

**The Current Peace Process in Colombia As Nation-building  
Todos Por Un Nuevo País?**

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*To V, who opened the window.*

## **Introduction**

Presenting a complex and long-lasting conflict is never an easy task. The Colombian conflict is a huge challenge to be described, as its roots go back to centuries, and there are many players on the stage. The world celebrated Colombian President Juan Manuel Santos, when he was awarded with the Nobel Peace Prize at the end of 2016. He was credited by the international community as having been able to end a significant chapter of the Colombian conflict by implementing the peace agreement signed shortly before. This peace agreement however, despite being important, was only a step in a long-lasting process to end the conflict and to build a better Colombia.

In the thesis, I intend to examine the questions related to the conflict, as well as those in connection with a possible ending of that. According to my hypothesis, without real and significant political, economic and social changes in Colombia, there will be no progress in ending the conflict.

In order to argue this, the first part of this thesis examines nation-building in general, and in the Colombian context particularly, paying a special attention to the colonial heritage. This will lead to the second part, which studies the ongoing conflict. That part details, after a necessary historical retrospection, the main players, like the FARC,<sup>1</sup> the state, and the paramilitaries. Given its importance, the Colombian-United States relationship is presented in a separate chapter, also. This portion of the thesis ends with an overview on the previous peace attempts highlighting their achievements, and reflecting on the reasons why they failed.

The third part analyses the current peace process. After a short presentation of the negotiations and the adoption of the Peace Agreement, four crucial questions related to ending the conflict are highlighted, namely social transformation, comprehensive agrarian development policy, political participation and justice. These subchapters do not only refer to the previous chapters from another perspective, but also intend to reflect on those points where progress is needed in order to end the conflict. The conclusion summarizes the thesis and reflect to the hypothesis.

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<sup>1</sup> Revolutionary Armed Forces of Colombia, a former guerrilla movement in Colombia.





### **I. 1. Nation-building**

The words *nation* and *state* are often used as synonyms in English-language sources regarding social and political matters. According to the most common definition, *nation* is a country considered as a group of people with the same language, culture, and history, who live in a particular area under one government.<sup>2</sup> There is a lack of common understanding on how nations form. According to Brubaker, a nation ‘*suddenly crystallizes rather than gradually develops, as a [...] precarious frame of vision and basis for individual and collective action, rather than as a relatively stable product of deep developmental trends in economy, polity, or culture.*’<sup>3</sup> In Mason’s view a ‘*nation is formed by a slow, evolutionary social process in which a group of people coalesce around a shared national identity within defined geographical borders over a period of centuries.*’<sup>4</sup>

The term *nation-building* originally referred to the process of establishing a political entity capable of governing the population of a given territory. Later it became connected to the process of creating a democracy rather than of establishing a viable polity, democratic or not. Today, nation-building refers to the aim of establishing security, order, and the rule of law, re-establishing basic services, providing ways and means to rejuvenate the economy, promoting reconciliation, and launching sustainable representative governance in which minority interests are represented and minority rights protected.<sup>5</sup> When doing nation-building, especially in the case of outside contribution, investing sufficient economic resources and time into the process is indispensable; if nation-building is done “on the cheap”, it will lead to failure.<sup>6</sup>

In the case of Colombia, neither interpretation of the nation-building, i.e. the homogenization of the society, or building a democratic state for all, have been completely

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<sup>2</sup> *Oxford Advanced Learner’s Dictionary*. Oxford: Oxford University Press, 2010, 1014.

<sup>3</sup> Roger Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe*. Cambridge: Cambridge University Press, 1996, 19.

<sup>4</sup> M. Chris Mason, “Nation-Building is an Oxymoron.” *Parameters*, 46(1) Spring 2016, 68.

<sup>5</sup> Richard S. Williamson, “Nation-Building: The Dangers of Weak, Failing, and Failed States.” *The Whitehead Journal of Diplomacy and International Relations*, Winter/Spring 2007, 15., 17.

<sup>6</sup> Albert Somit–Steven A. Peterson, *The Failure of Democratic Nation Building: Ideology Meets Evolution*. Palgrave MacMillan, 2010, 46.



achieved. The slogan of the Colombian National Plan for 2014-2018,<sup>7</sup> “*Todos por un nuevo país*” also reflects to the opportunity that the implementation of the Peace Agreement with the FARC brings in terms of the unification of the society. Generally, there are three main factors to hamper homogenization in Colombia: the geographical, infrastructural distance from the capital city, and the contrast between the individual preferences and public goods and policies provided by the state. Homogenization in a democracy is viable up to the point at which the marginal cost of the process equals the marginal benefit for the individual at median distance from the government.<sup>8</sup> Thus, it is not surprising, that the poor infrastructure is one of the main reasons why state power is weak or absent in remote, but vast regions in Colombia, giving a chance for parallel structures, alternative armed forces and illegal economic activities.

Building democracies became an international priority after the WWII: there was the Communist world of “people’s democracies”, and the Western world of “democracies”. However, the two were completely different.<sup>9</sup> After the WWII, in many Western societies, the meso-level governance—the one between the micro- and macro-levels, i.e. the local authorities and the state administration—strengthened to foster citizens’ participation at all possible levels of decision-making.<sup>10</sup> This, surely, created a challenge for the widespread centrist model of the unitarian state.<sup>11</sup> In this context, the burden inherited from the colonial past in many Latin American and Caribbean countries (LAC), also in Colombia, re-ignited old debates over the centralist or regional quality of the statehood.

The existence of and the popular desire for a *caudillo* (i.e. leader) has represented a major challenge for democracy building in LAC. While creating modern nation-states in Europe meant the elimination of regional fragmentation, such a result proved to be hard to achieve in

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<sup>7</sup> According to the government’s plan, the economy grows with an annual 5.3 percent, 2.5 million jobs will be created to combat poverty, significant investment will be dedicated to infrastructure to increase the percentage of state roads in a good condition from 60 to 75 percent, and education will become more accessible with the provision of scholarships. “*Todos por un nuevo país*”, *la ruta para cumplir las metas del Plan Nacional de Desarrollo 2014-2018*, <https://www.dnp.gov.co/Paginas/%E2%80%9CTodos-por-un-nuevo-pa%C3%ADs%E2%80%9D,-la-ruta-para-cumplir-las-metas-del-Plan-Nacional-de-Desarrollo-2014-2018.aspx> (Retrieved 12 April 2018)

<sup>8</sup> Alberto Alesina and Bryony Reich, “*Nation-building*” (2015), 6–13. <https://scholar.harvard.edu/alesina/publications/nation-building> (Retrieved 21 March 2018)

<sup>9</sup> The topic of the thesis does not require entering into details on the non-aligned movement, as Colombia, despite being a member, was subjected to the intense attention of the United States, as detailed in chapter II.5.

<sup>10</sup> However, even in the free world, the existence of a democracy was dependent on internal and international circumstances.

<sup>11</sup> Luis Moreno, Local and Global: Mesogovernments and Territorial Identities, In: William Safran and Ramón Máiz (eds.), *Identity and Territorial Autonomy in Plural Societies*. London–Portland, OR.: Frank Cass, 2000, 63–64.

LAC due to the strength and role of the caudillos.<sup>12</sup> This difference has continued to our days. According to the findings of a UN Report in 2004, a solid majority of the LAC would prefer an authoritarian system if it produced economic benefits.<sup>13</sup> The support for democracy shrunk further in LAC in the past two decades, reaching a support of 53 percent in 2017, while at the same time, 25 percent was supportive for authoritarian regimes.<sup>14</sup> This makes clear why there was only one full democracy in LAC in 2017—Uruguay—and why the majority of the other countries, together with Colombia, were flawed democracies.<sup>15</sup>

The end of the WWII marked a significant change in the international order. Before that, state stability was dependent of the elites' ability to maintain power and protect state borders. After 1945, not only the international community, represented by organizations such as the United Nations (UN), guaranteed borders and the avoidance of state death, but also the bloc approach of the Cold War. However, this change did not always led to better governance, as unscrupulous leaders became able to focus on self-aggrandisement instead of state and society development, knowing that they could rely on external help as long as they fulfilled their geopolitical role.<sup>16</sup> World powers were also not interested in enhancing political or economic systems in these states until fulfilling their geopolitical role, in spite of the strong common belief that state-building is beneficial to the collective world community of democratic nations.<sup>17</sup>

Democratic nations have been emerging since the mid-19<sup>th</sup> century; however, only a minority of existing states belong to this group. It seems obvious that the building of democratic and inclusive institutions needs the active involvement of the elite and the masses. The main challenge of any change is the predictable resistance of the elite. The transition from a *limited access order*<sup>18</sup> (LAO) to an *open access order*<sup>19</sup> (OAO) is difficult as the elites

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<sup>12</sup> After independence, Colombia was rather a country of regions and regionalism with large number of landowners exercising governance on their territories than a united country. Harvey F. Kline, *State Building and Conflict Resolution in Colombia, 1986-1994*. University of Alabama Press, 1999, 11.

<sup>13</sup> *Latin America's Fragile Democracies* (26 April 2004) <http://www.nytimes.com/2004/04/26/opinion/latin-america-s-fragile-democracies.html> (Retrieved 21 March 2018)

<sup>14</sup> *Another year of deterioration for Latin American democracy* (6 February 2018) <http://country.eiu.com/article.aspx?articleid=1276389711&Country=Mexico&topic=Politics> (Retrieved 21 March 2018)

<sup>15</sup> Democracy Index 2017 <http://www.eiu.com/topic/democracy-index> (Retrieved 21 March 2018)

<sup>16</sup> John Van Benthuyssen, "In-between anarchy and interdependence: from state death to fragile and failing states." *Third World Quarterly*, 2015. Vol. 36. No. 1., 22–39.

<sup>17</sup> Mason, Nation-Building, 70.

<sup>18</sup> In states with *limited access order*, economic, political and religious elites control a system they created to produce rents, maintain privileges and ensure command over the armed forces. Douglass C. North, John Joseph Wallis, Steven B. Webb and Barry R. Weingast, *Limited Access Orders: Rethinking the Problems of Development and Violence*, 4–6. [https://web.stanford.edu/group/mcnollgast/cgi-bin/wordpress/wp-content/uploads/2013/10/Limited\\_Access\\_Orders\\_in\\_DW\\_-II\\_-2011.0125.submission-version.pdf](https://web.stanford.edu/group/mcnollgast/cgi-bin/wordpress/wp-content/uploads/2013/10/Limited_Access_Orders_in_DW_-II_-2011.0125.submission-version.pdf) (Retrieved 21 March 2018)

are opposing any change that would undermine or limit their privileges. Nevertheless, after reaching a certain level of social development, repressing popular demands for enhanced social, economic and political circumstances, it could be both unattractive for the elites and increasingly infeasible.<sup>20</sup> The formation of a dominant coalition which includes groups with potential for violence is an important tool for a LAO to control violence, but also to maintain unjust social, economic and political order based on exclusion. As the main glue to hold together this coalition is rent-creation, any change would substantially challenge the political order.

Transition from LAO to OAO requires three doorstep conditions: (1) rule of law for the elites; (2) support for a perpetual organizations, including the state itself and the elite organizations outside the state; and (3) centralized and consolidated control of violence. The expansion of access to these features beyond the elites, to citizens, could come only in the second phase. Transition is more than formal, the core issue is the proper change as many LAOs have the institutions which provide the essence of the OAOs; however, they function imperfectly. In many cases for instance, there is no formal limitation for the masses in using the institutions, but elites tolerate or even encourage informal barriers applied against average citizens in order to limit competition.<sup>21</sup>

Recent examples for transition from LAO to OAO are quite few, which is, in some cases, the consequence of the prevalence of the historical heritage. Protecting privileges is a vivid problem in Colombia, where economics and politics are still based on monopolies and exclusion. For this reason, it is important to mention the problem of the *captured democracies*, in which, despite having namely democratic political and economic institutions, those still favour the elite; and while every change is costly, the costs of a democratic improvement might impede generating significant economic growth or upgrading economic performance.<sup>22</sup>

Due to its particular importance, the nation-building activity of the UN merits attention here. The record in this topic is mixed, due to the enormous and the complex nature of the

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<sup>19</sup> In states with *open access order*, order is maintained by conviction, institutions and competition. The state and the larger economy do not control the distribution and content of economic interests. The government controls the armed forces but power is limited by the institutions and is subjected to the control of the political opposition. North, Wallis, Webb and Weingast, *Limited*, 9–10.

<sup>20</sup> Daron Acemoglu–James A. Robinson, *Why Nations Fail*, London: Profile Books, 2013, 312.

<sup>21</sup> North, Wallis, Webb and Weingast, *Limited*, 10–13.

<sup>22</sup> Daron Acemoglu and James A. Robinson, “Persistence of Power, Elites, and Institutions.” *American Economic Review*, 2008, Vol. 98. No. 1., 269. Captured democracies are political systems where democratic political institutions emerge and survive for extended periods of time, but are captured by the elite, which is able to impose its favourite economic institutions. Ibid. 283.

task, and the different commitment of the countries concerned. According to their evaluation, the success of nation-building is dependent on the strength of the national identity, the homogeneity of the society, and the existence or non-existence of a relative socioeconomic equality. The UN defines nation-building as a process of establishing civic order and governmental functions in countries that are emerging from a period of war or other types of upheaval. In this regard, it stresses the importance of creating security, undertaking a political reform to ensure civic freedoms and social commitment, restructuring the economy, and strengthening legal institutions.<sup>23</sup> It is not a surprise therefore, that—as we will see—the UN special mission in Colombia is focussing on these questions while helping the implementation of the Peace Agreement.

## I. 2. Colombia

Colombia is a country bordering two oceans in the northeastern part of South America, in the very proximity of the Panama Canal. It comprises a territory double of France, with some 48 million inhabitants. The spread of the population is unequal, the vast majority lives in big cities and on fertile plateaus or in valleys. The capital city of Bogotá has around 8 million inhabitants, while in the surrounding region, Cundinamarca, live another 3 million. Thus, almost a quarter of the total population resides on less than 26 000 square kilometres, i. e. 5 percent of the territory of the country. In the *departamentos* (regions) east to the Andes, and in the Amazonas region, which together cover around half of the nation's land, live only around 3 million people, i.e. less than 6 percent of the population.



Map 1. Colombia's geographic regions (Source: <http://discovercolombia.com/colombia-info/geographic-regions/>)

<sup>23</sup> Esther Pan, *United Nations: Nation-Building*, Council on Foreign Relations, (2005), <https://www.cfr.org/backgrounder/united-nations-nation-building> (Retrieved 21 March 2018) The author names Kosovo, East Timor and Sierra Leone as good examples of the UN nation-building projects, and Cambodia, Haiti and Somalia as bad ones.

Colombia is the fourth largest economy in LAC in terms of nominal GDP (PPP). However, when looking to GDP (PPP<sup>24</sup>) per capita, it is ranked only to the 15<sup>th</sup> place.<sup>25</sup> The base of the economy is producing raw materials. Therefore, the dominance of primary goods in export has long been an issue for Colombia. For example, in 1886, cocoa composed 51 percent of the total export, while cotton another 10 percent. In 1933, coffee itself made up 73 percent of the total export.<sup>26</sup> Yet some diversification has taken root, still more than 50 percent of the export was made up of minerals and fuel including oil in 2017, while the top ten exports altogether made up 82 percent of the USD 37.8 billion total export.<sup>27</sup>

The fiscal situation of the LAC, as in Colombia, is generally weak; there is no sufficient source for countercyclical fiscal policy if that is needed to boost growth and/or support fiscal rebuilding efforts.<sup>28</sup> In Colombia, both domestic and foreign demand are weak, despite the significant depreciation of the peso between 2014 and 2016. Agriculture, recovering from the El Niño phenomenon, grew 6 percent in the first half of 2017. Dynamism in financial services, as well as social, communal and personal services also continued. Between 2017 and 2019, economic recovery is expected, driven by the non-oil exports and oil prices, and the 4G infrastructure program. Ongoing structural reforms are expected to enhance competitiveness and foster diversification, thereby supporting the growth recovery over the medium term. Furthermore, the implementation of the 2016 tax reform and cost containment measures are essential to continue fiscal consolidation and create space for post-conflict spending.<sup>29</sup>

Lack of proper infrastructure is a regional problem in LAC, impeding social integration, higher growth and prosperity.<sup>30</sup> It is also a major obstacle of nation-building, as it prevents the state in providing basic services like army, police force, judiciary, banks, tax collection agency, health and education system.<sup>31</sup> Due to geographical reasons, both the southeastern

<sup>24</sup> Purchasing power parity.

<sup>25</sup> IMF data for 2018  
<http://www.imf.org/external/pubs/ft/weo/2017/02/weodata/weorept.aspx?pr.x=13&pr.y=2&sy=2018&ey=2018&scsm=1&ssd=1&sort=country&ds=.&br=1&c=311%2C336%2C213%2C263%2C313%2C268%2C316%2C343%2C339%2C273%2C218%2C278%2C223%2C283%2C228%2C288%2C233%2C293%2C238%2C361%2C321%2C362%2C243%2C364%2C248%2C366%2C253%2C369%2C328%2C298%2C258%2C299&s=PPP&GDP%2CPPPPC&grp=0&a=> (Retrieved 9 April 2018)

<sup>26</sup> Justo Ramon, *História de Colombia*, Bogotá: Libreria Stella, 1952, 380–381.

<sup>27</sup> Colombia's Top 10 Exports (6 March 2018) <http://www.worldstopexports.com/colombias-top-10-exports/> (Retrieved 9 April 2018)

<sup>28</sup> *Between a Rock and a Hard Place: The Monetary Policy Dilemma in Latin America and the Caribbean* Washington: International Bank for Reconstruction and Development / The World Bank, 2017, 5. <http://documents.worldbank.org/curated/en/676711491563967405/pdf/114110-REVISED-Rethinking-Infrastructure-Low-Res.pdf>

<sup>29</sup> Colombia – Overview <http://www.worldbank.org/en/country/colombia/overview> (Retrieved 21 March 2018)

<sup>30</sup> *Rethinking Infrastructure in Latin America and the Caribbean – Spending Better to Achieve More*, Washington: International Bank for Reconstruction and Development / The World Bank, 2017, 7.

<sup>31</sup> Francis Fukuyama, *State-Building*, Ithaca, New York: Cornell University Press, 2004, 159.

and the northwestern parts of Colombia, the Amazonas region, the Grassland Plains and Chocó strive with extremely underdeveloped infrastructure, where less than a third of the population has access to an all-weather road within 2 kilometres.<sup>32</sup> However, the infrastructure sector offers long-term opportunities for foreign investments as Colombia is carrying on the biggest infrastructure programme in Latin America, amounting to around USD 5.5 billion.<sup>33</sup>

Between 2000 and 2016, Colombia received more than USD 150 billion in total foreign direct investment. The peace process may open new opportunities for investment—for instance in mining or agriculture—and economic development to produce manufactured goods, if infrastructure is enhanced. Tourist arrivals increased by 70 percent between 2010 and 2015, and employment in the sector expanded by 17 percent. Infrastructure improvement is also a need of tourism.<sup>34</sup>

Colombia is generally very good at multi-year planning and budgeting projects, being the single example among the LAC.<sup>35</sup> However, excessive bureaucracy and red tape represent a significant barrier for the success of efficient public procurements, while the often occurring lack of information about and timeliness of financial flows to projects limit the effectiveness of budget allocations. This eventually hampers project manager's capacity to do financial planning during project implementation stages.<sup>36</sup> Altogether, despite nice slogans and multi-year plans, the implementation is erratic.

For security experts, the Weberian modern state with the capacity for monopoly control of violence and authority is the idealized reference point. From this perspective, Colombia has long been approximating the definition of a failing state with vast areas outside of state control, millions of internally displaced people (IDPs), three to four thousand civilian casualties every year, over forty thousand (in the mid-2000s, currently thousands of) illegal armed people, and a permanent warfare over oil, drugs and fertile lands.<sup>37</sup>

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<sup>32</sup> *Rethinking Infrastructure*, 25.

<sup>33</sup> *Colombia: Foreign Investment*, <https://en.portal.santandertrade.com/establish-overseas/colombia/investing> (Retrieved 9 April 2018)

<sup>34</sup> *Will Peace Talks Really Help Colombia's Economy?* (25 September 2017) <https://www.forbes.com/sites/nathanielparishflannery/2017/09/25/will-peace-talks-really-help-colombias-economy/#1ac79eb56904> (Retrieved 2 October 2017)

<sup>35</sup> Out of over 23 Latin American countries that had Public Expenditure and Financial Accountability (PEFA) analysis done since 2006, only Colombia got an A rating on the PEFA indicator that captures the existence of sector strategies with multiyear costing of recurrent and investment expenditure. *Rethinking Infrastructure*, 44.

<sup>36</sup> *Ibid.*, 44–46.

<sup>37</sup> Michael M. McCarthy, *Problematizing Views of Colombian Democracy*, 2005, <https://pol.illinoisstate.edu/downloads/conferences/2005/Mccarthy2005.pdf> 6–7. (Retrieved 21 March 2018)



According to the US-based think tank Fund for Peace (FFP), the stability of a state can be measured by twelve indicators. These indicators are grouped into three categories: social, economic and political. In 2016, FFP enrolled Colombia into the group of High Warning, with 80.2 points out of the maximum 120, ranking thus at the 67<sup>th</sup> place out of the 178 countries. The coefficient; however, has been improving since 2007, when it was almost 90.<sup>38</sup> The worst values are at the social and economic indicators like uneven development, the problem of IDPs, and factionalised elite. However, the OECD's (Organisation for Economic Co-operation and Development) 2016 report on States of Fragility mentions Colombia only in connection with the FARC and other military organizations using criminal activity as means of financing political violence.<sup>39</sup>

The absence of state control in some regions makes the country weak, representing a clear hint of failure.<sup>40</sup> Decades-long civil wars always erode the state, which has to address this feature during the implementation of the peace agreement. Any government trying to end a civil war has to have a positive vision for the population in order to overcome these burdens. Winning a civil war itself is not only a question of supremacy in terms of force: after 1945 no country, which was not a nation, and no nation with a government perceived by less than 85 to 90 percent of its population to be the sole legitimate ruling authority, has ever won a civil war. If these prerequisites are met, the government could provide armed force to every community in order to isolate the people from the guerrillas and protect them by patrolling forces.<sup>41</sup>

The roots of the current conflict are to be discussed later, but it is important to emphasize here that the 1980s brought a significant decrease in security and state stability as illicit drugs made feasible the unfolding of a multifrontal war, and a race in arms build-up. Drug traffickers like Pablo Escobar or the Rodriguez Orejuela brothers from the Cali Cartel capitalized on a growing appetite for narcotics in the US. They purchased vast estates to operate clandestine drug labs and launder their profits; organized and equipped their own private armies and bribed many Colombian officials. Drug-related corruption metastasized through all branches of the government, undermining the Colombian government's institutional effectiveness. Elements of the police and the military were frequently bought off.

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<sup>38</sup> <http://fsi.fundforpeace.org/2016-colombia> (Retrieved 23 April 2017)

<sup>39</sup> *States of Fragility 2016 Highlights*, OECD, 41. <https://www.oecd.org/dac/conflict-fragility-resilience/docs/Fragile-States-highlights-2016.pdf> (retrieved 23 April 2017)

<sup>40</sup> According to a qualification, this makes Colombia a state at the risk of failing. Robert I. Rotberg, *Failed States, Collapsed States, Weak States: Causes and Indicators*, In: Robert I. Rotberg (ed.): *State Failure and State Weakness in a Time of Terror*, Cambridge: World Peace Foundation, 2003

<sup>41</sup> Mason, *Nation-Building*, 72–73.

