



The Captive State

Organized Crime and Human Rights in Latin America

Introduction

On February 19, 2007, three Salvadoran members of the Central American Parliament entered Guatemala accompanied by a Guatemalan security detail to attend a region-wide meeting. A few hours later, the parliamentarians and their driver were kidnapped. Their burned corpses were found on a ranch outside Guatemala City; they had been beaten and tortured, shot, and their bodies set on fire. In addition to the driver, Gerardo Napoleón Ramírez, the victims were José Ramón Gonzales, William Rissiety Pichinte, and Eduardo D'Aubuisson, the son of the founder of the Alliance of National Renovation (ARENA) political party and architect of death squads during the Salvadoran civil war, Roberto D'Aubuisson. The killings took place fifteen years to the day after the death of the elder D'Aubuisson.

Initial investigations revealed that the murders had been perpetrated by members of the Guatemalan police. The weapons used in the killings were registered to the Criminal Investigations Division (DINC), and investigations pointed to police officers, among them two deputy inspectors of the Criminal Investigations Division and the head of its anti-organized crime unit. The officers were allegedly members of a criminal network operating from within the national police. On February 22, four of the officers were arrested and sent to El Boquerón maximum security prison. Three days later, shortly before they were to be interrogated by members of the FBI who were aiding in the investigation, the officers had their throats slashed and were shot inside their cells.

The murders of the four Salvadorans and their chilling aftermath exposed, perhaps more graphically than ever before, the depth of infiltration by organized criminal networks into the Guatemalan state. The slayings laid bare the extent of corruption and impunity in a country that ended three decades of internal armed conflict yet still struggles to consolidate democracy. Numerous local and international analysts had warned



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Guatemalans about the continued existence of illegal armed groups and clandestine structures that developed originally to carry out political-military missions and over the years mutated into organized criminal enterprises. These killings seemed to corroborate those warnings. Left practically unchecked, clandestine groups have relied on political, military and intelligence connections and on corruption and violence to manipulate the system in order to shield their members from prosecution and protect their financial interests.

The problem, however, is not unique to Guatemala. Throughout Latin America, organized criminal networks exercise a significant degree of influence over the state. This report draws on the experiences of El Salvador, Guatemala, Colombia and Peru to examine the nature and impact of clandestine structures on human rights and the rule of law, and the need to combat them. It analyzes how these structures merge with organized criminal networks and, through their activities, aim to undermine the functioning of legitimate state institutions in order to avoid accountability for past and current crimes and guarantee their continued ability to operate freely. Finally, it offers recommendations for how to confront these groups more effectively.

Organized crime and its influence over the state: How it works

Organized criminal networks can exercise their influence through different kinds of relationships with the state apparatus.

Some criminal networks have managed, from the outside, to penetrate deeply into state institutions. Drug traffickers have done this in many countries in the region, as have kidnapping and extortion groups and other large criminal enterprises.

Other criminal networks actually have their origins in the state itself. This is the case in Guatemala, where, in a pattern common to post-conflict societies around the world, illegal armed bodies, paramilitary forces and clandestine security structures established

as part of counterinsurgency policies have undergone a transformation and evolved into organized criminal networks. Or they merge with outside organized criminal networks as a way of adapting to changing circumstances.

Colombia, where some demilitarized paramilitary groups are moving into organized crime, offers a variation on this pattern. The paramilitary forces were not direct creatures of the state, but grew out of small “self-defense groups” established by powerful land and business elites and death squads created by drug traffickers. Although the paramilitaries did not emerge from a state-sponsored counterinsurgency strategy, they were and are able to operate with the tolerance and, at times, cooperation of sectors of the state.

In other instances, the creators of these criminal networks are political figures in the upper echelons of corrupt governments. Taking advantage of their positions and influence, they are able to manipulate state institutions and, at times, achieve near-total control of the political system to guarantee their power, advance and protect their illegal activities and ensure their protection from the law.

Why this is a human rights issue

All these relationships between organized criminal groups and the state threaten the consolidation of democracy in Latin America. To avoid accountability for their crimes and continue with their illegal business practices, they must undermine law enforcement and judicial institutions. Through these illicit activities, which often involve bribery, corruption, intimidation and violence, they weaken the rule of law and erode respect for human rights. At the same time, the frequent use of violence creates fear among the population and erodes citizens’ trust in the system. Weakened by corruption and violence, the state is increasingly unable to provide public safety and uphold the rule of law, which in turn creates fertile ground for the further spread of corruption and organized crime.

Cover photo: After mounting a search for three Salvadoran parliamentarians reported missing on February 19, 2007, police quickly found the charred shell of their vehicle and the bodies of the officials, along with their driver, on a ranch outside Guatemala City.

Organized crime creates and thrives in an environment of corruption and impunity. In its worst cases, organized crime so infiltrates state structures, that government institutions cease to represent the state and instead represent the interests of criminal enterprises. In this environment, justice cannot be procured and the rights of citizens are violated on a massive scale.

Overcoming the penetration of organized criminal networks in the state apparatus is a difficult task. While often the issue of confronting the role of these structures and their infiltration of the state is treated as if it were primarily about stopping drug traffickers, that is only one part of the problem. The challenges posed by organized crime go well beyond the flow of illicit drugs. Given their profound and devastating impact on state institutions, these criminal structures must be brought under control. This is an issue of central importance to preserving human rights, establishing the rule of law, and consolidating democracy.

EL SALVADOR: Case study of the emergence of state-crime links

In 1992, the government of El Salvador and the country's left-wing guerrilla umbrella group, the Farabundo Martí Liberation Front (FMLN), signed the Peace Accords of Chapultepec, which ended 12 years of civil war. More than 75,000 people died in the conflict. The peace accords called for the establishment of a Truth Commission, under the auspices of the United Nations, to investigate atrocities committed during the war. It was this commission that first raised questions about the links between former state security structures and organized criminal activity.

In its final report, published in March 1993, the Truth Commission noted that it had received testimony from numerous witnesses about acts of violence perpetrated by death squads — including from members of the armed forces and civilians involved with



AP PHOTO/JOE CAVARETTA

these groups, who provided information about their organization, operation and financing.¹

While shedding light on the nature of these illegal structures, the report also revealed the close involvement of members of the armed forces, intelligence services, and civilian security forces in the death squads. It described how members of the state security apparatus tolerated, encouraged or participated in the vicious acts of these groups. Moreover, it showed how the ineffectiveness of the judicial system and the squads' ties to powerful and well-connected figures allowed the groups to operate behind a wall of impunity, shielded from legal action or government interference.

The report raised concerns about the possible involvement of the old death squads in organized criminal activities. Noting their organizational structure and access to weapons, the commission cautioned that members of the former death squads could be shifting into activities such as drug trafficking, arms trafficking, and kidnapping.² The commission recommended a thorough probe into the squads, with the assistance of the international community, given the threat they posed to the consolidation of democracy in the country.

FMLN Commander Joaquín Villalobos signs the El Salvadoran Peace Accords at Chapultepec Castle in Mexico City, Mexico, on Jan. 16, 1992. The signing, by the government of El Salvador and FMLN guerrilla leaders, officially ended the country's 12-year civil war. FMLN Commander Schafik Handal is seated in back.

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Alleged members of the clandestine group “Sombra Negra” (“Black Shadow”) in a jail cell in San Miguel, El Salvador, in 1995. The 16 people were detained for the assassination, in the style of 1980’s death squads, of at least 20 people which the group believed were involved in crimes.

An upsurge in violence and political killings in the early post-war period put the peace process in jeopardy, leading the Salvadoran government, after some prodding from the international community, to work with the United Nations to establish this new investigative body. In late 1993, the Salvadoran government and the United Nations created a Joint Group for the Investigation of Illegal Armed Groups with Political Motivation in El Salvador, known also as the Joint Group or *Grupo Conjunto*, to investigate these illegal groups.

The Joint Group was comprised of four commissioners, two named by the Salvadoran president and two named by the United Nations, plus a technical staff. While it did not have prosecutorial powers, the Joint Group had the capacity to conduct investigations, share information to support prosecutions in the Salvadoran justice system, issue a public report with its findings, and make private recommendations for prosecution if it found evidence of crimes in the course of investigations. Funding would come from the international community, channeled through the United Nations. The commissioners first met in December 1993, and the Joint Group’s final report was issued in July 1994.

