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### Twenty-First-Century Challenges: The Use of Military Forces to Combat Criminal Threats

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*I can't change the direction of the wind, but I can adjust my sails to always reach my destination.<sup>1</sup>*

#### *Introduction*

**G**lobalization confronts governments with new threats. Moisés Naim, editor of *Foreign Policy*, described these threats as follows:

The illegal trade in drugs, arms, intellectual property, people, and money is booming. Like the war on terrorism, the fight to control these illicit markets pits governments against agile, stateless, and resourceful networks empowered by globalization. Governments will continue to lose these wars until they adopt new strategies to deal with a larger, unprecedented struggle that now shapes the world as much as confrontations between nation-states once did.<sup>2</sup>

The use of military forces by democratic States in the fight against these criminal threats is viable and necessary; however, it is important to know when and how military forces may be used legitimately. To do so, it is necessary to understand the transformation of the threat—armed groups, which once challenged governments

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over ideology, now seek financial gain for themselves. While allegedly espousing ideological politics at both ends of the political spectrum (extreme left and right), these groups have created sinister alliances that ignore geographic and political boundaries.<sup>3</sup> This transformation challenges State security and puts the institutional structures of democratic States at risk.

In confronting this new reality, military forces must adapt if they are to effectively neutralize this merger of criminal gangs and terrorist groups. The theories and concepts that guided the State-on-State battlefields of the nineteenth and twentieth centuries, where the opposing belligerents could distinguish their enemy and when guerrilla warfare was conducted in isolated areas far from population centers, will be inadequate to address the new challenge of the criminal terrorist.<sup>4</sup> Rather, new theories and guidance must be developed if military forces are to be successfully employed in this new form of conflict.

Similarly, military forces must develop an understanding of the law that will apply when combating these criminal/terrorist groups. That law will come from human rights law (HRL)<sup>5</sup> and international humanitarian law (IHL),<sup>6</sup> which in “classic” international law are referred to as “the law of peace” and the “law of war,” respectively. The determination of when each will apply presents new challenges for military forces that have traditionally focused on the law applicable to international armed conflict.

This article will explore these issues from a Colombian perspective, a country which has been engaged for decades in an armed struggle with insurgent groups and now also with criminal groups using terrorist tactics for economic gain through the drug trade.<sup>7</sup>

#### *The Legal Framework for the Use of Force*

Human rights law transformed traditional Westphalian sovereignty by providing that international law can extend into a State and regulate the relationship between an individual citizen and the government. In its specifics, HRL addresses many aspects of an individual’s relationship with the government, such as participation in the political process. However, it is HRL’s regulation of an individual’s encounters with law enforcement agents and the courts that is the most relevant when considering actions that are taken against the criminal terrorist. These norms are designed to protect the citizen from unlawful government actions, while at the same time providing law enforcement agencies the ability to protect citizens from criminal actions and for the judicial system to punish those who do commit crimes.

On the other hand, international humanitarian law permits the use of force to restore peace in international and non-international conflicts, while at the same time minimizing unnecessary suffering to civilians and damage to civilian objects. IHL has evolved since its inception, particularly in the post-World War II era, with the four 1949 Geneva Conventions, the two 1977 Additional Protocols and numerous conventions regulating the use of some weapons and outlawing others. One feature of this evolution has been the expansion of IHL from its application solely to international armed conflict to non-international or internal armed conflict. It is this law that regulates Colombian military forces in the conduct of military operations against the well-organized, well-equipped narco-trafficking groups operating within Colombia.

*Human Rights or International Humanitarian Law—Which Governs?*

Unfortunately, what seems to be the clear delineation between HRL (“law of peace”) and IHL (“law of war”) becomes gray in internal conflicts arising from the new threats that confront governments. Traditionally, counternarcotic efforts were law enforcement in nature, even in a country such as the United States which declared a “war on drugs.” As such, HRL was the component of international law that applied to those efforts. The illegal armed groups operating within Colombia, however, clearly fulfill the definition of an “organized armed group,” which, when combined with the level of violence in which they engage, permits the use of force under the IHL applicable to non-international armed conflicts to be applied against them. That the motive for the use of violence is now economic versus political makes no difference. However, while the right to use military force against these groups is clear, the ability to do so is difficult because they camouflage themselves within the civilian population. There the application of force against them is even more difficult than it was when they operated in isolated jungle-covered areas of the country.

