

Outreach to Afro-Colombian Communities

During the certification period, the Colombian government reached out to Afro-Colombian communities in a variety of settings. The creation of a new presidential program to oversee Afro-Colombian issues, currently filled by Oscar Gamboa, raised the level of engagement on Afro-Colombian issues.

Through the National Consultative Commission of Black, Afro-Colombian, Raizal, and Palenquera Communities, leaders and the government reached agreement on a broad set of commitments on issues including transportation, communications, health, education, sports and recreation, culture, agriculture, commerce and justice, among others. However, many Afro-Colombian leaders have expressed frustration over the lack of implementation of commitments made by the government.

Efforts to Eliminate Racism

The Colombian and U.S. governments remained invested in implementing the U.S.-Colombia Action Plan on Racial and Ethnic Equality, signed in January 2010. Plans to proceed with a plenary meeting were discussed during the U.S.-Colombia High-Level Partnership Dialogue in Washington, D.C., in May as of July a specific date had not been established. The Colombian government has identified education and economic opportunities as themes for the first plenary.

In addition, the Colombian government announced plans to hold a number of events to increase awareness of Afro-Colombian issues, including the May 21 Day of the Afro-Colombian, October 12 Celebration of the UN Year of African Descendants, and October 21 Day of the Afro-Colombian Woman. On May 21, President Santos gave an historic nationally televised speech celebrating the contributions of Afro-Colombians.

Consulta Previa

Since the previous certification, several Constitutional Court verdicts have strengthened and reinforced the requirement for prior consultation.

In May, Colombia's Constitutional Court ordered the suspension of a major road project and several mining projects in Colombia's remote Choco department for failure to consult with indigenous groups prior to initiating those projects. As part of the judgment, the court asked Interconexion Electrica SA (ISA), Colombia's largest electricity distributor, to stop work on a bi-national power line project that will interconnect Colombia's transmission lines with Panama. In

response, ISA officials are drawing up plans to initiate consultations with indigenous groups in Choco.

Indigenous groups praised the landmark court ruling, T-129 of 2011, for recognizing unconditionally the "Indigenous Peoples' right to free, prior and informed consent" during all phases of a project. According to the court ruling, consent should be the end goal of any prior consultation process and must be obtained in three specific instances: 1) when communities will be displaced by a project; 2) when the project involves storing or disposing of toxic waste in ethnic territories; and 3) when the projects cause social, cultural or environmental impacts of such magnitude that it puts the existence of the community at risk. While the court did not order an outright and enduring ban on the proposed Colombia-Panama electrical interconnection project, it did uphold indigenous collective property ownership rights, mandating that benefits from development projects or the exploitation of resources be shared equitably, and requiring the implementation of mitigation measures and/or compensation for damages. It also ordered related jurisprudence to be translated into the local Embera language and published.

Colombia's Constitutional Court also struck down strict mining regulations passed last year, but said the regulations will remain in effect for two years to give Congress time to draft and approve an alternate bill. In its May 18 ruling, the court said the new mining code was unconstitutional because indigenous communities and Afro-Colombians living in mining areas were not consulted.

To improve and standardize the *Consulta Previa* process across entities, the Colombian government is in the planning stages of establishing a *Dirección Nacional de Consulta Previa* in 2012. The office will likely be within the Ministry of Interior after the Ministry of Interior and Justice is divided into two separate ministries within the next year. The National Development Plan passed earlier this year required the Colombian government to develop a new statute to regulate the implementation of *Consulta Previa*.

Land Disputes

The Colombian government continues to address the interrelated issues of displacement and land disputes in Afro-Colombian and indigenous communities. According to *Acción Social's* Database on Displaced Persons (RUPD), of the 3.6 million people registered as displaced, 12 percent (440,327) self-identified as members of a minority ethnic group, while 88 percent do not identify their ethnicity. Of those who do identify themselves as members of an ethnic group,

320,827 identified as Afro-Colombian, principally displaced from Narino and Choco, and 91,269 identified as indigenous, mostly displaced from Cauca and Putumayo. According to the RUPD, in the first half of 2010, 17,118 individual Afro-Colombians (4,682 families) were displaced, and 2,661 mass displacements (displacements of more than 50 people at once) occurred for a total of 19,031 Afro-Colombians displaced in the first half of 2010.

Curvarado and Jiguamiando

Some of the most publicized land disputes in Colombia are those involving Afro-Colombian communities in the Jiguamiando and Curvarado river basins in Choco. In 2000, the Colombian land titling agency, now known as INCODER, adjudicated collective titles of 54,973 hectares (135,841 acres) to the community council of Jiguamiando and 46,084 hectares (113,876 acres) to the community council of Curvarado. Despite these titles, much of this land was never inhabited by the community members, who were forced to flee as a result of violence in the area. This is one of four areas prioritized for land restitution as part of the government's "shock plan" to launch efforts for implementation of the Land and Victims' Law.

The previous certification cited the May 18, 2010, Constitutional Court decision that called on the government to take a number of specific steps to rectify issues of legal representation and land in both Curvarado and Jiguamiando. In the order, the Court ordered the return of collective lands to ancestral inhabitants and required a census of the communities prior to restitution. The Court also asked the international community to follow the government's progress implementing the court order. During the certification period, the Colombian government intensified efforts to implement the court order. In March and April, the MOIJ engaged with the communities during 23 visits to develop the methodology for the census. In June, the MOIJ implemented the first phase of the census. The second and third phases of the census, involving those affected outside the region, are scheduled to conclude in the fall. After the census is completed, the communities will elect new community councils to receive the land. Members of the international community, including the U.S. Embassy, participated in a number of meetings with government entities, community leaders, and NGOs about efforts to implement the court order and continue to monitor closely events in the area.

