known as the *Autodefensas Campesinas Unidas del Norte del Valle* (ACUN) has reportedly taken over responsibility for controlling the territory and drug routes previously held by the *Frente de Héroes del Chocó* of the AUC’s Pacific Block. In addition, in Antioquia, in Nariño and Norte de Santander promotional materials have been circulated by a new group called the “Black Eagles,” who seek the support of the civilian population and aim to recruit new members. Another group known as the “Social Front for Peace” has circulated materials in Sucre, Nariño and Valle del Cauca. In at least eight Colombian departments, ***the OAS has found evidence of the formation of new paramilitary groups and the strengthening of existing armed structures.***

¹ H.R. 3057, Section 599E. (b) (3).

² February 6, 2006. *Sixth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OEA)*, OEA/Ser.G CP/doc.4075/06.

³ December 9, 2005. Minga. *Paramilitares Asesinan Veintidos Campesinos en el Municipio de Curumani.*

⁴ El Tiempo, December 13, 2005. “*Atribuyen a combates entre guerrilla y paramilitares las muertes en Curumani (Cesar).*”

⁵ January 20, 2006. United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the Situation in Colombia*, E/CN.4/2006/009, p. 28.

⁶ February 6, 2006. *Sixth Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia (MAPP/OEA)*, OEA/Ser.G CP/doc.4075/06, pp. 9-10.

“And Justice for All” or continued impunity?

There is broad international concern that the “Justice and Peace” law passed by the Colombian Congress in July 2005 is inadequate for bringing perpetrators of heinous crimes to justice. Many analysts have expressed concern that the legal framework will instead facilitate the consolidation of paramilitary organized crime structures. These structures already have tremendous control over economic, political and social life in many regions of the country. In its February 2006 report, *the OAS asserts that demobilized paramilitaries are regrouping into criminal gangs that control specific communities and illegal economic activities.*⁷ It is in the interest of the US and the Colombian governments to address this problem, since it poses a direct challenge to the Colombian government’s ability to govern much of the country and it may lead to increased extortion, corruption, drug production and violence.

In seven departments where security is scarce and impunity reigns, the OAS found that mid-level ex-combatants are engaging in criminal activities that used to be controlled by demobilizing groups, such as “extortion, levies on drug production, social cleansing and alliances with local administrations.”⁸ Such areas include the village of La Cristalina, Meta, where demobilized paramilitaries are reportedly extorting cash from those who transport food. Paramilitary “holdouts” - those “fronts or groups that have not demobilized” – are also solidifying criminal economic networks by controlling parts of the drug trade in Córdoba, while former paramilitaries are doing the same in Nariño.⁹

It should be no surprise that criminal activities are flourishing in areas where demobilization is taking place: from the beginning, international experts have expressed concern that the “Justice and Peace” law governing the demobilization process does not meet international norms for truth, justice and reparations. In its recent human rights report, the UN High Commissioner for Human Rights expressed concern that, if not carefully implemented, this process could lead to impunity and could obscure “the state’s responsibility in crimes committed by paramilitaries where state agents may be involved due to action or omission.”¹⁰ In short, the current legal framework does not recognize and address the historic collaboration between the Colombian security forces and paramilitary groups – a basic fact of Colombian history that has been verified by all international human rights bodies.

The Colombian Congress passed the “Justice and Peace” law in 2005 in response to international demands for an appropriate legal framework to govern the demobilization process. Unfortunately, the law passed did not require full confession of past crimes and human rights violations, and did not require individuals to turn over all illegally obtained assets, such as stolen property and financial holdings. The law allowed for impunity for many crimes, since it gave the Attorney General’s office an unfeasibly short amount of time to bring charges against an individual and to bring the case to trial. Most importantly, the law allowed paramilitary commanders who have committed crimes against humanity and who have reaped windfall profits from drug trafficking to receive prison sentences of only 5 – 7 years and to keep most of their illegally obtained assets. Despite the modifications made in December 2005 in the codes governing the application of the law, serious flaws remain.

On May 18, the Colombian Constitutional Court took the positive step of issuing a ruling that will modify several of the law’s most troubling provisions. However, implementing these newly toughened provisions – for instance, requiring full confessions of former paramilitaries, and seizing their leaders’ assets, both legal and illegal – will demand that Colombian authorities demonstrate an inordinate amount of political

⁷ Ibid, p. 7.

