

A Compass for Colombia Policy

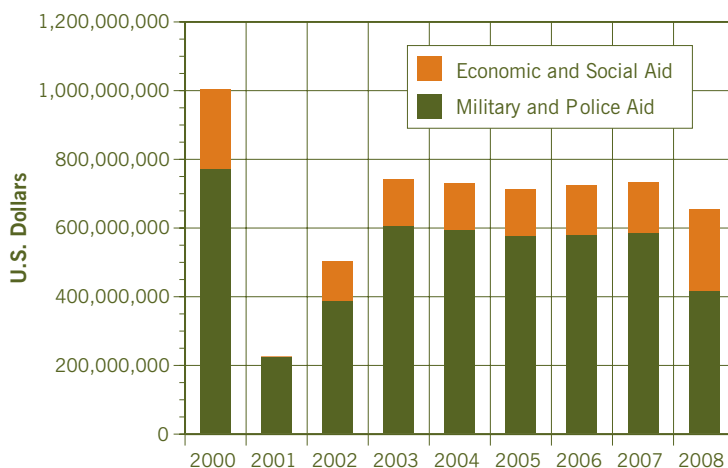
In 2000, the United States launched an ambitious aid program designed to help Colombia combat illicit drugs. The program, known as Plan Colombia or the Andean Counternarcotics Initiative, was also presented as a plan to help our neighbor “regain the citizens’ confidence and recuperate the basic norms of peaceful coexistence,” as well as build “an effective judicial system that can defend and promote respect for human rights.”¹ Nine years later, despite military gains, these goals remain elusive. Colombia’s production of cocaine is virtually unchanged. Peace with Colombia’s guerrillas is still a distant prospect. And Colombia continues to suffer horrific human rights problems, including one of the world’s highest

rates of violent displacement, despite the partial demobilization of one abusive armed group. It is time to reevaluate this program and change course.

U.S. policy should use as its guiding compass supporting efforts in Colombia to strengthen human rights and to govern more inclusively. Far from a few changes along the margins, this requires a change of heart. It requires shifting away from a celebratory embrace of a particular administration to a more strategic and calibrated response designed to end impunity and improve life for excluded sectors, especially the rural poor. It entails reshaping aid from a largely military focus to an emphasis on civilian governance. U.S. policy must aim to strengthen Colombia’s institutions, rather than risking broad U.S. policy goals through support of one administration or charismatic leader.

The most potent forces for change are within Colombia, and U.S. policy should consciously support and empower the human rights advocates, victims, judges, prosecutors, government oversight staff, journalists, legislators, union leaders, and Afro-Colombian, indigenous, and other community leaders who are the driving forces towards a more just society. From justice, other goals will advance: towards an end to the conflict, reduced power and corrupting influence of the drug trade, and a more prosperous and stable Colombia.

U.S. Aid to Colombia, 2000-2008: \$6.03 Billion



Source: see footnotes at <http://justf.org/Country?country=Colombia>

By Lisa Haugaard, Gimena Sánchez-Garzoli, Adam Isacson, John Walsh and Robert Guitteau

Executive Summary: A Compass for Colombia Policy

U.S. policy should use as its guiding compass supporting efforts in Colombia to strengthen human rights and govern more inclusively. Far from a few changes along the margins, this requires a change of heart: from a celebratory embrace of a particular administration to a more strategic response designed to end impunity and improve life for excluded sectors, especially the rural poor. It entails reshaping aid from a largely military focus to an emphasis on civilian governance. The most potent forces for change are within Colombia, and U.S. policy should support and empower the human rights defenders, victims, judges, prosecutors, government oversight staff, journalists, legislators, union leaders, and Afro-Colombian, indigenous and other community leaders who are the driving forces for a more just Colombia. From justice, other goals will advance: an end to the conflict, reduced power and corrupting influence of the drug trade, and a more prosperous and stable Colombia.

Seven Steps to a Just and Effective U.S. Policy

- 1 Use U.S. Aid and Leverage for Human Rights and the Rule of Law.** The United States should take a principled stance in favor of protecting human rights and strengthening the rule of law in Colombia. This requires a decided shift in U.S. diplomacy to a tougher approach that helps Colombia end impunity, protect human rights defenders, preserve the judiciary's independence and strengthen its capacity, and improve the security forces' human rights performance. U.S. policy must insist that the Colombian government fully dismantle paramilitary networks and support victims' efforts for truth, justice, and reparations.
- 2 Actively Support Overtures for Peace.** Now is a moment when careful, renewed efforts to achieve peace could progress. In a war that threatens to go on indefinitely, the immense suffering of the civilian population demands that Colombia, its neighbors, and members of the international community, including the United States, take risks to achieve peace. The United States must make clear its desire to see a negotiated outcome in the near term, support the involvement of mediators who can lay the groundwork for face-to-face dialogue, and back the Organization of American States and other regional forums that strengthen regional cooperation. Actively supporting peace also means that the United States cannot continue endlessly bankrolling war.
- 3 Support Expansion of the Government's Civilian Presence in the Countryside.** The key to peace in Colombia lies in governing rural zones in ways that address poverty and inequality. The U.S. government should reconfigure the Colombia aid package to focus on strengthening Colombia's civilian government, particularly its attention to the rural population. This assistance should include alternative development and rural development programs, expand access to justice, and strengthen local governments' capacity to deliver basic services. But U.S. aid is a temporary fix that should be designed to be phased out. U.S. policy should encourage the Colombian government to devote budget resources to and deliver sustainable, accountable basic government services to poor rural conflict zones.
- 4 Protect the Rights of Internally Displaced Persons and Refugees.** Colombia is second only to Sudan/Darfur in the number of internally displaced people (IDPs). The United States must make prevention of displacement and protection of IDPs a top priority. The U.S. government can help prevent displacement by insisting that the Colombian government dismantle paramilitary networks and that Colombia's armed forces respect the distinction between combatants and civilians. It should increase aid providing durable solutions for IDPs and refugees and encourage the Colombian government to abide by the Constitutional Court's landmark decision about its responsibilities to IDPs. U.S. policy should urge the Colombian government to insist upon return of land illegally held by demobilized ex-combatants.

Executive Summary: A Compass for Colombia Policy

- 5 **Protect the Rights of Afro-Colombian and Indigenous Communities.** The U.S. government should protect Afro-Colombian and indigenous communities that have been disproportionately affected by displacement and the ravages of war, with special attention to their vulnerable land rights. It should encourage the Colombian government to complete land titling for Afro-Colombian communities, call for full return of land to displaced communities, and guarantee that U.S. aid projects are not carried out on land obtained by violence. U.S. policymakers should use the human rights conditions in U.S. law to insist that the Colombia's armed forces not violate these communities' human rights and land rights.
- 6 **Ensure that Trade Policy Supports, Not Undermines, Policy Goals towards Colombia.** The United States should insist on progress in respect for labor rights, especially in reducing violence against trade unionists and ending impunity in such cases, prior to any vote on a trade agreement. Any trade agreement should protect the livelihoods of Colombia's small farmers and make the reduction of poverty a central goal. This is not just a question of fairness: it ensures that a trade agreement will not undermine major U.S. policy goals, such as reducing small farmers' dependence upon coca and poppy, helping the government establish governance in the countryside, and ending the conflict.
- 7 **Get Serious—and Smart—about Drug Policy.** The United States is overdue for a major course correction in its drug control strategy, in Colombia and the Andean region. The U.S. government must stop bankrolling the inhumane and disastrously ineffective aerial herbicide spray program, which has only served to deepen small farmers' reliance on crops for illicit use. With the goal of gradual and sustainable reductions in coca growing, the U.S. government should invest in alternative development programs designed and carried out in close coordination with affected communities. Drug enforcement efforts should focus higher up the distribution chain, disrupting money laundering, and apprehending violent traffickers and organized crime bosses. Most importantly, the administration and Congress should make improved access to high-quality drug treatment in the United States the centerpiece of American drug policy, with ambitious increases in funding for services and research. Without such a commitment to reducing demand for illicit drugs here at home, even the best efforts in Colombia will make little difference in either country.

A Snapshot of Progress and Problems

How has the United States' \$6 billion investment in Colombia fared in terms of progress towards reducing illicit drug production and trafficking, achieving peace, and strengthening human rights and democracy?

Counternarcotics. By any measure, U.S. drug policy has failed spectacularly in Colombia and the Andes. Colombia and the Andean region produce as least as much cocaine as they did before Plan Colombia began, according to the United Nations.² The U.S. strategy has focused on chemically eradicating poor farmers' crops in ungoverned areas, while efforts to bring governance, economic opportunities, and food

security have lagged behind.³ The result is a cruel policy that has had no effect on cocaine supplies. Within the United States, cocaine continues to be sold at or near all-time low prices. Indications of a price "spike" trumpeted by the White House in 2007 still left cocaine's price well below its 1990s levels, and history suggests that the apparent spike is likely to be short-lived. A course change is urgent. Failure and frustration will continue to be the hallmarks of our drug policy until our focus shifts to rural governance in Colombia and real demand-reduction at home.

Peace. When Plan Colombia began in 2000, and again in 2002 when President Álvaro Uribe launched his hard-line security strategy,

our organizations warned that these policies would greatly reduce prospects for a negotiated solution to the conflict. We warned that they would condemn Colombia to many more years of intense violence. It is now 2008, and many years of intense violence have indeed passed. In the intervening years, Colombia's conflict took over 20,000 more lives and displaced more than two million citizens.⁴

The post-2000 military buildup, which nearly doubled the size and budget of Colombia's security forces, has left the FARC and ELN guerrilla groups weaker and more isolated. Paramilitary groups underwent a demobilization process, though many of their leaders remain powerful and new groups are emerging. But despite progress on the battlefield, peace in Colombia remains far off.

Colombia's start, killings of civilians expanded dramatically during its first two years, as the paramilitaries' reign of terror, aided and abetted by members of the army, escalated. Then, while massacres declined as the paramilitaries demobilized, selective assassinations and disappearances continued.

Today, civilians in much of the countryside still live in fear of attacks from all quarters. The increase in the number of people displaced from their homes in 2007 and the first half of 2008 reveals that the war, far from ending, rages brutally. Paramilitary groups that never demobilized or have rearmed, along with new armed groups, threaten and attack rural communities.⁵ The FARC and ELN continue to kill, kidnap, plant landmines, and commit other grave abuses. Conflicts among all parties

The increase in the number of people displaced from their homes reveals that the war, far from ending, rages brutally.

Without a change in direction, a low-intensity war of attrition, fueled on all sides by the drug trade, will continue to rage in Colombia. Though its impact will not be strongly felt in the country's metropolitan centers, the conflict will remain a brutal fact of daily life—and, for thousands, a cause of death—in much of Colombia's national territory for years to come.

Human rights and democracy. Colombia continues to face the most serious human rights crisis in the hemisphere, in a rapidly shifting panorama of violence. The Colombian government points to declining numbers of homicides and kidnappings as signs of success in grappling with this legacy of violence. Some areas saw a decline in killings of civilians due to the paramilitary forces' partial demobilization. In recent years, kidnapping has also declined as the guerrillas retreated.

However, the reality on the ground is far more complex. Gains portrayed as permanent may be merely transitory, and disturbing new trends continue to emerge. Rather than showing a steady improvement in human rights since Plan

produce displacement. Disturbingly, incidents of extrajudicial executions of civilians by Colombia's armed forces have been on the rise since 2002. The United Nations, human rights groups, Colombian judicial agencies, and the State Department have documented cases from all over the country of groups of soldiers allegedly capturing civilians, killing them, and dressing them in guerrilla clothing to claim as enemy dead.⁶

A largely ignored peril facing Colombia is overconcentration of power. A powerful executive branch has sought to increase its control over the judiciary, in an effort to weaken its authority to investigate politicians' ties to the paramilitaries. The "parapolitics" scandal implicates members of Congress, governors, mayors, cabinet members, and close presidential allies.⁷ Having already reformed the constitution to run for a second term, highly popular President Álvaro Uribe is considering changing it again to run for a third time. While the United States has criticized neighboring countries' similar efforts to weaken checks and balances, it has been silent regarding Colombia.

But the most troubling and unresolved problem facing Colombia is impunity for human rights abuses. This failure of justice lies at the heart of the recurrent cycle of violence that afflicts the country. During Plan Colombia's lifespan, the justice system's commitment to address impunity took a sharp turn for the worse under Attorney General Luis Camilo Osorio (2001-2005), before showing modest signs of improvement with Attorney General Mario Iguarán's leadership and a Supreme Court determined to investigate politicians' paramilitary ties. But these gains are tentative, while some advances, such as the parapolitics investigations, are at risk of being undermined by the executive branch. Moreover, Colombia's most valuable resource in the fight against impunity—human rights defenders, judges, journalists, trade unionists, victims, and others willing to stand up and speak out—continue to be stigmatized, threatened, and assassinated.