Analyzing cases of political killings and threats reported since January 1992, the Joint Group found that illegal armed groups comprised of former members of security forces and state officials, as well as ex-combatants of the FMLN, were not only committing acts of political violence aimed at destabilizing the peace process, but were also involved in organized crime.³ These groups had integrated with organized criminal networks, relying on violence to intimidate or eliminate those who threatened their political or money-making interests.

Transformation of structures from the past

Never fully dismantled during the peace process, the illegal armed groups thus transformed themselves to survive in the post-war context. Information gathered by the Joint Group revealed that changes in El Salvador’s internal dynamics had forced the death squads to undergo a process of “mutation and atomization,” transforming into more decentralized organized criminal structures both at the regional and national levels.⁴ “These same structures would conserve intact the capacity to assume, when circumstances required, the role of executors of politically-motivated criminal actions.”⁵

In rural areas and small towns, armed bands continued to protect traditional power structures, the report found.⁶ Their politically motivated activities were directed primarily against local political or social leaders. In urban areas, these criminal-political groupings were used to target high-profile political leaders. The Joint Group believed that the objective of these urban groups was to undermine the peace process through intimidation and terror. The evidence revealed the high degree of organization and sophisticated logistical capabilities attained by these groups to carry out their activities. Based on the investigations, the Joint Group concluded that there were clear links between the urban networks and organized crime.

The Case of FMLN Political Leader María Marta Valladares⁷

Among the various cases investigated by the Joint Group were the 1994 attacks against FMLN political leader and congresswoman María Marta Valladares, known during the war as Nidia Díaz.

In the morning hours of February 14, 1994, as Valladares' driver and bodyguard was driving up to her home, a car with tinted windows approached slowly in the opposite direction. A group of unidentified armed individuals exited the car and, after shouting "sons of bitches, this is how we wanted to get you (*hijos de puta, así queremos agarrarlos*)," proceeded to open fire on the car, concentrating on the back seat, where the political leader usually sat. At the moment of the attack, only the driver was in the vehicle. He returned fire, repelling the attack, and was slightly wounded.

Shortly after the attack, Edmundo López, a member of the Political Commission of the Central American Workers' Revolutionary Party (*Partido Revolucionario de los Trabajadores de Centroamérica, PRTC*) found an anonymous letter under the door of his home that read, "FMLN, now you see what we do if you don't want more dead like this get out of here you damned cowards." The letter was signed, "death squads."

Three months later, shortly after Valladares was elected deputy to the Legislative Assembly and named President of the Commission on Justice and Human Rights, unidentified individuals in a vehicle with tinted windows opened fire on her car again, riddling it with 26 bullet holes. Valladares' driver, who was alone in the car at the time of the attack, was again wounded.

The Joint Group's investigation revealed that the owner of the car used during the second attack was a police informant who had provided testimony in the homicide of another FMLN member. He had also been implicated in at least four cases in which political motivation was suspected.

Based on the Joint Group's investigations, it is clear that the attacks on Valladares and others were carried out by organized criminal groups. Although the authorities were quick to dismiss the incidents as acts of common crime, the Joint Group found that the type of operation required detailed intelligence information about the victims, a sophisticated level of coordination and organization, and logistical support.

Valladares remains a prominent political figure in El Salvador, running as the FMLN's candidate for vice president in the 1999 election and currently serving as a member of the Central American Parliament. The harassment that she and other former guerrillas endured in the years following the signing of the 1992 peace accord underscores the danger that clandestine armed groups can pose to a political system immediately following a major civil conflict, after warring parties have officially laid down their arms but before new security arrangements have been fully consolidated.

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- Joint Group Report

Integration with organized crime

Political interests were not the only driving force behind the illegal post-war structures. According to the Joint Group’s report, the political violence “move[d] within and mimic[ked] the underworld of organized crime and delinquency.”⁸

The Joint Group argued that criminal and politically-motivated organizations were impossible to differentiate. Organized criminal networks involved in drug trafficking, money laundering, abductions for ransom, and car theft provided the economic and logistical support to maintain structures that could be utilized for political purposes. Once a criminal structure existed with the ability to gather intelligence and obtain the necessary logistical support to carry out its activities, it could be used for either profit or political ends.

Indeed, the transition from war to peace left many members of the old security forces and death squads out of work and without many prospects for employment. Looking for a new way of life in which to make use of their skills, many joined the organized criminal world.

Although the Joint Group did not find evidence that the continued existence of these groups was the result of a state policy, the information gathered attested to the participation of members of security forces, military intelligence and public officials. “[I]t is impossible for organized criminal networks to sustain themselves without the complicity or active support from high-ranking officials of the security forces,” the report said.⁹ It added that “some of these illegal activities are directed, supported, covered-up and tolerated by members of the military and police institutions and the judicial and municipal organs.”¹⁰

The Joint Group’s recommendations

The Joint Group called for the creation of a special, internationally funded and assisted police unit to investigate political

crimes and passage of new laws to facilitate prosecution of cases related to political violence and organized crime. The special police unit, known as the Department for the Investigation of Organized Crime (DICO), was set up and functioned for nearly two years, until internal pressure forced its dissolution. Nevertheless, while it existed, the unit was an important mechanism for pursuing political and organized crime.

The Joint Group also recommended the purging of judicial institutions, creation of special judgeships for political crimes, and establishment of a witness protection program and security measures for informants. It recommended strengthening coordination between the Public Prosecutor’s Office and police by establishing unified protocols and criteria for analyzing evidence and conducting criminal investigations. More than a dozen years later, the government is still working on effective coordination between the police and the prosecutor’s office and has just begun a small witness protection program.

The work of the Joint Group brought international attention to the need for the Salvadoran government to rein in illegal armed groups. The report helped to reduce significantly the level of political killings, while strengthening international pressure for police reform and a purge of officers connected to the old security forces. While it did not lead to the full dismantling of organized crime structures operating in the country, which still exist today, it did apply popular and legal pressure on the illegal armed groups and reduce the level of political violence.

El Salvador’s experience in the aftermath of the 1992 peace accords and the work of the Joint Group offer some important lessons. Effective strategies to combat and eliminate illegal armed groups and organized criminal networks require tremendous political will, courage and determination on the part of government authorities.

These efforts have to be accompanied by initiatives aimed at rooting out general corruption and eradicating the conditions that allow for the spread and functioning of illegal structures. At the same time, the international community has a critical role to play in supporting such efforts, particularly in a context in which local authorities are unable or unwilling to carry out meaningful investigations.

GUATEMALA: The infiltration of state institutions

Violence and crime are spiraling out of control in Guatemala. More than 6,000 people were murdered in 2006, up from 2,900 in 2000, according to police figures.¹¹ With only about 2 percent of homicide cases ending in conviction, the Guatemalan state faces serious difficulty in carrying out the most basic functions of protecting its citizens and bringing criminals to justice. As a result, the country has become, as a U.N. special rapporteur sadly described, “a good place in which to commit murder.”¹²

Much of the rising violence has been attributed to illegal armed groups or clandestine security organizations that emerged during the war years and today use bribery, intimidation and violence to protect their political and financial interests. These groups thrive on the profits gained from contraband, corruption, and other forms of organized crime and from their increasing involvement in drug trafficking. They develop or buy political influence, and they infiltrate the state apparatus to build a shield of impunity.

Their targets include civil society actors and others involved in “anti-impunity initiatives” — both those who seek justice for past abuses and those who denounce present-day abuses and corruption schemes. Journalists, judges, prosecutors, witnesses, and those fighting for economic and social rights have all been targeted for attacks.

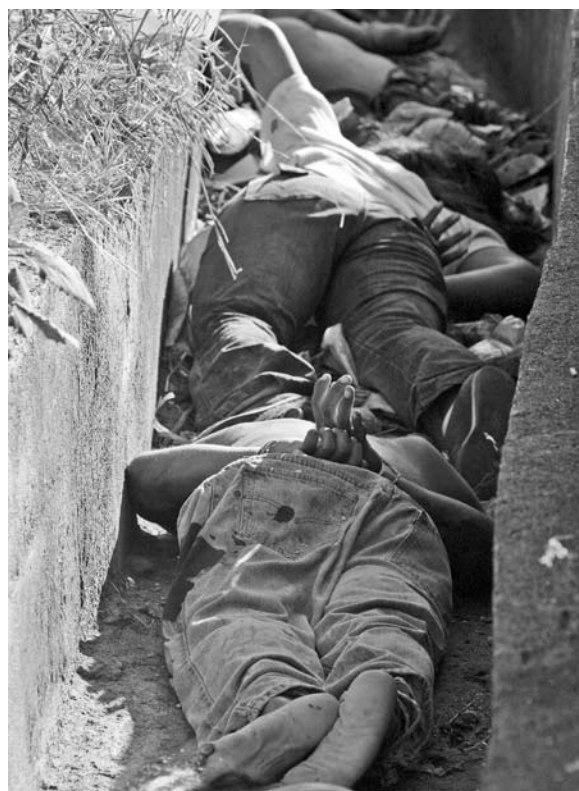
In 2006, the National Movement for Human Rights denounced 278 attacks and threats against human rights defenders and civil society actors.¹³ The clandestine groups also harass and attack political leaders, members of the private sector and anybody else who threatens the groups’ criminal activities.

