



THE SENTINEL PROJECT  
FOR GENOCIDE PREVENTION

Risk Assessment

# THE RISK OF GENOCIDE IN COLOMBIA

Current to August 2013



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THE SENTINEL PROJECT FOR GENOCIDE PREVENTION IS A NON-PROFIT ORGANIZATION DEVOTED TO EFFECTIVE EARLY WARNING OF GENOCIDE AND THE IMPLEMENTATION OF PREVENTIVE MEASURES BEFORE LIVES ARE LOST.

WE WILL ACHIEVE THIS THROUGH THE CREATIVE USE OF TECHNOLOGY AND COOPERATION WITH THREATENED GROUPS.



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## 1.0 - Executive Summary

Colombia's long-standing civil conflict has caused thousands of deaths and has displaced millions of people. What began as a leftist insurgency against the government soon turned into a complex and intractable situation, made even more complicated by the emergence of anti-leftist militias, the growth of an illicit drug trade that has supported parties to the conflict, controversial government security initiatives and foreign involvement.

Like any conflict, the Colombian one has spilled over to affect non-combatants, disproportionately affecting the most vulnerable. This report seeks to examine the effects of the conflict on one of Colombia's more vulnerable groups: its indigenous peoples. Through a detailed analysis of the political, economic, institutional, and socio-cultural factors of the conflict, this report concludes that indigenous Colombians are vulnerable to the conflict and thus at some risk. However, this risk is far from unavoidable. If the government creates mechanisms to provide indigenous Colombians the security they need by buttressing their existing rights, it will eliminate their vulnerability and thus eliminate the very cause of the risk. Further, recent peace talks between left-wing guerrillas and the government seem to be making progress, offering some hope of a more generally secure environment and thus fewer threats.

## 2.0 - Background Information

Indigenous people are disproportionately affected by the Colombia's longstanding conflict. Indigenous peoples make up between 1 and 4% of Colombia's population.<sup>1</sup> In 2004, the UN

OHCHR Special Rapporteur for the Rights of Indigenous Peoples, Rodolfo Stavenhagen, found that there were 84 indigenous groups and 92 distinct ethnic communities within those groups in Colombia, making up anywhere between 785,000 and one million people.<sup>2</sup> While a few groups have over 50,000 members, 30 have under 500<sup>3</sup>, 42 under 2000 and some of these groups may even have fewer than 50 people.<sup>4</sup> In 2004, 12% of the displaced were indigenous peoples.<sup>5</sup> Other statistics say this disproportionality is lower (7%<sup>6</sup> or 3.4%<sup>7</sup> of the displaced are indigenous).

However, even with more conservative estimates, the conflict still affects a proportionally greater number of indigenous people. Between 2006 and 2007, the displacement of non-indigenous peoples increased by 16.8%, while the displacement of indigenous peoples increased by 23.1%.<sup>8</sup> In total, 105,000 indigenous people, at the very least 10% of the total number of indigenous

<sup>2</sup> Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, Report on Indigenous Issues (New York: OHCHR, 2004). 5

<sup>3</sup> Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, Report on Indigenous Issues (New York: OHCHR, 2004). 5

<sup>4</sup> Rachel Baird, The Impact of Climate Change on Minorities and Indigenous Peoples, Briefing (Minority Rights Group International, 2008). 5

<sup>5</sup> Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, Report on Indigenous Issues (New York: OHCHR, 2004).

<sup>6</sup> HIIK, Conflict Barometer 2010, Conflict Barometer (Heidelberg: HIIK, 2010). 46

<sup>7</sup> UNHCR, Colombia Situation: Indigenous People, Colombia Situation (UNHCR, 2012). 1

<sup>8</sup> James Anaya, The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010).

<sup>1</sup> (CIA World Factbook, 2012)

people in Colombia, have been displaced since 1997.<sup>9</sup>

In addition to the disproportionate number of indigenous peoples in the displaced, indigenous peoples are targeted by various parties to the conflict. FARC is especially to blame for this, but both government forces and paramilitary groups also partake in the violence.<sup>10</sup> Between 2002 and 2009, indigenous people received 4,700 threats from various actors, causing a reported 195 people to go into hiding, and experienced 90 kidnappings.<sup>11</sup>

Worryingly, killings of indigenous people are also on the rise. It is estimated that 1400 indigenous people have been killed between 2002 and 2009.<sup>12</sup> In 2009 alone, 114 indigenous peoples were killed, 63% more casualties than in 2008.<sup>13</sup>

Many of these killings target indigenous leaders. Armed groups assassinated seven indigenous leaders in 2010 and 18 in 2011.<sup>14</sup> In May 2013, Pedro Manuel Loperena, a human rights advocate for the Wiwa indigenous peoples, was the target of an assassination attempt.<sup>15</sup> Loperera had previously survived a massacre in

2002, where twelve of his fellow Wiwa people were killed by paramilitaries. Assassinations, massacres, and threats often result in the displacement mentioned above.

Although this is a relatively low number of deaths, the smallness of targeted groups and the insecurity caused by displacement makes the risk of the disappearance of some groups and communities likely. The Colombian Constitutional Court determined that 35 indigenous groups are at risk of either physical or cultural extinction due to the violence.<sup>16</sup> This report will assess the risk of genocide in Colombia and the risk that such extinction will occur.

## 2.1 - Historical

Colombia's current conflict began in 1964. It has since developed into a fight between left-wing guerrilla groups, like the Revolutionary Armed Forces of Colombia (FARC) and the National Liberation Army (ELN), and government forces. The need to defend various communities from the violence encouraged a third force of paramilitaries to form. These paramilitary forces have worked with the government and fought against it at different times, though they remain vehemently opposed to the guerrilla groups. Notably, both non-state forces have become entrenched in the drug industry, producing and trafficking cocaine to fund their wars. In recent decades, aspects of the conflict have lost their political nature, changing to struggles over the control of drug producing regions.

The war, although generally low-intensity, has been devastating. Hundreds of thousands have died over the course of the conflict. Over five

9 UNHCR, Colombia Situation: Indigenous People, Colombia Situation (UNHCR, 2012). 1

10 Amnesty, The Struggle for Survival and Dignity: Human Rights Abuses against Indigenous Peoples in Colombia, (Amnesty International, 2010). 2, 6

11 Amnesty, The Struggle for Survival and Dignity: Human Rights Abuses against Indigenous Peoples in Colombia, (Amnesty International, 2010). 6

12 Amnesty, The Struggle for Survival and Dignity: Human Rights Abuses against Indigenous Peoples in Colombia, (Amnesty International, 2010). 2

13 HRC, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, Annual Report (Geneva: OHCHR, 2010). 14

14 UNHCR, Colombia Situation: Indigenous People, Colombia Situation (UNHCR, 2012). 2

15 Amnesty International, "Attempt on Life of Indigenous Rights Defender," Amnesty International, May 16, 2013, <http://www.amnesty.org/en/library/asset/AMR23/021/2013/en/c93feafc-9a51-45f3-8cdb-ae288f8069c9/amr230212013en.html> (accessed May 20, 2013).

16 UNHCR, Colombia Situation: Indigenous People, Colombia Situation (UNHCR, 2012). 1

million people (11.4% of the population) were displaced due to the conflict between 1985 and 2011.<sup>17</sup> Currently, there are nearly 4 million internally displaced people in Colombia.<sup>18</sup>

## 2.2 - Geography

Indigenous Colombians largely live in the rural and forested regions of Colombia. These are the *resguardos*, or reserves, which make up nearly a third of Colombian territory and nearly three fifths of Colombia's forests.<sup>19</sup> The benefits of such separation, like the space in which groups live in a traditional way, become problems in the context of the Colombian conflict. Living in regions that are sparsely populated and far-removed from the more densely populated urban centres creates insecurity, as can be shown by the degree to which people have fled from rural regions and *resguardos* to urban areas. The government does not have formal control of many of these areas, and thus various paramilitary and rebel groups have established authority over them. The presence of valuable mineral resources and farmland in the *resguardos* make them a tempting target for many actors who do not have the land's indigenous inhabitants' interests at heart.

<sup>17</sup> MRGI, State of the World's Minorities and Indigenous Peoples 2012: Events of 2011, Annual Report (Minority Rights Group International, 2012). 101

<sup>18</sup> UNHCR, Latest News, 2012, <http://www.unhcr.org/cgi-bin/texis/vtx/search?page=49e492ad6&skip=0&cid=49aea93a7d&coi=COL> (accessed October 24, 2012).

<sup>19</sup> Van der Hamme, Maria Clara. The Indigenous Resguardos of Colombia: their contribution to conservation and sustainable forest use. (Netherlands Committee for IUCN, 2003). 7

## 3.0 - Key Actors

### 3.1 - Individuals

**Alvaro Uribe:** Uribe served as Colombia's president from 2002 until 2010, and his presidency was characterised by a focus on a military solution to the conflict. Although his administration and military initiatives achieved some success in countering left wing rebels and disarming right wing militias, Uribe failed to deal with many of the underlying problems. The reasons for the rebels' grievances were left unaddressed, and thus the conflict persisted. Attempts to disarm militias also inevitably failed, as the continuously insecure situation prevailed and therefore the need for self-defence militias still seemed relevant.<sup>20</sup>

Uribe's popularity had allowed him to amend the constitution to give him the ability to run for a second term. However, Colombia's constitutional court struck down Uribe's request to amend the constitution to allow him a third term. The presidency was rocked by a number of scandals, which included allegations of wiretapping journalists and of collaboration between right wing militia groups and the army. Despite his inability to have a third term, Uribe has not remained out of the public eye. Instead, he has been publicly critical of his successor's dovish approach to the conflict.

