CORRECTING COURSE: VICTIMS AND THE JUSTICE AND PEACE LAW IN COLOMBIA

Latin America Report N°29– 30 October 2008

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

TABLE OF CONTENTS

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

Latin America Report N°29 **30 October 2008**

CORRECTING COURSE: VICTIMS AND THE JUSTICE AND PEACE LAW IN COLOMBIA

EXECUTIVE SUMMARY AND RECOMMENDATIONS

The more than 155,000 victims of Colombia's conflict registered to date with the attorney general's Justice and Peace Unit (JPU) – mostly those who suffered from the paramilitaries – are mainly onlookers to, not actors in, a lagging transitional justice process. Over three years after passage, implementation of the Justice and Peace Law (JPL) is stymied by the relative disinterest in promoting victims' rights of the Uribe government and much of political and civil society. The problems are exacerbated by serious operational and financial bottlenecks in the judicial process and assistance and reparations to victims, as well as the persistence of armed conflict with the Revolutionary Armed Forces of Colombia (FARC) insurgents and the emergence of new illegal armed groups (NIAGs) and paramilitary successors.

To avoid failure of the process, more government commitment to rigorous JPL implementation is required, as is constructive dialogue with the political opposition and victims and human rights groups on the new victims of violence law before Congress and an integrated victims and reparations strategy. There is also need to increase protection of victims from illegal armed groups, eliminate military abuses and strengthen the rule of law across the country.

The government has treated military efforts to reestablish security throughout the country as a much higher priority than defence and promotion of victims' rights. The institutions charged with JPL implementation experience great difficulties moving the judicial process forward, providing assistance to victims and recovering ill-gotten assets that can be used to pay them reparations. Focused narrowly on its security policy, the government has done little to address these serious shortcomings. Its recent decree establishing an administrative reparations program is likely to provide only short-term relief to victims and could undermine the justice and truth goals.

Some civil society as well as human rights organisations are trying to reach out to victims and give them legal and other help, but they represent only a small sector of the large and fragmented victim universe. Political parties kept their distance for several years, and the National Commission for Reparation and Reconciliation (NCRR), charged with defending and promoting victims' interests, has been hamstrung by its closeness to the government and internal divisions. Only a recent initiative by the Liberal party for a victims law has started to bring civil society and parties, both opposition and pro-government, together on the issue.

Victims' active participation in the JPL process is hindered by the evolution of the armed conflict. The emergence of NIAGs is a major obstacle, especially in regions like Nariño, where the new groups are using intimidation and violence much like their paramilitary predecessors did. The ongoing military struggle with the FARC, in which the security forces sometimes have used questionable and even criminal tactics, also causes difficulties. Victims have been able to increase their participation and make themselves better heard only in regions where NIAGs have not yet emerged, insurgent groups have been driven out and civil society organisations and local, departmental and national government institutions are cooperating more closely, such as eastern Antioquia.

Expanding the rule of law, security and victim protection and strengthening institutional capacity for JPL implementation are major challenges the Uribe administration must meet if it is to prevent the transitional justice process from failing. The current debate in Congress about a new victims law is an opportunity for government and political opposition to work together and engage victims, human rights and civil society organisations in the design of a policy seen as an essential complement to, not a competitor with, the effort to win the military struggle with illegal armed groups. Efforts by the security forces to recover territory contribute to the consolidation of the state's presence in Colombia's regions, but to be ultimately successful they need to be combined with rigorous implementation of the JPL, so as to end impunity, as well as expand the rule of law across the country – two measures that

are rhetorically key pillars of the government's pacification strategy but in practice are too often undermined by its own actions.

RECOMMENDATIONS

To the Government of Colombia:

1. Address promptly persisting problems of JPL implementation by:
   a) giving additional resources, including vehicles, technical equipment and specialised staff, to the attorney general's JPU, the National Commission for Reparation and Reconciliation (NCRR) and the ombudsman's office, with particular emphasis on strengthening their regional offices; and
   b) earmarking adequate multi-year funding for institutions charged with JPL implementation.
2. Engage political parties, opposition and pro-government alike, civil society and human rights organisations and victims in the design of an integrated victims and reparation policy that:
   a) complements the Administrative Reparation Program by including measures which assure land restitution and collective reparations, as well as symbolic actions to promote reconciliation; and
   b) introduces measures to promote and facilitate victim participation in the judicial process by simplifying bureaucratic procedures, providing security to victims once they sign up and assuring that victims are given adequate legal assistance and representation and psychological support.
3. Create a comprehensive protection and security plan for victims that:
   a) reinforces the recently established victims protection program by strengthening cooperation between judicial authorities, security forces and civil society and victims organisations;
   b) develops, in collaboration with security forces, judicial authorities, human rights organisations and victims, a comprehensive risk map that considers such factors as complaints about land usurpation and alleged links between local authorities or security forces and NIAGs; and
   c) provides for cooperation with security forces, judicial authorities, departmental and local governments, human rights organisations and victims to establish victim risk prevention plans, including early warning measures, for high risk regions, starting with areas where NIAGs have emerged.

To the Police and the Armed Forces:

4. Provide, in collaboration with the JPU, the NCRR and the ombudsman, more training on the JPL and victims' rights to security forces, especially those in areas with significant victim populations.
5. Investigate allegations of ties between security force personnel and NIAGs in areas with significant victim populations and immediately suspend officers found to be so involved.
6. Assign greater priority to confronting and dismantling NIAGs, particularly in areas with significant victim populations.

To the Opposition Parties and Civil Society and Human Rights Organisations:

7. Engage the government and its political coalition constructively on an integrated victims and reparations policy, as outlined above.

To the National Commission for Reparation and Reconciliation (NCRR):

8. Fulfil its mandate to represent victims by acting more independently of the government and adopting a higher public profile in defence of victims' rights, while seeking internal consensus on key issues such as reparations, land restitution and protection.
9. Allocate additional personnel to regional offices and grant them budgetary and executive independence to improve the quality of information available to victims as well as basic legal and psychological assistance.
10. Establish regional coordination committees in all departments where the NCRR is present in order to improve cooperation between civil society and human rights organisations, government institutions and departmental and regional authorities.

To the Attorney General's Office:

11. Allocate more personnel to regional JPU teams and special units such as the exhumation sub-unit.
12. Create specialised JPU research and investigation teams for crimes against children, indigenous populations, women, and other vulnerable groups, and hold specialised sessions for ex-combatant confessions on crimes committed against these groups.
13. Consolidate databases and establish protocols for information sharing with security forces, the om-

budsman's office and the Supreme Court, with emphasis on collection and processing of information from regional offices.

14. Facilitate victims' participation in ex-combatants' confession sessions held in Bogotá, Medellín and Barranquilla and improve interactive television transmissions between those cities and the areas where the ex-combattants operated.

To the Ombudsman's Office:

15. Provide additional resources to regional offices, in particular to increase the number of specialists for legal and psychological assistance to victims, including public defenders.

To the Organization of American States (OAS) Peace Support Mission (MAPP/OAS):

16. Continue supporting the NCRR's work by promoting its regional committees, improve monitoring of threats to victims and victims organisations in areas where NIAGs are present and issue timely alerts.

To the European Union:

17. Establish programs to support creation of victims organisations in areas where EU Peace Laboratories operate.

18. Seek member state consensus to increase financial support to the NCRR, in particular its regional offices, provided it effectively fulfills its mandate.

To the U.S. Government and Judicial Authorities:

19. Facilitate collaboration with Colombian counterparts, including the attorney general, Supreme Court and ombudsman's office, to ensure that the latter's investigations against extradited former paramilitary leaders can continue, in particular by:

    a) establishing transparent and regular procedures for information sharing, such as direct access to extradited former paramilitary leaders and video interrogations by Colombian judicial authorities;

    b) providing opportunities for victims organisations to access and interact during video confessions of extradited paramilitaries and, in the case of the U.S. Department of Justice, actively cooperating with victims organisations regarding information about human rights violations committed by extradited individuals which might be helpful in their prosecution;

    c) incorporating incentives in any plea bargain agreements with extradited former paramilitary leaders to promote their cooperation with Colombian judicial authorities in the JPL process; and

    d) permitting assets relinquished to or seized by U.S. authorities from paramilitaries and other illegal armed groups to be be used for reparations or restitution to Colombian victims.

20. Continue providing technical assistance and funding to JPL institutions, particularly the JPU, to establish and run an adequate information-sharing system and transmit confession sessions to the regions where former paramilitaries once operated.

Bogotá/Brussels, 30 October 2008

International Crisis Group
WORKING TO PREVENT CONFLICT WORLDWIDE

Latin America Report N°29 **30 October 2008**

CORRECTING COURSE: VICTIMS AND THE JUSTICE AND PEACE LAW IN COLOMBIA

I. INTRODUCTION

More than three years after Congress passed the Justice and Peace Law (JPL), implementation is lagging, bringing the legitimacy of Colombia's transitional justice process increasingly into question. The over 155,000 victims registered with the attorney general's Justice and Peace Unit (JPU) are finding it difficult to make their voices heard and achieve their goals of truth, justice and reparation.

Though by mid-2008, ex-paramilitaries had confessed to over 2,700 crimes, and more than 1,600 bodies had been exhumed, President Álvaro Uribe's government has not given priority to this process, focusing instead on security – in particular the military struggle against the Revolutionary Armed Forces of Colombia (FARC), the country's largest insurgent group – drug trafficking and demobilisation of the paramilitary United Self Defence Forces of Colombia (AUC). This choice was reflected in the May extradition of fourteen senior former paramilitary leaders to the U.S., where they will stand trial on drug-trafficking charges but not crimes against humanity or war crimes. A recent presidential decree that opened the door to state-funded administrative reparations for victims has sparked controversy as it potentially risks foregoing the JPL's other two core elements, truth and justice.

Despite efforts to increase their capacities, institutions tasked with applying the JPL – such as the offices of the attorney general and the ombudsman and the National Commission for Reparation and Reconciliation (NCRR) – are overwhelmed and under-funded or for political reasons unable to act. The efforts of Colombian human rights and civil society organisations to reach out to victims are hampered by problems of representation and the large and fragmented nature of that constituency. At least until recently, political parties have also not treated victims rights as a priority.

These problems are compounded by the transformation the armed conflict is undergoing. Evidence gathered by Crisis Group in Antioquia, Nariño and Norte de Santander departments shows the conflict to be a primary obstacle to full JPL implementation and the promotion of victims' rights. While expanding the rule of law, security and, generally, the presence of the state across the country continues to be a key challenge for the Uribe administration, it would be short-sighted and counter-productive to compartmentalise it and treat it as an objective distinct from, and superior to, the need to advance human rights generally and victims' rights specifically.

Consolidating security and the rule of law depend not only on permanent police and military presence, but also on the successful pursuit of justice, reparations, truth and reconciliation and, consequently, an end to impunity that has been one of the underlying causes of the conflict. Unless these fundamental goals are achived, the Uribe administration's transitional justice framework, the JPL, will lose its legitimacy, and an important pillar of its pacification strategy will be undermined.

II. PROBLEMS OF JUSTICE AND PEACE LAW IMPLEMENTATION

The Justice and Peace Law has served as the legal framework for the demobilisation of the United Self Defence Forces of Colombia (AUC) that ended in August 2006. It has offered the prospect of reduced sentences to over 3,200 of the 31,600 demobilised paramilitaries who committed crimes against humanity in exchange for full confessions and reparations for victims of paramilitary atrocities and other violence.[1] Since November 2006, over 155,000 victims have registered in the process by filing claims for crimes committed against them with the attorney general's Justice and Peace Unit. Their participation in the process is limited, however, and major bottlenecks in JPL implementation risk curtailing their rights to justice, truth and reparations. Moreover, large numbers of those who had family members murdered and disappeared or were forcefully displaced by paramilitary groups have not yet signed up.

A. PRIORITIES

The defence and promotion of the rights of victims has not been a priority since Congress passed the JPL in mid-2005 and its implementation began in late 2006.[2] The Uribe administration originally promoted the JPL as an integral part of its pacification strategy,[3] but in practice the focus of that strategy has been on security, in particular fighting the FARC and demobilising the paramilitaries.[4] The burden of implementing the JPL was put on the attorney general's JPU, which soon was overwhelmed by the task of prosecuting thousands of ex-paramilitaries. The decision to extradite fourteen of the most senior former AUC commanders in May 2008 to the U.S. on drug-trafficking charges suggests the government has lost faith in its own transitional justice framework and is prepared to forego full defence of victim rights in favour of responding to U.S. requests to crack down on the drug business.

On 2 April 2008, when he approved the extradition of Carlos Mario Jiménez (alias "Macaco"),[5] President Uribe said it was necessary because the former paramilitary leader remained a security threat and had failed to fully cooperate in the JPL process.[6] Because

[1] In theory, the JPL also applies to demobilised members of the insurgent FARC, the National Liberation Army (ELN) and the Revolutionary Guevarist Army (ERG), the latter of which demobilised in August 2008, as well as other illegal armed groups. However, it has been used almost exclusively to prosecute ex-paramilitaries. An exception that confirms the rule is alias "Karina", a FARC commander who turned herself in to the authorities in May 2008. Only a handful of the more than 155,000 registered victims claim to have suffered at the hands of an insurgent group, rather than the paramilitaries.

[2] Victims' rights to justice, truth and reparations are explicitly mentioned by the JPL in Articles 4, 6, 7 and 8 as well as Chapters VIII and IX, but perpetrators are treated first, victims second. According to government supporters, it is the first time in Colombian history that negotiations with illegal armed groups have produced a transitional justice framework in which victims' rights are explicitly promoted. The reality of JPL implementation has not reflected this, however. It did not begin for more than a year after the law entered into force. The Constitutional Court issued its ruling on constitutionality only in May 2006. AUC demobilisation was not concluded until August 2006. The administration was reluctant to move swiftly for fear the paramilitary commanders would drop out of the process or sabotage it, for example by retreating from demobilisation of their troops if they saw that prosecution would be stringent. There were also considerable delays in setting up the attorney general's JPU. Crisis Group interview, Cambio Radical congresswoman, Bogotá, 8 October 2008; Crisis Group Latin America Report Nº16, *Colombia: Towards Peace and Justice?*, 14 March 2006.

[3] See Crisis Group Latin America Report N°14, *Colombia: Presidential Politics and Peace Prospects*, 16 June 2005, p. 22.

[4] In August 2006, the government announced the end of paramilitary demobilisation. The government has labelled new groups that subsequently emerged, such as the Black Eagles and Organización Nueva Generación, criminal gangs. This term, however, fails to capture the groups' complexity. Most combine criminal activities with some practices of their paramilitary predecessors. Crisis Group Latin America Report Nº20, *Colombia's New Armed Groups*, 10 May 2007.

[5] Macaco led the Central Bolivar Bloc (BCB), one of the largest and most powerful paramilitary groups. The government announced his exclusion from the JPL process in August 2007 for orchestrating criminal activities from Itaguí prison (Antioquia). Comunicado, Presidencia de la República, 24 August 2007. This was the same day the U.S. embassy in Colombia delivered a U.S. district court indictment to the Colombian government requesting his extradition for drug trafficking. "Detalles del pedido de extradición de alias 'Macaco' hacia los Estados Unidos", *FM Noticias*, 28 August 2008. He continued to take part in voluntary confession sessions until March 2008.

[6] It is still unclear whether he was legally excluded from the JPL judicial process. According to the law, only JPL judges can decide whether an ex-combatant can be excluded for not fulfilling JPL requirements, but government decree Nº1364 (25 April 2008) authorised the interior and justice ministry to exclude such persons from the list of JPL beneficiaries if deemed not to have fulfilled their responsibilities, including abandoning criminal activities and relinquishing ill-gotten assets for victims' reparations. According to Uribe, the government must be able to "revoke a postulation it has made itself". "'La extradición es un instrumento de presión para

the extradition may well have cut short vital testimony, however, human rights organisations criticised it for failing to consider victims' rights to truth, justice and reparation. A departmental judge approved a request by one of "Macaco's" victims to stop the extradition,[7] but the Superior Judiciary Council[8] quickly overturned the injunction, ruling that the government would still be responsible for investigating crimes committed by those extradited.[9] "Macaco" was sent to the U.S. on 7 May and was followed a week later by a further thirteen paramilitary leaders.

The government could have used the threat of extradition (with one or two concrete examples perhaps) to leverage the old paramilitary chiefs into satisfying the JPL. Instead, the mass extraditions deprived both victims and judicial authorities, especially the attorney general, of one of their main sources of information.[10] The argument that the erstwhile commanders had not fulfilled JPL requirements[11] would have justified excluding them from the benefits of that law but not necessarily their extradition.[12] Neither the NCRR nor the attorney general's office was apparently consulted about the decision.