Through their activities, these groups have been able to undermine the justice system and perpetuate a climate of citizen insecurity, which opens spaces for further infiltration and corruption by organized criminal groups. The influence of clandestine groups on state actors and their ability to infiltrate state institutions have impaired the Guatemalan authorities’ ability to effectively investigate and dismantle them.

Legacy of death squads

The emergence of illegal armed groups in Guatemala can be traced to the country’s 36-year internal armed conflict, in which state counterinsurgency forces employed violently repressive tactics against purported guerrilla sympathizers. Within that framework, it created extra-legal armed forces and clandestine security apparatuses that committed egregious human rights violations. Although the 1996 peace accords called for the dismantling of these groups, they were not fully eradicated.

Over the course of the war, a web of relationships developed between the security forces, both legal and illegal, and other sectors within Guatemalan society. Much of the current makeup of



AP PHOTO/MOISES CASTILLO

Execution-style murders have become common in Guatemala. In February 2006, the bodies of seven young men were found with their hands tied behind their backs, shot in the back of the head, lined up in a ditch in Guatemala City.

the clandestine groups can be traced back to personal relationships and patterns of interaction that developed during the war. The information that these groups use to pursue victims, the level of sophistication and coordination with which they carry out their activities, and the impunity that they enjoy suggest that these groups are not composed of common criminals.¹⁴ Analysts concur that these groups are comprised of retired and active members of the security forces and military intelligence apparatus, businesspeople, and civilians.¹⁵

Ties to organized crime

As in El Salvador, the clandestine groups were not fully dismantled with the end of the war. Many underwent a transformation, adapting their counterinsurgency tactics to the new post-conflict circumstances in their pursuit of illicit and personal gain. As far back as 2002, the U.N. Verification Mission in Guatemala warned that clandestine groups “[had] regrouped and

[were] pursuing illegal business interests and political influence. With the State no longer committing human rights abuses as a matter of policy, these groups’ relationship to the Government apparatus is diffuse, although they still hold some key positions and maintain informal links to police, justice officials, and military intelligence.”¹⁶

In reality, Guatemala remains as it was described in 2002 by Amnesty International, a “Corporate Mafia State” built on an alliance of traditional sectors of the oligarchy, new entrepreneurs, police and military officers, and common criminals.¹⁷ The clandestine groups live off profits derived from state corruption, contraband, drug trafficking, kidnappings, car theft, money laundering and other forms of organized crime. They use their connections to and relationships with political actors and members of the military and police to intimidate or eliminate those who get in their way, know too much, or try to investigate their activities.

The Heist of the Century

On September 7, 2006, three men robbed an armored car as it was being unloaded at the La Aurora International Airport in Guatemala City. The thieves made off with \$8.6 million of an estimated \$11 million in cash belonging to a group of private financial institutions and destined for deposit in the U.S. Federal Reserve. The guards transporting the money had been temporarily relieved of their firearms as part of the airport security process and were thus unarmed at the time of the heist; they were bound and left alive. At precisely the time of the robbery, all security and cleaning personnel in the area were attending a hastily-called mandatory meeting on hygiene practices.¹⁸ The robbery took place in a “blind spot” out of range of the airport’s 150 security cameras, one of several suspicious details that led to the arrests of the airport’s chief of security, Douglas Meneses Ayala, and its chief of surveillance, Víctor Leonardo Charchal Ramos.¹⁹

According to local press, the members of the group appeared to have in-depth and up-to-date knowledge of the airport facilities and keys to the necessary entrances, facilitating a quick escape.²⁰ The vehicle used in the robbery was a pickup truck with logos of the Guatemalan Civil Air Force, which shares the airport with commercial carriers, and thus the vehicle raised no suspicion.²¹

In the following months, local media, citing police sources, said 15 people were implicated in the robbery, including Germán Estuardo Santos, general supervisor for the airport.²² One of the first to be named by police as a suspect was Estuardo Arana Barrera, a former second captain in the Guatemalan army who was discharged for misconduct in the 1990s.²³ Known as “el Capitán” and “el Coyote,” he was identified by police as the mastermind of the robbery. Arana Barrera had previous warrants out for his arrest for

fraud and document forgery, mostly fake U.S. passports and visas. In addition, his brother is currently being held for embezzling millions of U.S. dollars from the government during the previous administration.²⁴

Of the 15 members of the group allegedly involved in the robbery, two were soon reported missing, Alfonso José Prera González, and Hugo Federico Jordán Cabrera, who disappeared along with his wife and two year old child. Jordán Cabrera's body was later found in a ditch; he had been shot. His child was found alive, abandoned in a park. His wife has never been found.²⁵

The newspaper *Prensa Libre* reported that Charchal Ramos, the airport surveillance chief, told police that, in planning the robbery, the group coordinated with two police precincts and the chiefs of the ports and airports authorities. The operation required numerous meetings during the preceding eight months and included people with an understanding of the airport security system. It required many reconnaissance operations and observations of the airport's international wing, where the robbery took place.²⁶

Charchal Ramos was himself a member of military intelligence in the 1990s. He rose to his position at the airport on the recommendation of the former chief of airport security, Rolando Augusto Díaz Barrios, a former military intelligence officer who had been dismissed from the army during the administration of President Álvaro Arzú over his links to the notorious contraband ring led by Alfredo Moreno.²⁷ Díaz Barrios has been linked to extrajudicial executions and other crimes.²⁸ Charchal Ramos was also involved with the civilian intelligence agency, the Secretariat for Strategic Analysis (SAE, its acronym in Spanish). He was relieved of his duties at SAE after making several unauthorized jail visits to Capt. Byron Lima Oliva, one of three active-duty and retired military officers convicted for the 1998 murder of Bishop Juan Gerardi.²⁹

The Guatemalan Public Prosecutor's Office, citing information from Interpol, reported after an eight-month search that Arana Barrera had fled Guatemala and was in hiding in another Central American country.³⁰ The office has made no further statements on his whereabouts. To date, only two of the implicated parties, Pedro Folgar and his daughter Ingrid, have been sentenced. He received two years in May 2007, and his daughter 17 years in July 2007.



AP PHOTO/MOSES CASTILLO

Photo to left: Carlos Vielmann, Minister of the Interior at the time of the heist, surveys the scene of the crime at the La Aurora International Airport, Guatemala City.



President Alfonso Portillo (2000-2004) inspects the troops at his inauguration in January 2000.

The close ties between some of the clandestine groups' leadership and senior FRG officials allowed the groups to wield great influence and deepen their control within state institutions

Consolidation of power

Through personal connections, friendships and financial contributions, the clandestine groups have cemented relationships with most of the political parties and actors in Guatemala. Yet it was during the administration of Alfonso Portillo (2000-04) that they were able to consolidate political power most successfully. Portillo's party, the Guatemalan Republican Front (FRG, its acronym in Spanish), also held a majority in Congress during that period.³¹ The close ties between some of the clandestine groups' leadership and senior FRG officials allowed the groups to wield great influence and deepen their control within state institutions, further weakening the government's ability to fight corruption and impunity.³²

Among Portillo's close advisers were several individuals who had been accused of involvement in illicit activities. Included among these were Gen. Francisco Ortega Menaldo, Col. Jacobo Esdrás Salán Sánchez and Col. Napoleón Rojas Méndez.³³ These retired high-level military intelligence officers, dubbed by many as "the Montesinos of Guatemala," after the notorious Peruvian intelligence chief Vladimiro Montesinos, wielded immense influence in the Portillo administration, including in military appointments.³⁴ They also aided in the administration of the federal budget, finding ways to supplement the coffers of the military. Investigations

later revealed that between 2000 and 2003, for example, more than \$25 million were embezzled from the Presidential General Staff (*Estado Mayor Presidencial –EMP*) through behind-the-scenes transfers from other government dependencies and the creation of shell companies.³⁵

Allegations of corruption and illegal schemes in government ministries and agencies dominated the press during Portillo's administration.