**Juan Manuel Santos:** Juan Manuel Santos became Colombia's 32<sup>nd</sup> president in 2010 presidential elections as the head of a centrist-conservative coalition. Despite being the Minister for Defence in Uribe's hawkish situation and running in his place when the constitutional court prevented him from having

<sup>20</sup> ICG, Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender, Latin America Report (ICG, 2012).

a third term, Santos has emerged as one of the Colombia's most peace-oriented presidents. This is evidenced by Santos starting the current FARC-government peace talks in late 2012. He has taken a more sympathetic approach to indigenous issues, and may be Colombia's most promising peacemaker in a long time, though there are criticisms of his tendency to make free trade agreements with Western nations.

### 3.2 - Organisations

**FARC:** The *Fuerzas Armadas Revolucionarias de Colombia* (FARC) developed from the military wing of Colombia's Communist Party in the 1960s into the main violent opposition to the present government. Despite the fact that their activity and manpower have been severely reduced from their heyday, FARC is still a force to be reckoned with. Based mainly in rural areas, FARC fights for a more equal agrarian land distribution between the historically rich landowning class and Colombia's peasants. As of late 2012, FARC has been in peace talks with the government.

**ELN:** The *Ejercito de Liberacion Nacional* (ELN) is a smaller left-wing rebel group, but still an important player that is separate from, and sometimes in opposition to, FARC. Both FARC and the ELN finance themselves through the drug trade and ransom gained from hostage taking. The ELN is not yet part of the current peace talks.

**Self-defence groups:** Although self-defence militias emerged as a response to violence, they have since become a problematic source of violence themselves. The self-defence groups are often reactionary, pro-government, nationalistic and radically anti-leftist. These groups are also involved in the drug trade, and may be the largest threats to indigenous Colombians given their dogmatic belief that

anyone who protests against the government is a threat. Despite the fact that the main paramilitary self-defence group (the *Autodefensas Unidas de Colombia*) was disbanded and allegedly demobilised by Uribe's administration, various self-defence militias still cause problems throughout the country, remain a major roadblock to peace and continue to be a threat to indigenous peoples.

### 4.0 - Risk Factors

Risk factors for genocide are based on known social, cultural, and economic precursors to inter-ethnic violence. They are not meant to be deterministic, nor is the lack of any factor considered a precluding element in the occurrence of genocide. Colombia has a mixed profile in which some factors increase the risk of inter-ethnic violence while others decrease this likelihood. The Sentinel Project looks at five main categories of risk factors present in previous cases of genocide: sociocultural; economic; political – institutional; political - regime and ideology; and conflict and upheaval.

#### 4.1 - Sociocultural

##### 4.1.1 Existence of Distinctive Groups Separated by Social Divisions

The very idea of genocide requires that groups perceive a distinction between each other. However, these divisions do not need to be fault lines. Colombia's 1991 Constitution outlined provisions to not only give indigenous groups their land, but also some political control over their lives. In essence, this provided a formal distinction between Indigenous Colombians and non-Indigenous

Colombians, making the divide between the two more salient and apparent.

This move gave 30% of Colombian territory to indigenous groups, who make up around 3% of the population.<sup>21</sup> Therefore, indigenous groups are separated from other groups in society in some sense by both a physical divide and a socio-political one. This is especially relevant given the context of research into the nature of political institutions and their relation to conflict.

Although it seems intuitively positive to give distinct people, often minorities or historically persecuted groups, a special role in government, a separate form of government or special rights, it may be that this process makes differences more salient, creates grievances and increases the chances of conflict. Yet, what makes Colombia's case more risky is that the government has failed to implement these preferential policies in many areas, leaving many indigenous groups with the problems of differentiation but without the benefits that the differentiation should entail. The former UN Special Rapporteur on the Rights of Indigenous Peoples, Rodolfo Stavenhagen, found that although there was a legal framework to support indigenous peoples, it was hardly ever backed up by a substantive effort in concrete policy.<sup>22</sup> Although a more recent report by the current Special Rapporteur, James Anaya, noted some improvement in the creation of laws to protect indigenous peoples, it still found that many initiatives lacked sufficient action and that many problems still need addressing.<sup>23</sup> The

existence of such divisions does make genocide more likely, but with the correct *substantive* reforms, it would not.

#### 4.1.2 Ethnic Nationalism

Unlike the promotion of harmful ideologies (see below), ethnic nationalism is more of a structural condition by which a certain group widely considers itself superior in some ways to others. This is what the promoters of harmful ideologies will exploit. There do seem to be some disturbing but minor trends towards non-indigenous Colombian nationalism. For example, many self-defence militias see themselves as defenders of their country and communities from left-wing guerrillas, whom the self-defence militias perceive as a threat to their nation. Thus, any who oppose the government and the militias are considered to be anti-Colombian terrorists.

Often, such groups equate indigenous rights activists with terrorists due to their critical stance on the Colombian state, despite the fact that these activists are largely peaceful. This led (the now defunct) AUC to declare "If they [indigenous people] refuse to get in line with this reality [of the threats of terrorism], they should leave and take their humanitarian ideas with them to someplace other than our sacred Colombian territory".<sup>24</sup> These sorts of statements, although only anecdotal, might well be indicative of a trend towards seeing indigenous peoples as working against the goals of the Colombian state and thus as not deserving of their status as Colombians, let alone protected Colombians. This rhetoric may

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21 Miguel Velasco, "Contested Territoriality: Ethnic Challenges to Colombia's Territorial Regimes," *Latin American Bulletin*, 2011: 213-228. 213

22 Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, Report on Indigenous Issues (New York: OHCHR, 2004).

23 James Anaya, The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the

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previous Special Rapporteur, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010).

24 Margarita Serje, "Iron Maiden Landscapes: The Geopolitics of Colombia's Territorial Conquest," *South Central Review*, 2007: 37-55. 47

have filtered into the government's approach to the conflict (see below). However, this nationalism does not seem to be strong enough to warrant concern, as there were few explicit examples to be found.

#### 4.1.3 Legacy of Intergroup Hatred or Grievance

Mistrust or grievance between groups might provide a point of tension that could be used as a justification for genocidal action. This could be in the form of a revenge for past harms, or as prevention of perceived threats. Interestingly, there does not appear to be a huge amount of history of hatred between indigenous and non-indigenous Colombians. Much of the conflict between indigenous and non-indigenous Colombians started as a spill-over from the country's civil war and drug trade. Indigenous peoples seem to be the targets of violence more because they are vulnerable to it rather than because they perceived as having wronged others.

Any grievances or hatreds are in the process of being created, thus they cannot be considered to be a root cause of the conflict. Such grievances could be that non-indigenous Colombians perceive their indigenous counterparts as terrorists (see above), obstacles to economic growth (see below) or simply societal parasites who benefit disproportionately from the allocation of state resources. However, if these exist they seem to have only emerged in the more contemporary developments of the civil conflict such as the drug trade, and should not be counted as factor that increase the likelihood of genocide.

#### 4.1.4 Prior Persecution of Outgroup(s)

Due to the gradual nature of genocide, the prior persecution of a group might be a sign that actions will become more extreme as time passes. Much like "Legacy of Intergroup Hatred or Grievance", there does not seem to be a huge amount to go on for this risk factor in Colombia. However, one can assume that before the constitution came into effect, indigenous groups weren't so much persecuted as they were ignored and marginalised. Notably, the Colombian government has adopted anti-discrimination laws under article 13 of the Colombian constitution.<sup>25</sup> These laws consider all Colombians to be equal, prohibit discrimination, create a duty of the state to prohibit discrimination and ensure equality and provide for potential measures of affirmative action.<sup>26</sup>

An example of a positive step forward is the government's attempt to mainstream issues of ethnicity. The government has created a Directorate for Indigenous, Minority and Roma Affairs; a Directorate for Ethnic Culture and Advancement of the Ministry of Culture; a Deputy Ombudsman for Ethnic Minorities and other similar positions in other departments.<sup>27</sup>

It is important to note, however, that there these improvements have shortcomings. There is still no tested law or mechanism by which one might punish racial discrimination, and no statistics on homicide and other crimes that

<sup>25</sup> CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008). 74

<sup>26</sup> Gay McDougall, Report of the independent expert on minority issues: addendum, (UN Human Rights Council, 2011).

<sup>27</sup> HRC, Consideration of reports submitted by States parties under article 40 of the Covenant, Periodic Report (UN Human Rights Committee, 2009). 105

differentiate between ethnicity exist.<sup>28</sup> This makes it harder for the government to enforce their anti-discrimination laws, as there is a lack of evidence on which to act and no enforcement mechanism. This slowness could be because important parties in the Colombian state are more concerned with defeating the security threat caused by the leftist guerrillas than addressing social needs.

However, some important steps have been made in the creation of such mechanisms. The Anti-Discrimination law, signed by President Santos in December of 2011, criminalises discrimination against select vulnerable groups.<sup>29</sup> Positive measures, such as this legislation, appear to decrease the likelihood of genocide by reducing the state's capacity to discriminate. Additionally, Santos has taken steps to apologise for past massacres of indigenous groups.<sup>30</sup> This suggests that, even if there is racial tension between the government and indigenous groups, it is decreasing.