In using force in this new battlefield, mistakes have been made by the armed forces. This has strained the credibility of Colombian government institutions responsible for the conduct of military operations and led to criminal prosecutions of those involved. While it remains clear that the level of threat continues to require the involvement of Colombian military forces<sup>8</sup> applying offensive and lethal force, it is equally clear that every reasonable precaution must be taken to ensure that the use of that force is directed only against legitimate military objectives in accordance with IHL.

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### *We Fight among the People*

[I]ncreasingly we conduct operations amongst the people. The people in the cities, towns, streets and their houses—all the people, anywhere—can be on the battlefield. Military engagements can take place against formed and recognizable groups of enemies moving amongst civilians, against enemies disguised as civilians, and unintentionally and intentionally against civilians.<sup>9</sup>

The *Fuerzas Armadas Revolucionarias de Colombia* (FARC), the principal criminal terrorist group, and the other narco-trafficking groups generally do not possess the capability to engage in conventional armed confrontations with Colombia's military forces. Today, the armed and criminal groups move and act among the people, obtaining benefits from a portion of the citizenry both voluntarily and through extortion.

The brutality of the criminal terrorist groups is unquestioned. They are not supported by most of the population, but this does not necessarily result in support for the government forces who act to protect the public. To the contrary, each mistake or illegal or illegitimate act by a public official damages the people's confidence in the government.<sup>10</sup> The cumulative consequence of these allegations of misconduct is to turn public opinion against the government and those whose responsibility it is to protect them. In effect, the protectors of society become the abusers of society. Public opinion is turned against the government and law enforcement agencies and military forces.

Because law enforcement agencies are often incapable of effectively addressing the threat of the criminal terrorist groups, military forces are often called on to operate in this new environment among the people. Military forces must redesign their doctrine to confront the new threats. In today's war there is no victory, no capitulation by a defeated enemy. As Rupert Smith indicates, "[O]ur operations have become increasingly timeless; they go on and on."<sup>11</sup> The use of military force alone cannot eliminate the threat posed by these groups; it can only contribute positively or negatively to the ultimate outcome. The illegal armed groups do not seek a military victory; they are interested only in creating chaos and provoking overreaction by military forces with the objective of causing a loss of support for the government, thereby perpetuating never-ending conflicts.

The defeat of illegal and criminal armed gangs will not be accomplished through military force. Rather, States must employ methods to dismantle them that comply with the law and bring individual members to courts for prosecution. This will require the cooperation of the citizenry of the country. To gain that

cooperation, the population can never be confused with the enemy and the criminals. If it is, the population will become the enemy.

Strategies must be developed to obtain the population's support for the State's efforts to combat the criminal gangs. These strategies must be designed not just to end citizens' complicity with the gangs. They must also end the belief that the population can be neutral in the conflict. What is required is a supportive and cooperative population that assists national institutional authorities in their efforts. In other words, an environment must be created in which each individual citizen feels secure in denouncing the criminal gangs and assisting in the elimination of the support structures for criminal activities. While military and police forces must play an important role in establishing this environment, individual members of society will also have a role to play.

A temporary presence of government forces is insufficient to establish this environment. In areas that organized armed groups have controlled, the citizens will not provide the necessary support if they believe police and military forces will soon withdraw, thus allowing the criminal groups to return. As a result, the new strategy must envision a permanent presence and an assurance to the population that the government forces will be there as long as is necessary.

The use of military force is not always the best option to deal with the activities of the illegal and criminal groups. If mistakes, either intentional or unintentional, are made in attempts to neutralize the threat and innocent members of the population become victims, this is exactly what criminal gangs desire. This delegitimizes the State and its democratic institutions. If military force is necessary it must be used carefully and in full compliance with the law. However, in many instances the more appropriate response is law enforcement actions designed to arrest and prosecute individual group members.

It has been observed that "the British Army was the Irish Republican Army's best recruiter. By targeting Catholic civilians and arbitrarily arresting and killing suspected I.R.A. members, the British angered many young men who turned to the I.R.A. as their only hope for survival; it was also a way to get revenge."<sup>12</sup> This history lesson is also important in the Colombian context. Noncompliance with the rule of law can lead—and has led—some to join the FARC and other criminal groups; can cause a delegitimization of the government, the armed forces and police; and can result in an increase in the number of disciplinary and judicial cases against officials involved in unlawful acts.