In October 2001, a year after he took office, it was discovered that roughly \$10.5 million from the Interior Ministry had been channeled into personal bank accounts held by Interior Minister Byron Barrientos and other top-level officials with ties to the FRG. News surfaced soon after that Portillo, Vice President Francisco Reyes, and two senior officials had opened bank accounts in Panama for their personal use. The "Panama Connection," as it came to be known, allegedly involved the transfer of \$1.5 million every month from shell companies controlled by Portillo and his associates. At this writing, Portillo has been ordered extradited by authorities in Mexico, where he fled in 2004, to Guatemala to face charges of embezzling millions of dollars of public funds. He is appealing the extradition order.

Inroads within the political parties

In the months preceding the 2007 elections, many political analysts and officials raised serious concerns about whether organized crime networks and drug traffickers were financing some candidates' campaigns. The Guatemalan daily *Prensa Libre* reported that many political parties feared that it had become nearly impossible to recruit candidates who were not connected to or financed by organized crime.³⁶ This was particularly the case in the departments of Jutiapa, Jalapa, Izabal,

Petén and San Marcos, areas considered major hubs for organized criminal networks, particularly those involved with drug trafficking.³⁷ Tensions were exacerbated by the rise in murders of political candidates and activists in the run-up to the elections. A newspaper article published in the months before the election reported that more than 50 candidates and supporters, from most of the major political parties, had been murdered.³⁸

Infiltration of state institutions

The failure to purge clandestine groups has enabled them to penetrate deeper and deeper into state institutions. “The relative weakness of political parties in Guatemala and the failure to purge the old security apparatus” have made it easier for organized criminal networks to “maintain and extend their political influence in the post-conflict period,” wrote one group of researchers.³⁹ They were writing in 2002, but their words are even more true today.

While their primary motivation might be personal gain, clandestine groups have a vested interest in impunity and preventing the consolidation of effective law enforcement and judicial institutions.⁴⁰

The February 2007 assassination of three Salvadoran parliamentarians and the subsequent murders in a maximum security prison of the four main suspects, discussed above, exposed the reach of organized criminal structures in Guatemala. It is widely believed in Guatemala that many government officials and law enforcement officers participate regularly in criminal acts and corruption. Vice President Eduardo Stein warned during a recent press interview about the infiltration of illicit networks into “most of the agencies of the criminal justice system, including the police, the Public Prosecutor’s office, the courts and the Attorney General’s Office.”⁴¹ Their reach extends into the legislature, customs and migration services, and other state agencies. The result has been a devastating deterioration of state institutions and the rule of law.

A unique opportunity to uncover the clandestine groups

In response to this deterioration in the rule of law, the administration of President Oscar Berger sought help from the international community to mount a serious investigation into organized crime. As a result, in December 2006, the Guatemalan government and the United Nations signed an agreement to establish the International Commission against Impunity in Guatemala (CICIG, its acronym in Spanish).

The CICIG will seek to determine the nature, structure, sources of financing, and modus operandi of the clandestine groups as well as their links to state actors and other sectors that threaten civil and political rights in Guatemala.⁴² It will be headed by a UN-appointed commissioner and include a team of prosecutors, forensic experts, and investigators familiar with human rights, criminal, and international law. With an initial life-span of two years, the commission will work with the local Public Prosecutor’s Office and the police in building rock-solid cases to ensure that those involved with these networks finally face justice.

To ensure the successful dismantling of these mafias, the commission will be able to act as a joint party, or “*querellante adhesivo*,” to the state prosecution. The commission will also have the capacity

“Most of the agencies of the criminal justice system, including the police, the Public Prosecutor’s office, the courts and the Attorney General’s Office.”

– Guatemalan Vice President Eduardo Stein



This poster, part of a civil society campaign protesting police corruption and alleging their participation in murders of street youth, warns passersby “DANGER: POLICE IN THE AREA.” Guatemala City.

The CICIG represents a unique opportunity in the effort to fight corruption, organized crime and impunity in Guatemala.

to provide technical assistance to the relevant state institutions charged with conducting criminal investigations and subsequent prosecution. With the aim of strengthening domestic institutions, the Commission will be able to promote key legal and institutional reforms and assist the government in the implementation of effective institutional vetting processes.

The road to establish CICIG has been fraught with difficulty. A previous attempt to create an inquiry board with international clout foundered in 2004. In that instance, the United Nations and the Portillo administration agreed to establish a Commission for the Investigation of Illegal Armed Groups and Clandestine Organizations (CICIACS, its acronym in Spanish), only to see the FRG-dominated Constitutional Court rule that the agreement creating the commission violated Guatemala's constitution. The proposal collapsed.

Although the Berger administration revised the proposal, opponents of the CICIG tried a similar tack, raising questions about its constitutionality and charging that it infringed on Guatemalan sovereignty because of the United Nations' role. In May 2007, with the killing of the Salvadoran legislators focusing fresh attention on the problem, the Constitutional Court gave its approval to the commission. In mid-July, after approval stalled in the Guatemalan Congress for months, the proposal was dealt what appeared to be a fatal blow when the congressional International Relations Committee voted against CICIG, citing sovereignty concerns. The committee's vote, however, was met with a tremendous outcry from many sectors of society and the international community. On August 1, after a heated and polarized floor debate, the Guatemalan Congress approved the agreement creating CICIG.

The CICIG represents a unique opportunity in the effort to fight corruption, organized crime and impunity in Guatemala. But ultimately its success will depend on whether the Guatemalan

government musters the political will to dismantle clandestine groups and prosecute those involved in them, as well as create conditions to prevent their reemergence.

Clandestine groups are deeply entrenched in the Guatemalan state and society, and bringing about their demise will not be easy. But if successful, the commission can help rid the country of one of its most dangerous ills and lay the groundwork for long-term progress in overcoming the culture of impunity and establishing the rule of law in Guatemala.

COLOMBIA: Demobilized paramilitaries or legalized criminal networks?

Since Colombia's paramilitary demobilization process began in 2003, 31,651 members of the paramilitary group United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia* — AUC) have participated in the demobilization process.⁴³ Taking armed fighters out of the conflict and uncovering the truth about past abuses are vital for furthering prospects for a firm and lasting peace in Colombia. Yet it is clear that the full dismantling of the operational structures of these groups has not taken place, and there is a serious risk that the demobilization process may grant paramilitary leaders the benefits they seek, such as reduced sentences and impunity, without resulting in any meaningful advances toward a sustainable peace and justice for the victims. Worse yet, some of the former paramilitaries are re-emerging or forming a new generation of armed groups focused on criminal activities.

Contemporary Colombian paramilitaries date from the 1970s and 1980s, when small "self-defense groups" were created by local land and business elites to protect themselves from guerrilla attack and drug cartels established death squads to protect their interests.⁴⁴ By the late 1980s the paramilitaries had become powerful military structures capable of coordinated action throughout the country.⁴⁵ Operating



GARY LEECH

Members of the United Self-Defense Forces of Colombia (AUC, its acronym in Spanish) prior to the beginning of the demobilization process.

with the acquiescence, and often in close coordination and cooperation with members of the Colombian armed forces, these illegal armed groups are responsible for committing widespread human rights atrocities. Violations and abuses against civilians have included extrajudicial executions, torture, kidnappings, massacres, forced disappearances and massive internal displacement.

Through the years, drug trafficking, extortion and criminal activities related to the violent and coerced appropriation and control over lands have become a major source of funding for illegal armed groups, including paramilitaries, the National Liberation Army (ELN), the Revolutionary Armed Forces of Colombia (FARC) and drug trafficking organizations.⁴⁶ Such groups have reaped huge benefits from the illegal appropriation of lands once owned by victims of the internal armed conflict. The takeover by illegal armed groups of territories throughout the country has helped give Colombia one of the highest numbers of internationally displaced persons (IDPs) in the world.⁴⁷ The Consultancy for Human Rights and Displacement (CODHES), a leading expert organization on IDPs, reports that from 1995 to 2003 Colombians

were forced to abandon an estimated 4.8 million hectares of land.⁴⁸

Guaranteeing a complete and sustainable demobilization of the paramilitaries requires effective measures to dismantle their political power and criminal structures and cut off their sources of financing.⁴⁹ With their political and financial influence left intact, the demobilization process has raised concerns that, rather than improving human rights and the rule of law, it is in some cases serving more as a mechanism for consolidating the power and illicit activities of these structures.