Then, an estimated 60 percent of the Colombian Congress received illicit campaign contributions to guarantee their cooperation on critical issues like extradition. Officials who resisted the cartels or insurgents risked assassination.<sup>42</sup>

The lack of proper documentation of the real estate property is a major impediment for turning assets into capital. Adequate documentation not only provide visibility and security within economics, but serve as a basis for collection of debts and taxes, the creation of public utilities, and can be traded or used as collateral for a loan or as a share against an investment, beyond the narrow circle of local people who know and trust each other.<sup>43</sup> Colombia cannot hope to establish the rule of law without extending effective, formal land ownership, which implies creation of the maps and registries attendant to that ownership. While immediate military victory may be achieved without comprehensive mapping, the establishment of a lasting, peaceful social order is unlikely.<sup>44</sup>

Illegal economic activities form an important part of the economy, while a significant portion of the income from those are either laundered or invested in Colombia through the black market peso exchange.<sup>45</sup> According to estimations, between 1980 and 2012, its share varied between 27 and 56 percent of the GDP, reaching its peak in the 1990s.<sup>46</sup> The country became the biggest LAC region coca producer in 1997, with 80,000 hectares cultivated. The area has been varying since then: it was 61,183 hectares in 2010,<sup>47</sup> and 188,000 hectares in 2016.<sup>48</sup> In 2016, the Colombian government reported the manual eradication of 17,642 hectares. The country suspended aerial eradication in October 2015. A manual eradication program, started on 1 May 2017, has led to the removal of 50,000 hectares of cultivation until March 2018, according to government sources.<sup>49</sup> Growing illicit crops is mostly concentrated in Nariño, Putumayo and Norte de Santander regions, but its presence is notable on the

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<sup>42</sup> Pat Peterson, *Conflict Resolution in Colombia*, William J. Perry Center for Hemispheric Defense Studies, Perry Center Occasional Paper, June 2013, 5–7.

<sup>43</sup> Hernando de Soto, *The Mystery of Capital*, New York: Basic Books, 2000, 5–7.

<sup>44</sup> Geoffrey Demarest, *Mapping Colombia: The Correlation Between Land Data and Strategy*, Washington: US Army War College, 2003, ix.

<sup>45</sup> The World Fact Book <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/co.html>

<sup>46</sup> Friedrich Schneider–Bettina Hametner, *The Shadow Economy in Colombia – Size and Effects on Economic Growth*, October 2013, <https://www.econstor.eu/bitstream/10419/97457/1/770631495.pdf> (Retrieved 9 April 2018)

<sup>47</sup> *¡Basta ya!: Colombia: memorias de guerra y dignidad*, Grupo de Memoria Histórica Bogotá: Imprenta Nacional 2013, 188.

<sup>48</sup> *Colombia's coca production soars to highest level in two decades, US says* (17 March 2017) <https://www.theguardian.com/world/2017/mar/14/colombia-coca-cocaine-us-drugs> (Retrieved 1 July 2017)

<sup>49</sup> *Colombia vows to continue curbing drug trafficking through development* (14 March 2018) <https://colombiareports.com/colombia-commits-to-economic-development-to-curb-drug-trafficking/> (14 March 2018)



Eastern Plains, on the Pacific coast and northern territories too.<sup>50</sup> Some 82,000 families across Colombia depend on coca for their sustenance, providing an income of about USD 1,180 per peasant a year.<sup>51</sup> Another source of illegal economy is mining. It is concentrated mostly in Chocó, and the border area of Antioquia, Bolívar and Córdoba regions; however, almost the entire Pacific coast is affected by the problem.<sup>52</sup>

Inclusion and equal citizenship have long been important burdens connected to Colombian nation-building, both in terms of creating a homogeneous society and a democratic state. The Constitution of 1991 was the first to articulate an integrative—multicultural and multi-ethnic—definition of the nation.<sup>53</sup> The Constitution also established the Constitutional Court, which has become the defender of the rights and political freedoms of the people who had been denied such protection before. However, during President Uribe's terms (2002-2010), the inclusive approach was reversed, and the nation—namely—comprised only those supporting the fight of the administration against terrorism. In this regard, the harsh actions of the administration against guerrillas, identified as terrorists in the context of the post 9/11 world, were legitimized on the approach that not a government acts on behalf of the nation, but the nation itself, thus anyone questioning these efforts is simply not part of the nation.<sup>54</sup>

Building a democratic state requires a certain standard of living, as democracy is not likely to take root among greatly impoverished people. Not only insufficient per capita income is an obstacle to a well-functioning democracy; malnutrition, wretched housing, high infant mortality, chronic ill health and a low average life span could also form barriers.<sup>55</sup> The oscillation of the GINI coefficient,<sup>56</sup> showing economic inequalities within a society, is telling. The coefficient was 59.1 in 1980 for Colombia, which by 1990 decreased to 51.3,<sup>57</sup> to increase again to 58.7 in both 1999 and 2000, and to decrease again to 51.1 by 2015.<sup>58</sup> However, LAC are usually very unequal societies, and the Colombian coefficient is the

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<sup>50</sup> *Mapas de Riesgo Electoral 2016—Plebiscito para la refrendación del acuerdo de paz Gobierno–FARC*, Bogotá: Misión de Observación Electoral MOE, s.a., 28. [http://moe.org.co/home/doc/moe\\_mre/2016/Libro\\_mapas\\_de\\_riesgo-electoral\\_2016\\_plebiscito.pdf](http://moe.org.co/home/doc/moe_mre/2016/Libro_mapas_de_riesgo-electoral_2016_plebiscito.pdf)

<sup>51</sup> *Colombia's coca production soars to highest level in two decades, US says* (14 March 2017) <https://www.theguardian.com/world/2017/mar/14/colombia-coca-cocaine-us-drugs> (Retrieved 1 July 2017)

<sup>52</sup> *Mapas de Riesgo 2016*, 30.

<sup>53</sup> It was also integrative in terms of respecting the right to existence of different political views. Gabriela Pinilla, María Sol Barón y Camilo Ordóñez Robayo, *Movimiento hacia la izquierda – Prensa, obreros, campesinos, guerrillas y partidos*, Bogotá: Edición del Ministerio de Cultura de Colombia, 2016, 5.

<sup>54</sup> Gregory J. Lobo, “Colombia, from failing state to a second independence: The politics and the price.” In *International Journal of Cultural Studies*, 2012, Vol. 16. No. 4., 353–359. The argumentation was used by US President George W. Bush after 9/11 as ‘Either you are with us, or you are with the terrorists’ Ibid. 355.

<sup>55</sup> Somit–Peterson, *The Failure*, 49–50.

<sup>56</sup> The ratio takes the richest 10% of the population's share of gross national income (GNI) and divides it by the poorest 40% of the population's share.

<sup>57</sup> *¡Basta ya!*, 191.

<sup>58</sup> GINI Index for Colombia <https://fred.stlouisfed.org/series/SIPOVGINICOL>

second worst in the region, after Honduras.<sup>59</sup> In addition, these data refer to the whole of the population; however, there is a significant gap between the living standards of the urban and rural Colombians.

According to state statistics, 17 percent of the population was in one of the categories of poverty in 2017, instead of 17.8 percent in 2016; however, it is still significantly concentrated to the rural areas. 7.4 percent of the population was extremely poor in 2017, their percentage rose to 15.4 percent in the countryside. The trends, however, seem to be promising, 32.7 percent of the population was poor in 2012,<sup>60</sup> 28 percent in 2016, and 26.9 percent in 2017.<sup>61</sup> Nevertheless, living in the countryside still means a worse quality of life: the lack of access to an improved source of drinking water or to improved sanitation is extremely high in rural areas, while subsistence electricity consumption is not affordable for the poorest.<sup>62</sup> Addressing these challenges are crucial in the creation of a better Colombia.

### **I. 3. Spanish colonial social heritage**

After the 15<sup>th</sup> century, the colonisation of the New World followed two substantially different ways, the Spanish and the English.<sup>63</sup> In the beginning the English also tried to implement the easier way, the policy of exploitation in North America, practised by the Spaniards with great success in Central and South America. However, eventually English failed due to objective causes: the lower population density and the lack of noble metals. The more concentrated population and the wealth of precious metals allowed Spaniards to force indigenous people's living standards down to a subsistence level and thus extract all income for Spaniards from the early 16<sup>th</sup> century. They also managed to expropriate land, forced American Aborigines to work in mines or agriculture for low wages, and subjected them to high taxes and applied high prices for goods. These practises generated a lot of wealth for the Spanish Crown and made the conquistadors and their descendants very rich, but turned Latin America into the most unequal continent and sapped much of its economic potential.<sup>64</sup>

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<sup>59</sup> *Colombia is Latin America's 2nd most unequal country after Honduras* (10 March 2016) <https://colombiareports.com/colombia-latin-americas-2nd-unequal-country-honduras/> (Retrieved 2 June 2017)

<sup>60</sup> Jairo Morales Nieto, *¿Qué es el postconflicto? Colombia después de la guerra*, Bogotá: B Colombia S.A., 2016, 44.

<sup>61</sup> *La pobreza monetaria en Colombia bajó en 2017 a 26,9%* (22 March 2018) <http://www.portafolio.co/economia/la-pobreza-en-colombia-bajo-en-2017-515460> (Retrieved 2 April 2018)

<sup>62</sup> *Rethinking Infrastructure*, 29–34., 36.

<sup>63</sup> The impact of Portugal, France, the Netherlands, Denmark and other colonizers has not proved to be that significant in Latin America than that of England and Spain.

<sup>64</sup> Acemoglu–Robinson, *Why*, 19.

Later the local Creole elites<sup>65</sup> fostered Latin American nationalism and separation from the European colonial powers. Many members of the creole elite of the LAC countries were educated in Europe during the period of Enlightenment getting thus into connection with its core values like equality, freedom of speech, free press and free market. Similarly, they were influenced by the independence of the US built on these values. However, their quest for independence was not motivated by such ideas, but by conserving the existing economic and social system, yet bringing the institutions under their control instead of the colonial rulers.<sup>66</sup> This is why, despite the republican form of government, many of these countries soon turned to be led by a single leader, a *caudillo* who built his power on armed force and local landlords.

The *caudillos* both served as substitutes to the King, to whom local authorities could be loyal, and the embodiment of the control over the rural world. They conserved the inherited unhealthy socio-economic structure with class-privileges and monopolies, and gave birth to similarly unhealthy; however, new, national political structures in which those favoured by the socio-economic institutions occupied the political positions. The maintenance of the antediluvian socioeconomic structures not only diverted the development of these states from those in Western Europe, but also made LAC dependent on the cities and their Creole bourgeoisie instead of stepping forward to evolve a nation attached to the territory, and creating independent state institutions.<sup>67</sup>

From the economic point of view, LAC remained what they had been before independence: dependent on cash crops or minerals, in many cases on one main crop or mineral; and consumers of European and North American finished goods. Given that economic systems were based on crops, the value of the land grew enormously and provided the landowner elite an opportunity to bring state institution under control. The dependence on a single or a limited number of crops made Latin American economies extremely vulnerable, as their export income became dependent on markets beyond their control. With the economic boom of the 1870s, a significant middle class composed of teachers, lawyers, businessmen, merchants emerged in many of the countries whom, after receiving voting rights, sided with the landowner elite.

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<sup>65</sup> Latin American-born elites with ascendants from Europe, mainly Spain.

<sup>66</sup> Acemoglu–Robinson, *Why*, 28–30.

<sup>67</sup> Italia Maria Cannataro, “The Edge of Politics: The Caudillos in Latin America and the question of sovereignty.” *Revista europea de historia de las ideas políticas y de las instituciones públicas*, no. 6 (November 2013), 147–151. <http://www.eumed.net/rev/rehipip/05/imc.pdf>

At first, the present-day territory of Colombia was used by the Spaniards as the shortest passage to the Peruvian gold, so they settled places on the Caribbean coast and along the Magdalena River. This changed after 1536, when gold was found in Cundinamarca.<sup>68</sup> Nevertheless, during the Spanish era, mostly territories with natural resources and those along routes were populated, to which only the population growth of the 19<sup>th</sup> and 20<sup>th</sup> centuries brought significant changes. The population then moved from the relatively densely populated areas to the southwestern and eastern regions of Colombia, expanding thus the agricultural area and easing social tensions as the landless poor acquired land and got perspectives for the future.<sup>69</sup>

This move resulted in the growing presence of the state throughout the territory as colonization took place by appointing mayors and judges, and the creation of local councils.<sup>70</sup> However, these moves made no changes in the socio-economic or political rules of the society, and meant only a temporal remedy for the social problems. They also constituted a perilous practice: pushing the marginalized people outside of the social network into the inaccessibility. This experience led later to the emergence of the *independent republics*.

Colombia inherited an unhealthy social structure from the colonial era. During the Spanish rule, positions and higher education were available only for those with ‘Christian belief’ and ‘pure blood’, i.e. not having Moor, Jew, Indigenous or African ascendants. These racial and religious criteria also impeded a huge part of the population to acquire land, or to engage in international trade. The restrictions applied by the Spaniards caused serious economic and social problems, and became barriers in the way of economic development and social inclusion.<sup>71</sup> Even nowadays, poverty based on race and social class is an extremely important source of social tension; however, the situation improved to some extent in the last decades.

Nevertheless, power distance continues to remain high: inequalities in social status are seen as facts of nature, power concentrated on top level is streaming downwards as an unavoidable command, leaving small room for local initiatives or manoeuvres during

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<sup>68</sup> Charles de Lannoy–Herman Vander Linden: *Histoire de l'expansion coloniale des peuples européens–Portugal et Espagne*, Bruxelles: Henri Lamertin, 1907, 312–313.

<sup>69</sup> This process went on even in the 1960s and 1970s. Lesley Gill, *The School of the Americas–Military Training and Political Violence in the Americas*, Durham and London: Duke University Press, 2004, 178.

<sup>70</sup> About the process and the reasons see Sebastián Martínez Botero, *La presencia de centros urbanos en los procesos de apertura de la frontera agraria del centro occidente colombiano*, [https://www.academia.edu/8061820/Los\\_centros\\_urbanos\\_en\\_la\\_colonizaci%C3%B3n\\_antioque%C3%B1a\\_Planteamiento\\_de\\_una\\_problema\\_tica](https://www.academia.edu/8061820/Los_centros_urbanos_en_la_colonizaci%C3%B3n_antioque%C3%B1a_Planteamiento_de_una_problema_tica)

<sup>71</sup> Salomón Kalmanovitz, “El PIB de la Nueva Granada en 1800: Auge colonial, estancamiento republicano.” *Revista de Economía Institucional*, 2006, Vol. 8. No. 15., 171–173.

application. These factors together with the high scores in uncertainty avoidance and in indulgence have led to a paralysis as people are more likely to accept what they already have and enjoy life than challenge the status quo.<sup>72</sup>

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<sup>72</sup> Hofstede Insights Colombia <https://geert-hofstede.com/colombia.html>

## II. 1. The history of the conflict in Colombia

Political division in Colombia has a long history, which could be traced back to the lack of tradition of proper political debate, the institutional problems inherited from the colonial era,<sup>73</sup> and to the *caudillos*. The *caudillos* usually argued that they were accomplishing “national” interests with the help of a network of friends or followers against an ineffective and immoral centre or other *caudillos*. Nevertheless, they exercised power almost every time without challenging the existing social order,<sup>74</sup> which meant not only a permanent warfare, but also impeded any social progress.<sup>75</sup>

During the 19<sup>th</sup> century, more than 40 small-scale conflicts took place in Colombia, and some ten civil wars were fought on the national level, mainly between the Conservative and Liberal forces. Initially, the main political division was about the governmental system, i.e. what Colombia should become: a centralized unionist or a decentralized federal state. Nevertheless, there were further characteristics of the almost permanent warfare:

- there was no common ground for the young nation made of different groups with various ethnic background,
- the fight was inspired by ideologies based on religious and philosophical ideas, like struggle against usurpation of power,
- there was widespread political and social injustice and there existed no guarantees for respecting imprescriptible human rights,
- political leaders were motivated mainly to gain and keep power, and
- leaders, while chasing political ideals, were not interested in the development of society.<sup>76</sup>

One of the most important and devastating conflict was the *Thousand Days' War* fought between 1899 and 1902, of which the pretext was a fraudulent election to keep Conservatives

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<sup>73</sup> Kalmanovitz: El PIB, 172–173.

<sup>74</sup> John Charles Chasteen, Making Sense of Caudillos and “Revolutions” in Nineteenth-century Latin America. In: John Charles Chasteen and Joseph S. Tulchin, *Problems in Modern Latin American History*, Wilmington: SR Books, 1994, 37–41.

<sup>75</sup> However, the consciousness of social exclusion was present even in the middle of the 19<sup>th</sup> century in Colombia. See the quotation of Venancio Ortiz from 1855 by Chasteen, Making, 56–58.

<sup>76</sup> Ramon, *História*, 344.

in power. However, the reasons were more complex: the *de facto* bankruptcy of the central government by 1899, the massive fall of the price of the coffee, the main export product, the loss of jobs, the failed government promises to create proper infrastructure to provide better economic conditions, and the general weakness of the state institutions should be named here. Despite the Liberal army was defeated in 1900, hostilities lasted for two more years, during which the state fought with guerrilla forces operating on territories out of government control. The existence of such guerrilla troops was possible due to the high degree of social unrest—caused by conflicts over land, poverty and inequality. The composition of guerrillas was also telling: landless peasants, small landowners, squatters, independent workers, Afro-Colombians, Indians from *La Guajira* region, artisans, domestic servants, and students.<sup>77</sup>

The result of the 3-year-long war was a complete economic disaster on one hand: the destruction of the industry and the telecommunication lines, rocketing internal and external debts, and a massive loss of the value of the national currency.<sup>78</sup> However, on the other hand, the broad amnesty and the recognition of the need for some degree of cooperation of diverse sources towards building the state provided an opportunity for the Conservative and Liberal elites to cooperate, and eventually led to peaceful decades.<sup>79</sup> It is noteworthy that underlying problems, i.e. the main reasons of the social unrest remained unresolved: the social and political exclusion of the masses did not change, resources were not allocated to create economic and social development, but to maintain the network of local and regional support required for the survival of the central elite. There was no better access to land, and even worse, the bankruptcy of private enterprises often resulted in the transfer of the ownership of valuable lands to foreign creditors. Both institutionally and economically, the state remained weak lacking of proper infrastructure, financial resources necessary for development and efficient army; and above all, nation-building remained a work in progress for the future.<sup>80</sup>

## II. 2. La Violencia and its aftermath

The direct prelude to the current conflict was the civil war called *La Violencia* (The Violence) between 1948 and 1958. It was a classical Colombian conflict fought between the Conservatives and the Liberals. After Conservative Mariano Ospina Pérez became president

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<sup>77</sup> Stephen J. Randall, “Nationbuilding and Civil War: Diverging Views of State and Society in Late 19th Century Colombia.” *Journal of Military and Strategic Studies*, 2015, Vol. 16. Is. 3., 109.

<sup>78</sup> “Reseña histórica de La Guerra de los Mil Días. 1899-1902.” *Revista Semana*, (16 November 2002) <http://www.semana.com/opinion/articulo/resena-historica-la-guerra-mil-dias-1899-1902/55045-3>

<sup>79</sup> Until the mid-1930s, governments were mostly *mixtos*, based on involving both Conservatives and Liberals.

<sup>80</sup> Randall, Nationbuilding, 114. About the reasons and the consequences of the conflict see Ibid., 92–114.

in 1946, the state applied force against the Liberal Party.<sup>81</sup> The direct antecedent to La Violencia was the three-day-long *Bogotazo* in 1948, an uprising in Bogota after the assassination of Jorge Eliécer Gaitán, a Leftist Liberal politician, who promised reforms.<sup>82</sup> The times after the World War II were less favourable for Colombia: the rich made their ‘clever adjustments’, and the poor suffered from soaring prices and declining job opportunities simultaneously. The motivations of Gaitán’s assassination remained undisclosed; however, charges were raised concerning the complicity of the Conservative Party, the Communists, and even the US.

The three-day-riot targeted Conservatives, newspapers and the Catholic Church associated with both the Conservative Party and the old order. There were also anti-US slogans shouted as many foreign radical opponents of the Conference of the American States, coincidentally meeting in Bogota then, joined the rally. The Colombian Army answered with brutality, nevertheless, the police, which were more pro-Liberal, remained mostly distant or even joined the protesters.<sup>83</sup> Although the riots stopped in a couple of days, the dissatisfaction with the acting Conservative government and the fury about the oppressive violence gradually culminated into La Violencia.

The already fierce fighting further intensified after extreme Conservative Laureano Gómez took the presidency in 1950. He imposed an even harsher approach: rural town police and political leaders encouraged Conservative-supporting peasants to seize the lands of Liberal-supporting peasants, which provoked peasant-to-peasant violence throughout Colombia.<sup>84</sup> The Violence produced previously unexperienced brutality in killing and displacement, leading some Liberal politicians to search for a compromise with the Conservative government in order to stop the bloodshed. First, these initiatives were unsuccessful, and the 50,000 death during the first year of Gómez’s reign led to the formation of Leftist guerrilla movements against the government.<sup>85</sup>

Also the Colombian Communist Party (CCP) gained roots in the wider society and eventually secured control over some guerrilla forces previously belonging to the Liberals,

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<sup>81</sup> Adam Turel, *Colombia’s ‘La Violencia’ and How it Shaped the Country’s Political System* <http://www.e-ir.info/2013/03/20/colombias-la-violencia-and-how-it-shaped-the-countrys-political-system/> (Retrieved 2 April 2018)

<sup>82</sup> Gaitán was a capable political leader willing to organize the masses against the oligarchs who traditionally run the country. He narrowly lost the presidential election in 1946 and was a big favorite for the one in 1950. Eventually, he got killed on April 9, 1948, which incident was followed by the Bogotazo.

<sup>83</sup> *The Bogotazo (Declassified study)* [https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol13no4/html/v13i4a07p\\_0001.htm](https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol13no4/html/v13i4a07p_0001.htm) (Retrieved 13 March 2018)

<sup>84</sup> Grace Livingstone, *Inside Colombia: Drugs, Democracy, and War*, Rutgers University Press, 2004, 42.

<sup>85</sup> John C. Dugas, ‘Colombia.’ In: Vanden, H. E and Prevost, G (Eds). *Politics of Latin America*. New York: Oxford University Press, 2009, 504.



dissatisfied then with the party's political line. Guerrilla forces self-organized where geography was favourable for fighting against the regular army, mainly in Tolima, Cauca, Cundinamarca, Antioquia regions, and the Eastern Plains. According to estimates, the number of Liberal and Communist guerrillas was around 21,000 in 1951, while the army had 15,000 and the police 25,000 members.<sup>86</sup>

After the *coup d'état* of 1953, the first and only military government in 20<sup>th</sup> century Colombia, General Rojas Pinilla came into power between 1953 and 1957. In spite of Pinilla making progress in reducing rural warfare, his regime became so arbitrary and corrupt that he was ousted by the oligarchy and the military. This also facilitated the implementation of the *Benidorm Pact*, the agreement on ending the fighting, signed on 24 July 1956, by the Liberal and Conservative parties frightened at the scale of brutality and violence.

The two parties agreed on the elaboration of a new constitution—introducing a bipartisan system of government. The agreement was supported by the population in a referendum on 1 December 1957, and a new civilian administration, known as the *National Front* (Frente Nacional – NF), came into power. With the agreement, violence decreased; however, it was not democratic success. The NF provided alternative governments of the Liberal and Conservative parties in every four years, for 16 years, until 1974. These parties did not need to compete against each other in elections and the seats in the Parliament and the lower level elected bodies were shared equally. Any other party or organisation was prevented from taking part in politics or elections for the duration of the agreement. Moreover, the arrangement continued to prevent addressing of political, social and economic challenges, such as land reform, unemployment, and the growing urban population.<sup>87</sup>

The balance of La Violencia was devastating: at least 200,000 people died in 10 years in a country of around 10 million; while the number of those forced to leave their homes was around two million, i. e. one fifth of the population.<sup>88</sup> An important and bitter experience was the brutality used by the government against its own citizens, which significantly undermined the trust in public institutions.