#### **New Missions for the Armed Forces**

Colombia is not the only country in the Western Hemisphere that uses its military forces within its borders in missions other than national defense of the nation.

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El Salvador's President Mauricio Funes, immediately upon assuming office in 2009, ordered military forces to participate in combating the *mara salvatrucha* gang.<sup>13</sup> El Salvadoran military forces continue to be employed in that role.<sup>14</sup> In Brazil, military forces contribute to the law enforcement efforts of the police against the criminal and narco-traffic bands in the favelas.<sup>15</sup> The same use of military forces can be observed in Mexico, where President Felipe Calderon in 2006 declared "war against the narco-traffickers," a "war" engaged in by the federal police, the army and the navy.<sup>16</sup> To a lesser degree, Guatemala, Paraguay and Peru are also using their military forces to address security-related issues within their borders.

### **Adaptation to the New Operational Environment**

As was indicated previously, criminal activity would ideally be dealt with exclusively as a law enforcement matter that could be addressed by law enforcement agencies. Unfortunately, the capabilities and economic capacity of the illegal armed groups and the organized crime organizations are such that they are beyond the ability of law enforcement agencies, acting alone, to address. In these circumstances, governments may legitimately call upon military forces to maintain social order and address the threat created by these groups and organizations. Military forces must adapt, however, to these new missions and operational environment if they are going to effectively and efficiently neutralize the threats they have been called on to address; failure to do so will result in loss of support from the government and citizens.

Particularly over the last eight years, Colombian military forces and law enforcement agencies have been successful in reducing the threat posed by criminal organizations and illegal armed groups. Several have been defeated, and the capabilities of those that remain have been greatly reduced. In addition, the level of violence within the country has greatly decreased. In many areas, the threat has been reduced to the point that military forces no longer need to be used in a traditional military capacity. In those areas, criminal activity, including terrorist acts, can now be dealt with as a law enforcement matter. The rule of law has been reestablished and a security environment established where HRL—not IHL—is applied by military forces performing law enforcement functions. In these areas, illegal armed groups and criminal organizations do not control portions of the territory, although they continue to operate within them. In response to pressure brought by military forces and law enforcement agencies in these areas, the illegal armed groups and criminal organizations simply move their areas of operations to less controlled areas; this is what is known as the "bubble effect."

In those places in Colombia where the FARC still possesses a viable military capability, Colombian military forces employ the use of force in accordance with IHL

to combat it. Offensive operations, in the classic sense, remain an option in isolated areas away from population centers. However, when operations are conducted among the people, care must be taken in the application of force. Unnecessarily causing harm to civilians or their property can create greater long-term issues than the immediate military advantage gained. While IHL remains the governing law, the use of force must be more restrictively applied as a last resort and should only be used when necessary in legitimate defense of the military force and when there is no other alternative to accomplish the assigned mission.

The criminal organizations now operating in Colombia, whose motives are economic instead of political, are not interested in a negotiated settlement that would provide them a place in the political process. While they speak of a desire to negotiate, they do so only to obtain immediate benefits and perpetuate the conflict. They look to intervention by churches, politicians, social leaders and international organizations weary of the long conflict. The criminal groups not only subsist among the people; they use the population for their benefit.

The questions that must be answered are how military forces are to be used in a role far different from their principal purpose of maintaining national security against external threats, and how combating criminal activity can be successively accomplished while at the same time retaining that most important attribute of national and international legitimacy.

#### *Knowing the Threat*

Knowing and understanding the type of threat to be confronted is of fundamental importance. Real-time intelligence information on the criminal organization's objective, capabilities and membership is essential to formulating strategy and courses of action.

#### *Participation of Military Lawyers*

The complexity of international and domestic law and the expectation in Western democracies that the government and military forces will conduct themselves in accordance with the law require that military lawyers be involved in all aspects of military operations, from their planning and execution to post-execution evaluation and analysis.<sup>17</sup> These military lawyers must have the knowledge and experience to be credible with the commanders they advise. The value of such participation by military lawyers has been demonstrated in Colombia.

#### *Rules for the Use of Force*

There must be clear, understandable rules provided to military forces on the circumstances under which force may be used and the type and degree of that force.

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This is dependent on the mission assigned to the forces. In Colombia, two differently colored cards are used. A blue card is used when the military unit is engaged in a law enforcement mission. The rules on the blue card are based on HRL. They provide for the use of force only when no other option is available to accomplish the mission and in self-defense of the person and others. The red card is used in operations against military objectives. These cards are based on IHL and permit the offensive use of force, including lethal force if demanded by military necessity.