Continued paramilitary violations

Paramilitaries repeatedly violated the cease-fire agreements and continued to commit grave abuses against the civilian population, including massacres, threats, torture and forced displacement during the demobilization process. In 2006, the U.N. High Commissioner for Human Rights noted that “paramilitary groups were allegedly responsible for individual, selective and mass murders, which affected above all community leaders, indigenous leaders, politicians, and local authorities.”⁵⁰ In the department of Cesar, for example, 22 civilians were brutally tortured and killed in December 2005, allegedly by

The takeover by illegal armed groups of territories throughout the country has helped give Colombia one of the highest numbers of internationally displaced persons (IDPs) in the world.



Agents from Colombia's Administrative Security Department (DAS, its acronym in Spanish) catalog the remains of 57 people found in a mass grave in La Cooperative, near San José de Guaviare, in southeastern Colombia, on April 26, 2007. Authorities attributed the massacre to paramilitary forces.

Although the Afro-Colombians and indigenous have suffered at the hands of all the armed groups, many were and continue to be forced to abandon their lands by paramilitaries who want to control their territories for social, economic, or strategic purposes.

members of the Northern Bloc of the AUC. According to credible sources, the attack was ordered by drug kingpin Rodrigo Tovar Pupo, alias "Jorge 40," at the time when the Northern Bloc was in the process of demobilizing.⁵¹ Similar breaches of the cease-fire and violent actions against the civilian population occurred in other regions of the country throughout the demobilization process.⁵²

Although reports of killings, death threats and internal displacement of civilians have fallen significantly, they have not completely ceased. Relatives of those targeted during the period of the AUC's territorial expansion continue to be victims of threats and attacks. A notable example was the November 2006 attack against paramilitary victim Juvenal Escudero, who had denounced that he had been forced by paramilitaries to turn over the land title to his family ranch. A few days prior to being scheduled to testify before a Senate human rights commission hearing on the common extortion practices employed by paramilitaries for the illegal appropriation of lands, Escudero was shot in the back five times by a gunman on a motorcycle.

Although the Afro-Colombians and indigenous have suffered at the hands of all the armed groups, many were and continue to be forced to abandon their lands by

paramilitaries who want to control their territories for social, economic, or strategic purposes. As a result, Afro-Colombians represent a disproportionate number of the country's total internally displaced population, as seen particularly in the department of Chocó.

One of the main problems with the demobilization process is that these illegal structures have not been fully dismantled. Information received by various international observers indicates that paramilitary groups continued their activities throughout the paramilitary demobilization process rather than halting them. According to the February 2006 report of the OAS mission established in 2004 to provide technical support to the verification of the cease-fire and demobilization process, there was continued presence in certain regions of "holdouts" or fronts that had not demobilized, which "continued[d] to pursue the same criminal activities in their spheres of influence."⁵³

These structures continue to control many regions of the country. According to the OAS, in departments where there is a lack of security, accountability and justice, middle-level ex-combatants have stepped into the vacuum and assumed control of the illegal activities, including extortion, levies on drug production, social cleansing and alliances with local administrations, that were traditionally in the hands of now-demobilized groups.⁵⁴

Emergence of new paramilitary structures or regrouping of the old?

The mechanisms used to demobilize the paramilitaries provide minimal, if any, safeguards to prevent these groups from re-forming or new illegal structures from emerging in their place.

Reports from the field indicate that recruitment of new members took place during the demobilization process and that new groups continue to be established. In 2006, the OAS mission

noted the recruitment of new members from among the civilian population and demobilized combatants and creation of new armed groups in various departments of the country.⁵⁵

A recent report by the International Crisis Group shows how the paramilitary dynamic has changed in Colombia and that major new and old challenges remain that need to be addressed.⁵⁶ Among Colombian observers, there is a lack of consensus on how best to refer to the groups that have emerged since the paramilitary demobilization process. Nor is there consensus over whether, structurally, they are a complete or partial continuation of the AUC paramilitary grouping, completely new groups linked to drug traffickers, or a combination or re-configuration of both. An OAS report in July 2007 indicates that, country-wide, about 17 percent of the members of these new groups are demobilized paramilitaries.⁵⁷ Colombian authorities categorize these groups as purely criminal gangs. Yet this category does not match information provided by many organizations living in the areas where such groups operate.

International bodies have recorded abuses committed by hold-out paramilitaries, demobilized paramilitaries who have rearmed, and newly armed groups. The OAS reported that 22 armed units with upwards of 3,000 members were operating in Colombia in 2006. Their activities included “the participation of middle-ranking officers—demobilized or not—in the recruitment of former combatants of the self-defense forces, and the control over illicit economic activity.”⁵⁸ ICG points out that the strength and organizational structure of these groups, whose estimated membership ranges from 3,000 to 9,000, appears to vary depending on their location and that “all are in some type of criminal activity, whether drug trafficking or petrol smuggling.”⁵⁹ According to the OAS, groups whose armed activities are closely linked with drug trafficking operate in the departments of Nariño, Putumayo, Cauca, Caquetá and southern Chocó.⁶⁰

Paramilitary influence over politicians

Evidence suggests that powerful paramilitary structures have utilized the demobilization process to permanently penetrate political groupings. Since the beginning of the demobilization, paramilitaries have resorted to threats and violence to exert control over or replace local and regional elites: techniques that have become commonly known as “armed clientelism.” One of the most illustrative cases is that of notorious paramilitary commander Diego Fernando Murillo, alias “Don Berna.” In May 2005, Don Berna was arrested for the assassination of highly respected Congressman Orlando Benítez, his sister, and driver. Don Berna had allegedly ordered Benítez’ assassination after he had refused to stop campaigning for a congressional seat in Valencia, Córdoba.⁶¹

The paramilitaries were notorious for the use of violence and threats to intimidate voters and ensure the election of their chosen candidates in the 2002 elections. Their level of influence over the electoral process is what led former paramilitary leader Salvatore Mancuso to announce proudly that the paramilitary groups controlled more than 35 percent of Colombia’s national congress.⁶² While many

Since the beginning of the demobilization, paramilitaries have resorted to threats and violence to exert control over or replace local and regional elites.



Former Congresswoman Eleonora Pineda, here seen with Salvatore Mancuso, supreme commander of the United Self-Defense Forces of Colombia (AUC), arrives to address Colombia’s congress regarding peace talks in July 2004. Pineda, along with many other Colombian politicians, has faced investigations into alleged connections to paramilitary groups.

As of August 2007, at least 27 Colombian politicians, including 14 current members of Congress, have been arrested for their alleged links to paramilitary structures.

argue that this figure was inflated, it does suggest the level of impunity they enjoy.

Their efforts to influence politics continued during recent electoral processes, but with subtler tactics and using profits from the drug trade to finance favorite candidates and control voter turnout. In early 2006, seven candidates were ousted from their respective political parties due to suspicions of ties to the paramilitary forces and concerns raised by the U.S. Embassy about the paramilitaries' potential use of violence and bribes to influence the electoral process. Rocío Arias and Eleonora Pineda, both candidates of the pro-Urbe Colombia Democrática party, were among those forced to resign. Nonetheless, Arias, Pineda and others were immediately accepted as candidates of smaller parties.

Analysts concur that the main factor driving the paramilitaries to seek control over elections was to ensure protection from extradition and potentially lengthy sentences in U.S. prisons for drug trafficking.⁶³ The United States has sought extradition of nine of their leaders including Mancuso, Don Berna, and "Jorge 40." The paramilitaries also sought to ensure the victory of candidates willing to implement the Peace and Justice Law in a manner that would guarantee reduced sentences and impunity for past crimes, protection of their illegal activities and wealth, and control of public funds.⁶⁴

Para-politics scandal confirms the open secret

Since late 2006, several former and current Colombian policymakers have been investigated for alleged links to the AUC, thus confirming what human rights organizations have documented for years. The scandal developed in the wake of the confiscation of a laptop computer belonging to "Jorge 40," which contained incriminating evidence, and as a result of efforts by Colombian judicial institutions and members of the media. These investigations have revealed a significant paramilitary influence on Colombia's

political institutions. It also shows a clear effort on the part of Colombia's judicial system to rid public institutions of paramilitary infiltration. As of August 2007, at least 27 Colombian politicians, including 14 current members of Congress, have been arrested for their alleged links to paramilitary structures. Dozens of others are currently under investigation.