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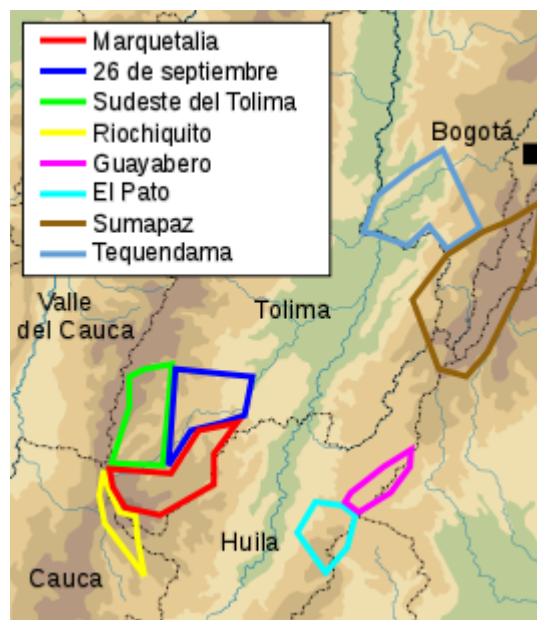
<sup>86</sup> Alfredo Molano, *A lomo de mula – Viajes al corazón de las Farc*, Bogotá: Aguilar, 2016, 25–26. 3,000 guerrillas in Llanos, 6,000 in Tolima, and 12,000 in Cundinamarca and Antioquia.

<sup>87</sup> Turel, *Colombia's*, Peterson, *Conflict*, 4.

<sup>88</sup> Rafael Rueda Bedoya, "El desplazamiento forzado y la pacificación del país." *Ensayos Forum* 2000, No. 15., 4. <http://www.bdigital.unal.edu.co/2204/1/FOR15-RRB.pdf>

### II. 3. The birth of the FARC

The end of La Violencia therefore did not mean the restoration of peace, especially not in the countryside. Many felt left behind by the NF, which secured the positions and protected the privileges of the elite, but provided no solution for the social problems of the masses, no security against military threats, and gave them no word in politics. Many peasants, often linked to the Colombian Communist Party (CCP), who had had by then a history in organized armed self-defence,<sup>89</sup> sought refuge in remote areas, where La Violencia left a power vacuum, and created the so-called *independent republics*, areas with infrastructures and command with a non-official authority. These republics became targets of the army—since they created a parallel social structure connected to Communist ideology—as the state was afraid of a Cuban-style revolutionary situation. Among the independent republics, the most famous was the *República de Marquetalia*, declared in 1961.



Map 2. The independent republics (Source: <http://www.acore.org.co/noticias/las-republicas-independientes-no-existieron-colombia/>)

In 1961, the Plan Lazo was launched with US help to destroy the independent republics. By late 1962, around 75 percent of the Colombian military forces were engaged in anti-violence measures. This implied not only military action against guerrilla groups, but also long-range programs such as literacy training programs and construction of water-wells, houses, schools, and infrastructure. This complex approach was fostered by the US, which hoped that social progress in rural areas would decrease the support of guerrillas. Progress was achieved, when a proper communication network was established between the Eastern Plains and Bogotá by the end of 1963, and a rural civil defence early-warning radio net, built of hundreds of sub locations in farms and civilian defence centres by early 1965.<sup>90</sup> However, these did not prevent the *Fuerzas Armadas Revolucionarias de Colombia* (Colombian

<sup>89</sup> An armed peasant force in Viotá, Cundinamarca, which had existed since the 1930s, was so powerful that it managed to prevent the army to enter the area they controlled during La Violencia. Turel, *Colombia's*

<sup>90</sup> Dennis M. Rempe, "Guerrillas, Bandits, and Independent Republics: US Counter-insurgency Efforts in Colombia 1959-1965." *Small Wars and Insurgencies*, Vol.6, No.3 (Winter 1995), 312–316.

Revolutionary Armed Forces–FARC) from being born, right after the Colombian Army stormed *Marquetalia* in 1964.

It was not accidental that the coffee producing Tolima and Cauca regions were the venue for such a development. They not only were places of intense violence—between 1948 and 1957, some 93,882 farms were forcibly abandoned and 35,294 persons killed—but an extensive network of the Communist Party also existed there. A further important factor was the symbol-example of Quintín Lame, an indigenous leader active in the beginning of the 20<sup>th</sup> century, who fought for land rights of the indigenous population and for a better education to enable them to protect themselves and their lands.<sup>91</sup>

The FARC's aims were to defeat the oligarchy formed by the Conservative and Liberal Parties, to overthrow the state they controlled,<sup>92</sup> to implement an agrarian reform, and to defend the peasantry's land rights. They urged a radical political change in the exercising of power, and advocated political guarantees to foster participation.<sup>93</sup> The FARC also saw their role as being an authority providing order: “[t]he guerrilla and the leaders have long exercised natural authority for the people in those territories where they are present and where state institutions have always been absent. They have introduced rules for coexistence, execute social and community services, and public works, conflict management mechanisms, citizen involvement into justice and keep order. These are guerrilla institutions which the state cannot ignore.”<sup>94</sup> The FARC, at its birth, had a vision of a new Colombia.

#### **II. 4. The decades of the civil war<sup>95</sup>**

After the elimination of the independent republics, the Colombian Army became able to secure many parts of the country, however, by ‘fencing’ around some areas under guerrilla control. From those, guerrillas were able to attack military installations as well as state and economic infrastructure. The reasons of social unrest had not disappeared by the 1970s, but due to ideological divisions, four main guerrilla movements emerged in Colombia. The FARC, the Army of National Liberation (*Ejército de Liberación Nacional – ELN*) founded by

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<sup>91</sup> Molano, *A lomo*, 14–22.

<sup>92</sup> Steven L. Taylor, “Colombia: On the Brink of Peace with the FARC?” *Origins* Vol. 10, Is. 1., October 2016, <http://origins.osu.edu/article/colombia-brink-peace-farc> (Retrieved 23 October 2017)

<sup>93</sup> Pinilla, Barón and Robayo, *Movimiento*, 36.

<sup>94</sup> Communiqué shortened and translated from Spanish by the author. The Spanish original cited at Alejandro Reyes Posada, *La reforma rural para la paz*, Bogotá: Debate, 2016, 39.

<sup>95</sup> In this chapter I will outline only the main features of the civil war, focussing on the FARC. Many relevant aspects will be discussed in the next chapters.

pro-Castro university students;<sup>96</sup> the Popular Liberation Army (*Ejército de Liberación Popular – EPL*),<sup>97</sup> and the April 19th Movement (M-19), founded in 1964, 1965, 1967, and 1970, respectively. They were all directly opposed to the country's political system; but were unable to reconcile their ideological principles with each other, and contributed to an upsurge in violence in the 1970s that affected the safety and security of Colombians.<sup>98</sup>

The 1970s were a period of growth for the FARC from roughly 500 fighters to an estimated 3,000 by the early 1980s. In 1982, the group's Seventh Conference voted for changing the name, and the group officially became the FARC-EP (EP stood for *Ejército Popular*, People's Army). The 1980s were the decade of great changes in Colombia as a result of the first peace negotiations between the government and the FARC, and the rise of drug trafficking and the controlling cartels. Similarly, the creation of the political party *Unión Patriótica* (UP) in 1985 allowed the FARC to gain a foothold among urban working and middle classes. But the break with the CCP increased its isolation in the late 1980s.<sup>99</sup>

To finance the war, the FARC first used 'traditional' income sources, such as kidnapping, ransoms, or extortion. The practice of kidnapping was not only a source of revenue but also an instrument of making political statements. With the rise of drug trafficking, the context changed. The FARC, which at first had only taxed cocaine trade and trafficking routes, gradually became directly involved into the drug trade.<sup>100</sup> Especially in the southeastern part of Colombia, it controlled some local cocaine base markets and labs, the transportation routes, and coordinated the sale of cocaine.<sup>101</sup>

Drug was both highly profitable and linked to the trafficking in weaponry: the weapons, used against paramilitaries and the Army, were regular payments for drug, smuggled in the same routes. This is why controlling border regions or having a foothold in border towns or harbours became vital for guerrillas, paramilitaries and organized crime groups alike.<sup>102</sup> Another source of income became later the practice of illegal mining. According to estimates,

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<sup>96</sup> The ELN, founded by students and farmers in 1964, intended to follow the Cuban model of revolution. Pinilla, Barón and Robayo, *Movimiento*, 36.

<sup>97</sup> The EPL belonged to the secessionist fraction of the CCP, to the CCP-ML, the Marxist-Leninist Colombian Communist Party.

<sup>98</sup> John D. Martz, *Contemporary Colombian Politics: The Struggle over Democratization*. In: Cohen, A and Gunter, F. R. (eds) *The Colombian Economy*, Oxford: Westview Press, 1992, 28.

<sup>99</sup> Gill, *The School*, 180.

<sup>100</sup> Taylor, Colombia

<sup>101</sup> *FARC Fact Sheet* (March 22, 2006) <https://www.dea.gov/pubs/pressrel/pr032206b.html> (Retrieved 2 May 2017)

<sup>102</sup> Katherine Aguirre Tobón, "El tráfico de armas en Colombia: una revisión desde los orígenes a los destinos." *Urvio Revista Latinoamericana de Seguridad Ciudadana*, November 2011, No. 10., 43., 47–49. The author noted among others, that corrupt Venezuelan border guards had regularly provided FARC with smuggled weapons. Ibid. 45.

by the mid-2010s, the FARC gained some 20 percent of its incomes from illegal mining. Before the start of the peace process, the income was mostly realized by the so-called *vacuna* (vaccine), a charge of 10 percent on the mined gold applied by the FARC on miners and mine owners, but at some places they also operated mines of their own.<sup>103</sup>

Naturally, the FARC's involvement into drug trafficking changed the popular view of the guerrilla, and opponents started to call the movement '*narco-guerrilla*'. The rise of the trafficking in drugs created an enormous growth in violence throughout the country and a decrease of security. For instance, in 1985, guerrilla presence—not only that of the FARC—was recorded in 17 percent of the municipalities (173 out of the total 1,005), which increased to 60 percent (622 out of 1,071 municipalities) by 1995.<sup>104</sup> As guerrilla presence grew, the number of civilians affected by their activities increased parallelly. Guerrilla war brought suffering, especially as the FARC only respected international humanitarian law when it perceived a political advantage with it. As their main concern was paramilitarism, in the 1990s, they were “inflexible” in ending the execution of captured paramilitaries, and killing soldiers *hors de combat* for alleged cooperation with paramilitaries.<sup>105</sup>

The FARC also committed human rights abuses, even massacres. This latter started in 1991, and aimed at the elimination of the political rivals in amnestied EPL guerrillas of the Esperanza political party, their civilian supporters, and communities sympathizing with paramilitaries.<sup>106</sup> Such an event was the La Chinita massacre, killing 35 on January 23, 1994.<sup>107</sup> There were several other types of atrocities committed by the FARC. In the months preceding the 1997 elections for instance, they kidnapped dozens of mayors, town council members, municipal workers, and candidates from Antioquia, Bolívar, Caquetá, Cundinamarca, Guaviare, Huila, Meta, Nariño, Putumayo, and Tolima regions. Some of the kidnap victims were killed, but the rest “only” intimidated to obey FARC directives in order to not to be considered a military target and avoid consequences attached to that.<sup>108</sup>

During the late 1990s, the FARC had approximately 8,000 to 10,000 people under arms. They attacked government installations, were responsible for protecting narcotics trade and

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<sup>103</sup> *Organized Crime and Illegally Mined Gold in Latin America*, The Global Initiative Against Transnational Organized Crime, April 2016, 10–11, <http://globalinitiative.net/wp-content/uploads/2016/03/Organized-Crime-and-Illegally-Mined-Gold-in-Latin-America.pdf> (Retrieved 12 April 2018)

<sup>104</sup> Peterson, *Conflict*, 5.

<sup>105</sup> *War Without Quarter: Colombia and International Humanitarian Law*, Human Rights Watch, 1 October 1998, [http://www.refworld.org/docid/3ae6a7e30.html#P972\\_215826](http://www.refworld.org/docid/3ae6a7e30.html#P972_215826) (Retrieved 23 September 2017)

<sup>106</sup> Ibid.

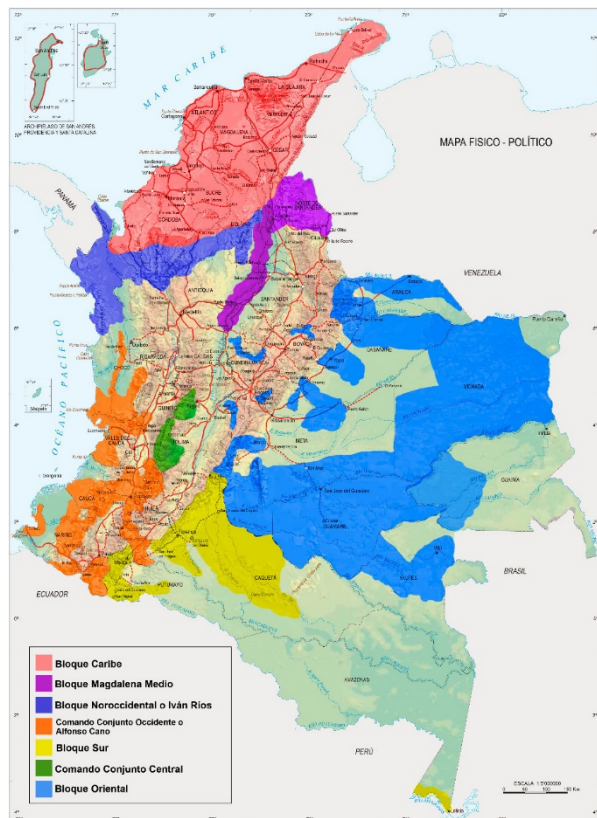
<sup>107</sup> After signing the Peace Agreement on September 30, 2016, the FARC officially asked for forgiveness for the massacre in an event organized in La Chinita, Antioquia. *Perdón, Chinita* (30 September 2016) <http://pazfarc-ep.org/comunicadosfarcuba/item/3563-perdon-chinita.html>

<sup>108</sup> *War Without*



maintaining a high level of kidnapping. They were well armed, well trained and had proper resources which reportedly included light aircraft and helicopters. Despite guerrilla forces being mostly rivals, some of them, particularly the FARC and the ELN, sporadically joined forces and worked together under the banner of the National Guerrilla Co-ordinating (CNG) movement.

By the mid-1990s, Colombia became a visibly corrupt ‘narco-democracy’,<sup>109</sup> which territory was in great part controlled by non-state armed forces. The US-backed Plan



Colombia, started in 1999, intended to restore order. With its implementation, the FARC had to retreat from many areas. Yet, atrocities did not decrease significantly: kidnapping, assassinations and involvement into drug trafficking continued. The FARC also turned to new practices, such as terrorist attacks in urban areas, most notably the El Nogal Club bombing in Bogota, in February 2003, killing 36. In order to maintain their popular support, the FARC kept paying attention to implement their original goals, for instance, in 2002 and 2003, they broke up ten large ranches in Meta region, and distributed the land to farmers.<sup>110</sup>

The military pressure on the FARC increased in the early 2000s, and with improved intelligence and weaponry, the Colombian Army managed to eliminate high-ranking members of the guerrilla. The first was the former peace negotiator and member of FARC Secretariat Raúl Reyes, killed by a bombardment targeting a FARC camp in Ecuador, launched from Colombia.<sup>111</sup> Another

Map 3. FARC presence in 2012 (Source: <https://magnet.xataka.com/en-diez-minutos/la-brecha-entre-la-colombia-rural-y-urbana-explicada-a-traves-de-9-graficos/>)

<sup>109</sup> Quotation from Joe Toft, former DEA attaché in Colombia, who went public in 1994 to denounce President Samper with accepting money from the Cali drug cartel for his presidential campaign. *DEA Agent Attacks Colombia as 'Narco-Democracy'* (1 October 1994) [https://www.washingtonpost.com/archive/politics/1994/10/01/dea-agent-attacks-colombia-as-narco-democracy/410189e6-0878-48b9-925a-127ce47148f1/?utm\\_term=.f79dfce739cd](https://www.washingtonpost.com/archive/politics/1994/10/01/dea-agent-attacks-colombia-as-narco-democracy/410189e6-0878-48b9-925a-127ce47148f1/?utm_term=.f79dfce739cd) (Retrieved 2 July 2017)

<sup>110</sup> Gary M. Leech, *Crude interventions: the US, oil and the new world (dis)order*, Zed Books, 2006, 124.

<sup>111</sup> The action severed the bilateral relations, and the Ecuadorean Parliament even condemned Juan Manuel Santos, then Minister of Defence for the attack in 2010. *Ecuador officially condemns Santos and Sanin stance*

important step was the killing of Víctor Julio Suárez Rojas, alias Mono Jojoy, the second-in-command of the FARC in September 2010. After his death, the FARC released a statement in which they called for dialogue to end the conflict, arguing that any other strategies would only prolong the cycle of war.<sup>112</sup> Despite this warning, the conflict intensified, and 2011 became a particularly violent year. The intensity of the fighting decreased significantly in 2012, and the FARC started to release hostages, as it turned out later, in parallel with the beginning of the peace talks with the government.

According to estimates, around 220,000 people have died in the civil war started in the mid-1960s, while the number of IDPs is over 6 million. During the conflict, almost every fourth municipality of Colombia has been severely affected by the activity of one or more armed groups, and there are only few Colombian families not having losses during the conflict.<sup>113</sup> Being at war has also been costly: Colombia spent 0.5 percent of its GDP on military expenditures in 1930, and 3.6 percent in 1997, while the average between 1998 and 2011 was 3.3 percent.<sup>114</sup>

Despite ending the conflict with the FARC, guerrilla presence remains high.<sup>115</sup> ELN is present in 87 municipalities; nevertheless a sharp decrease from the 140 municipalities in 2016.<sup>116</sup> Chocó, Cauca, Valle de Cauca, Nariño, Arauca, and Norte Santander regions continue being their fiefs.<sup>117</sup> According to estimates, around 1,000 FARC members decided to reject the peace agreement and continued the armed and illegal activities under the leadership of three former mid-level FARC commanders.

The main group, accounting to around half of the dissidents, is active in Nariño region, where they control drug trafficking—also on the Ecuadorian side of the border, where authorities assume that they carried out an attack against a local police station in January 2018.<sup>118</sup> The situation further deteriorated in March 2016, when three Ecuadorian journalist

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on cross-border attacks (April 28, 2010) <https://colombiareports.com/ecuador-officially-condemns-santos-and-sanin-stance-on-cross-border-attacks/> (Retrieved 3 October 2017)

<sup>112</sup> *FARC calls for peace after 'Mono Jojoy' death* (24 September 2010) <https://colombiareports.com/farc-we-want-peace-not-surrender> (Retrieved 3 October 2017)

<sup>113</sup> Nieto, *¿Qué?*, 144.

<sup>114</sup> *Ibid.*, 119.

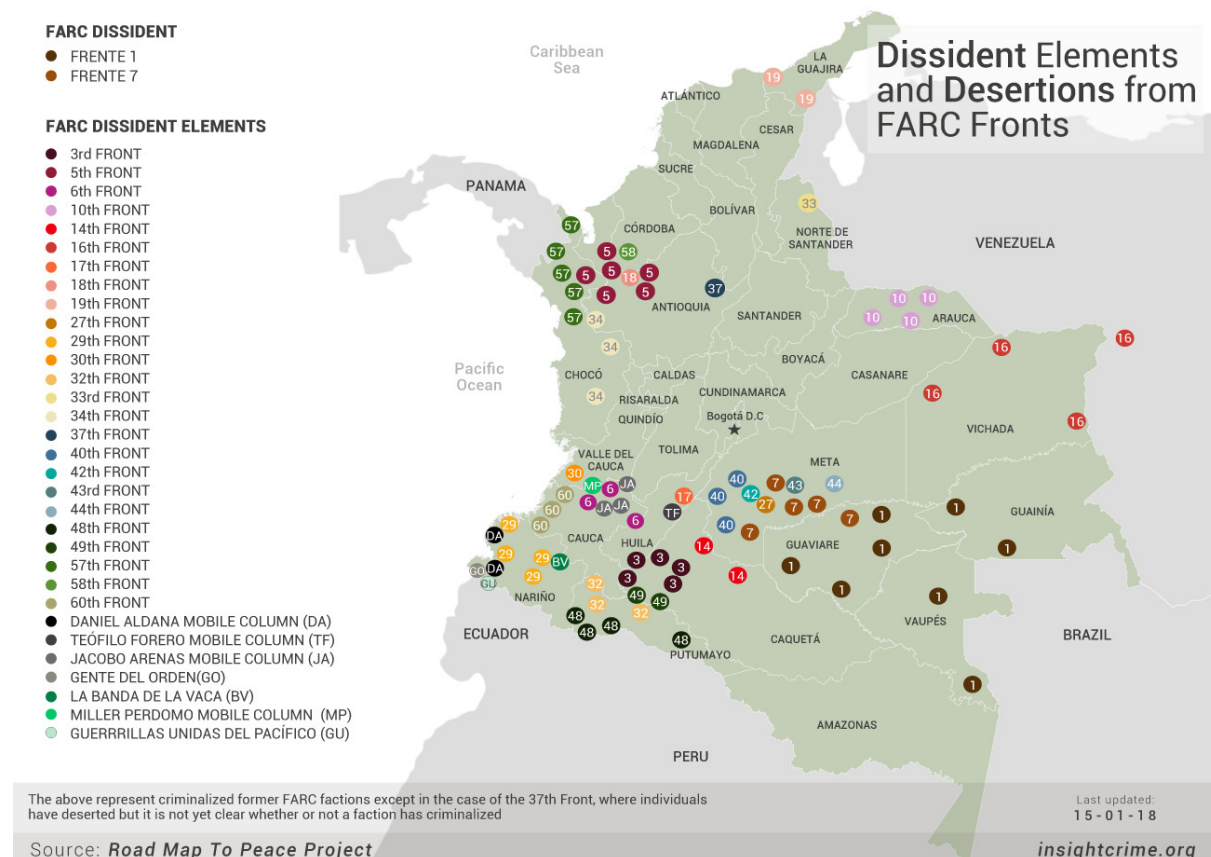
<sup>115</sup> In 2016, the FARC had forces in 23 out of the 32 departments, and in some of them they had a quite dense presence: 100% in Arauca (in 7 municipalities out of 7), 74% in Cauca (in 31 out of 42), 75% in Guaviare (in 3 out of 4), 62% in Caquetá, 54% in Putumayo, 45% in Meta, 40% in Chocó, 39% in Nariño, 33% in Casanare or 25% in Norte de Santander. *Mapas de Riesgo 2016*, 18.

<sup>116</sup> *Mapas de Riesgo 2016*, 23.

<sup>117</sup> *Mapas y factores de riesgo electoral – Elecciones nacionales, Colombia 2018*, Bogotá: Grupo Técnico de Mapas de Riesgo Electoral – MOE, 2018, 162.