#### *Coordination with the Judicial Branch of Government*

The military forces must coordinate their efforts with the judicial branch and the federal police. In the case of Colombia, this is the Office of the Attorney General and the National Police, and subordinate organizations. Each military operation undertaken as a law enforcement mission is undertaken in conjunction with law enforcement agencies so that effective criminal prosecutions can take place. These normally occur in the new operating area among the people, where adherence to HRL is critical.

#### *Investigation of Allegations of Misconduct by Military Members and Public Officials*

Allegations of criminal misconduct by law enforcement agents and members of the military are inevitable when operating in the middle of the population. These must be openly and effectively investigated. When allegations are substantiated criminal prosecutions must be initiated. When investigations don't support the allegations, the results must be publicly shared, including the factual details of the incident or event in question. Thorough, complete and transparent investigations are necessary to maintain public support. The worst strategy is government silence, which permits the media and others to speculate or to tell their versions of what they believed happened.

#### *Truth Is Paramount*

Mistakes and errors have been made and will be made by military members and law enforcement agents, even when actions are taken in good faith. When these occur, they must be truthfully revealed and explained. Too often, innocent mistakes have been covered up with falsehoods. Actions taken in good faith but with unexpected results can be accepted; falsehoods and cover-ups cannot.<sup>18</sup> As with failures to effectively investigate allegations of misconduct, falsehoods and cover-ups lead to a loss of public support.



*Institutional Loyalty*

When a military member or law enforcement agent engages in criminal conduct, the institution concerned, whether it is the armed forces or federal police, must provide that individual the rights provided by domestic law, but must not be seen as defending the conduct in question. Loyalty must be given to the institution as a whole, not to the individual member. Regrettably, in Colombia there have been instances when military members or law enforcement agents have used their position of authority to commit crimes. When they go unpunished, there are political, legal and economic costs to the government and institution concerned, and credibility and public support suffer.

*Tactical Operations Can Impact National Strategy*

Throughout history, conflict has been analyzed at three levels: strategic, operational and tactical. The national strategic level involves development of national policy and objectives, and the use of resources to accomplish those objectives. At the operational level, campaigns and major operations are planned, conducted and sustained to accomplish strategic objectives. At the tactical level, military missions are planned and executed to accomplish military objectives. Today, those levels are closer together than at any time in the past. Technological advances, social networks and an almost instantaneous communications capability allow what is occurring at the tactical level to be made known literally around the world. Because tactical situations can, and often do, have effects at the strategic level in terms of public perceptions and opinion—both negative and positive—it is essential that commanders at the strategic and operational levels be in communication with, and in control of, military units operating at the tactical level. They must have the capacity to react and adapt to the circumstances as they occur on the ground.

***Political and Judicial Concerns Arising from the New Operating Environment***

The risk of legal action being taken against them is the greatest concern of military members and law enforcement agents operating in the new environment. In Colombia, the potential of criminal and disciplinary investigations being initiated has reduced morale among members and agents. It has caused some to decide in certain circumstances that it is safer not to act, as taking action might subject them to an investigation. Another concern is that making allegations of criminal conduct against public officials and administrative demands of the government is both politically and financially profitable.

Beyond the impact on the individual who is the subject of the allegation, allegations of misconduct damage the credibility of the government. When the

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allegations have a basis in fact, action to investigate and hold persons accountable is required. Responses to false allegations must publicly identify the allegations as false, and action must be taken against those who make such allegations when they violate Colombian criminal law. Care must be taken in doing so, however; nothing can damage the credibility and reputation of the institution concerned more than to find an allegation is unsupported on the basis of an inadequate or incomplete investigation when the allegation is, in fact, true. False allegations must be vigorously refuted; a failure to do so is nearly the same as accepting the allegation as true.

The inevitable result of the use of military force, whether in international or non-international armed conflict, is that innocent persons will be killed and injured and civilian property will be damaged and destroyed. When this occurs, the government must be prepared to accept responsibility and compensate those who suffered losses. To fail to do so harms morale among civilians and can turn them into supporters of the armed groups combating the government.