NGOs and community leaders reported that illegal armed groups and business interests promote the settling of "bad faith occupiers" to influence the results of the census. The presence of "bad faith occupiers" has led to increased tension in the region.

UNCLASSIFIED

- 98 -

In March, Minister of the Interior and Justice German Vargas Lleras and Minister of Agriculture Juan Camilo Restrepo visited Curvarado and Jiguamiando and expressed their determination to ensure the government succeeds in returning the land to its rightful owners. Only a few hours following their visit, a group of armed men burned five hectares of crops belonging to the local community. This incident is illustrative of the precarious security situation in the region. NGOs and community leaders continue to report receiving threats from illegal armed groups.

Since April, there have been increased reports of illegal armed groups operating in the area threatening community members. These groups have also begun to cultivate coca. There also have been increased reports of chemicals used to process cocaine in the area. The increased presence of illegal armed groups has been associated with an increase in reports of forced recruitment and forced coca cultivation.

In October 2010, the Prosecutor General's Office announced it would pursue charges against individuals who stole hundreds of hectares of land from Afro-Colombian communities in Curvarado and Jiguamiando. Suspects include Hernan Gomez Hernandez, a boxing promoter who is charged with conspiracy to commit a crime, forced displacement, and invading a protected ecological area. His wife, Katia Sanchez, is legal representative for the company Urapalma, which was allegedly a front for AUC commander Carlos Castano. Employees of INCODER allegedly falsified papers to transfer land to Urapalma. The cases are still pending.

La Toma

In April, the Constitutional Court ordered the suspension of all mining licenses and exploration in the La Toma region of Cauca department for failure to consult with the Afro-Colombian communities in whose territory the exploration has been occurring. The decision ordered Ingeominas, the Colombian government's geological and mining agency, to suspend all licenses for mine exploration and operation until *consulta previa* has been performed. In its ruling the court expressed concern over the extent of environmental damage caused by the mining projects in La Toma, including water pollution and deforestation in traditional Afro-Colombian territories. The decision overturned Ingeominas' position that *consulta previa* be conducted as part of the environmental licenses process, and requires that consultations occur prior to the issuance of even exploratory licenses.

UNCLASSIFIED

UNCLASSIFIED

- 99 -

The security situation in La Toma remains precarious. NGOs report threats to local leaders and the presence of heavy mining equipment, possibly owned by illegal armed groups, in spite of the court orders.

Improving the Human Rights Performance of the Armed Forces

The Colombian government continues to make significant progress in improving the human rights performance of the armed forces by implementing and enhancing procedures to distinguish between civilians and combatants, along with training and other programs.

The Ministry of Defense has a Comprehensive Human Rights and International Humanitarian Law Policy available on its website:

http://www.mindefensa.gov.co/irj/go/km/docs/Mindefensa/Documentos/descargas/Asuntos_de_Interes/Derechos_Humanos/docs_nweb/Politica_DDHH_MDN_ENG.pdf

The Ministry continues to implement the 15 measures on human rights developed in the aftermath of the Soacha murders, and began implementing an agreement with the UNHCHR to monitor seven of the measures. Currently in the first stage of the project, UNHCHR is monitoring four of the measures: the Immediate Inspection Commission, Inspector Delegates, Operational Legal Advisors, and the complaints system. Section 7046(b)(1)(B)(i) contains more details.

The Ministry continues to provide and enhance training in human rights and IHL across the armed forces through its centers and schools: in the army: 25 Battalions of Tactical Instruction, Training, and Retraining; in the navy: four Battalions of Instruction and Training, a Center of International Training, nine Mobile Training Groups and 22 Committees of Instruction; and the air force through each unit's education group, *escuelas de formación*, and the Aeronautical Military Institute.

In addition, the Ministry has developed an extracurricular program complementary to its Single Teaching Model (MUP). In 2010, a total of 156,983 officers, non-commissioned officers, soldiers, civilians, and other students including police officers participated in extracurricular programs on human rights and IHL.

UNCLASSIFIED

While addressing institutional issues takes time, the Colombian government's reforms within the armed forces have already led to concrete results. For example, in its latest report, the UNHCHR noted that "in 2010, the drastic reduction in the number of persons presented as killed in combat while under the custody of the army, known as 'false positives,' was consolidated." The report adds it is "essential to advance in the judicial proceedings on past violations," a topic addressed earlier in this report.

The CNP continued to provide police personnel with human rights training, including specialized training on Afro-Colombian, indigenous, and other vulnerable populations. Many military training programs are also open to police.

Distinguishing Between Civilians and Combatants

As reported in the previous certification, the Colombian Armed Forces have taken important steps to distinguish between civilians and combatants in operations by developing and disseminating an Operational Law Manual and Rules of Engagement (ROE), and working to strengthen operational discipline through legal advising, among other measures.

Since the last certification, more than 50,000 ROE cards for soldiers and 2,000 ROE pocket guides for commanders have been disseminated, among other instructional materials. U.S. officials can attest that these materials are carried by soldiers and commanders in the field.

The armed forces continue to strengthen the role of the Operational Legal Advisor (AJO). Currently, there are 128 AJOs in the armed forces: 92 in the army, 14 in the navy, and 12 in the air force. Last year's certification reported there were 154 AJO's in the army; this year's slight decrease reflects a temporary decline due to staffing shifts. The army is working to increase the overall number of AJOs. These AJOs permanently advise commanders in the planning, implementation and evaluation of operations to ensure the observance of human rights and international humanitarian law principles and norms. The armed forces continue to build the capacity of AJOs with training. During the certification period, there have been three courses in operational law, in which 23 AJOs from the three branches participated. In the army, AJOs have in turn trained 10,546 officers and non-commissioned officers across all eight divisions.