<sup>118</sup> *Ecuador Links Police Barracks Bombing to Colombia FARC Dissidents* (29 January 2018) <https://www.usnews.com/news/world/articles/2018-01-29/ecuador-links-police-barracks-bombing-to-colombia-farc-dissidents> (Retrieved 9 April 2018)

were kidnapped and killed by the group. After this, the Ecuadorian government decided to deploy 12,000 troops on the Colombian border in order to combat



Map 4. FARC Dissidents in 2018 (Source: <https://www.insightcrime.org/news/analysis/gamechangers-2017-is-colombia-farc-really-gone/>)

drug gangs.<sup>119</sup> The second and the most combative group is active in Guaviare region, from where they control and use the waterways for drug trafficking to Venezuela and Brazil. The third and the smallest group operates in northern Antioquia, where it is engaged in a conflict with local paramilitary forces.<sup>120</sup>

## II. 5. Colombia's importance to the US

The US has traditionally paid special attention to the Americas. Washington expressed its will to keep other powers out of the continent as early as 1823, in the Monroe Doctrine. The effort to implement this would become visible for instance by the acquisition of Alaska from Russia in 1867, the former Danish West Indies, current US Virgin Islands, from Denmark in

<sup>119</sup> *Ecuadorian journalists kidnapped by rebels have been killed, president says* (13 April 2018) <https://www.theguardian.com/world/2018/apr/13/ecuador-colombia-journalists-military-strike-rebels> (Retrieved 24 April 2018)

<sup>120</sup> *Who are leading the FARC dissident groups and where* (3 March 2018) <https://colombiareports.com/leading-farc-dissident-groups/> (Retrieved 9 April 2018)



1916, or with the Spanish-US war in 1898.<sup>121</sup> The creation of the US Navy in the late 1800s gave a further impetus for the implementation of the Monroe Doctrine, as the navy allowed the US to protect its interests and exclude any foreign attempts to gain footholds even in the decades before the World War I.<sup>122</sup>

Colombia was in the focus of the US politics, not only because until 1903 it controlled Panama, the site of a main US project, the Panama Canal, but also because the country granted a strong foothold towards both Central and South America. This relationship was not that of equal partners, and the US forced its interests at least twice on Colombia without regards to the consequences. First, in 1903, with the provision of an indispensable help to the independence of Panama, a move harming the territorial integrity of Colombia which however, received a considerable financial compensation. Second, in 1928, when the US threatened Colombia with a military invasion if it fails to protect the interests of the US-owned United Fruit Company. The Colombian response eventually led to the so-called Banana-massacre.<sup>123</sup> This event showed the workers living in such deplorable situation that their government is willing to kill or oppress them for ‘foreign imperialist interests’ and had far reaching social consequences.<sup>124</sup>

The strategic position of Colombia became even more important in the context of the Cold War. The collapse and the weakening of the former colonial empires led to rising nationalism and to the spreading of Communism worldwide, which resulted in the articulation of the Truman Doctrine<sup>125</sup> in 1947. Only a year later, in 1948, the *Bogotazo* shocked the US, which ostensibly underestimated the danger of possible riots during the Conference of the American States in Bogota. Washington saw the Bogotazo as the “South American Pearl Harbour” and the first Communist riot in the Western hemisphere calling for the overthrow of the Colombian government and “Yankee Imperialism.”<sup>126</sup>

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<sup>121</sup> This war eventually led to the irreversible collapse of the Spanish colonial empire on the American continent and in the Far East.

<sup>122</sup> Lester D. Langley, *The Banana Wars: United States Intervention in the Caribbean, 1898-1934*, Lanham, Boulder, New York, Toronto, Oxford: SR Books, 2002, 13–15.

<sup>123</sup> In 1928, the workers of the United Fruit Company in Ciénaga, Colombia entered into strike. This was described by the company and US officials in Colombia as „Communist” with „subversive tendency”. After the US government threatened to invade the region with the US Marine Corps, the Colombian Army broke the strike leaving an unknown number of workers dead. Estimations of the death toll range between 47 and 2,000.

<sup>124</sup> Nevertheless, the position of the Colombian government must be seen through the prism of the US foreign policy at that time in the Caribbean, when protecting American interests and lives of American citizens led to military invasions in the Dominican Republic, Haiti, Nicaragua in the 1910s and 1920s.

<sup>125</sup> An American foreign policy to counter Soviet geopolitical expansion during the Cold War, first announced to Congress by President Harry S. Truman on 12 March 1947.

<sup>126</sup> *The Bogotazo*.

With the Bogotazo, Communism, which was in advance at that time, appeared right at the Panama Canal: only a month passed after Czechoslovakia had turned to be a Communist country, yet after Poland, Romania, and Bulgaria; there were ongoing civil wars in China and Greece between Communist and non-Communist forces; Germany, Korea and Vietnam were divided; but there was still a multiparty coalition government in Hungary, a country where Communism established dominance only in May 1949, for the next 40 years. This failure of the US administration led eventually to a “Bogota syndrome,” an extraordinary concern with early warning of crises and emphasis on the Communist angle within the US administration.<sup>127</sup> This hypersensitivity remained until the collapse of the Soviet Union, and resulted in spending more than a trillion USD on international development, humanitarian and international security assistance worldwide,<sup>128</sup> as well as in fighting Communism even on the price of keeping authoritarian regimes in power.

After La Violencia, in a timely coincidence with the unfolding Cuban revolution, the US became again extremely worried about Colombia. The reason for this was the existence of the independent republics, seen as footholds for Communism. Already in October 1959, after an agreement with acting Colombian President Alberto Lleras Camargo, a US Special Survey Team arrived in Colombia to investigate the state’s internal security conditions. Their report in March 1960 pointed out that in order to create internal security, restoring honesty and efficiency in government were necessary. They also called for the help of the US and ‘covert’ third party experts to improve Colombian domestic military intelligence service, and for the re-orientation of the Colombian Army towards unconventional warfare.<sup>129</sup>

Due to the recommendations and its strategic importance, Colombia became one of the targeted countries of the newly developed *Overseas Internal Security Program* initiative.<sup>130</sup> The US contribution to the *Plan Lazo*, an anti-terrorist policy, helped modernize the Colombian Army and to some extent the administration; eradicate the independent republics, and address some of the underlying causes of the social unrest. Alongside advising and training Colombian institutions, the US also delivered a ‘special impact shipment’ of USD 1.5 million worth of military hardware, composed of medium helicopters, a variety of vehicles, communication equipment, and small arms in order to equip and mobilise the specialised

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<sup>127</sup> *The Bogotazo*

<sup>128</sup> Somit-Peterson, *The Failure*, 79.

<sup>129</sup> Rempe, *Guerrillas*, pp. 305–307. The reason for using covert personnel under US control was to employ military and civil personnel with skills and experience difficult to find in the US.

<sup>130</sup> This initiative, elaborated under the first Eisenhower administration (1953-1957), intended to strengthen US security by helping less developed countries to become more secure and stable.

ranger type unit designed to fight rural violence and uncontrolled banditry in the countryside.<sup>131</sup>

The 1970s brought a new phenomenon into the Colombian-US relations: drugs. In the early 1980s, the US targeted the transporters and their criminal networks within the US. By the middle of the 1980s, internally it turned towards the control of chemicals used in cocaine production,<sup>132</sup> while abroad to the ultimate weapon of extradition. When extradition became temporally prohibited by the Colombian Constitution of 1991, the focus switched to the arrest or assassination of drug lords in Colombia, in a cooperation between the Colombian and US armed forces. Since then, many joint operations, like Operation Millennium in 1999, have targeted Colombian drug cartels, and led to extradition of drug lords and paramilitary leaders to the US.

In the early 1990s, the US Drug Enforcement Administration (DEA) estimated that Colombian cartels collectively were producing and exporting between 500 and 800 tons of cocaine a year into the US. The country's coca production exceeded the joint production of Peru and Bolivia for the first time in 1998.<sup>133</sup> Despite the efforts, Colombia accounted for 71 percent of the coca acreage by 2000, in a sharp increase from the "mere" 12 percent recorded in 1994.<sup>134</sup> Colombia also took the third place behind Myanmar and Laos in supplying the US market with heroin in the 1990s.<sup>135</sup>

In certain cases involvement into drug trafficking could have been tolerated by the US, for instance in the case of former military officer and Panamanian head of government between 1983 and 1989, Manuel Noriega,<sup>136</sup> yet this was not true for Colombia. The difference—rooted in the fear of a possible victory of the Communist guerrillas, the state's inability to control the entire territory, Colombia's share in the coca production, and the vast amount of money flowing from drug trafficking into the armed conflict—triggered *Plan Colombia*. Tackling drug trafficking and Communist insurgency became the main goals of the the joint Colombia-US action, which originally intended to promote economic

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<sup>131</sup> Rempe, *Guerrillas*, 308.

<sup>132</sup> *Drug Enforcement Administration History 1980-1985*, 50–56. <https://www.dea.gov/about/history/1980-1985%20p%2049-58.pdf> (Retrieved 3 June 2017)

<sup>133</sup> *El informa de la DEA sobre el alarmante aumento de la producción de cocaína en Colombia* (19 August 2017) <https://www.infobae.com/america/colombia/2017/08/19/el-informe-de-la-dea-sobre-el-alarmante-aumento-de-la-produccion-de-cocaina-en-colombia/> (Retrieved 3 June 2017)

<sup>134</sup> Gill, *The School*, p. 178.

<sup>135</sup> *Drug Enforcement Administration History 1990-1994*, 69. <https://www.dea.gov/about/history/1990-1994%20p%2067-76.pdf> (Retrieved 3 June 2017)

<sup>136</sup> Alexander Cockburn–Jeffrey St. Clair, *Whiteout: The CIA, Drugs and the Press*, New York: Verso, 2001, 287–290.

development.<sup>137</sup> First, the Colombian share in US foreign aid to the Andean countries<sup>138</sup> grew significantly: after being 10 percent in the 1980s and 22 percent in the 1990s, it reached 61 percent in the 2000s.<sup>139</sup> As the focus of the Plan Colombia was to help Colombia to re-establish state control and legitimacy in territories under armed group control,<sup>140</sup> the majority of the aid was spent on military purposes.<sup>141</sup>

The extension of coca and opium poppy cultivations significantly shrank between 2000 and 2004 indeed, but by 2009, nearly the same amount of cocaine was produced on only half the land used for the cultivation of coca crops before the beginning of Plan Colombia.<sup>142</sup> Similarly, the number of attacks against oil infrastructure dropped,<sup>143</sup> but Plan Colombia decreased state legitimacy—embodied in the fall of voter turnout in the municipalities concerned—and contributed to the rise of homicides. It also strengthened armed non-state actors, and undermined domestic political institutions.<sup>144</sup> Despite the fact that the Colombian and US governments considered the Plan Colombia a success story, and US ambassador William Brownfield called it “the most successful nation-building exercise by the United States in the 21<sup>st</sup> century”,<sup>145</sup> the US administration acknowledged that until 2005 only little progress was made regarding to the promotion of human rights and rule of law.<sup>146</sup> Another controversial issue was that the Plan Colombia concentrated too much on the FARC-

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<sup>137</sup> Colombian President Virgilio Barco already in the 1980s asked for help from US President George Bush Sr. to tackle internal violence when five presidential candidates were killed by groups related to narcoterrorism. Cynthia A. Watson, *Nation-Building and Stability Operations – A Reference Handbook*, Westport, Connecticut, London: Praeger Security International, 2008, 20. On the origins of the plan, see Andres Pastrana Arango, *La palabra bajo fuego*, Bogotá: Planeta, 2005, 114–125.

<sup>138</sup> Bolivia, Colombia, Ecuador, Peru, and Venezuela.

<sup>139</sup> Peter J. Meyer–Mark P. Sullivan: *U.S. Foreign Assistance to Latin America and the Caribbean: Recent Trends and FY2013 Appropriations*, Washington: Congressional Research Service, 2012, 17. <https://fas.org/sgp/crs/row/R42582.pdf> (Retrieved 12 April 2018)

<sup>140</sup> When the talks between President Pastrana and the FARC started in 1999, Colombian Army had seven helicopters and three reconnaissance aircrafts, out of which only three and one were functional, respectively. La soledad de Pastrana, *Semana N* 1794., 18-25 September 2016, 37.

<sup>141</sup> 74 percent went into strengthening the military and politics, while only 26 percent into social investments. *¡Basta ya!*, 167.

<sup>142</sup> Juan Carlos Muñoz-Mora, Santiago Tobón, Jesse Willemd’Anjou, “The role of land property rights in the war on illicit crops: Evidence from Colombia.” in *World Development* 103, 2018, 268.

<sup>143</sup> Connie Veillette, *Plan Colombia: A Progress Report*, CRS Report for Congress, 2005, 5–8. <https://fas.org/sgp/crs/row/RL32774.pdf>

<sup>144</sup> Oeindrila Dube–Suresh Naidu, *Bases, Bullets and Ballots: the Effect of U.S. Military Aid on Political Conflict in Colombia*, 2009, 23–24. [https://www.cgdev.org/doc/events/07.29.09/Bases\\_Bullets\\_Ballots.pdf](https://www.cgdev.org/doc/events/07.29.09/Bases_Bullets_Ballots.pdf) (Retrieved 12 April 2018)

<sup>145</sup> Max Boot–Richard Bennet, *The Colombian Miracle–How Alvaro Uribe with smart U.S. support turned the tide against drug lords and Marxist guerrillas*, (14 December 2009), <http://www.weeklystandard.com/article/272306> (retrieved May 16, 2017)

<sup>146</sup> Veillette: *Plan*, 12.

controlled southern regions, and not on the paramilitary-controlled north, where the main traffic routes lain.<sup>147</sup>

Despite the implementation of the Plan Colombia, drug flow from the country to the US did not stopped. In 2005, 90 percent of the cocaine reaching the US market was coming from Colombia.<sup>148</sup> In the mid-2010s, Colombia continued to be an important illicit producer of coca, opium poppy, and cannabis. Colombia was the world's leading coca cultivator with 159,000 hectares in coca cultivation in 2015,<sup>149</sup> a 42 percent increase over 2014, and 188,000 hectares in 2016,<sup>150</sup> another increase of 18 percent. The share of Colombian cocaine in the US market reached 92 percent in 2017.<sup>151</sup> The country also kept the second place in supplying US markets with heroin with an estimated 1,100 hectares of opium poppy cultivation, sufficient to potentially produce three metric tons of pure heroin.<sup>152</sup> Anti-drug cooperation continued between the two countries: in April 2018, a former FARC leader Jesus Santrich was arrested on an arrest warrant issued by the US District Court in the Southern District of New York charging him with conspiracy to smuggle USD 15 million worth of cocaine into the US.<sup>153</sup>

Although Plan Colombia ended in 2015, Colombia remains the US's staunchest ally in Latin America and its largest foreign-aid recipient. Since in the eyes of the US government the ongoing crisis in Venezuela "threatens the whole hemisphere", as emphasized Vice President Mike Pence during his first visit in Colombia in August 2017, bordering Colombia has lost nothing from its strategic importance for Washington.<sup>154</sup>

## II. 6. Paramilitaries

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<sup>147</sup> Gill, *The School*, 180.

<sup>148</sup> *Drug Fact Sheet – Cocaine*, 2. [https://www.dea.gov/druginfo/drug\\_data\\_sheets/Cocaine.pdf](https://www.dea.gov/druginfo/drug_data_sheets/Cocaine.pdf) (Retrieved 3 June 2017)

<sup>149</sup> Nevertheless, after the implementation of the anti-narcotic strategy in 2012, coca cultivation suppressed for a couple of years. *Colombia no longer top cocaine producer* (July 30, 2012) [http://content.usatoday.com/communities/theoval/post/2012/07/white-house-colombia-is-no-longer-top-cocaine-producer/1#.Wp\\_f5-jOWHs](http://content.usatoday.com/communities/theoval/post/2012/07/white-house-colombia-is-no-longer-top-cocaine-producer/1#.Wp_f5-jOWHs) (Retrieved 3 June 2017)

<sup>150</sup> *Colombia's coca production soars to highest level in two decades, US says* (17 March 2017) <https://www.theguardian.com/world/2017/mar/14/colombia-coca-cocaine-us-drugs> (Retrieved 3 June 2017)

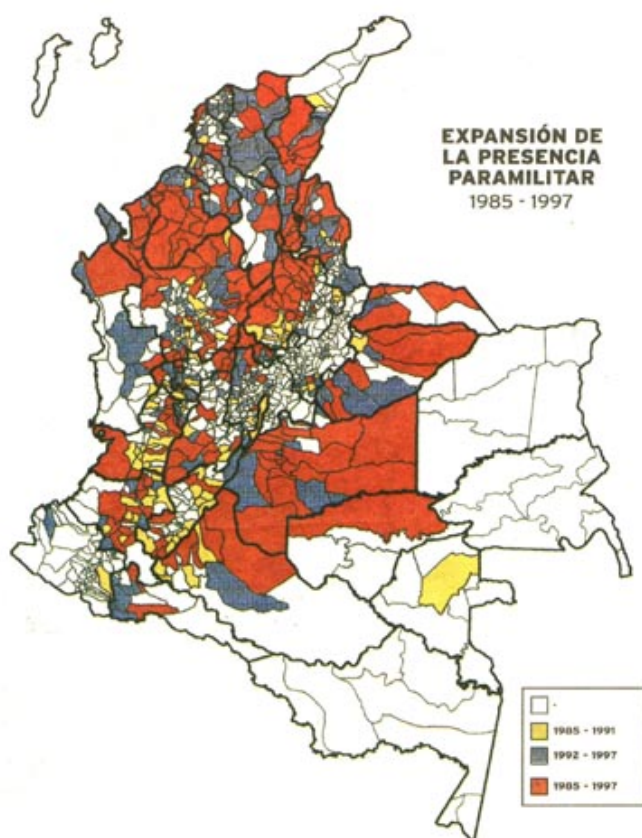
<sup>151</sup> *El informa de la DEA sobre el alarmante aumento de la producción de cocaína en Colombia* (19 August 2017) <https://www.infobae.com/america/colombia/2017/08/19/el-informe-de-la-dea-sobre-el-alarmante-aumento-de-la-produccion-de-cocaina-en-colombia/> (Retrieved 3 June 2017)

<sup>152</sup> *The World Fact Book* <https://www.cia.gov/library/publications/resources/the-world-factbook/geos/co.html> (Retrieved 3 June 2017)

<sup>153</sup> *Former FARC Leader Arrested In Colombia On U.S. Drug Warrant* (10 April 2018) <https://www.npr.org/sections/thetwo-way/2018/04/10/601051440/former-farc-leader-arrested-in-colombia-on-u-s-drug-warrant> (Retrieved 11 April 2018)

<sup>154</sup> *Pence termina visita a Colombia y advierte que Venezuela amenaza la seguridad* (14 August 2017) <http://laestrella.com.pa/internacional/america/pence-termina-visita-colombia-advierte-venezuela-amenaza-seguridad/24017630> (Retrieved 21 April 2018)

Possessing private armed forces has long traditions in Colombia: the classic fights between Conservative and Liberal forces in the 19<sup>th</sup> and 20<sup>th</sup> century were fought mainly by them. Their importance even grew with the rise of the Communist guerrilla groups. The first piece of legislation to allow the training of civilians by military or police forces for security purposes, and the formation of private security forces, was issued in 1965 (Presidential Decree 3398 of 1965). This had already been suggested by the US in the context of the Plan Lazo against Communist insurgents.<sup>155</sup> The proper legal framework was created by the Law 48 of 1968, which empowered the Colombian government to establish civil patrols by decrees and the Defence Ministry to supply their members with military grade weaponry.



The boom of the drug trafficking resulted in a serious change also with regards to paramilitarism. As the guerrilla control expanded throughout the state, many landowners, companies, also foreign investors and members of the elite financed private militias to protect their interests. This cooperation rose to a completely new level with the creation of the organization *Muerte a Secuestradores* (Death to Kidnappers – MAS) in 1981, with the involvement of the Medellín Cartel, and other powerful drug traffickers. For instance, in 1982, in Puerto Boyacá, Boyacá, the local mayor and the MAS convened a meeting for locals during which they talked about cleaning the area from guerrillas; and a local counsellor opposing MAS was killed soon.<sup>156</sup>

<sup>155</sup> *The History of the Military-Paramilitary Partnership*, Human Rights Watch, <https://www.hrw.org/legacy/reports/1996/killer2.htm> (Retrieved 3 June 2017)

<sup>156</sup> *The History of the Military-Paramilitary Partnership*

Paramilitaries could not be kept under control. As drug trafficking into the US was on the rise, financial means allowed investments into weaponry and training, and the formation of other paramilitary organizations, like ACDEGAM.<sup>157</sup> They were targeting labor or peasants' rights defenders; however, they also built schools for patriotic and anti-Communist education, or roads, bridges and health clinics. At the end of the 1980s, they were responsible for more killings than the guerrillas<sup>158</sup> and, after the La Rochela massacre,<sup>159</sup> on 18 January 1989, when twelve judicial officials were killed, paramilitaries were outlawed by the Presidential Decree no. 1194. Their social embeddedness however, led to partial transformation, for instance, the ACDEGAM created a political party called the National Restoration Movement.<sup>160</sup>

The ban did not last long, especially because the 1990s were the decade of the FARC gaining strength. The Armed Forces Directive of 200-05/91, inspired by US advisors, issued by the Colombian Defence Ministry in May 1991, created a legal framework for military and “civil” cooperation, with the official aim of setting up covert intelligence networks to combat Communist insurgency. The real change-making difference came with program *Convivir* in 1994, which allowed cooperative neighbourhood watch, i.e. civilians to provide security to local communities and intelligence coordination to Colombian military forces. Authorized by Decree 356, *Convivir* groups were to be made up of individuals who petitioned the government for a license to provide their own security in areas where the government said it could not fully guarantee public safety.

Unlike paramilitary groups, outlawed in 1989, *Convivirs* enjoyed explicit government support. Upon obtaining a government license, *Convivir* members contributed a monthly fee, which covered the salaries of the employees, equipment, vehicles, and expenditures for office space. Each member bought a radio for his or her ranch, which allowed communication with the central office, staffed 24/7 by young men hired by the *Convivir* to monitor radio frequencies and patrol the area. *Convivir* employees also conducted intelligence operations and provided information to the police and army. However, the practice resulted in many problems:

— *Convivirs* worked almost exclusively with local army and police commanders who were not required to share this information with civilian authorities and did not do so,

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<sup>157</sup> *Asociación campesina de ganaderos y agricultores del Magdalena medio* – Association of Middle Magdalena Ranchers and Farmers.

<sup>158</sup> In the 1970s, human rights groups recorded 1,053 political killings. In the 1980s, that figure leapt to 12,859. *The History of the Military-Paramilitary Partnership*

<sup>159</sup> That event was the first in the exceptionally bloody year of 1989 when the Avianca and the DAS bombings happened, as well.

<sup>160</sup> Movimiento de Restauración Nacional, MORENA



— there were Convivirs operating without a licence, for example the Las Colonias Convivir in Lebrija, Santander region, organized by the local Army base commander himself,  
— they committed several abuses and crimes, like homicide or torture without accountability and proper state control.<sup>161</sup>

As the problems related to Convivirs grew, in 1997, the Constitutional Court denied them from gathering intelligence and employing military grade weapons.<sup>162</sup> This showed clearly to the public the outstanding importance of the Constitutional Court, created in the Constitution of 1991, as a guardian of human rights and a force against legal abuses. However, the reality was again something different: the Convivirs mostly went clandestine, and in cooperation with the Army and the administration, managed to break out from their traditional areas into other parts of the country.

Just a few years later, the implementation of the Plan Colombia also helped paramilitaries, increasing their presence in and control over territories previously under FARC, for example in Putumayo.<sup>163</sup> They even grouped into a coalition called the United Self-Defense Forces of Colombia (AUC) led by Carlos Castaño in 1997. AUC kept a strong cooperation with the Army, and continued mass killings. Among these atrocities probably the massacre of Mapiripán, Meta, committed by the ACCU<sup>164</sup> in July 1997,<sup>165</sup> and the massacre at Alto Naya, Cauca, in April 2001, became the most notorious. Under these circumstances, cooperation between paramilitaries and Colombian armed forces were meant to be kept in secret; former participants talking about it or presenting evidences usually disappeared or were killed.<sup>166</sup>

The rise of violence again coincided with the territorial expansion of the guerrillas. Paramilitaries financed their activities from support of landowners, cattle ranchers; foreign and domestic companies interested in mining, petroleum or other goods, and of politicians

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<sup>161</sup> *War Without*. The description contains the presentation of some of massacres and tortures the Convivirs committed.

<sup>162</sup> By the time of the Court's decision, there were 414 Convivirs in Colombia. *¡Basta ya!*, 158.

<sup>163</sup> Gill, *The School*, 183–184.

<sup>164</sup> Peasant Self-Defense Group of Córdoba and Urabá (Autodefensas Campesinas de Córdoba and Urabá, ACCU), a paramilitary organization member of AUC, founded and led by Carlos Castaño himself.