⁸ Ibid, p. 7.

⁹ Ibid., pp. 8 & 10.

¹⁰ January 20, 2006. United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the Situation in Colombia*, E/CN.4/2006/009, p. 4.

will. They are unlikely to exercise this political will, however, unless they know that international bodies – in particular, the U.S. Embassy, State Department and U.S. Congress – are closely watching what happens. ***It is essential that Members of Congress insist that the changes to the law presented by the Constitutional Court are fully implemented and enforced so as to ensure that paramilitary networks are dismantled, investigators are able to uncover the truth, and victims’ rights are respected.***

Finally, extradition remains an important instrument for US officials engaged in international law enforcement and in ending illegal activities such as drug trafficking. Despite assurances from the Colombian government that the current legal framework does not prohibit extradition of drug trafficking paramilitaries, to date ***the demobilization process has effectively allowed these criminals to escape justice for crimes committed in the United States, such as importing illegal drugs.*** Full cooperation with extradition is a requirement for US aid to the demobilization process. Members of Congress should not accept an implementation of Colombian law that allows for violations of US law to remain unpunished – thereby continuing to subject US citizens to the risks and dangers of international organized crime networks.

WANTED IN THE US

Salvatore Mancuso, Diego Fernando Murillo, a.k.a. “Don Berna,” Rodrigo Tóvar Pupo, a.k.a. “Jorge 40,” and Hernán Giraldo Serna are just a few of the notorious paramilitaries wanted by the US for drug charges who may escape extradition through the demobilization process.¹¹ Salvatore Mancuso, accused of shipping 17 tons of cocaine to US shores, has been sentenced to 40 years in prison for the massacre of 17 persons in El Aro (Antioquia).¹² “Don Berna” is known for allegedly ordering the murder of a state congressman, his sister and driver.¹³ “Jorge 40”’s men allegedly massacred 22 persons in December 2005.¹⁴ “Jorge 40”’s men also controlled the bulk of drug activities along Colombia’s Atlantic Coast. Hernán Giraldo allegedly ordered the murder of two US Drug Enforcement Administration (DEA) agents. In 1994, the Supreme Court in Colombia found him guilty of the massacre of civilians in Honduras and La Negra, Urabá.¹⁵

Returning displaced people’s land, or legalizing theft?

According to the UN High Commissioner for Refugees (UNHCR), Colombia’s estimated 2-3 million internally displaced persons (IDPs) rank number two after the Sudan as the world’s largest internally displaced population.¹⁶ Colombian non-governmental organizations such as Pastoral Social and the Consultancy for Human Rights and Displacement (CODHES) report that the actual number of internally displaced persons is closer to 3.6 million. Colombian groups testifying at the Inter-American Commission on Human Rights in March of 2006 recommended that the OAS Monitoring Mission produce a special report on the land question since paramilitaries have amassed so much land that they have effectively instituted a land reform in reverse. CODHES reports that from 1995 to 2003 Colombians were forced to abandon an estimated 4.8 million hectares of land.¹⁷ ***According to a report by the Colombian government Comptroller’s Office (Contraloría), as a result of forced displacement, drug traffickers now control 48 percent of the most productive land in the country.***¹⁸

¹¹ July 2005. “Peace- or Paramilitarization?,” Adam Isacson, Center for International Policy, p. 5.

¹² El Tiempo, May 19, 2006. “Algunos de los jefes de las autodefensas que tienen condenas.”

¹³ January 20, 2006. United Nations Commission on Human Rights, *Report of the High Commissioner for Human Rights on the Situation in Colombia*, E/CN.4/2006/009, p.27.

¹⁴ El Tiempo, December 13, 2005. “Atribuyen a combates entre guerrilla y paramilitares las muertes en Curumani (Cesar).”

¹⁵ El Tiempo, May 19, 2006. “Algunos de los jefes de las autodefensas que tienen condenas.”

¹⁶ UNHCR. “*The State of the World’s Refugees: Human Displacement in the New Millennium*,” April 2006.

¹⁷ Colombian Episcopal Conference National Secretary of the Pastoral Social and CODHES. *Desafíos para construir nación, El país ante el desplazamiento, el conflicto armado y la crisis humanitaria*, 1995-2005. 2006, p. 142.