The armed forces also continue to strengthen the role of inspector delegates, who report directly to the Inspector General of the Armed Forces and are

UNCLASSIFIED

- 101 -

responsible for monitoring and evaluating the effectiveness of controls implemented within the armed forces to ensure compliance with human rights and international humanitarian law norms, and to document when violations occur. They conduct on site inspections when a violation is suspected, and coordinate with operational legal advisors to verify the information they receive. With regard to inspections, inspector delegates have increased control and supervision. Their findings are included in inspection reports that serve as the basis for the operational unit's development of improvement plans and corrective and preventive measures. Inspector delegates also maintain statistics on reports of human rights violations and conduct training. Currently, there are 11 inspector delegates in the armed forces: eight in the army (one in each division); two in the navy, and one in the air force.

As reported in the previous certification, in April 2010, the Ministry of Defense created a system to process complaints of alleged human rights violations that are received via three channels: (1) human rights offices in military and police units; (2) free phone lines; and (3) special links on armed forces and national police websites:

- General Command of the Armed Forces:
<http://www.cgfm.mil.co/CGFMPortal/faces/index.jsp?id=348>
- Army: <http://www.ejercito.mil.co/?idcategoria=211492>
- Navy: <http://www.armada.mil.co/?idcategoria=541331>
- Air Force: <http://www.fac.mil.co/index.php?idcategoria=41905>
- Police: http://www.policia.gov.co/portal/page/portal/CONTACTENOS/Escribale_al_director

The complaints system is monitored by the inspector delegates. The military reported naming 508 army officials, 47 from the navy, eleven from the air force, and two from the Joint Command to implement the system.

The Colombian government reported that during the certification period, the Inspector General of the Armed Forces conducted several inspection visits to verify the processing of human rights complaints, subsequently approved improvement plans, and distributed those plans to the army's eight divisions.

UNCLASSIFIED

UNCLASSIFIED

- 102 -

These visits included the 15th Brigade in February, the 17th Brigade in March, Joint Force Omega and the Anti-Narcotics Brigade in April, and the 4th Division, 7th Brigade, and the 2nd Air Force Combat Command in June.

The Colombian government also reported that the Immediate Inspection Commission (CII) is operational and has been activated to follow up on special cases where serious violations of human rights or breaches of international humanitarian law may have occurred. During the certification period, the army activated the CII in October 2010 in Arauca. More information on the Arauca children's case can be found in Section 7046(b)(1)(B)(i).

Human Rights and International Humanitarian Law Training

The Ministry continues to provide and enhance training in human rights and IHL across the armed forces through its centers and schools: in the army: 25 Army Battalions of Tactical Instruction, Training, and Retraining; in the navy: four Battalions of Instruction and Training, a Center of International Training, nine Mobile Training Groups and 22 Committees of Instruction; and the air force through each unit's education group, *escuelas de formación*, and the Aeronautical Military Institute.

In addition, the Ministry has developed an extracurricular program complementary to its Single Teaching Model (MUP). In 2010, a total of 156,983 officers, non-commissioned officers, soldiers, civilians, and other students including police officers participated in extracurricular programs on human rights and IHL.

In May, the army commemorated the second anniversary of its Human Rights and IHL School. More than 32,000 officers, non-commissioned officers, and soldiers received training at the School, and more than 12,000 were trained as "diffusers and guarantors" of human rights and international humanitarian law. These officers and non-commissioned officers, after graduating as *Técnico Promotor en Derechos Humanos y Derecho Internacional Humanitario*, are sent to the various Centers of Instruction and Training located in each brigade.

The CNP continued to provide police personnel with human rights training, including specialized training on Afro-Colombian, indigenous, and other vulnerable populations. Many military training programs are also open to police.

Relations between the Armed Forces and Vulnerable Communities

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The armed forces continue to take steps to improve communication with and respect the rights of vulnerable communities. However, relations remain tense in some areas, particularly where communities suspect or allege collusion between the armed forces and illegal armed groups.

There are four indigenous affairs offices in the armed forces: in the general command and the commands of the army, navy, and air force. At the regional level, there are 73 liaisons to indigenous communities. These offices and liaison officers receive and process complaints as part of the human rights complaints processing system.

As reported in the previous certification, the government created liaison officer positions to establish channels of communication with ethnic leaders, address concerns about the activities of the armed forces, and increase mutual trust. The liaison officers also advise unit commanders with regard to issues relating to ethnic groups in the unit's area. In March, the Ministry of Defense held a workshop in Bogota that brought together liaison officers with indigenous, Afro-Colombian, Raizal, and Palanquera leaders to help the armed forces better understand the culture of the different ethnic groups located in the respective jurisdiction of each unit, allowing operations to proceed while guaranteeing respect for those communities' rights.

During the certification period, the army issued two directives with regard to vulnerable communities:

- Directive 14 of 2010: Attention, recognition and protection of Black, Afro-Colombian, Raizal, and Palanquera communities in vulnerable conditions due to violence.
- Directive 18 of 2010: Strengthening the policy of recognition, protection and prevention of human rights [abuses].

Special Training on Vulnerable Groups

The Colombian government sets up public meetings with organizations of special groups and holds workshops and training both for the groups requiring differential attention and for security forces.