PERU: The hijacking of the state

In the fall of 2000, a Peruvian television news program broadcast a videotape that showed intelligence chief Vladimiro Montesinos bribing an opposition member of Congress. This was the first of hundreds of what became known as the "Vladivideos." The appearance of the videos (which Montesinos had made with the aim of blackmailing those who appeared in them) ignited a corruption scandal and revealed how the most powerful criminal network in Peru's history had manipulated for nearly a decade the justice system, news media and state institutions to guarantee its power and protect its illegal activities.

Montesinos was a captain in the Peruvian army but was discharged in the 1970s for insubordination and document forgery.⁶⁵ He resurfaced as a high-paid defense lawyer, known for representing drug traffickers, powerful Peruvians charged with tax fraud, corrupt police officials, and high-ranking military officials accused of human rights violations.

Fujimori and Montesinos first met in 1990 during Fujimori's presidential campaign. Following accusations of having evaded taxes on property sales by under-valuing transactions, Fujimori sought the expertise of Montesinos. Under his counsel, the files mysteriously disappeared, and the charges were quietly dropped.

After Fujimori won presidential elections in June 1990, Montesinos became his security adviser. Despite concerns about his shady

past, he became Fujimori's top adviser on security and drug trafficking and the de facto head of the National Intelligence Service (SIN, its acronym in Spanish). With networks of spies and informers at his command, Montesinos amassed an extraordinary behind-the-scenes power over the government.

As investigations and testimonies would later reveal, Fujimori and Montesinos used their positions to seize near-total concentration of power while maintaining a façade of democracy. This control allowed them to manipulate the institutions charged with upholding the law, obstruct investigations of their actions, and secure impunity for their crimes. Using bribery, blackmail and intimidation, Montesinos was able to construct an intricate criminal network involved in money laundering, arms smuggling and drug trafficking. As Peruvian researchers aptly described it at the time, Peru had become a "mafia state."⁶⁶

Consolidation of Power

Elected to power, the Fujimori government showed its true colors with the 1992 *autogolpe* ("self-coup"), which followed a wave of violence by Shining Path guerrillas. On April 5, 1992, with the support of the Peruvian Armed Forces, Fujimori dissolved Congress and the judiciary, suspended the constitution, and established a "government of national reconstruction."⁶⁷ Fujimori reorganized the state in order to concentrate more power in the hands of the executive. The architect of the plan was Montesinos.

Under the guise of judicial reform, the government removed all 13 Supreme Court judges, the attorney general and hundreds of prosecutors and judges across the country.⁶⁸ They were replaced or renamed but as provisional appointees, for the most part loyal to the government upon which their jobs depended. The regime also enacted laws specifying stiffer sentences for anyone accused of terrorism, and elevated the intelligence system to a cabinet-level ministry reporting directly to the president.



Vladimiro Montesinos' insistence on recording his bribes of important figures backfired when one such tape was aired on local television. That exchange, from May 5, 2000, featured Montesinos paying Congressman Alberto Kouri \$15,000 to switch political parties.

Montesinos manipulated the new reforms to appoint those loyal to him to key positions and consolidate his control over the Armed Forces and intelligence system.⁶⁹

In late 1992, the Fujimori administration held elections to establish a Constituent Assembly. The arrest of Abimael Guzmán, the notorious leader of the Shining Path, and Victor Polay, the founder of the Tupac Amaru Revolutionary Movement, helped Fujimori's supporters win the majority of seats.⁷⁰ The Assembly ratified all the decrees passed by the executive following the self-coup, removed any congressional oversight of military promotions, and included a provision to allow Fujimori to run for reelection.

Fujimori handily won re-election in 1995. After that victory, he and Montesinos moved to consolidate their power. To maintain the support of the armed forces and ensure impunity for the administration, a decree law was passed that granted amnesty to all military and police officials implicated in human rights violations since 1980. Having gained the majority in Congress, the executive was able to dismantle the Constitutional Court, co-opt the National Elections Board (JNE, its acronym in Spanish) and ensure the passage of an "authentic interpretation law" providing a reinterpretation of the constitution to allow for a third presidential bid.⁷¹

Millions of dollars were transferred from various government agencies, including the Armed Forces and ministries of Defense

By 2000, Fujimori and Montesinos had acquired nearly total control of the Congress, the judicial branch, Public Prosecutor's office, electoral monitoring bodies, the armed forces and a considerable portion of the media.

and Interior, to secret accounts of the SIN and into the hands of Montesinos. These funds were used for personal gain and to finance the presidential campaigns and bribery schemes. From 1992 to 2000, the Superintendency of Banks, a regulatory agency, estimated that some \$146 million of public funds were used to subsidize the government's electoral campaigns.⁷²

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Ties to Drug Trafficking

Drug-related corruption flourished during the Fujimori-Montesinos era. Starting in the early 1990s, reports appeared in anti-government news outlets that implicated Montesinos and the military, directly or indirectly, in the drug trade. A 1991 cable sent by the U.S. Embassy in Lima cited "substantial circumstantial evidence linking Montesinos to past narcotics activity." The cable also noted that, "Among the police and military figures recommended to the president by Montesinos are men with possible ties to drug-trafficking."⁷³

The most illustrative case of the depth of involvement by Montesinos and the Armed Forces in drug-related corruption was that of the notorious drug kingpin, Demetrio Limoniel Chávez, alias "El Vaticano." In 1996, El Vaticano testified that he had bribed members of the Armed Forces and Montesinos in exchange for protection for his drug activities and information about counternarcotics operations. According to El Vaticano, between 1990 and 1992, he had paid Montesinos \$3000-\$5000 per flight, plus \$50,000 per month, to be able to operate one of the most important drug trafficking routes in the Upper Huallaga.⁷⁴

A special Peruvian congressional commission established after Fujimori's fall concluded that Montesinos had used his position to establish "a network to

engage in illicit drug trafficking and money laundering."⁷⁵ The commission went on to affirm that the SIN and Fujimori had also played a role in the drug trafficking network by having "permitted...the development of this network which connected the state with illicit drug trafficking."⁷⁶

Political Repression

Montesinos used his position and influence to intimidate, and even kill, suspected subversives, military dissidents or those who threatened the regime's political interests. News of the existence of a paramilitary group used for this purpose began to surface in 1993. In May of that year, General Rodolfo Robles, then third in command of the Army, publicly revealed the existence of a death squad, known as Grupo Colina, which was comprised of a select group of military and intelligence officers who operated under the direct orders of Montesinos.⁷⁷ Robles accused the Colina death squad of having orchestrated the 1991 massacre of 15 people at a party in Lima that became known as the Barrios Altos massacre, and for the 1992 kidnapping and killing of nine university students and a professor, known as the La Cantuta massacre. General Robles was forced to leave Peru after receiving death threats in light of his accusations.

During Fujimori's reign, the Grupo Colina carried out with virtual impunity numerous crimes and human rights abuses, including the 1992 kidnapping and murder of nine residents of El Santa, Ancash, the forced disappearance and killing of journalist Pedro Yauri Bustamante,⁷⁸ and the brutal 1997 killing of army intelligence agent Mariella Barreto Riofano.⁷⁹ Available evidence indicates that hundreds of victims were tortured, interrogated and sometimes killed in a clandestine military prison inside the Army headquarters, known as "el Pentagonito" (the little Pentagon), which also housed the army intelligence headquarters.⁸⁰

Numerous official documents found in army intelligence records attest to the fact

The Grupo Colina and Human Rights Abuses⁸²

Barrios Altos Massacre: On the evening of November 3, 1991, six heavily armed men burst into a party in the Barrios Altos neighborhood in Lima. Beating and insulting those present, they ordered the victims to lie on the floor. The armed men indiscriminately opened fire on the group, killing fifteen people, including an eight year-old boy, and injuring four more.

La Cantuta Massacre: In the pre-dawn hours of July 18, 1992, armed men wearing hoods entered the student residences of the University of La Cantuta, abducting nine students and a professor, and executing all of them. The massacre was in "response" to a Shining Path car bombing two days earlier that killed 22 people. Following information leaked to *Sí* magazine, the incinerated remains of the La Cantuta victims were found in two clandestine graves around Lima.

Case of Mariella Barreto Riofano: The dismembered body of army intelligence agent Mariella Barreto was found by a roadside in March 1997. Years earlier, Barreto had leaked information to a magazine about the whereabouts of the bodies of the victims of the La Cantuta massacre. Shortly before being killed, Barreto had confessed to a colleague that she was part of the Grupo Colina death squad.