The experiences of other nations in this hemisphere demonstrate that the failure to address a period of intense human rights abuses contributes to continuing violence and the consolidation of organized crime. The demobilization of Colombia's brutal paramilitary forces is one such pivotal moment. If Colombia fails to allow the full truth to emerge regarding the atrocities committed by paramilitary forces and the military officers, politicians, and businessmen who supported them, and ensure accountability for crimes against humanity, then the cycle of violence and corruption will continue to take its devastating toll. The United States must stand firmly with victims advocating for truth and justice or risk a renewed cycle of violence.

Recommendations for U.S. Policy Towards Colombia

In 2005, our organizations issued a *Blueprint for a New U.S. Policy Towards Colombia*. We are pleased to report that some of its recommendations, such as

a call to improve the balance of social versus military assistance, were partially implemented by the U.S. Congress starting in 2007, while other recommendations for specific aid programs were included by the Congress or adopted by USAID. These changes have meant considerably enhanced U.S. support for judicial and government oversight agencies and a greater emphasis on alternative development as a means of reducing reliance on illicit crops. What was an 80 percent military aid program is now a 65 percent military aid program. Some of the recommendations made below have begun to be implemented. But it is time to take much bolder steps in the right direction.

Military and police aid still makes up the majority of the United States' aid package to Colombia. This needs to change. Colombia now spends 6.3 percent of its entire economy on defense, while the guerrilla threat has declined. Our scarce aid dollars are more urgently needed for activities that promise to make violence reductions permanent, control the drug trade's pernicious effects, and strengthen institutions and rural governance.

1

Use U.S. Aid and Leverage for Human Rights and the Rule of Law

The United States should take a principled stance in favor of protecting human rights and strengthening the rule of law in Colombia. This requires a decided shift in U.S. diplomacy at the highest levels: a tougher approach that helps Colombia address impunity, protect the lives of its human rights defenders, community activists, judges, and trade unionists, improve the human rights performance of its security forces, and preserve the judiciary's independence while strengthening its capacity.

To attain these objectives, the U.S. government cannot go it alone. It should advocate for the continued presence of, and strong mandates for, international agencies such as the UN High Commissioner for Human Rights, the International Labor Organization's office and

the Organization of American States' mission monitoring the demobilization. The U.S. government should continue to contribute funding to these international missions, while opposing the Colombian government's efforts to limit their mandates, actively advocating for strong leadership.

While U.S. aid programs can strengthen human rights and the rule of law, aid alone is far from sufficient. Human rights and judicial aid programs must be accompanied by tough diplomacy and clear benchmarks directed at reducing impunity and increasing human rights protections. Our 2005 *Blueprint* criticized USAID's human rights program as lacking focus and independence from the Colombian government. Since that date, USAID has engaged in a regular, constructive dialogue with human rights groups in Colombia and the United States, and its human rights programs have improved. Now USAID, the Justice Department, and the State Department must

work together with a consistent purpose: to reduce impunity and protect human rights in Colombia through aid programs, policy, and diplomacy.

1. Preserve the independence and strengthen the capacity of the judiciary and Colombia's oversight agencies

The vast majority of human rights crimes in Colombia languish in impunity. The judicial system at its best is overwhelmed and underresourced; at its worst, it is corrupt, inefficient, and lacking in political will. Nonetheless, the past few years have seen some positive developments that the United States could more actively support and encourage. Attorney General Luis Camilo Osorio, who undermined progress in combating impunity and corruption by removing effective prosecutors from sensitive cases, was replaced when his term ended with the competent Mario Iguarán.

Madres de la Candelaria



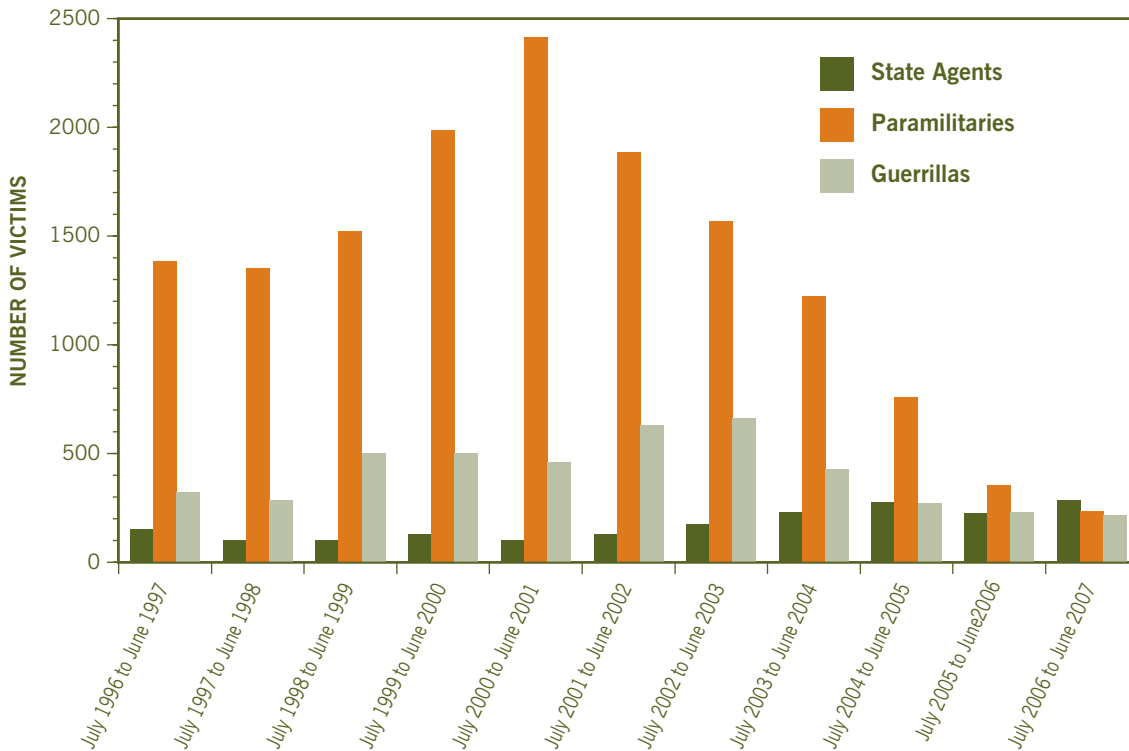
With pressure from Colombia’s human rights groups and the international community, a few of the most high-profile human rights cases, including those involving members of the Colombian armed forces, began gradually to advance—although many others remain mired in impunity. Colombia’s Constitutional Court issued a landmark ruling requiring the government to fulfill its obligations to internally displaced persons. Colombia’s Supreme Court valiantly launched investigations of members of Congress, governors, mayors, and members of the executive branch for support of paramilitary crimes—the “paragate” or “parapolitics” scandal. Ensuring accountability for politicians’ support for paramilitaries is essential to prevent new death squads from emerging.

President Uribe, while never directly opposing the paragante investigations, has used various means to rein them in. He publicly castigated Supreme Court members and brought a libel suit against the chief justice. His denunciations,

splashed over the front pages of Colombia’s press, are particularly disturbing because government officials’ public condemnations of human rights activists, judges, or journalists have often been followed by death threats from paramilitary groups. In mid-2008, President Uribe proposed a new judicial reform package that would remove the Supreme Court’s power to investigate members of Congress.

In 2007, and continuing in 2008, the U.S. Congress dramatically increased assistance to Colombia’s judicial system and oversight agencies, including the Attorney General’s office (*Fiscalía General de la Nación*), the Inspector General’s office (*Procuraduría General de la Nación*), and the Ombudsman’s office (*Defensoría del Pueblo*). These increased resources are a step in the right direction and should be continued. But they must be accompanied by tough diplomacy that supports the independence of the judiciary and monitors key cases to ensure they lead to sustained

Killings and Disappearances (Outside of Combat)



Source: Colombian Commission of Jurists, “Actualización: Violaciones a los derechos humanos, diciembre 2002 – abril 2007,” updated with information from Colombian Commission of Jurists, “Situación de derechos humanos y derecho humanitario en Colombia 2006-2007,” 4 de marzo 2008.

progress. Judicial assistance must be measured by, and tied to, reductions in impunity.

A. The U.S. government should sustain increased investment in the agencies of the Attorney General, Inspector General, and Ombudsman, but insist that these resources be used effectively to reduce impunity. The Department of Justice and USAID, in consultation with Colombian and U.S. human rights groups and the UNHCHR, should establish clear benchmarks with each recipient agency regarding how their aid will reduce impunity to ensure this result, and Congress should require a regular report from DOJ and USAID on progress towards meeting these benchmarks. The U.S. government should focus on strengthening core institutions and should not over-rely on short-term units and other mechanisms set up to deal with transitional problems.

- i. Assistance to the Attorney General's office should include substantial aid to the Human Rights unit, not only to the Justice and Peace unit established to administer Law 975, also known as the Justice and Peace law. It should strengthen the attorney general's crime scene investigation unit, the *Cuerpo Técnico Investigativo* (CTI), to investigate independently killings of civilians by armed actors. Aid should include not only training, but also support for transport for field investigations.
 - ii. Assistance to the Inspector General's office should support continuation of its careful monitoring of the government's compliance with obligations to victims' rights to truth, justice, and reparations, including the return of land. Aid should also strengthen disciplinary investigations of members of the Colombian security forces, including by expanding the very limited staff and ensuring witness protection capability within this office. The U.S. Embassy should encourage the inspector general to exercise more vigorously preventive suspensions of security forces alleged to be involved in serious human rights crimes.
 - iii. Assistance to the ombudsman should include funding for victims' access to legal counsel, and should encourage the Ombudsman's office to more faithfully and proactively carry out its mandate to protect communities in conflict zones at severe risk.
- B. The U.S. Embassy and USAID should develop a Colombian-U.S. taskforce that recommends and implements institutional blueprints for policy and aid programs designed to reduce impunity** and strengthen access to truth, justice, and reparations. This taskforce, which should include Colombian human rights defenders and representatives of the UNHCHR and other international experts, should pay particular attention to: developing a protection program for victims, witnesses, prosecutors, and judges; military disciplinary action; setting and evaluating benchmarks for judicial agencies; and assisting the Colombian government in formulating a public anti-impunity campaign.
- C. The U.S. government should provide funding for protection of prosecutors, judges, and witnesses in key prosecutions** of massacres, assassinations, and forced displacements in all legal processes, as well as in investigations conducted by the Inspector General's office.
- D. The U.S. Embassy should advocate publicly and privately in favor of the naming of highly qualified, independent candidates for crucially important justice posts, such as attorney general, inspector general, ombudsman, and appointments to the high courts.** These candidates must be committed to protecting human rights and reducing impunity.
- E. The U.S. Embassy should firmly oppose any judicial reform or other action that weakens the independence of the judiciary, including removing the Supreme Court's power to investigate the parapolitics scandal.** This must include strong public reactions to any statements by the President that put the safety of the justices at risk.

2. Support and protect victims and human rights defenders

Human rights defenders—understood broadly as those who peacefully promote human rights, such as human rights activists, community activists, Afro-Colombian and indigenous leaders, victims' groups, and trade unionists—carry out their courageous work under constant threat. The Colombian Commission of Jurists reports that from July 2002 through December 2007, 75 human rights defenders were killed. They suffer from a range of other attacks and intimidation, including forced disappearances, kidnapping, death threats, assaults, surveillance, assassination attempts, and robbery.⁸ Defenders also confront unsubstantiated criminal charges leveled against them by state prosecutors and senior public officials who have a history of falsely labeling them as terrorist sympathizers and otherwise stigmatizing them.

take off their masks, appear with their political ideas and drop this cowardice of hiding them behind human rights.”⁹ Officials must refrain from making these public comments. Simply put, to protect defenders, the Colombian government must first stop endangering them.

Second, the Colombian government must ensure that threats and attacks are vigorously, and effectively, investigated and prosecuted. Despite the constant barrage of threats, virtually no case of threats against a defender has resulted in a conviction. For human rights defenders, no bulletproof car or metal-detecting door can protect them as effectively as successfully prosecuting the perpetrator.

The more difficult challenge is to encourage Colombian society at large to accept and embrace the role of human rights defenders. The perception that human rights defenders,

To protect human rights defenders, the Colombian government
must first stop endangering them.

The Colombian government points towards its protection program for human rights defenders and trade unionists to show its concern for their welfare. This U.S.-funded program has doubtless saved the lives of defenders.