UNCLASSIFIED

- 104 -

From August 2010 to July 2011, the Ministry of Defense held 13 workshops for the military forces and the police to train on laws related to ethnic minorities, race, and language for indigenous communities. The following are training sessions the Ministry of Defense participated in to receive training on indigenous issues:

- July 13 – 14, 2010: Training Seminar on Ethnic Groups for Officers in Bogota (70 students trained)
- September 7 – 10, 2010: International Seminar on Protection for Vulnerable Communities with the Colombian Navy in Cartagena (60 students trained)
- October 1, 2010: Training on Indigenous Legislation for regional police in Popayan (70 students trained)
- October 4, 2010: Seminar to Update Operational Legal Advisors on Human Rights Policies and Protection of Vulnerable Communities (Afro-Colombian and Indigenous) in Bogota at the military school (120 students trained)
- October 7 – 8, November 4, 2010: Training on Indigenous Legislation for the 18th Brigade in Arauca (100 students trained)
- March 13 – 14, 2011: Training Seminar on Ethnic Groups for Officers in Bogota (80 students trained)
- July 21, 2011: Training on Indigenous Legislation in Tolemaida (240 students trained)

Between September 1 and December 31, 2010, the Ministry of Defense held five two-day seminars in Guapi (Cauca), Bahia Solano (Choco), Cartagena (Atlantico), Tres Esquinas (Caqueta), and Covenas (Sucre) for a total of 200 students from the navy on rules of engagement, ethnic groups, the international criminal court, and Ministry policies.

UNCLASSIFIED

SECTION 7046(b)(2)

Section 7046(b)(2) of the FY 2009 SFOAA requires a determination that:

“The Government of Colombia is...conducting vigorous operations to strengthen civilian institutions and respect for internationally recognized human rights in areas under the influence of paramilitary organizations or successor armed groups and guerrilla organizations.”

The Colombian government continued to take steps to strengthen civilian institutions and respect for internationally recognized human rights in areas under the influence of illegal armed groups. The government has markedly strengthened civilian leadership of the PNCT, which aspires to be the engine to move Colombia into a post conflict era and build the framework for transformative change. The Santos administration is building on the PNCT's progress. In July, it concluded a strategic review to enhance civilian agency commitment to and effective implementation of the consolidation methodology. The administration also created a National Security Council, chaired by the President, to increase interagency investment and coordination better suited to the development of civilian institutions.

National Plan for Territorial Consolidation (PNCT)

In 2004, the Colombian government began a pilot program called the Integrated Consolidation Plan for La Macarena (PCIM) in Meta that demonstrated success in increased security, promoting social and economic development and a sustained decline of narcotics production and trafficking within the region. In March 2009, the Colombian government announced that under a National Consolidation Plan, it would extend the consolidation strategy to other strategic areas around the country. Under Santos, the consolidation plan, renamed the PNCT, is a coordinated process to consolidate government efforts and guarantee a sustainable environment of peace and security, allowing for the strengthening of democratic institutions. It focuses on increasing territorial control in under-governed areas of the country to provide security for communities, make lasting gains in coca eradication, transfer security responsibility to the police, and provide a wide range of socio-economic services through the introduction of a broad array of civilian state institutions from the national to the municipal level. The PNCT generates the necessary conditions for sustainable, long-term development and provides Colombian citizens with the freedom to exercise their constitutionally protected individual rights. A primary PNCT objective is the protection and socio-

UNCLASSIFIED

- 106 -

economic well-being of citizens, not only as subjects of improved human rights, but also as active participants in the consolidation process.

Following this year's strategic review, the Colombian government identified seven "consolidation regions," where national, departmental, and local level agencies will concentrate their efforts to establish a permanent government presence. Colombia's goal is to integrate these priority regions, which are major sources of instability, violence, and narcotics trafficking dominated by illegal armed groups, into Colombia's broader political, economic, and institutional fabric.

The PNCT aims to increase the willingness and capacity of communities to cooperate and interact with the government, while expanding the government's capacity to exercise timely, credible, and responsive civil functions. Once the military and police have provided sustained security in an area, and coca has been eradicated, the government aims to deliver small, quick-impact, community-prioritized, social infrastructure projects. These projects are frequently the first concrete demonstration of government support for historically marginalized communities and serve to begin building trust between communities and local government. Typical projects include community centers, roads, and school and health facility improvements. The government provides economic opportunities for groups making the transition from the illicit coca-based economy to the legal economy. Such projects as agricultural inputs, planting material, small machinery, and technical assistance build on demonstrated skills of the communities and are directed primarily at local markets.

The PNCT utilizes a national coordinating body called the Center for Coordination of Integrated Action (CCAI). CCAI harmonizes the activities of civilian Colombian government agencies in PNCT regions and promotes short-term social and economic development in priority areas where Colombian security forces have established a presence. Civilian institutions have teamed up with security forces to penetrate PNCT zones, but these efforts have been limited and require additional support for their sustainability. The purpose of CCAI was not to create a new institution but to build greater synergy through a collaborative and sequenced interagency strategy. This synergy has been difficult to develop in some areas that lack sufficient coordination among various agencies and between the national and local governments. There has been some improvement, however, through a strategic review of the PNCT by a government interagency group that had the participation of 60 public and private entities.