<sup>165</sup> This massacre, together with another one committed in the same region, Meta, right in the heartland of FARC operations, also in 1997, was an indication for the AUC's intention to move out from the northern territories of Colombia and create a national 'coverage'. *Declassified Report of the US Embassy in Bogota, Update on the Mapiripan Massacre* (March 1999) <https://nsarchive.files.wordpress.com/2012/07/19990305-part5.pdf> (Retrieved 12 April 2018)

<sup>166</sup> The presentation of such cases to the public is not rare. For instance the assassination of ex-soldier Oswaldo Giraldo Yepes was motivated by such a leaking. After talking about the cooperation of the police and the paramilitaries in Yarumal, Antioquia, he got killed on April 2, 2005. Una voz del más allá, *Semana* N. 1770, 3–10 April 2016, 20.



motivated by the protection of their interests, but also through drug trade.<sup>167</sup> Their social impact was more than controlling rural areas and cleaning them from guerrillas; they entered into politics, public institutions, and even interfered into university affairs, especially on the Caribbean Coast, by influencing internal elections, and killing leftist professors.<sup>168</sup> In November 2000, paramilitary kidnapped seven Members of the Parliament “in protest against negotiating with guerrillas”. They also caused international problems, for example in 2004, some 100 Colombian paramilitaries were captured in Venezuela and indicted with a coup attempt against Hugo Chávez.<sup>169</sup>

The process of their demobilization started again in 2003 with President Uribe coming into power, who as the Governor of Antioquia in the 1990s had been a great supporter of paramilitaries. The reason for the demobilization was the will of Uribe’s political supporters, i.e. powerful landlords, businessmen and military entrepreneurs, to provide a suitable exit for AUC leaders. The legal framework created by the Law 975 of 2005, the so-called Justice and Peace Law, offered sentences 5-8 years for serious crimes thereby motivating paramilitaries to cooperation and disarming. The demobilization was attacked not only because of this, but also due to other two reasons. One related to the judicial uncertainties, such as inappropriate addressing of victims’ rights or possible impunity to drug traffickers; while the other to the lacking context of peace talks with the guerrillas.<sup>170</sup>

Nevertheless, the Constitutional Court again stood up as a guarantor of legality. It impeded President Uribe in demobilizing and reintegrating paramilitaries into the society without accounting for their crimes, as ruled out, paramilitaries could not claim a political character to their activities and therefore could not be amnestied.<sup>171</sup> The idea of the amnesty caused another problem: the differentiated treatment of the guerrillas and the paramilitary groups by the state called into question the fidelity of Plan Colombia and the massive amount of US assistance.<sup>172</sup>

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<sup>167</sup> *United Self Defense Units of Colombia (AUC) Quick Facts for 2006* <http://www.start.umd.edu/baad/database/united-self-defense-units-colombia-auc-2006> (Retrieved 12 April 2018)

<sup>168</sup> Edgar de Jesús Velásquez Rivera, “Historia del paramilitarismo en Colombia.” *História*, São Paulo, Vol. 26, Is. 1, 2007, 143–144.

<sup>169</sup> *Capturan “paramilitares” en Venezuela* (9 May 2004) [http://news.bbc.co.uk/1/hi/spanish/latin\\_america/newsid\\_3698000/3698989.stm](http://news.bbc.co.uk/1/hi/spanish/latin_america/newsid_3698000/3698989.stm) (Retrieved 12 April 2018)

<sup>170</sup> Mauricio Romero: “Negotiating with the paramilitaries—a minefield or a road to peace?” *Accord: An International Review of Peace Initiatives* 14, 2004, 58–59. [http://www.c-r.org/downloads/Part2\\_ColombiaAccord.pdf](http://www.c-r.org/downloads/Part2_ColombiaAccord.pdf)

<sup>171</sup> Lobo, Colombia, 357.

<sup>172</sup> Watson: *Nation-Building*, 21.

Eventually the mass demobilization of the paramilitaries started in late 2004, and the surviving leadership of AUC was extradited to the US in the late 2000s. The demobilization process was not a success story though. Many of the 32,000 demobilized continued criminal activities in other forms, giving birth to what would be called first BACRIM in Colombia: *bandas criminales*, and later *Grupos Armados Organizados* (Organized Armed Groups – GAO). Already in the late 2000s, there were clear evidences of the transformation of paramilitaries into BACRIM. They got involved into illegal economic activities like drug trafficking, illegal mining and smuggling in arms or animals.<sup>173</sup> Among the killings committed by them between 1975 and 2015, 11.9 percent were carried out after the demobilization, between 2006 and 2015. However, their approach changed: they applied targeted killings more than massacres. The ration between the two changed from 56.7 percent to 82.2 percent, and from 41.8 percent to 14.6 percent, between 1975 and 2006, and 2006 and 2015 respectively.<sup>174</sup>

An extremely serious problem has been the cooperation of paramilitary groups with national and international companies. In 2011, it turned out that the Chiquita Brand International benefitted from its payments to paramilitary and guerrilla groups.<sup>175</sup> The Chiquita was fined USD 25 million in the US in 2007, for financing foreign terrorist organizations, such as Colombian paramilitaries, FARC and the ELN, for more than ten years. The family members of the Colombian victims tried to allege the responsibility of the Chiquita in human rights violations, however, the court ruled against them in 2014.<sup>176</sup> Nevertheless, in 2016, another judgement in the US allowed the victims' family members to sue Chiquita for financing organizations committing crimes.<sup>177</sup>

In February 2017, it came to light that between 1996 and 2004 various banana producing companies financed paramilitary groups in Urabá region to enjoy security from guerrillas. The

<sup>173</sup> A 2014 description about the existing BACRIMs and their activities is available at Jeremy McDermott, *The BACRIM and Their Position in Colombia's Underworld* (2 May 2014) <https://www.insighcrime.org/investigations/bacrim-and-their-position-in-colombia-underworld/> (Retrieved 12 April 2018)

A more detailed description is available *Paramilitaries' Heirs – The New Face of Violence in Colombia*, Human Rights Watch, 3 February 2010, <https://www.hrw.org/report/2010/02/03/paramilitaries-heirs/new-face-violence-colombia> (Retrieved 12 April 2018)

<sup>174</sup> *Grupos armados posdesmovilización* (4 May 2017) <http://www.centrodememoriahistorica.gov.co/informes/informes-2017/grupos-armados-posdesmovilizacion> (Retrieved 12 April 2018)

<sup>175</sup> See the details of the cooperation in *The Chiquita Papers* (posted on 7 April 2011) <http://nsarchive2.gwu.edu/NSAEBB/NSAEBB340/> (Retrieved 12 April 2018)

<sup>176</sup> *Court tosses out cases against Chiquita over Colombia killings* (24 July 2014) <http://america.aljazeera.com/articles/2014/7/24/chiquita-lawsuitcolombia.html> (Retrieved 12 April 2018)

<sup>177</sup> *Families of Death Squad Victims Allowed to Sue Chiquita Executives* (3 June 2016) <https://www.commondreams.org/news/2016/06/03/families-death-squad-victims-allowed-sue-chiquita-executives> (Retrieved 12 April 2018)

Prosecutor General's Office then declared that such activities would be prosecuted as crime against humanity.<sup>178</sup> In April 2017, it was revealed that Brazilian company Odebrecht financed paramilitary groups in Colombia;<sup>179</sup> just a month after a scandal on financing sitting Colombian president's campaign in 2010 by the same enterprise.<sup>180</sup> Italian palm oil firm Poligrow Colombia Ltda. has also become alleged to cooperate with a paramilitary group in Mapiripán, Meta, the site of a massacre in 1997. According to accusations, paramilitaries forced locals to abandon their farms in July 2012, which later were turned into palm plantation by the Poligrow.<sup>181</sup> In July 2016, the company's activity was suspended by the local environment authority, COMACARENA, and in April 2017, a forcibly displaced family was able to return to their land.<sup>182</sup> There have been further dubious cases, for instance, in March 2018, some 1,626 kilos of cocaine, supposedly produced by the criminal organization *Clan del Golfo*, was discovered in banana boxes of the Banasan S.A.S. in the port of Santa Marta, destined to Belgium.<sup>183</sup>

Besides the dimension of crimes and simply the fact of engaging in illegal activities, another serious problem has been that these groups use violence not only against each other and state forces, but are responsible for mass displacement of the civil population and the targeted assassination of local social leaders or human rights defenders.<sup>184</sup> With the disappearance of the big drug cartels, demobilized paramilitaries started to cooperate even with FARC guerrillas in drug trafficking.<sup>185</sup>

As their activities became more coordinated again, their influence and power got stronger, and the quantity of produced drugs rocketed, the state decided to step up against them in a more powerful way. In order to achieve this, a directive of the Minister of National

<sup>178</sup> *Financiación de bananeras a paramilitares en Urabá es delito de lesa humanidad: Fiscalía* (2 February 2017) <http://www.elcolombiano.com/colombia/paz-y-derechos-humanos/fiscalia-declara-lesa-humanidad-patrocinio-de-bananeras-a-paramilitares-en-uraba-CC5859217> (Retrieved 21 April 2017)

<sup>179</sup> *Odebrecht pagó a paramilitares, secuestradores y guerrilleros dentro y fuera de Brasil* (17 April 2017) <https://es.panampost.com/karina-martin/2017/04/17/odebrecht-pago-guerrilleros/> (Retrieved 21 April 2017)

<sup>180</sup> *El gerente de la campaña de Santos reconoce que Odebrecht les financió en 2010* (14 March 2017) [http://internacional.elpais.com/internacional/2017/03/14/colombia/1489508099\\_410795.html](http://internacional.elpais.com/internacional/2017/03/14/colombia/1489508099_410795.html) (Retrieved 21 April 2017)

<sup>181</sup> A short documentary is available at [https://www.youtube.com/watch?v=6q2RU\\_8RRtc](https://www.youtube.com/watch?v=6q2RU_8RRtc)

<sup>182</sup> *Familia Aljure regresa a sus tierras en Mapiripán Meta* (3 April 2017) <http://www.contagioradio.com/aljures-mapiripan-meta-retorno-articulo-38760/> (Retrieved 21 April 2017)

<sup>183</sup> *Incautan más de mil kilos de cocaína en puerto de Santa Marta* (9 March 2018) <http://seguimiento.co/la-samaria/incautan-mas-de-mil-kilos-de-cocaína-en-puerto-de-santa-marta-12555> (Retrieved 2 April 2018)

<sup>184</sup> See details in *Grave aumento de asesinatos de quienes defienden los derechos humanos en Colombia*, Bogotá: Peace Brigades International – Oficina Internacional de Derechos Humanos-Acción Colombia, 2017

<sup>185</sup> Declaration of César Augusto Pinzón, the director of the Anti-Narcotics Department of the National Police. *La transición del narcotráfico, de carteles a bacrim* (29 March 2011) [http://www.elmundo.com/portal/noticias/nacional/la\\_transicion\\_del\\_narcotrafico\\_de\\_carteles\\_a\\_bacrim.php#.WolQTqjiZnI](http://www.elmundo.com/portal/noticias/nacional/la_transicion_del_narcotrafico_de_carteles_a_bacrim.php#.WolQTqjiZnI) (Retrieved 21 April 2017)

Defence in 2016 permitted the use of all available forces to combat and destroy their structures.<sup>186</sup> A further important sign of the empowered state becoming a reality was the decision of applying the same approach to FARC dissidents, i.e. declaring them GAOs in October 2017.<sup>187</sup>

Nevertheless, GAO presence is still significant in regions like Antioquia, Chocó, Cauca, Valle de Cauca, Nariño or Norte de Santander, in 105 municipalities altogether, not only in remote areas, but also in regional capitals and Bogotá.<sup>188</sup> Their existence continues to be a challenge to the state. Although their number is estimated around 6,000 (some 3,200 armed and 2,500 unarmed),<sup>189</sup> a recent description from San José de Apartadó, Antioquia, shows that there are places from where GAO/paramilitary groups are able to control the surrounding area, and where they can still maintain parallel structures without state interference.<sup>190</sup>

## II. 7. Unreliable state institutions

The incapability of state institutions has been mentioned several times so far: lacking implementation of legislation on land and property, favouring members of the elite, using or tolerating the use of force against civilians, failing to provide legal protection to the citizens, collaboration with actors of organized crime, etc. We have seen that the Bogotazo and La Violencia further eroded the level of popular trust in state institutions. This feature remained greatly unchanged in the following decades, especially after the appearance of the drug money, when state institutions and the political leadership became more and more corrupted by criminal groups.

Corruption is a serious problem for the whole LAC region,<sup>191</sup> and it represents a particular vulnerability for the Colombian peace process. According to the Transparency International's ranking, in 2017 Colombia was on the 96<sup>th</sup> place in terms of corruption,

<sup>186</sup> Declaration of National Defence Minister Luis Carlos Villegas. *A partir de hoy las fuerzas militares podrán bombardear y combatir a las bandas criminales* (5 May 2016) <http://www.webinfomil.com/2016/05/a-partir-de-hoy-las-fuerzas-militares.html> (Retrieved 21 April 2017)

<sup>187</sup> According to estimations, there are around 500 to 800 dissidents of the FARC in 14 departments of Colombia, most of them in Meta, Cauca, Caquetá, Guaviare, Tumaco and Amazonas. *Ejército podrá bombardear las disidencias de las Farc* (31 October, 2017) <http://www.vanguardia.com/colombia/414390-ejercito-podra-bombardear-las-disidencias-de-las-farc> (Retrieved 2 April 2018)

<sup>188</sup> *Mapas y factores 2018*, 158.

<sup>189</sup> *El mapa de las amenazas para la seguridad en el posconflicto* (28 May 2017) <http://www.eltiempo.com/justicia/conflicto-y-narcotrafico/amenazas-para-la-seguridad-de-colombia-en-el-posconflicto-93000> (Retrieved 10 April 2018)

<sup>190</sup> *Así es el control paramilitar en San José de Apartadó* (18 April 2017) <http://www.contagioradio.com/paramilitares-controlan-veredas-de-san-jose-de-apartado-articulo-39316/> (retrieved 21 April 2017)

<sup>191</sup> *Corrupción en ascenso en América Latina y el Caribe* (9 October 2017) [https://www.transparency.org/news/feature/corruptcion\\_en\\_ascenso\\_en\\_america\\_latina\\_y\\_el\\_caribe](https://www.transparency.org/news/feature/corruptcion_en_ascenso_en_america_latina_y_el_caribe) (Retrieved 10 April 2018)

slipping six-positions since 2016.<sup>192</sup> Corruption is largely financed by illegal activities. However, some of its forms has already been mentioned, mining needs to be highlighted at this point. According to a 2014 report, some 83 percent of the existing mines in Colombia lacked proper permission, and were operated by 44 different criminal networks. 80 percent of the USD 2 billion a year gold business takes place illegally. In 2014, illegal mining provided around 50,000 people with job, and contributed to the livelihoods of at least 15,000 families.<sup>193</sup> Such a scale of illegal activity cannot be executed without the help, or at least ignorance, of the public administration, not only on local, but also on regional and national level.

A major event was the corruption scandal “*Proceso 8000*” in the mid-1990s. In June 1994, president-elect Ernesto Samper was accused of accepting campaign contribution from the Cali drug cartel. A month after he took office in August 1994, the chief of the US DEA Bogota office went public, and called Colombia on the national television a “narco-democracy” whose president accepted millions of dollars as campaign contributions from the Cali cartel.<sup>194</sup> Despite Samper not being forced to resign by the widespread popular protests, the US withdrew every political assistance to Samper’s government and revoked his visa effectively banning him from entering the US.

Corruption and impartiality went on during the decades of the guerrilla wars, yet, from the 1990s onwards, changes had to be made as a result of international attention. This led to the forced retirement of General Harold Bedoya, in 1996 and 1997 commander-in-chief of the armed forces, who was extremely hostile to human rights and had an important role in the dramatic increase of joint army-paramilitary operations. President Samper later justified his removal as being motivated by the respect for human rights.<sup>195</sup>

Nevertheless, this did not result in fundamental changes: the army continued to commit serious violations, with little apparent will to investigate or punish those responsible. At the root of many violations was the Colombian Army’s consistent and pervasive failure or unwillingness to distinguish civilians from combatants in accordance with the laws of war. Human rights were not matter of concern when, for the sake of “blowing the FARC’s financial lifeline”, i.e. its ability to move cocaine and narco-money in the Eastern Plains, the

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<sup>192</sup> *Corruption Perception Index 2016 and 2017*, [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](https://www.transparency.org/news/feature/corruption_perceptions_index_2016), [https://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2017](https://www.transparency.org/news/feature/corruption_perceptions_index_2017) (Retrieved 10 April 2018)

<sup>193</sup> *Organized Crime*, 10.

<sup>194</sup> *DEA Agent* (1994) Many of the affected families are active in the shadow economy as obtaining a mining licence is extremely bureaucratic in Colombia.

<sup>195</sup> *War Without*.

Army helped paramilitaries with intelligence, aerial transport and security to commit the Mapiripán massacre in July 1997.<sup>196</sup> As the Office of the UN High Commissioner for Human Rights noted in its 1998 report, the Colombian Army had publicly stated that 85 percent of the “subversives” they attack, were engaged in a “political war, not combat, and include[d] some non-governmental organizations, trade unions, and political parties.”<sup>197</sup>

Types of army violations varied according to region and unit. For instance, in eastern Colombia, where paramilitaries were weak in the 1990s, the army was directly implicated in the killings of non-combatants and prisoners taken *hors de combat*, torture, and death threats. In the rest of the country, where paramilitaries had a pronounced presence, the army usually “only” failed to move against them and tolerated their activities, including egregious violations of international humanitarian law. They also provided some paramilitary groups with intelligence and logistical support to carry out operations; and coordinated with paramilitaries or went on joint manoeuvres with them. This “reluctance” was their approach in many case of massacres committed by paramilitaries, as well.<sup>198</sup> For instance, during the three-day-long massacre at Alto Naya, Cauca, in 2001, the Third Brigade of the Colombian Army stationing nearby, failed to provide defence to the local population.

In the mid-1990s, another purification process happened in the National Police too, to end the influence of the cartels and organized crime. As a result of that some 11,000 police officers were dismissed of the total 80,000. However, the influence of organized crime re-appeared later. To address that, a similar but smaller case of purging happened between 2014 and 2016, when out of the total 180,000 police officers some 5,000 were fired, many of them arrested and charged with links to organized crime, like protection of illegal mining, involvement into smuggling or other crimes.<sup>199</sup>

Cooperation between armed forces and organized crime has not disappeared though, as a case from October 2017 shows. Then in Tumaco, Nariño region, counter-narcotics police tried to impede the investigation of the killing of seven people during a coca eradication operation. The area has been notorious for having the biggest coca plantation in Colombia, around 10,000 hectares, and the town itself for being dominated by violence, exploitation and the neglect of the local ruling class since the 1980s.<sup>200</sup> The 2017 events led to the suspension and

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<sup>196</sup> *Declassified* (1999)

<sup>197</sup> War Without.

<sup>198</sup> Ibid.

<sup>199</sup> El reformador, *Semana* N.1775 8-15 May 2016, 28–30.

<sup>200</sup> La mala hora de Tumaco, *Semana* N.1773. 24-30 April 2016, 35.

the indictment of members of the counter-narcotics police.<sup>201</sup> Tumaco itself is the second most important Colombian Pacific port after Buenaventura. The importance of Pacific ports for criminal groups lies in the fact that, for instance, 82 percent of the cocaine leaving Colombia for the US goes through them.<sup>202</sup>

Another type of serious crime committed by the armed forces has been the *falsos positivos*, i.e. ‘false positives’. According to this practice, members of the military murder civilians and present them as guerrillas killed in battle to inflate their success rate and receive benefits. This behaviour has not always been spontaneous. A national scandal broke out in 2008, when it became known that 22 men had been recruited in Soacha, a suburb of Bogota, and transferred to the north of the country to be killed and presented as eliminated guerrillas.<sup>203</sup> The recruiter, claiming to have no knowledge about the purpose of the recruiting, acknowledged that the Colombian Army paid USD 500 for each recruited.<sup>204</sup> The then acting Minister of Defence, sitting President Santos, immediately fired 27 army officers, including three generals, and changed the military’s body counting system. Soon, also the commander of the army resigned. After the UN expressed its concerns in 2010 about the impunity of falsos positivos,<sup>205</sup> several trials took place to convict military personnel involved in such cases. For instance, in April 2017, 21 former military men were condemned to 37 to 52 years in prison for the Soacha case.<sup>206</sup>

Purification is ongoing and still reaching highest circles of the administration, besides army or police officers, and public servants. One of the latest major cases was the leaking of ex-president Alvaro Uribe’s discussion with Juan Guillermo Villegas in February 2018, investigated for paramilitarism, on manipulating witnesses in a case against a Colombian senator.<sup>207</sup> Not only paramilitarism has political links. In March 2018, the Attorney General

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<sup>201</sup> *Report of the Secretary-General on the United Nations Verification Mission in Colombia*. United Nations, Security Council, 27 December 2017, S/2017/1117., 22.

<sup>202</sup> *El informa de la DEA* (2017) The Western and Central Caribbean routes account for 11, and 7 percents, respectively. Ibid.

<sup>203</sup> *In Colombia, 6 sentenced in ‘false positives’ death scheme* (14 June 2012) <http://articles.latimes.com/2012/jun/14/world/la-fg-colombia-false-positives-20120614> (Retrieved 10 April 2018)

<sup>204</sup> *Colombian soldiers paid \$500 for victims to boost kill counts: Testimony* (December 5, 2011) <https://colombiareports.com/false-positives-recruiter-received-500-per-victim> (Retrieved 10 April 2018)

<sup>205</sup> *La ONU denuncia la impunidad del 98% de los casos de ejecuciones extrajudiciales en Colombia* (28 May 2010) <http://www.notimerica.com/sociedad/noticia-onu-denuncia-impunidad-98-casos-ejecuciones-extrajudiciales-colombia-20100527225308.html> (Retrieved 10 April 2018)

<sup>206</sup> *21 militares fueron condenados por “falsos positivos” de Soacha* (4 April 2017) <http://www.vanguardia.com/colombia/393923-21-militares-fueron-condenados-por-falsos-positivos-de-soacha> (Retrieved 10 April 2018)

<sup>207</sup> *“Esos hijueputas escuchan todo”: Juan Villegas hablando con Álvaro Uribe* (23 February 2018) <https://www.elespectador.com/noticias/judicial/esos-hijueputas-escuchan-todo-juan-villegas-hablando-con-alvaro-uribe-articulo-740858> (Retrieved 10 April 2018), *Las interceptaciones de la Corte que llevaron a*



indicted two Members of the Parliament with cooperation with the ELN. One of the accused members was the representative of the indigenous communities of Colombia, while the other a former local politician from Norte de Santander, a major fief of the ELN.<sup>208</sup>

As another example for the weakness of the state and the corruption shall be mentioned the existence of a *casa de pique* (chopping house) within the penitentiary La Modelo, in Bogota, ‘run’ by paramilitaries. Such infamous houses have been used to torture, kill and dismember people, mainly members of rival armed groups or locals. Their existence can be traced back to the fear of the murderers of being killed by the victims’ families or members of rival groups, according to the principle of an eye for an eye.<sup>209</sup> According to presumptions, similar ‘facilities’ existed in many places, also within other penitentiaries, under the control of the FARC, ELN, AUC or other groups.<sup>210</sup> Stories attached to those became public mostly after the adoption of the Law Justice and Peace in 2006. There are rumours and evidences that *casas de pique* still exist in Colombia, for example, traces of one were discovered when dismantling the *Bronx* in Bogota, May 2016, some 800 meters from the Presidential Palace.<sup>211</sup>

The dismantling of the *Bronx* is also a sign of the strengthening state. The area, historically a market place, became one of the most dangerous neighbourhoods of the capital with extremely high criminality in the early 1990s. Its liquidation took place in steps. In the late 1990s, some areas were demolished and a park (Parque Tercer Milenio) was created there. Lastly, on May 28, 2016, more than 2,500 armed police and military personnel encircled the area and systematically emptied it, identifying everyone inside. Among the 1,600 “inhabitants” there were 35 missing people—many of whom went missing between 2004 and 2009—more than one hundred minors, weapons, some 120,000 doses of drug, and cash.<sup>212</sup>

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investigar al senador Álvaro Uribe Vélez (16 February 2018) <https://www.elespectador.com/noticias/judicial/las-interceptaciones-de-la-corte-suprema-al-senador-alvaro-uribe-articulo-739761> (Retrieved 10 April 2018)

<sup>208</sup> *Piden investigar a dos congresistas por presuntos nexos con el Eln* (16 March 2018) <http://www.eltiempo.com/justicia/investigacion/fiscalia-pide-investigar-a-dos-congresistas-por-nexos-con-el-eln-194894> (Retrieved 10 April 2018)

<sup>209</sup> *Confesiones de un asesino de las ‘casas de pique’ de Buenaventura* (14 September 2015) <https://www.kienyke.com/krimen/confesiones-de-un-asesino-de-las-casas-de-pique-de-buenaventura> (Retrieved 10 April 2018)

<sup>210</sup> *La ‘puerta blindada’ del horror en la cárcel La Modelo* (17 March 2016) <http://www.semana.com/nacion/articulo/nuevas-declaraciones-sobre-el-pique-en-la-modelo/465772> (Retrieved 10 April 2018)

<sup>211</sup> *En el Bronx había ‘casas de pique’: Fiscalía General* (3 June 2016) <http://www.elespectador.com/noticias/judicial/el-bronx-habia-casas-de-pique-fiscalia-general-articulo-635854> (Retrieved 10 April 2018) *Empiezan a demoler el Bronx: la primera en caer fue la casa de pique y tortura* (10 August 2016) <http://noticias.caracoltv.com/colombia/empiezan-demoler-el-bronx-la-primera-en-caer-fue-la-casa-de-pique-y-tortura> (Retrieved 10 April 2018)

<sup>212</sup> *Viaje al infierno*, *Semana* N. 1779. 5-12 June 2016, pp. 20–27.