But the Colombian government must do more to protect defenders and victims of violence. First, from the President on down, Colombian government officials should cease their dangerous invective against, and labeling of, human rights defenders. Presidential advisor José Obdulio Gaviria's comments associating organizers of a march against paramilitary violence with the FARC are just one example of a pattern of government rhetoric that can be seen by paramilitary groups and others as a green light to threaten or murder defenders. President Uribe himself has made such comments: “Every time a security policy to defeat terrorism appears in Colombia, when the terrorists begin to feel weak, they immediately send their spokespeople to talk about human rights. ... These human-rights traffickers must

union leaders, and other civil society activists are illegitimate and dangerous is still pervasive, although polls show public perceptions of defenders are improving. Guerrilla brutality helped to create this fearful reaction, in which many now perceive any actions advocating for poor people's rights as associated with the guerrillas. To build an inclusive democracy, this societal prejudice must be faced squarely—above all by government officials not just demonstrating tolerance, but embracing an active civil society.

A. The State Department and embassy should visibly, and repeatedly, through diplomatic efforts demonstrate that the U.S. government stands behind victims and defenders as they struggle for truth and justice. This should include incorporating statements of support into official speeches; the State Department and ambassador publicly denouncing death threats received by defenders and victims; and regular visits by the ambassador, embassy staff, and visiting, high-level U.S. government



officials to defenders' offices. These signs of support should encompass a wide range of organizations and should include victims of all armed actors. The ambassador, embassy, and State Department officials have made such statements, but must do more: the message must be unmistakable.

B. The State Department and embassy should insist that threats and attacks against human rights defenders and victims, and robberies of information from and break-ins of human rights groups' offices, be effectively investigated and prosecuted.

These cases generally do not progress even when the Attorney General's office opens an investigation. Therefore, the State Department needs to systematically follow up with specific cases to demonstrate that interest does not wane after the opening of an investigation. It should insist upon a complete and regular accounting of investigations, progress of prosecutions, and sentences related to threats, and encourage the Attorney General's office to group the investigations and identify patterns. Moreover, the State Department should urge the Attorney General's office to provide regular reports to human rights groups on the status of their cases. Even a handful of convictions with perpetrators serving time for threats in some high-profile cases would help to deter new threats.

- C. The U.S. government should encourage the Colombian government to enforce existing presidential directives and implement new ones to effectively prohibit government officials from making denigrating statements regarding human rights defenders—and should communicate to the Colombian President himself that his own comments denigrating defenders reflect poorly on his government's commitment to human rights.**
- D. The U.S. government should continue funding for the Interior and Justice Ministry's protection program for human rights defenders and union members. However, it should also consult with recipients to make this program more effective and agile.** USAID should urge the Interior and Justice Ministry to amend its risk evaluation framework to more realistically reflect the dangers facing individual defenders and should improve its ability to award "rapid reaction" protective measures. The ministry should also take into consideration protection recipients' specific needs, including those related to culture, such as the collective way in which indigenous and Afro-Colombian communities operate. The U.S. government should insist that the Colombian government effectively implement its plan, which so far exists largely on paper, to protect victims testifying in the Justice and Peace hearings.
- E. The U.S. Embassy should encourage the national office of the Attorney General to vet all criminal investigations against human rights defenders for compliance with due process standards.** All those cases found to be specious should be closed immediately. The U.S. Embassy should encourage the attorney general to instruct prosecutors to avoid politically motivated criminal proceedings against defenders. The U.S. government should urge the Colombian government to regulate the use and collection of information in government intelligence reports, which are often used to initiate spurious investigations of defenders. In some cases, these spurious allegations have been leaked to paramilitaries who have then threatened defenders. Such regulation

should require independent monitoring of intelligence reports by the inspector general to exclude unfounded allegations against defenders.

F. USAID should fund public education campaigns regarding human rights groups' activities, victims' rights, and workers' rights and the right to organize. Such campaigns, via television and radio, could help to deliver the message that people can legitimately organize peacefully for their rights. USAID is currently planning such efforts and should continue.

3. Support the rights of victims of paramilitary violence to truth, justice, and reparations and ensure that paramilitary structures are dismantled

Ensuring complete and safe access by victims to truth, justice, and reparations should be a guiding principle of U.S. efforts in Colombia. Particularly important at this moment is encouraging the Colombian government to

implement to the maximum degree possible the opportunities for victims to obtain truth, justice, and reparations under the framework of the 2005 law governing the demobilization of the paramilitary umbrella group Autodefensas Unidas de Colombia (AUC). To date, more than 140,000 victims have chosen to come forward and tell their stories, in the hope of achieving justice and reparations. However, they have done so without guarantees for their safety and more than 15 have been murdered and hundreds threatened.¹⁰

The Justice and Peace law and other instruments must be used to obtain the maximum amount of information about paramilitary structures, financing, and support from politicians, members of the armed forces, businesses, and other sectors. This information must then be used to fully and permanently dismantle these structures and to prosecute those who created and supported them. The information should also be broadly disseminated at a national and local level to encourage public knowledge of past abuses.

“We Had to Spread Terror”

One example serves to explain the urgency of truth for Colombia's victims of paramilitary violence. As observed by the *Washington Post*,

With people streaming into the offices of prosecutors to report disappearances, and exhumation teams at work in several states, it is becoming clear that the number of disappeared here has eclipsed the tallies in El Salvador, Chile and other countries where the practice was widespread. And if estimates by some investigators turn out to be correct, Colombia will soon count more disappeared victims than Argentina or Peru.

Ever Veloza, a top paramilitary commander being held in the Itagüí prison outside Medellín, said in a recent jailhouse interview that army officers who collaborated with paramilitary units encouraged them to bury the dead or toss their bodies into the river. The victims included trade union members and leftist activists, he said, as well as peasants caught between warring sides.

“We would kill people and leave them in the street, and the security forces told us to disappear them in order to control the homicide rate,” said Veloza, who is testifying in special judicial hearings designed to bring justice to thousands of victims.

Veloza said he did not flinch when it came to hiding the bodies. “We cut people's heads off, we dismembered,” he said. “We had to spread terror.”¹¹

While Justice and Peace offers more possibilities to bring perpetrators to justice than many peace processes, punishment is minimal even for crimes against humanity, and implementation is flawed. The vast majority of paramilitary members demobilized without penalty. Only those against whom charges were already pending, or who believed their crimes would be discovered, sought reduced sentences. Just 23 prosecutors in the Attorney General's Justice and Peace unit, hampered by the small number of investigations of paramilitaries prior to demobilization, are responsible for these prosecutions. Moreover, most of the paramilitaries who sought reduced sentences appear to have abandoned the process.¹² Even

soldiers were left to tell more limited truths, while those who held the most secrets were suddenly shipped out of the country. The U.S. government has the obligation to limit the damage this controversial decision has done to the Justice and Peace process which it has heavily backed and bankrolled.

A. The State Department and embassy should use diplomatic leverage, both publicly and privately, to encourage effective investigations and prosecutions of paramilitary leaders under the Justice and Peace law. This includes ensuring that high-level U.S. officials' overall statements about the demobilization include measured

The surprising extradition of nearly all of the paramilitaries' top leadership to the United States on drug trafficking charges dealt a blow to victims' rights to the truth.

paramilitaries who originally thought their crimes were serious enough to warrant applying for reduced sentences are now banking on the justice system's inefficiency, betting that they will not be prosecuted.

Moreover, the surprising extradition of nearly all of the paramilitaries' top leadership to the United States on drug-trafficking charges, a decision taken behind the backs of Colombia's highest judicial authorities, dealt a blow to rights of their victims. While this move could result in longer jail time than these leaders would have received under the demobilization law, it is complicating efforts to achieve justice, truth, and reparations for human rights crimes or to unveil the connections between paramilitaries, politicians, and security forces. U.S. prosecutors are focused on making drug cases, not prosecutions for massacres or torture. Individual defense lawyers will have the right to veto the access of Colombia's Supreme Court and the attorney general's prosecutors to the paramilitary high command. The Justice and Peace hearings for these paramilitary leaders, in which some truths were beginning to emerge, were abruptly halted. Mid-level leaders and foot

evaluations that recognize problems in achieving justice and full dismantlement. The Colombian government should be encouraged to prosecute demobilized paramilitaries who commit new abuses.

B. The Justice and State departments should insist that the Colombian government investigate and prosecute the paramilitaries' financial backers, and encourage full disclosure of their illegal assets. The U.S. government should increase technical assistance on tracking financial networks and investigating and preventing money laundering. The U.S. should insist that illegal gains are effectively channeled towards victims' reparations.

C. The Department of Justice must actively work to ensure that Colombia's attorney general and Supreme Court, along with victims and their representatives, have access to extradited paramilitary leaders to continue the Justice and Peace and parapolitics investigations. The State and Justice departments must proactively find ways to create the incentives to encourage

- extradited paramilitary leaders to cooperate fully with Colombian prosecutors' and investigators' inquiries. Prosecutors should require the extradited leaders to reveal information about their crimes, including the location of bodies of the disappeared and politicians' connections to their networks, as part of any plea agreement. The United States must comply with Colombian authorities' request for virtual hearings via video teleconference.¹³ Extradited leaders must not be placed in the witness protection program or receive plea bargains that impede justice and truth for the victims. Upon completion of their terms in the United States, the extradited leaders should be returned to Colombia to face charges. Paramilitary leaders still in Colombia should not be extradited if they are providing testimony that helps unearth the truth about their crimes. The Justice and Treasury departments should ensure that the extradited leaders reveal their illegal assets and ensure that such assets, whether in Colombia or the United States, be used to compensate victims.
- D. The U.S. government should show support publicly and privately for efforts by the Supreme Court to investigate and prosecute the politicians who collaborated with the paramilitaries.**
- E. The U.S. government should increase funding for victims' organizations to develop networks and technical capacity to ensure victims' access to opportunities to seek truth, justice, and reparations.** This should include funding for legal advice for victims in the Justice and Peace process through the Ombudsman's office, but should also support other nongovernmental efforts to achieve justice.
- F. The U.S. government should continue to fund exhumations. However, identification of victims needs to be a priority,** along with the establishment of cause and manner of death. U.S. aid should support the unification of separate governmental registries of missing and disappeared people into the unified registry, "*Registro Único*

de Personas Desaparecidos," as well as the unification of separate governmental registries of unidentified bodies into the *Registro Único de Cadáveres.*" National and international guidelines regarding chain of custody of evidence must be met in this process. The State and Justice departments should insist that the Attorney General's office, Ombudsman's office, and other government agencies collaborate closely with relatives of the disappeared, including with a varied and inclusive group of their associations, in creating this registry, incorporating nongovernmental databases of the missing, and using it to identify remains. Families need to be able to participate in all stages of the search, recovery, and identification of their missing loved ones, which requires transparency regarding official procedures.

- G. The U.S. Embassy should demonstrate support for victims** by attending events drawing attention to the need for truth, justice, and reparations and by speaking out publicly when victims are threatened or harmed.

4. Insist upon improvements in the armed forces' human rights performance

Despite U.S. pledges that the Colombian army's human rights record would improve with U.S. training, direct violations by the army—i.e., beyond aiding and abetting paramilitary abuses—have increased in recent years. Colombia's major human rights groups documented 955 extrajudicial killings allegedly committed by the Colombian armed forces between July 2002 and June 2007, compared with 577 over the previous five-year period. These cases, which are deliberate killings rather than cases of civilians caught in crossfire, typically involve groups of soldiers detaining a civilian, observed by witnesses, who later turns up dead, dressed in guerrilla clothing, and claimed by the army as killed in combat.¹⁴

In response to pressure from Colombian human rights groups and the international community, including pressure exerted by the U.S. government as a result of congressional

insistence upon applying the human rights conditions attached to military aid, the Colombian Defense Ministry and armed forces issued directives to the military to prioritize captures over killings, adhere to regulations over rules of engagement, and transfer cases of possible extrajudicial executions from military to civilian courts. In 2007, human rights cases involving security forces finally began to be transferred to civilian courts.

Despite these advances, new cases continued to appear and investigations and prosecutions in the civilian justice system moved slowly.¹⁵ The army has also treated civilians harshly in other ways, such as arbitrary detentions, restricting food supplies, and placing civilians at risk, for example by using public buildings such as schools as bases, in violation of international humanitarian law.

that have moved forward in recent years—the three trade unionists murdered in Arauca; the bombing of civilians in Santo Domingo; the killing of a family in Cajamarca; the February 2005 San José de Apartadó massacre; the Jamundí case in which soldiers killed counternarcotics police—were cases that the U.S. government actively pushed as a result of pressure from Congress and human rights groups to use the conditions in the law. While the Colombian government's first response was often to deny the allegations, sustained pressure, including holding up a portion of Colombia's military aid, produced results.