Critics have charged that the extradition of the paramilitary leaders signifies the end of the justice and peace process. Though the government says it will collaborate with U.S. authorities to ensure that those extradited continue to fulfil JPL obligations,[13] some legal experts doubt this is a sufficient guarantee that victims' rights will be upheld, and the judicial process will continue.[14] In August 2008, President Uribe himself expressed concern when told some extradited paramilitary leaders, in exchange for drug-trafficking information, were negotiating sentences shorter than the five to eight years stipulated by the JPL.[15] Five days later, U.S. Ambassador to Colombia William Brownfield clarified that U.S. prosecutors had asked for prison sentences of seventeen to 30 years for former paramilitaries, but that actual sentences would be determined by the courts.[16]

Some analysts contend the extraditions are yielding results. They argue that the 9 October sentencing of Ramiro Vanoy (alias "Cuco Vanoy") and Francisco

que se cumpla con las víctimas': Presidente Uribe", Servicio de Noticias del Estado (SNE), 22 April 2008.

[7] On 2 April, Fabio Gómez, whose son was murdered by Macaco's men, filed a claim in defence of fundamental rights (*tutela*) before a departmental judge, arguing that Macaco should forfeit JPL benefits and be tried in Colombia by ordinary judges for human rights violations. The judge approved the claim and ordered Macaco's extradition suspended until he fulfilled his obligations to victims' reparations, truth and justice. Gómez was backed by the Movement of Victims of State Crimes (Movimiento de Víctimas de Crímenes de Estado, MOVICE), an NGO established in 2005 to support those rights. Though its main focus has been on human rights violations by the state, it also represents victims of violations by illegal armed groups. It has been reluctant to cooperate with the NCRR and is an outspoken critic of the government's implementation of JPL.

[8] The Superior Judiciary Council (Consejo Superior de la Judicatura) is one of the four main tribunals, along with the Supreme Court, the Constitutional Court and the State Council. It is charged with administration of the judicial branch and ruling on the competence and validity of decisions by district judges. It granted the government's appeal in the "Macaco" case, which did not go to the Constitutional Court.

[9] The Supreme Court had issued a ruling authorising the president to proceed with "Macaco's" extradition. According to the ruling, his involvement in the JPL process could not be used to prevent his extradition. However, the Court also noted that the JPL responsibilities of "Macaco" should continue even after extradition. Proceso No 28643, Corte Suprema de Justicia – Sala de Casación Penal, Acta Nº076, 2 April 2008.

[10] On 13 August, the attorney general requested the extradition of ex-paramilitary leader Ever Veloza (alias "H.H.") be postponed for at least six months so he could continue providing information about mass graves and links between paramilitary groups and members of the armed forces, business elites and political leaders. The government said it would delay extradition four months.

[11] "Intervención del Presidente de la República, Álvaro Uribe Vélez, con motivo de la orden de entrega en extradición de unas personas sometidas a la Ley de Justicia y Paz", SNE, 13 May 2008.

[12] The Supreme Court has asked the president to clarify why the extradited paramilitary leaders had been excluded from the JPL process. "La Corte Suprema pide explicaciones por extradición de 14 ex jefes paramilitares", *Caracol Radio*, 12 June 2008.

[13] On 10 June, the U.S. and Colombian governments signed a memorandum of understanding on cooperation respecting continued JPL implementation. On 6 August, U.S. Deputy Assistant Attorney General (Criminal Division) Kenneth Blanco met in Bogotá with Colombian Supreme Court and attorney general officials, as well as President Uribe and some of his cabinet. It was agreed to continue working on setting up formal channels for collaboration but acknowledged that this cooperation could well be limited, especially if attorneys for the ex-paramilitaries advised their clients not to work with the Colombian authorities.

[14] Crisis Group interview, legal expert, Bogotá, 3 August 2008. See also section II.B below.

[15] "Uribe pide severidad en penas para extraditados a Estados Unidos", *Semana*, 1 August 2008. A senior U.S. embassy official emphatically denied these negotiations ended in agreements between extradited former paramilitary leaders and the U.S. judicial authorities to reduce sentences, as claimed by a Colombian opposition senator. Crisis Group interviews, embassy official and Polo Democrático Alternativo senator, Bogotá, 7-8 October 2008.

[16] "EE.UU. congelará pedidos de extradición", *El País*, 6 August 2008.

Zuluaga (alias "Gordolindo"), two of the fourteen, to 24 and 21 years in prison, respectively, is evidence that justice is being better served in the U.S. than in Colombia, where they would have been liable for no more than eight years. They cite the recent testimony given via satellite by extradited leader Salvatore Mancuso to a Colombian Supreme Court investigation into the links between paramilitaries and congressmen as an indication that the commanders may be more willing to confess now than when they were at home.[17] These positive developments, however, have little relevance for the JPL process and victim rights. The sentences were for drug crimes, not their human rights violations, and the testimony was not related to the crimes denounced by the victims. Nothing yet suggests extradited paramilitaries will continue to confess in the JPL framework or that obstacles to a continued JPL judicial process will be removed.[18]

International Criminal Court (ICC) Prosecutor Luis Moreno-Ocampo visited Colombia 25-28 August to look into JPL implementation. He said the ICC is monitoring the process and is concerned, in particular, with whether investigations of extradited paramilitaries will continue and victims will be able to participate in the process. He stressed the need to establish the responsibility of elected officials as well as members of the military in human rights violations and indicated he might open his own investigation if there was evidence human rights violations were not being properly pursued.[19] While he added that the evidence would need to show convincingly that government actions had been obstructive or investigations were being unjustifiably delayed, his visit sent a message that both the government and judicial authorities need to make a more decisive effort to speed up the process and guarantee victims rights.

B. WHO DEFENDS VICTIMS' RIGHTS?

Several human rights and civil society organisations have been making considerable efforts to defend and promote victims' rights but their reach is limited.[20] Organisations such as the Movement of Victims of State Crimes (MOVICE) and the Colombian Commission of Jurists say they each represent a few thousand of the some 150,000 currently registered with the JPU.[21] Critical from the outset of the JPL, which they considered designed to encourage impunity,[22] they assert that the extraditions of paramilitary leaders are part of a systematic cover-up. They further claim that demobilisation of the main paramilitary group, the AUC, was a sham, and such groups continue to operate under a different guise.[23] The unwillingness of these groups to cooperate with the NCRR and appeals to the Inter-American Court of Human Rights to find the Colombian state partially responsible for paramilitary mas-

[17] Ibid. Mauricio Vargas, "Las ventajas de la extradición", *El Tiempo*, 12 October 2008.

[18] According to their attorneys, it is unsure whether "Cuco Vanoy" and "Gordolindo" will continue to collaborate. Declarations by Ramiro Vanoy's and Francisco Zuluaga's lawyers, *Caracol TV News*, 9 October 2008. Obstacles to continuation of the judicial process are described in section II.B below.

[19] "La CPI podría intervenir en choque entre ramas del poder público", *El Espectador*, 2 September 2008. "'Si aplican la ley, habrá paz'", *Semana*, 30 August 2008. He also indicated worry that recent clashes between the executive and the Supreme Court might stall the latter's investigations into the links between members of Congress and paramilitary groups. Between October 2006 and August 2008, the Supreme Court opened investigations against 68 members of Congress in the "para-politics" scandal. Of those, 56 belong to pro-government parties, twelve to the Liberal party. President Uribe has reiterated his respect of the court's independence but questioned its methods and some testimony, especially that of ex-combatants, on which some rulings against pro-government congressmen have been based. He has claimed some magistrates are pressuring witnesses to testify against congressmen and members of his administration, himself included. The court has denounced his criticism as an attempt to obstruct the investigations.

[20] Human rights organisations such as MOVICE, Justapaz, Comisión Intereclesial de Justicia y Paz, Iniciativa de Mujeres por la Paz, Movimiento de Víctimas de Crímenes de Estado, Comisión Colombiana de Juristas and Colectivo de Abogados José Alvear Restrepo provide legal and psychological assistance to victims.

[21] Crisis Group telephone interviews, MOVICE and the Colombian Commission of Jurists officers, 7 October 2008.

[22] The government and human rights organisations offer opposed views about transitional justice. The latter defend a strict interpretation based on international human rights standards and privilege restorative justice to avoid impunity as part of a peace process. The government defends a pragmatic interpretation, prioritising peace over justice. Eduardo Pizarro, "¿Una ley para la impunidad?", Real Instituto Elcano, 2 September 2005. These human rights organisations denounced Decree 3391 (29 September 2006) as an attempt by the government to soften some elements in the Constitutional Court's ruling of 18 May 2006, such as reparation to victims must not be limited to the ill-gotten assets held by ex-paramilitaries; all members of the same paramilitary bloc are to be held responsible for crimes committed by its members and liable for reparations; prison terms should be no less than five years and no more than eight, not including time spent in the concentration zone; and all benefits of the law to be forfeited if the whole truth is not confessed. Crisis Group interview, human rights NGO officers, Bogotá, 23 May 2008.

[23] Ibid; Iván Cepeda, "Carta al Presidente de la República", *El Espectador*, 22 January 2008.

sacres[24] have left little room for compromise with the government, which in turn accuses them of using victims' rights for partisan political purposes.[25]

The NCRR, charged with defending victims' interests, has gained recognition for providing direct help through its regional offices, but it has a limited reach. In March 2008, it reported giving in-depth training to 88 of more than 2,400 victims and victim-assistance organisations in its database.[26] There are internal tensions, however, with some members believing its closeness to the government has curbed its independence.[27] The result is a lack of cohesion in responding to such issues as the paramilitary extraditions.[28] Only four of its thirteen members are known to consistently question government decisions.[29] In addition, an increasingly dominant role played by the Justice and Peace Inter-institutional Coordination Committee has allowed the government to shape actions on key matters such as victim protection and asset restitution more effectively than the NCRR.[30]

Political parties have until recently stayed at arm's length from the debate about victims' rights. After the opposition (in particular Alternativa Democrática, AD, the Polo Democrático Independiente, PDI, and some Liberals) acknowledged defeat in the battle over the JPL in 2003-2005, it stood back to observe implementation without being active on behalf of victims. The Polo Democrático Alternativo (PDA),[31] whose members include leaders of victims organisations, has only been marginally involved in promoting a stronger, more representative movement.[32] Since early 2007, however, increasing media and public interest in paramilitary atrocities has prompted parties, including important parts of the government coalition, to pay more attention.

With the government coalition in Congress being questioned on links to paramilitaries (the "para-politics" scandal), individual opposition legislators sensed an opportunity to seize the moral high ground and took the lead in promoting victims' rights. In March 2007, PDA Senator Gustavo Petro and a group of organisations led by MOVICE proposed a constitutional amendment to severely punish public servants found to have links to illegal armed groups and acknowledge state responsibility in human rights violations by paramili-

[24] Since 2005, the Inter-American Court of Human Rights – charged with applying the Inter-American Human Rights Convention of the OAS – has issued four decisions condemning the Colombian state for not accepting some level of responsibility or taking appropriate measures to prevent paramilitary massacres in Mapiripán, Pueblo Bello, Ituango and La Rochela. Colombia has been held liable to pay over $17 million in damages to the families of those murdered.

[25] Following the massive march against the FARC on 4 February, which drew over four million people, on 6 March the left-wing Polo Democrático Alternativo (PDA), victims organisations, human rights groups and NGOs organised anti-paramilitary marches that drew an estimated several hundred thousand in some twenty cities. That march was also supported by the Liberal party, a few independent congresspersons and some from the pro-government U party, such as Gina Parody. Presidential adviser José Obdulio Gaviria claimed the FARC was a co-promoter and questioned the motives of MOVICE. Subsequently, various victims and human rights advocates received threatening messages from a new paramilitary group, Comando Central Águilas Negras en Rearme. "El Vuelo del Águila", *Semana*, 20 March 2008. On 14 April, 63 members of the U.S. Congress wrote Uribe condemning the threats and urging him to avoid inciting violence against victims and human rights advocates. Letter to President Álvaro Uribe, U.S. Congress, 14 April 2008, at www.humanrightsfirst.info/pdf/hrd-080417-cong-letter-pres-uribe.pdf.

[26] "Primer Reporte de Avances en Indicadores", Comisión Nacional de Reparación y Reconciliación, June 2008.

[27] Crisis Group interviews, NCRR members, Bogotá, May, July 2008. The NCRR has not taken a clear stance on extradition of the fourteen paramilitaries. In a letter sent to U.S. Ambassador William Brownfield on 13 May, NCRR President Eduardo Pizarro said the extradition of ex-paramilitary leaders who continued to orchestrate crimes from prison was justified but urged U.S. judicial authorities to cooperate so that victims' rights were not endangered. Letter, 13 May 2008, at www.cnrr.org.co.

[28] Crisis Group interview, official, public prosecutor's office, Bogotá, 22 May 2008.

[29] Crisis Group interviews, NCRR members, Bogotá, May, July 2008. The NCRR includes the vice-president, ombudsman, pubic prosecutor and finance minister; the director of the Presidential Agency for Social Action (Agencia Presidencial para la Acción Social y la Cooperación Internacional), the interior and justice minister, five civil society representatives appointed by the president and two victims' representatives selected by the government from a list proposed by victims' rights organisations.

[30] The committee was established by Decree 3391 to coordinate JPL implementation between government institutions. The interior and justice ministry leads it and is charged with calling meetings. Members include the vice-president's office, the defence ministry, the high commissioner for peace, the attorney general's office, the public prosecutor's office, the ombudsman, the National Welfare Institute (Instituto Colombiano de Bienestar Familiar), the Presidential Agency for Social Action, one NCRR member and one member of the regional asset-restitution commissions. It is mandated to design a protection plan for victims, set guidelines for the Administrative Reparation Program and analyse asset restitution. On occasion the OAS, the EU and the International Centre for Transitional Justice (ICTJ) have been invited to observe committee meetings. Crisis Group interview, ministry of interior and justice official, Bogotá, 3 August 2008.

[31] The PDA was founded in 2005, when AD and PDI joined.

[32] Crisis Group interivew, PDA congressman, Bogotá, 8 October 2008.

tary groups – something the Uribe administration denies.[33] Though Petro withdrew the proposal before it was debated because he anticipated the government majority would block it, Congress declared a National Victim Solidarity Day on 24 July and on the initiative of Liberal Senator Juan Fernando Cristo and the Visible Victims Foundation held public hearings at which victims voiced their concerns.[34]

The government disregarded these isolated initiatives, but facing mounting criticism over the JPL's lack of progress on reparations for victims, it issued a decree creating the Administrative Reparation Program (ARP).[35] It is meant to distribute over COP 9 trillion ($5 billion) in state funds to nearly 2.2 million victims between 2008 and 2018,[36] but it lacks the support of all NCRR members[37] and many victims, who are concerned particularly by the lack of clarity as to whether they will receive a lump sum or instalments.[38] Human rights organisations are critical that the decree does not accept state responsibility in paramilitary crimes or include additional aspects of reparations such as the restitution of land and other assets.[39]

As criticism of the decree has grown, an initiative by Senator Cristo for a new victims law has gained force. Initially conceived in July 2007,[40] the bill has the support of human rights organisations, the resident UN representative and humanitarian coordinator and the office of the UN High Commissioner for Human Rights in Colombia. They have advised on individual and collective reparations, both material and symbolic as well as other measures to compensate those who suffered at the hands of illegal armed groups and state agents.[41] The draft calls for using all assets forfeited by drug traffickers as reparations, more robust social and economic help for victims, including measures to protect assets and lands from being taken over by ex-paramilitaries and local business elites, creation of a high commissioner for victims in the president's office and, as a guarantee against future abuse, better civilian oversight of the military and intelligence agencies.[42] Human rights organisations see the bill as an opportunity to counter what they believe is an attempt

[33] Acto Legislativo Nº10 de 2007, Senado, "Por el cual se eleva a rango constitucional los derechos de las víctimas de crímenes contra la humanidad y se establecen mecanismos para garantizar la no repetición del paramilitarismo en Colombia". The project, dropped from the Congressional agenda in November 2007, was backed by the PDA coalition in Congress and, most notably, of MOVICE. It was also supported by human rights organisations such as the Comisión Colombiana de Juristas, Comisión Intereclesial de Justicia y Paz, and the Comité Permanente por la Defensa de los Derechos Humanos, among others. It was dropped from the Congressional agenda in November 2007. Crisis Group interview, MOVICE official, Bogotá, 4 September 2008.

[34] The Visible Victims Foundation (Fundación Víctimas Visibles) is a Colombian NGO working to promote victims' rights.

[35] Decree 1209 of 22 April 2008; see section II.C below.

[36] According to the decree, the government is to give victims of all illegal armed groups a sum equal to between 27 and 40 minimum salaries (one such salary is close to $250 monthly) over ten years. As part of the ARP the decree established the Administrative Reparation Committee, charged with receiving all applications for administrative reparations. It has eighteen months to decide an applicant's eligibility. Administrative reparations are to be deducted from reparations awarded by Justice and Peace judges if the government is forced to assume these because the National Reparation Fund is insufficient. "Comienza reparación de víctimas por vía administrativa", *El Espectador*, 22 April 2008.

[37] Crisis Group interview, official, public prosecutor's office, Bogotá, 22 May 2008.

[38] Crisis Group interviews, victims from Nariño, eastern Antioquia and Norte de Santander departments, Nariño, Antioquia and Norte de Santander, 10-11 June, 23 June, 31 July 2008.