The problem of missing persons has been important to the Colombian society. According to data from 2017, until that moment some 120,000 people went missing. Out of them, some 29,000 were found live, 6,000 dead, and 84,600 were still missing. Some 25,000 or 21 percent of these people went missing due to the armed conflict, while for 95,000 or 79 percent there was no information available.<sup>213</sup> In March 2018, some 8,969 bodies were in the process of identification exhumed from improvised and mass graves.<sup>214</sup>

Operating an impartial state administration is a challenge in a generally unequal country with a significant shadow economy and an ongoing conflict financed from illegal economic activities. Nevertheless, not only corruption erodes the administration, but also fear—from violence, threat, or offenses committed by guerrillas, armed forces, paramilitary or criminal gangs—plays a significant role in the malfunctioning of the institutions. Addressing these challenges is necessary for rebuilding public trust in state institutions and armed forces.

## II. 8. Previous peace attempts

In the past almost 40 years, there were four attempts to negotiate with the FARC on a peace agreement. The first three failed due to the demands of the FARC and the inflexibility of the sectors controlling the country's economic and political power.<sup>215</sup> The first attempt came after President Belisario Betancur had taken office in 1982. He not only called for political reforms to satisfy the Colombian population disillusioned with the inherently elitist, non-transparent political life of the country, but also permitted the direct election of mayors. The peace talks with the FARC eventually led to the *Uribe Accord* in 1984.<sup>216</sup> The accord, which recognized the 'objective causes' of the conflict such as social inequity and political exclusion, was a model of conflict resolution characterized by a broad agenda of social and political reforms.<sup>217</sup> Thus, the accord could have opened the way for the solution, but gradually President Betancur remained alone, as the country's economic elite, the military, the

<sup>213</sup> *La alarmante cifra de desaparecidos en Colombia* (30 August 2017) <http://www.eltiempo.com/justicia/investigacion/cifras-a-2017-de-desaparecidos-en-colombia-125248> (Retrieved 10 April 2018)

<sup>214</sup> *Identificar a desaparecidos en Colombia podría tardar 140 años* (9 March 2018) <https://www.telesur.tv/news/colombia-identificacion-desaparicion-forzada-conflicto-20180309-0029.html> (Retrieved 10 April 2018)

<sup>215</sup> Camilo González Posso, Negotiations with the FARC. In: Mauricio García-Durán (ed.), *Accord: Alternatives to War – Colombia's Peace Processes*, London: Conciliation Resources–Centro de Investigación y Educación Popular (CINEP), 2004, 46

<sup>216</sup> The talks, during which Colombia promised amnesty for political crimes, took place in the demilitarized municipality of La Uribe, Meta.

<sup>217</sup> Daniel García-Peña, In search of a new model for conflict resolution. In: Mauricio García-Durán (ed.), *Accord: Alternatives to War – Colombia's Peace Processes*, London: Conciliation Resources–Centro de Investigación y Educación Popular (CINEP), 2004, 64.

Congress, and even his own party were all unfavourable to the implementation.<sup>218</sup> A major outcome of this process was the creation of the political party Unión Patriótica (Patriotic Union – UP), made up of former FARC insurgents who abandoned the use of weapons.<sup>219</sup> However, in the next years, thousands of UP members became victims of violence and targeted assassinations carried out by paramilitaries.

The second attempt was in 1991 and 1992, in the context of the terminating Cold War and the peace processes in Guatemala and El Salvador. Back then, the FARC was not yet involved into drug trafficking, so there was a popular view of Colombia being a “limited democracy” which did not address some fundamental social disorders.<sup>220</sup> That time the Colombian government talked with the Simón Bolívar Guerrilla Coordination Body (CGSB), a body made up of the FARC, the ELN and the EPL in order to coordinate their positions. For the first time, negotiations took place abroad, in Caracas, Venezuela, later in Tlaxcala, Mexico. There were several factors impeding not only reaching an agreement, but even to agree on the terms of a ceasefire. However, at the turn of the 1980s and 1990s, the successful negotiations with other minor armed groups, like the 19 April Movement (M-19),<sup>221</sup> the Revolutionary Workers Party (PRT), the Popular Liberation Army (EPL) or the Quintín Lame Movement gave hope to conduct successful talks with the bigger players as well. However, radical changes could not be made, as President Gaviria’s administration decided to ally itself with the traditional sectors of the political elite in order to implement privatization and economic liberalization policy, instead of drafting the laws required by the Constitution of 1991.<sup>222</sup> Gradually, the circumstances turned to be unfavourable, the political parties were against a compromise, the kidnappings continued, and key figures were killed on both sides.<sup>223</sup>

The third attempt took place between 1999 and 2002, under the Pastrana administration. The process was characterized by a return to direct presidential diplomacy.<sup>224</sup> These talks

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<sup>218</sup> Posso, *Negotiations*, 47.

<sup>219</sup> Turel, *Colombia’s*. The UP will be discussed more in details later.

<sup>220</sup> McCarthy, *Problematizing*, 9.

<sup>221</sup> Peña categorized the talks between the Barco administration and the M-19 one with ‘limited agenda’ focussing on political guarantees allowing insurgents to disarm and transform themselves into legal democratic movements, comparing to the Betancur administration’s ‘broad agenda’ when talking to FARC. García-Peña, *In search*, 65.

<sup>222</sup> Vera Grabe, „Peace Processes 1990–1994.” In: Mauricio García-Durán (ed.), *Accord: Alternatives to War – Colombia’s Peace Processes*, London: Conciliation Resources–Centro de Investigación y Educación Popular (CINEP), 2004, 43.

<sup>223</sup> Former Liberal minister Argelino Durán Quintero and FARC diplomatic emissary Daniel García. Posso, *Negotiations*, 48.

<sup>224</sup> Attempts for negotiations floundered in 1997, during the Samper administration due to accusations that drug money had financed the president’s campaign. Posso, *Negotiations*, p. 48.

differed from the previous ones, because the focus of the state's approach was a clear will of building of a “*new Colombia through political, economic and social change (...) [.] a new state founded on social justice, conserving national unity*”.<sup>225</sup> The parties held negotiation in San Vicente del Caguán, Caquetá, in a demilitarized zone created to foster talks; while confrontation continued in the rest of the country. The talks involved the representatives of the civil society, and foreign observers and facilitators. President Pastrana skilfully used international concern to garner support for the talks.<sup>226</sup> Steps were made to build confidence between the state and the FARC, which were embodied by such acts as exchanging hostages with health problems, or the unilateral release of more than 200 soldiers and police officers by the FARC in 2001.

Despite signing the *San Francisco de la Sombra Accord* on 5 October 2001, which was the most advanced progress in twenty years, establishing a basis to redesign the political agenda in order to solve the conflict,<sup>227</sup> the talks collapsed. That was the consequence of several reasons. On one hand, the social revulsion against the existence of a vast demilitarized zone in the midst of an ongoing armed conflict, securing thus a safe haven for the FARC, eroded the support behind the government. On the other hand, the country's political and economic elite again was not supportive for changes. In addition, the military balance changed: this was the period of the expansion of paramilitary groups and the upgrade of the Army by the implementation of the Plan Colombia; and above all, gradually the whole process was sliding into the context of the US-led ‘war against terrorism’ after 9/11. In that picture the FARC was a terrorist organization and not a political force struggling for social development.<sup>228</sup> The final event breaking the negotiations was however, the FARC's hijacking of a plane with a senator on board.

With Plan Colombia in full effect and President Uribe in power, the perception of the conflict changed. By the time he came to power, the nature of the conflict had changed to some extent as the societal fragmentations of the countryside and the armed conflict reached the towns as a result of mass urbanization and internal displacement.<sup>229</sup> Uribe chose not to address these challenges in line with his approach towards paramilitaries. His approach was the ‘democratic security’, meaning the conflict was redefined as war against terrorism and on

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<sup>225</sup> Ibid., 49.

<sup>226</sup> García-Peña, *In search*, 65.

<sup>227</sup> Posso, *Negotiations*, 50.

<sup>228</sup> Posso, *Negotiations*, 49–51.

<sup>229</sup> McCarthy, *Problematising*, 10.

drugs, denying the existence of political violence.<sup>230</sup> In this perspective, the rural ‘poor’ were potential guerrillas and thus internal enemies, and their death was seen as a factor strengthening the nation and a fight against terrorism.<sup>231</sup>

Nevertheless, results were achieved: the conflict affected 561 municipalities in 2002, 361 in 2006, and 284 in 2009.<sup>232</sup> Therefore, the vast majority of the population supported Uribe’s policy on ‘fight against terrorism’; resulting in his re-election with a landslide in 2006.<sup>233</sup> Nevertheless, he also tried to negotiate with the FARC in 2007 with the mediation of Venezuelan President Hugo Chávez. Talks ended soon, and by military means, the FARC was pushed into retreat and weakened but not broken.

Despite the fact that the outgoing administration in 2010 described the Uribe years successful, the number of FARC fighters and attacks increased, as well as the number of paramilitaries. Violence had not decreased. There were 29 massacres in 2009, killing 147. In the same year, some 7,000 persons went missing, while more than 286,000 were forced to leave their homes. During the years of ‘democratic security’, neither social challenges were addressed: 45.4 percent of the population still lived from less than USD 2 a day; 64.3 percent of the rural population was poor, 29 percent extremely poor; and 13.5 million Colombians, almost a third of the population, had no access to the healthcare system.<sup>234</sup>

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<sup>230</sup> Lobo, Colombia, 356.

<sup>231</sup> Gregory J. Lobo, Colombia, from failing state to a second independence: The politics and the price, *International Journal of Cultural Studies* Vol. 16. No. 4. (2012), 359–363.

<sup>232</sup> *¡Basta ya!*, 189.

<sup>233</sup> Uribe won in all regions, except for La Guajira and Nariño. He got 62.3 percent of the votes.

<sup>234</sup> *De Uribe a Santos: El estado de la Nación* (8 August 2010) [https://www.razonpublica.com/index.php?option=com\\_content&view=article&id=1239:de-uribe-a-santos-el-estado-de-la-nacion&catid=19:politica-y-gobierno-&Itemid=27](https://www.razonpublica.com/index.php?option=com_content&view=article&id=1239:de-uribe-a-santos-el-estado-de-la-nacion&catid=19:politica-y-gobierno-&Itemid=27) (Retrieved 12 April 2018)

### III. 1. The current peace process

Incumbent President Juan Manuel Santos elected first in 2010 with the promise of the continuation of the *uribismo*,<sup>235</sup> after some hesitation<sup>236</sup> pledged himself irreversibly to solve the conflict describing that as a social one, allowing thus the guerrillas some degree of legitimacy as political actors. Many criticized the president's approach to end the conflict through negotiations claiming that the state was already winning the war;<sup>237</sup> yet, Santos thought the state had unfulfilled responsibilities towards citizens. He might have some kind of family heritage in this regard, as the government of his great-uncle, Eduardo Santos paid a special attention to rural areas in terms of enhancing the living conditions between 1938 and 1942.<sup>238</sup> Santos also had in mind challenging illegal drug production and stopping insurgency when appealing to negotiations.<sup>239</sup>

An important development in the preparation of the current peace process was the adoption of the Victims and Land Restitution Law (Law 1448 of 2011). This piece of legislation aimed registering all the victims of the armed conflict—both the victims of state institutions and armed forces—according to 13 possible reasons. The law includes more categories of victims, alongside the IDPs, recognized by the Law 387 of 1997, and has a wider timeframe by going back to as far as 1985. In early 2017, President Santos stated that till that moment, around 100,000 land restitution demands had arrived, out of which 42,000 had been resolved, restituting the rights of around 27,000 persons or households on approximately 196,000 hectares.<sup>240</sup>

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<sup>235</sup> The hardline policy of President Uribe towards guerrillas.

<sup>236</sup> In 2010, he initiated a law intending to shield the armed forces personnel from any non-military instances of justice. That piece of legislation had to be withdrawn due to widespread opposition. Lobo, Colombia, 362.

<sup>237</sup> Colombian military operations, assisted by a robust USD 8 billion aid package provided by the United States, decimated the senior ranks of the FARC and atomized its hierarchy. The Colombian security forces gained legitimacy by adopting population centric counterinsurgency tactics that reduced human rights violations. Many paramilitaries laid down their arms. The FARC use of kidnapping, massacres, and drug revenues reduced their political legitimacy from what they enjoyed in the 1980s and 1990s. Peterson, *Conflict*, 3–4.

<sup>238</sup> Ramon, *História*, 373.

<sup>239</sup> Turel, Colombia's

<sup>240</sup> Declaración del Presidente Juan Manuel Santos luego de reuniones del Comité Ejecutivo de la Ley de Víctimas y el Consejo Superior de Restitución de Tierras (3 February 2017) <http://es.presidencia.gov.co/discursos/170203-Declaracion-del-Presidente-Juan-Manuel-Santos-luego-de-reuniones-del-Comite-Ejecutivo-de-la-Ley-de-Victimas-y-el-Consejo-Superior-de-Restitucion-de-Tierras> (Retrieved 12 April 2018)

Official peace negotiations with the FARC started in September 2012, when President Santos publicly announced his firm belief of having a real opportunity to finish the conflict.<sup>241</sup> Learning from the previous mistakes that time

— there was no truce, since the population and the political opposition was against easing the pressure on guerrillas,

— the number of those participating the negotiations were strictly limited to the members of the negotiation committees,

— a legal framework was created for anticipating the possible legal problems during the implementation, and

— victims from all sides were officially recognized, even those harmed by state forces, through the Law on Victims and Land Restitution.

As a major principle, it was settled that nothing is agreed until everything is agreed.<sup>242</sup> According to sources, trust between the sides was intentionally built on personal relations.<sup>243</sup> The talks were assisted by Norway and Cuba, where the first and the second phase of the negotiations took place. The government and the FARC also named Chile and Venezuela as facilitators. The talks were divided into three phases: the exploratory phase, the questions about ending of the conflict and the requirements of peace-building. During the first phase in Norway, the priorities of the talks were agreed leading to the signing of a General Agreement on 26 August 2012.<sup>244</sup> This included five issues providing a framework for the proper talks on the peace terms: 1. comprehensive agrarian development policy, 2. political participation, 3. ending of the conflict, 4. solving the problem of the illicit drugs, and 5. victims.

The second phase, the talks in Havana took place in Cuban governmental installations, where the Colombian government and FARC delegations were completely separated and met only at the table. The agreement on ending the conflict was signed by President Santos and

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<sup>241</sup> *Gobierno se prepara para segunda fase del proceso, que será en Noruega* (4 September 2012) <http://www.eltiempo.com/archivo/documento/CMS-12194472> (retrieved 11 April 2018)

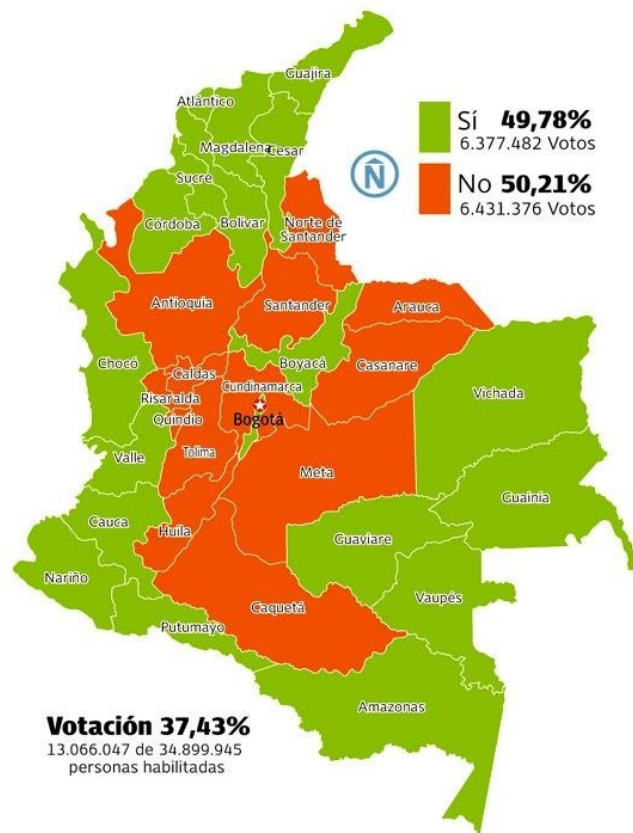
<sup>242</sup> Erika Rodríguez Pinzón, *Los diálogos de paz en Colombia, avances y prospectiva* (21 March 2014) [http://www.realinstitutoelcano.org/wps/portal/web/rielcano\\_es/contenido?WCM\\_GLOBAL\\_CONTEXT=/elcano/elcano\\_es/zonas\\_es/america+latina/ari18-2014-rodriguezpinzon-+dialogos-paz-colombia-avances-prospectiva](http://www.realinstitutoelcano.org/wps/portal/web/rielcano_es/contenido?WCM_GLOBAL_CONTEXT=/elcano/elcano_es/zonas_es/america+latina/ari18-2014-rodriguezpinzon-+dialogos-paz-colombia-avances-prospectiva) (Retrieved 11 April 2018)

<sup>243</sup> President Santos involved Frank Pearl into his negotiation team, who participated in the talks under President Uribe, as well as his own elder brother, a close observer of the peace talks of the 1980s and 1990s, journalist Enrique Santos Calderón, as a sign of his personal devotion. On the other hand, besides the main leaders, Andrés París, the ideologist of the FARC, and Rodrigo Granda, who had been involved also in the talks during the reign of Uribe, participated as a sign of devotion and trust. *Secretos de la negociación – Cómo fueron los acercamientos confidenciales del gobierno y las Farc en Cuba* (9 January 2012) <http://www.semana.com/nacion/articulo/secretos-negociacion/263986-3> (Retrieved 11 April 2018)

<sup>244</sup> After signing this document, expressed President Santos his firm belief of having a real opportunity to end the conflict.

FARC leader Rodrigo Londoño, alias “Timochenko”, in Havana, Cuba on 23 June 2016. The (first) Peace Agreement was signed on 26 September 2016.

However, the Colombian population surprisingly rejected the text with a slight majority on 2 October. Holding a referendum was not compulsory, yet President Santos intended to legitimize the agreement by a popular vote. According to the new rules on a referendum, in order to secure a binding result, the support of 13 percent of the electorate—some 4.4 million voters—would have been enough, had the ‘yes’ won. The main point of contention of the Peace Agreement was transitional justice, which excluded extradition and jail sentences, and restricted the freedom of the authors of war crimes or crimes against humanity for a limited period



Map 6. Support for the Peace Agreement (Source: <https://www.quora.com/Colombia-just-voted-no-on-its-plebiscite-for-peace-What-do-you-think-about-that>)

of up to eight years if they pleaded guilty, and proposed community service as reparation for less important crimes.<sup>245</sup> The failure of the popular vote was not caused only by the ‘no’ campaign, but was also due to the fierce believe of the ‘yes’ voters that the vote is simply a formality, who therefore remained absent in great number; and the tropical storm which hit the Caribbean coast on 2 October, preventing many from voting.

After the failure of the popular vote on the Peace Agreement, the renegotiated, final Agreement was signed in Bogota, on 24 November 2016. There were five main changes:

- the FARC had to declare all their assets and hand them over. The money would be used for reparation payments for the victims of the conflict,
- concerns by religious groups that the agreement undermined family values were addressed,
- a time limit of 10 years was set for the transitional justice system,

<sup>245</sup> On the context of the popular vote see *The Colombian people say no to the peace agreement – But hopes for a solution remain*, Brussels: European Parliamentary Research Service, October 2017



— FARC rebels became expected to provide exhaustive information about any drug trafficking they may have been involved in,

— the peace agreement did not form part of Colombia's constitution.

The peace agreement was not subjected to popular vote again, but was ratified by the Colombian Parliament on 29 and 30 November instead.

The peace agreement not only resulted in President Santos being awarded by the Nobel Peace Prize in December 2016, but also gave a push to peace negotiations with the second most numerous guerrilla group in Colombia, the ELN. Official talks started on 7 February 2017, in Quito, Ecuador, and had a six-point agenda: participation of the society in peacebuilding; democracy for peace; transformation for peace; victims; end of armed conflict; and implementation. Although the level of violence significantly decreased during the talks,<sup>246</sup> it did not disappear. The Colombian government, with reference to the atrocities committed by the ELN, finally in January 2018, suspended the negotiations with that guerrilla.<sup>247</sup>

### **III. 2. The implementation of the peace agreement**

According to the Art. 22 of the Constitution “*Peace is a right and a duty of which compliance is mandatory.*” The peace agreement is a great success for Colombia, as it gives hope for ending a conflict of more than fifty years, and an opportunity to address social backlogs. During the implementation plenty of difficulties and challenges need to be faced though, which have already been discussed at several point in the thesis. Yet Colombia is not alone in this struggle, as international actors, notably the UN, accompany the process. Within its resolution of 2366 (2017), the UN Security Council established a political mission in Colombia for an initial period of 12 months with the objective to verify the implementation of the Peace Agreement, with special regard on the process of the political, economic and social reincorporation of the FARC, and the implementation of personal and collective security guarantees. At the end of 2017, the Mission had a total of 248 civilian personnel and 170 international observers, deployed to 60 locations at the national, regional and local levels.<sup>248</sup>

In its first report on the application of the Peace Agreement, in December 2017, the UN Secretary-General (UN SG) concluded that the implementation of the peace-related agenda had progressed unevenly, sometimes as a result of fading political support. The document

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<sup>246</sup> *Durante el diálogo con el ELN, se ha reducido su violencia* (1 October 2017) <http://blog.cerac.org.co/durante-el-dialogo-con-el-eln-se-ha-reducido-su-violencia> (Retrieved 12 April 2018)

<sup>247</sup> The reason was an attack against three police stations on 27 and 28 January, killing seven officers and injuring dozens.

<sup>248</sup> *Report of the Secretary-General*, 70.



gives an impartial outsider, but at the same time overarching view of the implementation. In the UN SG's view, the missing legislation on political participation, rural development and facilitation of the surrender of criminal organizations create the most important deficiencies.<sup>249</sup> He notes that adopted laws are subject to review of the Constitutional Court, which includes not only the right of rejection but also modification which the Court has already used. For instance, in November 2017, the Court amended the law on creating the Comprehensive System for Truth, Justice, Reparation and Non-Repetition by identifying new conditions FARC members had to fulfil to retain their right to appear before the Special Jurisdiction, rather than the regular judicial system.