#### 4.1.5 Cultural Devaluation of Outgroup(s)

By denying the outgroup equal standing, the ingroup will have an easier time justifying repressive and genocidal measures against them. As the CERD report outlines, there does not seem to be significant structural devaluation of outgroups in Colombia.<sup>31</sup> As can be seen above,

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<sup>28</sup> High Commissioner for Human Rights, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, Annual Report (Geneva: Human Rights Council, 2010). 18

<sup>29</sup> Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

<sup>30</sup> ICG, Transitional justice and Colombia's Peace Talks, Latin America Report, (International Crisis Group, 2013). 9

<sup>31</sup> CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008).

there are governmental mechanisms to deter such devaluation both in the constitution and in the civil service, and thus it seems like this factor does not exist enough in Colombia to count it as one that increases the likelihood of genocide.

#### 4.1.6 Outgroup(s) Viewed as an Obstacle to Economic Progress

If outgroups groups are seen as impediments to the financial betterment of ingroups, members of the ingroups will be more likely to tolerate or even endorse their persecution. This risk factor is perhaps one of the most pertinent in the Colombian case. Indigenous people are viewed as obstacles to the economic progress of the government, guerrillas and the paramilitary organisations. As alluded to above, the land given to indigenous peoples is seen as unused and open to economic development by government actors, foreign businesses and drug-cultivating paramilitaries.<sup>32</sup> Non-indigenous actors desire it for everything from its agricultural potential (both cocaine and palm oil<sup>33</sup>) and extraction of resources (like minerals, gold, natural gas and oil).

Through its participation in the ILO Convention 169 and UNDRIP, the Colombian government endorses a duty to consult indigenous peoples before developing their land.<sup>34</sup> However, there is still much disregard for it in Colombia, and in the case of the illegal drug trade, there is

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<sup>32</sup> Margarita Serje, "Iron Maiden Landscapes: The Geopolitics of Colombia's Territorial Conquest," South Central Review, 2007: 37-55. 47

<sup>33</sup> Rachel Baird, The Impact of Climate Change on Minorities and Indigenous Peoples, Briefing (Minority Rights Group International, 2008).

<sup>34</sup> James Anaya, The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010). 14

obviously little that the Colombian government can do to enforce the duty to consult.

#### 4.1.7 Population Growth and Youth Bulge

A fast growing population will put pressures on society that may exacerbate ethnic or intergroup tensions or bring them to the surface. The growth rate of the Colombian population has been steadily declining. The Colombian population grew at a rate of 2.2% from 1970 to 1990, but this rate decreased to 1.7% from 1990-2010. It is now growing at a rate of 1%. Therefore, it is unlikely that Colombia will experience vast pressures due to excessive population growth, as its population is growing at a moderate pace, and is even declining in the degree to which it grows.

Further, a disproportionately large population of young men is often indicative of instability, as they will more likely be the avenue for violence if there is an economic downturn, growth in unemployment or general unrest. Yet in Colombia, a total of 19% of the population is between the ages of 10-19.<sup>35</sup> This does not seem to be highly disproportionate, and thus is not a cause for concern.

## 4.2 - Economic

### 4.2.1 Long-Term Difficult Life Conditions

Difficult life conditions might make those who live in such conditions more prone to violence. Although Colombia has a relatively high HDI rating (.710), that ranking drops to a sub-par

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35 UNICEF, Colombia: Statistics, 2011, [http://www.unicef.org/infobycountry/colombia\\_statistics.html](http://www.unicef.org/infobycountry/colombia_statistics.html) (accessed October 24th, 2012).

.482 when inequality is taken into account.<sup>36</sup> 6.4% of Colombians are vulnerable to poverty, 16.0% live below Colombia's poverty line and 1.1% live in extreme poverty.<sup>37</sup>

The significant number of Colombians experiencing difficult life conditions may fuel the conflict in two ways. First, it gives power, legitimacy and support to the left-wing factions who seek to radically redistribute resources from the hands of Colombia's small elite to its rural poor. This allows them to perpetuate their insurgency, provoking armed responses from the government and paramilitaries. Second, such difficult life conditions have allowed the drug trade, which often threatens indigenous peoples, to flourish. Therefore, the long-term difficult life conditions of many Colombians can be seen as contributing to the risk of genocide in Colombia.

### 4.2.2 Socioeconomic Deprivation Combined with Group-Based Inequality

If one group feels hard-done-by, it is more likely to embark on a violent campaign with redistributive ends. Further, if a group is perceived to have a financial advantage, then it may become the target of genocide. In Colombia, there is some correlation between regions with a majority indigenous population and lower socioeconomic standards.<sup>38</sup> Some reports claim that while 54% of all Colombians live below the national poverty line, 63% of

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36 UNDP, Explanatory note on 2011 HDR composite indices: Colombia, Explanatory Notes (UNDP, 2011).

37 UNDP, Explanatory note on 2011 HDR composite indices: Colombia, Explanatory Notes (UNDP, 2011).

38 James Anaya, The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur; Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010). 15

indigenous Colombians do.<sup>39</sup> However, this correlation may not be entirely indicative of worse conditions for indigenous groups at large. Instead, it may represent a broader inequality between the rural areas in which indigenous peoples and non-indigenous peoples live and the urban areas, which are predominately non-indigenous.

Such an inequality between the rural poor and the urban and rural elites is at the heart of the left-wing militias' initial grievances for starting the conflict. Thus this inequality does fuel conflict, which in turn is a risk of genocide, indicating that there may not be a direct causal link between inequality and genocide. Even if there was a verifiable discrepancy that placed indigenous Colombians at a disadvantage, it would not work to fuel genocide. Most often, this risk factor only leads to genocide when the perpetrators feel that they are at a disadvantage. As it is the potential victims who may be at a disadvantage, it would be unlikely that the disadvantage would lead to genocide.

That being said, there are still issues of inequality that in themselves threaten the indigenous population. Indigenous groups have less accessible healthcare and education, especially education in the tradition of their own culture.<sup>40</sup> Thus, while the national average of pregnant women who die from birthing complications lies at 73 of every 100,000, some indigenous communities have a rate at 386 in

every 100,000.<sup>41</sup> The government is, notably, working to address this inequality through social and development programs directed at indigenous communities.<sup>42</sup>

### 4.2.3 Sudden and Severe Economic Hardship

A financial crisis will reduce a government's capacity to distribute resources to its citizens, which may exacerbate fault lines and trigger intergroup violence. Importantly, there has been an overall improvement over the past 30 years in Colombia's HDI rating.<sup>43</sup> Multi-dimensional poverty has, in fact, declined by 9.1% in Colombia from 2005-2010.<sup>44</sup> World Bank data supports this trend, showing that the percentage of Colombians living below the poverty line has dropped by more than 10% to 37.2% from 2004 to 2010.<sup>45</sup>

Thus, there does not seem to be a huge concern of a trend of dissatisfaction over changes in people's economic standing leading to conflict. Colombian citizens on average rank their satisfaction with the Colombian state as 6.4 of 10,<sup>46</sup> which although seems a small number, is actually quite good compared to other countries, especially given that Colombia is in the midst of a decades-long civil war. This might well be due to the stellar economic status of the regime, discussed below.

39 Various, Parallel Report to the Fifth Report of the Colombian State to the Committee on Economic, Social and Cultural Rights, Parallel Report (Bogota: Colombian Platform for Human Rights, Democracy and Development, 2010). 168

40 James Anaya, The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010).

41 Amnesty, The Struggle for Survival and Dignity: Human Rights Abuses against Indigenous Peoples in Colombia, (Amnesty International, 2010). 11

42 CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008). 106

43 UNDP, Explanatory note on 2011 HDR composite indices: Colombia, Explanatory Notes (UNDP, 2011).

44 UNDP, Human Development Report 2011, Human Development Report (UNDP, 2011).

45 WB, Data: Colombia, 2012, [http://data.worldbank.org/country/colombia#cp\\_wdi](http://data.worldbank.org/country/colombia#cp_wdi) (accessed October 24, 2012).

46 UNDP, Human Development Report 2011, Human Development Report (UNDP, 2011). 155

Notably, however, there is not only greater poverty in rural areas, but there a much smaller decline in rural poverty. While urban poverty declined from 43.6% to 33% from 2004 to 2010, rural poverty only declined from 58% to 50.3% over that same period.<sup>47</sup> From 2004-2005, rural poverty even increased from 64% to 69%.<sup>48</sup> Therefore, in rural areas, where the conflict takes place, indigenous people live and most drug cultivation exists, there seems to be less change and more poverty, potentially creating further points of tension within rural areas. Such tension is reaching a boiling point; recent mass rural protests over poor conditions have spread to urban areas, become violent and then provoked a military crackdown on the protestors.<sup>49</sup> Nonetheless, there is positive change in rural areas. This might be a potential avenue for genocide, as most indigenous communities are in rural areas. However, once again it may only fuel the broader conflict.

#### 4.2.4 Economic Status of the Regime

If a regime is doing well financially and is not highly economically interdependent with other states, it will have greater freedom to deal with internal issues and opponents in the way it pleases. The Colombian regime is in good economic standing, with a consistent growth in GDP and PPP over the past decade.<sup>50</sup>

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<sup>47</sup> WB, Data: Colombia , 2012, [http://data.worldbank.org/country/colombia#cp\\_wdi](http://data.worldbank.org/country/colombia#cp_wdi) (accessed October 24, 2012).