Case of Pedro Yauri Bustamante: In the early morning of June 24, 1992, a group of armed men dressed as commandos who identified themselves as members of the Peruvian Anti-Terrorist Police Bureau (DINCOTE) violently entered the home of radio journalist Pedro Yauri Bustamante located in the coastal town of Huacho. The armed men tied up the victim's father and proceeded to cover his head while hitting him with their guns. Meanwhile, Bustamante was tied up and taken away. Director of the radio news and phone-in program "*Punto Final*," Bustamante had exposed abuses by the security forces. Testimonies later revealed that he was killed by members of the Grupo Colina death squad at a nearby beach.

Montesinos was the architect of an elaborate strategy of bribes and favors aimed at establishing a network of loyal media supporters.

that far from being a separate paramilitary group, the Grupo Colina was an integral part of the army intelligence structure and that its members were assigned, transferred, and disciplined under the orders of high-ranking military intelligence officials.⁸¹

Control of the Media

To extend their control over Peruvian society, Fujimori and Montesinos sought to hijack the media and use them to undermine the government's political opponents. Montesinos was the architect of an elaborate strategy of bribes and favors aimed at establishing a network of loyal media supporters. One by one, the owners and executives of the main television stations agreed to provide the kind of coverage he sought in exchange for

millions of dollars and personal favors. By the end of 1999, Montesinos had acquired editorial control over the main television stations, including Channel 4/América, Channel 5/Panamericana, Channel 9/Andina, and Channel 10, a cable news broadcaster.⁸³ The owner of Channel 5 alone received a total of \$9 million during the 2000 presidential campaign.⁸⁴

The most notorious case was that of Channel 2/Frecuencia Latina, whose critical coverage of the Fujimori administration became increasingly threatening to the entire power structure of the regime. In retaliation, the station's majority owner, Israeli-born Baruch Ivcher, was stripped of his Peruvian citizenship in July 1997.⁸⁵ Revoking his citizenship barred Ivcher from owning the station and set



From left to right: then spy chief Vladimiro Montesinos, then Interior Minister Walter Chacon and then Defense Minister Carlos Bergamino listen to then-President Alberto Fujimori announce that Peruvian authorities had busted a gunrunning ring that put 10,000 assault rifles in the hands of Colombian guerrillas in Lima, Peru, in August 2000. The claim Peruvian authorities discovered the arms ring quickly fell apart under international scrutiny, however, and Montesinos faced trial in 2004, for allegedly masterminding the deal.

the stage for the takeover of Channel 2 by minority shareholders who supported the government. Criminal charges were also brought against Ivcher and his family, for which they were acquitted after the fall of the Fujimori regime.

The drive to control the media was not limited to television. Considerable financial resources of the SIN were also used to buy off the owners of print outlets and press tabloids in exchange for stories favorable to the government and slanderous of its opponents.⁸⁶ A few news outlets, however, continued to report on corruption and state-sponsored violence during the Fujimori-Montesinos government, with their reporters and editors braving almost constant harassment, threats and intimidation.

Fall of the Regime

The Fujimori-Montesinos regime unraveled as a result of successive crises and scandals shortly after Fujimori's third presidential victory, in 2000. Fraud allegations and popular unrest had surrounded the 2000 elections. Amidst protests and repression, Fujimori "won" the second round of elections in May 2000, after an OAS electoral observer team declared that it could not guarantee the transparency of the voting process. His principal opponent,

Alejandro Toledo, withdrew from the election and called on voters to boycott it. Fujimori's third inauguration, in July 2000, was met with violent protests in which six people were killed and scores injured.⁸⁷ Within Peru, his election was widely viewed as illegitimate.

A month after the inauguration, Fujimori and Montesinos announced that the SIN had dismantled a smuggling ring that had been selling weapons to the Revolutionary Armed Forces of Colombia (FARC) guerrillas. Fujimori detailed how the ring, which involved low-level Peruvian military officers, had purchased around 10,000 Kalashnikov assault rifles from Jordan, shipped them to Peru and later transferred them to Colombia. He praised Montesinos and the SIN for uncovering the operation. The ploy backfired, however, after Jordanian authorities rejected the Peruvian government's version of the story and insisted that the arms had been legal. Investigations and testimony given by two of the arms dealers later revealed Montesinos' direct involvement in carrying out the arms trafficking deal.

The final blow came in September 2000, with the release of a video tape showing Montesinos paying opposition congressman Alberto Kouri \$15,000 to switch political parties and join the government majority. The video confirmed what the opposition had been alleging for years about the corrupt and illicit nature of the Fujimori-Montesinos regime. Through nearly a decade in power, Fujimori and Montesinos had managed to cover up scandals by obstructing investigations, intimidating witnesses and opponents, and tinkering with the evidence.

With the regime crumbling, Fujimori announced the dissolution of the SIN and called for new general elections in which he would not be a candidate. Montesinos fled Peru, first to Panama and then to Venezuela, where he was arrested in June 2001 and extradited to Peru. In November 2000, Fujimori, the son of

Japanese immigrants, fled to Japan seeking asylum. He allegedly took with him several hundred million dollars and suitcases containing the most incriminating videos.⁸⁸ He resigned as president of Peru via a fax message from Japan. Refusing to accept his resignation, the Peruvian congress instead voted to declare him “permanently morally unfit” for office.

The release of the Kouri video was followed by a flood of other tapes showing prominent Peruvians taking bribes in exchange for

their loyalty or silence. All broadcast on television and reviewed by the Peruvian Congress, the videos implicated scores of politicians, businessmen, media owners and even judges and prosecutors.

Unraveling the web of corruption

A transitional government under President Valentín Paniagua moved to restore the rule of law and the credibility of Peruvian state institutions. He purged loyalists from the police and military, restored the

Capture of the Peruvian State: Bribery of Politicians, Justice Officials and Media Owners and Executives⁸⁹

POLITICIANS	
Members of Congress	
Party	Bribe (monthly)
Frente Popular Agrícola del Perú (FREPAAP)	\$20,000
Partido Aprista (APRA)	\$50,000
Perú Posible (PP)	\$10,000
Avancemos (A)	\$15,000
Members of the Executive	
Prime Minister	\$10,000
Minister of Justice	\$5,000
JUSTICE OFFICIALS	
Position	Bribe (total)
Director, Judicial Reform Office	\$55,000
Justice on the National Elections Board	\$50,000
President of the Supreme Court	\$35,000
Superior Justice	\$25,000
Judge	\$10,000
MEDIA OWNERS AND EXECUTIVES	
Media outlet	Bribe Estimates
América Television (Channel 4)	\$9,000,000 in a signed contract
Frecuencia Latina (Channel 2)	\$3,000,000 in a signed contract
Panamericana Television (Channel 5)	\$9,000,000
Expreso	\$1,000,000
La Chuchi (popular press)	\$8,000 weekly

independence of the judiciary, and set up a truth commission to establish responsibility for the human rights abuses committed during the war and its aftermath (1980-2000). The Paniagua administration also implemented a series of measures that became known as the “anti-corruption system.” An ad hoc prosecutorial office headed by José Ugaz was set up to investigate the multi-million dollar network of corruption and criminal activities under Fujimori and Montesinos. In Congress, special congressional investigative commissions were also established.

The Truth and Reconciliation Commission created by Paniagua issued its final report in 2003, in which it corroborated the existence of the Grupo Colina and cited substantial evidence to assert that Fujimori, Montesinos and senior SIN officers bore criminal responsibility for targeted killings, kidnappings and massacres carried out by the Grupo Colina.⁹⁰ The bulk of the commission’s report, however, recounted the thousands of other atrocities committed by left-wing guerrilla forces and state security forces dating from 1980.

the United States, and the Caribbean totaling at least \$200 million held by Montesinos.⁹¹ More than \$170 million have now been recovered.

Montesinos’ network had reached the highest echelons of government. The thousands of videotapes seized and evidence gathered led to the arrest and subsequent prosecution of numerous prominent Peruvian political and public figures, including the former chief of staff of the Army, the former minister of finance, the attorney general, and senior officials of the electoral tribunal. For the first time in Peru’s history, high-level military and police officers, former cabinet ministers, former congressmen, judges, media owners, and business elites were arrested and put on trial. By early 2002, the number of people investigated reached 1,400.⁹²

The more than 70 charges facing Montesinos range from murder to drug and arms smuggling to corruption and human rights abuses. As of July 2007, Montesinos has been convicted on 18 counts totaling 74 years and financial penalties totaling approximately \$96 million. He is currently appealing eight additional sentences totaling 69 years.