UNCLASSIFIED

Under the PNCT, CCAI carries out a sequenced and phased strategy that starts with military operations, moves into the establishment of a police presence and quick social and economic assistance efforts, and ends with the presence of a functioning, civilian government and the ultimate withdrawal of most military forces. As the government's presence and security in each consolidation region improves, the region moves from a recovery of security phase (military expels illegal armed groups and gains territorial control, mitigates effects of armed conflict, and promotes confidence in the state), to an in-transition phase (military presence replaced by police and judicial services, institutional recovery and stabilization, substitution of illicit economic activity with licit options), and finally to an in-consolidation phase (establish state institutions and public services and create conditions for the social and economic well-being of residents). These phases are more easily visualized using a "stoplight" classification system to rate those in the recovery of security phase as red regions, those in the in-transition phase as yellow regions, and those in the in-consolidation phase as green regions.

As of January, of the 2,107 districts (sub-municipal units, *veredas*) under the PNCT, 1,066 were in the recovery phase, 877 in the in-transition phase, and 164 in the in-consolidation phase. To generate the necessary conditions to accomplish the PNCT's goals, the Colombian government focuses on enhancing justice and security; providing emergency humanitarian attention (including addressing the needs of displaced persons); clarifying land title and property rights issues; increasing social development (especially the quality and coverage of education and health services); increasing economic development as residents move from an illicit to a licit economy; and strengthening local governance and citizen participation.

PNCT Results

PNCT activity has brought about significant developments in the consolidation regions. Since 2007, there has been a reduction of homicides per 100,000 inhabitants in PNCT municipalities that is more pronounced than that of the national average. The proportion of homicides in the consolidation regions in relation to the national total has dropped steadily. In 2007, consolidation municipalities accounted for 19 percent of the national homicide rate. By 2010, this proportion dropped to 14 percent. According to CCAI, and based on the registered homicides between January and March, the 2011 homicide rate is expected to drop to 7.7 homicides for every 100,000 inhabitants in consolidation regions compared to a national level of 11.3.

UNCLASSIFIED

- 108 -

The Colombian government is making a concerted effort to eliminate illicit crops, realizing it is a principal threat and vulnerability for communities. According to the U.S. government's annual imagery survey, since 2007, there has been an overall decreasing trend of coca cultivation nationwide. For 2010, the U.S. government recorded an approximate 14 percent drop in coca cultivation from 2009. The overall coca cultivation estimate for 2010 is 100,000 hectares. Since 2007, the number of hectares of coca detected with the United Nations Integrated Illicit Crop Monitoring System (SIMCI) presents a decreasing trend nationwide and in consolidation regions. The reduction continues to be more pronounced in municipalities targeted by the PNCT. For 2010, SIMCI recorded for the third consecutive year a reduction in coca cultivation, although results by municipality are not yet available. According to SIMCI, 59,000 hectares of coca were detected in 2010, 9,000 fewer than in 2009 and representing the lowest amount in 15 years. A recent UN report on the socio-economic and environmental transformation associated with illicit crops concluded that "comparative analysis of the different illicit drug crop supply reduction policies applied in the Meta-Guaviare region demonstrates that the Plan for the Integrated Consolidation of the Macarena is the policy that has produced the best results."¹

Increased control over more areas of national territory has strengthened Colombia's political system and allowed increasing numbers of citizens to participate in elections. Voter turnout increased in La Macarena, Montes de Maria, and Tumaco in 2010, corroborating frequent reports from communities that consolidation has created more space for citizen participation and more freedom of expression. This remains a positive sign for the October municipal and departmental elections. The MOIJ is focusing on a pilot effort to promote and enforce transparency in 67 municipalities (11 in the PNCT regions) that are at extremely high-risk according to a mix of indicators, including fraud and violence. The CNP have also identified 12 PNCT municipalities as extremely high-risk based on security threats, and are dedicating security efforts to consolidating all PNCT municipalities. MOE will train observers and poll-station witnesses and observe elections primarily through a network of local civil society groups. USAID is providing support for the voter registration process, debates between candidates, and media campaigns.

The Colombian government is also committed to providing support to increase the capacity of municipal governments (both mayors and municipal

¹ Transformacion Socioeconomica y Biofisica Asociada con Cultivos Illicitos en la Region Sur de Meta-Guaviare 1990-2009. UNODC, Embassy of the Federal Republic of Germany, Colombian Ministry of Defense

UNCLASSIFIED

UNCLASSIFIED

- 109 -

councils) to respond to the needs of their constituents – an undertaking that USAID has prioritized. In consolidation regions, USAID will also support efforts to increase the capacity of civil society to lobby for their constitutional rights and also to serve an oversight role. This component will replicate the Montes de Maria program to strengthen local government (CIMIENTOS), which the U.S. government has already supported.

The Colombian government is aware of the need to enhance the coverage and capacity of the judicial system by increasing the presence of public defenders, prosecutors, judges, judicial support structures, and other mechanisms in rural regions, and has taken some steps toward that end. For example, in 2011 the Prosecutor General's Office established specialized anti-BACRIM units in Tumaco and Medellin to counter organized criminal activity for the Pacific coast of Narino and northern Antioquia. The MOIJ also opened three new justice houses in consolidation municipalities in northern Antioquia and virtual courtrooms were installed in Villavicencio to allow virtual hearings to take place between the capital and many rural areas, including La Macarena. The Prosecutor General expects to establish permanent offices for prosecutors in 48 of the 51 consolidation municipalities by January of 2012 (compared to 30 of 51 today). Despite these efforts, the PNCT's strategic review highlighted the fact that effective justice sector coverage remains at the top of the list of areas requiring urgent attention.