<sup>48</sup> USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006). 2

<sup>49</sup> Alsema, Adriaan, Santos orders suspension of talks with strikers, militarization of Bogota after violent protests, August 30, 2013, <http://colombiareports.co/santos-orders-suspension-talks-strikers-violent-protests/> (Accessed September 5, 2013).

<sup>50</sup> CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008). 7

Therefore, it is likely that this factor will decrease the chance of genocide. However, one must note that much of this development does come through resource development, which negatively affects indigenous peoples. Ironically, the growth of Colombia's economy may play a role in threatening the indigenous community through its prioritisation of resource extraction over respect for indigenous rights or land holdings.

Additionally, the regime is highly interconnected economically to other nations, as can be seen by its recent free trade agreements with the USA, Canada and the EU. However, as discussed below, this may have adverse and counterintuitive effects and may contribute to the risk of genocide.

### 4.3 - Political - Institutional

#### 4.3.1 Low Degree of Democracy

The less democratic a state is, the less chance it will respect the dignity, safety, rights and freedoms of its citizens. While in a democracy, problems are generally resolved through discussion and debate, this is less likely in an autocracy, where the government can more easily use violence and repression to maintain its power. Colombia is rated as 'Partially Free' on Freedom House, with a mediocre rating of 3.5.<sup>51</sup>

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WB, Data: Colombia , 2012, [http://data.worldbank.org/country/colombia#cp\\_wdi](http://data.worldbank.org/country/colombia#cp_wdi) (accessed October 24, 2012).

UNDP, Human Development Report 2011, Human Development Report (UNDP, 2011).

<sup>51</sup> Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

The Economist's Democracy Index places it at 55<sup>th</sup> in the world, with a score of 6.63/10.<sup>52</sup> This is an improvement on its 2010 score of 6.55. Notably, Colombia receives an exceptionally high score in "Political Inclusion and Pluralism" (9.17/10), a mediocre score in "Functioning of Government" (7.75) and scores below 4 on "Political Participation" and "Political Culture".<sup>53</sup> This implies that Colombia has good formal democratic institutions, but they are not substantive and entirely effective.

Although corruption limits the independence and thus positive role the judiciary plays in creating a democratic and accountable environment, the constitutional court has been praised as a fairly independent and active body.<sup>54</sup> The military, on the other hand, has been criticised for being unaccountable for its actions. However, as one will see below, a degree of security sector reform shows hope for the military's improvement. All in all, Colombia does not seem to be undemocratic enough to warrant concern.

### 4.3.2 Frequent Changes in Political Leadership

When leaders fear for the longevity of their position, their insecurity might encourage them to solidify their power by scapegoating minorities for various problems. For much of Colombia's history, the unstable security

situation caused a change in leadership nearly every election.<sup>55</sup>

Yet in the past decade, if anything, Colombia has suffered from a lack of political leadership change, due to the successes of the security-oriented Alvaro Uribe. Uribe was president from 2002 to 2010, and was then succeeded by Juan Manuel Santos. Although Santos was from a different party, he considers himself an 'Uribist', or a conservative and security-oriented politician. Santos was Uribe's former defence minister, giving him a lot of support among Colombians concerned with the security situation.<sup>56</sup> Therefore, the Colombian government has been dominated by like-minded people for most of the 2000s. Thus it is hard to see this risk factor as contributing to a greater likelihood of genocide.

### 4.3.3 State Security Agencies Operate with Few Constraints

When state security agents are accountable to democratic institutions and the constraints such institutions provide, they are less likely to violate human rights or commit mass atrocities. From 1996 to 2004, both Amnesty International and the US State Department have consistently rated Colombia's population's insecurity at the most insecure level possible (5/5). However, in the past few years, both agencies have occasionally dropped that rating down to 4/5. Although this is still a poor score, it is an improvement. As of 2009, Amnesty rated the insecurity of Colombia's people at 5, and the US State Department rated it at 4.

52 EIU, Democracy index 2011: Democracy under stress, Democracy Index Annual Report (Economist Intelligence Unit, 2011), 12

53 EIU, Democracy index 2011: Democracy under stress, Democracy Index Annual Report (Economist Intelligence Unit, 2011).

54 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

55 USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006), 3

56 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

As one would expect in the context of a civil war, many areas of Colombia have been under a State of Exception for nearly forty years.<sup>57</sup> The army has historically acted with relative impunity, frequently engaging in extrajudicial killings that often go unpunished, as they are subject to the jurisdiction of the military's judicial system.<sup>58</sup> The army has also been accused of targeting indigenous peoples due to what it perceives as their links to guerrilla groups.

But even when the army does not go as far as killing indigenous peoples whom they suspect are terrorists, its tendency to arbitrarily arrest and then release indigenous peoples without charge marks them out as suspects for the anti-terrorist paramilitary groups, who often follow up with violence.<sup>59</sup> Colombia's anti-terrorism legislation gives the military exceptional and unquestioned power and discretion in some areas. Encouragingly, the government has passed anti-discrimination laws that govern the military's conduct in these situations.<sup>60</sup> Further, the army has gone through a process of mainstreaming international human rights norms within its code of conduct.<sup>61</sup> Although this does not address the underlying issue of the general lack of constraints for state security agents, it provides some constraints that could help prevent the army's participation in ethnically biased activities, thus neutralising the army's role in the participation of a potential genocide.

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57 Margarita Serje, "Iron Maiden Landscapes: The Geopolitics of Colombia's Territorial Conquest," *South Central Review*, 2007: 37-55. 38

58 HRW, *World Report 2012*, World Report (Human Rights Watch, 2012). 232

59 Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, Report on Indigenous Issues (New York: OHCHR, 2004). 12

60 CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008). 82

61 HRC, Consideration of reports submitted by States parties under article 40 of the Covenant, Periodic Report (UN Human Rights Committee, 2009). 106

However, recent events have made the question of the degree of the government's control over the army vague. There have been successful attempts to try and imprison security force members, including one former army general, for violations of general human rights and the targeting of indigenous leaders.<sup>62</sup> This has caused tensions between the civilian administration and the military, and the military has pushed back. In 2012, members of the government have been pushing through reforms that would transfer power over many crimes committed by soldiers from the civilian judiciary to the military justice system, which observers worry will encourage a culture of impunity.<sup>63</sup> Such a disquieting history of military independence from civilian control and the uncertain future for military accountability forces this report to conclude that the military's few constraints contribute to the risk of genocide.

#### 4.3.4 High Level of Military Expenditure

A state's level of military expenditure often signifies the degree to which it prioritises security as a legitimate way to resolve domestic problems, and it may also show the power and independence that security forces have within a state. Colombia's military expenditure is high, though not significantly so given the nature of its civil conflict. In 2010, it was recorded to be

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62 Freedom-House, *Freedom in the World: Colombia, 2012*, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

Amnesty, *The Human Rights Situation in Colombia: Amnesty International written statement to the thirteenth session of the UN Human Rights Council*, Written Statement (Amnesty International, 2010).

63 Amnesty, "Colombia: Reform will boost impunity for military and police human rights abusers," *amnesty.org*, December 6, 2012, <http://www.amnesty.org/en/for-media/press-releases/colombia-reform-will-boost-impunity-military-and-police-human-rights-abuser> (accessed December 6, 2012).

at nearly USD 10.5 billion, which was 3.6% of the GDP.<sup>64</sup>

One thing to note is that, since 1990, the percentage of Colombia's GDP that has been devoted to military purposes has more than doubled from 1.6 to 3.6. This is despite Colombia's economic growth. In fact, the amount that Colombia has spent on its military more than quadrupled from 1990-2010,<sup>65</sup> signifying a serious increase in the war effort by the Colombian government. Yet the government was not the only force that spends a lot on the conflict. In 2006, while Colombia spent 14 million USD on the war, the USA contributed 1.6 million and the guerrillas spent an estimated 2.6 million collectively.<sup>66</sup> Because the Colombian state, its international backers (see below) and its internal challengers all spend quite a lot on security, this shows that they highly prioritise it. This increases the likelihood of genocide, as many actors have the tools to commit it available to them.

#### 4.3.5 Isolation from the International Community

A state that is more independent of the international community is generally considered to be more unpredictable and less accountable to international conventions on issues such as genocide and racial discrimination. Further, the international community is less able to influence an isolated regime. Yet the case of Colombia shows that this relationship is not as black and white as this.

Colombia is far from isolated from the international community. Despite tensions between it and some of its neighbours, it is active in South American politics and the UN, holding a non-permanent seat on the UN Security Council. It has signed nearly all international covenants and conventions at the UN level pertaining to Human Rights, and frequently interacts with various UN bodies. Perhaps most importantly, Colombia has a very close relationship with the United States given the United States' support for the war on drugs in Colombia. The Obama administration's vice president Joe Biden visited Santos in late May to talk about both the economic improvements in the country and the peace process.<sup>67</sup>

Further, the US gives a large amount of aid to Colombia. In 2011, it gave US\$62 million, of which almost two thirds was for the use of Colombia's military and police. Around a third of this military aid has conditions that require Colombia to respect human rights, and despite Colombia's more than sketchy record on these issues, the US State Department believed that it had met them.<sup>68</sup> Other members of the international community, like the UK, have reduced aid to Colombia in the past as a sign of disapproval of its human rights record. This is not to say that the USA is wholly irresponsible in its dealings with Colombia, as it does have a positive effect. For example, the United States Agency for International Development is collaborating with the Colombian government to promote human rights, indigenous causes and ethnic and racial toleration.<sup>69</sup>

64 SIPRI, SIPRI Military Expenditure Database, 2012, <http://milexdata.sipri.org/result.php4> (accessed October 24, 2012).