[39] Crisis Group interviews, official, public prosecutor's office, and human rights NGO official, Bogotá, 22-23 May 2008.

[40] That few congressmen attended the July 2007 hearings with victims organised by the Liberal party and the Visible Victims Foundation was criticised by the press and prompted members of the pro-government coalition, especially women, to take more decisive action to promote victims' rights. Crisis Group interview, Cambio Radical congresswoman, Bogotá, 8 October 2008.

[41] The bill has been supported by human rights organisations such as the Colombian Commission of Jurists, Fundación Social and Iniciativa de Mujeres Colombianas por la Paz. On 16 June 2008, the public prosecutor called on members of congress to pass it. "Procurador solicita al Congreso aprobar el proyecto que busca verdad, justicia y reparación para las Víctimas", Procuraduría General de la Nación, at www.procuraduria.gov.co/html/noticias_2008/noticias_252.html. "Presentación del Representante de la Oficina ante el Senado de la República. Tema: proyecto sobre derechos de las víctimas", UN High Commissioner for Human Rights, at www.hchr.org.co/publico/pronunciamientos/ponencias/ponencias.php3?cod=108&cat=24.

[42] "Proyecto de Ley 044 de 2008 Cámara, 157 de 2007 Senado 'Por la cual se dictan medidas de Protección a las Victimas de la Violencia'", House of Representatives, at http://prensa.camara.gov.co. The high commissioner would serve four years and be selected by the president from a list drawn up by the public defender, the ombudsman and the Constitutional Court. "Legislando para las víctimas", *El Espectador*, 1 June 2008. Some human rights organisations say independence to disagree with government decisions is necessary. Crisis Group interview, women's organisation representative, Bogotá, 18 July 2008.

by the government to concentrate on purely administrative measures.[43]

In March 2008, the interior and justice ministry tried to persuade pro-government senators to block the bill, but it already had overwhelming bipartisan support, leaving the administration no choice but to accept it.[44] Many senators had come to see the draft as an opportunity to regain ground following revelations of the government coalition's involvement in the "para-politics" scandal.[45] By backing the initiative, pro-Uribe parties also seek to combat the impression that only the opposition is interested in helping the victims.[46] Members of Cambio Radical – a pro-government party – said they were working on their own bill but grudgingly acknowledged that the Liberals got in first.[47]

The two sides are each proceeding with their own initiative. The administration has mobilised significant resources to promote the ARP; during its first two weeks of operations in mid-August, that program received 18,000 request forms from victims.[48] Senator Cristo, victims' advocates and the UN Development Programme (UNDP) have consulted with victims around the country in an effort to rally support for the bill in the House of Representatives. The bill also received indirect backing from the resident UN representative and humanitarian coordinator, Bruno Moro, who wrote the government on 23 September, urging it to go beyond the ARP and establish an integrated reparations policy to make good damages suffered by victims of illegal armed groups as well as state agents, including symbolic and collective measures, as well as land and asset restitution.[49]

Although the Senate passed the bill on 18 June, it faces an uncertain fate in the House of Representatives.[50] Despite its promoters' efforts to build consensus, the government takes issue on several points, importantly including the proposed acknowledgment of state responsibility in human rights violations.[51] It also claims implementation would be too costly, since it would require more than the COP 9 trillion ($5 billion) already allocated to the ARP.[52] Some members of the pro-government coalition in the house have supported the government's position.[53] Three hearings between 13 and 27 October failed to advance a consensus. The bill's promoters say the government is backtracking on previously agreed issues, such as simplifying bureaucratic processes for victim registration, in order to delay passage.[54] A Liberal spokesman told Crisis Group that party would rather sink the bill itself than give in to government efforts to water down its core principles.[55]

C. THE JUDICIAL PROCESS

The magnitude and complexity of the crimes involved are slowing the JPL process, which suffers increasingly from a lack of legitimacy. Of the original 31,600 demobilised paramilitaries, just over 10 per cent applied

[43] Crisis Group interviews, official, public prosecutor's office, and human rights NGO official, Bogotá, 22-23 May 2008.
[44] Crisis Group interviews, official, public prosecutor's office and women's organisation representative, Bogotá, 22 May, 18 July 2008. Some government supporters in Congress had favoured more decisive action to aid victims since mid-2007. Members such as Gina Parody and Armando Benedetti of the U-party, among others, have been outspoken about JPL shortcomings. The women's coalition, including pro-government Senators Martha Lucía Ramírez and Nancy Patricia Gutiérrez, backed the Cristo initiative to have a public hearing for victims in July 2007. Members of the Conservative and U parties also backed PDA Senator Petro's March 2007 initiative for a constitutional amendment on measures to prevent a repetition of the crimes against victims.
[45] Since late 2007, as a response to the scandal, the pro-Uribe coalition had proposed a reform to punish parties with links to illegal armed groups, including increasing the voting threshold for such parties to maintain their legal status and taking away a seat in Congress for each congressman convicted of links to such groups. In early June, the government urged its Congressional coalition to reject the reform, and instead established a five-member commission to develop an alternative. "Entierro de Quinta", *Semana*, 7 June 2008.
[46] To pressure the pro-Uribe coalition into backing the law, Senator Gustavo Petro said it would be inappropriate for parties involved in the scandal to block a law benefiting the victims. "El gobierno anuncia 60 reparos al estatuto para las víctimas", *Semana*, 17 June 2008.
[47] Crisis Group interview, Cambio Radical congresswoman, Bogotá, 8 October 2008.
[48] "Casi 18 mil colombianos han radicado solicitud de reparación por vía administrativa", SNE, 26 August 2008.
[49] "Comentarios a estatuto de víctimas que discute el Congreso, hizo representante de la ONU en Colombia", *El Tiempo*, 1 October 2008.
[50] Crisis Group interviews, Cambio Radical congresswoman and PDA congressman, Bogotá, 8 October 2008.
[51] Crisis Group interview, Liberal party congressman, Bogotá, 20 October 2008.
[52] This is disputed by the opposition, which says the fiscal concerns are a smoke screen to divert attention from thorny political issues, such as the state's responsibility in human rights violations. Crisis Group interviews, legal expert, PDA and Liberal senators, Bogotá, 5 August, 8, 20 October 2008.
[53] "Polémicos cambios a ley de víctimas que se debatirá hoy en la Comisión Primera de la Cámara", *El Tiempo*, 7 October 2008.
[54] "Gobierno se echa para atrás con Ley de Víctimas", *Semana*, 21 October 2008.
[55] Crisis Group interview, Liberal party congressman, Bogotá, 20 October 2008. He specifically cited the importance of the government acknowledging a share of state responsibility for crimes against victims.

for JPL prosecution.[56] According to the JPU, more than 1,100 of those as of 1 July 2008 had decided not to continue in the JPL process when they realised no charges were pending against them.[57] Of the more than 2,200 still in the process, 329 are currently delivering confessions but none have been convicted.[58] According to the attorney general's office, former paramilitaries have confessed to more than 2,700 crimes and provided information on almost 8,800 others about which there previously had been little or no information.[59] But the authorities have opened investigations on few of the over 123,000 crimes denounced by victims since November 2006.

Insufficient institutional capacity remains one of the main obstacles in the judicial process, despite important steps taken by the attorney general's JPU. Since the beginning of 2008, it has increased the number of attorneys from 23 to 57 and the total staff from around 200 to over 500.[60] The attorneys have built solid files about the history, structure, modus operandi and former areas of operation of all 37 demobilised paramilitary blocs, but the lengthy training process for their reinforcements means the new members are unlikely to have a short-term impact on the pace of investigations, and the JPU continues to depend largely on the hesitant cooperation of former combatants.[61]

A key JPU role is verification of information provided during confessions.[62] Based on this, Justice and Peace judges decide individual reparations and whether the ex-combatant has given the full confession that is a prerequisite to eligibility for an alternative sentence.[63] However, to do this job effectively, the JPU needs an accurate database that would allow attorneys to cross-reference information from different sources, including claims by victims and databases from other institutions such as the Supreme Court, the ombudsman's office and the security forces.[64] According to government sources, this system has been designed but has yet to be put in place.[65] The JPU and other institutions, such as the ombudsman's office and the NCRR, have been reluctant to share information with each other due to concerns that sensitive material about victims could be misused.[66]

JPU officials claim it is normal that paramilitary leaders deliver information slowly, as they often lack knowledge about crimes committed by their subordinates, so the JPU has on occasion allowed them to consult those former subordinates.[67] However, there have been deliberate attempts by many ex-paramilitaries to delay giving information in order to avoid extradition, deny responsibility for certain crimes or protect former supporters.[68] Witnesses in judicial processes against former paramilitaries – including demobilised fighters – are being pressured not to testify, as shown by the recent murder of Jesús Mazo Ceballos, a key witness against former paramilitary leader John William López (alias "Memín").[69] Because of lack of cooperation and

[56] See Crisis Group Report, *Colombia Towards Peace and Justice?*, op. cit.

[57] The JPU has been unable to keep full track of the whereabouts of those who have left the process, as well as the 378 who are not imprisoned. Internal document, Unidad Nacional de Fiscalías para la Justicia y la Paz, Fiscalía General de la Nación, 1 July 2008. The JPU was unable to provide figures beyond 1 July 2008 due to problems in its database.

[58] Crisis Group telephone interview, international aid agency officer, Bogotá, 12 September 2008. Internal document, Unidad Nacional de Justicia y Paz, Fiscalía General de la Nación, 3 October 2008.

[59] Internal document, Unidad Nacional de Fiscalías, op. cit.

[60] Ibid.

[61] Crisis Group interview, JPU official, Bogotá, 19 May 2008. The JPU has also assigned prosecutors to the cases of the Metro Bloc, which was absorbed by the Heroes de Granada Bloc in Antioquia before the demobilisation process started, and of Diego Fernando Murillo (alias "Don Berna") and his criminal organisations that did not belong to the AUC. Ibid.

[62] The JPU holds voluntary confession sessions during which former combatants must confess to all their crimes. Sessions are divided into two stages: during the first, they are informed of their rights and asked for general information about their rank and role as well as the modus operandi and structure of their group; victims are not present. During the second stage, they are expected to provide information about their specific crimes, and victims are allowed to attend and ask questions.

[63] Eligibility requirements for alternative sentences include a full confession of all crimes, return of all ill-gotten assets, demobilisation of all troops (including those underage), return of all hostages and an end to interference in politics.

[64] With the technical assistance of the International Organization for Migration (IOM), the JPU has established a system which allows it to store and compare basic information on cases, but not to cross-reference information from different sources. Crisis Group interview, JPU official, Bogotá, 19 May 2008.

[65] Crisis Group interview, Bogotá, interior and justice ministry official, 3 August 2008.

[66] Crisis Group interviews, JPU official and interior and justice ministry official, Bogotá, 19 May, 3 August 2008.

[67] Crisis Group interview, JPU official, Bogotá, 19 May 2008.

[68] During "Macaco's" first five voluntary confessions he alluded to 578 crimes with over 1,000 victims but did not accept direct responsibility for having ordered or committed any. Over 16,000 victims of the demobilised Central Bolivar Bloc he led have registered with the JPU. Mauricio Builes, "Las Parcas Confesiones de Macaco", *Semana*, 17 April 2008.

[69] "Miedo en Caicedo por asesinato de testigo en proceso contra alias Memín", Instituto de Capacitación Popular (IPC), 7 October 2008. The increasing targeting of demobilised fighters by new illegal armed groups and criminal organisa-

a resulting scarcity of evidence, JPU attorneys often fail to thoroughly interrogate combatants, an important part of the verification process.[70]

To speed up the process, the JPU has decided to move on to trials based on partial confessions.[71] JPL judges will be allowed to award reparations on this basis, but not alternative sentences until former combatants have delivered full confessions and the JPU has verified all crimes. Amid growing concern that they will lose interest in the JPL once they receive administrative reparations, this measure could help keep victims involved in the judicial process. However, legal experts fear that such trials could distract attention from efforts to uncover systematic human rights violations, such as sexual enslavement and extermination of indigenous communities, and to find out who ordered, sponsored and orchestrated them.[72] JPU officials insist that investigations of systematic human rights violations will continue parallel to trials based on partial confessions but acknowledge they need additional resources to carry out both tasks more efficiently.[73]

Attorneys are increasing their efforts on sexual crimes.[74] However, despite reports of widespread sexual crimes committed by paramilitary groups, as of July 2008, former paramilitaries had confessed to only two,[75] and since 2006 only 91 claims have been submitted.[76] Women's organisations say that victims do not have access to psychological counselling and support that would encourage them to come forward.[77] The authorities need to analyse the patterns of sexual crimes such as mass rapes, in order to establish whether they were perpetrated at random or as part of a systematic effort, ordered by commanders, to enslave women in certain regions.[78] Judicial strategies such as confessions focused exclusively on sexual crimes should be put into effect, and investigations of crimes against other vulnerable groups, such as children, must be intensified; former paramilitaries have reported the demobilisation of just 450 underage combatants, but there are reports of hundreds more.[79]

The May 2008 extradition to the U.S. of the fourteen paramilitary leaders will further complicate the judicial process. Even though, as noted, the government has called on U.S. judicial authorities to cooperate with their Colombian counterparts, it is uncertain whether this will be done adequately.[80] What is certain is that drug trafficking trials are taking precedence over JPL con-

tions – almost 1,000 were murdered between 2004 and August 2008 – could also jeopardise their collaboration. Unofficial figures of deceased demobilised fighters, internal document, government of Colombia, 3 September 2008.

[70] Crisis Group interviews, human rights NGO officer and security expert, Bogotá, 23, 28 May 2008. Crimes have only been confessed to in 20 to 25 per cent of all sessions. "Decimoprimer Informe Trimestral del Secretario General al Consejo Permanente sobre la Misión de Apoyo al Proceso de Paz en Colombia (MAPP/OEA)", Organization of American States, 7 July 2008, p. 2. The Supreme Court has asked the JPU to be more rigorous in cross-examining ex-paramilitaries and said the attorney should not allow the perpetrator to digress from the confession of relevant crimes. "Corte Suprema pide 'mayor vigor' a la Fiscalía en procesos a desmovilizados", *El Espectador*, 23 May 2008. The attorney general's office issued an order, 0-2296 (3 July 2007), that attorneys be more thorough in cross-examining on ties between paramilitary groups and politicians, business elites and others.

[71] In 28 May 2008 decision in the case of William Salazar Carrascal, alias "El Loro", the Supreme Court established that the JPU could move on to such trials. Corte Suprema de Jusitica – Sala de Casación Penal, Proceso 29560, Magistrado Ponente Augusto José Ibáñez, 28 May 2008. "'Tenemos resueltos 9.000 crímenes': Luis González León", *Revista Cambio*, 17 July 2008.

[72] Crisis Group interview, legal expert, Bogotá, 5 August 2008.

[73] Crisis Group interview, JPU official, Bogotá, 20 October 2008.

[74] The NCRR's working group on gender issues and a group of women's organisations have actively promoted the training of JPU attorneys regarding crimes against women. Similar training has also been provided to Justice and Peace judges. Crisis Group interview, women's organisation representative, Bogotá, 18 July 2008.

[75] Internal document, Unidad Nacional de Fiscalías, op. cit.

[76] Victims brought only six claims of sexual crimes in 2007. Crisis Group interview, women's organisation representative, Bogota, 18 July 2008.

[77] Ibid. A recent study by the ombudsman's office showed that 20 per cent of women IDPs have been forced to abandon their place of residence after sexual crimes were committed against them by illegal armed groups. "Informe De La Defensoría Del Pueblo Por Abuso Sexual: Huyen 2 De Cada 10 Desplazadas", *El Tiempo*, 30 July 2008.

[78] The Constitutional Court, ruling on IDP protection, established a typology of sexual crimes by illegal armed groups, including mass rapes during large operations, as well as sporadic sexual assaults and sexual slavery as a result of the presence of illegal armed groups. Auto Nº092, Corte Constitucional, 14 April 2008.

[79] "Paramilitares escondieron a los niños que tenían en sus filas", *El Tiempo*, 13 July 2008.