Former President Fujimori will likely face trial in 2008. The disgraced president left Japan in 2005 and turned up in Chile, with plans for a political comeback in Peru. Chilean authorities arrested him and kept him under house arrest until that country’s Supreme Court ruled in favor of his extradition to Peru on September 21, 2007. A Fujimori trial in Peru will bring a fuller understanding of how he and Montesinos, with their vast corruption networks and the Grupo Colina, succeeded in subverting the entire Peruvian state.

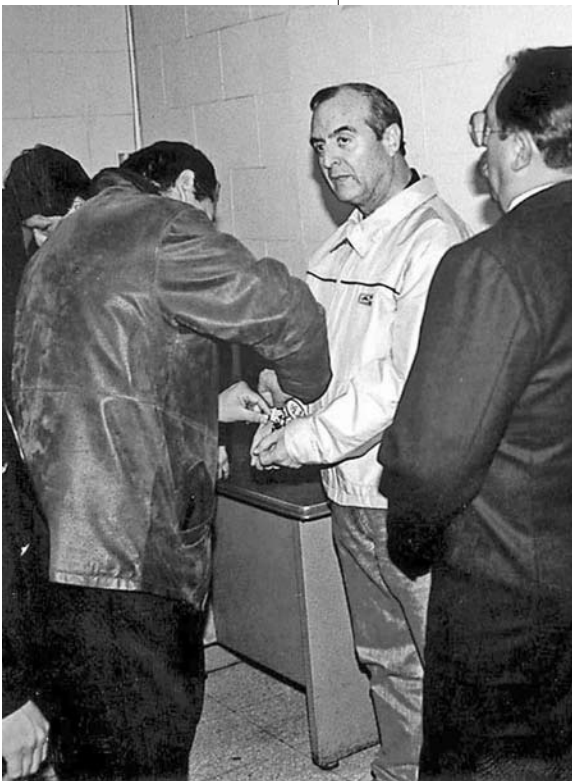
Conclusions and Recommendations

Clandestine structures linked to organized crime and often embedded within the State are common phenomena in Latin

Peruvian police remove handcuffs from Montesinos before his interrogation in a Lima court in 2001. Vladimiro Montesinos fled the country soon after the release of the first vladivideo. He went first to Panama and then to Venezuela, where he was captured and extradited to Peru. With several trials still pending, he has currently been convicted on 18 counts totaling 74 years and been fined approximately \$96 million.

As evidence and testimonies emerged, the level of corruption, illicit schemes and bribery and the takeover of nearly every state institution began to be revealed. The findings included detailed information on electoral fraud, arms and drug trafficking, money laundering, extra-judicial executions, wiretapping, and other crimes. Among the most important discoveries was that of the existence of bank accounts in Switzerland,

AP PHOTO/HO JUSTICE PALACE



America. The ability of these organized criminal networks to manipulate, infiltrate and, at times, co-opt state institutions undermines the rule of law. By relying on their connections to political actors and influential individuals, ease of corruption, and ability to resort to intimidation and violence to avoid accountability for their crimes and protect their profitable illegal schemes, these groups severely weaken the state's ability to promote and respect human rights and uphold the rule of law. The end result is a vicious cycle, whereby generalized corruption within government creates the conditions necessary for these groups to operate and flourish, which in turn further debilitates already struggling institutions.

Dismantling these networks requires a comprehensive approach, including steps to develop and strengthen democratic law enforcement and judicial institutions, initiatives aimed at rooting out corruption, and the creation of effective mechanisms to dismantle their underlying criminal structure and cut off their sources of financing. The international community can play a pivotal role in bolstering these efforts and supporting a courageous civil society, many times targeted by these groups and distrustful of the system. Independent news media have also played an important role in exposing clandestine groups and showing an often skeptical or intimidated public how they operate with impunity. But above all, the successful elimination of these groups requires tremendous political will and resolve on the part of government authorities.

The first major challenge in confronting organized crime and its influence on the state is admitting that the problem exists. Governments are often loath to do this, for obvious reasons, and where they do recognize the problem, they are tempted to downplay its impact. Here, civil society including the media and the international community can play an important role in putting the problem on the agenda and helping to build a willingness among politicians to confront the problem.

The second major challenge is to develop a comprehensive response by the state, supported by civil society and the international community, and not a piecemeal approach against corruption in a few problem areas. Government reformers, faced with entrenched corruption, often carry out a few high-visibility prosecutions and fail to address the problem systematically. This requires a functioning criminal justice system, commitment to transparency, creation of internal and external oversight mechanisms to detect and prevent corruption, anti-corruption measures in the political and campaign process, and new banking regulatory frameworks. Governments that are serious about fighting organized crime and its impact on the state will develop a broad set of actions, not simply stage a few high-profile prosecutions.

Specific recommendations for civil society, the state and the international community include:

- ▶ Civil society, including the human rights community and pro-democracy groups, should take on the issue of organized crime, corruption, and transparency, as part of their agenda, and articulate publicly and repeatedly the relationship between the struggle for human rights and democracy and the fight against organized crime and corruption.
- ▶ The media and other civil society actors can play a pivotal role in uncovering the truth, exposing corruption, illegal activities and human rights abuses of these structures, and generating attention on the need to dismantle them. Often they are victims of intimidation and attacks by the same groups they seek to expose. States must, therefore, show visible and unequivocal support for civil society and all those involved in anti-impunity and anti-corruption initiatives.
- ▶ States should implement education campaigns to raise awareness among the population about the impact of

All the positive legal reforms and public attention in the world will not succeed without an intense and sustained demonstration of political will on the part of government leaders.



Guatemalan lawmakers vote to approve the International Commission against Impunity in Guatemala (CICIG) on August 1, 2007.

organized crime and corruption in the state's ability to protect their rights and uphold the rule of law.

- ▶ In the cases of post-conflict societies, states and the international community need to identify the ways that security structures can merge or be transformed into criminal networks with influence on the state. This is a pattern evident not only in Latin America, but also in Eastern Europe, Russia, and parts of the Middle East. Governments and post-conflict planners need to identify the problem and plan for how to dismantle clandestine security and paramilitary structures, and how to prevent their transformation into criminal networks.
- ▶ Governments and the international community need to recognize that there are cases in which the penetration of criminal networks is so profound, and their impunity so ingrained, that outside mechanisms may be needed to investigate, prosecute and disrupt criminal networks, with international clout and free from the pressures faced by domestic investigators. An example is the International Commission against Impunity in Guatemala (CICIG).
- ▶ States need to commit to systematic institutional strengthening and professionalization of police and judicial institutions. This requires, above all, putting system-wide police and judicial reforms into effect, accompanied by specialized investigative training of law enforcement and judicial personnel, including basic investigative techniques through financial crimes investigation, all within the context of strengthening basic institutions.
- ▶ States must establish the legal framework to effectively combat organized criminal networks. This involves adopting measures to ensure that judicial and law enforcement institutions are able to use special investigative techniques, such as electronic or other forms of surveillance and undercover operations. In the context of past abuses in many countries, the adoption of anti-organized crime measures must be accompanied by mechanisms that ensure due process, the protection of basic civil liberties, and transparency and oversight. These efforts must be complemented by initiatives to bring national legislation into line with international and regional standards for combating organized crime, money laundering and corruption.
- ▶ Witness protection programs are a key tool for the state to encourage testimony in prosecutions of organized crime. Where they do not exist, these programs need to be created, and existing programs need to be strengthened. Measures to protect witnesses and informants are necessary to encourage individuals to provide valuable information.
- ▶ States need to develop effective regulatory structures for the banking industry and for the financial sector to prevent and detect money laundering. Experiences in other countries suggest that "following the money" is often the most successful way of dealing a serious blow to organized crime. The United States, too, needs to strengthen its anti-money laundering regulations, particularly in regard to preventing illegal funds generated abroad from entering the U.S.

► The strengthening of campaign and party finance laws is also necessary in order to prevent the flow of illegal capital into the coffers of political parties. This entails putting in place adequate standards and practices to regulate private contributions, expenditure limits, financial disclosure, as well as ensuring accountability by candidates and public access to information. In some cases, special attention must be given to political financing at the

local level, where organized criminal networks can often times infiltrate institutions and purchase protection more efficiently.

All the positive legal reforms and public attention in the world will not succeed without an intense and sustained demonstration of political will on the part of government leaders. What this region desperately needs are leaders who believe that change is possible and are willing to dedicate their lives to achieve it.

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