The peace agreement created a proper timeframe for the implementation. The members of the FARC were first concentrated in 23 transitory zones and eight smaller camps for a



Map 7. Transitory hamlet zones and camps (Source: <https://opinioncaribe.com/2016/12/08/gobierno-fijo-las-zonas-veredales-donde-las-farc-dejaran-las-armas/>)

maximum six months in order to facilitate the ending of hostilities, to guarantee disarmament, and to prepare FARC members to civil life. FARC members had to bring their weapons into these camps, where the UN made a registry of those. Guerrillas handed over their weapons in three steps. The zones of concentration were designated in areas with traditional FARC presence. The operation of the

camps is not always smooth though. According to the report of the UN SG, problems could be solved with greater cooperation between military, police and authorities in the training and reintegration territorial areas, especially in those near or within indigenous reserves.<sup>250</sup>

Implementing the peace agreement is a challenge hard to meet for Colombia even today: there are 85 municipalities without state program to implement the agreement after the FARC left the area.<sup>251</sup> The first state plan, Plan Victoria, covering 160 municipalities, was a comprehensive plan to address this challenge; however, in late 2017, Colombia revised the stabilization plan. The new Plan Horus focuses only to 67 municipalities, among which 13 were qualified as of high-priority given the long presence of FARC administration and the

<sup>249</sup> *Report of the Secretary-General*, 4., 8.

<sup>250</sup> *Ibid.* 12.

<sup>251</sup> *Mapas y factores 2018*, pp. 21–22.

inaccessibility for state institutions. Into these municipalities, soldiers need to be transferred to establish state presence, maintain security, and help the sapper units of the Army to build infrastructure.<sup>252</sup> Many of those areas, however, where the state did not enter, have become controlled by other armed groups, sometimes even at the request of the local population. In Chocó region for instance after the exit of the FARC, locals asked ELN to take control in order to uphold ‘justice’ and prevent natural disasters by regulating tree cutting.<sup>253</sup>

The implementation has not only a national level, but there are regional and local institutions designed for that. The strong local focus could potentially strengthen the people’s and the economic players’ confidence in state institutions, which might be crucial in peace making. These institutions have tremendous responsibility in securing and protecting property and rights among others.<sup>254</sup> This is why the rising number of killed Human Rights Defenders (HRD)—detailed in subchapter III. 2. 4.—is a clear sign of state weakness and a threat to the implementation of the peace agreement. Another important development has been the strengthening of the early warning system based on a large network of the Ombudsman’s Office staff at regional and municipal levels, which intends to alert state institutions about situations requiring a rapid response.<sup>255</sup>

In the next subchapters, crucial questions related to the implementation of the peace agreement will be examined.

### III. 2. 1. Social transformation

The Colombian society has changed considerably since the start of the current conflict, i.e. the 1960s. One of the most important changes is the concentration of the population into urban centres. In 1937, only 31 percent of the Colombians lived in towns, which rose to 45 percent by 1960, and to 77 percent in 2015.<sup>256</sup> Urbanization provides a leverage to the government, as controlling cities is usually easier than vast rural areas.<sup>257</sup> However, supplying services has requirements both for urban and rural communities. The social gap between the urban areas and the countryside is outstanding in Colombia: the average income is three times

<sup>252</sup> 14.200 soldados serán incorporados al ‘Plan Horus’ (31 January 2018) [http://caracol.com.co/radio/2018/01/31/nacional/1517419354\\_967729.html](http://caracol.com.co/radio/2018/01/31/nacional/1517419354_967729.html) (Retrieved 12 April 2018)

<sup>253</sup> Deforestation is a serious problem in many parts of the country as it goes in an unregulated way and therefore easily could lead to natural disasters and loss of human lives. *Una tragedia ambiental en Colombia* (6 February 2017) [http://internacional.elpais.com/internacional/2017/02/06/colombia/1486384363\\_280683.html](http://internacional.elpais.com/internacional/2017/02/06/colombia/1486384363_280683.html) (Retrieved 12 April 2018)

<sup>254</sup> Nieto, *¿Qué?*, 91.

<sup>255</sup> *Report of the Secretary-General*, 27.

<sup>256</sup> *Población urbana (% del total)* (Banco Mundial) <https://datos.bancomundial.org/indicador/SP.URB.TOTL.IN.ZS> (Retrieved 12 April 2018)

<sup>257</sup> Mason, *Nation-Building*, 75–76.

bigger in the towns. The rural population has significantly worse access to human development and state services, but more chance to become victim of violence.<sup>258</sup> The necessity of an integrated territorial development was first stated in the concept of the National Rehabilitation Plan in 1984 and reiterated later in the National Consolidation Program in 2011. Both plans emphasized the need for coordinated sectorial policies on defined territories; however, the creation of dedicated local institutions has not yet occurred.<sup>259</sup>

The Constitution provides a solid base for involving local communities in shaping their own future; however, failures in providing security and rule of law could impede such activities in a state with a long history of violence, hence addressing these shortcomings would be essential. Providing security also means removing anti-personnel mines, given that Colombia has the second highest number of casualties. Between 1990 and 31 March 2017, 11,481 people became victims of mines, more than third of them civilians. 98 percent of the mines are in rural areas and around 50 percent in the most affected 25 municipalities.<sup>260</sup>

Another extremely important question is the social (re)integration of the Internally Displaced People (IDPs). As in the 1980s rural living conditions deteriorated due to economic grievances and lack of security, the vast majority of the IDPs left for the main regional capitals and intermediate towns. Colombia has some 7.4 million IDPs, around 13 percent of the population. The number is among the highest worldwide and is still growing.<sup>261</sup> The majority of the IDPs live in Valle de Cauca, Nariño, Antioquia, Cauca and Chocó regions; their concentration is extremely elevated also in suburbs of the major urban centres. Around 30 percent of the IDPs are Afro-Colombian, a much higher percentage than their share in the population.<sup>262</sup> This is due to their traditionally high concentration in periferic areas, where the state is unable to provide security. Their situation also worries the UN SG.<sup>263</sup>

The Constitution of 1991 had a major impact on the social integration of the IDPs. By devolving to sub-national territorial units administrative and financial powers, and the right

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<sup>258</sup> *La brecha entre la Colombia rural y urbana, explicada a través de 9 gráficos* (9 October 2016) <https://magnet.xataka.com/en-diez-minutos/la-brecha-entre-la-colombia-rural-y-urbana-explicada-a-traves-de-9-graficos> (Retrieved 12 April 2018)

<sup>259</sup> Posada, *La reforma*, 119.

<sup>260</sup> *La guerra escondida: Minas antipersonal y remanentes explosivos en Colombia* (4 May 2017) <http://www.centrodememoriahistorica.gov.co/informes/informes-2017/la-guerra-escondida> (Retrieved 12 April 2018)

<sup>261</sup> *Forced displacement growing in Colombia despite peace agreement* (10 March 2017) <http://www.unhcr.org/news/briefing/2017/3/58c26e114/forced-displacement-growing-colombia-despite-peace-agreement.html> (Retrieved 12 April 2018)

<sup>262</sup> *Colombia IDP Figures Analysis* <http://www.internal-displacement.org/americas/colombia/figures-analysis> (Retrieved 12 April 2018)

<sup>263</sup> *Report of the Secretary-General*, 64.

for planning and implementing development plans, it complemented the changes that started with the introduction of the popular election of the mayors in 1986. The Constitution also created a single framework for laws on national development in 1994 and on territorial order in 1998. Furthermore, the Law 387 of 1997 on internal forced displacement laid the foundations of the programmatic, institutional and budgetary frameworks for protection and assistance, helping IDPs finding coordinated programs for integration.<sup>264</sup> By these changes, the lawmaker aimed at tackling underdevelopment at the local level with local knowledge, local mechanisms of accountability and a hierarchy of supervision.<sup>265</sup> As a result, a remarkable level of community engagement became possible, providing basis for a new approach to the previously failed nation-building project. However, despite the fact that not only the Colombian administration, but also the United Nations High Commissioner for Refugees (UNHCR) tries to improve living conditions, unemployment and crime is still high in these neighbourhoods, while the infrastructure, as well as the health and education systems are poor.

The acknowledgement of the local institutions' role plays an important part in the implementation of the peace agreement too. By the end of 2017, the vast majority of the FARC members was accredited by the Office of the High Commissioner for Peace to participate in the peace process, while new pieces of legislation aiming at helping and fostering their integration by legal employment and reintegration contributions through the banking system were adopted.<sup>266</sup> A special National Reintegration Council (Consejo Nacional de Reincorporación – NRC), made up from two representatives both of the government and the FARC, was created late 2016. In addition, territorial reintegration councils were established at regional level to define regional reintegration plans with a community-based approach. Their focus is to reach longer-term goals. For this reason, they foster access to land, education, health care and employment. As a transitional measure, in early 2017, the government established healthcare facilities in each territorial area to provide services to nearby communities as well as to the territorial area.<sup>267</sup>

Similarly, the Agency for Reintegration and Normalization (Agencia para la Reincorporación y la Normalización – ARN), a former agency renamed and tasked with

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<sup>264</sup> *Challenges for Nation Building*, Bogotá: Conference of Bishops of Colombia–Consultaría para los Derechos Humanos y el Desplazamiento CODHES, 2006, 24., 97., 101.

<sup>265</sup> Luis Eslava, “Decentralization of Development and Nation-Building Today: Reconstructing Colombia from the Margins of Bogotá.” *The Law and Development Review* Vol. 2. Is. 1., 2009, pp. 282–318. The author analyses the example of Bogota, considered to be a success story, however, emphasizing its uniqueness in Colombia, owing to the circumstances. Ibid, 318-349.

<sup>266</sup> *Report of the Secretary-General*, 29–34.

<sup>267</sup> *Report of the Secretary-General*, 44.

detailed objectives in 2017,<sup>268</sup> has started to play a crucial role in reintegration. By the end of 2017, 91 officials of the Agency were deployed to all territorial areas, with a focus on coordinating actions of state institutions and on early reintegration activities, including issuing national identity cards, opening bank accounts and registering former combatants in the subsidized health and pension systems.<sup>269</sup> Their social activity responds to local needs, hence, they could provide cultural education,<sup>270</sup> agricultural formation,<sup>271</sup> or formal school certificates, among others.<sup>272</sup>

The National Vocational Training Service and the Ministry of Education have put a strong accent on the training of former FARC members to open the way to a proper social life.<sup>273</sup> In some regions, like Antioquia, Cauca or Nariño, working groups have been set up to follow up on the most urgent security issues in the region concerned. These groups usually include the representatives of the Office of the Governor, the Agency for Reintegration and Normalization, the National Protection Unit, the FARC, and the UN Mission.<sup>274</sup>

The Peace Agreement created the legal possibility of setting up cooperatives for helping and orientating former FARC members and any other person in need. The first was the one called Ecomun, registered in July 2017,<sup>275</sup> and followed by some 20 since then.<sup>276</sup> In many territorial areas, productive projects have been undertaken by a group of former combatants using their monthly stipends and one-time reintegration payments. These could be farm or large cultivation projects, livestock, poultry or fish farming activities, depending on the region. However, the collective reintegration approach selected by the FARC is more complex than the search for individual employment, the increasing number of projects shows that the approach is aligned with the skills and aspirations of many former FARC members.<sup>277</sup>

<sup>268</sup> The former Colombian Agency for Reintegration (Agencia Colombiana para la Reintegración de Personas y Grupos Alzados en Armas – ACR) was created in 2011 to strengthen the implementation of the Reintegration Policy. Historical Overview <http://www.reintegracion.gov.co/en/agency/Pages/historical.aspx>

<sup>269</sup> *Report of the Secretary-General*, 41.

<sup>270</sup> *ARN Bolívar propicia encuentros culturales para personas en reincorporación* (16 February 2018) <http://www.reintegracion.gov.co/es/sala-de-prensa/noticias/Paginas/2018/01/ARN-Bol%C3%ADvar-propicia-encuentros-culturales-para-personas-en-reincorporaci%C3%B3n.aspx> (Retrieved 12 April 2018)

<sup>271</sup> *Exintegrantes de las FARC del Meta y Guaviare se capacitan en formación agropecuaria* (16 February 2018) <http://www.reintegracion.gov.co/es/sala-de-prensa/noticias/Paginas/2018/01/Exintegrantes-de-las-FARC-del-Meta-y-Guaviare-se-capacitan-en-formaci%C3%B3n-agropecuaria.aspx> (Retrieved 12 April 2018)

<sup>272</sup> *Excombatientes de las FARC culminan ciclo de estudios académicos y formación para el trabajo* (15 February 2018) <http://www.reintegracion.gov.co/es/sala-de-prensa/noticias/Paginas/2018/01/Excombatientes-de-FARC-culminan-ciclo-de-estudios-acad%C3%A9micos.aspx> (Retrieved 12 April 2018)

<sup>273</sup> By the end of 2017, some 3,000 former combatants and 1,500 people from communities near the territorial areas had been provided elementary or secondary education. *Report of the Secretary-General*, 47.

<sup>274</sup> *Report of the Secretary-General*, 19.

<sup>275</sup> *Nació Ecomun, la cooperativa de las Farc* (4 July 2017) <http://www.elcolombiano.com/colombia/acuerdos-de-gobierno-y-farc/nacio-ecomun-la-cooperativa-de-las-farc-FK6840632> (Retrieved 12 April 2018)

<sup>276</sup> *Report of the Secretary-General*, 49.

<sup>277</sup> *Report of the Secretary-General*, 82.

Social transformation has been constant in Colombia, and the society has changed profoundly since the outbreak of the conflict. The Constitution of 1991, the legislation on social integration and their implementation opened the way for a more cohesive society; however, the depth of the conflict has impeded the proper unfolding so far. The Colombian state has taken many steps to foster integration; yet, there is still a long way to go. The context of the peace agreement poses a number of challenges, as well as opportunities at the same time. A crucial question is local participation which could lay the foundations of a more democratic Colombia, which refuses violence and is built on social values shared by all citizens.<sup>278</sup> As it has already been stressed, Colombia needs to implement a complex reform which is able to change the course of the violence. The following subchapters analyse some relevant aspects of this issue.

### **III. 2. 2. Comprehensive agrarian development policy**

Even according to official evaluations, there is no sustainable peace in Colombia without a comprehensive agrarian reform.<sup>279</sup> Of the 114 million hectares that make up Colombia's territory, 42 million (37 percent) are considered suitable for agriculture; of which 10 million are suitable for crops, 10 million for cattle, and the remaining 22 million for agro-forestry or pastoral use.<sup>280</sup> According to estimations, a third of the arable land is underutilized, in many cases those linked to tax evaders, drug dealers, paramilitary and guerrilla forces. These territories are almost evenly dispersed through the country; however, there is a special concentration on the Caribbean coast, the Orinoquía region (Eastern Plains), and in the delta of the river Atrato.<sup>281</sup>

The main problems of the Colombian agriculture are extreme land concentration, the insecure and uncertain nature of the property rights, the lack of proper state presence and low productivity due to underinvestment. On average, approximately 22 percent of all private rural land has no formal title, of which 89 percent are small plots of less than 20 hectares.<sup>282</sup> Concentration of land ownership is on the increase: the Atlas of Rural Property Distribution in Colombia shows how the Gini index worsened from 0.841 in 1960 to 0.885 in 2009. This figure puts Colombia on the 11<sup>th</sup> place worldwide among countries with the worst distribution of land, and the second worst in LAC after Paraguay. About 80 percent of land in Colombia is

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<sup>278</sup> Nieto, *¿Qué?*, 38–41, 143–144.

<sup>279</sup> Ibid. 99–100.

<sup>280</sup> *Divide and Purchase: How land ownership is being concentrated in Colombia*, Oxford: Oxfam Research Reports, 2013, 7.

<sup>281</sup> Posada, *La reforma*, 131.

<sup>282</sup> Muñoz-Mora, d'Anjou, *The role*, 268.

in the hands of 14 percent of landowners, out of which around 40 percent is controlled through some type of contract with multinational corporations, either for production of biofuels or for agriculture, forestry, and mining.<sup>283</sup> Furthermore, the wealthiest 1 percent of the landowners control 52.2 percent of the land.<sup>284</sup>

The reason of the great land concentration is partially historical: only small portion of the parcels, mainly those close to towns and main roads, were registered in the past, and the rest of the land was pronounced state lands (*tierras baldías*). Following a Supreme Court decision in 1922, *baldías* became considered as the property of the nation to be cultivated by settlers, but which could be extracted from the nation's possession through an explicit act of sale.<sup>285</sup> This provision opened the way for big landowners and entrepreneurs to expel settlers from their farms and houses, and gradually to push them further, enlarging thus the *frontera agraria*.<sup>286</sup> This is how the area of the cultivated land expanded: the highly fertile and productive Colombian soil has long been attracting landless peasants moving to the peripheries to avoid conflicts over land.

First, the Law 200 of 1936 intended to protect the interests of small farmers. However, mainly due to corruption, state institutions did not contribute to the application of the law or even assisted to the 'legal' expropriation of the farmers.<sup>287</sup> Land concentration further intensified with big landowners winning La Violencia, and using the opportunity to evict farmers. A decade later, after the elimination of the independent republics, the Law 1 of 1968 again intended to clarify possession and ordained the registration of the occupants of small parcels as owners. However, the law resulted in the mass expulsion of farmers, as landlords were afraid of losing the properties they owned namely. This was an extremely bitter experience for many Colombians after the Law 135 of 1961 promised an agrarian reform.<sup>288</sup> The law of 1961 created the Family Agriculture Unit (UAF) as „*the basic agriculture, livestock, aquaculture, and forestry business, whose expanse, according to agro-ecological conditions of the area and using appropriate technology, allows the family to remunerate its work and obtain surplus capital that contributes to the formation of its assets*”.<sup>289</sup> The UAF is

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<sup>283</sup> *Divide*, 7.

<sup>284</sup> *¡Basta ya!*, 178.

<sup>285</sup> Posada, *La reforma*, 29.

<sup>286</sup> The limit of cultivated lands which slowly reached to more remote forest and mountainous areas.

<sup>287</sup> Posada, *La reforma*, 30.

<sup>288</sup> The law was adopted after the report of a US Special Survey Team in March 1960, and intended to provide land to peasants and develop the country's agricultural sector. At the time of the adoption of the law, the Colombian Institute of Land Reform (INCORA) was set up to promote rural cooperatives and irrigation projects to improve land use, and a complex development plan was announced to build better roads, provide medical aid, and schools. Rempe, Guerrillas, 307.

<sup>289</sup> *Divide*, 9.

not the same for the whole country; it varies according to municipalities, depending on production potential and other factors. INCODER is the state body responsible for setting the size of the UAF, using a method that divides the country into relatively homogeneous zones in which productivity is considered equivalent.

The 1970s brought major changes to the Colombian countryside: the appearance of the concentrated agro-investments into exportable crops, like coffee, banana and sugar cane, and the ‘opening’ of the US market for drugs. This highly profitable production became intertwined with activities of guerrillas, paramilitaries and local politicians.<sup>290</sup> Not surprisingly, the conflict also strengthened land concentration as the use of paramilitary force, and the pretext of war against guerrillas and drugs provided ‘excellent opportunity’ to dislodge people.<sup>291</sup> The expulsion, named as *contrareforma agraria*, had many forms, from threatening with force or applying that, to under-price buying of the lands.<sup>292</sup>

The present thesis have highlighted that agrarian tensions were one of the most important roots of La Violencia, and that not being addressed in the late 1950s they continued to be a social issue. The FARC perceived the agrarian policy crucial at the very birth of the organization. In their manifesto on 20 July 1964, they called for “*an autonomous organization for indigenous communities which respects their faith, life, culture and internal organization*”.<sup>293</sup> At their 7<sup>th</sup> congress, held together with the Colombian Communist Party (CCP) in 1982, the FARC called for setting up Small-Farm Reserve Zones (Zonas de Reserva Campesina – ZRCs).

Creating ZRCs were a demand also at the peace talks in Havana, where FARC suggested that 9,000,000 hectares, almost 10 percent of the territory of the country should be designated as ZRC. The government rejected the idea stating that such a hyperextension would make the agriculture ungovernable and weaken the idea of an integrated rural development which aimed at taking into account the interests of all local players, and not only that of the small landowners.<sup>294</sup>

Land funds, however, could provide a safer environment for small farmers. Currently, there are different land funds in Colombia, like the Indigenous Territorial Entities created by the Law 70 of 1993; and the ZRCs, legally set up by the Law 160 of 1994. By August 2013,

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<sup>290</sup> Eslava, Decentralization, 299-301.

<sup>291</sup> 'La paz necesita redistribución de la propiedad' (s. a.) <https://kavilando.org/index.php/2013-10-13-19-52-10/territorio/1138-la-paz-necesita-redistribucion-de-la-propiedad> (Retrieved 12 April 2018)

<sup>292</sup> Posada, *La reforma*, 34.

<sup>293</sup> Ricardo Puentes Melo, *Zonas de Reserva Campesina: La siniestra realidad* (7 August 2013) <http://www.periodismosinfronteras.org/zonas-de-reserva-campesina-la-siniestra-realidad.html> (Retrieved 12 April 2018)

<sup>294</sup> Posada, *La reforma*, 93.



only six ZRCs had been created, but were not operational because they have been stigmatized by some as areas of guerrilla control.<sup>295</sup> A widespread fear has been that ZRCs could turn into independent republics, especially because some were created in territories formerly controlled by guerrillas.<sup>296</sup> In these territories, however, appropriate state presence could provide useful tool for reintegrating ex-guerrillas.<sup>297</sup>

The main difference between the two is in administrative autonomy and the right to previous consultations, enjoyed by the indigenous territorial entities, but not by the ZRCs. Land purchase is restricted, in ZRCs no one can have more than two UAF, and only small landowners are entitled to buy land. As business is restricted, the state has to play a strong financial role in terms of infrastructure and social institutions.<sup>298</sup> The law of 1994 also established a subsidy for farmers to facilitate the acquisition of land besides the allocation of land to the rural population. Another land fund was created by the Law 1448 of 2011 (Ley de Víctimas) to contain former state owned lands which became illegally alienated by landlords, their family members, colleagues, etc., and to provide available land for poor farmers previously ousted.<sup>299</sup>

Besides uncertain property rights and land concentration, the Colombian agriculture also suffers from other problems, even if important steps were taken in the last years. In 2016, the land register comprised more than 15.000.000 properties, 78 percent of which with a territory under 10 hectares. Since 2007, the modernization of the land register has been carried out with the use of GPS surveying techniques. By 2016, 100 percent of the territory of the country has been mapped at a scale of 1:500,000 and 1:100,000, 34 percent at 1:25,000 and 6 percent at 1:10,000.<sup>300</sup> Nevertheless, the lack of a complete and proper land register still impedes the protection of property rights, the functioning of the land market, the environmental management, as well as the protection of indigenous territories, state lands and environmental reserves.

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<sup>295</sup> *Divide*, 9.

<sup>296</sup> For instance, the El Pato ZRC—comprising more than 100,000 hectares and being militarily important due to the valley of the Pato river— was a refuge for guerrillas from other parts of the country in the early 1960s. After the Colombian Army attacked it on 25 March 1965, the territory became a “prohibited area” without public state office or health care institution or connection to the national electrical grid. Molano, *A lomo*, pp. 83-87.

<sup>297</sup> Juan David Velasco, *Las Zonas de Reserva Campesina: una alternativa para la reincorporación de ex combatientes* (29 July 2013) <http://blog.cerac.org.co/las-zonas-de-reserva-campesina-una-alternativa-para-la-reincorporacion-de-ex-combatientes> (Retrieved 12 April 2018)

<sup>298</sup> Posada, *La reforma*, 91.

<sup>299</sup> Posada, *La reforma*, 41-42.

<sup>300</sup> Posada, *La reforma*, 96-97. The latter is the most useful to register small properties.