[80] Uribe has proposed that assets relinquished by paramilitaries to U.S. authorities be used for reparations. In addition, the government believes the Aliens Torts Claims Act, which allows victims from foreign countries to file claims before U.S. courts, could be used as the basis for victim restitution.

fessions.[81] Members of the attorney general's office have travelled to the U.S. to coordinate the resumption of JPL confessions but have been given only limited access to the extradited paramilitaries.[82] Moreover, while some of those extradited have stated their commitment to the JPL,[83] questions remain as to whether the U.S. authorities will offer incentives for this, and whether their American attorneys will allow them to cooperate with the Colombians.[84] Victims' participation in the process is also a challenge, since it would likely require legal representation in the U.S.[85]

Greater resources are needed to make swifter headway in the exhumation of mass graves. The attorney general has received information, mainly from demobilised fighters, about more than 4,000 graves, and the NCRR estimates there could be up to 10,000 buried bodies.[86] The processing of information by the attorney general's office continues to be the major bottleneck: even though the JPU has exhumed over 1,400 bodies, only half are in the process of being identified, and only 154 have been returned to their families.[87] The lack of cooperation between the JPU and the National Commission for the Search of Disappeared Persons (NCSDP)[88] has also slowed identification. NCSDP members claim the JPU is trying to go forward on exhumations without following procedures for identification by family members of the disappeared and without community involvement.[89]

D. REPARATIONS

The JPL stipulates that perpetrators are responsible for providing resources to make victims whole again, including symbolic and collective as well as individual measures such as land and asset restitution. The National Reparation Fund (NRF), established by the JPL to receive assets relinquished by former paramilitaries, however, is massively underfunded. As of May 2008, it had received only some $4.5 million from paramilitary leaders, who generally refuse to provide information about their assets.[90] Even though the JPU has said it will forgo criminal charges against third parties serving as go-betweens for former paramilitaries who voluntarily deliver assets to the NRF, none has come forward. Furthermore, over 85 per cent of the more than 170 physical assets – mostly real estate and land – that paramilitaries have handed over to the judicial authorities are enmeshed in forfeiture proceedings or have debts attached, preventing the NRF from receiving them.[91]

Faced with lack of cooperation by former paramilitary leaders, the government has said it will rely on asset seizure and forfeiture to finance the NRF. But unless more resources are put into that process and it is accelerated, it is unlikely by itself to produce sufficient funding.[92]

[81] Crisis Group interview, official, public prosecutor's office, Bogotá, 22 May 2008. Rodrigo Uprimny, "Extradición y Derechos de las Víctimas", *Semana*, 21 April 2008.

[82] "Tres jefes 'paras' declararán por primera vez desde Estados Unidos a fiscales de Justicia y Paz", *El Tiempo*, 9 August 2008.

[83] Hernán Giraldo, Nodier Giraldo, Edwin Gómez, Eduardo Vengoechea, Rodrigo Tovar, Salvatore Mancuso and Diego Fernando Murillo are among those who have sent letters to their attorneys saying they are willing to continue in the process. "Más paramilitares extraditados quieren continuar en Justicia y Paz", *Semana*, 1 July 2008.

[84] The consequences the extradition of the fourteen paramilitary leaders could have on Colombia's justice and peace process has been the subject of controversy in Colombia and, to a degree, also abroad. See, for example, Vargas, "Las ventajas de la extradición", op. cit.; and "Breaking the Grip? Obstacles to Justice for Paramilitary Mafias in Colombia", Human Rights Watch (HRW), October 2008. The Uribe administration issued a brief communiqué taking issue with the latter and defending its policy. "Comunicado de la vicepresidencia de la República", Bogotá, 16 October 2008.

[85] Victims organisations have alluded to possible cooperation with pro-bono law firms in the U.S., or that public defenders from the ombudsman's office might be given access to the former paramilitary leaders in U.S. prisons.

[86] Crisis Group interview, JPU official, Bogotá, 19 May 2008. Hugo García, "Fosas o Camposanto", *El Espectador*, 19 March 2008.

[87] Between January and May 2008 only eight bodies were delivered to their families.

[88] The NCDSP was established in 2000 to coordinate between civil society and authorities on investigation of disappearances.

[89] Crisis Group interviews, JPU official, human rights NGO officer and security expert, Bogotá, 19, 23, 28 May 2008.

[90] Crisis Group interviews, NCRR official and human rights NGO officers, Bogotá, 20, 23 May 2008. "Encuentran 'caleta' con títulos de propiedades que serían de Mancuso", *Semana*, 5 June 2008.

[91] Crisis Group interview, JPU official, Bogotá, 19 May 2008. As of July 2008, some of the assets returned included approximately $3.77 million in land, $1.6 million in cash and cheques, $110,000 in real estate and $163,000 in vehicles. Other assets relinquished included televisions sets, clothes, cattle and horses. "Inventario y Registro Único de Bienes Recibidos por Parte de Acción Social – Julio de 2008", Acción Social, July 2008.

[92] Crisis Group interviews, JPU official and source close to the NCRR, Bogotá, 19, 22 May 2008. Only 60 of the 288 seizures of paramilitary assets have been since the start of JPL implementation. "La Guaca Perdida de los Paras", *Semana*, 7 June 2008.

Efforts by the NCRR to establish a National Reparation Plan, including collective and individual as well as material and symbolic reparations, only got underway in early 2008. However, the lack of consensus between victims, civil society organisations, political parties and the government about what such a plan should entail has resulted in a series of NCRR ad hoc measures and pilot projects that have lacked coherence.[93] Guidelines for collective reparations will only be included in the plan in June 2009, when the eight ongoing pilot projects are completed. Similarly, NCRR officials expect recommendations on land restitution not to be ready until 2009.[94]

The Administrative Reparation Program (ARP), which started receiving applications on 15 August 2008, seeks to accelerate the process by providing state-funded economic assistance to victims. According to NCRR officials, most victims require urgent help.[95] However, there is a risk that once they receive it, they will lose interest in other aspects of the JPL, especially those concerning justice and truth.[96] In addition, since these reparations will be granted individually, victims organisations could potentially dissolve once their members have been indemnified. During victim-assistance campaigns (jornadas de atención a víctimas),[97] the NCRR has explained at length that victims who apply for economic assistance under the ARP can still demand reparations within the justice and peace process directly from the perpetrator, including additional economic compensation and the return of their land and other assets. Still, it has not yet designed follow-up mechanisms to motivate victims to remain organised and continue participating in the JPL even after utilising the ARP.[98]

Although reparations should include restitution of assets and land to victims, in practice this appears highly unlikely. Estimates show that more than 75 per cent of all internally displaced persons (IDPs) abandoned their land as a result of pressure from illegal armed groups,[99] but an NCRR official said efforts to restore land to IDPs are mostly pointless since close to 90 per cent do not want to return.[100] The government believes that due to their economic conditions, IDPs prefer economic reparation measures and urban housing. However, many sources cite security conditions as the reason for lack of interest in returns.[101] The lack of land titles and accurate records has also made it difficult for victims to bring restitution claims. Following irregularities in the allocation of land for IDPs, the government has been heavily criticised for favouring agro-industry over landless victims.[102]

On 24 January 2008, the government finally issued a decree establishing the Regional Restitution Commissions, charged with coordinating all activities for victim restitution.[103] However, sources close to the NCRR are worried that these commissions will lack the necessary resources to promote effective measures and could be pressured not to issue recommendations that clash with the government's agro-industrial or alternative development programs.[104] The absence of victims'

[93] Crisis Group interview, human rights NGO officers, Bogotá, 23 May 2008.
[94] Crisis Group telephone interview, NCRR official, Bogotá, 7 October 2008.
[95] According to NCRR reports, close to 70 per cent of 6,519 cases studied qualified for social assistance and state subsidy programs due to dire economic condition. "Estudio Socio-Económico", Comisión Nacional de Raparación y Reconciliación – Regional Antioquia, 30 December 2007. "Primer Reporte Registro Nacional de Víctimas", Comisión Nacional de Reparación y Reconciliación, internal documents (data collected until 30 January 2008).
[96] Decree 1290 stipulates that victims can continue participating in the JPL process and remain eligible for further reparations during the JPL trials. Crisis Group interview, official, public prosecutor's office, Bogotá, 22 May 2008.
[97] Victim-assistance campaigns are organised and undertaken by the NCRR in collaboration with victims associations and civil society organisations. They are often sponsored by municipal and departmental authorities. Other institutions charged with JPL implementation, including the ombudsman's office, the Presidential Agency for Social Action and the attorney general's office, are also present.
[98] Crisis Group interview, NCRR official, Bogotá, 4 June 2008.
[99] Yamile Salinas, "El derecho a la restitución de las víctimas", *Revista Razón Pública*, 3 July 2008.
[100] According to an NCRR official, land abandoned by IDPs was often highly unproductive and usually in marginal areas. Much of it has reportedly been occupied by other IDPs, not illegal armed groups. Crisis Group interview, Bogotá, 20 May 2008.
[101] Crisis Group interviews, victims, Nariño, 10-11 June, Antioquia, 21 June, Norte de Santander, 31 July 2008. In regions such as Nariño, illegal armed groups have used abandoned land to grow coca. Crisis Group interview, victims from La Unión and Barbacoas municiplaities, Nariño, 10 June 2008.
[102] In March, the government was heavily criticised when Agriculture Minister Andres Felipe Arias announced that a former 17,000 hectare agricultural research facility in Carimagua (Meta), originally awarded to IDPs for resettlement and farming, would be given to an agro-industrial conglomerate for intensive farming of African palm tree, rubber and cocoa. "Moción de censura contra Ministro de Agricultura no tiene mayoría en el Senado", *Semana*, 12 March 2008.
[103] Creation of the Regional Restitution Commissions is stipulated in the JPL (Articles 52-53) and long overdue. Since establishment of the NCRR's regional offices, rapid creation of the Regional Restitution Commissions was expected.
[104] Decree 176 (24 January 2008), set regulations for creation of the Regional Restitution Commissions. Charged with de-

representatives on them has also raised questions about their legitimacy. Victims' advocates have called on the prosecutor general and the ombudsman to provide effective oversight.[105]

Both the government and human rights organisations agree that the proposed new victims law would introduce innovative tools to ensure adequate reparations, but they disagree about implementation. For asset and land restitution, the draft seeks to place the burden of proof of ownership on the new occupants rather than the victims. Officials say that without safeguards, such a measure could threaten agro-industrial investors, who would have to prove they acquired lands legally.[106] Victims' advocates want this measure to be applied stringently regardless of the consequences for large agricultural projects. The bill also contains a wide range of measures to improve victims' living conditions, including bank credits and free education and health services, which the government objects to as too costly.[107]

E. VICTIM ASSISTANCE AND PARTICIPATION

Victims' limited access to information about their rights continues to be one of the greatest challenges for institutions charged with implementing the JPL. This has often given rise to false expectations about the extent and duration of the judicial and reparations process. Of the more than 150,000 registered victims, fewer than 11,000 have participated in paramilitaries' confession sessions.[108] Although the NCRR says it has given direct legal and psychological assistance to over 21,000 victims, officials there acknowledge the information provided is very basic, and they are not yet able to offer more in-depth assistance.[109]

Effective aid is made more difficult by the lack of coordination between institutions. Although the NCRR is charged with coordinating actions and recommending joint strategies, in practice the institutions involved with the JPL – including the ombudsman, the public prosecutor's office (Procurador General) and the attorney general's office – have their own standards.[110] While this gives victims a wider range of institutions to turn to, they are often overwhelmed by the complicated procedures and paperwork as they are sent from one office to another.[111]

Through the establishment of nine regional offices[112] and a National Victim Assistance Network, the NCRR has sought to coordinate efforts by the government, NGOs and universities to provide judicial and psychological help.[113] According to NCRR figures, these offices redirect 30 per cent of the victims they assist to a network of over 100 institutions with which the NCRR has agreements for specialised assistance.[114] But because of a lack of personnel and resources, the offices tend to become over-dependent on civil society organisations for direct contact with victims, especially in rural areas.[115]

In an attempt to improve coordination between government institutions, the NCRR plans to establish eight new Integral Assistance Centres (Centros de Atención Integral), to offer one-stop shopping for victims. Each will be equipped with specialists in psycho-social counselling and judicial assistance as well as liaison officers from the ombudsman's office, the public prosecutor's office and the Presidential Agency for Social Action (Acción Social). In private, however, NCRR

signing regional strategies for asset restitution, they will be chaired by an NCRR delegate; members will include representatives from the interior and justice ministry, the public prosecutor's office, the ombudsman's office and the municipal ombudsman's office. The first, by January 2009, will be in Bogotá, Medellín, Sincelejo and Barranquilla. Crisis Group telephone interview, NCRR official, Bogotá, 7 October 2008. Critics believe the public prosecutor and ombudsman should oversee them, not participate. Crisis Group interview, source close to the NCRR, Bogotá, 22 May 2008.

[105] Crisis Group interviews, source close to the NCRR, women's organisation representative, Bogotá, 22 May, 18 July 2008.

[106] Crisis Group interview, interior and justice ministry official, Bogotá, 3 August 2008.

[107] Crisis Group interview, women's organisation representative, Bogotá, 18 July 2008.

[108] Internal document, Unidad Nacional de Fiscalías, op. cit.

[109] Crisis Group interview, NCRR official, Bogotá, 18 July 2008. "Primer Reporte de Avances en Indicadores", Comisión Nacional de Reparación y Reconciliación, June 2008.

[110] Crisis Group interviews, Bogotá, officials, ombudsman's office, and NCRR official, Bogotá, 19 May, 18 July 2008.

[111] Crisis Group interviews, victims, Nariño, 10-11 June, Antioquia, 21 June, Norte de Santander, 31 July 2008.

[112] Offices are currently in Medellín, Bucaramanga, Bogotá, Barranquilla, Santa Marta, Pasto, Cali, Sincelejo and Mocoa.

[113] "Definiciones Estratégicas", Comisión Nacional de Reparación y Reconciliación, August 2006.

[114] "Primer Reporte de Avances en Indicadores", Comisión Nacional de Reparación y Reconciliación, June 2008.

[115] Each NCRR regional office has two or three assistance officers. Even though the NCRR has a budget over COP 8,000 million (around $4.5 million) from the government for 2008-2009, it estimates that to fulfil its mandate efficiently it would need COP 14,790 million (around $7.3 million). Crisis Group interview, NCRR official, Bogotá, 20 May 2008.

officials worry that the shift to this new model could weaken local non-state assistance networks and create further confusion among victims currently receiving help.[116]

Even though the NCRR is charged with leading assistance efforts, initial contact with victims has for the most part been made by members of the JPU through over 130 campaigns since 2006.[117] Yet, in its haste to gather information, the JPU has failed to coordinate actions with other institutions charged with providing psychological counselling and general guidance,[118] concentrating instead on filling out legal claims. NCRR members said this has resulted in confusion among victims about the extent of their rights.[119]

The JPL stipulates that the ombudsman is responsible for providing victims with public defenders, but due to a lack of resources his role has been minimal. As of June 2008, over 10,700 victims had requested such representation, but only 68 specialised JPL defenders are available, and those in Bogotá, Barranquilla and Medellín.[120] In an attempt to expand his reach, the ombudsman approved the hiring of an additional 60 defenders,[121] but, even with the new hires, the number of defenders is unlikely to meet the increasing demand for legal representation by victims. The lack of legal representation has prompted many victims to resort to highly unreliable, sometimes corrupt private attorneys.[122]

Threats against victims are rising, thwarting their participation in certain regions.[123] According to official sources, victims have filed 256 individual requests for protection.[124] Although there are no reliable figures on murders and threats, there is sufficient evidence to indicate that five victims have been killed since July 2005 because they denounced crimes committed by former paramilitary groups.[125] Following a judgment on 13 August 2007 by the Departmental Administrative Tribunal of Cundinamarca on a claim brought by a group of victims, the government issued Decree 3570 (24 October), establishing a victim protection program, headed by the interior and justice ministry. The decree charges the police with providing basic assistance to victims in case of direct threat, but victims' scant trust in security forces in various regions is likely to hinder progress. The lack of coordination between the JPU, the NCRR and the ministry (all of which have their own protocols for victim protection) has also created confusion about who is responsible in case of a threat.[126]

Efforts to establish a risk prevention plan for victims are still recent. The police have attempted to create a reliable risk map that includes information about new illegal armed groups (NIAGs), but sources close to the process pointed out that too much emphasis is placed on traditional security indicators such as homicide rates.[127] The authorities have failed to incorporate other risk factors,[128] such as links between former paramilitaries and political, military and economic elites in certain regions. The fact that threats and murders have occurred in areas where victims have made claims for land restitution also needs to be analysed.

[116] Crisis Group interview, NCRR official, Bogotá, 4 June 2008. In many regions, many rely for direct aid on other non-state institutions: Conciudadanía, Redepaz, Fundación Progresar, Corporación Nuevo Arco Iris and Comisión Colombiana de Juristas.

[117] Over 20,000 victims had been helped by 31 March 2008. Internal document, Unidad Nacional de Fiscalías, op. cit.

[118] Crisis Group interview, officials, ombudsman's office, Bogotá, 30 May 2008.

[119] Crisis Group interview, NCRR official, Bogotá, 20 May 2008.

[120] The ombudsman also has a team of twelve psychologists, spread around their regional offices, charged with providing psycho-social "first aid" assistance to victims. Crisis Group interview, officials, ombudsman's office, Bogotá, 30 May 2008.

[121] Ibid.

[122] Crisis Group interviews, ibid and NCRR official, 20 May 2008.

[123] Crisis Group interviews, legal expert, NCRR official, Bogotá, 5 August, 2 September 2008. See section III below.

[124] Crisis Group email communication, interior and justice ministry official, 8 August 2008.

[125] Crisis Group interview, NCRR official, Bogotá, 2 September 2008.

[126] Despite efforts by the interior and justice ministry to train police on victim protection, questions remain as to whether the police and the victims will be able to work together. Crisis Group interview, witness protection expert, Bogotá, 22 May 2008.