65 SIPRI, SIPRI Military Expenditure Database, 2012, <http://milexdata.sipri.org/result.php4> (accessed October 24, 2012).

66 USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006). 2

67 Megan Slack, "Vice President Biden Travels to Colombia," The White House Blog, May 28, 2013, <http://www.whitehouse.gov/blog/2013/05/28/vice-president-biden-travels-colombia> (accessed June 3, 2013).

68 HRW, World Report 2012, World Report (Human Rights Watch, 2012). 234/235

69 USAID, Colombia, US Foreign Assistance Performance Publication (Washington: USAID, 2009). 3

Yet whether relationship between the international community and Colombia is healthy is up for debate. Companies in Canada and the US have been accused of pushing the Colombian government to ignore indigenous issues and rights in favour of economic development.<sup>70</sup> Colombia has signed several free trade agreements (FTAs) negotiated in the past few years with major Western players. The effects of these agreements are disputed. Despite their broader financial benefits, may believe they will allow foreign companies to continue to perpetuate the evictions of indigenous peoples who live in resource-rich territories; the same sort of evictions that many local and international actors are doing presently. Encouragingly, however, the Colombian government emphasised foreign companies' duties to consult indigenous peoples in its negotiations to have a free trade agreement with the US.<sup>71</sup> Additionally, the EU enshrined the International Labour Organisation's ruling 169 within its FTA between itself and Colombia. Ruling 169 requires free, prior and informed consent with any indigenous group affected by economic development.<sup>72</sup>

Canadian companies, on the other hand, appear to be less cooperative. They make up more than 60% of foreign mining companies and more than 70% of foreign oil companies in Colombia, and the forthcoming FTA between Canada and Colombia is sure to increase this.<sup>73</sup> Canada has no concrete mechanism to hold its companies

70 Asad Ismi, *Profiting from Repression: Canadian Investment in and Trade with Colombia*, (Canadian Union of Postal Workers, 2012).

71 CERD, *International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report* (New York: United Nations, 2008). 72

72 Karel de Grucht, *Trade agreement between the EU and Colombia and Peru, Speech* (Brussels: European Parliament, 2012).

73 NSI, *Caught in the Crossfire: Indigenous Peoples, Black Communities and Extractives in Colombia*, (North-South Institute, 2012). 3

to standards of consultation. Historically, Canadian companies have historically insufficiently and incompletely adopted voluntary standards of corporate responsibility and have at times failed to respect indigenous rights while mining in Colombia.<sup>74</sup> Canada has also failed to evaluate the human rights situation in Colombia as it had promised to do in the FTA.<sup>75</sup> Further, weak Colombian standards on consultation allow foreign companies to overlook more substantive consultation processes.<sup>76</sup>

A second drawback of FTAs is the potential they can cause for societal discontent and conflict. For example, some claim that the USA-Colombia FTA will adversely affect Colombian small scale farmers, who will have to compete with foreign agricultural businesses. It is estimated that the FTA will interfere with the income of more than 2 million rural Colombians, which could drive many to the drug trade an increase tensions in an already risky rural environment (see above).<sup>77</sup>

In conclusion, there are two prongs to this risk factor. The first is that the international community, through Colombia's responsibilities to international organisations and trade partners, has a lot of leverage over the country. This is a positive aspect of its involvement in the international community, if of course the international community uses its leverage. The

74 NSI, *Caught in the Crossfire: Indigenous Peoples, Black Communities and Extractives in Colombia*, (North-South Institute, 2012).

75 Anonymous, "Take Action," *amnesty.ca*, 2013, <http://www.amnesty.ca/our-work/campaigns/colombia-indigenous-survival/take-action> (accessed September 4, 2013).

76 Anonymous, "Americas: Time and again, Indigenous rights trampled for development," *amnesty.org*, August 8, 2012, <http://www.amnesty.org/en/news/americas-time-and-again-indigenous-rights-trampled-development-2012-08-08> (accessed December 1, 2012).

77 Oxfam, *Impacts of US-Colombia FTA on Colombia's rural poor: Losses for small farmers, expansion of illicit crops*, (Oxfam America, 2012).

drawbacks are that this same leverage has introduced new pressures and potentially even further risks of genocide to the country. Therefore, the high degree of connectedness between Colombia and the international community both increases and decreases the likelihood of genocide, depending on the context.

## 4.4 - Political - Regime & Ideology

### 4.4.1 Installation of Newly-Created Regime

Often, new regimes bring with them a degree of uncertainty that might encourage leaders to solidify their power base through the persecution of minorities. Luckily, the new regime in Colombia is more progressive, inclusive and cooperative than its predecessor. Uribe's hard line on security issues was often a problem when dealing with rebels, but apart from the ongoing civil war, his rule was not a source of instability.

His successor Juan Manuel Santos took power through electoral victory in 2011. This election proceeded as any normal Colombian election would: with some violence, intimidation and foul play.<sup>78</sup> Fortunately, Santos seems more willing than Uribe to seek peace and accommodate the interests of opposing faction.<sup>79</sup> Thus the regime change, if anything, has been a beneficial stabilising factor and decreases the likelihood of genocide.

Santos has taken steps to better increase his government's respect for human rights by mainstreaming human rights discourse

78 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

79 HRW, World Report 2012, World Report (Human Rights Watch, 2012). 228

throughout the government and army.<sup>80</sup> Further, Santos has emphasised his administration's desire to encourage and protect civil society, including NGOs and activists.<sup>81</sup> His efforts at conciliation with the opposing side have led to a new round of negotiations and disarmament with the guerrillas and paramilitaries, respectively. Santos has also begun the process of reparations to IDPs and victims of the conflict (see below), even dealing admirably with the issue of reparations for indigenous peoples, through the Victim's Law. However, any optimism around the issue of resolving the conflict should be tempered, given the deep causes and multiple motivations for various actors. It must be noted that there were similarly high hopes at the beginning of Uribe's reign,<sup>82</sup> which were never properly realised.

### 4.4.2 Charismatic Leadership that Generates Mass Followership

Mass followership may encourage genocidal practices by creating an atmosphere that discourages second-guessing the leadership, especially when mass followership is centred on patriotism or ethnonationalism. Although President Santos is popular amongst Colombians, he does not appear to generate the blind ideological support that might indicate support for gross human rights violations like full-scale genocide. Further, although the leaders of rebel and paramilitary groups may inspire such followership, it is hardly *mass* followership. Therefore, no mass followership of the sort

80 Gay McDougall, Report of the independent expert on minority issues: addendum, (UN Human Rights Council, 2011). 5

81 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

82 USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006). I

exists that could noticeably increase the likelihood of genocide.

#### 4.4.3 Commitment to a Harmful Ideology

When a group sees another as inferior and deserving of persecution, its ideology can be considered harmful and might make the former more prone to committing atrocities against the latter. Apart from the revolutionary leftist groups in Colombia and the nationalism of the paramilitaries, there does not seem to be a huge deal of ideologically based conflict.

#### 4.4.4 Orientation Towards Force and Coercion to Seize and Maintain Power

When actors have successfully used force to maintain or achieve positions of power and authority, they are likely to see these strategies as both more legitimate and more preferable. As discussed below, the government has in the past used violence and intimidation to defeat political opponents.<sup>83</sup> Also, it goes without saying that rebel groups and paramilitaries use force rather than political means to achieve their goals, be they the overthrow of the government or the acquisition of land to cultivate drugs or extract resources.

Luckily, Santos is taking a much more conciliatory and compromising approach than Uribe did, despite the fact that his approach is still quite security and military-oriented.<sup>84</sup> Many peace negotiations and processes have been

ruined by actors' unwillingness to resolve differences through political means, and one hopes that these current negotiations do not end the same way. Yet due to the history of the conflict and various participants' actions, almost all parties, except for indigenous groups, have a tendency to use force and coercion rather than political means to resolve problems. This increases the likelihood of genocide, as it creates norms and mechanisms by which actors can perpetrate it.

#### 4.4.5 Severe Government Discrimination or Active Repression against Communal Groups

A correlation has been found between the degree to which governments repress communal groups in their territory, and their willingness to resort to violent repression. Further, this could lead to the marginalisation of communal groups, which may provoke violent resistance amongst them. The Colombian government does not seem to directly repress communal groups, like the indigenous peoples, nor does it adopt any explicitly racist policies.<sup>85</sup> In fact, there are many provisions that should work in favour of communal groups in the constitution and in new laws that explicitly recognise and protect collective title and the rights of collective groups.

However, many of these provisions are not backed up with substantive policies, leaving indigenous groups, who are often quite poor, vulnerable to repression, discrimination or exploitation by third parties, including rebels,

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83 Andrei Gomez-Suarez, "Perpetrator blocs, genocidal mentalities and geographies: the destruction of the Union Patriótica in Colombia and its lessons for genocide studies," *Journal of Genocide Research*, 2007: 637-660.