Colombian government investments in consolidation regions for 2010 included \$46 million from regional governments (25 percent) and \$108 million from the national government (60 percent), which does not include spending on the armed forces. International donors, including the U.S. government, supported consolidation with \$24 million, which came to 13 percent of total investment for consolidation in 2010. Given the anticipated massive increase in Colombian government financial support for consolidation in 2011 (e.g. budgetary line items for consolidation, funding for rural development zones overlapping with consolidation and land titling) this percentage will be much smaller.

According to a December 2010 presentation by Colombian National Security Adviser Sergio Jaramillo regarding the Consolidation Plan for La Macarena:

- Legal crops in the region have increased from 21,000 hectares in 2007 to more than 47,000 in 2010;
- 215 out of 339 micro-credit applications were approved;

UNCLASSIFIED

- 145 farmers' associations were established, strengthening 6,672 families;
- 475 km of tertiary roads were improved in the Meta Department; and
- A pilot effort to give land titles to 150 families neared completion during 2010. The Dutch Embassy will continue this effort in 2011 based on the lessons learned.

An important indicator of the PNCT's success is an increased level of confidence in the government and its institutions. Jaramillo has commented that, for consolidation to be effective, residents must believe that the government will follow through with its promises; the government must offer incentives to encourage local residents to comply with and not undermine efforts, and get local residents to engage in viable economic projects that are sustainable. Without this buy-in, communities will not participate in the PNCT programs or help sustain them once programs are turned over to the local communities. A study carried out in 40 municipalities of six consolidation regions (Montes de Maria, Catatumbo, Medio y Bajo Atrato, Macarena, Sierra Nevada de Santa Marta y Sur del Tolima) between 2009 and 2010 by DATEXCO and the National Consultation Center found an increase in public support, governance, legitimacy, and trust in institutions. Of those surveyed, 54 percent have confidence in the National Police and 70 percent in the armed forces; 57 percent consider the security in their region to be good or very good. Most importantly this study found 78 percent would recommend a displaced relative to return, a critical development for the future of these areas and for the progress of recent legislative advances such as land restitution.

Ongoing Challenges with the PNCT

Although the PNCT has had successes and made significant progress, several challenges remain to ensuring its future viability.

Strong PNCT Leadership

Under the leadership of National Security Advisor Jaramillo, the government has recommitted itself to consolidation, as evidenced in the results of the strategic review. This followed a March 2009 presidential directive that ordered all government ministries to prioritize support to consolidation. The directive was instrumental in establishing the PNCT's legal authority, *Acción*

Social's leadership, and national structures to implement the PNCT. Still, the Directive lacked budgetary authority and put *Acción Social* in the position of leading without the ability to direct resources. As a result, some ministries were more active than others. However, the inclusion of the PNCT in the Santos administration's National Development Plan (PND) will allow consolidation to be a concrete component of the Colombian government's budget. In 2012, the PNCT, for the first time, will have its own dedicated budget line items. This strengthened leadership, dedicated budget support, and improved coordination reflect a renewed government commitment to strengthening consolidation efforts.

Tertiary Roads

Communities and local authorities consistently cite tertiary roads as a pressing need for economic and social development. By law, municipal governments are responsible for constructing and maintaining tertiary roads but lack administrative, technical, and financial capacity in most consolidation regions to fulfill their mandate. The Colombian government, with help from international donors, including the United States, has worked to improve many kilometers of roadways but structural reform is required for comprehensive progress on tertiary roads.

Looking forward, the Colombian government has made improvements of roads a significant priority. Between 2010 and 2011, a total of 203 road projects were identified as fundamental to the consolidation process in targeted areas, worth approximately one billion Colombian pesos. Narino has the largest number of projects (83), while Catatumbo accounts for the largest required funding (approximately 326 million Colombian pesos).

As a result of the strategic review, investments from INVIAS (the national road institute) to rehabilitate tertiary roads will increase significantly in 2012. Additionally, a new law to more equitably distribute royalties will provide substantial additional funding for tertiary roads.

Increased Police Capacity

The police have demonstrated a commitment to take control from the military in regions that are in transition from military control, but have been slow to do so in most cases due to a lack of personnel and resources and also because of the lack of a joint military-police model to transfer control to the police. In some areas, deployed police are forced to cover vast swaths of difficult territory and continue to come under frequent guerrilla attacks in police stations and during patrols. BACRIM groups continue to threaten security within the consolidation

regions. Police must increase community outreach efforts and improve intelligence-gathering capacity to combat the guerrillas and BACRIM and establish a broad presence for sustained security. The CNP plans to grow the police from 162,000 personnel in 2011 to 180,000 personnel in 2013. Police leadership report this surge in cadets will result in a greater police presence in consolidation zones in the coming years.

With U.S. government support, the Colombian government has set up rural mobile police squadrons known as "*Carabineros*" that are trained and equipped to enhance police coverage in rural areas. The primary aim of the *Carabineros* squadrons is to "support rural service monitoring at the departmental level" on missions to improve police presence in the Colombian countryside with emphasis on population centers, production areas, roads and generally strategic points of the national territory. There are currently 52 *Carabineros* squadrons composed of 120 police officers per squadron. Twenty of the 52 *Carabineros* squadrons are in stationed in consolidation regions. The *Carabineros* have had some success against BACRIM, but lack personnel resources commensurate to their responsibilities in the rural countryside. Thirty *Carabineros* squadrons now conduct security for manual eradication operations and others are assigned to securing critical lines of communication in towns that are under threat. The *Carabineros*' support of manual eradication efforts should be better integrated into the consolidation strategy in each of the PNCT zones where they operate, to better coordinate these efforts with other development and security priorities.