[127] Crisis Group interviews, witness protection expert and officials, ombudsman's office, Bogotá, 22, 30 May 2008.

[128] Crisis Group interview, Bogotá, witness protection expert, 22 May 2008.

III. ARMED CONFLICT AND VICTIMS

A. NARIÑO

1. Conflict and victims

In Nariño department, victim participation in the JPL remains crippled because of the surge of NIAGs that have evolved from former paramilitary groups. The demobilisation of the Libertadores del Sur Bloc (BLS), which operated between 2000 and 2005, was highly ineffective: there are indications that between 60 and 80 per cent of its members failed to comply or swiftly rejoined armed groups afterwards.[129] Despite the surrender or capture in 2007 of some former commanders who had not demobilised, NIAGs have largely maintained the BLS command structures[130] and continue to operate in most of the same municipalities.[131] As a result, victims fear that denouncing crimes committed by the BLS will make them vulnerable to retaliation from the NIAGs.

Organización Nueva Generación (ONG),[132] the Rastrojos and the Black Eagles are the three principal NIAGs operating in Nariño.[133] Although all are notorious for drug trafficking, each has adopted a distinct modus operandi. ONG has consolidated a strong military structure that allows it to maintain a significant presence in urban areas, such as the municipalities of Policarpa and Cumbitara, while also extending its influence to rural areas with a high density of coca crops.[134] The Rastrojos have combined former members of the BLS and criminal gangs in the service of drug traffickers, including Norte del Valle Cartel kingpin Wilber Varela (alias "Jabón"), who was murdered in Venezuela in January 2008. The group has generally kept a lower profile, while establishing itself in strategic drug-trafficking corridors along the Pacific cost.[135]

The Black Eagles are the most elusive. According to local sources, they operate along the Pacific coast but are attempting to expand their control by sending small groups of armed men and threatening pamphlets to traditional FARC strongholds in mountainside municipalities such as Barbacoas and along the Ecuadorian border.[136] Members who have penetrated the region have started using illegal checkpoints, intimidation, torture, murder and theft to eliminate the guerrillas' presumed support base and do away with others they consider undesirable.

Large coca-growing areas and the abundance of drug-trafficking corridors[137] have made Nariño a coveted zone for illegal armed groups. Power struggles between NIAGs, as well as the FARC and the smaller insurgency, the National Liberation Army (ELN), keep large parts in turmoil and endanger civilians. Attempts by the Black Eagles to take over ONG and alliances between the Rastrojos and the ELN to fight the FARC are becoming a fixture in mountain municipalities.[138]

[129] See Crisis Group Latin America Report Nº20, *Colombia's New Illegal Armed Groups*, 20 May 2008, pp. 11-13. Prior to demobilisation, it is believed many were recruited to inflate their numbers. Some real members never demobilised. Crisis Group interviews, NCRR official and victim assistance officer, Nariño, 11 June 2008.

[130] ONG commanders alias "El Niño" and alias "Nomo" were mid-level in the BLS. Their capture has produced a surge of new commanders such as alias "Nene". Other ONG commanders, such as alias "Taborda", who operated in Policarpa, have returned to Medellín. Crisis Group interviews, security expert and community leader, Nariño, 9, 11 June 2008.

[131] ONG established strong presences in Cumbitara and Policarpa municipalities but has also been reported to be moving towards Samaniego, EL Rosario and Leyva. Crisis Group interviews, security experts, Nariño, 9 June 2008.

[132] ONG is also known as "Nueva Generación", "Organización Autodefensas Nueva Generación" and "Autodefensas Campesinas Nueva Generación". It has been seen using uniforms and armbands. Crisis Group interview, security expert, Nariño, 9 June 2008.

[133] In Leyva and El Rosario municipalities, the presence of a group called Mano Negra has also been reported. According to local sources, ONG could have up to 400 men. The Rastrojos and the Black Eagles could also have close to 400 between them. Ibid. Despite claims that the Rastrojos are mainly linked to the Northern Valle Cartel faction led by Wilber Varela, it is believed they could include many former BLS members. Crisis Group interview, group of security experts, Nariño, 9 June 2008.

[134] Crisis Group interviews, security expert and local journalist, Nariño, 9, 11 June 2008.

[135] Crisis Group interview, group of security experts, Nariño, 9 June 2008.

[136] Crisis Group interviews, security expert and local journalist, Nariño, 9, 11 June 2008. "Informe de Riesgo Nº 017-07", Defensoría del Pueblo – Sistema de Alertas Tempranas, 6 July 2007.

[137] Many informal footpaths along the border with Ecuador are used to transport small cocaine loads and chemical precursors. Nariño also offers maritime routes from Tumaco to Esmeraldas and Manta in Ecuador for larger loads. Rivers such as the Patía and Chaguí allow traffickers to carry coca paste from mountain municipalities to coastal processing labs. Colombian intelligence report, August 2007.

[138] Sources believe the Black Eagles aim to take over ONG's structures in Cumbitara and Policarpa municipalities; some ONG members have already switched. Meanwhile, ONG continued to dispute mountain territory with the FARC, which in turn fights with the ELN in Samaniego municipality. In an effort to combat the FARC, a small ELN faction has reportedly allied with the Rastrojos in Leyva municipal-

NIAGs have also made their presence felt in the department's main urban centres, especially in the slums, where many IDPs and victims have resettled. They seek to control drug dealing, money-laundering schemes and extortion rackets. Members of the ONG and the Black Eagles have been sighted in Pasto, while Black Eagles and Rastrojos operate in the port of Tumaco.[139] Some ex-combatants are involved in private security companies in slums around Pasto, where IDPs and victims reside.[140] IDP organisations complain about being followed and are hesitant to participate in judicial processes or cooperate with authorities for fear of retaliation; some have started to relocate.[141]

The army's major offensives have temporarily curbed FARC and NIAG activities but have been unable to consolidate state presence, allowing illegal armed groups to return and retaliate against communities.[142] Army operations have often endangered civilians, and their use of civilians as informants has met with local resistance.[143] Efforts by the military to gain territorial control have intensified armed confrontations, especially with the FARC, and led to an increase in homicides, the use of landmines by the insurgents and internal displacement.[144]

Reports of links between individual army officers and illegal armed groups have further undermined victims' trust in the security forces. Although operations by the 19th Brigade have weakened ONG, questions remain about the links between members of this unit and the new armed group.[145] There are also increasing rumours about possible ties between members of the army's Cabal Group, headquartered in Ipiales, and the Black Eagles.[146] Even though security forces have captured members of the Rastrojos, sources believe that these are mostly simple fighters, and the ringleaders are being tipped off about operations, presumably by corrupt police and army and navy officers.[147] Members of police units have turned a blind eye to the transit of drugs along the Junín-Tumaco highway.[148]

Though there is little evidence that individuals or organisations are being directly targeted due to their involvement in the JPL process, this is likely, because few victims are actively participating. Both national human rights organisations and international humanitarian agencies have received threats from ONG and the Black Eagles.[149] IDP associations and individual leaders have also received anonymous threats, presumably from NIAG members.[150]

2. JPL implementation

The attorney general's JPU has made headway in uncovering the BLS structure but little in investigating its crimes. During confessions, former leaders claimed not to have information about specific offences.[151] Lower-ranking members have also been reluctant to provide such information without the approval of their old leaders, some of whom are still imprisoned in Bogotá and Medellín.[152] In addition, the lack of evidence collected

ity. Crisis Group interviews, security experts and local journalist, Nariño, 9, 11 June 2008.

[139] Members of the ONG, Rastrojos, Black Eagles and Legionarios del Sur – a faction of ex-paramilitaries, FARC members and former armed forces members – operate in Pasto. Crisis Group interviews, security expert, victim assistance officer, Nariño, 9, 11 June 2008.

[140] The 5th and 10th Commune in Pasto and neighbourhoods such as Nuevo Sol have witnessed the rise of these companies. Following community and IDP organisation complaints, their activities have declined since late 2007.

[141] More and more IDPs are fleeing Pasto. In 2004, 270 were forced to leave; in 2007 this increased to 460. Crisis Group interview, Nariño, humanitarian organisation working with IDPs, 10 June 2008. Figures provided by Agencia Presidencial para la Acción Social y la Cooperación Internacional.

[142] Crisis Group interviews, security expert and community leader, Nariño, 9, 11 June 2008.

[143] Crisis Group interview, community leader, Nariño, 11 June 2008.

[144] According to government records, armed confrontations have risen from fifteen in 2004 to 69 in 2007. The FARC was involved in over 70 per cent. Homicide and massacre rates have both increased since 2005, as groups attempted to control populations. FARC and ELN use of landmines to repel attacks by the army and other armed groups has intensified since 2005. Ricaurte, Samaniego, and Barbacoas are the most affected municipalities. However, unlike in most regions, the majority of victims have been civilian, not military. "Humanitarian Situation, Analysis Sheets, Nariño 2004 – 2007", UN Office for Coordination of Humanitarian Assistance (OCHA), April 2008. OCHA collects information from government sources, press reports and humanitarian missions in the field.

[145] Crisis Group interview, security expert, Nariño, 9 June 2008.

[146] Crisis Group interview, security expert and community leader, Nariño, 9, 11 June 2008.

[147] Crisis Group interview, security expert, Nariño, 9 June 2008.

[148] Crisis Group interview, departmental peace adviser, Pasto, 11 June 2008.

[149] The Black Eagles have threatened the Movement of Victims of State Crimes in Tumaco; in Pasto ACNUR, IOM, AVRE and Pastoral Social have received ONG threats. Crisis Group interviews, security expert, NGO officer, Nariño, 9-10 June 2008.

[150] Crisis Group interview, NGO officer, Nariño, 10 June 2008.

[151] Before his extraditioned to the U.S., BLS leader Guillermo Pérez (alias "Pablo Sevillano") said he would need to ask among the lower ranks about crimes denounced by victims.

[152] Crisis Group interview, NCRR official, Nariño, 10 June 2008.

means the JPU cannot properly cross-interrogate.[153] It has just three officers assigned to Nariño and the neighbouring department of Putumayo and lacks resources to travel to remote areas. Physical evidence is also scarce: the BLS is said to have covered its tracks by throwing bodies in rivers and perpetrating selective killings instead of massacres.[154]

Victims are reluctant to collaborate, further slowing the judicial process. Reports of links between the BLS and some members of the attorney general's regional office have made victims highly mistrustful of the JPU.[155] Victims claim the authorities have failed to provide appropriate conditions: the sessions are in Bogotá and Medellín[156] and transmitted via satellite to Pasto. This has limited victim interaction with JPU attorneys questioning former BLS members. Victims also complain they are not given proper guidance by JPU attorneys about the aliases of defendants and the zone where they operated.[157]

The victims movement in Nariño is weak. Although there is a large population of IDPs and many IDP organisations,[158] they do not identify themselves as victims of former paramilitary groups for fear of retaliation.[159] Nor for the most part do they denounce crimes committed against them to judicial authorities or participate in the judicial process.[160] The primary objective for many of these organisations is to compete for funding, health benefits and housing the national government and international agencies provide. This has occasionally resulted in tensions between IDP organisations and has prevented them from forming a cohesive movement.[161]

The lack of coordination between government institutions and civil society organisations has been a decisive factor in victims' weak organisation.[162] International NGOs and agencies have mostly focused on providing humanitarian assistance to IDPs at the expense of promoting victims organisations and rights. International humanitarian agencies have even been accused on occasion of inadvertently promoting mistrust between IDP organisations by favouring some over others.[163] Some Colombian NGOs, such as Corporación Nuevo Arco Iris and Fundación Bitácora Ciudadana, have worked independently to give basic assistance to victims, but their reach is limited to small groups, mostly in urban areas.[164] Although there are informal contacts between the NCRR and civil society organisations, there is still no official strategy to coordinate their actions or promote organisation.

To help coordinate victim assistance, the NCRR opened a regional office in Nariño in November 2007.[165] It has mainly focused on making its presence known and aiding the IDP population in Pasto. Due to security concerns and a lack of resources, it has neglected rural

[153] During former BLS commander Pablo Sevillano's voluntary confession, he acknowledged the murder of Sister Yolanda Cerón of the Pastoral Social in September 2001 in Tumaco. Some mid-level commanders have confessed to murders in Tumaco and Pasto since October 2007. So far, only marginal information has been provided about BLS homicides in rural areas before its demobilisation. Crisis Group interviews, local humanitarian organisation officer and NCRR officials, Nariño, 9-10 June 2008.

[154] Crisis Group interview, security expert and community leader, Nariño, 9, 11 June 2008.

[155] Since November 2007, the JPU has undertaken small "assistance campaigns" in Tumaco, El Charco and Olaya Herrera municipalities. Crisis Group interview, Redepaz officer, Nariño, 10 June 2008. Victims' claims against the BLS have not provided important information about its crimes. Crisis Group interview, security expert, Nariño, 9 June 2008.

[156] Sessions are being held in Bogotá, Medellín and Barranquilla, where JPL tribunals have been established. Confessions are usually retransmitted via satellite to the capital of the department where the former combatant used to operate.

[157] NGOs have asked the JPU to provide victims with a list of aliases and photographs to prepare for voluntary confession sessions. Crisis Group interview, victim assistance officer, Nariño, 11 June 2008.

[158] According to the national NGO Redepaz, there are nineteen major IDP associations in Pasto and nine in Tumaco. Crisis Group interview, NGO officer, Nariño, 10 June 2008.

[159] Crisis Group interviews, victims from La Unión and Barbacoas municipalities, Nariño, 10 June 2008.

[160] According to a recent poll, over 70 per cent of victims surveyed in Nariño do not denounce crimes because they fear retaliation. "Investigacion Cualitativa y Cuantitativa Sobre Derechos de las Víctimas", Fundación Social, June 2008. Despite having the support of the governor's office, less than 100 people participated in the 6 March protests against paramilitary violence in Pasto. Victims say they fear NIAGs operating there. Crisis Group interview, La Unión municipality, Nariño, 10 June 2008.

[161] IDP associations have become increasingly reticent to take new members in order to conserve resources. Some have reported threats from others as a result of competition over funds. Crisis Group interview, NGO officer, Nariño, 10 June 2008.

[162] Crisis Group interview, local humanitarian organisation coordinator, Nariño, 9 June 2008.

[163] Crisis Group interview, development agency officer, Nariño, 11 June 2008.

[164] The Movement of Victims of State Crimes, instrumental in promoting victim's rights in other regions, is divided in Nariño. Crisis Group interview, member of human rights organisation, Nariño, 13 July 2008.

[165] The NCRR's Nariño office is financed by Spanish cooperation funding through IOM. The NCRR opened its first offices in late 2006 in regions such as Antioquia, Santander and the Atlantic Coast, where victims were already starting to organise and insisting on participation in the JPL process.

areas, where many victims of former paramilitary groups still live.[166] In an effort to extend its reach, the regional office is assisting victims of all illegal armed groups and promoting the new Administrative Reparation Program. Privately, though, NCRR members acknowledge that this wider assistance strategy risks that its JPL role – guiding victims through the judicial process – will be neglected.[167]

Victims generally trust the ombudsman's regional office in Pasto, the departmental capital, but its poor institutional capacity has prevented it from playing a more prominent role.[168] The ombudsman has just two specialised officers for JPL assistance in Nariño. Only around 50 of the more than 1,100 victims registered at the attorney general's office had been assigned a public defender as of July 2008.[169] Although 59 public defenders are being trained to provide legal advice to victims, their regular case load is already high, and they risk being overloaded.[170]

Municipal ombudsmen (*personeros*),[171] charged with providing direct aid to victims of crimes and human rights violations, are not deemed trustworthy by most communities. Despite efforts by the ombudsman's regional office and the NCRR to train them, their lack of knowledge regarding JPL procedures has increased confusion among victims who seek assistance.[172] There are also reports of ombudsmen in mountain municipalities such as Cumbitara refusing to receive claims due to pressure from illegal armed groups.[173] Victims fear that certain municipal ombudsmen could have direct links to NIAGs, so avoid filing claims.[174]

Antonio Navarro, of the left-wing PDA party, strongly supported stringent measures against paramilitaries as a senator from 2002 to 2006. As governor of Nariño, however, he has shown only moderate interest in promoting victims' rights, though his office sponsored the 6 March protest against paramilitary violence in Pasto and has participated in local victim-assistance campaigns led by the NCRR.[175] After intense lobbying by civil society organisations, he agreed to incorporate victims' rights into the departmental development plan.[176] Still, it is unclear whether the departmental government will prioritise them.[177] Departmental officials described their role as complementary to the NCRR's: aiding victims not covered by the JPL, such as kidnap victims' families.[178]

Municipal governments have also supported the NCRR's assistance campaigns, but the communities' lack of trust in local mayors is often cited as a reason some victims abstain from participating in the JPL.[179] Illegal armed groups continue to have pervasive influence over local authorities. In an attempt to extend their territorial control, NIAGs and insurgent groups sought to influence the October 2007 regional elections. According to local security experts and community leaders, the FARC pressured candidates and voters in Cumbal and Ricaurte municipalities, while ONG concentrated on mountain municipalities such as Samaniego, Policarpa, Cumbitara and El Rosario.[180] Certain candidates

[166] Crisis Group interview, security expert, Nariño, 9 June 2008. Close to 80 per cent of the victims eligible for JPL benefits assisted by the NCRR are from Putumayo. Crisis Group interview, NCRR official, Nariño, 10 June 2008.