Peripheral areas have less chance to be protected. Regarding to the indigenous territories, but not only, a serious problem is the collision of different intentions of different groups with the same land. In the Sinú Valley for instance, an extensive animal farming pushed farmers to territories used by fishermen before.<sup>301</sup> While many indigenous territories have been reduced to unproductive forest reserves, illegal logging is also a serious challenge. According to estimations, between 1990 and 2010 an average of 310,349 hectares was illegally deforested a year, in total 6,206,000 hectares, or 5.4 percent of Colombian surface.<sup>302</sup> Furthermore, some areas inhabited by Afro-Colombian communities have turned to be a hotbed for illegal mining, logging and trafficking controlled by paramilitaries or guerrillas.<sup>303</sup>

The problem also involves the killings of human rights or environment defenders, which has skyrocketed over the previous years, turning Colombia to the most dangerous country of the world in this regard. These incidents generally occur in areas of illegal economic activities. The most affected regions are the remote areas of Antioquia, Cauca, Chocó, Nariño and Valle de Cauca; and therefore often populated by indigenous people or Afro-Colombians. The Attorney General paid himself a visit to Chocó in December 2017, where he stressed the importance of fighting against criminal groups, which are responsible for the increase of the homicides in the region.<sup>304</sup> In addition, he clearly stated that the killings create a challenge for the Colombian institutions due to their systematic nature.<sup>305</sup>

Nevertheless, the problem of killing environment defenders is not only specific to Colombia, but affects the whole LAC region. The regional importance has clearly been shown by the signing of the First Environmental Agreement for Latin America and the Caribbean by 25 states in San José, Costa Rica on 4 March 2018. The main goal of the agreement is ensuring acces to information, decision-making and justice for environment defenders in order to build an environmental democracy.<sup>306</sup>

The Colombian government is expicately dedicated to the protection of the rights of the indigenous people and the Afro-Colombians to their lands and traditional lifestyle.<sup>307</sup> Nevertheless, issues arise time to time which put this dedication into question. In 2016, the

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<sup>301</sup> Posada, *La reforma*, 138.

<sup>302</sup> *Organized Crime*, 23. The document also presents case studies on gold laundering from Colombia on the pages 61–63.

<sup>303</sup> Posada, *La reforma*, 129.

<sup>304</sup> Statement of the Attorney General on 21 December 2017. <https://www.fiscalia.gov.co/colombia/fiscal-general-de-la-nacion/arrancan-investigaciones-de-la-unidad-de-desmantelamiento-de-organizaciones-criminales-de-la-fiscalia-general-de-la-nacion/>

<sup>305</sup> *Report of the Secretary-General*, 23.

<sup>306</sup> *El acuerdo histórico sobre la protección de los líderes ambientales* (5 March 2018) <http://www.france24.com/es/20180305-acuerdo-proteccion-lideres-ambientales> (Retrieved 12 April 2018)

<sup>307</sup> Posada, *La reforma*, 135.

Constitutional Court had to invalidate a series of administrative decrees creating “strategic mining areas”, due to the fact that the government failed to consult with indigenous and Afro-descendent communities living in the designated areas.<sup>308</sup>

Further significant steps have been made in the previous years. Between 2014 and mid-2017, over one million hectares were planted, while credit to agricultural smallholders doubled between 2011 and 2016.<sup>309</sup> By the end of 2017, the National Land Agency had identified 14 properties, covering a total of 630 hectares, within the territorial areas—designated for the social integration of the FARC members—while President Santos has expressed several times his commitment to ensure access to land for the FARC’s productive projects mentioned in the previous subchapter.<sup>310</sup>

Agriculture is again a complex issue. The lack of proper infrastructure—an impediment for reaching markets—land concentration and unregistered properties are only the tip of the iceberg. Resolving problems in the agriculture will be one of the main challenges of the peace making. It is obvious that any comprehensive agrarian reform shall take into account the different natural conditions in various parts of the country. Lands better connected to the markets with infrastructure shall be cultivated by farmers, while the more remote arable areas shall be developed by investors, either with rights of usufruct or as property.<sup>311</sup> For instance, in the *Altiplanura*, the regions of Arauca, Casanare, Meta and Vichada, private capital involved into intensive farming could be an alternative. Once implemented, the region could produce corn replacing a significant part of the two million tons which Colombia imports every year to feed livestock.<sup>312</sup> In general, strengthening the state again comes as a vital requirement to create peace and prosperity in the rural Colombia: there is no chance for a sustainable peace without infrastructure, legal certainty, administration and armed services cleaned from corruption.

### **III. 2. 3. Political participation**

Colombian politics was long dominated by the fight between Conservative and Liberals forces—similarly to many LAC countries. Both the end of the Thousand Days’ War in 1902 and La Violencia in 1958 resulted in a power sharing to end the bloodshed, spare the

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<sup>308</sup> Lisa Caripis, *Combatting corruption in mining approvals—Assessing the risks in 18 resource-rich countries*, Transparency International and Transparency International Australia, 2017, 77.

<sup>309</sup> *Will Peace Talks* (2017)

<sup>310</sup> *Report of the Secretary-General*, 55.

<sup>311</sup> Posada, *La reforma*, 142.

<sup>312</sup> Posada, *La reforma*, 84.

country's resources and provide a better environment for development. These deals, however, excluded everyone not belonging to those forces. The exclusion hit the farmers *en bloc*, as in lack of political representation, they were not considered members of the polity.<sup>313</sup>

Leftist ideas, aiming social and economic equalization of the society, appeared in the beginning of the 20<sup>th</sup> century in Colombia. Such notions had no place in the world of political deals protecting the interests of the elite though. Nevertheless, those ideas fell on fertile soil as the population of vast poor rural regions, ethnic minorities and fugitives from landlords, alienated from and resentful of the government were receptive to the vision of a more just and equal society. Their frustration became visible also through violent forms, through peasant self-defence forces, which eventually led to the birth of FARC and other guerrilla forces.

Leftism focused on improving living conditions and promoting political participation in general, and in particular, on the land rights and workers' rights in the countryside and in the urban areas respectively. The Colombian Communist Party (CCP) was founded in 1930 and cooperated mostly with the Liberals. This was the result of the practice of Popular Front politics, advised by the Soviet Union to Communist parties before the World War II to enable them entering into governments in non-Communist countries. This approach changed with the emerging Cold War when the CCP congress of 1947 decided to return to the more dogmatic Marxism-Leninism.<sup>314</sup>

During La Violencia, in the 1950s, Communist insurgency was unacceptable: the state not only fought against Communist guerrillas, but also outlawed the CCP between 1953 and 1958. After the changes in the leftist movements on international level<sup>315</sup> and especially as a consequence of the Cuban Revolution, leftist movements multiplied in Colombia, ending the dominance of the CCP.

The Benidorm Pact signed in 1958 maintained the bipartisan system. This was prolonged by the amendment of the Constitution in 1978, according to which the President was obliged to offer an "adequate and equitable" representation to the largest party other than his own, growing the popular disenchantment with the "bipartisan machine-oriented clientelism".<sup>316</sup>

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<sup>313</sup> *La paz necesita* (2013)

<sup>314</sup> Pinilla, Sol Barón and Robayo, *Movimiento*, 4–5., 26–27., 34.

<sup>315</sup> By time, the oppression of the Hungarian Revolution of 1956 led to the emerge of a New Leftism in the Western World. At the end of the 1950s, a rupture happened between the Soviet and the Chinese Communist Parties, and in Cuba triumphed an autonomous revolution. To this shall be added the follow-up of the Second Vatican Council's decisions which led to the belief in some fragments of the Catholic Church in Latin America that Salvation is impossible under oppression and without social, political and economic liberation. Pinilla, Sol Barón and Robayo, *Movimiento*, 34–37.

<sup>316</sup> Turel, Colombia's

The two-party monopoly of power also fuelled the actions of guerrilla movements, who, in exchange, took advantage of the public apathy and resentment.

The 1980s were times of great changes in Colombian politics. On one hand, the political scene diversified. Since the beginning of the 1970s, leftist forces participated in the elections, which gradually led to a cooperation among the fragmented forces, even with the involvement of some of the armed ones, and to the creation of the Colombian National Indigenous Organization (Organización Nacional Indígena de Colombia – ONIC) in 1982. The ONIC intended to join the forces of various communities in their fight for rights. Moreover, the peace talks with the FARC in the 1980s led to the creation of the Patriotic Union (Unión Patriótica – UP), which represented the ideology of the FARC through political means.

On the other hand, the erosion of the political elite continued, and the state became increasingly weak. By the 1980s, the Conservative and Liberal parties were no longer ideologically different and became inherently elitist.<sup>317</sup> (However, it did not happen till 2002 that the winning presidential candidate, Álvaro Uribe, was not member of any of the two parties.) The drug cartels, influencing Colombian politics, committed targeted killings of the political adversaries and those not obeying their wills. The most notorious examples were the killing of Rodrigo Lara Bonilla (former minister of justice, who denounced Pablo Escobar's connection to drug cartels), the assassination of presidential candidate Luis Carlos Galán, and the Avianca bombing, the first in 1984 and the last two in 1989. The storming of the Supreme Court by the M-19 in 1985, which left half of the judges dead, showed again the weakness of the state. The rising violence and the decreasing legitimacy of the political regime eventually led to considerable changes: outgoing President Barco declared war on drugs and violence in 1989, while incoming President Gaviria in 1990 expressed his firm will to serve every Colombians, and to reform the political structure.

Remarkable developments were among others the participation of the M-19 as a political party in the elections of 1990, and the adoption of the new Constitution in 1991, which allowed political participation of all parties and restricted the powers of the president. Leftist formations and ideas slowly filtered into the parliament, demonstrating that a significant part of the society needs these voices.<sup>318</sup> Gustavo Petro, former M-19 member, was even elected as a mayor of Bogotá in 2012. Currently, he is running at the 2018 presidential elections creating the fear of a second Venezuela and the rise of a “castrochavismo” in many Colombians. Petro

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<sup>317</sup> Dugas, ‘Colombia’, 508.

<sup>318</sup> Pinilla, Sol Barón and Robayo, *Movimiento*, 88-91., 130.

denies these allegations though and emphasizes the need for a renewed social pact and a strengthened fight against poverty, drugs and violence.<sup>319</sup>

Nevertheless, there have been many opposing the entrance of leftist politicians, especially those with a guerrilla background, into politics. The 1990s saw the rise of paramilitarism, and an increased political violence targeting Leftist politicians, chiefly the members and supporters of the UP.<sup>320</sup> By 2004, the estimated number of UP affiliates killed by paramilitaries was over 3,000, which has been one of the greatest human rights tragedies in Latin America.<sup>321</sup> Furthermore, it was a clear proof of persisting violence in the country.<sup>322</sup>

As shown previously, the Colombian political landscape has changed considerably, and is not dominated by the Conservative and Liberal forces any more. While the two party got 74 percent of the votes combined at the parliamentary election in 1994, and 61.8 percent in 1998, they only gathered some 40.7 percent in 2002. For the first time in 2006, the Conservative Party came only in third place, because the newly formed party of President Álvaro Uribe, the Social National Unity Party (Partido de la U) became second, behind the Liberals. In 2010, for the first time, the two traditional parties came in only second and third, behind the Partido de la U, and their combined support decreased to 37.5 percent. In 2014, they combined share fell to 33.4 percent; and at the March 2018 parliamentary elections to 21.5 percent, which put them on the third and fourth places, behind the rightist *Democratic Centre* of Álvaro Uribe, and the Liberal *Radical Change Party*, a member of the governing coalition.

Leftism, however, is still not strong politically. At the 2018 parliamentary elections, only two parties belonging to this ideology managed to meet the threshold: Colombia's most successful leftist party, the *Alternative Democratic Pole* (PDA) and the *Lista de la Decendencia*, a coalition of leftist and indigenous forces, like the UP and the heir of the ONIC, the *Movimiento Alternativo Indígena y Social* (MAIS). The party of the FARC, registered by the National Electoral Council on 31 October 2017, got only 0.3 percent of the votes, but according to the peace agreement, was awarded with five seats in both the Senate and the House of Representatives. The next electoral contest will be the presidential election on 27 May 2018, for which the FARC officially started its campaign on 11 December 2017.

Despite the fact that leftism does not have a major popular support, it is clear that their voices are needed, and their right to express their political views must be protected. A lesson

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<sup>319</sup> ¿Puede un exguerrillero convertirse en el próximo presidente de Colombia? (28 March 2018) <http://newsweekspanol.com/2018/03/gustavo-petro-exguerrillero-presidente-colombia/#.WsAvVKp4TGE.facebook> (Retrieved 2 April 2018)

<sup>320</sup> Posso, Negotiations, 48.

<sup>321</sup> Dugas, 'Colombia', 509.

<sup>322</sup> Turel, *Colombia's*

to be learnt is that of the UP's which became victim of targeted attacks and lost thousands of its members during the 1980s and the 1990s. Unfortunately, there are clear signs that a similar course started after the peace agreement had been signed in November 2016, as more than 40 members of the FARC have been killed since then.<sup>323</sup> The most affected regions are again Nariño, Antioquia and Cauca. On February 9, 2018, the FARC leadership announced a temporal suspension of their political campaign due to violent acts against party members and called on the state institutions to show more commitment and secure their events.<sup>324</sup> Similarly, the UN has expressed concerns about the growing violence against former FARC members and their families, even if it considers the incidents separate ones without a nationwide pattern.<sup>325</sup>

### III. 2. 4. Justice

Reconciliation after a long period of conflict is always a test for both the society and the state. We have seen that many human rights violations were committed in Colombia by various actors during the decades of the conflict. Healing the wounds will be a long process in which both state and non-state actors have to do their best. Theoretically, transitional justice has to focus on four major goals in Colombia: (1) restoration and compensation, (2) punishment, (3) fight against impunity, and (4) guarantees for disarmed guerrillas and those pardoned.<sup>326</sup>

Transitional justice can be a tool for the new regime to distance itself from the old one, and to foster reconciliation within the society. Transitional justice therefore seeks the closure of a big scale human rights violation with the prosecution of the perpetrators and the aim of social reconciliation. Taking the definition of the UN, "*transitional justice comprises the full range of processes and mechanisms associated with a society's attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation. These may include both judicial and non-judicial mechanisms, with differing levels of international involvement (or none at all) and individual prosecutions,*

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<sup>323</sup> Also family members of FARC members have been targeted. *41st FARC member murdered since signing of peace agreement in November 2016* (9 February 2018) <http://www.justiceforcolombia.org/news/article/2907/41st-farc-member-murdered-since-signing-of-peace-agreement-in-november-2016> (Retrieved 20 February 2018)

<sup>324</sup> *FARC temporarily suspends electoral campaign after being targeted by incitement and violence* (February 9, 2018) <http://www.justiceforcolombia.org/news/article/2909/farc-temporarily-suspends-electoral-campaign-after-being-targeted-by-incitement> (Retrieved 20 February 2018)

<sup>325</sup> *Report of the Secretary-General*, 16.

<sup>326</sup> Nieto, *¿Qué?*, 30–31.

*reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof.*<sup>327</sup>

In recognition of the Colombian victims, a major step was the Law 1448 of 2011, the Victims and Land Restitution Law, which extended the circle of the recognized victims, also encompassing those who suffered harms due to state actions. Some violations committed by the Army or the police have already been presented in previous chapters to show the grievance of the society. The phenomenon of law enforcement stepping up against the perpetrators has been discussed too. The importance of justice lies in the fact that the prosecution of the perpetrators could indeed strengthen the trust of the citizens in the state and its institutions.<sup>328</sup> There are examples of transitional justice—mainly in Spain and Chile—frequently referred in Colombia. However, the case of Colombia is different, as there the regime did not fall, but there is a political and social renewal. Despite this difference, there are lessons to be learnt from those examples.

The political change in Spain was a radical, however, an according-to-plan executed transition, in which human rights violations were ‘forgotten’ in line with the Amnesty Law of 1977. This was possible because the vast majority of the violence was committed during or immediately after the Civil War of 1936-1939. Later, violence consisted of mostly political sentencing and torturing of government opponents and regional nationalists.<sup>329</sup> Nevertheless, after 2000, especially as a result of increased international attention, the situation changed, leading to the adoption of the *Historical Memory Law* in 2007. This law called the actions of the Franco regime “unjust”, but neither condemned them, nor established an account of what human rights violations had been committed. The law maintained a similar approach like the previous one, as it allowed the solicitation of reparation on an individual basis and a time-taking procedure which many considered unfair.<sup>330</sup> As the human rights violations are more recent—and still ongoing—in Colombia, the state obviously cannot achieve reconciliation with the ‘Spanish’ approach.

The Chilean transition was not as abrupt as the Spanish, giving thus a good example for Colombia. Nevertheless, there were free elections between 1990 and 1998, the former

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<sup>327</sup> Report of the Secretary-General, The rule of law and transitional justice in conflict and post-conflict societies, Document S/2004/616, 3 August 2004, par. 8. <http://www.un.org/es/comun/docs/index.asp?symbol=S/2004/616&referer=http://www.un.org/es/sc/documents/sgreports/2004.shtml&Lang=E> (Retrieved 20 February 2018)

<sup>328</sup> Nieto, *¿Qué?*, 25–27.

<sup>329</sup> Nadia Hajji, “Post-transitional Justice in Spain: Passing the Historic Memory Law.” *Columbia University Journal of Politics & Society*, Vol. 25., 2014, 84.

<sup>330</sup> About the question see Hajji, Post-transitional, 83–99.



authoritarian regime still had significant popular support, and there was hardly any serious attempt to implement transitional justice. The Self-Amnesty Law, adopted under the authoritarian regime in 1978 and kept in vigour after the changes, impeded any attempt to seek justice. Although, a so-called Retting Commission<sup>331</sup> was set up in 1990 to investigate disappearances or fatal political violence between 1973 and 1989, it was not allowed to name any perpetrators. Yet, with the time passing by, and with a judicial reform, a change came in the late-1990s: in January 1998, former dictator Pinochet was charged with illegally executing political prisoners, and the Supreme Court ordered the stock-taking of all existing human rights cases.<sup>332</sup>

History has shown that democracy building and transitional justice do not necessarily go hand-in-hand, and it is also obvious that a full justice or compensation cannot be achieved. I think therefore that transitional justice in Colombia needs to focus on reparation, security provisions and fostering democratic public involvement, as well as on the establishment of a stable legal framework behind all these. In Colombia there has been no regime change and no rupture with the past is foreseen. However, some retribution against those who committed violence during the past decades can be expected, as it has happened with some so far.

Facing the past is an ongoing process for the FARC too, marked by a series of important moments. On 10 September 2015 for instance, former FARC leaders, as well as militants who committed the act, met with and asked for forgiveness from the family members of those eleven representatives from Valle, who were kidnapped in 2002 and killed five years later. This event was followed by several others, all intending to heal the wounds, and to help the society to reconcile.<sup>333</sup>

The rejection of the first peace agreement was in great part motivated by the popular disaccord with the measure of impunity of the FARC. Following the renegotiation, the FARC became obliged to declare all their assets and hand them over; the money is intended to be used as reparation payments for the victims. Similarly, the FARC had to provide exhaustive information about any drug trafficking they might have been involved in. Furthermore, a 10-year time limit was set for the transitional justice system. These changes helped the popular acceptance of the agreement; however, the government did not try to submit the accord to a new popular vote, but voted about the agreement in the parliament instead.

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<sup>331</sup> Comisión Nacional de Verdad y Reconciliación – National Truth and Reconciliation Commission

<sup>332</sup> Cath Collins, “Human Rights Trials in Chile during and after the ‘Pinochet Years’.” *The International Journal of Transitional Justice*, 2009, 18.

<sup>333</sup> La increíble fuerza del perdón, *Semana* N. 1794, 18-25 September 2016, 28–32.

When talking about justice, the situation of human rights defenders (HRDs) must be mentioned again. Similarly to environment defenders, they have become targets of purposeful killings committed by various armed groups. Colombia is leading in murders committed against HDRs—almost half of the global killings occur in Colombia—and the number of those killed is on the rise. In 2017, most defenders killed were local leaders engaged in social or communal work and died at the hands of neoparamilitaries or ‘unidentified’ armed actors, presumably GAOs.<sup>334</sup> Without the protection of HDRs and environment defenders, reconciliation cannot be achieved, and state presence cannot be considered appropriate. Lately, the Freedom House (FH) had raised this issue in its letter addressed to US Vice President Mike Pence before he attended the Summit of the Americas in Lima, Peru in April 2018. The FH rightly highlighted that this issue poses a grave risk to Colombia’s progress towards peace and stability, and threatens the US counter-narcotics efforts and democracy.<sup>335</sup>

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<sup>334</sup> The number of killed HRDs were 45, 59, 127, and 126 in 2014, 2015, 2016, and 2017, respectively. *More than 100 human rights activists killed in Colombia in 2017, UN says* (December 21, 2017) <https://www.theguardian.com/world/2017/dec/20/more-than-100-human-rights-activists-killed-in-colombia-in-2017-un-says> (Retrieved 20 February 2018)

<sup>335</sup> *Columbia: Letter to Vice President Pence on Assassinations of Community Leaders* (13 April 2018) <https://freedomhouse.org/article/columbia-letter-vice-president-pence-assassinations-community-leaders>

#### **IV. Conclusion**

Decades-long internal conflicts always have a number of deep-rooted causes; and this is not different in the Colombian case either. The thesis intended to give a full picture about these reasons, from geographical characteristics and the Spanish colonial heritage to the transformation of agriculture and illegal mining, stressing that illegal economic activities have not only become important sources in financing the conflict, but also were the reasons for its escalation. The main problems however, are of social nature and related to the malfunctioning of the state. The unhealthy social structure, based on *de facto* unequal access to political and economic rights; partial institutions and armed forces favoring the wealthy elite and oppressing or even harassing the impoverished; uncertain rights and properties without a reliable law enforcement system; the lack of political dialogue and tradition of compromise are all essential in understanding why Colombia has been torn by internal wars for almost two centuries. All of these problems have their roots in the Spanish colonization, but following its end in 1810, the responsibility of the ruling Colombian elite is clear in maintaining, and even deepening the conflicts.

During the previous decades, there have been many attempts to settle the conflict. Consecutive peace negotiations since the 1980s managed to reach the exit of some participants. However, their social integration was not always a success story. On one hand, the example of the Patriotic Union party was especially warning, as their members became systematically targeted by paramilitaries and could not rely on efficient state protection. Unfortunately, this is happening again with demobilized FARC members, on a smaller scale though. On the other hand, as the state was unable to control its territory and illegal economic activities were highly profitable, many former guerrillas, without experience in or a vision of other lifestyles decided to remain involved in illicit activities. With a constantly growing US market for drugs, this choice proved to be dangerous but profitable in a country where many live in poverty.

A major step towards a better Colombia was the adoption of the new constitution in 1991. It created a solid base for a potentially integrative society, and set up the Constitutional Court, which has played a significant role in protecting law and order in the country since then. As a result of social and international pressure, there have been attempts to remove members of the

police and the army with presumable links to paramilitaries or guerrillas, and/or involved into illicit activities. As anticipated, these measures brought mixed results in an environment still heavily affected by corruption.

The Colombian conflict has a strong international feature too. This is not only the result of the country's strategic location and the US' interest in keeping non-American players outside of the Western hemisphere, but also of the highly rentable illegal economic activities as drug and arms trafficking or mining. The fertile Colombian soil and unclear ownership functioned like a magnet for international companies to enter Colombia, and at the same time the armed conflict as well. As in countless cases, the state was unable to provide security for investors, thus they started to finance guerrillas and paramilitaries to be protected. In addition, the massive cash influx led to a more sophisticated and less transparent conflict. Their money also corrupted state institutions, and sometimes even political leaders.

At the turn of the Millenium, the US initiated Plan Colombia changed the course of the conflict by seriously weakening the FARC. Nevertheless, a decade later, President Santos rightly decided not to rely on a military victory, but started negotiations in order to address the social challenges, i.e. the very base of the conflict. A military victory probably could have been achieved, but that would have resulted in serious casualties, and would have not ended either the reasons of the conflict, or the vicious circle of violence.

A negotiated peace has given hope to many for a new, more inclusive society. The commitment of the elite—which played a crucial role in impeding former peace attempts—is indispensable, as keys are implementation and sustainability. However, implementation remains a challenge, especially in the electoral year of 2018. The examples of the EPL and paramilitaries show that demobilization is not possible without solving the causes of the conflict: providing prospect and employment for the youth, raising the standards of living in the countryside and expanding state control over the whole territory of the country. As there is a clear way to declare not obeying factions of the FARC or other guerrillas GAOs, there must also be a permanent way offered to those willing to quit armed groups. That could result in the weakening of those groups, and gradually lead to the strengthening of the state. However, to achieve it, the social integration of the FARC members and the reconciliation process need to present success stories.

Consequently, there will be no success without the state making enough effort to enhance the rule of law, upgrande the infrastructure, protect human rights and properties, ensure the proper integration of IDPs, and create a feasible frame for the agriculture. These are the challenges of the ongoing peace process, and this is how problems can turn into a democratic

nation-building, in a better and more equal Colombia which can be “*un nuevo país para todos*”.

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