84 (Freedom-House, *Freedom in the World: Colombia* 2012)

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85 CERD, *International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report* (New York: United Nations, 2008). 13

paramilitaries and drug traffickers.<sup>86</sup> Importantly, the government has taken steps to not only encourage greater respect for communal groups, their rights and traditions within government agencies, but also within the wider population through the protection of their culture and traditional ways of life.<sup>87</sup> Importantly, although some parts of the mining code declared traditional forms of mining practiced by indigenous peoples illegal, the Constitutional Court ruled those parts to be unconstitutional.<sup>88</sup> However, the law is still in place as the government creates new legislation, and some criticisms have been made over the lack of consultation surrounding this process.<sup>89</sup> But because of the government's clear efforts to make law and reform itself, it would be a stretch to call the government's actions severe repression of communal groups. It is more that the government simply does not do enough to protect them. Thus this risk factor neither increases nor decreases the likelihood of genocide.

## 4.5 - Groups

### 4.5.1 Exclusive Group-Based Rule

If one group makes up the support base for the ruling coalition, that coalition is less likely to be accountable to other sectors of society and is more likely to resort to an ingroup-outgroup perception of the political sphere. Through the

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86 CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008).

87 CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008). 133

88 MRGI, State of the World's Minorities and Indigenous Peoples 2012: Events of 2011, Annual Report (Minority Rights Group International, 2012). 104

89 NSI, Caught in the Crossfire: Indigenous Peoples, Black Communities and Extractives in Colombia, (North-South Institute, 2012). 2

creation of indigenous governance structures, the Colombian government has created some form of exclusive group-based rule. That is, there is to some degree a separate system for indigenous peoples and non-indigenous peoples. Unfortunately, the division has not been accompanied by substantive measures to enforce the positive aspects of the plan.<sup>90</sup>

One thing to note is that in the Colombian national set-up, indigenous people have very little official representation. The only positions reserved for indigenous peoples are two seats in the 102-seat Senate, with none in the Chamber of Representatives.<sup>91</sup> Although this representation is proportional, it is hardly enough for indigenous groups to have their voices heard in the legislative branch. Despite this, there has been improved dialogue between indigenous and non-indigenous politicians due to these moves.<sup>92</sup>

The government itself is not so focused on one group or the other. Colombia's Congress (made up of the Senate and the House of Representatives) has been historically divided between liberals and conservatives. Uribe, however, changed that. Under his administration, the liberal-conservative divide began to approximate a more urban-rural one,

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90 James Anaya, The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010).

Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people: Mission to Colombia, Report on Indigenous Issues (New York: OHCHR, 2004).

91 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

CERD, International Convention on the Elimination of All Forms of Racial Discrimination: Colombia, Periodic Report (New York: United Nations, 2008). 3

92 HRC, Consideration of reports submitted by States parties under article 40 of the Covenant, Periodic Report (UN Human Rights Committee, 2009). 101

with the rural voters supporting the more conservative and security-focused Uribe, and the urban voters more liberal and economically-focused parties.<sup>93</sup> Santos has created a coalition that has somewhat transcended this divide, and the political scene seems diverse, with some liberals and leftists winning major municipalities.<sup>94</sup> Thus, Santos rules with a broad-based coalition that includes some indigenous input, meaning that this factor may well reduce the risk of genocide.

#### 4.5.2 Ruling Group Deems the Outgroup(s) to be Dangerous

If the ruling group perceives an outgroup as a threat, the ruling group will be more prone to targeting the outgroup as an act of retributive or 'preventative' genocide. As pointed out elsewhere, paramilitary self-defence groups often deem indigenous and human rights activists terrorists because of indigenous criticism of parties to the conflict.<sup>95</sup> This is especially ironic, as most indigenous groups are advocating for peace and security rather than antiestablishment-motivated violence. Because of this, much of the violence towards indigenous Colombians is directed at human rights activists, who as aggravators are seen as collaborators. For example, various paramilitary groups officially proclaimed indigenous peoples targets in the Cauca department in 2008. This resulted in a series of targeted attacks against indigenous leaders and peoples, with dozens

93 Freedom-House, *Freedom in the World: Colombia*, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

94 Freedom-House, *Freedom of the Press: Colombia*, 2011, <http://www.freedomhouse.org/report/freedom-press/2011/colombia> (accessed October 24, 2012).

95 James Anaya, *The situation of indigenous peoples in Colombia: follow-up to the recommendations made by the previous Special Rapporteur*, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (New York: Human Rights Council, 2010).

dying, including Edwin Legarda, the husband of a prominent indigenous leader.<sup>96</sup> The left-wing groups also view indigenous peoples as dangerous. In their mind, indigenous peoples collaborate with the government. FARC has been known to target indigenous leaders as well.<sup>97</sup>

Even the government views the indigenous peoples as a threat. This is partially because of the discourse surrounding terrorism. Because the indigenous peoples seek to create a peaceful environment for themselves, they have negotiated with left-wing guerrillas outside the government sanctioned negotiation process, leading the government to distrust them.<sup>98</sup> Thus the government has equated them with terrorists, but to a lesser degree than paramilitary groups. Uribe often equated the goals of terrorists with the goals of peaceful indigenous protests.<sup>99</sup> Santos has taken a more moderate approach to this issue, saying "without accusing, far from it, the indigenous people of being in cahoots with the FARC, but yes there are elements we know of that have direct links".<sup>100</sup>

Further, Uribe disliked the idea of indigenous peoples creating communities of peace. When indigenous people tried to remove all bellicose

96 Amnesty, *The Struggle for Survival and Dignity: Human Rights Abuses against Indigenous Peoples in Colombia*, (Amnesty International, 2010). 9

97 HRW, *Colombia: More FARC killings with Gas Cylinder Bombs*, April 16, 2005,

<http://www.hrw.org/news/2005/04/15/colombia-more-farc-killings-gas-cylinder-bombs> (Accessed September 4, 2013)

Crisp, Jonathon, *FARC leader denies provoking genocide of indigenous in South West Colombia*, May 15, 2013

<http://colombiareports.co/farc-open-to-discussions-with-cauca-indigenous-farcs-supreme-commander/> (Accessed September 4, 2013).

98 USIP, *Harbingers of Hope: Peace initiatives in Colombia*, Special Report (United States Institute for Peace, 2006). 9

99 Theodore MacDonald, *State of the World's Minorities*, Annual Report (Minority Rights Group International, 2006). 82

100 Anonymous, "Clashes in Colombia over military post row," *Al Jazeera*, July 19, 2012.

parties – including government security forces – from their semi-autonomous regions through negotiations, Uribe perceived these tactics as undermining Colombian sovereignty.<sup>101</sup>

Therefore, to some degree, all parties to the conflict wrongly view indigenous peoples as a threat, which greatly increases the likelihood of genocide.

### 4.5.3 Low Degree of Freedom of Speech

Without a free and independent media, it is harder for civil society groups to bring attention to, criticise or condemn human rights violations. Although there is a quite active press in Colombia, journalists are frequently threatened if they work on sensitive issues, like the civil war, the drug trade or corruption.<sup>102</sup> They are often forced to flee the country or quit their work, and some have even been killed. The Economist's Democracy Index notes that Colombia has experienced a marked decrease in media freedom since 2008.<sup>103</sup>

Of note, the government is looking to support a series of indigenous media sources.<sup>104</sup> However, many indigenous media sources are threatened in the same way activists are. For example, paramilitary threats forced Voces de Nuestro Terra, a radio station, to close down. Paramilitary groups also killed Rodolfo Maya

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101 USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006). 11

102 Freedom-House, Freedom of the Press: Colombia, 2011, <http://www.freedomhouse.org/report/freedom-press/2011/colombia> (accessed October 24, 2012).

103 EIU, Democracy index 2011: Democracy under stress, Democracy Index Annual Report (Economist Intelligence Unit, 2011). 10

104 HRC, Consideration of reports submitted by States parties under article 40 of the Covenant, Periodic Report (UN Human Rights Committee, 2009). 82

Aricape, an indigenous radio host.<sup>105</sup> This low degree of freedom of speech paints a bad picture for Colombia and shows an increase in the likelihood of genocide.

## 4.6 - Conflict & Upheaval

### 4.6.1 History of Conflict + Ongoing Insurgency or Civil War

A history of conflict breaks down society's inhibitions surrounding violence and increases tensions between groups. Countries that experience six years of conflict within a 25-year period are 15 times more likely to experience a crisis within a year of a violent episode. Genocides almost always occur during or shortly after a conflict, and governments are most likely to perpetrate genocide against a group if they feel that group is or supports an insurgency movement.

Colombia's ongoing civil war is one of the longest conflicts the world has seen. The government has been fighting leftist guerrilla groups, such as FARC and the ELN, since 1964. During this violence, a dangerous third party joined the fray. Local paramilitary organisations justified by the need for self-defence in an insecure environment have sprung up across the country, eventually forming into a national self-defence group coalition: the AUC. The government's program of disarmament and demobilisation of the AUC in 2006 had some successes, but left several powerful armed

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105 RWB, "Air waves against bullets – indigenous radios stations in Cauca," [rsf.org](http://www.rsf.org/colombia-air-waves-against-bullets-10-08-2012,43200.html), August 10, 2012, <http://www.rsf.org/colombia-air-waves-against-bullets-10-08-2012,43200.html> (accessed November 28, 2012).

groups still in existence, which have since proven to be difficult to demobilise.<sup>106</sup>

Fuelled by a growing and profitable drug trade, these armed groups have continued to fight, amongst each other, against the army and against regular Colombians who get in their way. They remain the most violent actors in Colombia's civil conflict. Often, the political causes of the conflict have been forgotten, and armed groups have simply fought over legitimacy or even for control of drug producing regions.