[167] The NCRR is assisting between 100 and 150 people weekly, most of whom are redirected to other institutions for help. Crisis Group interview, NCRR official, Nariño, 10 June 2008.

[168] Crisis Group interview, victim-assistance officer, Nariño, 11 June 2008.

[169] Crisis Group interview, official, ombudsman's office, Nariño, 13 June 2008. Victims need to be officially registered with the JPU to be eligible for legal representation from the ombudsman's office.

[170] The ombudsman's specialised public defenders are in Bogota, Medellín and Barranquilla. Crisis Group interview, NGO officer, Nariño, 10 June 2008.

[171] Municipal ombudsmen are charged with defending civil liberties and human rights within a municipality. They serve a four-year term and are selected by the municipal council.

[172] Crisis Group interviews, victims from La Unión and Barbacoas municipalities, Nariño, 10 June 2008.

[173] Crisis Group interview, human rights defender, Pasto, 9 June 2008.

[174] Municipal ombudsmen in mountain municipalities such as Policarpa, Cumbitara and Sotomayor are suspected of links to NIAGs. Crisis Group interview, humanitarian organisation working with IDPs, Nariño, 10 June 2008.

[175] Crisis Group interviews, victims from La Unión and Barbacoas municipalities and NGO officer, Nariño, 10 June 2008.

[176] Crisis Group interviews, departmental peace adviser, Nariño, 11 June 2008, ombudsman JPU official, 13 June 2008.

[177] Crisis Group interview, official, ombudsman's office, Nariño, 13 June 2008. The governor's work plan has focused on the humanitarian crisis, alternative development programs and eradication of illegal crops.

[178] Crisis Group interview, departmental peace adviser, Pasto, 11 June 2008.

[179] Crisis Group interviews, victims from La Unión and Barbacoas municipalities, Nariño, 10 June 2008.

[180] Crisis Group interviews, security expert, former municipal council employee, Nariño, 9, 12 June 2008. In the run-up to the October 2007 elections, Alfredo Moreno, candidate for the Ipiales council, was murdered by an unidentified group. "¿Para qué sirven las alertas?", Votebien.com, at www3.terra.com.co/elecciones_2007/articulo/html/vbe855.htm.

are said to have sought money from illegal armed groups in mountain municipalities and in Tumaco.[181]

Against this backdrop, institutions responsible for the JPL need to be alert to possible attempts to obstruct victims' participation by mayors with links to illegal armed groups. In addition, due to their history of corruption, some local governments may be tempted to offer assistance to victims in return for political support.[182]

B. NORTE DE SANTANDER

1. Conflict and victims

Following demobilisation of the Catatumbo Bloc (CB), which operated in the region between 1999 and 2004, the Black Eagles are the most prominent NIAG in Norte de Santander. Despite reports that some CB factions were not altogether dismantled and are linked to the Black Eagles, victims identify the latter as a distinct entity.[183] The demobilisation of more than 1,430 men, most of whom then relocated to other departments, effectively broke the CB's military structure and its chain of command; while the CB operated in 25 of the department's 40 municipalities, the Black Eagles are present in only twelve.[184]

The Black Eagles maintain a strong presence in municipalities with many cocaine-processing labs and trafficking routes: along the Venezuelan border and the highway between Cúcuta and Ocaña leading to southern Cesar department. The group lacks a unified chain of command and tries to keep a low profile,[185] but its presence along strategic corridors allows it to impose a tax on small gasoline contraband gangs and currency exchange businesses.[186] Through selective murders, it intimidates petty criminals and forces local communities, some with significant numbers of victims, to keep silent.[187]

After a series of turf wars and internal power struggles, as well as the capture and murder of some its main commanders between 2006 and 2007, tensions within the Black Eagles have subsided.[188] No longer interested in controlling territory and populations, the group tries to strike business alliances with both the FARC and regional drug traffickers such as the Pepes.[189] Still, there are isolated clashes between it and drug traffickers moving in from other regions, including Daniel Barrera (alias "El Loco") and, before one was captured and the other

[181] Crisis Group interviews, security expert, community leaders, former municipal council employee, 9, 11-12 June 2008. The Colombia Viva party, whose national congressmen have, with one exception, been found to have links with paramilitary groups, received the highest vote in the October 2007 Tumaco municipal council election. In the May 2006 congressional election, its Congressman Habib Merghed received unusually high support in Tumaco even though his stronghold had been in the Risaralda department. "Aguas Turbias", Votebien.com, at www.terra.com.co/elecciones_2007/articulo/html/vbe891.htm. On 16 April, the Supreme Court opened an investigation against Conservative party congressmen Myriam Paredes and Eduardo Enriquez. According to ex-paramilitary Luis Alejandro Gutiérrez, a group of councillors from Guachacal municipality paid paramilitary groups to support Enriquez's campaign. "Enríquez Maya y Paredes llamados por parapolítica", *El Espectador*, 16 April 2008.

[182] Crisis Group interview, community leader, Nariño, 11 June 2008.

[183] Crisis Group interviews, local NGO officer, Norte de Santander, 14 April 2008.

[184] The Frontier Bloc, a CB faction that operated in municipalities along the border between Cúcuta and Tibú and some areas of Catatumbo region, is believed not to have fully dismantled. However, many CB combatants were brought in from other areas such as Córdoba and returned once demobilised. Crisis Group interview, security expert, Norte de Santander, 15 April 2008.

[185] Though originally the Black Eagles had been seen in uniform, they have increasingly attempted to keep a lower profile by wearing civilian clothes and patrolling areas further from urban centres. They have close to 300 men but increasingly operate in small groups using motorcycles and utility vehicles. Crisis Group interview, humanitarian mission officer and local NGO officer, Norte de Santander, 14 April, 31 July 2008.

[186] Crisis Group interview, security expert and local NGO officer, Norte de Santander, 30-31 July 2008.

[187] Crisis Group interview, local NGO officer, Norte de Santander, 31 July 2008.

[188] Crisis Group interview, security expert, Norte de Santander, 15 April 2008.

[189] There are links between criminal organisations such as "Los Pepes" and the Black Eagles in Puerto Santander. Other known criminal organisation, such as "Los Boyacos" and "Los Pulpos", are also reported in the region. Crisis Group interview, police officer, Norte de Santander, 14 April 2008. A territorial delineation has emerged similar to what existed before demobilisation, with insurgent groups finding refuge in the Catatumbo region and the Black Eagles present along the Venezuelan border. The Black Eagles are in municipalities such as Banco de Arena, Cúcuta and the southern part of Tibú, as well as along the highway to Cesar department in municipalities such as Villa del Rosario, El Zulia and Ocaña. The FARC and ELN remain in mountain municipalities such as Hacarí, San Calixto, Teorama, El Tarra and Tibú. Crisis Group interviews, humanitarian mission officer, security expert, Norte de Santander, 14-15 April 2008. The Black Eagles reportedly have consolidated a relationship with insurgent groups that sell coca paste and base to them through intermediaries. Crisis Group interview, security expert, Norte de Santander, 30 July 2008.

killed in April 2008, the Mejía Múnera twins (alias "Los Mellizos").[190]

Following CB's demobilisation in 2004, the Black Eagles did try to gain control of urban areas, leading to clashes with small criminals and an increase of the homicide rate in Cúcuta and Ocaña to levels unseen since the CB was active.[191] Private security companies, using ex-combatants and criminal gang members, operate in slums in Cúcuta, Villa del Rosario and Ocaña, where large numbers of IDPs have settled.[192] In Ocaña they have sought to control certain neighbourhoods by murdering petty criminals and imposing illegal curfews.[193] According to local sources, they are closely linked to the Black Eagles and a source of continued concern for leaders of IDP organisations.[194]

A handful of victims involved in the JPL process have received direct threats in Norte de Santander.[195] It is unclear, however, whether the threats were made in response to claims filed against former paramilitary commanders or because of their active role as community leaders in areas where the Black Eagles and criminal organisations have attempted to consolidate their presence.[196] Members of the Neighbourhood Communal Councils (Juntas de Acción Comunal, JAC), teachers, municipal ombudsmen and leaders of IDP organisations in slums around Cúcuta and Ocaña have also received intimidating messages from the Black Eagles.[197] Although so far no murders have followed these threats, victims have started to adopt a low profile in order to avoid being targeted.

The police have not been able to gain the trust of the communities and secure areas where the Black Eagles operate, despite capturing more than 75 members since 2006. The Special Search Unit (Bloque de Búsqueda), established in early 2007 to fight the Black Eagles,[198] has not designed an effective strategy, and local sources say the police have concentrated on seizing drug-processing facilities and shipments while leaving some major kingpins at large.[199] Officers in areas such as Puerto Santander and Ocaña are constantly rotated, but there are continued reports of their collaboration with with the NIAG.[200]

Strong army offensives in late 2006-2007 pushed the still relatively strong FARC and ELN[201] higher up the Catatumbo region,[202] and the police have launched intense coca-eradication campaigns, further reducing the FARC's income in the area.[203] However, continued accusations of human rights violations by the 15th Brigade stationed in Ocaña have undermined community trust in the army.[204] Reports of links between some army officials and the Black Eagles have had the same effect in areas such as Tibú, where the CB previously operated.[205]

[190] The December 2007 murder in Cúcuta of Juan Carlos Rojas (alias "Jorge"), one of the remaining Black Eagles commanders, was the latest clash between criminal organisations. His brother Richard, also suspected of links to the Black Eagles, was captured in Bogotá in January 2008; another brother, Wilson, who ran a currency exchange business, was found dead on the border with Venezuela. "Asesinado Cambista", *La Opinión*, 15 July 2008.

[191] Crisis Group interview, local journalist, Cúcuta, 14 April 2008.

[192] More than 44,000 IDPs have come to Cucutá and over 7,000 to Ocaña. Private security companies operate in urban slums including the 6th, 7th and 8th Commune and small districts around Cúcuta such as Los Patios, Villa del Rosario, La Gloria and San Martín. Crisis Group interview, security expert, Norte de Santander, 30 July 2008.

[193] Homicides rose in Cúcuta from 256 in 2006 to 452 in 2007, and in Ocaña from 29 to 42 in 2007. OCHA data, July 2008.

[194] Crisis Group interviews, local NGO officer, security, Norte de Santander, 14 April, 30 July 2008.

[195] Five victims in the JPL process requested protection from the interior and justice ministry and were found to be at high risk. Crisis Group email communication, interior and justice ministry official, 12 August 2008.

[196] Crisis Group interviews, security expert and local NGO officer, Norte de Santander, 30-31 July 2008.

[197] Crisis Group interview, local NGO officer, Norte de Santander, 31 July 2008.

[198] The Special Search Unit is made up of 120 police officers and a few members of the Administrative Security Department (DAS), the attorney general's judicial police (CTI) and the army.

[199] Crisis Group interview, local NGO officer, Norte de Santander, 31 July 2008.

[200] Crisis Group interview, humanitarian mission officer, Norte de Santander, 30 July 2008.

[201] According to local police sources, the FARC has close to 900 men in Norte de Santander and the ELN around 500. Crisis Group interview, police officer, Norte de Santander, 14 April 2008.

[202] Crisis Group interview, humanitarian mission officer and police officer, Norte de Santander, 14 April 2008.

[203] See Crisis Group Latin America Briefing Nº17, *Colombia: Making Military Progress Pay Off*, 29 April 2008, p. 8.

[204] Alternative development programs have not followed eradication campaigns, depriving peasants of their livelihood and resulting in protests around Ocaña. Crisis Group interview, departmental government official, Cúcutá, 31 July 2008.

[205] Crisis Group interview, humanitarian mission officer, Norte de Santander, 14 April 2008.

2. JPL implementation

Questions were initially raised about the JPU's effectiveness, but it has made important progress in investigating the CB since early 2007. An attorney and thirteen investigators are now stationed in Norte de Santander.[206] International observers estimate old CB members in their confession sessions have offered to provide information about nearly 1,200 of the 10,000 crimes the local NGO Fundación Progresa calculates they committed.[207] They have given facts about some of the most notorious CB crimes, including the murders of political leaders, and also revealed links to police, the attorney general's regional office and the former mayor of Cúcuta.[208] Yet, local sources believe that the judicial authorities already knew some of this, and local elites are keeping a lid on more sensitive information about their paramilitary ties through deals with lawyers of imprisoned ex-combatants.[209] The JPU has made little progress uncovering sexual crimes and massacres, for both of which the CB was notorious.[210]

As the confessions proceed, victims have started approaching the JPU to file claims. Most of the nearly 5,000 victims the JPU has registered in Norte de Santander signed up in 2007.[211] Here also there is mistrust in the judicial authorities due to long-established links between the CB and members of the attorney general's regional office.[212] Likewise, threats received by families of former combatants following confessions have increased concerns about the lack of security guarantees provided to both victims and defendants.[213]

Although individual victims have expressed interest in participating in the JPL, they have only recently started to organise. Women's and IDP organisations have gradually begun to train their members in their rights.[214] In municipalities such as Tibú, where paramilitary presence was once pervasive, victims have sought to participate in the organisation of assistance campaigns, though the emerging organisations still lack cohesion and leadership.[215] Victims in municipalities such as Ocaña, Cúcuta and Puerto Santander prefer to avoid reporting crimes for fear of reprisal by the Black Eagles and criminal organisations entrenched in the area.[216]

Civil society groups have taken the lead in aiding victims and promoting their organisation, but their efforts are not enough. The OAS Peace Support Mission (MAPP/OAS), the Women's Initiative for Peace (IMP) and Fundación Progresar, among others, are training leaders of women's and IDP organisations and actively support the work of the Regional Justice and Peace Committee,[217] charged with coordinating the institutions carrying out the JPL at the departmental level. Government bodies have offered only limited support for these initiatives.

The ombudsman's office and the NCRR are weak in Norte de Santander. Close to 80 per cent of municipal

[206] Internal document, Unidad Nacional de Justicia y Paz, Fiscalía General de la Nación, 3 October 2008.
[207] According to the JPU's records, CB members had confessed to only 22 crimes by 3 October. Ibid. However, these figures do not include recent confessions by prominent mid-level commanders. According to the local NGO Fundación Progresar, the CB committed 5,000 crimes in Cúcuta and Ocaña municipalities and another 5,000 in the Catatumbo region. "Fundación Progresar pide aclarar la muerte de 10 mil personas en Norte de Santander", *El Tiempo*, 16 May 2008.
[208] During his confession, Jorge Ivan Laverde (alias "Iguano") ex-commander of the Frontier Bloc, a CB faction, confessed to the murders of former departmental government candidate Tirso Vélez, former Departmental Ombudsman Iván Villamizar, and former Cúcuta Mayor Pauselino Camargo. He also acknowledged links to former Mayor Ramiro Suárez. "El oficio de matar", *Semana*, 12 August 2007.
[209] Crisis Group interview, local NGO officer, Norte de Santander, 31 August 2008.
[210] Crisis Group interview, security expert, Norte de Santander, 15 April 2008. Local NGO Fundación Progresar has information about graves in seven municipalities and has pinpointed 30. Crisis Group interview, Cúcuta, 31 July 2008. In 2007, the JPU's exhumation unit exhumed five bodies in Norte de Santander. "Balance del Proceso de Justicia y Paz 2007", Fiscalía General de la Nación, 2007.
[211] Although over 4,000 victims are registered with the JPU, independent sources believe there could be between 40,000 and 100,000 victims in Norte de Santander alone. Crisis Group interview, local NGO officer, Norte de Santander, 14 April 2008.
[212] Crisis Group interview, victims from Villa del Rosario, Tibú and Puerto Santander municipalities, Norte de Santander, 15 April, 31 July 2008.
[213] Crisis Group interview, human rights officer, Norte de Santander, 31 July 2008.
[214] There are currently 25 victims organisations with between 1,000 and 1,500 members, led principally by women. Crisis Group interviews, local NGO officer, security expert, Norte de Santander, 14-15 April 2008. IDP organisations are still weak; their actions mainly revolve around applying for humanitarian aid from government institutions. Crisis Group interview, local NGO officer, victims from Villa del Rosario and Tibú municipalities, 31 July 2008.
[215] Crisis Group interview, local NGO officer, Norte de Santander, 31 July 2008.
[216] Crisis Group interviews, victim from Puerto Santander municipality, security expert, 15 April, 10 July 2008.
[217] The Justice and Peace Committee contains all government institutions charged with JPL implementation, including the attorney general's office, public prosecutor's office, NCRR and ombudsman's office, as well as civil society, MAPP/OAS and the governor's office. Crisis Group interview, local NGO officer, Norte de Santander, 14 April 2008.

ombudsmen were appointed only recently,[218] and due to budgetary constraints, the NCRR has yet to open an office.[219] Officers sent from the neighbouring department of Santander to participate in training programs and victim-assistance campaigns have failed to establish working relations with local NGOs and victims organisations.[220] The NCRR heads the Regional Justice and Peace Committee,[221] but its sporadic attendance at meetings has prevented it from coordinating other institutions and organisations. Senior officials in the regional ombudsman's office have shown little interest in collaborating with other institutions, and have often failed to participate in victim-assistance campaigns and Regional Justice and Peace Committee meetings.