In Colombia, there are both non-judicial and judicial processes to evaluate claims for damages caused by military forces and to promptly provide adequate compensation to those harmed. This not only has the benefit of promoting goodwill, but also reduces the likelihood that allegations of criminal misconduct will be brought against the military members causing the harm.

#### *Final Reflections*

Naim, in his “The Five Wars of Globalization” article, concludes:

These five wars stretch and even render obsolete many of the existing institutions, legal frameworks, military doctrines and law enforcement techniques on which governments have relied for years. Analysts need to rethink the concept of war “fronts” defined by geography and the definition of “combatants” according to the Geneva Convention. The functions of intelligence agents, soldiers, police officers, or immigration officers need rethinking and adaption to the new realities.<sup>19</sup>

Facing the reality that threats to national security today are more likely to arise from within rather than from outside, as Naim suggested in 2003, governments, including that of Colombia, have rethought how to employ their military forces to confront these new threats. Colombia’s experience has demonstrated that while military forces can be used lawfully in the fight against these internal threats to security and democratic stability, they must adopt new strategies and doctrine to effectively combat these threats that are largely centered in the population. A

failure to do so has the potential to more severely damage the State—and State institutions—than does the threat against which military forces are employed.

If military forces are used in a law enforcement capacity to deal with criminal conduct, the law that governs will be HRL. It requires more restrained use of force than is provided under IHL. While military forces can operate effectively under both regimes, the Colombian experience demonstrates that it is essential that military forces understand the law under which they are operating on missions to which they are assigned. Misapprehension of the legal regime can result in excessive use of force, increased risk to military personnel and mission failure.

Democratic societies in the twenty-first century enjoy the benefits and freedoms provided by HRL, and demand that their governments provide them the rights and guarantees set forth in the various human rights instruments. Colombia is no exception. The Colombian population appreciates the threat posed by the criminal gangs, but expects that the government's response and the actions of law enforcement organizations and military forces will be fully consistent with that law. It will not tolerate excesses.

The privilege to govern and have the monopoly on the lawful use of force within a society obligates those who have that privilege to use force in full compliance with the law, whether it be HRL or IHL, and to adhere to the highest ethical and moral values. The wind has blown and societies have changed. Now governments must adjust their sails and respond to internal threats within the framework of the law; their societies expect nothing less.

### *Notes*

1. Jimmy Dean, LIFE QUOTES, <http://www.sanjuan.edu/webpages/bgrueneberger/files/Senior%20Grad%20Speech%20Life%20Quotes.pdf> (last visited Apr. 10, 2012).

2. Moisés Naim, *The Five Wars of Globalization*, FOREIGN POLICY, Jan.–Feb. 2003, at 29, 29.

3. See, e.g., Steven W. Casteel, Assistant Administrator for Intelligence, U.S. Drug Enforcement Administration, Statement before the Senate Committee on the Judiciary: Narco-Terrorism: International Drug Trafficking and Terrorism—a Dangerous Mix (May 20, 2003), available at [http://www.justice.gov/dea/ongoing/narco-terrorism\\_story052003.html](http://www.justice.gov/dea/ongoing/narco-terrorism_story052003.html) (“Globalization has dramatically changed the face of both legitimate and illegitimate enterprise. Criminals, by exploiting advances in technology, finance, communications, and transportation in pursuit of their illegal endeavors, have become criminal entrepreneurs. Perhaps the most alarming aspect of this ‘entrepreneurial’ style of crime is the intricate manner in which drugs and terrorism may be intermingled. Not only is the proliferation of illegal drugs perceived as a danger, but the proceeds from the sale of drugs provides a ready source of funding for other criminal activities, including terrorism.”)

4. RUPERT SMITH, THE UTILITY OF FORCE: THE ART OF WAR IN THE MODERN WORLD 5 (2006) (“It is now time to recognize that a paradigm shift in war has undoubtedly occurred: from armies with comparable forces doing battle on a field to strategic confrontation between a range

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of combatants, not all of which are armies, and using different types of weapons, often improvised. The old paradigm was that of interstate industrial war. The new one is the paradigm of war amongst the people . . .”).

5. Human rights law is found in both customary international law and treaty law. *See, e.g.*, Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 10, 1948); International Covenant on Civil and Political Rights arts. 4, 8, G.A. Res. 2200A (XXI), U.N. Doc. A/6316 (Dec. 16, 1966), 999 U.N.T.S. 171; American Convention on Human Rights, Nov. 22, 1969, 1144 U.N.T.S. 123.