Sustainability and Local Governance

Due to the lack of permanent government presence in PNCT regions, service provisions have historically tended to be marginal. Under the consolidation plan, services continue to improve, including education and health, which are the responsibility of the governor. In addition, programs with their own regional budgets such as the Colombian Institute for Family Wellbeing (ICBF), the national training institute, and *Acción Social* continue to expand their reach. We expect that with clearer budget priorities in 2012, the PNCT will see resources increase, further improving provision of services.

Similar to the need for increased police capacity, the military has been called upon in the consolidation process not only to keep order but also to provide services and interact with communities in place of civilian-led initiatives. A recent report by the Center for International Policy cites the case of Montes de Maria, where the military has become involved in the building phase and enjoyed their role but have been so successful the local community does not want them to leave.

This complicates the transition of policies and programs to local forces and governing bodies and may hinder future sustainability.²

Justice and the Rule of Law

A strong judicial system is necessary for the advancements made by consolidation to be permanent. Public confidence in the government and its ability to maintain order and security are critical throughout the progressing phases of consolidation. Colombia's formal justice institutions are fairly well distributed throughout the country, but function under serious constraints in conflict-affected regions. In those areas, illegal armed groups may act as the de facto justice system, or may effectively constrain or intimidate the operation of judicial actors.

Availability of justice sector services to rural and other poor citizens is further limited. Although judges are present in nearly every county, there are other barriers to access, including logistics, costs, availability of legal representation, corruption within the justice sector, and citizens' ignorance of basic rules and legal rights. Importantly, surveys have found that citizens in some areas continue to distrust State institutions. Because of a lack of trust, some victims refuse to report crimes to authorities or are not cooperative with investigations. In consolidation regions, formal and alternative services can only operate effectively once a certain degree of security can be assured.

Land Tenure/Titling Issues

Land ownership is a fundamental building block of citizenship and essential to the success of consolidation. "Land restitution and consolidation are two sides of the same coin... For those who had been forcibly removed from their lands in the past, consolidation without restitutions is a victory for the state but not for them, and restitution without consolidation is unstable: without protection, they are at risk of being dispossessed once again."³ Without legal ownership of land, residents of rural areas lack the basic contract with their government that underpins the culture of legality, a sense of place, and a long-term relationship with their community and local governments. Moreover, land tenure is fundamental to the investment in medium to long term, and legal income generating activities, and is a key factor to obtaining credit. Deficiencies in rural land titling are particularly acute in consolidation regions.

² Stabilization and Development: Lessons of Colombia's "Consolidation" Model. Abigail Poe and Adam Isacson. Center for International Policy. April 2011.

³ USAID/OTT's Integrated Governance Response Program in Colombia: A Final Evaluation. April 2011. Page 18

UNCLASSIFIED

- 114 -

Recognizing the importance of improving access to formal land titles and comprehensive rural development, President Santos has promoted three important new laws during his first year in office: the Land and Victims' Law, the Land Formalization Law, and the Rural Development Law. These three laws, the first of which has already been passed, will have the combined effect of restituting victims of violence (either via allocating or restituting 360,000 plots of land or financial resources), formalizing 1.5 million hectares over ten years, and prioritizing regions of the country as Areas of Rural Development where the Colombian government will invest resources to reduce the more than 60 percent poverty rate in the rural area. Security concerns are at the forefront of decisions about where to begin to reconstitute victims, formalize land, or focus resources on integrated rural development. This will have the effect of increasing the level of resources available for consolidation under the PNCT.

An unexpected result of the dramatic improvements in security, roads, and government services in consolidation regions has been skyrocketing property values, exposing farmers without land title to conflict and competition for land. In some consolidation regions, concentration of land in the hands of large tenants threatens to create a new cycle of displacement for residents forced off their land not by violence but by pressure to sell their land. While much remains to be done, both the Land Law and the Rural Development Law will prioritize land titling for those 40 percent of rural residents who do not have title to their land.

Increasing Civil Society's Awareness of Consolidation

NGOs have cited the need to increase outreach, awareness, and dialogue on consolidation – all of which continue to be key challenges for the PNCT. Public knowledge of the PNCT remains low. However, awareness is beginning to reach further into the public sector as several think tanks, NGOs, and academics have released reports on consolidation this past year. The Colombian government also has recognized this concern in its strategic review, and it is developing a communications strategy for the PNCT to achieve greater visibility and recognition.

In the absence of Colombian government capacity, USAID has been supporting the communications strategy for the PCIM since its inception in 2007, focusing on the values that underpin the culture of legality, concrete successes of the PCIM, and facilitating dialogue between communities and local leadership. USAID will continue this support in other consolidation regions for at least the short term, until the PNCT allocates resources for the entire communications strategy.

UNCLASSIFIED

Localization

In an analysis of the consolidation model, the Center for International Policy pointed out the need to consider each PNCT region's historical nuances. This is consistent with analyses carried out by U.S. government officials. The extensive time frame and complex nature of the armed conflict in Colombia has led to a unique history of violence and varied cultural responses to the conflict for each community. These differences require a tailored implementation of the PNCT to each community to address their experiences and their needs. The strategic review of the PNCT by Colombia's National Security Council is addressing this concern by developing individualized strategies for each consolidation region, with USAID assistance.

Strengthening Institutions

Government Reorganization

Since December 2010, a total of 60 public and private entities, 14 vice ministers, and five presidential advisors have participated in the strategic review of the PNCT. Initiated under the leadership of National Security Advisor Jaramillo, the goal of the strategic review was to create an operational plan with concrete projects, specific actions by each state entity, and a price tag that would serve as a strong case for additional resources. Thirteen strategic reviews committees held a total of 123 subcommittee meetings that focused on the following themes: financing and international cooperation; consolidation performance indicators; strategic communication; management structure and relationships with local authorities; security; illicit crops and illegal exploitation of natural resources; justice and human rights; institutional strengthening; social development; infrastructure and connectivity; borders; rural development, land use, and environment; and regional economic integration and the private sector.