Encouragingly, ERPAC, the AUC's main successor, surrendered in 2011. However, a similar process took place: the surrender was incomplete and new groups sprung out of those who did not want to surrender.<sup>107</sup> It is clear that to address the problem of paramilitaries, the government needs to address the root causes of their existence rather than their existence itself. The conflict has proven quite intractable, with numerous ceasefires and peace talks failing to bring it to an end. The existence of an ongoing and long-lasting civil conflict drastically increases the risk of genocide in Colombia.

However, a new diplomatic initiative started by Colombia's president Manuel Santos in the fall of 2012 seems to be making some progress. Talks are being held in Cuba, presided over by Cuba and Norway and facilitated by Venezuela. These talks are making significant progress. In late May, the negotiations produced a deal between FARC and the government on land reform, an issue that is seen by many as one of the larger disagreements and obstacles to a

peaceful settlement.<sup>108</sup> Experts are cautiously optimistic, listing FARC's newfound desire to compromise, a supportive international climate, a growing economy and shared interests as reasons why this peace process may be different.<sup>109</sup> But Colombia's security hawks, including Uribe, have taken a different approach, claiming that FARC are not to be trusted and that they will simply walk away with the government's concessions without conceding anything in return.<sup>110</sup>

#### 4.6.2 Political Upheaval

The uncertainty caused by the displacement of many people can allow various elites to secure power and eliminate their challengers. Although it has been a fairly low intensity conflict, the Colombian civil war has devastated the country. From 1985-2011, 11.4% of the population, or nearly 5.2 million people, have been displaced due to conflict-related insecurity.<sup>111</sup> Currently, there are almost 3.9 million displaced Colombians, many living in poverty in internally displaced persons camps.<sup>112</sup>

This trend does not seem to be decreasing. The 100,000 people displaced in 2010 is a 35%

<sup>108</sup> BBC News, "Colombia and Farc rebels reach agreement on land reform," BBC News, May 27, 2013, <http://www.bbc.co.uk/news/world-latin-america-22676049> (accessed June 3, 2013).

<sup>109</sup> Lara Montesinos Coleman and Gearóid Ó Loingsigh, "Peace in Colombia: Reality, Myth and Wishful Thinking," British Academics for a Colombia Under Peace, April 2013, <http://bacupblog.files.wordpress.com/2013/04/peace-in-colombia-lmc-gol2.pdf> (accessed June 1, 2013).

<sup>110</sup> Helen Murphy, "Colombia's president says enemies poisoning peace process," Reuters, April 8, 2013, <http://www.reuters.com/article/2013/04/09/us-colombia-rebels-santos-idUSBRE93801D20130409> (accessed May 7, 2013).

<sup>111</sup> MRGI, State of the World's Minorities and Indigenous Peoples 2012: Events of 2011, Annual Report (Minority Rights Group International, 2012). 101

<sup>112</sup> Anonymous, "UNHCR Colombia," [unhcr.org](http://www.unhcr.org/pages/49e492ad6.html), 2012, <http://www.unhcr.org/pages/49e492ad6.html> (accessed December 4, 2012).

<sup>106</sup> ICG, Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender, Latin America Report (ICG, 2012).

<sup>107</sup> ICG, Dismantling Colombia's New Illegal Armed Groups: Lessons from a Surrender, Latin America Report (ICG, 2012).

increase on the previous year, pointing to the spread of the conflict and drug trade to new areas and maybe even a rising intensity in violence.<sup>113</sup> In addition to the generally insecure situation, the intimidating tactics of drug barons, rebel groups, militias and the military (such as assassinations, threats, massacres and arrests) give many a reason to flee their home. Many of those who must leave their land return to find that armed groups, most commonly paramilitary groups, have appropriated it.<sup>114</sup>

Santos's 2011 Victims and Land Restitution Law, which seeks to return 17 million acres of land that has been stolen over the past quarter of a century, promises greater stability. However, some worry that it might upset the situation further by provoking those who have illegally taken the land of IDPs to fight harder.<sup>115</sup> Thus, the current situation is unstable enough to be conducive to genocide.

#### 4.6.3 History of Genocide

A history of genocide helps create identities along a victim-perpetrator divide, deepening grievances and perceptions of insecurity and increasing the likelihood of genocide. There has not been a stand-out case of genocide in Colombia, unless one counts the colonial period. However, some level the charge of 'politicide' against the government both towards various political parties and armed groups. This is especially so in the case of the Union Patriótica (UP), a left wing party from the 1980s and 1990s that the government effectively

bullied out of existence through the targeted killing and intimidation of UP leaders and supporters.<sup>116</sup> It is estimated that between the politicide claimed the lives of 3,000 and 5,000 UP members.<sup>117</sup> This is similar, one could argue, to the way that government and paramilitary forces are dealing with indigenous political movements. Therefore, there is a slight increase in the risk of genocide due to this factor. This slight increase, however, is further mitigated by Santos's attempt to apologise for some of the crimes committed against UP members.<sup>118</sup>

#### 4.6.4 Large-Scale, Nonviolent, Anti-Government Protest

A correlation has been found between large scale and anti-government protests and ethnic violence, even if the protests are non-violent in nature. There seems to be quite an active peaceful indigenous rights movement in Colombia. However, it is unclear how much effect it has on the government, let alone the various paramilitary organisations. Further, as mentioned before, the existence of such a movement has provided paramilitary groups with a justification, however tenuous, to label them as terrorists. It is in this way that protests can work against peace, as they present an opportunity for factions to create the impression that there is a threat. In reality, indigenous groups have largely abandoned violence since the implementation of the 1991 constitution, and have since decided to

<sup>113</sup> Anonymous, "UNHCR Colombia," [unhcr.org](http://www.unhcr.org/pages/49e492ad6.html), 2012, <http://www.unhcr.org/pages/49e492ad6.html> (accessed December 4, 2012).

<sup>114</sup> MRGI, State of the World's Minorities and Indigenous Peoples 2012: Events of 2011, Annual Report (Minority Rights Group International, 2012). 102

<sup>115</sup> MRGI, State of the World's Minorities and Indigenous Peoples 2012: Events of 2011, Annual Report (Minority Rights Group International, 2012). 103

<sup>116</sup> Andrei Gomez-Suarez, "Perpetrator blocs, genocidal mentalities and geographies: the destruction of the Union Patriótica in Colombia and its lessons for genocide studies," *Journal of Genocide Research*, 2007: 637-660.

<sup>117</sup> Andrei Gomez-Suarez, "Perpetrator blocs, genocidal mentalities and geographies: the destruction of the Union Patriótica in Colombia and its lessons for genocide studies," *Journal of Genocide Research*, 2007: 637-660. 656

<sup>118</sup> ICG, Transitional justice and Colombia's Peace Talks, Latin America Report, (International Crisis Group, 2013).

approach the pursuit of their interests and the contestation of government actions through the legal sphere and through peaceful protests.<sup>119</sup>

Such strategies include the creation of a 'community of peace' in the some areas of the Cauca region, enforced by Nasa Civil Guards: indigenous people armed with symbolic and relatively harmless wooden clubs.<sup>120</sup> The Nasa Civil Guards have won peace prizes from the UNDP, UNESCO and even the Colombian government.<sup>121</sup> The guards' checkpoints and imprisonment (and safe release) of armed antagonists provides some degree of security to their people, but also makes them more of a target for violent groups.<sup>122</sup>

Indigenous Colombians also organise Mingas, or large peaceful protests, in which tens of thousands march to draw attention to an issue. Of note, these Mingas are sometimes equated with terrorist activities<sup>123</sup> and sometimes result in violent crackdowns by either the state or paramilitary groups.<sup>124</sup> The existence of such a movement increases the likelihood of genocide, despite the fact that it has successfully advocated for progressive measures that may also decrease the likelihood of genocide. In an act that gives one hope for the situation, Juan Manuel Santos joined a recent protest calling

for peace in Bogota.<sup>125</sup> This signifies that there is a much more conciliatory approach to both protestors and the peace process from the Santos administration, something at which Colombia's security hawks are balking. Therefore, despite the fact that the protests are peaceful and successfully progressive, they still provide a point of tension which more violent factions can exploit.

#### 4.6.5 Conflicts over Status, Power, and Rights

Demand for greater rights and representation might lead either the discontented group or the targets of their discontent to perpetuate genocide. Indigenous peoples, as this report has shown, are demanding many different rights. They demand a right to their own territorial integrity and safety, which is violated by both the government and non-governmental forces in fighting the conflict. They demand a right to free, fair and prior consultation before economic development occurs on their land. These demands are not unreasonable, and have been recognised formally by the constitution, Constitutional Court and the government.<sup>126</sup> But yet again, the rights do not mean much in practice. In April of 2013, the Constitutional Court struck down a suit by an indigenous group who claimed that the government had not sufficiently consulted indigenous peoples when formulating the Anti-discrimination law.<sup>127</sup>

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<sup>119</sup> Farid Vanegas, "Indigenous Resistance and the Law," *Latin American Perspectives*, 2012: 61-77.

<sup>120</sup> USIP, *Harbingers of Hope: Peace initiatives in Colombia*, Special Report (United States Institute for Peace, 2006). 9

<sup>121</sup> Theodore MacDonald, *State of the World's Minorities*, Annual Report (Minority Rights Group International, 2006). 85

<sup>122</sup> BBC News, "Indigenous Colombians free soldiers held for 24 hours," BBC News, April 1, 2013, <http://www.bbc.co.uk/news/world-latin-america-21994322> (accessed May 8, 2013).