Yet with rare exceptions, the State Department certified that Colombia met the conditions despite the situation on the ground. Many of the advances in key cases took place from 2007 to mid-2008, during which time the U.S. Senate

The State Department should actively use the human rights conditions, rather than viewing them as an obstacle to be overcome.

U.S. government officials often cite extensive U.S.-funded human rights training of Colombia's armed forces as a solution. While human rights training can be positive, it is not solving this problem, given that violations have increased as massive amounts of U.S. training and aid have been lavished on Colombia's armed forces. Indeed, some of the areas of the country where the largest number of soldiers have been vetted to receive U.S. training are those in which the largest number of extrajudicial executions have occurred.¹⁶ The only effective answer is to hold those who commit abuses accountable: immediately suspending those alleged to have participated in grave abuses and investigating and prosecuting these crimes in civilian courts. It is also crucial to pursue those who planned the crimes, including high-level military officials. Incentives for body counts, such as pay and time off, must be eliminated as they can encourage these abuses.

The best tool at hand for U.S. policy is the human rights conditions included in the Colombia aid package. Some of the few cases

placed a hold on military aid that the State Department had attempted to certify, forcing the State Department and U.S. Embassy to demand greater progress from the Colombian government.

A. The State Department and U.S. Embassy should vigorously use the leverage of the human rights conditions. The State Department should actively seek to use this valuable tool, rather than view it as an obstacle to be overcome, and should work cooperatively with the congressional foreign operations subcommittees to design a strategy to insist upon institutional improvements, including systematic transfer of possible executions by soldiers into civilian courts; more vigorous use by the inspector general of its power to investigate and punish disciplinary breaches and use preventive suspension in suspected cases; and progress on key cases in civilian courts. Most importantly, leverage should be used to end continued killings of civilians. The focus should be not only on those who carried out

extrajudicial executions, but also on those who planned them, including high-level officers and field commanders. In addition, emphasis should be placed on the stalled cases of high-level officers who aided paramilitary groups in the past, as well as any current such cases, to ensure that such collusion does not continue. The U.S. Congress should become more proactive in monitoring compliance with the conditions and insisting that this leverage be used to its fullest.

B. The U.S. Embassy, State Department, and U.S. Southern Command should regularly raise the issue of army abuses to their counterparts. This kind of interaction, which does take place on some levels, should occur systematically, especially at the highest levels. The Defense Ministry should be urged to ensure that the armed forces respect existing directives intended to improve respect for human rights and international humanitarian law, such as those regarding treatment of indigenous communities and procedures to ensure suspected homicides are investigated in civilian jurisdiction. The Southern Command should emphasize in human rights training content that addresses the specific kinds of abuses taking place in Colombia, such as collusion with paramilitary forces and failing to distinguish between insurgents and the civilian population.

2

Actively Support Overtures for Peace

Now is a moment when careful, renewed efforts to achieve peace could make progress. In a war that threatens to go on indefinitely, the immense suffering of Colombia's civilian population demands that Colombia, its neighbors, and members of the international community, including the United States, take risks to achieve peace.

The Revolutionary Armed Forces of Colombia (FARC) guerrilla group has been weakened. Much of its rapid growth during the late 1990s has been reversed; the FARC's membership (about 9,000, down from a 2000-2002 height

of about 18,000) and frequency of attacks have been reduced to levels last seen in the mid-1990s. Its communications intercepted and its rank-and-file increasingly deserting, the group has suffered a string of defeats, both military and political. Several top leaders have been killed since 2007, while the group has had to face the public's rejection via massive public protests and the humiliation of being tricked into handing civilian hostages over to the Colombian army.

Nonetheless, the FARC still has the ability to destabilize Colombia and terrorize Colombians. The FARC is still present throughout Colombia's national territory. It still has a steady stream of income from the drug trade. It can still count on a reservoir of potential recruits among the impoverished youth of rural Colombia. And it still holds 25 hostages, three of them civilians, to pressure for a prisoner exchange with the government—as well as about 700 civilians whom, at any given time, it is holding for ransom.

In July 2008, the Colombian military pulled off a successful ruse that freed 15 guerrilla hostages without firing a shot. That experience, however, will be difficult to replicate. Releasing the guerrillas' remaining captives may still require the opening of dialogue between the government and guerrillas. The Colombian army's use of the Red Cross symbol in carrying out this ruse increases risks on the ground and complicates efforts by humanitarian agencies to mediate in favor of the civilian population.

It must be acknowledged that, at present, it is far from clear whether the FARC even wants to talk to the government. But the use of military force is not the only tool available to prod them to the negotiating table—and other tools have scarcely been used in the last few years. The FARC, for its part, must recognize the stark fact that—as Hugo Chávez and Fidel Castro have made clear in recent public statements—their violent struggle has run its course and their decline is irreversible. They must seek a political exit.

Similarly, Colombia needs a renewed effort to advance dialogue with the smaller National Liberation Army (ELN) guerrilla group. The ELN's talks with the government, which have

been going on intermittently since 2005, stumbled badly in 2007 over the question of how a cease-fire would be verified. The government insisted that the ELN concentrate into specific zones before beginning talks, a demand that the guerrillas refused. Though the government finally gave ground on this question, talks have not resumed. The next step is for the ELN to declare a cease-fire without concentration of forces, hand over its kidnap victims, and participate in talks. The guerrillas' leadership appears to be divided on this question and needs external prodding.

Promoting peace also means reducing tensions between Colombia and its neighbors through greater diplomatic engagement. Though the U.S. government has strong political differences with Hugo Chávez's administration in Venezuela, inter-state conflict in the Andes is not in anyone's interest.

demand for the unconditional demobilization of two entire municipalities has proven to be an obstacle to dialogue. So, too, has been the government's insistence on negotiating surrender terms only, taking political issues off of the table.

- C. The United States should support the involvement of mediators and interlocutors who can facilitate communication between the warring parties and lay the groundwork for eventual face-to-face dialogue.** The United States should be open to a role for leftist leaders like Hugo Chávez and former ELN leader Francisco Galán. The United States should coordinate with and support the efforts of other interested countries such as Switzerland and France.
- D. Washington should give explicit backing to the Organization of American States**

Colombia's internal armed conflict, now in its 45th year, will most likely end at the negotiating table, not the battlefield.

Colombia's internal armed conflict, now in its 45th year, will most likely end at the negotiating table, not on the battlefield. For U.S. policymakers, the goal should be that this negotiated outcome occurs sooner rather than later. It is a question of opportunity cost: the goal should be to reduce the number of years wasted, scarce public funds diverted to Colombia's war effort, and, above all, lives brutally disrupted and lost.

- A. The United States should make clear its desire to see a negotiated outcome in the near term.** Any FARC expression of desire to dialogue without preconditions should be taken seriously.
- B. The United States should make clear that the option of talks should not be removed from the table, nor should either side establish unreasonable preconditions that block the initiation of contact.** For instance, while the guerrillas' concern for its negotiators' safety is reasonable, their
- (OAS) and other regional forums** that aim to build confidence, strengthen democratic relations, and improve communication and cooperation.
- E. U.S. officials must avoid fanning the flames with hostile rhetoric or fueling arms races with military aid to help allied governments "contain" their neighbors' influence.** Policies must recognize that Colombia's border zones—on both sides of the frontier—are neglected, stateless, and lawless; the U.S. goal should be to help Colombia and its neighbors to govern them better and not just to militarize them by stationing more troops in border outposts.
- F. The United States should encourage the Colombian government to seize the opportunity of eventual talks to have a national discussion of the conflict's root causes**—such as rural governance, land tenure, and responsibility for past abuses—and the politically difficult reforms necessary

to address them. Even though the FARC lacks the political or military power (much less the moral authority) to force broad reforms, eventual negotiations could still involve more than just surrender terms. It is in everyone's interest to understand that if a lasting peace is to be developed, root causes must be addressed.

- G. The U.S. government should promote the peaceful resolution of Colombia's conflict by increasing its support for regional civil-society peacebuilding experiences.** These include regional reconciliation initiatives, as well as the "peace and development" programs operating in several regions, which creatively combine conflict resolution and community organizing with economic development projects.

3

Support Civilian Governance in the Countryside

Colombia's conflict has always been largely rural. Only occasionally has it flared up badly enough to affect the country's principal cities. In a country where 70 to 75 percent of the population now lives in cities and larger towns, insufficient attention is devoted to improving the conditions that fuel violence in the countryside. The key to peace in Colombia lies in governing rural zones.

The challenge is stark. Too many of Colombia's rural areas are utterly stateless. Roads, potable water, and electricity are absent. Colombia's rural poverty rate remains over 70 percent. The country has some of the most unequal land tenure in the world, which has been worsened by the drug trade and forced displacement. The Colombian government must establish a presence that is able not only to protect citizens and enforce the law, but provide basic services and set the ground rules necessary for a legal economy to exist.

The entire state must be able to function in the previously abandoned territory if the vacuum of authority is ever to be filled. This includes the

judicial system and ministries charged with issues like land tenure, education, health, transportation, and infrastructure, as well as municipal and departmental governments. Doctors, teachers, judges, road-builders, and land-titlers are more important than soldiers and police.

There is a military and police role in establishing state presence. There is a big difference, however, between militarily occupying a zone and actually governing it. Military and police must protect citizens against new, "emerging" paramilitary groups, not just violent groups of the left. Security forces must distinguish between the civilian population and insurgents and not place civilians at greater risk. Military presence must be accompanied by the presence of a well-financed, politically supported judiciary capable of protecting citizens against abusive or corrupt members of the security forces.

The U.S. Congress took an important step in the direction of rural governance in the 2008 foreign aid bill, when it increased funding for non-military priorities by nearly \$100 million. Nonetheless, U.S. assistance to Colombia continues to be 65 percent military and police aid, and about two-thirds of that military and police aid continues to go to counternarcotics programs that are failing to achieve their most basic objectives. A new strategy would devote much of these resources to efforts to help Colombia improve its "whole state" presence in rural areas. Real governance is the best counternarcotics strategy the United States and Colombia could pursue.

An initiative that warrants close monitoring is the Center for Coordinated Integrated Action (CCAI), a U.S.-supported Colombian government initiative. The CCAI, which is now active in about 90 of Colombia's 1,100 municipalities, is a several-stage plan for introducing a state presence in conflict zones. It contemplates a heavy military role in its first stages—and indeed, the CCAI was first conceived within Colombia's Defense Ministry with U.S. Southern Command support. In intermediate phases, the military carries out infrastructure-construction projects in the "recovered" zone while civilian government agencies, including the judicial system, begin to

establish a presence. This civilian presence, in the plan's latter stages, would be consolidated as the security-force presence is reduced.

The CCAI, which receives USAID support, has just begun to be implemented, but it raises strong concerns. As a Ministry of Defense-led effort with army backing, it could be little more than a series of civic action projects carried out by soldiers that fails to establish regular civilian government services or produce sustainable development. Community input will be compromised if development is military-led—who will dare to speak out at a planning meeting in a conflict zone when that meeting is led by military officers? Local government capacity could be undermined rather than strengthened by such an approach. Moreover, military leadership in development and humanitarian projects puts at risk the local citizens who become seen as military counterparts. USAID's association with military-led development initiatives exposes humanitarian aid workers and USAID grantees to danger.

- A. The administration and Congress should reconfigure the Colombia aid package to focus primarily on strengthening Colombia's civilian government, particularly its attention to the rural population.** This assistance should include alternative development programs, but also other programs required by the rural poor, such as agricultural extension services; microcredit programs; and health and education services. It should also include expanding the judicial system to the countryside and expanding the presence of civilian authorities, such as the ombudsman and inspector general, who can provide protective services. Finally, it should include increasing opportunities for sustainable livelihoods for displaced persons.
- B. The United States government must encourage the Colombian government to dedicate a greater share of the budget and ensure taxation to sustain the delivery of basic services,** judicial institutions, and rural development projects for Colombia's countryside. The U.S. government should

encourage the strengthening of local and regional governments, including developing the local tax structure to make services sustainable. U.S. aid programs are only a temporary fix that must be planned to be phased out.

- C. USAID must ensure that distance is maintained between USAID programs and military initiatives.** While strengthening the capacity of civilian government agencies to deliver health, education, and other social services, as well as access to justice, in conflict areas is an important goal, USAID must in no way participate in military-led civic action or military-led development programs. USAID must have clear guidelines to ensure that the agency, in reality and also in appearance, is not involved in such programs, and that civilians are clearly in the lead, with the military role restricted to security.