Due to the interagency work on the strategic review, this process also helped solidify the interagency commitment to consolidation, as exemplified by unofficial commitments of nearly \$1.6 billion in commitments to consolidation efforts by 30 government agencies. The framework of the strategic review has defined the following objectives and subsequent action items:

- Specific Objective 1: Develop appropriate protocols for coordination in PNCT regions.

UNCLASSIFIED

- 116 -

- Action Line 1: Design mechanisms and protocols for interagency coordination at the national and territorial level (including of security and intelligence coordination).
 - Action Line 2: Implement the coordination protocols and mechanisms.
- Specific Objective 2: Implement a differentiated intervention strategy that meets the judicial needs of the PNCT regions.
- Action Line 1: Effectively assign resources required for the development of the administration of justice that meets the needs of PNCT regions.
- Specific Objective 3: Design protection schemes that allow the proper development for judicial activities.
- Action Line 1: Define needs for police protection for court proceedings.

Another proposal of the strategic review was to scale back the number of PNCT municipalities from 101 to 51 to more realistically match projected resources and government capacity to implement consolidation effectively, particularly a permanent security presence. While there would be a political cost to trimming consolidation municipalities, it would make strategic sense not to promise more than the state can deliver.

In May, Defense Minister Rivera outlined his “Comprehensive Defense and Security Policy for Prosperity,” in which half of his objectives directly relate to consolidation. The objectives are to reduce coca cultivation to a historic low of 30,000 hectares, dismantle illegal armed groups to create the security conditions needed for consolidation, and improve citizen security through police efforts. Minister Rivera also highlighted the need for the state and especially the justice sector to more quickly assume responsibility in the regions.

Budget

The Government of Colombia has dedicated significant resources to make the PNCT successful. According to CCAI, total financing of the PNCT for 2009 – 2010 was \$420 million. The national government covered 70 percent of this cost, while the departmental and mayoral contributions account for 20 percent, international cooperation covered eight percent, and private investment contributed two percent.

UNCLASSIFIED

As a result of the recent strategic review, 30 Colombian government agencies agreed in principle to allocate a total of \$1.59 billion toward consolidation projects in 2011 – 2014. These budget commitments across agencies are notable in that all major Colombian government entities are involved, unlike previous years, when some agencies played little or no role. Not yet added to these numbers are security contributions, as well as important sums from such civilian entities as agriculture and rural development, mines, energy, and the significant future contributions from the governors' offices and royalties from natural resource extraction. These resources likely will provide momentum to consolidation efforts.

The preliminary budget reflects significant commitments to roads, a welcome sign given the poor state of secondary and tertiary roads from consolidation zones to major markets. The plan also budgets considerable resources for social development and water and sanitation. The budgeted resources for the justice sector are uncertain, although the Prosecutor General's Office pledged in August to assign an additional 450 prosecutors, assistant prosecutors, and criminal investigators to consolidation regions. This is encouraging, given the low levels of judicial presence in consolidation zones and high levels of impunity.

Despite the government's best efforts to fund the PNCT, many consolidation regions do not have the resources necessary to make sustainable progress. The decision to focus on fewer consolidation regions will allow the government to utilize its resources to achieve a higher success rate with greater sustainable economic and social development.

National Development Plan

The National Development Plan is a constitutionally required four-year plan of government for each presidential administration and forms the legal basis for future budgeting. The 2010 – 2014 plan envisions investing significantly into social spending to create economic opportunities for all Colombians, particularly the poorest and most vulnerable living outside of major cities. The broad goals and budget allocations are defined as: sustainable growth (\$110.6 billion); social inclusion (\$83.2 billion); regional convergence (\$10.4 billion); and peace and security consolidation (\$38 billion). The government has crosscutting or "transversal" strategies to achieve the plan's goals, in particular, to reduce extreme poverty from 15.9 percent to 9.5 percent and increase access to social programs.

The focus on consolidation that primarily takes place in rural regions is unique in that Colombia's population is mostly urban, with about 70 percent living

within cities and about 30 percent in rural communities. Rural consolidation directly affects a minority constituency, which demonstrates government commitment to do more than what is politically expedient.

Respect for International Recognized Human Rights

The Colombian government has worked diligently to incorporate human rights into its strategic frameworks. The PND recently passed by Congress includes for the first time a chapter on human rights. The chapter explains that human dignity is at the center of the government's policies and outlines the government's efforts to guarantee citizen participation in government, reject all forms of discrimination, and improve standards of living, security, housing and justice, among other rights. As part of the PND, the government proposed the creation of a national human rights and international humanitarian law system, which would help develop policies, plans, programs and procedures, with a system to monitor and evaluate progress and human rights conditions. As of July 15, the government was developing legislation that would clearly define the system's roles and structure.

In November 2010, Vice President Garzon signed a Joint Human Rights Declaration with the G-24, UNDP, UNHCHR, OAS, the Inspector General's Office, the Human Rights Ombudsman, the Congressional Human Rights Committee, and numerous civil society representatives. The declaration announced a national human rights conference to take place in December. The government later changed the conference date to December 2012 to allow more time for consultations. The conference will be the culmination of a process of consultations in each of Colombia's 32 departments that will inform the development of a national human rights policy and a commission to oversee the policy's implementation.