¹⁸ Contraloría Delegada para el Sector Defensa, Justicia y Seguridad, Dirección de Estudios Sectoriales. Luis Bernardo Florez, Vice-Controlor General de la Nación. 2005. “*Desplazamiento Forzado: Un impacto territorial.*”

Afro-Colombians have been disproportionately affected, forced to flee due to threats and violence from illegal armed actors, many from paramilitaries. Between 1995 and 2005, 318,647 Afro-Colombian persons in the country's Pacific region received community land titles through "Law 70," passed in 1993.¹⁹ An estimated 61% of those who received their land titles were subsequently forcibly displaced from their lands as a deliberate strategy of war by the armed groups. They are now struggling to survive without satisfactory shelter, food and health services. Many are unable to obtain gainful employment due to stigmatization and prejudices related to their African ancestry and to their status as persons displaced from conflict regions. ***Women and children, who make up seventy-four percent of the total IDP population, must fend for themselves in dangerous environments without adequate security, essential documents and basic provisions. The UNHCR predicts that if the current trend of violence and forced displacement of indigenous communities continues some of the smaller indigenous groups may disappear.***²⁰

A just demobilization process would guarantee that lands obtained through use of force will be returned to their rightful owners. To date, however, there have been no significant recoveries of illegally obtained land, and the National Commission for Reconciliation and Reparation set up as part of the demobilization has not officially established internally displaced persons as a population deserving specific consideration. According to the Colombian daily *El Tiempo*, former paramilitaries have announced that they will turn in some 100,000 hectares of land, yet to date this land has not been turned over and no concrete plans have been announced for how such lands may eventually be redistributed.²¹

¹⁹ Afrodes/Global Rights. "Informe para la Comisión Interamericana de Derechos Humanos," Marzo 2006, p. 12.

²⁰ UNHCR. "The State of the World's Refugees: Human Displacement in the New Millennium," April 2006, p. 170.

²¹ El Tiempo, March 28, 2006. "Paramilitares desmovilizados ofrecen devolver 100 mil hectareas para reparar las victimas."

Recommendations to Members of the US Congress

It is essential that members of the US Congress urge the State Department to vigorously enforce the demobilization conditions found in the foreign aid appropriations bill and carefully monitor whether the process is indeed leading to dismantlement and to justice. US decisions with regard to the paramilitary demobilization must take into account (1) what impact the process is having on the paramilitaries' many victims, and (2) whether the process is dismantling paramilitary networks that, if undisrupted, will continue to impede democratic governance in Colombia and to participate in the illegal drug trade. The OAS monitoring mission and the Colombia office of the UN High Commissioner for Human Rights provide reports and recommendations that can serve as very useful guidelines to this end.

1. Fully enforce the conditions on the demobilization and disarmament of former irregular combatants in Colombia that are found in US legislation.

- a) Monitor the implementation of the Justice and Peace law to ensure that those who benefit from the reduced sentences provided by the law are meeting the conditions established in H.R. 3057, specifically that they have: "disclosed their involvement in past crimes and their knowledge of the foreign terrorist organization's structure, financing sources, illegal assets and the location of kidnapping victims and bodies of the disappeared."
- b) Base evaluation of the progress of the demobilization process on reports by the OAS monitoring mission, the UN High Commissioner for Human Rights, as well as reports by US and Colombian NGOs that work in the field of human rights, internal displacement, and conflict resolution.
- c) Strongly raise this issue with relevant officials in the US Department of State, the US Embassy and the Colombian Government to ensure compliance with US legislation.

2. Urge the Colombian Government to ensure return of stolen lands to their rightful owners.

- a) Encourage a national land survey in Colombia to identify lands belonging to internally displaced persons and to suggest appropriate mechanisms for guaranteeing return of these lands. Such a survey could be led by the Colombian government inspector general's office, the *Procuraduría*, with input and involvement from other government agencies and non-governmental groups with valuable information in this area.
- b) Urge the Colombian government to make the return of land belonging to Afro-Colombian and indigenous communities a priority. This attention should be based upon the principles of consultation and rights outlined for these communities established in law 70 of 1993.
- c) Ensure that USAID has established appropriate screening mechanisms to guarantee that US financing does not support programs that are implemented on stolen land.

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