6. As with human rights law, international humanitarian law is found in both customary and treaty law. *See, e.g.*, Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Aug. 12, 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31; Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Aug. 12, 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135; Convention Relative to the Protection of Civilian Persons in Time of War, Aug. 12, 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287. Of particular relevance in each of these Conventions to the internal (or non-international) conflict in Colombia is what is referred to as “Common Article 3.” The provisions of that article apply “in the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties.”

Other treaties applicable in internal conflict include the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, Oct. 10, 1980, 1342 U.N.T.S. 137, *reprinted in* 19 INTERNATIONAL LEGAL MATERIALS 1523 (1980). Amended Article 1 to the Convention made all of its protocols applicable in internal conflicts. *See also* Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, Sept. 18, 1997, 2056 U.N.T.S. 211, *reprinted in* 36 INTERNATIONAL LEGAL MATERIALS 1507 (1997); Convention on Cluster Munitions, Dec. 3, 2008, 48 INTERNATIONAL LEGAL MATERIALS 357 (2008). *See also* CUSTOMARY INTERNATIONAL HUMANITARIAN LAW (2 volumes: Vol. I, Rules; Vol. II, Practice (2 Parts)) (Jean-Marie Henckaerts & Louise Doswald-Beck eds., 2005).

7. Casteel, *supra* note 3 (stating that three terrorist organizations in Colombia, all with links to the drug trade, were responsible for about 3,500 murders in 2002).

8. Under the Colombian constitutional scheme, the “Military Force” is composed of the Army, Navy and Air Force and what is referred to as the “Public Force” includes the three military services and the National Police.

9. SMITH, *supra* note 4, at 281 (Smith describes war among the people as being the dominant form of war since the end of the Cold War).

10. In a January 2011 interview with former President Alvaro Uribe, he emphasized to the author the importance of dismantling the criminal groups through lawful actions, using the courts for prosecutions whenever possible.

11. SMITH, *supra* note 4, at 291.

12. *Central Intelligence Assassins*, THE TEMPLE NEWS (Nov. 14, 2002), <http://temple-news.com/2002/11/14/central-intelligence-assassins/>.

13. *Maras* is the term used to label the El Salvadoran youth gangs. The *mara salvatrucha* originated in Los Angeles in the 1980s when young El Salvadoran immigrants, armed with machetes, guns and guerrilla combat training gained during El Salvador’s civil war, united and became one of the city’s most violent gangs. Using the expedited removal procedures of the Immigration and Nationality Act resulted in large numbers of gang members being deported to El Salvador throughout the 1990s, where they continued their gang activities. El Salvadoran youth, already

desensitized to violence by the civil war, were easy recruits. One author commented, “For all intents and purposes, deportation from the United States merely provided MS-13 [*mara salvatrucha*] with an effective means for transnational expansion—an expansion that would allow the gang to become more organized, powerful, and violent.” Kelly Padgett Lineberger, *The United States–El Salvador Extradition Treaty: A Dated Obstacle in the Transnational War Against Mara Salvatrucha (MS-13)*, 44 VANDERBILT JOURNAL OF TRANSNATIONAL LAW 187, 194 (2011).

14. Alex Renderos, *Salvadoran Leader Names Newly Retired General to Top Police Post; The Selection Comes after a Similar Security Appointment, and Stirs Fear of Militarization*, LOS ANGELES TIMES, Jan. 26, 2012, at A3.

15. See, e.g., *Open for Business: The Pacification of Brazil’s Favelas*, KNOWLEDGE WHARTON, Jan. 3, 2012, <http://knowledge.wharton.upenn.edu/article.cfm?articleid=2910>.

16. Stephen Sackur, “No alternative” to Mexico’s drug war—says Calderon, BBC, Oct. 27, 2010, <http://news.bbc.co.uk/2/hi/programmes/hardtalk/9130155.stm>.

17. See Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts art. 82, June 8, 1977, 1125 U.N.T.S. 3 (“[States] . . . shall ensure that legal advisers are available to advise military commanders at the appropriate level on the application of the [Geneva] Conventions and this Protocol . . .”). The Colombian Air Force incorporated military lawyers into the planning and execution process in 2001; the other services followed suit. Their participation occurs on a daily basis.

18. During the period of his presidency, Alvaro Uribe stated, “History can forgive an error, but never the lies or half-truths.”

19. Naim, *supra* note 2, at 36.