4

Protect the Rights of Internally Displaced Persons and Refugees

Colombia's astonishingly high level of internal displacement reveals more sharply than any other statistic that the war continues to rage throughout the countryside and harshly affect the civilian population. Colombia contains one of the largest internally displaced populations in the world. Estimates range from over three to four million persons in the last two decades.¹⁷ In 2008, the main nongovernmental agency tracking displacement revealed that over 270,000 people had been displaced just in the first six months of the year, a record high level of displacement in the last twenty years.¹⁸

Internal displacement is caused by many factors, including human rights violations and threats of violence by the paramilitaries, guerrillas, and armed forces; fighting among the groups that affects civilians; and efforts by the illegal armed groups to control territory for military purposes, to control drug routes, and to tax and profit from coca. Displacement also takes place as companies, or individuals, employ paramilitaries to provide them with

“security services” as they implement economic projects in areas with guerrilla presence or seek to clear farmers from land coveted for profitable ventures. Finally, the U.S.-funded aerial spraying campaign causes displacement.

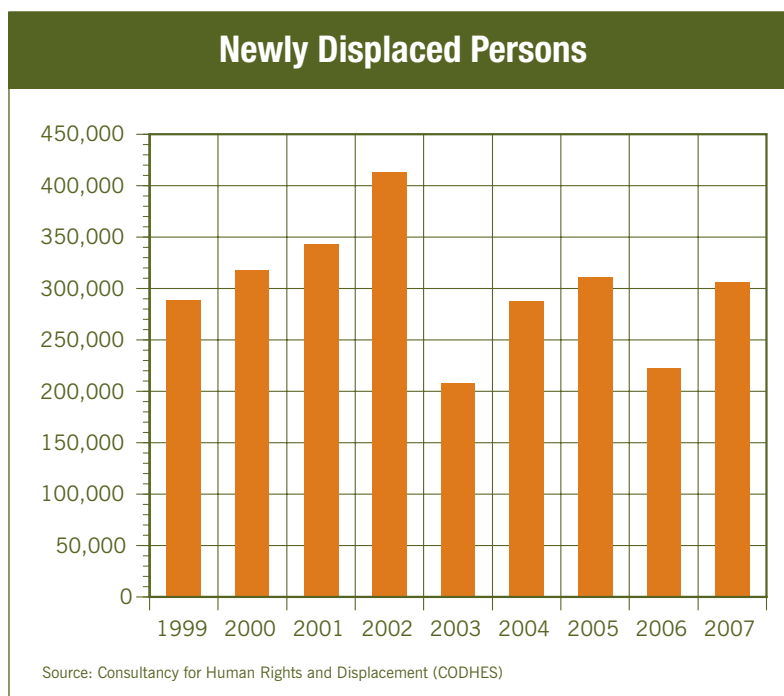
Starting in the mid-nineties, paramilitaries sought to control large sections of the countryside and to dominate civilians in their territory through a reign of terror. During this time, a de facto “reverse land reform” took place in which between 2 and 6.8 million hectares of land were violently appropriated from small farmers and Afro-Colombian and indigenous communities.¹⁹ Despite the 2003-2007 paramilitary demobilization process that required the demobilized to reveal their illegally acquired assets including land, virtually no stolen land has been returned to its rightful owners. Rearmed or never demobilized paramilitary groups continue to cause displacement, including new displacements from the cities to which IDPs had fled.

Internal displacement disproportionately affects Afro-Colombians, indigenous persons, and poor rural farmers. Women and children make up the majority of internally displaced persons (IDPs). Insecurity, destruction of livelihoods, and lack of access to aid in rural areas force many IDPs to seek refuge in medium-sized towns and cities. Once in the cities, an increasing number of IDPs are displaced again due to violence and the threat of forced recruitment of youths by paramilitaries and guerrillas. Many IDPs have grouped themselves into associations in an effort to nonviolently defend their human rights and obtain basic services. Unfortunately, they do so at great personal risk, since the leaders become easy targets for guerrilla and paramilitary reprisals. In 2007 alone, at least six IDP leaders were killed.²⁰

Colombia is a paradox when it comes to laws and programs for IDPs. It is the country with the most advanced IDP legal framework in the world. Yet the

government’s lack of political will to implement these initiatives translates into limited tangible results on the ground. Most IDPs suffer from a lack of access to assistance in addition to exposure to violence and other violations of their rights. The government’s response to internal displacement is weakest in the areas of prevention of new displacement, protection, providing opportunities for legal recourse, and finding long-lasting solutions for existing IDPs.

The Colombian Constitutional Court in January 2004 issued a groundbreaking ruling, known as T-025, which states that the government’s failure to comply with IDP rights was unconstitutional. It later issued a series of orders for remedying the government’s shortfalls in responding to IDPs. Since 2005, such orders forced Colombia to take steps to increase the resources it budgets for IDP programs. Unfortunately, bureaucratic obstacles and corruption often prevent this aid from reaching its intended targets. Colombia has also shirked its responsibility for IDPs by tying the success of its programs to those of the UN and international cooperation agencies. By marrying the health of its institutions and programs with projects run by international organizations, Colombia has managed to reduce international criticism of its lack of will to help IDPs.



One obstacle to IDP returns and a major humanitarian problem for civilians is the presence of anti-personnel landmines. Colombia is the country with the highest number of new mine-related casualties in the world.²¹ Landmines are also an obstacle for persons trying to flee a combat zone, as they can trap civilians and increase the likelihood that they will be caught in warring parties' crossfire. In Colombia, the Presidential Program for Comprehensive Mine Action coordinates demining, mine risk education, and victims' assistance programs. Mine awareness activities remain insufficient and are reaching only a small portion of the communities affected. The comprehensive framework for assisting survivors and families, which should encompass emergency medical care, psychological support, support for family members, and social and economic reintegration of the survivors themselves, is only partially implemented.

A related and often overlooked problem is the plight of Colombian refugees. Unable to find protection within Colombia, it is estimated that half a million Colombians have fled to the neighboring countries of Ecuador, Venezuela, Panama, Costa Rica, and Brazil. Many indigenous Colombians are fleeing to remote areas of the Amazon region in Brazil, where it is difficult to provide them with assistance. The majority of Colombians living in border countries have not applied for asylum because they fear detention and deportation or are uninformed about their rights and the refugee application process. This makes them largely invisible to public policies and programs which might otherwise assist them, at the same time that they are vulnerable to deportation and have restricted access to the formal labor market, education, and health services. Colombian illegal armed groups are present along the borders and have been known to make targeted attacks against refugees across the border,²² thus placing refugees in a very vulnerable situation. In Ecuador, for example, the lack of legal recognition for the majority of the Colombian refugee population makes persons vulnerable to trafficking, sexual exploitation of women and children, harassment, and other forms of victimization by illegal armed groups.

While UNHCR recognizes the Colombian refugee population as one of concern, the budget it has to address their needs is notoriously under-funded by donor countries, including the United States.²³ UNHCR is planning to support the Ecuadorian government in launching a plan to quickly register and provide documentation on Colombian refugees located along its northern border. The success of this program will depend largely on the funding it receives from donor states. Ecuador is the largest receptor country for Colombians fleeing violence. Its northern border region—where many communities lack basic public services such as health, education, and sanitation—is believed to be home to some 150,000 – 250,000 undocumented Colombian refugees.

In 2007, the U.S. Congress took two steps in favor of Colombian IDPs. The first was to shift U.S. assistance away from the military side of the aid package towards aid for human rights, justice, and IDPs. Secondly, in July 2007, the House passed H. Res. 426,²⁴ which encouraged the donor community and the Colombian government to prioritize internal displacement in their discussions and increase resources for emergency assistance and protection to help IDPs rebuild their lives. In 2008, the Congress appears poised to increase resources for IDPs once more.

The U.S. government, however, can do more to prevent new displacements from taking place and make sure that IDPs are protected. Since displacement is most pronounced in the areas where the Colombian armed forces conduct offensive operations, the U.S. government can work with Colombia to strengthen its military's respect for the international humanitarian law principle of distinction that distinguishes between civilians and combatants and encourage the military to actively support the Early Warning System intended to protect civilians. It can end the aerial spraying program, which generates displacement. Finally, it can send a clear message to Colombia that it will not tolerate the reactivation of the paramilitaries and use its political leverage to demand results in the dismantling of paramilitary networks. The Colombian government's insistence that the paramilitaries no longer exist and are mere

“criminal gangs” only serves to excuse its inaction in protecting communities from a real, persistent problem and cause of displacement.

1. Prevent Displacement and Increase Protection

A. The State Department, U.S. Embassy, and Southern Command should advocate strongly to their Colombian counterparts the importance of the military’s respect for the international humanitarian law principle that distinguishes between combatants and civilians in combat zones. This includes criticizing aspects of Colombian government policy that violate the norms of international humanitarian law, such as the informants’ network which incorporates civilians in military activities, or the military occupation of schools and homes.

B. The State Department and the U.S. Congress can actively use the human rights conditions in law to decrease factors that generate displacement. Provisions requiring prompt suspension from active duty and prosecution of soldiers committing abuses and those requiring the army to respect the property and rights of Afro-Colombian and indigenous peoples, for example, if enforced help prevent displacement.

C. The U.S. Embassy and USAID should insist that the Early Warning System be immediately revamped. This mechanism, funded almost exclusively with U.S. tax dollars since 2001, is intended to identify risks of internal displacement or massacres to the civilian population and to coordinate civilian and military responses to those threats. However, threat assessments are frequently not acted upon and the Colombian military demonstrates little commitment to working with this system. The U.S. government should insist that Early Warning System reports be made public, thus compelling government agencies and security forces to respond, and should stress that the Ombudsman’s office be the decision maker in issuing alerts. The U.S. government should support a stronger civilian response by providing funding for community

Photo courtesy of Washington Office on Latin America



defenders (*Defensores Comunitarios*, local representatives of the Ombudsman, Inspector General and governors) in areas where populations are at high risk of becoming internally displaced or repeatedly displaced.

D. The U.S. Embassy should encourage the Colombian government to provide adequate protection to at-risk leaders of IDP communities as well as at-risk leaders of Afro-Colombian community councils and indigenous *cabildos*.

2. Increase and Improve Assistance to IDPs and Refugees

A. The United States should increase assistance to internally displaced persons and refugees, directed both at emergency relief and long-term reintegration. At the same time, it should improve assistance to make it more effective, sustainable, and aimed at strengthening IDPs’ ability to exercise their rights. U.S aid programs need to be flexible in order to meet the shifting needs of IDPs and refugees.

i **Greater emphasis should be placed on strengthening local governments’ programs for IDPs.** Aid for IDPs situated in urban areas requires new and creative partnerships with overwhelmed municipalities. The U.S. government



Photo courtesy of Washington Office on Latin America

should urge the Colombian government to finance local municipalities, which in areas with poor security are better able to provide assistance to IDPs than USAID, the UN, or Colombian national government agencies themselves. Funding of local municipalities must include reporting, monitoring, and strong accountability and anti-corruption mechanisms to ensure that the aid effectively reaches the recipients.

- ii **Aid should be designed to help IDPs and refugees know and exercise their rights, and strengthen IDP leadership.** USAID should implement its Assistance to Internally Displaced Persons Policy that utilizes the UN Guiding Principles on Internal Displacement as a framework. When planning and implementing IDP related projects, USAID should use “The Guide for the Application of Guiding Principles for Internal Displacement in and Urban Context.”²⁵ USAID should link its support of human rights projects to improving IDPs’ access to legal and policy remedies to their displacement and loss of lands.
- iii **USAID should revise indicators for its IDP programs to bring them in line with the Colombian Constitutional Court’s indicators.** To do so, it should draw on the expertise of the commission set up to assist the Constitutional Court with its indicators.²⁶

- iv **The State Department, U.S. Embassy, and USAID should encourage the Colombian government to fully implement the Constitutional Court’s decisions on IDPs and use these decisions as a guiding framework for evaluating Colombian government IDP policies and programs.** By politically supporting, monitoring, and insisting upon the implementation of the Constitutional Court’s decisions on IDPs, the U.S. government would be taking an important step to strengthen IDP rights and the rule of law in Colombia.

B. The U.S. government should help Colombian refugees by financing UNHCR’s registration, documentation, and refugee integration efforts in the border countries.

The United States can also support Ecuador’s Plan Ecuador, a comprehensive public policy and aid program begun in 2007 with the aim of improving living conditions in the country’s northern border region.

C. The U.S. government should continue to agree to accept resettled refugees.

However, steps should be taken to ensure that refugees who are recommended for resettlement to the U.S. are not denied entry due to Material Support Bar restrictions. These restrictions affect those who have in any way aided a group identified by the U.S. government as terrorist, without taking into account the nature of that assistance and the extreme duress that often precedes it.