Only one specialised JPL officer has been assigned to Norte de Santander. Due to their overwhelming numbers, victims are not receiving proper assistance or complete information,[222] and only a handful are represented by public defenders in the judicial processes.[223] Governor William Villamizar has sponsored victim-assistance activities but has yet to set a clear policy on victims' rights and JPL implementation; there was only a brief reference to victims in the 2008-2012 departmental development plan.[224] Departmental authorities argue they lack funds to create special victims programs.[225] Privately, departmental officials told Crisis Group their staff does not know enough about the JPL, so relies on collaboration with civil society organisations for victim assistance.[226]

C. EASTERN ANTIOQUIA

1. Conflict and victims

Demobilisation of the Héroes de Granada Bloc (HGB) in July 2005 and the Magdalena Medio Self Defence Forces (MMSDF) in January 2006 essentially dismantled paramilitary structures in eastern Antioquia.[227] The HGB mostly consisted of gang members from Medellín and members of other paramilitary groups that previously operated in the region. Following demobilisation, most HGB combatants returned to Medellín.[228] Some very small MMSDF factions remained active following demobilisation.[229] Although some leaders of these factions have turned themselves in, victims and local communities remain concerned about their successors.[230]

There is no solid evidence that NIAGs operate today in eastern Antioquia, but small criminal gangs with links to former paramilitary structures are still present in many municipalities. Ex-MMSDF members reportedly still patrol in small units in former paramilitary areas, such as San Francisco, San Carlos, Argelia, Sonsón and San Luis.[231] Some call themselves Black Eagles, but it is

[218] Crisis Group interview, humanitarian agency officer, Norte de Santander, 14 April 2008.
[219] Even though the NCRR approved a regional office to be opened in March 2008, plans were cancelled for lack of funds. Assistance for Norte de Santander victims continues to be provided by the regional office in Bucaramanga (Santander). Crisis Group interview, local NGO officer, Norte de Santander, 14 April 2008.
[220] Crisis Group interviews, local NGO officer, human rights officer, Norte de Santander, 31 July 2008.
[221] The committee is chaired by the NCRR and includes representatives from the regional ombudsman's office, public prosecutor's office, attorney general's office, the Presidential Agency for Social Action and the governor's office. The MAPP/OEA and some civil society organisations such as Fundación Progresar have also been invited to participate. Municipal mayors from certain regions have on occasion attended meetings.
[222] Crisis Group interviews, security expert, victims from Villa del Rosario and Tibú municipalities, Norte de Santander, 30-31 July 2008.
[223] Crisis Group interviews, security expert, local NGO officer, Norte de Santander, 30-31 July 2008.
[224] Crisis Group interview, mayor's office, Cúcuta, 14 April 2008. Villamizar, a Conservative party member, has been pragmatic in handling everyday affairs, such as demonstrations against Venezuelan border tolls, but appears not to have a defined agenda.
[225] Ibid.
[226] Even though Maria Eugenia Riascos, the new Cúcuta mayor, stood as an independent in October 2007, local sources believe members of her administration still have strong ties to Ramiro Suárez, the former mayor, who is imprisoned for links to criminal organisations and paramilitary groups.
[227] The HGB demobilised 2,033 men, the MMSDF demobilised 750.
[228] Crisis Group interviews, human rights officer, local NGO officer, Antioquia, 28-29 July 2008.
[229] Close to 800 of the 2,033 HGB members operated in eastern Antioquia. According to a local source working with ex-combatants, no more than 80 former members have stayed; most returned to Medellín. Crisis Group interview, local NGO officer, Antioquia, 29 July 2008. Many combatants of the José Luis Zuluaga Bloc, a faction of the MMSDF led by alias "McGyuver", did not demobilise. Crisis Group interview, local human rights NGO officer, Antioquia, 21 June 2008.
[230] Oliverio Isaza Gómez (alias "Terror"), son of MMSDF leader Ramon Isaza, turned himself in in May 2008 after he had tried to reestablish a small armed group in eastern Antioquia, in municipalities along the Magdalena river valley. According to local sources, a lieutenant, alias "Guerrero", still operates there. Crisis Group interview, human rights officer, Antioquia, 28 July 2008.
[231] Crisis Group interviews, Antioquia, local human rights NGO officer, victim from San Luis, 21 June 2008. Small groups of demobilised fighters have also reportedly organised small

apparent they merely use the name to spark fear in the community and create the illusion that paramilitaries are still in the area in order to prevent return of the FARC.[232]

There has been a significant drop in armed confrontations, but eastern Antioquia retains some of the highest combat rates in the department. Army offensives have reduced the capacity of the FARC's 47th and 9th fronts, which operate along the border with Caldas department and in the Middle Magdalena River valley, respectively.[233] On 18 May 2008, as a result of sustained army pressure, Eldaneyis Mosquera (alias "Karina"), commander of the 47th front, turned herself in.[234] Some believe this could reduce fighting, but efforts by other FARC fronts to regain territory could again place civilians at risk,[235] and the rebels continue to plant landmines in municipalities along the river.[236] Communities appreciate actions against the insurgents but are concerned about some methods of the army, which continues extrajudicial killings in municipalities such as Nariño, San Luis, San Francisco and Sonsón.[237]

While victims organisations have not received direct threats, their members feel increasingly vulnerable due to the perceived presence of the Black Eagles.[238] Some members of the Communal Neighbourhood Councils and small workers' unions have received threatening messages signed by this group, but local sources say they have seen growing evidence that army personnel, fearing the FARC has infiltrated unions, are behind some of these threats.[239]

2. JPL implementation

The JPU investigation of crimes in eastern Antioquia has advanced slowly. Senior HGB and MMSDF commanders have failed to collaborate during confessions, admitting to just one homicide and giving little information about other crimes.[240] Former HGB members have been reluctant to confess to crimes they committed while part of the Metro Bloc – which did not demobilise, as it was absorbed by the HGB before the JPL's enactment – out of fear they will expose themselves to the ordinary judicial authorities.[241] Some lower-ranking commanders have expressed willingness to collaborate if given assurances by judicial authorities that their names will remain confidential.[242]

Despite its scant success with confessions, the JPU's role in exhuming mass graves has earned it the trust of victims and encouraged their participation.[243] Close to 230 bodies have been recovered due to information from former combatants, and the JPU has information about 45 sites that could contain an additional 170 bodies.[244] Though none has been found as a result of their efforts, community members have actively cooperated in locating mass graves.[245]

extortion rackets in La Unión and Carmen de Vivoral. "Informe 2007 Mesa de Derechos Humanos y Protección Humanitaria del Oriente Antioqueño", Observatorio de Paz y Reconciliación del Oriente Antioqueño, May 2008.

[232] Crisis Group interview, NGO officers, Antioquia, 23 June 2008.

[233] The 47th front has traditionally operated in Sonsón, Nariño and Argelia municipalities, the 9th in San Carlos, San Francisco, San Luis, Argelia and Nariño.

[234] Alias "Danilo", commander of the FARC's 9th front, still has presence in Nariño, Argelia and San Francisco municipalities but is on the run following army operations. During the early 2000s, FARC fronts in the area operated in units of 300 to 400 men; now units are only 80-strong. Crisis Group interview, human rights officer, Antioquia, 28 July 2008.

[235] Reportedly, the FARC's Jacobo Arenas front is moving towards Sonsón.

[236] Municipalities such as San Carlos, Sonsón, San Francisco and San Luis all recorded landmine accidents in 2007. However, these dropped from 197 in 2004 to 41 in 2007. "Informe 2007 Mesa de Derechos Humanos", op. cit.

[237] Crisis Group interview, international human rights observer, Antioquia, 29 July 2008.

[238] Crisis Group interview, victims from eastern Antioquia, Antioquia, 21 June 2008.

[239] Crisis Group interview, international human rights observer and local journalist, Antioquia, 29 July 2008.

[240] Crisis Group interview, security experts, Antioquia, 28 July 2008. Internal document, op. cit., 3 October 2008.

[241] Since the Metro Bloc disappeared before enactment of the JPL, there is a question whether crimes committed by its members can be tried under that law. The JPU has established a group of attorneys to investigate its crimes and convince its former members to confess and receive benefits in the JPL framework. Crisis Group interview, security experts, Antioquia, 28 July 2008.

[242] The JPU is working with a group of former HGB members to reconstruct its history and locate mass graves. Some of these ex-combatants say they are willing to collaborate only if they are not forced to do so in confession sessions. Ibid.

[243] Over 10,000 victims have registered with the JPU in eastern Antioquia. Crisis Group interview, NCRR official, Antioquia, 28 June 2008.

[244] Juan José Moncada, "La magnitud del proceso de exhumación de fosas comunes en el Oriente antioqueño", Observatorio de Paz del Oriente Antioqueño, 31 March 2008.

[245] In July 2007, the San Rafael municipal ombudsman and a group of victims distributed municipal maps in rural areas and asked farmers to identify mass graves. Although no reliable information was collected, communities have shown themselves increasingly willing to collaborate with authorities ever since. "Los desentierros de oriente", *Semana*, 10 May 2008.

Victim participation in eastern Antioquia is high. Since 2003, women's organisations have led on victims' rights, establishing municipal groups charged with providing with psycho-social assistance.[246] In 2005, as the demobilisation of the AUC advanced, these groups in turn formed a regional organisation, the Victims' Association of eastern Antioquia (APROVIASI).[247] They laid the groundwork for the NCRR's work in most municipalities by giving basic information on the JPL and training victims to take advantage of aid campaigns. Leaders of women's organisations have lobbied to include victim-assistance programs in municipal development plans.[248]

Still, victims organisations are fragile. Leaders are well-trained and involved in public life, but ordinary members are only marginally informed about their JPL rights.[249] The organisations are present in urban areas but have been unable to reach victims in rural zones.[250] Leaders fear that as soon as the Administrative Reparation Program gets underway, victims will quickly lose interest in other aspects of the JPL, and their organisations could dissolve.[251]

The success of victims organisations owes largely to eastern Antioquia's strong local base of civil society groups. Colombian NGOs such as Conciudadanía, Prodepaz and CINEP have given technical training and supported day-to-day activities, and the Provincial Constituent Assembly and the Human Rights Round Table have served as platforms for victims to voice concerns to municipal and departmental authorities.[252] Since its establishment in October 2006, the NCRR's regional office has used its Inter-Institutional Coordination Committee to partner with these organisations in promoting assistance campaigns and collecting claims for the JPU. [253] Some have criticised the NCRR for relying too heavily on these groups and thus relinquishing its responsibilities,[254] but the division of labour has allowed it to make the most of its limited resources and extend its presence across the department. The EU's Second Peace Laboratory has also given vital help by funding projects.[255]

Although the ombudsman's regional office in Medellín has not aided victims much due to lack of resources and staff, municipal ombudsmen have been instrumental in disseminating basic JPL information. The Association of Municipal Ombudsmen in eastern Antioquia has received NCRR training and has worked closely with victims organisations to promote assistance campaigns.[256] Still, victims are increasingly reluctant to ask for help, as some ombudsmen are reportedly being pressured by illegal armed groups to act as informants.[257]

For Governor José Alfredo Ramos, the head of Alas party and a close Uribe ally, security is a top priority. Nevertheless, his office has been coordinating with the NCRR, including providing victim-assistance campaigns and training for municipal ombudsmen and arranging meetings for the Regional Justice and Peace Coordination Committee. It has established a mobile assistance unit and committed to funding private attorneys to represent victims at ex-paramilitaries' confessions.[258] But despite this favourable disposition, the absence of a

[246] The Women's Association of Eastern Antioquia (Asociación de Mujeres del Oriente Antioqueño, AMOR) was the first to establish a victim-assistance program.

[247] The Victims' Association of Eastern Antioquia (APROVIASI), led mainly by women, has coordinated assistance actions. Crisis Group interview, victims from eastern Antioquia, Antioquia, 21 June 2008.

[248] Such lobbying led to establishment of a program in San Carlos municipality. Crisis Group interview, local NGO officer, Antioquia, 29 July 2008.

[249] Crisis Group interviews, security experts, local journalist, Antioquia, 28-29 July 2008.

[250] Crisis Group interview, international human rights observe and local journalist, Antioquia, 29 July 2008.

[251] Crisis Group interview, victims from eastern Antioquia, Antioquia, 21 June 2008.

[252] The Provincial Constituent Assembly (Asamblea Provincial Constituyente del Oriente Antioqueño) includes the 23 mayors in eastern Antioquia who formed a resistance movement against illegal armed groups. This movement established the Human Rights Roundtable (Mesa de Derechos Humanos del Oreinte Antioqueño), in which municipal representatives and departmental authorities discuss the local human rights situation.

[253] The NCRR established the committee with MAPP/OAS support to coordinate victims' assistance with government authorities and civil society organisations. Currently over twenty institutions participate, including the regional ombudsman's office, the public prosecutor's office, the attorney general's office and representatives from the Medellín mayor's office, the governor's office and the Presidential Agency for Social Action, among others.

[254] Crisis Group interview, local NGO officer, Antioquia, 29 July 2008.

[255] The EU launched the Peace Laboratories in 2000 in cooperation with the government to combine sustainable development and conflict resolution programs. The three so far: are in the Middle Magdalena River valley; eastern Antioquia, Norte de Santander and the Nariño and Cauca mountain range; and Meta department and the Montes de María region, Sucre and Bolívar departments.

[256] Crisis Group interview, security experts, Antioquia, 28 July 2008.

[257] Crisis Group interview, victims from eastern Antioquia, Antioquia, 21 June 2008.

[258] Crisis Group interview, departmental government official, Antioquia, 29 July 2008.

clear departmental policy for victims' aid has raised concern that the support could be transitory.[259]

Local mayors have also been active, though there remain suspicions of collusion between municipal authorities and members of former paramilitary groups. During the October 2007 regional elections, many candidates reportedly sought the support of ex-paramilitaries operating in areas such as San Carlos, San Luis, Sonsón and La Unión.[260] Alarm at paramilitary infiltration increased when the San Carlos mayor was arrested on 29 May 2008, for corruption and collaboration with paramilitaries in 2003, during his first term.[261] However, victims and civil society organisations have successfully lobbied municipal authorities, including that mayor, to make the rights of victims a policy priority.[262]

[259] Only a marginal mention is made of victims' rights and JPL implementation in the regional development plan. According to local sources, the governor puts more emphasis on an assistance program for landmine victims. Crisis Group interviews, security experts and local NGO officer, Antioquia, 28-29 July 2008.

[260] Crisis Group interviews, local NGO officers, Antioquia, 23 June 2008.

[261] "CTI Captura Alcalde de San Carlos (Antioquia)", Fiscalía General de la Nación, 29 May 2008.

[262] Crisis Group interview, security experts, Antioquia, 28 July 2008.

IV. TACKLING THE CHALLENGES

Three key problems ought to be tackled urgently: victims' political representation and the defence and promotion of their rights are still not political priorities; the institutions charged with implementing the JPL and guaranteeing victims' rights continue to face serious operational and financial bottlenecks; and continuation of the armed conflict in many regions seriously impedes victims' participation and rigorous application of the JPL.

The Uribe administration still has to prove that it is serious about full JPL implementation as well as defence and promotion of victims' rights. The extradition of fourteen senior paramilitary leaders to the U.S. has reinforced the perception that justice, truth and reparations are not among its priorities, despite the pledge to continue investigation of the extradited men. The ARP, while it could possibly be useful as a short-term relief measure, puts too much emphasis on the economic side of reparations and is likely to cause victims to lose interest in the truth and justice aspects of the JPL. Administrative reparations should be incorporated into a policy that includes individual, collective and symbolic measures as well as land restitution.

The NCRR, in charge of defending victims' interests, has kept a low profile and lacks the necessary independence from the government to recommend required policy changes. Other state institutions, such as the ombudsman and the public prosecutor, though critical of government policies, have focused solely on providing assistance to victims, not on defending their rights.

More than three years after passage of the JPL and despite the efforts of Colombian human rights, civil society and women's organisations, and, in smaller measure, the opposition parties, most victims continue to be without voice and representation, far from the centre of the political debate. However, the recent initiative to pass a new victims law has gained wide support from opposition and pro-government parties alike as well as civil society organisations, thus offering an opportunity for all sides, including the government, to join in establishing measures that ensure victims protection, integral reparations and land restitution. As noted, however, the government remains concerned about the bill's cost and its acceptance of state responsibility in human rights violations. The bill's promoters and the government need to continue a constructive dialogue and resolve their differences for it to pass in the House of Representatives.