<sup>123</sup> Theodore MacDonald, *State of the World's Minorities*, Annual Report (Minority Rights Group International, 2006). 82

<sup>124</sup> HRC, *Consideration of reports submitted by States parties under article 40 of the Covenant*, Periodic Report (UN Human Rights Committee, 2009). 19

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<sup>125</sup> Helen Murphy, "Colombians march in polarizing bid to bring peace with FARC," Yahoo News, April 10, 2013, <http://news.yahoo.com/colombians-march-polarizing-bid-bring-peace-farc-163350235.html> (accessed May 7, 2013).

<sup>126</sup> CERD, *International Convention on the Elimination of All Forms of Racial Discrimination: Colombia*, Periodic Report (New York: United Nations, 2008).

Amnesty, *The Struggle for Survival and Dignity: Human Rights Abuses against Indigenous Peoples in Colombia*, (Amnesty International, 2010). 12

<sup>127</sup> Benjy Hansen-Bundy, *Constitutional Court defends Anti-discrimination Law*, April 11, 2013,

The government does not seem to be in conflict over the rights of indigenous peoples, it is just failing to deliver the promised rights on the ground.<sup>128</sup> The formal contestation of rights occurred in the 1980s and was resolved by the implementation of the 1991 constitution.<sup>129</sup> Yet there is still much work to be done to get the government and other actors to respect these hard-earned rights, as many actors often disregard them. Thus, there is still a contestation over the substance of indigenous rights that may well increase the chance of genocide. Santos made another symbolic stride in May of 2013 when he recognised the preservation of all land sacred to indigenous Colombians as in Colombia's "national and cultural interests".<sup>130</sup> This symbolism is reinforced by legislation protecting some sacred indigenous lands, which is indicative of Santos's more sympathetic approach towards indigenous peoples. But once again, the effectiveness of such mechanisms is unclear.

## 5.0 - Conclusion

These risk factors do not necessarily paint the most optimistic picture for the future of Colombia's indigenous population. Yet when one analyses the situation in a broader light, there is some hope for the aversion of genocide. There is a conflict between the revolutionary guerrillas on one side and the

government and paramilitaries on the other. The latter side are sometimes in cahoots with each other, but most of the time they are opposed. Indigenous peoples have been disproportionately affected by this conflict, as their weakly enforced rights and lack of full representation have allowed various actors to override their rights, displace them, intimidate them, exploit their resources and kill them.

However, indigenous people do not seem to be the target of the violence *because* they are indigenous peoples. Along these lines, there does not seem to be a huge deal of racism or hatred towards indigenous peoples. Certainly, there does not seem to be enough prejudice to motivate actors to commit genocide based on racist incentives. Instead, indigenous peoples are the target of violence because they are vulnerable and there are actors who are looking for people to exploit. This indicates that if the government strengthens the enforcement of their existing rights and thereby reduces their vulnerability, the risk of genocide against indigenous peoples will be greatly reduced.

Although the government has not strengthened the enforcement of the rights of indigenous peoples to the extent that is necessary, it has taken steps in the right direction, as shown by the CERD and OHCHR reports in the past few years. One can only hope that this trend will continue. With the government's partial disarmament of paramilitary groups, peace negotiations between FARC and the government ongoing and a more peace-oriented government, the general violent atmosphere may improve overall, assisting the state of indigenous peoples. On top of the government's seemingly more cooperative approach, the general situation in Colombia seems to be improving. The economy is growing in such a way that all Colombians can benefit, there are efforts to rein in the problematic elements of

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<http://colombiareports.com/constitutional-court-defends-anti-discrimination-law/> (accessed May 3, 2013).

<sup>128</sup> Various, Parallel Report to the Fifth Report of the Colombian State to the Committee on Economic, Social and Cultural Rights, Parallel Report (Bogota: Colombian Platform for Human Rights, Democracy and Development, 2010). 150

<sup>129</sup> Farid Vanegas, "Indigenous Resistance and the Law," *Latin American Perspectives*, 2012: 61-77.

<sup>130</sup> Joey O'Gorman, "Colombia making 'great strides' protecting indigenous lands: lobby group," *Colombia Reports*, May 20, 2013, <http://colombiareports.com/colombia-making-great-strides-protecting-indigenous-land-lobby-group/> (accessed May 27, 2013).

the military and the judiciary seems to be finding an independent voice.

Further, additional pressure from the international community, like criticism from the OHCHR and HRC, has influenced the government to do more to protect indigenous rights. This pressure would be even more effective if it came not only from a source of soft power, like the UN, but also from sources of hard power, like the US (a main donor and investor) and Canada (a main investor), both of which have recently come to Free Trade Agreements with Colombia. Foreign governments, especially those that have signed FTAs with Colombia, should exert additional pressure upon multinational resource development companies based within their country to follow standards of consultation laid out in the Colombian constitution, the ILO and UNDRIP. This will help eliminate further pressure and threats to indigenous communities.

Currently, there is a low to medium risk of genocide in Colombia. Yet if the above improvements continue to flourish and the international community maintains pressure for calm, peaceful, respectful and good governance on the part of the Santos administration, the risk of genocide of indigenous peoples would be vastly mitigated and reduced. In conclusion, although there is a risk of genocide in Colombia, there are very clear and concrete mechanisms through which it can be averted, and those mechanisms are already at work. Of course, both the peace process and the war on drug cultivation will be difficult and has proven as such, but they need to be dealt with to fully eliminate the risk to indigenous peoples.

## 6.0 - Appendix: The Situation of Afro-Colombians

Colombia's Afro-Colombian population has also been cited as the victims of undue violence and displacement similar to indigenous Colombians.<sup>131</sup> This is somewhat juxtaposed to the improvement in the government's approach to indigenous Colombians, another marginalised group.

Up until recently, Afro-Colombians were an invisible group within Colombia. Although some estimate that 30% of Colombians are Afro-Colombians,<sup>132</sup> the government has only just begun to recognise them as a significant community in Colombia. For instance, the 1993 census, which didn't count mixed race Colombians as Afro-Colombians, claimed that only 1.5% of Colombians were black.<sup>133</sup> Since then, there has been a steady increase in the government's estimate of the number of Afro-Colombians in the country, with the 2005 census claiming 10.62% and the Ombudsman's office claiming 25% in the past few years, but this still hasn't reached the estimated 30%.<sup>134</sup>

The fact that Afro-Colombians have only recently earned recognition from the government makes them more vulnerable. Many live in collectivist communities, much like indigenous peoples, and suffer from similar difficulties, like a lack of recognition of their traditional industries and increased vulnerability

131 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

132 USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006). 13

133 Gay McDougall, Report of the independent expert on minority issues: addendum, (UN Human Rights Council, 2011). 3

134 Gay McDougall, Report of the independent expert on minority issues: addendum, (UN Human Rights Council, 2011). 3

to displacement and targeting by rebel and government forces. However, they have even less protection than indigenous peoples. While indigenous peoples have their specific rights enshrined in the constitution, Afro-Colombians only have the poorly implemented Law 70 from 1993 to guarantee their traditional and property rights.<sup>135</sup>

One can see the effects of this lack of protection and recognition in Afro-Colombians' experience with the aforementioned Victims Land and Restitution Law. While indigenous Colombians were satisfied with the government's response, Afro-Colombians were not. Just like the indigenous peoples, Afro-Colombians received their own parallel land restitution process. They were upset that the process was not consultative in the way they had wanted it to be, as it did not take into account the needs of the varied Afro-Colombian communities and was made without Afro-Colombian approval, and thus their right to consent had been violated.<sup>136</sup>

To add to this lack of protection and recognition, Afro-Colombians have significantly lower living standards, more so than indigenous peoples. A report by the UN Human Rights Council's Independent Expert on Minority Issues found that Afro-Colombians experienced discrimination, greater illiteracy, racial negative stereotypes in the mass media, greater poverty, greater food insecurity and much poorer health.<sup>137</sup> Therefore, while the indigenous community seems to have better mechanisms

for promoting their rights and suffers from less inequality and discrimination, the Afro-Colombian case may be more worrying. The one factor that makes the Afro-Colombian situation better is that they are such a large group in Colombian society and are slowly beginning to recognise this fact. Further, the government seems to be addressing their issues by passing an anti-discrimination law<sup>138</sup> and building lines of communication, relationships and tenure security with Afro-Colombian communities.<sup>139</sup> Any future report on issues of ethnic violence and genocide in Colombia by the Sentinel Project should address this more in depth than this brief appendix.

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135 ICTJ, Strengthening Indigenous Rights through Truth Commissions: A Practitioner's Resource, (International Centre for Transitional Justice, 2012). 22

USIP, Harbingers of Hope: Peace initiatives in Colombia, Special Report (United States Institute for Peace, 2006). 13

136 MRGI, State of the World's Minorities and Indigenous Peoples 2012: Events of 2011, Annual Report (Minority Rights Group International, 2012). 104

137 Gay McDougall, Report of the independent expert on minority issues: addendum, (UN Human Rights Council, 2011). 6, 7, 23

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138 Freedom-House, Freedom in the World: Colombia, 2012, <http://www.freedomhouse.org/report/freedom-world/2012/colombia> (accessed October 24, 2012).

139 HRC, Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, Annual Report (Geneva: OHCHR, 2010).