D. The United States should continue to substantially fund the OAS’s Comprehensive Action against Anti-personnel Mines program (AICMA)

through the State Department’s Office of Weapons Removal and Abatement for demining operations in Colombia. The U.S. government should encourage the Colombian government’s Presidential Program for Comprehensive Mine Action to decentralize its structure and establish offices in affected regions in order to coordinate and supervise local structures

and service providers and make sure that assistance is provided effectively. This is particularly urgent given that survivors of landmine accidents do not fall into the legal category of IDPs despite the reality that they often cannot return to their homes safely and therefore do not access services available for recognized IDPs.

3. Urge the Colombian Government to Return Land to IDPs

- A. The State Department and embassy should urge the Colombian government to insist upon full disclosure and return of land illegally held by demobilized excombatants who wish to obtain benefits under the Justice and Peace law or the law governing individual demobilizations.** The “administrative reparations” for victims funded by the Colombian government should not serve as an excuse to fail to push for return of land by demobilized combatants. The return of land must include land turned over by paramilitaries to third parties, known as “*testaferros*,” in order to avoid discovery. The State and Justice departments must ensure that the extradited paramilitary leaders in the United States reveal and return their stolen properties. The Colombian government should be urged to establish as rapidly as possible a program to return land and property to victims. The government should also be encouraged to add land confiscated from drug traffickers to the National Reparations Fund.
- B. The State Department and USAID should urge the Colombian government to fully implement a systematic review of land that has been lost by internally displaced persons fleeing violence.** This review should pull together existing databases within the Colombian government as well as civil society initiatives like CODHES’s surveys, the alternative land registry being created by the National Movement of Victims of State Crimes, and the Catholic Church’s Rut project. USAID should fund this review and encourage the Colombian government to devote the necessary budget resources to

creating a working registry. USAID should also fund efforts by the Inspector General’s office and the Ombudsman’s office to support and give legal advice to victims attempting to make land claims.

- C. The State Department should encourage the Colombian government to revise laws and policies recently passed that harm IDPs’ rights to reclaim their land and housing, as well as to promote policies and laws that strengthen such rights.**²⁷
- D. The State Department should urge the Attorney General and Inspector General’s offices to effectively investigate and prosecute government staff involved in land issues who have been implicated in corruption,** including in the National Counternarcotics Bureau and the land registry office INCODER. Safeguards must be put in place to ensure corruption does not jeopardize poor communities’ land rights in the future.
- E. The State Department should encourage the Colombian authorities and UNHCR to provide IDPs who voluntarily return to their lands with protection and sustainable development projects.** These projects, which must recognize the special vulnerability of these individuals, can include microcredit loans to start businesses that allow them to successfully reintegrate into their communities.

Photo courtesy of Washington Office on Latin America



Photo courtesy of Washington Office on Latin America



5

Protect the Rights of Afro-Colombian and Indigenous Peoples and Communities

Internal displacement and the ravages of the war have disproportionately affected Colombia's sizeable Afro-Colombian and indigenous populations. Currently, 32 indigenous groups are at risk of becoming extinct and more Afro-Colombians are living outside of their ancestral territories than inside them.

African descendants and indigenous communities have special legal protections under the 1991 Constitution requiring special protection of the collective territories that have been titled to them. Under Law 70 of 1993 (the law of the black communities), Afro-Colombians were granted collective property rights to the communal lands they have occupied for generations. This law was designed to ensure

that Afro-Colombian communities are fully consulted and participate in the planning and implementation of all development projects in their communal lands.

The land and property rights of the indigenous peoples are outlined in the Colombian Constitution of 1991, which grants them the right to “territorial autonomy” and the legal recognition of indigenous leadership structures, known as *cabildos*, as their territories' governing bodies. These national guarantees are in line with International Labor Organization (ILO) Convention 169, which establishes the “previous consultation mechanism,” requiring national authorities to consult with indigenous communities and their authorities in “good faith” and through appropriate mechanisms on issues pertaining to use of their territories.

The formal recognition of collective lands for Colombia's ethnic minorities has come at a great price. These communities inhabit resource-rich and geostrategic areas coveted by illegal armed groups and economic interests. Since these lands could not be legally bought or sold, violent measures were taken to gain control of them by paramilitaries, guerrillas, and companies employing paramilitaries to control territory, with devastating human impacts. An estimated one million IDPs are Afrodescendants, meaning that many of their territories were virtually depopulated due to the internal armed conflict and the violent activities of illegal armed groups.²⁸ Indigenous peoples have also been hard-hit by the occupation of their territories by illegal armed groups and economic activities of extractive industries that operate without the approval of indigenous *cabildos*.

The U.S. government can play an important role in protecting Afro-Colombian and indigenous communities by urging the Colombian government to ensure that illegally occupied lands are returned to the rightful owners and that these territories are protected from further illegal occupations. One positive example is the case of the returned IDP communities of Curvaradó (Chocó), in which U.S. policymakers' careful attention has led to advances, albeit

slow and fraught with difficulty, towards the restitution of lands, which had been stolen by oil palm companies with the aid of paramilitaries, to their rightful owners. Such monitoring and political support should be broadened to cases affecting other Afro-Colombian and indigenous communities throughout the country.

- A. The U.S. Embassy and USAID should encourage the Colombian government to complete land titling to Afro-Colombian communities** and implement appropriately the required consultation process with legal representatives of the communities. The U.S. Embassy and USAID should monitor implementation of Law 70 to encourage full compliance with this crucial law to protect Afro-Colombian communities.
- B. The U.S. Embassy and USAID should encourage full return of land to internally displaced Afro-Colombian and indigenous communities.** Given these communities' attachment to specific lands as part of their cultural heritage, return of their lands rather than resettlement elsewhere when possible is particularly important.
- C. USAID should finish developing and carefully implement guidelines to ensure that U.S. funding does not support any project on land obtained by violence.** USAID should strengthen the draft guidelines by consultation with CIJUS-of Los Andes University, ILSA, and the Inspector General's office. This protocol should be translated into Spanish and distributed publicly and posted on USAID's website.
- D. The U.S. government should take steps to sanction any U.S. companies that utilize violence,** such as by paying paramilitary and guerrilla groups for security or employing other security companies that commit abuses.
- E. U.S. assistance to Afro-Colombian and indigenous communities must be carefully based upon consultation with local community councils and indigenous *cabildos*.** Such assistance must meet needs that these communities identify. The

United States should be at the forefront of developing programs that deliver a differentiated response to Afro-Colombian and indigenous IDPs. Such programs would include proper application of the "previous consultation mechanism" required by ILO Convention 169 and would safeguard ethnic minorities' territorial, cultural, and civil rights.

- F. The State Department should insist upon compliance with section F of the human rights conditions, in which the State Department must certify that the Colombian armed forces "are not violating the land and property rights of Colombia's indigenous and Afro-Colombian communities,** and that the Colombian armed forces are appropriately distinguishing between civilians, including displaced persons, and combatants in their operations." This includes respecting the rights of indigenous and Afro-Colombian communities who choose, for cultural reasons as well as experience of army abuses, to protect their territories without army presence. Since this provision has been poorly enforced to date, congressional oversight committees should pay special attention to its enforcement.

Photo courtesy of Washington Office on Latin America



6

Ensure that Trade Policy Supports, Not Undermines, Policy Goals towards Colombia

The Bush Administration's single-minded pursuit of a trade agreement with Colombia has relegated other policy goals to the margins. In particular, the glowing rhetoric exaggerating Colombia's advances in order to sell the trade agreement has undercut more subtle efforts by the State Department to seek improvements in human rights.

No trade agreement should be considered until Colombia makes concrete advances in respect for labor rights, particularly in reducing and punishing violence against trade unionists. No labor right is more fundamental than the right to organize without getting killed. While the U.S. and Colombian governments have sought to depict trade union assassinations as a mere byproduct of the overall violence, trade unionists are regularly threatened and killed for exercising their basic right to organize. Even as the two governments angled to convince a Democratic Congress concerned with labor rights to ratify a trade agreement in 2008, violence against trade unionists escalated. Indeed, more unionists were murdered in the first eight months of 2008 than in all of 2007 (41 as of the end of August, compared to 38 in all of 2007). In addition, 125 trade unionists received death threats.²⁹

Intense pressure for progress on labor cases has resulted in some advances in prosecutions and convictions. But even though Democratic members of the U.S. Congress have made it abundantly clear that progress on violence against trade unionists is a precondition for the trade agreement's approval, murders are going up and the rate of impunity for trade union violence hovers at 96 percent.³⁰

But beyond the question of labor rights, the United States and Colombia should consider the impact of the trade agreement, as currently designed, on achieving other important common goals. The agreement would force Colombia,

which already has preferential access to U.S. markets for many products, to cut tariffs on many basic agricultural goods, opening its markets to heavily subsidized U.S. agribusiness imports, without providing a safety mechanism to prepare sectors for competition with these imports. This would harm Colombia's small farmers and rural poor, with serious impact on other major policy goals.

First, the current trade agreement would increase the likelihood that small farmers in marginal areas will turn to, or remain economically dependent upon, coca and poppy production. Absent serious efforts to compensate for this impact, the lifting of tariffs on basic agricultural goods would undercut investment in alternative development projects and make coca and poppy production more, not less, economically attractive. U.S. agencies responsible for counternarcotics have not considered and planned for this impact.

Second, the current trade agreement will harm Afro-Colombian and indigenous communities. This would happen not only because these communities subsist on small-scale agriculture, but also because violence and corruption remain regular tools of those seeking economic expansion in their territories. As duty-free access to the United States expands for agro-export products, such as palm oil, violent land expropriation displacing these communities would likely accelerate. In addition, in preparation for a trade agreement, the Colombian government has already passed or is considering laws that erode the rights of indigenous and Afro-Colombian communities to the natural resources within and below their territories, such as water, minerals, and forests.

Third, these negative impacts on the rural poor could in turn worsen the conflict. The boost in drug production would fuel illegal armed groups and the failure to once again provide opportunities for the rural poor would lessen chances for peace.

A. The U.S. government should insist upon advances in respect for labor rights, especially in reducing violence against trade unionists, ending impunity in

such cases, and reforming labor laws prior to approving any trade agreement.

This message must come consistently from the administration, including the State Department and the U.S. Trade Representative, and Congress, so that the Colombian government, and equally important, Colombian businesses and society at large, understand that no trade agreement is possible if killing or threatening trade unionists continues to be seen as an acceptable way of doing business. Beyond the violence, Colombia must enact laws that are consistent with international norms and effectively enforce them, something the Colombian government has so far been unable or unwilling to do.

- B. Any trade agreement should encourage the strengthening, not the lowering, of environmental and labor standards as part of the core agreement.**
- C. Trade agreements should not expand the rights of private investors to sue national governments over environmental, health, and public interest policies that affect their profit margins.**
- D. Any trade agreement should explicitly protect the livelihoods of Colombia's small farmers** and make the reduction of poverty a central goal.
- E. The U.S. government should encourage the Colombian government to take more steps to prevent and protect people from displacement and ensure that the collective land rights of Afro-Colombian and indigenous peoples are guaranteed.** This would reduce the likelihood of violence in any export rush created by a trade agreement.
- F. Any trade agreement should be consulted with various sectors of Colombia's population likely to be affected,** including Afro-Colombian and indigenous communities and small farmers.
- G. Any trade agreement's intellectual property chapter should ensure that the patenting of traditional knowledge protects indigenous**

and Afro-Colombian practices and is consistent with the Convention on Biological Diversity. Intellectual property provisions should not make access to essential medicines unaffordable.

7

Get Serious—and Smart—about Drug Policy

Of the \$4.8 billion in military and police aid that the United States has provided Colombia since 2000, the majority (about two-thirds today, more during Plan Colombia's first years) goes to the "War on Drugs." For years, the centerpiece of U.S. drug policy in the Andes, including Colombia, has been the effort to forcibly eradicate coca bushes, the crop that impoverished rural farmers sell to drug traffickers, who process it into cocaine. Under Plan Colombia, the forced eradication effort is mostly carried out by U.S.-funded aircraft that spray herbicides over coca-growing zones, a "solution" that does not even require Colombia's state to have a presence on the ground. The United States has devoted significant, but far smaller, amounts of resources to the interdiction of drugs on roads, in the air, and on rivers and seas; the arrest of leading drug traffickers; and the improvement of governance and expansion of economic opportunity in rural areas.