Institutional bottlenecks have to be addressed urgently. The judicial process is alarmingly slow and has failed

to yield significant results: few paramilitaries have made full confessions and returned ill-gotten assets, and not one has been sentenced. Despite efforts to improve its investigative capacity, the JPU's main source of information remains the confessions. To speed up investigations, it needs to enhance its ability to process and cross-reference information from different sources, including victims' claims and databases of the Supreme Court, the ombudsman's office and the security forces. The security forces should be quicker in providing information from their files to the attorney general's office. Regional investigation teams require more resources and personnel, especially in places such as Nariño, where confessions have produced little information about crimes.

Victims also need to be more closely involved in the judicial process. Many have submitted claims to the JPU, yet only a fraction have attended confessions. Efforts by the ombudsman's office to provide legal representation to victims are still insufficient. Public defenders should be increased and deployed across the country in preparation for trials based on partial confessions, in which JPL judges will award reparations for crimes confessed to date. That would allow them to be in direct contact with the victims they will represent and still be able to shuttle to JPL tribunals in Bogotá, Medellín and Barranquilla when necessary. By the same token, understaffed regional NCRR and ombudsman offices need more personnel as well as budgetary and executive independence in order to improve the provision of information and basic legal and psychological assistance to victims.[263]

At the regional level, government and state institutions and civil society organisations need to coordinate to promote the empowerment of victims organisations, only a few of which have gained national recognition since the demobilisation of the paramilitaries. Evidence gathered by Crisis Group suggests creation of a solid assistance network to support victims on a daily basis, such as the one in eastern Antioquia, has helped those organisations grow and actively defend their rights. The committee through which the NCRR's regional office coordinates with the departmental government, other state institutions and civil society organisations in eastern Antioquia made such a network possible. Without strong NCRR leadership, isolated civil society and state institution efforts in Nariño and Norte de Santander have been insufficient and have even hampered one another.

The regional evidence also shows that continued armed conflict is one of the main obstacles to rigorous and full JPL implementation and victim participation. The surge of new illegal armed groups and the intensification of combat in regions where the FARC and, to a lesser extent, the ELN have attempted to fill voids left by the paramilitaries have deterred victims from becoming involved in the process. In Nariño, for instance, where NIAGs act much as their paramilitary predecessors did, and armed confrontation between them, insurgents and the army over control of coca-growing areas and trafficking routes has intensified, victims have been reluctant to file claims.

In contrast, in eastern Antioquia the successful dismantling of paramilitary structures and a significant decline in armed confrontations since 2004, due largely to successful military operations against insurgents, have paved the way for their more active role. Without more effective action to break-up NIAGs and their support structures, including links to some local mayors and members of the armed forces, police and political elites, and to keep insurgents at bay, victims will remain hesitant.

The government should employ a strategy that takes into account the changing dynamics of each NIAG.[264] The 28 July 2008 announcement that it will establish five special task forces is a positive step.[265] The Victim Protection Program, established in October 2007 and run by the interior and justice ministry, needs to improve its capacity to identify those making threats against victims. Security forces should create a risk map to serve as a basis for prevention plans in areas where victims have settled. It should be put together in collaboration with victims organisations and consider, in addition to traditional security indicators, a wide range of risk factors, including complaints about land usurpation and allegations of links between paramilitaries and local political/business elites.

Security forces must also avoid becoming obstacles to victim participation. Despite its effectiveness in regions such as eastern Antioquia and Norte de Santander in

[263] A similar decentralisation process has already been undertaken by the high councillor for reintegration, in an effort to provide better assistance to demobilised fighters.

[264] Crisis Group Report, *Colombia's New Illegal Armed Groups*, op. cit.

[265] The government announced creation of five special task forces, each assigned to a specific region – north, south, east, west and centre of the country – where NIAGs operate. This followed an increase in homicides in Antioquia and Córdoba departments as a result of clashes between NIAGs seeking to control drug-trafficking routes and coca crops. Crisis Group interview, interior and justice ministry official, Bogotá, 3 August 2008. "Creáran cinco grupos élite para combatir bandas criminales surgidas tras desmobilización de las AUC", *El Tiempo*, 28 July 2008.

reclaiming territory, the army often uses methods, such as pressuring civilians to serve as informants, which have undermined trust.[266] This has been aggravated in regions such as Nariño, where, in addition to the use of dubious or sometimes even criminal methods, reports of collusion between police and army officers and NIAGs often prompt victims to avoid coming forward.

The government, in coordination with judicial authorities and civil society organisations, must give priority to removing corrupt officers from service, especially in areas where NIAGs are present.[267] Officers who permit or engage in extrajudicial executions have to be prosecuted. Concurrently, security forces need to build trust with victims by avoiding methods that place communities in danger, raising awareness among officers about the JPL and victims' rights and cooperating with civil society and victims organisations to address their security concerns.[268] Security forces and institutions charged with applying the JPL need to coordinate their actions so that military consolidation can be followed by victims' assistance campaigns.

The government's renewed interest in using the JPL as a framework for FARC and ELN demobilisation also presents new challenges. Although neither insurgent group is likely to accept the terms of the law collectively, the recent desertion of Commander "Karina" and her request to be tried under the JPL has reopened the debate about its suitability for insurgent demobilisation.[269] The government asserts that, because of its military strikes, the FARC and ELN have lost internal cohesion and are increasingly fractured.[270] As a result, it has shifted its focus for negotiations from the insurgents' central commands to leaders of individual factions.[271] Officials believe that JPL benefits are the perfect incentive for factions tempted to demobilise.[272] However, the government should avoid raising false expectations among victims of insurgent groups, as isolated deserters are likely to provide only limited information and, possibly, no money or other assets that could be used for reparations.

[266] Cases of what appears to be a new method of extrajudicial killings are raising alarm. On 25 September, the bodies of four young men from Soacha, a poor municipality next to Bogotá, were found in a grave in Ocaña (Norte de Santander). According to records, they were reported as deaths in combat with the FARC by the army brigade in the region. Judicial authorities fear these are not isolated occurrences: close to 50 similar cases are under investigation. There are indications young men from urban slum areas are being recruited under false pretences by gangs that take them to combat areas where the army reports them as combat deaths. "Una tesis macabra", *Semana*, 4 October 2008. Senior army and government officials are concerned by the reports and have called on all units to reduce the use of body counts to measure their results. On 29 October, the government announced the removal from service of 27 active duty military officers, including three generals and four colonels, for either orchestrating or not taking appropriate measures to prevent the executions. The attorney general is investigating. "Tres generales, entre los 27 miembros del Ejército retirados por casos de derechos humanos", *El Tiempo*, 29 October 2008.

[267] Crisis Group Report, *Colombia's New Armed Groups*, op. cit., recommendation 7, p. ii.

[268] Crisis Group interview, witness protection expert, Bogotá, 22 May 2008.

[269] On 3 September, the JPU officially accepted 53 insurgents into the JPL process, 34 of whom are former members of the FARC, six of the ELN, and the rest of smaller insurgent groups. The JPU is studying an additional 276 requests by imprisoned insurgents to be admitted to the process. "Con 53 postulados comienza capítulo guerrillero ante fiscales de justicia y paz", *El Tiempo*, 3 September 2008.

[270] The death of FARC commander Ivan Ríos at the hands of his own men is, government sources say, a clear indication of faltering cohesion. Crisis Group Briefing, *Making Military Progress Pay Off*, op. cit., p. 7.

[271] During a recent interview, High Commissioner for Peace Luis Restrepo announced contact has been established with individual ELN and FARC bloc and front commanders. "Nueva estrategia contra las FARC", *El País*, 24 August 2008.

[272] On 4 April, the government issued Decree 1059, allowing imprisoned insurgents to apply for JPL benefits if they desert and provide information that, among other things, helps authorities dismantle their insurgent group, locate kidnap victims and mass graves, identify straw-men working for the groups and uncover drug-trafficking routes. The defence ministry and the attorney general's office will then certify sufficient cooperation to permit an application to the interior and justice ministry for JPL benefits. As of 5 September, 586 requests had been received. Prison authorities estimate over 2,200 imprisoned insurgents may be interested in applying. Crisis Group telephone interview, interior and justice ministry official, 10 September 2008.

V. CONCLUSION

The Justice and Peace law has still to accomplish its goal of guaranteeing victims' rights to justice, truth and reparations. Despite some headway in uncovering crimes and exhuming bodies, institutions charged with implementation lack the necessary capacity to process perpetrators promptly, assure funds for reparations and provide adequate assistance to a growing number of victims. The persistence of the armed conflict, including the surge of new illegal armed groups and the intensification of military confrontation between the army and the FARC in some regions, works against full and satisfactory victim participation in the JPL process.

The government has done little to address these problems. The May 2008 extradition of fourteen senior former paramilitary leaders to the U.S. on drug charges, without firm guarantees regarding the Colombian authorities' ability to continue pursuing JPL prosecution, suggests lack of faith in, and commitment to, transitional justice, as does the introduction of short-term relief measures for victims via the state-funded administrative reparations program. Civil society concerns about the inadequate government response have found only limited echo among the victims themselves, however, and until the Liberal party introduced a victims of violence bill, political parties had mostly stayed away from the issue. That bill now offers an important opportunity for all sides to engage in a constructive dialogue about the design of an integrated policy that builds on the JPL by introducing measures ensuring reparations, restitution – particularly of land – and protection for victims.

Military operations and police presence alone will not consolidate security and expand the rule of law across Colombia. Efforts by security forces need to be complemented with rigorous and successful JPL implementation and advancement of victims' rights so as to end impunity and further erosion of the Uribe government's pacification strategy.

Bogotá/Brussels, 30 October 2008

APPENDIX A – MAP OF COLOMBIA

Courtesy of The General Libraries, The University of Texas at Austin.

APPENDIX B

ABOUT THE INTERNATIONAL CRISIS GROUP

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 135 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and printed copy to officials in foreign ministries and international organisations and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by the former European Commissioner for External Relations Christopher Patten and former U.S. Ambassador Thomas Pickering. Its President and Chief Executive since January 2000 has been former Australian Foreign Minister Gareth Evans.

Crisis Group's international headquarters are in Brussels, with advocacy offices in Washington DC (where it is based as a legal entity), New York, London and Moscow. The organisation currently operates eleven regional offices (in Bishkek, Bogotá, Cairo, Dakar, Islamabad, Istanbul, Jakarta, Nairobi, Pristina, Seoul and Tbilisi) and has local field representation in sixteen additional locations (Abuja, Baku, Bangkok, Beirut, Belgrade, Colombo, Damascus, Dili, Dushanbe, Jerusalem, Kabul, Kathmandu, Kinshasa, Port-au-Prince, Pretoria and Tehran). Crisis Group currently covers some 60 areas of actual or potential conflict across four continents. In Africa, this includes Burundi, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of the Congo, Eritrea, Ethiopia, Guinea, Kenya, Liberia, Rwanda, Sierra Leone, Somalia, Sudan, Uganda and Zimbabwe; in Asia, Afghanistan, Bangladesh, Indonesia, Kashmir, Kazakhstan, Kyrgyzstan, Myanmar/Burma, Nepal, North Korea, Pakistan, Philippines, Sri Lanka, Tajikistan, Thailand, Timor-Leste, Turkmenistan and Uzbekistan; in Europe, Armenia, Azerbaijan, Bosnia and Herzegovina, Cyprus, Georgia, Kosovo, Serbia and Turkey; in the Middle East, the whole region from North Africa to Iran; and in Latin America, Colombia, the rest of the Andean region and Haiti.

Crisis Group raises funds from governments, charitable foundations, companies and individual donors. The following governmental departments and agencies currently provide funding: Australian Agency for International Development, Australian Department of Foreign Affairs and Trade, Austrian Development Agency, Belgian Ministry of Foreign Affairs, Canadian International Development Agency, Canadian International Development and Research Centre, Foreign Affairs and International Trade Canada, Czech Ministry of Foreign Affairs, Royal Danish Ministry of Foreign Affairs, Dutch Ministry of Foreign Affairs, Finnish Ministry of Foreign Affairs, French Ministry of Foreign Affairs, German Federal Foreign Office, Irish Aid, Principality of Liechtenstein, Luxembourg Ministry of Foreign Affairs, New Zealand Agency for International Development, Royal Norwegian Ministry of Foreign Affairs, Qatar, Swedish Ministry for Foreign Affairs, Swiss Federal Department of Foreign Affairs, Turkish Ministry of Foreign Affairs, United Arab Emirates Ministry of Foreign Affairs, United Kingdom Department for International Development, United Kingdom Economic and Social Research Council, U.S. Agency for International Development.

Foundation and private sector donors, providing annual support and/or contributing to Crisis Group's *Securing the Future* Fund, include Carnegie Corporation of New York, Fundación DARA Internacional, Iara Lee and George Gund III Foundation, William & Flora Hewlett Foundation, Hunt Alternatives Fund, Kimsey Foundation, Korea Foundation, John D. & Catherine T. MacArthur Foundation, Charles Stewart Mott Foundation, Open Society Institute, Pierre and Pamela Omidyar Fund, Victor Pinchuk Foundation, Ploughshares Fund, Provictimis Foundation, Radcliffe Foundation, Sigrid Rausing Trust and VIVA Trust.

October 2008

APPENDIX C

CRISIS GROUP REPORTS AND BRIEFINGS ON LATIN AMERICA SINCE 2005

War and Drugs in Colombia, Latin America Report N°11, 27 January 2005 (also available in Spanish)

Haiti's Transition: Hanging in the Balance, Latin America/ Caribbean Briefing N°7, 8 February 2005 (also available in French)

Coca, Drugs and Social Protest in Bolivia and Peru, Latin America Report N°12, 3 March 2005 (also available in Spanish)

Spoiling Security in Haiti, Latin America/Caribbean Report N°13, 31 May 2005

Colombia: Presidential Politics and Political Prospects, Latin America Report Nº14, 16 June 2005 (also available in Spanish)

Can Haiti Hold Elections in 2005?, Latin America/Caribbean Briefing Nº8, 3 August 2005 (also available in French)

Haiti's Elections: The Case for a Short Delay, Latin America/ Caribbean Briefing N°9, 25 November 2005 (also available in French)

Bolivia at the Crossroads: The December Elections, Latin America Report N°15, 8 December 2005 (also available in Spanish)

Colombia: Towards Peace and Justice?, Latin America Report N°16, 14 March 2006 (also available in Spanish)

Haiti after the Elections: Challenges for Préval's First 100 Days, Latin America/Caribbean Briefing N°10, 11 May 2006 (also available in French)

Uribe's Re-election: Can the EU Help Colombia Develop a More Balanced Peace Strategy?, Latin America Report N°17, 8 June 2006 (also available in Spanish)

Bolivia's Rocky Road to Reforms, Latin America Report N°18, 3 July 2006 (also available in Spanish)

Tougher Challenges Ahead for Colombia's Uribe, Latin America Briefing N°11, 20 October 2006 (also available in Spanish)

Haiti: Security and the Reintegration of the State, Latin America/Caribbean Briefing N°12, 30 October 2006 (also available in French)

Bolivia's Reforms: The Danger of New Conflicts, Latin America Briefing N°13, 8 January 2007 (also available in Spanish)

Haiti: Justice Reform and the Security Crisis, Latin America/ Caribbean Briefing N°14, 31 January 2007 (also available in French)

Venezuela: Hugo Chávez's Revolution, Latin America Report N°19, 22 February 2007 (also available in Spanish)

Haiti: Prison Reform and the Rule of Law, Latin America/ Caribbean Briefing N°15, 4 May 2007 (also available in French)

Colombia's New Armed Groups, Latin America Report N°20, 10 May 2007 (also available in Spanish)

Consolidating Stability in Haiti, Latin America Report N°21, 18 July 2007 (also available in French)

Ecuador: Overcoming Instability?, Latin America Report N°22, 7 August 2007 (also available in Spanish)

Bolivia's New Constitution: Avoiding Violent Conflict, Latin America Report N°23, 31 August 2007 (also available in Spanish)

Colombia: Moving Forward with the ELN?, Latin America Briefing N°16, 11 October 2007 (also available in Spanish)

Peacebuilding in Haiti: Including Haitians from Abroad, Latin America/Caribbean Report N°24, 14 December 2007 (also available in French)

Latin American Drugs I: Losing the Fight, Latin America Report N°25, 14 March 2008 (also available in Spanish)

Latin American Drugs II: Improving Policy and Reducing Harm, Latin America Report N°26, 14 March 2008 (also available in Spanish)

Colombia: Making Military Progress Pay Off, Latin America Briefing N°17, 29 April 2008 (also available in Spanish)

Bolivia: Rescuing the New Constitution and Democratic Stability, Latin America Briefing N°18, 19 June 2008

Venezuela: Political Reform or Regime Demise?, Latin America Report N°27, 23 July 2008 (also available in Spanish)

Reforming Haiti's Security Sector, Latin America/Caribbean Report N°28, 18 September 2008

OTHER REPORTS AND BRIEFINGS

For Crisis Group reports and briefing papers on:

- Africa
- Asia
- Europe
- Latin America and Caribbean
- Middle East and North Africa
- Thematic Issues
- *CrisisWatch*

please visit our website www.crisisgroup.org

APPENDIX D

INTERNATIONAL CRISIS GROUP BOARD OF TRUSTEES