The failure of this approach is manifest. In 2007, the U.S. government estimated that there was more land under coca cultivation in Colombia than at any time except 2001, and in 2006 U.S. figures showed more coca in the Andes than in any year since measurements began in 1987.³¹ In 2007 the UN, which had reported a reduction in coca growing in Plan Colombia's early years, detected a one-quarter increase in Colombia's coca cultivation over 2006. UN studies have never detected any significant increases in the farm-gate price of coca leaf and coca paste in Colombia, indicating that supply continues to satisfy demand at the producer level. The UN meanwhile estimates that about 1,000 tons of cocaine continues to be produced each year in the Andes, with Colombia accounting for about 60 percent of the total. Despite finding

a six percent increase from 2006 to 2007 in the area under coca cultivation in Colombia, the U.S. government has claimed that cocaine production is in decline. Unfortunately, the U.S. has not provided information about the research methods or findings that would allow independent scrutiny of this claim.

Within the United States, cocaine continues to be sold at or near all-time low prices. Indications of a price “spike” trumpeted by the White House in 2007 still left cocaine’s price well below its 1990s levels and history suggests that the apparent spike is likely to be short-lived. According to the Justice Department’s National Drug Intelligence Center, Mexican drug trafficking organizations “will most likely undertake concerted efforts to reestablish their supply chain, and because cocaine production in South America appears to be stable or increasing, cocaine availability could return to normal levels during late 2007 and early 2008.”³² Total U.S. cocaine consumption appears to have peaked in the late 1980s, declined modestly through the 1990s, and then plateaued. There is no indication that consumption has been going down in recent years. Household and school-based surveys show that since 2000 the percentage of Americans who use cocaine has remained basically stable and there is no evidence to suggest declining numbers of chronic, heavy cocaine users (who account for the bulk of cocaine purchases and consumption).

Mitigating economic and social inequality via sustainable livelihoods in remote regions is key to achieving security and peace in Colombia. Alternative development assistance is one important part of this, but it must be done right. Such assistance should not be conditioned on prior coca eradication. Viable alternative livelihoods must be established (in the eyes of local communities, not just distant policymakers) for even voluntary eradication efforts to achieve sustainable reductions in coca growing. Without alternatives already in place, eradication will continue to backfire, deepening rather than easing reliance on coca.

The continued failure of U.S. drug policy in Colombia is frustrating on many levels. The

continued flow of cocaine creates huge public health and other social costs in the United States, Europe, and in Latin America, where addict populations are growing. The drug trade continues to spawn generations of brutal and ruthless armed groups and organized-crime figures. It corrupts and destroys confidence in institutions throughout the hemisphere. Our focus on eradicating crops and attacking poor farmers has cost us dearly, whether measured in spent money, lost lives, or wasted years. Under Plan Colombia, the strategy of forced crop eradication—including aerial spraying—has been tried, and has failed to deliver. Rather than waste more money on a dead-end strategy, the United States should get serious about drug policy.

- A. The United States should stop supporting aerial herbicide spraying, and instead should emphasize alternative development complemented by voluntary manual eradication programs developed with community participation.** Aerial spraying should not be replaced with forced, military-led eradication, but rather with voluntary eradication programs developed with the affected farmers. Calling an immediate halt to this failed program, which targets the poorest families, would send a clear signal that the U.S. and Colombian governments are committed to a new approach based on good governance and community participation. It would free up a great deal of resources for the more effective strategies recommended below.
- B. The administration and Congress should expand resources for alternative development within a framework of improved rural development and local governance.** Mindful that weakening farmers’ economic dependence on coca by fortifying alternative livelihoods will necessarily be a gradual process, the United States should explicitly recognize the virtues of pursuing an incremental but sustainable approach and not condition projects on prior coca eradication. It should explicitly adopt indicators that measure progress in terms of community development and well-being, rather than remaining fixated on short-term fluctuations in the area dedicated to coca growing. USAID in 2008 entered into an

important dialogue with humanitarian aid agencies and their small farmer partners on ways to improve alternative development projects. USAID should continue this dialogue and use its conclusions, some of which are included below, in reshaping the next phase of its alternative development programs and launching pilot projects.

- i **All USAID alternative development projects should be developed in accordance with municipal and provincial development plans through a consultation process with farmers, existing local civil society organizations, and local governments.** However, USAID should be fully aware of the clientelism and corruption, and indeed penetration by illegal armed actors, that characterizes some local governments and should exercise caution and include audits and other accountability mechanisms.
- ii **Alternative development programs sponsored by USAID should make food security a top priority.** Indicators should be developed before implementation of such programs to gauge the increased food security of program participants. These indicators should be developed with local and civil society groups and, where applicable, adhere to food security initiatives already included in indigenous “life plans” and Afro-Colombian communities’ economic and territorial plans. Special attention should be given to the quantity of land needed by families to achieve food security, which varies by region. An evaluation of food security indicators should be included in USAID reports to Congress.
- iii **To strengthen the most abandoned sectors of rural Colombia, USAID should re-shift its alternative development investments to include some of the areas most affected by conflict and the drug trade, such as Nariño, Cauca, Putumayo, and Guaviare.** USAID has shifted alternative development programs away from some of these regions, even though farmers in these departments

were the focus of more than half of the forced manual eradication and aerial spray operations conducted in 2006 and 2007. This has contributed to failing antinarcotics policies in Colombia. Preventive programs for areas vulnerable to coca production, also important, should be reevaluated by identifying the local and regional dynamics that led to recent coca expansion (for example, in Nariño, Bajo Cauca and Magdalena Medio).

- iv **USAID alternative development programs, and any such rural development programs, should be protected from aerial spraying, should the fumigation program continue to operate in any way.** To best ensure this protection, burden of proof and official complaint processing for wrongful fumigations should be shifted from the USAID beneficiary to USAID staff. Alternative development projects, including USAID’s, are regularly decimated by U.S.-funded spraying, which destroys food and cash crops, as well as farmers’ faith in the program.³³

C. The U.S. government should make dismantling organized crime networks a top policy priority. Powerful and violent criminal networks derive their revenue from the cocaine trade and maintain Colombia’s unfortunate status as the world’s top cocaine producer. The U.S. infatuation with fumigation in recent years has obscured this key dimension of the phenomenon. And without a more concerted effort to dismantle trafficking networks, the potential benefits of a more ambitious and patient alternative development approach will be blunted. Colombia’s attorney general and the U.S. government should set up a special mechanism to investigate assets illegally held by the paramilitaries and guerrillas, seize land utilized for profit or money-laundering by the influence of such groups, and investigate businesses that have collaborated with illegal groups. The Department of Justice and USAID should strengthen the justice system’s capacity to carry out investigations, protect witnesses,

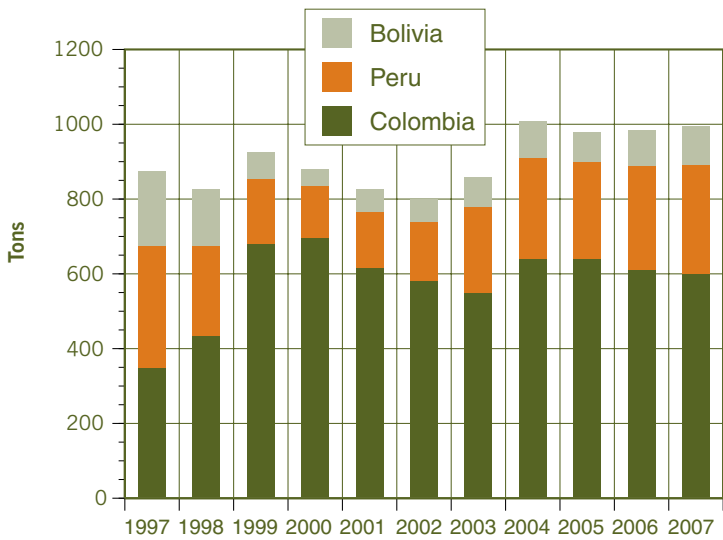
and dismantle Colombia’s underground mafia economy.

D. The administration and Congress should emphasize interdiction through civilian law enforcement. In 2006, according to UN estimates, Colombian authorities managed to seize 177 of the estimated 610 tons of cocaine the country produced—about

29 percent. This was one of the highest percentages in the country’s history, but more could be done to capture the other 71 percent, which transits Colombia’s roads, rivers, airspace, and ports thanks to a lack of government presence, unpunished corruption, and a population afraid to provide evidence of trafficking activities that are often quite blatant. In addition to detection and monitoring, Colombia needs help extending a civilian state presence throughout its territory, reducing the number of “no-man’s lands” that traffickers use as shipping corridors.

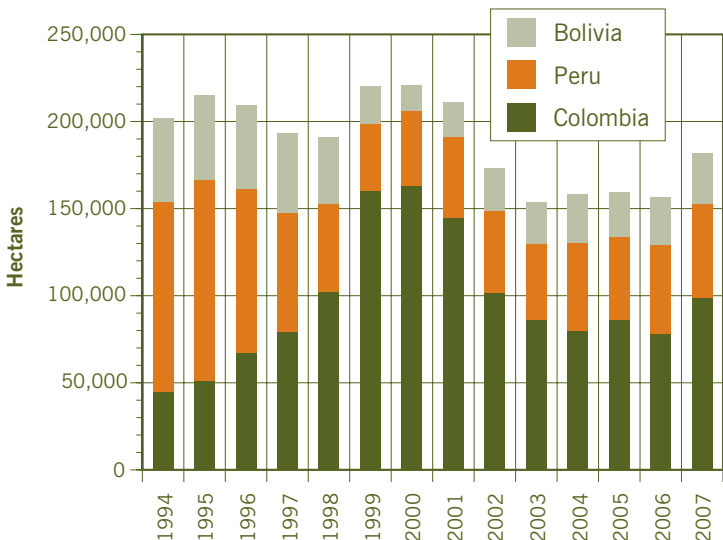
E. The administration and Congress should make improved access to high-quality drug treatment in the United States the centerpiece of American drug policy, including ambitious increases in funding for services and research. There is no magic-bullet solution for drug abuse problems, but numerous studies have made it clear that treatment for heavy users is by far the most cost-effective way to reduce problem drug use and the associated social harms (such as crime and the spread of infectious diseases).³⁴ Yet treatment has remained under-funded, with federal spending on treatment since 2002 growing at less than half the rate as spending on source-country programs and less than one-quarter the rate of spending on interdiction.³⁵ These budget trends have occurred despite the large number of problem drug users who remain in need of treatment. Consistently since 2002, each year barely one-fifth of the more than seven million Americans considered in need of treatment for an illicit drug problem have actually received it, according to the Department of Health and Human Services.³⁶ Moreover, the available drug treatment is often of low quality, with services largely separated from the healthcare mainstream and staffing characterized by low wages, inadequate training, and high turnover. Without a much more ambitious and sustained commitment to reducing demand for illicit drugs here at home, even the best efforts in Colombia will make little difference in either country.

Cocaine Production – UN Estimate

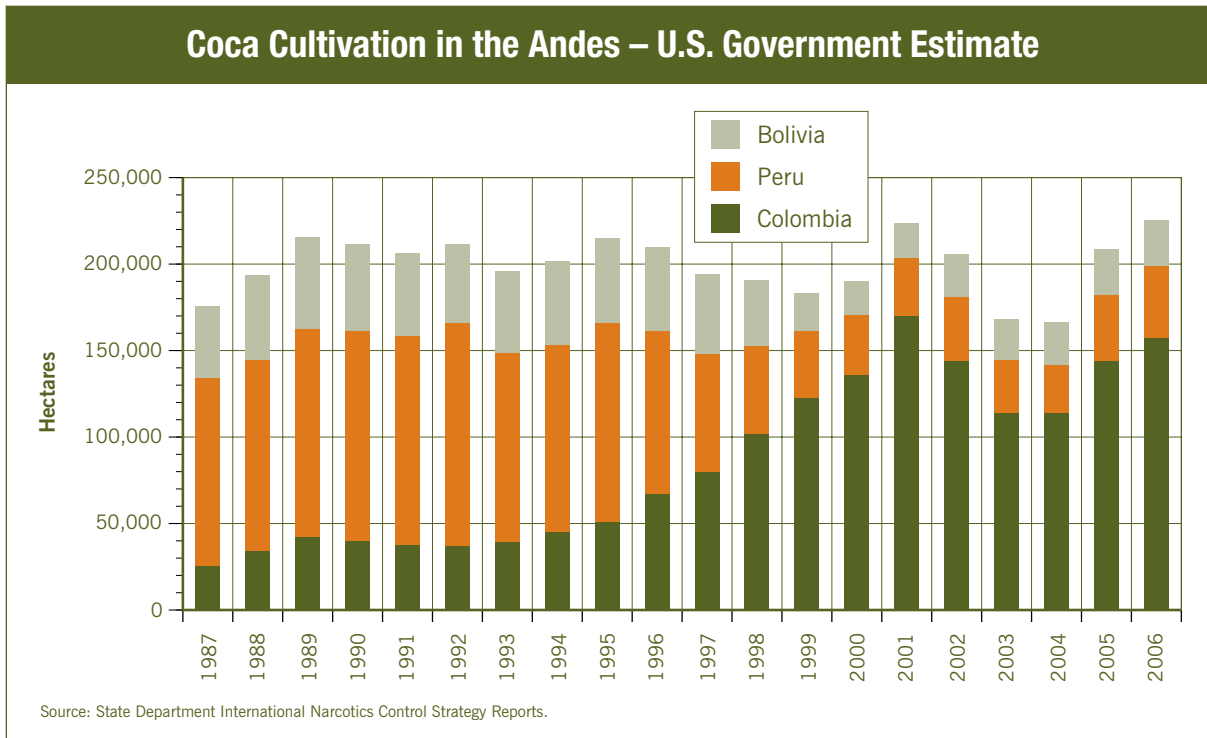


Source: UN Office on Drugs and Crime, Andean Coca Surveys.

Coca Cultivation in the Andes – UN Estimate



Source: UN Office on Drugs and Crime, Andean Coca Surveys.



Endnotes

- ¹ From the original “Plan Colombia” document: Government of Colombia, *Plan Colombia* (Bogotá: October 1999) <<http://ciponline.org/colombia/plancolombia.htm>>.
- ² United Nations Office on Drugs and Crime (UNODC), *Coca Cultivation in the Andean Region: A Survey of Bolivia, Colombia and Peru*, June 2008. UNODC estimated total potential cocaine production in the Andes for 2007 to be 994 metric tons, 7 percent higher than the estimate for 1999, before Plan Colombia began.
- ³ Department of Justice, National Drug Intelligence Center (NDIC), *National Drug Threat Assessment 2008*, November 2007. NDIC’s “strategic findings” included that “[p]otential South American cocaine production increased in 2006 as Colombian coca growers adapted their growing practices to counter intensified coca eradication.”
- ⁴ Both the Colombian Commission of Jurists and Noche y Niebla, the database of human rights indicators maintained by Jesuit research center CINEP, point to over 23,000 people killed since mid-2000. http://www.coljuristas.org/documentos/documentos_pag/Vida96-06.zip and <http://www.nocheyniebla.org>. The Colombian government’s Sistema Unico de Registro tallies 2.3 million people displaced between 2000-2007, while the nongovernmental organization Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) registers 2.4 million during the same period. Note that the 2007 governmental figures keep getting updated with people registering for a displacement that occurred in 2007 up until January 2009. Differing methodology explains why the nongovernmental and governmental figures differ initially but eventually end up quite close.
- ⁵ The Organization of American States’ mission to monitor the demobilization in Colombia, MAPP-OEA, summed up in its latest report: “After reporting in the Quarterly Reports the incipient presence of remnant non-demobilized and rearmed groups in areas such as Córdoba, Urabá, Nariño, southern Cesar, and Meta, the Mission is concerned about the continued existence and even increase in these factions, despite actions taken by law enforcement agencies. This shows a significant resistance and revival capacity, with resources making possible ongoing recruitment and the persistence of corruption at the local level.” “The presence of illegal armed groups in the areas of influence of demobilized self-defense forces has direct repercussions

- for the civilian population, restricting its ability to travel, exercising social control, and implementing an illegal, extortion-based economy. Generally, in such contexts, inhabitants who resist the armed faction’s domination are threatened and, in some cases, murdered.” Regarding the government’s role in combatting the rearmed or undemobilized groups, the MAPP-OEA notes that “The State has evidenced its intent to combat illegal armed groups by increasing the numbers of operations, which has led to higher numbers of captures and deaths in combat.” However, the MAPP-OEA cautioned about these statistics that it is concerned “about information provided by relatives regarding the disappearance of young people who are later included as unidentified (NN) in reports of those killed in combat.” MAPP-OEA, *Eleventh Quarterly Report of the Secretary General to the Permanent Council on the Mission to Support the Peace Process in Colombia*, 21 June 2008.
- ⁶ For example, see the UNHCHR reports on Colombia for 2005, 2006, and 2007. United Nations High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia*, February 28, 2008, <http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/2007/Report%20High%20Commissioner%20English%20ADVANCE%20EDITION.htm>. See also U.S. Department of State, Colombia, *Country Report on Human Rights Practices*, 2007, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100633.htm> and State Department, “Memorandum of Justification, Concerning Human Rights Conditions with Respect to Assistance for the Colombian Armed Forces,” August 1, 2008.
- ⁷ The depth of penetration of Colombia’s political life by paramilitaries is demonstrated by the tally of Colombian members of Congress implicated: 39 under investigation plus 29 already detained as of August 2008, according to the Colombian thinktank INDEPAZ.
- ⁸ See Human Rights First, Front Line, FIDH And OMCT, *Joint Submission for Universal Periodic Review: Colombia* (July 18, 2008) <http://www.humanrightsfirst.info/pdf/080718-HRD-hrf-fl-omct-fidh-colombia-upr.pdf>
- ⁹ President Uribe, September 8, 2003, addressing the military high command.

- ¹⁰ National Reparation and Reconciliation Commission's figures, cited in "Nueva rebelión de los ex 'paras' profundiza rezagas en reparación," *El Tiempo*, 17 de junio de 2007.
- ¹¹ The U.S. government has stated that it can not compel the paramilitaries to speak. However, it can compel them to appear at the hearings.
- ¹² As of December 2007, 941 of the 1,057 depositions that the Attorney General's office had begun receiving were closed because the ex-combatants did not reaffirm their willingness to receive the law's benefits; and not a single indictment was issued, according to the UN High Commissioner for Human Rights' Colombia office.
- ¹³ Juan Forero, "Unearthing Secrets of Colombia's Long War," *Washington Post*, August 27, 2008, p. A6.
- ¹⁴ The United Nations High Commissioner for Human Rights' office in Colombia also highlighted these concerns, asserting in 2004, 2005, and 2006 that the number of allegations of extrajudicial killings by members of the Colombian armed forces reported to its office increased compared to the previous year. The 2007 report did not estimate changes in number, but noted that "in most cases, these executions followed the same pattern observed in previous years: the victims were civilians who were presented as members of the guerrilla groups or other illegal armed groups, reported as killed in combat."
- ¹⁵ The Colombian Commission of Jurists documented a dozen such killings a month in preliminary figures for the first three months of 2008.
- ¹⁶ Amnesty International and Fellowship of Reconciliation, *Assisting Units that Commit Extrajudicial Killings: A Call to Investigate US Military Policy toward Colombia*, April 2008.
- ¹⁷ According to CODHES as of June 3, 2007, the total number of IDPs in Colombia is 4,075,580 people. (From 1985-June 3, 2007). Consultoría para los Derechos Humanos y el Desplazamiento (CODHES), November 2007, *Boletín informativo de la Consultoría para los Derechos Humanos y el Desplazamiento*, No. 72., Anexo 1. According to the IDMC, as of April 2008 the total number of IDPs is 4 million since 1985. Internal Displacement Monitoring Center (IDMC), *Global Overview of Trends and Developments in 2007*, April 2008. According to UNHCR, as of June 17, 2008, the total number of IDPs in Colombia is 3 million. UNHCR, *Boletín Estadísticas*, "Las cifras de refugiados y desplazados internos suben por segundo año consecutivo," Bogotá, June 2008. According to SIPOD- ACCIÓN SOCIAL, as of June 2008 the total number of registered IDPs is 2,615,100. Registro Único de Población Desplazada – RUPD. Fuente: SIPOD - Fecha de Corte: 31 de julio de 2008.
- ¹⁸ "Cifra de desplazados en Colombia alcanza los 270.675 en últimos 6 meses, una cifra récord en 23 años," *El Tiempo*, 30 de septiembre de 2008, describing report by Consultoría para los Derechos Humanos (CODHES). CODHES, the primary nongovernmental group tracking displacement, estimated that 305,966 people were displaced in 2007, a 27 percent increase from 2006. Consultoría para los Derechos Humanos y el Desplazamiento; Departamentos de Llegada años 2006-2007, Sistema de Información sobre Desplazamiento Forzado y Derechos Humanos - SISDHES, 13 de febrero de 2008 and Consultoría para los Derechos Humanos y el Desplazamiento (CODHES) noviembre 2007, *Boletín informativo de la Consultoría para los Derechos Humanos y el Desplazamiento*, No. 72., Anexo 1.
- ¹⁹ Conferencia Episcopal de Colombia, Secretariado Nacional de Pastoral Social, and Consultoría para los Derechos Humanos (CODHES), *Desafíos para construir nación, El país ante el desplazamiento, el conflicto armado y la crisis humanitaria, 1995-2005* (Bogotá: 2006), p. 142. Colombia's Comptroller General's office has also used this "reverse land reform" term. "En los últimos 20 años: Narcotraficantes realizaron gigantesca contrarreforma agraria," junio 2005.
- ²⁰ U.S. State Department, *Country Reports on Human Rights Practices for 2007*, Colombia, February 2008.
- ²¹ According to the 2007 Landmine Monitor Report, more than 1,100 casualties related to landmines accidents took place in 2006 and there are a total of 6,674 victims to date. See Antipersonnel Mines Observatory at www.derechoshumanos.gov.co, accessed 18 June 2007.
- ²² La República, "ONU pide esclarecer caso de refugiados colombianos secuestrados por paramilitares en Ecuador," 10 July 2008. <http://www.larepublica.es/spip.php?article11301>
- ²³ The Migration and Refugee Assistance budget for the Western Hemisphere represented only five percent of U.S. assistance for refugees worldwide in 2007 and 2008.
- ²⁴ <http://thomas.loc.gov/cgi-bin/query/D?c110:2:./temp/~c110TjpmB8:>
- ²⁵ "Una Guía para la aplicación de los principios rectores de los desplazamientos internos en contextos urbanos."
- ²⁶ *Comisión de Seguimiento a la política pública sobre desplazamiento forzado*.
- ²⁷ For example, recent laws on forestry and rural development contained provisions that undermined ethnic land rights.
- ²⁸ AFRODES and Global Rights, *The Human Rights of Afro-Colombian Communities: In the Light and Shadow of Exclusion: A Report from the Afro-Colombian Perspective*, Bogotá, November 2007, p. 22.
- ²⁹ According to the Escuela Nacional Sindical (National Labor School), which regularly tracks and compiles these statistics.
- ³⁰ Estimation by the AFL-CIO, "Colombia: Continued Violence, Impunity and Non-Enforcement of Labor Law Overshadow the Government's Minor Accomplishments," September 2008 Update.
- ³¹ White House Office of National Drug Control Policy (ONDCP), *2006 Coca Estimates for Colombia*, Press Release, 4 June 2007.
- ³² Department of Justice, National Drug Intelligence Center (NDIC), *National Drug Threat Assessment 2008*, November 2007.
- ³³ USAID as well as European-funded alternative development projects are sprayed, and farmers generally are not compensated for the damage. One U.S. official interviewed estimates that spraying damages USAID projects 4-5 times per month.
- ³⁴ David Boyum and Peter Reuter, *An Analytic Assessment of U.S. Drug Policy*, AEI Press: Washington, DC, 2005.
- ³⁵ Carnevale Associates, "FY02-09 Budget Emphasizes Least Effective Ingredients of Drug Policy," Carnevale Associates LLC Policy Brief, 2008.
- ³⁶ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *National Survey on Drug Use and Health, 2002-2007*.

© 2008 by the Center for International Policy, Latin America Working Group Education Fund, U.S. Office on Colombia, and Washington Office on Latin America.

A Spanish edition of this publication can be found on our websites.

This publication and related public education activities were supported by grants from the Foundation Open Society (Zug), the Ford Foundation, Catholic Relief Service, Project Counselling Service and Lutheran World Relief.

Our thanks to the many people who provided valuable comments to this report, just some of whom are mentioned here: Shaina Aber, Roger Atwood, Juan Manuel Bustillo, José Santos Cabezas, Zoraida Castillo, Marino Cordoba, Jessica Eby, Vicki Gass, Heather Hanson, Andrew Hudson, Yukyan Lam, Andrea Lari, Jorge Rojas, Geiler Romana, Marco Romero, Annalise Romoser, Yamile Salinas, Kimberly Stanton, Jeff Vogt and Travis Wheeler.

**Latin America Working Group
Education Fund**
424 C Street NE
Washington, DC 20002
202.546.7010
www.lawg.org

Center for International Policy
1717 Massachusetts Ave NW
Suite 801
Washington, DC 20036
202.232.3317
www.ciponline.org

**Washington Office on
Latin America**
1666 Connecticut Ave NW
Suite 400
Washington, DC 20009
202.797.2171
www.wola.org

U.S. Office on Colombia
1326 9th Street NW
Washington, DC 20001
202.232.8090
www.usofficeoncolombia.org